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SENATE—*Wednesday, November 5, 2003*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The guest Chaplain, Bishop Sharon A. Brown Christopher, United Methodist Church of Illinois, offered the following prayer:

Let us pray.

O God, our foundation that anchors us in stormy times, our hope when all doors seem to close around us, and our light that awakens within us courage to move compassionately toward our neighbor, we give You thanks for Your abiding presence in our lives.

Amid the complexities and anxieties of these days, we ask that You open our ears to hear with clarity the cries of Your human family, especially the children. Open our eyes to see Your vision of life's unity in rich diversity. Open our hearts so that we may in our actions transcend all that keeps us from living lives of generosity, trusting and following You, the source of all life.

May our work today and every day reflect Your intentions for our world. We pray this in Your name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 5, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for 60 minutes, with the first 30 minutes under the control of the Senator from Kansas, Mr. ROBERTS, or his designee, and the second 30 minutes under the control of the Democratic leader, or his designee.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, so that Democratic Senators will have some knowledge of what is going to happen in the time we have, we have three Senators who have asked to speak—Senators AKAKA, HARKIN, and BEN NELSON. That should use up our 30 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

SCHEDULE

Mr. ROBERTS. Mr. President, as the Acting President pro tempore has indicated, there will be 60 minutes of morning business. Following that, the Senate will begin the consideration of H.R. 2673, the Agriculture appropriations bill. It is the majority leader's intention to complete action on that measure during today's session. The Senate will begin working through amendments to the bill this morning. Senators who have amendments are asked to contact the bill managers as soon as possible.

In addition to the Agriculture appropriations bill, the Senate will also vote on passage of S. 1753, the Fair Credit Reporting legislation.

We also have a short time agreement for the consideration of H.R. 1828, the Syria accountability bill. It is the leader's intention to complete action on this bill today as well.

I inform my colleagues, on behalf of the leader, that it will be a very busy day and rollcall votes will occur throughout the day.

It is my understanding that during morning business I have 30 minutes of time.

The ACTING PRESIDENT pro tempore. The Senator is correct.

The Senator is recognized for up to 30 minutes.

Mr. ROBERTS. I yield 5 minutes to the distinguished Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

SENATE INTELLIGENCE COMMITTEE

Mr. CHAMBLISS. Mr. President, I thank the Senator from Kansas for conducting this time for morning business.

I rise in a very different mood today—different from any other mood I have been in since I had the privilege of becoming a Member of this body. I had the privilege of serving for 8 years in the House of Representatives, and now for a year in my first term in the Senate. During my last 2 years in the House, I served on the House Intelligence Committee. For the past year now, I have served on the Senate Intelligence Committee, under the strong leadership of the Senator from Kansas, Senator ROBERTS, as well as his vice chairman, Senator ROCKEFELLER of West Virginia. We operate in a very bipartisan way in both the House and Senate Intelligence Committees.

I was privileged to serve alongside of the now-ranking member of the House Intelligence Committee in conducting a very thorough and detailed review of the intelligence community leading up to September 11 and particularly concluding with a report detailing the failures in the intelligence community

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

leading up to September 11, 2001. All of this oversight work has been done in a very bipartisan way since I have been in the Senate. Again, we have operated within the Intelligence Committee in a very bipartisan way. We can have our differences, and we have had them; but it has been a very healthy debate up to this point in time.

Unfortunately, yesterday, the Republicans on the Senate side of the Intelligence Committee came into possession of a two-page memorandum that details a systematic way in which the other side of the aisle intends to undermine and attack the President of the United States on the intelligence information not only leading up to the conflict in Iraq, but also moving beyond that, into the policy area—again, trying to undermine the policy of the President of the United States with respect to the conflict in Iraq.

This is a different road than the Intelligence Committees on the House and Senate sides have been down before. It is not the kind of road an Intelligence Committee should be traveling down. I rise to say that I don't know where this memo came from. I have seen a copy of it. I don't know whether it was staff driven or member driven. I have great respect for the members of the Intelligence Committee on both sides of the aisle, and I don't think anyone on the other side of the aisle would intentionally try to undermine the operation of our troops in Iraq today. Yet, as I looked at this memorandum and read through it, there was a very clear and definite outline of undermining the policy of the President of the United States, the Department of Defense, the intelligence community, and anybody involved in the current conflict with Iraq.

If that particular outline were followed, it would be devastating not only to this body—the bipartisan integrity of this body—but it would have the potential effect of truly undermining the operation in Iraq.

I hope my colleagues on the other side of the aisle will rethink the position if it is one in which they are moving toward. I hope they will certainly disavow any knowledge of the position or intent to undermine the operation in Iraq from an intelligence or oversight standpoint within the Senate Intelligence Committee with respect to a report we are going to be concluding and preparing within a matter of days or weeks.

I truly hope we can move forward in a positive way, with a strong, positive attitude toward ensuring the operation in Iraq is concluded in a satisfactory manner, and that the intelligence community can move forward knowing they have the support, in a bipartisan way, of the Senate Intelligence Committee, and the matter-of-fact ideas and plans laid out in this memorandum will certainly not be carried out.

I thank the chairman for his leadership and position on this. I yield the floor.

Mr. ROBERTS. Mr. President, I yield 10 minutes to the Senator from Missouri, Senator BOND.

Mr. BOND. Mr. President, I thank the chairman of the Intelligence Committee, who I believe is doing a very fine job under very difficult circumstances, leading a bipartisan inquiry, which is the legitimate scope of the Intelligence Committee on how we can improve our intelligence system.

When we are fighting the battle against terrorism, there is no question that intelligence is the coin of the realm. There is no way we can deter terrorist attacks by threatening to retaliate or administer retributive justice to those who make terrorist strikes against us. When you are dealing with suicide bombers, there is not going to be anything left for us to retaliate against or take retribution against.

Finding the holes in our intelligence system, and how we can do a better job, is a major challenge. I joined the Intelligence Committee this year because I realized how important it is to the future of peace and security in the world and to our own security. I know from personal experience that we and our staffs—and particularly our staffs—have been engaged in an exhaustive examination of what the intelligence was prior to declaring Operation Iraqi Freedom. This was a major effort.

As those in the Chamber may know, I have supported the President. I supported the Iraqi supplemental, and I thank our colleagues for passing that bill to defend our troops and also to make sure we build Iraq so we can move our troops out.

But when the revelation came out yesterday of a memorandum apparently from Democratic staff, minority staff on the Intelligence Committee, indicating there was a different agenda, I was very much concerned. The key element in the Intelligence Committee, unlike any other committee, is that we have to do our work in confidence. We have to be able to maintain the confidence of the intelligence community that comes before us. We must protect intelligence sources, and we cannot get engaged in partisan battles.

Yet the memorandum that came out yesterday has such interesting quotes such as:

> Pull the majority along as far as we can on issues that may lead to major new disclosures regarding improper or questionable conduct by administration officials.

They are not looking at the Intelligence Committee; they are looking at the administration. They say:

> We need to look at activities of the Office of the Secretary of Defense and the State Department.

They talk about preparing additional views. And they say:

> Among other things, we will castigate the majority for seeking to limit the scope of the inquiry.

They talk about an independent investigation, and they say:

> We can pull the trigger on an independent investigation on the administration's use of intelligence at any time.

When you talk about what goes on and how intelligence is used, that is a topic of debate in the political realm, and there is no shortage of that debate in particularly the Democratic primaries right now. We see many of the candidates who are arguing very forcefully about it. I am disappointed that the discussion in the Presidential primary has totally ignored or forgotten the old adage that politics stops at the water's edge; that we should not be getting into political battles when we have troops in harm's way, and there is no question we have troops in harm's way.

It appears this memo suggests there is, at least at the staff level, a Democratic game plan to make the Intelligence Committee a focal point for the 2004 Presidential debates. This memorandum said:

> Yet, we have an important role to play in revealing the misleading, if not flagrantly dishonest, methods and motives of the senior administration officials who made the case for a unilaterally preemptive war.

Those are pretty harsh words. Those are the words of a political attack.

Unfortunately, it is not just the staff who has been talking about them. There is an article in the Sunday Telegraph of London quoting a Democratic member of the Intelligence Committee:

> We want to know whether the administration put pressure on the agencies to come up with certain kinds of information. It's a question that's been explored at great length in Britain. If the Republican leadership of the Senate Intelligence Committee is determined to protect the administration at any cost, we'll do the investigative job on our own.

I can assure you that this inquiry goes into every area that we can find in the intelligence operation, in many intelligence agencies, how that information is developed. There are suggestions that there is improper influence. This is something we are exploring assiduously. The committee staff has interviewed many members of the Intelligence Committee, anybody who might have information. They have been asked: Were they pressured? Was the information tainted or changed or pressured? And absolutely not. If there is evidence of pressure, that will undoubtedly be included in the chairman and vice chairman's report.

Moreover, I tell you regrettably, it will be leaked almost immediately because the committee has a tendency right now to leak like a sieve. There was one person who said he had a problem, and I turned to my colleague on the Intelligence Committee and said: Let's take bets on how long before it is on the national news wire. It was less than an hour. It turns out that the analyst did not have any problem with the intelligence related to the operations of Iraq, but it came out immediately.

The question that is being raised that some of our Democratic colleagues want to address in the Intelligence Committee is: Can we find a way to undercut the President, the Vice President and the administration? That, I submit, is not the role of the Intelligence Committee. The Intelligence Committee has a very important responsibility. We need to determine how to improve our intelligence system to win the war on terrorism, not to win the war for the White House.

What is the job of the Intelligence Committee? Is it to determine and argue with the policy or is it to find out if the intelligence-gathering information is appropriate? The people in the intelligence community have to deal with information that is fragmentary. We criticized them as a result of 9/11 for not having connected all the dots and come together to forecast and perhaps forestall the attacks of 9/11. Now we are saying they didn't have enough information, but this information has been available and has been supplied by the Intelligence Committee for some time.

I quote a statement by the President. The President said:

> Heavy as they are, the cost of action must be weighed against the price of inaction. If Saddam defies the world and we fail to respond, we will face a far greater threat in the future. Saddam will strike again at his neighbors. He will make war on his own people. And mark my words, he will develop weapons of mass destruction, he will deploy them, and he will use them.

Those are the words of the President talking about intelligence that he received. And by the way, that was a speech on December 16, 1998, by President Bill Clinton. That was based on the information he was receiving at the time.

If that intelligence was grossly inaccurate or inadequate, then we in the Intelligence Committee need to fix it. I happen to think there were some major mistakes made 7 or 8 years ago in the intelligence community when they decided to restrict severely the number of human intelligence sources they could use by refusing to take intelligence sources from people who didn't meet the highest moral and ethical standards. Frankly, those people often don't deal with terrorists and provide us the information we need.

We need to do a better job. We are making improvements in intelligence, but I don't think anybody will say we have an intelligence system that is as good as it should be. I can tell you, the battle over how intelligence is used is a broader political battle.

Leaving aside the question of whether it should be carried on while we have troops in harm's way in Iraq, it is not a question, in any case, to be fought out in the Intelligence Committee by trying to change or develop information that is not there.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BOND. I thank the Chair, and I urge our colleagues to remember that the battle of the Intelligence Committee is to win the war against terrorism, not to win the White House.

Mr. ROBERTS. Mr. President, how much time do we have remaining?

The ACTING PRESIDENT pro tempore. The Senator retains 15 minutes.

Mr. ROBERTS. I yield 5 minutes to the distinguished Senator from Arizona.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized for up to 5 minutes.

Mr. KYL. Mr. President, I thank the distinguished chairman of the Intelligence Committee and applaud him for the work he has been doing and commiserate with him today. Having served on that committee for 8 years, I know how difficult it is to keep focused on the important intelligence issues that confront our country, especially in this time of war, and do that in a way that maintains the traditional bipartisan relationship that has heretofore characterized the members of the Intelligence Committee.

Having served there for 8 years, I never saw the kind of blatant, partisan politics emerge that has apparently emerged as revealed in this memorandum that has been discussed this morning. It is a disgusting possibility that Members of the Senate would actually try to politicize intelligence, especially at a time of war, even apparently reaching conclusions before investigations have been performed.

This memo refers to the fact that, for example, if we carry this plan out that has been discussed already, we will identify additional views and castigate—well, I will quote it exactly:

> Our additional views will, among other things, castigate the majority for seeking to limit the scope of the inquiry.

In other words, before something is even done, the plan has already been devised about how they are going to criticize the majority about something it has not even done yet. This is blatant partisan politics.

Now, our Democratic colleagues have denied that this memorandum represents their plan. One of two things is true. It either is or it is not. If it is, it is reprehensible. If it is not, there is a sure way to prove it and that is to repudiate the memorandum and to ensure that this plan of action is never carried out. So we shall see.

Are the denials of the Democrats going to result in this plan being repudiated and not carried out? That will be the test of whether this is really the plan of the Democrats.

I note that parts of the plan appear already to have been set in motion. The first item of the plan:

> Pull the majority along as far as we can on issues that may lead to new disclosures. . . . We are having some success in that regard.

I mean, this is being done. This is not a plan that somebody had, an idea that is out in the future someplace. It is part of what is currently a Democratic process in the committee.

Secondly, the suggestion that there should be an independent commission, well, while there is some confusion in the memo about when to "pull the trigger" on that, the ranking member on the committee has already called for an independent commission. So there appears to be some elements of a plan that are already in play, but I am willing to accept the denials of my Democratic colleagues that this represents their proposed course of action. As I said, the sure way to prove that is for them to repudiate it and to ensure that, in fact, that plan does not go forward.

I note one other thing. There is much in this memo that deals with how the Republican position will be characterized. We are talking about a Republican Senate position. I urge my Democratic colleagues to consider this. It is unethical and improper under the rules of the Senate to characterize the motives of fellow Senators. We all know that. We do not do that. That begins the breakdown of the comity that must exist in this body.

I do not question my colleagues' motives and clearly they should not question mine, but there is an opportunity in this memorandum for questioning motives. I want to bring this to the attention of people because clearly this should not be a part of anything we do in this body.

In the summary, the memorandum itself says:

> Yet we have an important role to play in revealing the misleading, if not flagrantly dishonest, methods and motives of senior administration officials who made the case for unilateral preemptive war.

I think it may be inappropriate to question the motives of senior administration officials, as well as Senators. In any event, as I say, there is much in here that goes to the questioning of the report that they presume will be prepared by the majority. That would be a breach of ethics, and I urge my colleagues to strongly consider what that would result in and to repudiate this memorandum because of language like that.

We do not need more reviews. We have already had the review that was conducted when I was on the Intelligence Committee that resulted in a lengthy report. The Kean Commission is doing its work right now; and, third, we have the Intelligence Committee doing its work. So I think that enough review has occurred. We certainly should not let partisan politics intrude into the important work of the Intelligence Committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERTS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kansas retains 10 minutes.

Mr. ROBERTS. I yield 4 minutes to the distinguished Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished chairman of the Intelligence Committee for yielding me this time. I will adhere to the 4 minutes because I know that he wants to wrap this up, too.

First, I want to thank the chairman for his diligence in trying to make sure the Intelligence Committee does its job and does its job in a nonpartisan, bipartisan way. I went on the Intelligence Committee this year because I believe it was one of the most important committees in the Senate. I like the fact that while the committee's work is always difficult, the committee worked together in a bipartisan way and has not become a political tool.

I have also expressed myself that I am concerned about the intelligence that we have received before going into Iraq, and the intelligence that is available even today. So I am not one who is going around trying to make excuses for the intelligence community. But my approach is different. I think we need to find out where our problems are, where we need more assistance, and how we can do a better job in the future.

It should not be about the blame game. It should not be about politics. It should not be about trying to find a way to blame it on the President or the Vice President or anybody else, even though obviously there will be some criticism directed at one place or another. The thing we need to do is to make sure we have the intelligence that our officials need and our military men and women need, and that should be the focus.

This memorandum outlines a political plan of attack in the Intelligence Committee. Our adversaries around the world must be smiling this morning. They must be enjoying watching us fight among ourselves instead of focusing on doing what we need to do to get the kind of intelligence we require to do the job against the terrorists around the world. This memorandum is a very sad commentary. While I am not quite sure of its origin, whether it was written by a particular Senator or by a staff member at the direction of a Senator, it clearly is something that a Democrat staff member, working with some members of the Intelligence Committee, drafted.

When you start talking about castigating the majority or pulling the trigger on an independent investigation, or an independent commission, the Senate voted on that just a week ago and overwhelmingly defeated the idea that we kick the football over to somebody else, let somebody else do our job. I say we should do our job, do it here, and do it in a constructive, aggressive, nonpartisan, bipartisan way.

This is a very debilitating thing that we have seen. One might say, well, maybe we are protesting too much, that this does not necessarily reflect all of the Democrat members of the Intelligence Committee. But already the London Telegraph in London is quoting Democrats in the Senate Intelligence Committee using some of the exact words in the memorandum.

> We want to know whether the administration put pressure on the agencies to come up with certain kinds of information.
>
> If the Republican leadership of the Senate Intelligence Committee is determined to protect the administration at any cost . . .

I have watched the chairman aggressively pursue information and insist that the administration provide information to this committee. We have not been shrinking violets. We are doing our job.

To have this attack plan come out and make it totally political is one of the most disquieting things I have seen in recent months in the Senate. We should not proceed in this way. I hope the Democrats will disavow this whole approach and say that is not their political plan, that is not their intent. The alternative is chaos in the committee that is so critical to making sure we have what we need in terms of intelligence.

Just this week I proposed that we make the membership permanent on the Senate Intelligence Committee. I know there has been an argument that permanent membership on the committee could impact objectivity, but what I want are members who are experienced enough to do the job.

I thank the chairman for yielding me this time, and I am looking forward to hearing Democrats assure us that this is not what is going on.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator's time has expired.

Mr. ROBERTS. How much time do I have remaining?

The PRESIDING OFFICER. Five and a half minutes.

Mr. ROBERTS. Mr. President, as members of the Senate Intelligence Committee are well aware, we have spent almost 6 months pouring over thousands of documents that are related to Iraq's weapons of mass destruction programs and its ties to terrorism. We have interviewed over 100 people. This is probably the most thorough and complete review of intelligence that has ever been conducted, and the committee's process is completely open and transparent to Members on both sides of the aisle.

All staff involved certainly participate on an equal basis. I have worked to ensure the minority's voice has been heard at all times. There should be no legitimate question as to our approach or our dedication to following the information no matter where it leads. I have said that over and over. We have asked the hard questions.

When the inquiry is complete, I believe strongly the facts will speak for themselves. Yet despite all efforts to handle this review in the most professional and bipartisan way, we have learned of an effort to develop a plan to discredit the committee's work, undermine its conclusions, no matter what those conclusions may be.

Our goal is to discover the facts, not to target any individuals or to serve any agenda. We want to know that the assessments reached by the intelligence community were based on sound intelligence and that the policymakers, including the President and the Congress, got the best information possible.

I have been asked, Where do we go from here? The answer is simple: We go back to work. We build a bridge and go back to work. We have a number of documents yet to review. We have a handful of interviews yet to conduct. Then we will begin the process of drafting a committee report and preparing for public hearings. It is critical that all of this take place in an atmosphere of good faith and mutual trust. Secret plans to undermine the committee's work are examples of neither. I urge my friends across the aisle, those members of the committee, to disavow—and if that word is too strong, just to say not to go down this path of a strategy of attack, and join us to work together to complete the business of the committee. The American people, and particularly those currently serving in uniform overseas, deserve nothing less.

I know Senator ROCKEFELLER. He is a good friend. He is a good colleague. We have had a good private discussion. It is time to put this in the past, build a bridge to the future, and let the Intelligence Committee, unique among the committees in the Congress, do our work, our congressional oversight on behalf of national security.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, on my own time I would like to ask the chairman of the Senate Intelligence Committee if he would respond to a question.

Mr. ROBERTS. Yes.

Mr. DURBIN. I ask the chairman of the Senate Intelligence Committee, is he prepared to say on the Senate floor today that the investigation of this committee will not only look into the conduct and activity of the intelligence agencies, but allow us to follow the intelligence information gathering to its use by the administration, from the President on down, specifically whether the committee, as we have requested on the Democratic side, will take this intelligence information, determine whether there was any influence by the administration on intelligence agencies, and determine whether or not the administration and any of its spokesmen, before the invasion of Iraq, in any way exaggerated or distorted the intelligence that was gathered in portraying the case to the American people?

Mr. ROBERTS. I say to my friend and colleague, we are in the process of conducting an inquiry. That inquiry I would say is about 85 percent complete. We have had full cooperation—not full cooperation but a spirit of cooperation from the White House, State Department, Department of Defense, and the CIA. Once our inquiry is complete, I think I can answer the question the Senator has posed.

We are on the right track. We want to get at the timeliness and the credibility of the intelligence that was provided. We had four goals to do that, agreed upon by Senator ROCKEFELLER. We will do that job. At that particular time, why, the Senator's question would be pertinent.

I yield.

Mr. DURBIN. Let me reclaim the time. The response or lack of response from the chairman of the Senate Intelligence Committee explains why we are in the Chamber today. There are two responsibilities of this Intelligence Committee: Not only to determine whether the intelligence agencies did their job but whether or not the information they generated was correctly portrayed by the administration.

I have just asked the chairman of the Senate Intelligence Committee directly whether this investigation will go into the use of intelligence information by the administration, and you heard his response: Only after we have completed the first round of inquiry about intelligence agencies would we consider asking the question whether anyone in the administration exerted influence on intelligence agencies or mischaracterized the information coming from those agencies.

That was the direct question. There was an opportunity for the chairman of the committee to say point blank that we will allow this investigation to take its normal course, and he deferred. He said we will wait to a later time. That, I believe, is the source of frustration within this committee.

Our ranking member on this committee, Senator JAY ROCKEFELLER of West Virginia, has shown the patience of Job. He has tried literally for months to encourage and convince the Republican majority on this committee to have a full and complete investigation. That is what the American people deserve. That is what this committee should do. But, sadly and unfortunately, the Republican majority has built a wall and said we will gather all of the information and all the investigation about intelligence—but we will not breach that wall and go over the other side to see how the administration used this information.

That is the critical issue. How can you have a complete investigation without asking both questions? Unfortunately, it has been a decision by the Republican majority that they will not allow us to look into the use of intelligence data.

I have never seen this memo that has been referred to. No one has ever given it to me. I certainly had no role in the preparation of this memo. I don't know what it said. But if that memo expressed the frustration of many Senators on the committee that we have created this firewall to protect the administration, then the memo, frankly, speaks to real feelings.

The Intelligence Committee historically has been bipartisan, as it should be. Our efforts on the Democratic side were to urge the Republican majority to take perhaps the uncomfortable but necessary step so that the investigation would be complete. You heard what Chairman ROBERTS said this morning. He is not prepared to take the investigation of the Intelligence Committee to the use of intelligence data. And as long as that wall has been created, sadly, this cannot be the kind of investigation the American people deserve.

Just several weeks ago—maybe 2—Senator JOHN CORZINE of New Jersey came to the floor and asked for an independent commission on the intelligence that was gathered and how it was used by the administration before the invasion of Iraq. At that time his amendment was rejected by the Senate. It was opposed by Chairman ROBERTS of the Senate Intelligence Committee and Senator ROCKEFELLER, the ranking Democrat. They said: Stay with the investigation of the Intelligence Committee.

I, frankly, took a different position. I really think this debate this morning proves the point that it is now time to appoint an independent commission—independent and bipartisan—that will literally take this investigation wherever it leads. If the chips fall on a previous administration or this administration, so be it. It is not our role in the Intelligence Committee, nor in Congress, to protect any political party or administration. Our role is to protect the United States of America. Our responsibility is national security. Once the chairman of the committee, as he said this morning, decided this investigation will not go into the use of intelligence data, it is clear that this Intelligence Committee cannot do its job as it should. It makes the case now more than ever that an independent commission needs to be appointed so there is integrity, transparency, and believability in this process.

Mr. LOTT. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I am happy to yield for a question.

Mr. LOTT. I appreciate that because I believe Senator ROBERTS did respond to your question.

I didn't mention any names quoted in this London Telegraph article. But, Senator DURBIN, you are quoted as saying that a public split and new inquiry is inevitable. I hope that is not a quote from you.

Mr. DURBIN. Well, it is a quote from me.

Mr. LOTT. Because to prejudge——

Mr. DURBIN. Reclaiming my time——

The PRESIDING OFFICER. The Senators will respond to each other through the Chair.

Mr. DURBIN. Responding to my friend from Mississippi, let me say that quote is accurate, that quote is mine, and what you heard from our chairman this morning is the reason for the quote. If we do not allow a complete and full investigation, a split is inevitable. If a decision is made to protect this administration at any level at the expense of the credibility of this investigation, we are not serving the American people well.

Senator ROCKEFELLER has tried time and time again to convince the chairman, the Republican chairman of this committee, that we need a complete investigation. He said repeatedly to Senator ROCKEFELLER, I have been led to believe, what he said on the floor this morning: We are going to draw the line. We will not look into the use of intelligence.

That, sadly, I think, is the reason we are here today and tied in this political knot. It is time for an independent commission.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

(The remarks of Mr. HOLLINGS pertaining to the introduction of S. 1821 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Indiana.

INTELLIGENCE INFORMATION

Mr. BAYH. Mr. President, I am pleased to offer a few remarks on behalf of myself and also the distinguished Senator from Oregon with regard to the brouhaha that has broken out over the Intelligence Committee and our inquiry into the possible existence of weapons of mass destruction and the use of intelligence information by this administration.

In many ways, it is an unfortunate debate because if there is one thing that should absolutely be above and beyond partisanship, it is the Intelligence Committee, our intelligence services, and the use to which that information is put. We need to dedicate ourselves not to scoring political points but, instead, to protecting the national interest. When we have Members' motives cast in a bad light and heated rhetoric used, it does not serve that purpose in any way whatsoever.

Senator ROCKEFELLER, the ranking member on the Intelligence Committee, has been doing a very admirable job. It is my strong impression that he has been pursuing his responsibilities in a bipartisan way, trying to get at the truth in a way that is consistent with the finest traditions of the Intelligence Committee.

I have never seen the report that has been alluded to. I understand it was simply a listing of possible options. And I can guarantee you that Senator ROCKEFELLER has been under intense pressure by some others to pursue a much more partisan line of inquiry and to be much more confrontational. Instead, he has chosen to try to pursue the cooperative path first. I compliment him for that because it is exactly the course that needs to be pursued on the Intelligence Committee and in this body. Most importantly, we need to get beyond this current controversy.

I happen to think those who are watching this debate out beyond the beltway are scratching their heads and saying: There they go again. What on Earth are they doing?

We have gone to war at least in part because of the possible existence of weapons of mass destruction in the nation of Iraq. Our credibility is at stake. We need to get to the bottom of this and understand, if they do exist, what we can do to root them out and, if they do not exist, why we were led to believe they do exist. This is important to ensuring the national security interests of our country.

We also need to get to the bottom of allegations about the possible manipulation or misuse of intelligence in the runup to the war—not for the purpose of scapegoating or witch hunting but for the purposes of ensuring that in fact it never takes place.

Those in the majority shouldn't stonewall or circle the wagons, and those on our side of the aisle shouldn't engage in finger pointing and trying to score political points in a runup to a Presidential election next year. We need an objective, dispassionate search for the truth. That is what the American people deserve. It is my understanding that is what Senator ROCKEFELLER is pursuing.

Finally, the British have some experience in this area. They have just recently gone through an inquiry of their own over what was allegedly the "dodgy dossier." I think that is how it is referred to in British circles. The Prime Minister even had to offer evidence under oath as part of that inquiry.

No one is suggesting anything so intrusive on our side of the aisle. On the contrary, we would like to pursue this in a cooperative, nonpartisan manner to get at the truth, to determine whether weapons of mass destruction existed and, if not, why we were led to believe they did, and always to fairly and dispassionately analyze how information from the intelligence world was used in making the case to pursue the ouster of Saddam Hussein. That is in the national security interests of our country.

I salute Senator ROCKEFELLER for taking the appropriate course. I hope this debate will calm down and refocus on the business at hand, which is protecting the national security of our country, rather than engaging in heated, partisan rhetoric which we have way too much of around this town and in this Chamber.

Those are my thoughts.

I again compliment Senator ROCKEFELLER, and I look forward to working with Members on both sides of the aisle to bring about that kind of inquiry.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I very much share the view of the Senator from Indiana. I simply say that a lot of paper floats around Capitol Hill that never sees the light of day. The document that has to guide the members of the Intelligence Committee—both Democrats and Republicans—is the Constitution of the United States. That is the tone that our vice chairman, Senator ROCKEFELLER, has consistently set throughout this effort to get at the facts with respect to Iraq. That is the path I think every Member of the Senate ought to continue to follow. It ought to be a bipartisan goal. The American people deserve no less.

There are legitimate and very troubling questions that need to be answered about the intelligence used to bring this Nation to war in Iraq. In fact, serious issues have come up just in the last week.

I will say that I found it exceptionally troubling—really chilling—that just last week, Paul Bremer, who is the point man with respect to the efforts on the ground in Iraq, was asked about the nature of the Iraqi resistance and in fact was told there really wasn't a capability in the intelligence community to give our country the information that is so necessary to protect our courageous men and women who are in harm's way.

That is the kind of issue about which I think every Member of the Senate ought to be concerned. That is what the Intelligence Committee ought to be tackling in a bipartisan way. That is what Senator ROCKEFELLER has consistently been trying to do.

We can go through a lot of the past history. Certainly, in discussions about weapons of mass destruction, we were told right here in the U.S. Capitol on a number of occasions that those weapons have not materialized. There are issues with respect to the past that need to be examined. There are issues such as the point Mr. Bremer made just in the last week that I think are very troubling.

I just urge that every Member of the Senate—and certainly those on the Intelligence Committee—recognize it is not the paper that floats around here that may or may not see the light of day and various kinds of draft documents that are important; what is important is that we do the work of oversight. That is what is in line with the document that ought to guide us—the Constitution of the United States. And that is what Senator ROCKEFELLER has set out for us in his work. I commend him for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1822 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Michigan.

EXTENSION OF MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that morning business be extended for 20 minutes, equally divided between this side and the Republican side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask that the Chair inform me when 5 minutes have been utilized so I can share the remainder of our time with the Senator from New Jersey. I think the Senator from Indiana may be on his way over as well.

CREATION AND USE OF INTELLIGENCE

Mr. LEVIN. Mr. President, early this morning there was a discussion on the floor of a staff memo from some Intelligence Committee staffers which had not either been authorized or indeed shared by members of the Intelligence Committee. But it was characterized—and I think mischaracterized, quite clearly—as a Democratic plan relative to the review of the intelligence that was created and used prior to the Iraqi war.

The only thing that Democratic members of the Intelligence Committee have pressed is for a full investigation, a full inquiry into not just the creation of the intelligence but the use of that intelligence.

Without looking at the use of intelligence that was created by the intelligence community, there would only be half a picture painted. Hopefully, that half of a picture will be fully explored on a bipartisan basis. I think the first half of the picture, indeed, is being fully explored on a bipartisan basis. That is the part of the picture that looks at the intelligence community's production of intelligence and as to whether or not that intelligence community in some way either shaped or exaggerated that intelligence for whatever purpose. It has also been now added that if any of the administration put pressure on the intelligence community that would also be included in the review.

But what is left out is the critical half of the picture which the American public hears, which is the use of the intelligence given to the policymakers by those policymakers. Now, the word "use" of intelligence, that word "use" actually appears in the resolution creating the Intelligence Committee and identifying the oversight role of the Intelligence Committee. So the word "use" is actually embedded in the very document creating the Intelligence Committee that sets forth what its role will be and what its oversight responsibilities are. Yet so far the majority of the Intelligence Committee has said: We will not look at the use of the intelligence which was given to the policymakers.

Now, that is a huge gap. That means we will be walking up to the water's edge and stopping there. That means instead of letting the chips fall where they may, the chips will only be allowed to fall on the intelligence community's side of the fence. They will not be allowed to fall on the policymakers' role and responsibility.

We were told by the policymakers, prior to the war, that—this is Secretary Rumsfeld—

> We know where the weapons of mass destruction are.

We were told, before the war, by the Vice President:

> Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction.

We were told, before the war, by the President, himself, that:

> Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised.

So the heart of the problem that we have at the Intelligence Committee is whether or not we are going to stop at that water's edge or look at the use of the intelligence, whether a critique will be made of the intelligence community's shaping or exaggeration, to the extent that existed, or whether or not the same searchlight will be placed upon the policymakers as to whether they exaggerated or shaped or misstated what was given to them by the intelligence community.

The Department of State had a Web site. On December 19 of last year, that Web site said:

> Why is the Iraqi regime hiding their uranium procurement?

This is months after the CIA apparently told the State Department that there was no such effort on the part of Iraq to obtain uranium, or at least that they had not reached that conclusion. Yet in December—and by the way, much later—the State Department's Web site still is representing to the public that the Iraqi regime is hiding uranium procurement.

Why should we not look into that Web site? How does that Web site get created, despite what we now believe was the intelligence community's conclusion or lack of conclusion relative to uranium acquisition?

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. LEVIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CORZINE. I thank the Chair. I appreciate very much the comments of the Senator from Michigan, particularly in informing the Senate that the charge of the Intelligence Committee includes the use of intelligence as part of its mission.

Frankly, this whole discussion of this leaked memo today only reinforces my own view that we need an independent, bipartisan commission because it is now becoming a political debate about whether there is politics inside the Intelligence Committee.

I listened to the earlier discussion on the floor. People are talking about Presidential politics and talking about how inappropriate it is for people to talk in a thoughtful manner about how processes may occur over a period of time. We are missing the point.

There are men and women who are dying in Iraq because either the development or the use of our intelligence is not at a level where we are protecting the people of America and the men and women in uniform.

The issue is not whether this is a political debate. The issue is whether Iraq possessed chemical or biological weapons.

It is whether Iraq had links to al-Qaida or whether Iraq attempted to acquire uranium. It is an issue of whether we are going to turn loose the names of our intelligence operatives because there is political use of the need or want to discredit someone who might challenge some of the answers to the questions I just raised.

We have a fundamental question right here and now of whether we are going to have an intelligence operation that informs policymakers so they can make good decisions or whether we are going to have an intelligence operation that is used to justify policy decisions already taken.

The idea that we are going to debate whether this is a political issue or not really does argue in the strongest terms that we need to have an independent, bipartisan approach to understanding whether the development of our intelligence was appropriate and whether the use of that was even consistent or whether it was designed to justify as opposed to inform.

When men and women are dying, I don't understand why we are even thinking about this in the context of politics on either side of the aisle. The real issue is, we ought to get to the bottom of it. What led to decisions that don't match the reality we have come to find on the ground in Iraq?

I have over and over again—and will again—asked for an independent investigation, a bipartisan investigation, a commission to understand why we don't know what we should have known when we entered into this. It seems to me that is the essence and the most important issue we ought to be discussing, not some memo that wasn't seen by anybody else in the committee, developed by a staffer as a concept memo. That really diverts from the fundamental issue of protecting our men and women, protecting the people of the United States.

By the way, there is some reason to believe we are not getting all the information, whether it is in the Intelligence Committee. We know the independent commission studying 9/11 has said they have been stonewalled. People from both sides of the commission, as far as political background, have said that. They had to subpoena information from the FAA to be able to get information to move forward to investigate.

We are missing the point. One of the reasons I do believe we need an independent, bipartisan commission is so we don't have the kind of discussion we had on the floor today, so we can get to the facts that actually will protect the American men and women in uniform. It is high time we put our priorities right, which is understanding how our intelligence operations develop and how they are used, not whether we have a political issue that can be talked about on the talk shows at night.

I find it very hard when senior people in the State Department, who have worked there 25 or 30 years, say, speaking about folks, that we have a faith-based approach to intelligence, that we are developing intelligence to show what we want to conclude.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORZINE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Parliamentary inquiry: What is the pending business?

The PRESIDING OFFICER. There are 8 minutes remaining in morning business that the Senator may consume or yield back.

Mr. BENNETT. Mr. President, given that opportunity, I will consume a few of those minutes to respond to the conversations about Iraq.

I was in this body when we went to S–407 and heard the intelligence community brief us on the manufacture of chemical weapons taking place at what appeared to be a pharmaceutical factory in the Sudan. We were told repeatedly by high officials of the administration this was a plant producing weapons of mass destruction, chemical weapons; it had to be taken out by a cruise missile. Some of us asked to see the intelligence. We asked to know exactly what it was that led the administration to believe this was in fact a chemical plant.

As we were given that intelligence, I found myself questioning it. I walked away from that meeting saying to myself: This is a little bit thin. There is not a lot of substance here. But administration officials were very emphatic in saying, no, we have gone through the intelligence. It is very firm. We have to take this out.

The administration in this instance, of course, was the Clinton administration. The intelligence being presented to us was being presented by Secretary Cohen, the Secretary of Defense. We now know the intelligence was wrong. This was not, in fact, a factory for weapons of mass destruction. It was, rather, a pharmaceutical plant, just as the people said it was.

We blew it up nonetheless. We killed some people with the cruise missiles we threw in there. After recognizing the intelligence was wrong, we apologized, as indeed we should.

The question I would ask those who are now raising the issue about intelligence in Iraq would be this: Would they suggest the result of our actions in Iraq called for an American apology? Are they suggesting we should apologize to the people of Iraq for having taken out Saddam Hussein and, when we find him, replace him in power?

This is a man who killed 300,000 of his own people. We have uncovered the mass graves. This is a man responsible for over 1 million additional deaths in the two wars he started with his neighbors.

This is a man who has destroyed his own country. This is a man who has raped and brutalized those of his citizens whom he has not killed. This is a man who was willing to pay $25,000 to anyone who would wrap himself in dynamite and blow himself up, as long as he took some others with him. This is a man who had weapons of mass destruction and has used them against his own people. This is a man whose actions are clearly in violation of the U.N. Resolution 1441.

Am I supposed to apologize for having supported an effort to remove him just because some people are challenging the details of the intelligence that led us to this action? I do not apologize for one moment for supporting the war or for supporting the supplemental to pay for the war, because the consequences of the action we have taken have liberated over 20 million people and made the neighborhood in which Saddam Hussein lived substantially safer for all of the neighbors around him.

This is not similar to the case of the blowing up of a pharmaceutical plant in Sudan because the intelligence was faulty, which took place in the Clinton administration. This is an action that history will look back upon and say we did the right thing.

With that, I yield back the remainder of morning business time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

AGRICULTURAL, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to H.R. 2673, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2673) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, that amendment No. 2072, which is the text of Calendar No. 216, S. 1427, the Senate committee-reported bill, be inserted in lieu thereof, that the bill, as amended, be considered as original text for the purpose of further amendments, and that no points of order be waived by reason of this agreement.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BENNETT. Mr. President, I am pleased to present the Agriculture appropriations subcommittee report to the full Senate and to recommend passage of this bill. I am very grateful to the ranking member, Senator KOHL, and his professional staff.

It has been one of the most satisfying experiences of my service in the Senate to see how Senator KOHL's staff and our staff have been integrated and have performed as truly professional staffs, regardless of any partisan affiliation. I think one of the reasons the bill moved as smoothly as it did through subcommittee and full committee is that the staffs have worked together in such a professional way. I am grateful to Senator KOHL for his wisdom in the people he has chosen, and I am grateful to them for the professional way in which they have handled it.

The bill is at the 302(b) discretionary allocation level of $17.005 billion. That is $873 million less than the fiscal 2003 level, which was $17.878 billion.

It is always difficult to bring an appropriations bill to the floor that has an allocation lower than the previous year and, in this case, it is almost $1 billion lower. That has made the challenge of putting the bill together extremely difficult and, once again, underscores the accomplishments of the professional staff as they have dealt with this challenge.

To run through the various titles of the bill and help people understand what we are talking about, I will give you the following numbers.

On title I, dealing with agricultural programs, we have a total of $26.776 billion, of which $20.658 billion is mandatory. This is $1.318 million more than fiscal year 2003.

On food safety, it is $783.761 million, which is an increase of $28.9 million over fiscal 2003. The Agricultural Research Service is at $1.092 billion. The Cooperative State Research, Education and Extension Service is at $1.118 billion. The Animal and Plant Inspection Service, APHIS, is at $711 million. That takes care of title I.

Title II, conservation programs, come in at a total of $973 million, which is $48 million less than fiscal 2003. Conservation operations are at $826.635 million.

Title III, rural economic and community development programs, the total appropriated funds will be $2.588 billion, which will support a loan level of $4.353 billion. Single-family housing is at the $4.084 billion level. The Rural Community Advancement Program is at $769.479 million. Distance learning, telemedicine, and broadband is at $685.963 million.

Title IV, domestic food programs, there is a total of $44.088 billion, of which $39.164 billion is mandatory. This is $2.197 billion more than fiscal 2003. Food stamps will be funded at $27.745 billion. WIC, Women, Infants, and Children, will be funded at $4.639 billion.

Title V, foreign assistance and related programs, there is a total of

$1.486 billion, which is $349 million less than fiscal year 2003, which included supplemental funding of $369 million.

Title I, development food assistance, is $131.67 million.

Title II, emergency food assistance, is $1.192 billion. McGovern-Dole international food for education and child nutrition, which is a new discretionary account, is funded at $25 million.

On the overall bill, title VI, related agencies and the Food and Drug Administration, this is an increase. It is $1.482 billion, $16 million more than in fiscal 2003.

The Food and Drug Administration gets $1.39 billion in direct appropriations, plus an additional $302 million in user fees.

The committee provides $10 million toward the Government's share of the medical device review user fee program.

Finally, title VII, general provisions, the committee includes limitations on several farm bill mandatory programs. We do not freeze these programs at a level below fiscal 2003, and we do no harm to existing programs by these limitations.

The committee did not include a limitation on the mandatory funding level for the Environmental Quality Incentives Program, EQIP.

Now, in the bill, there are necessary pay costs for employees covered: $131.208 million.

I will make a personal and parochial observation with respect to this bill. Utah is in its fifth year of the worst drought in memory, which is a situation shared by many Western colleagues. We have not provided emergency funding for the drought, but we have made substantial investments in farm programs and conservation efforts that we think will help producers deal with these weather-related disasters.

This is an appropriations bill, not an authorizing bill. I know there is a strong temptation to use appropriations bills as a vehicle to catch up on authorization situations. Senator KOHL and I have agreed that we will oppose any authorizing amendment regardless of how salutary it may be, unless it has been cleared by both the chairman and the ranking member of the appropriate authorizing committee.

I am grateful to Senator KOHL for his willingness and leadership on this particular issue. We have done our best to accommodate Member requests in this bill. This is not always possible. The fact that we are almost $1 billion less than fiscal 2003 makes it difficult. We have done our best to be as fair as we can and as complete as we can. If there are any funding amendments, therefore, offered on the floor, they must be offset.

It is the desire of the leadership, Senator FRIST and Senator DASCHLE, to finish this bill today. I think that can be done. But if it is to be done, we are going to have to have full cooperation of all of the Senators. We know of some of the amendments that have been proposed. We have done our best to deal with those amendments at the staff level and in the committee by having conversations and occasionally colloquies. But we understand there are some amendments that will be proposed, will be debated, and will be voted on.

I ask for the cooperation of all of my colleagues and that, first, they come to the floor in a timely fashion to offer their amendments; secondly, that they would understand we need to move through these amendments as quickly as possible in order to meet the leadership's request that we finish the bill tonight. I am hoping we can finish it in good time tonight. We will stay, as I understand it from Leader FRIST, as long as we have to stay to get the bill done.

While the time seems to be hanging heavily on people's hands right now, I hope they will come to the floor and offer their amendments now, rather than rushing in at 10:30 tonight and saying: I have an amendment, and I need to have it brought up.

I will do my best to allow full and fair debate on each amendment, but I am prepared to offer a tabling motion if it appears to me all of the arguments have been made. I believe we know which are the more controversial amendments. I have talked with people who stand on both sides of those amendments and suggested to them the arguments have been made; there is really nothing new to be said about it. While we did get the information on the record, we really need to come to a conclusion and move on these particular amendments.

I don't think there is any amendment on which a Senator is undecided. I think the controversial amendments have been sufficiently discussed prior to coming to the floor so that everyone pretty much knows where he or she stands.

I will use the tabling motion judiciously. I will not attempt to cut anybody off or violate his or her privileges, but I will do what I can to keep the bill moving in a timely fashion.

AMENDMENT NO. 2073

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of myself and Senator KOHL.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2073.

Mr. BENNETT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 47, line 13, insert a period after "$335,963,000" and strike the remainder of the sentence, and on page 48, lines 7 through 9, strike all after "transmission in" and insert in lieu thereof the following: "rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.".

Mr. BENNETT. Mr. President, I understand Senator KOHL is on his way and will be here shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KOHL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, I rise today in support of the fiscal year 2004 appropriations bill for Agriculture, Rural Development and Related Agencies. This year, the subcommittee faced a difficult task. The allocation provided to the subcommittee, just over $17 billion in discretionary funding, was a significant decrease from the fiscal year 2003 funding level. Our new chairman, Senator BENNETT, worked extremely hard to balance priorities in this bill with limited funding. It has been a pleasure to work with him, and I appreciate the good job that he has done.

I would like to briefly mention some of the highlights of this bill.

Continued funding has been provided for important research projects ranging from nutrition issues to the control of emerging diseases. As we witnessed the devastating economic effect that one case of mad cow disease had on Canada, the importance of knowing all we can about it and making certain that our borders are protected becomes very clear. Further, outbreaks of Chronic Wasting Disease and West Nile Virus demonstrate how small the world has become, and research funded in this bill plays an integral role in keeping America prepared.

Continued funding has also been provided for ongoing conservation projects across the country. The Natural Resources Conservation Service provides basic services to help ensure that agriculture and our natural resources can fully complement each other. Risks from drought and flooding are reduced due to activities carried out by the NRCS. In recent years and recent days, it seems nearly every community in America has been faced with one or the other, and the NRCS, along with the Farm Service Agency, has played a vital role in protecting and assisting affected communities.

Funding has been provided to improve food safety, including funding for the Food Safety and Inspection Service to hire an additional 87 food safety inspectors and foreign program auditors. Funding for additional training, to improve the scientific and surveillance skills of these inspectors, as well as improved laboratory capability to ensure that they have access to modern equipment, is also included in this bill. The Food and Drug Administration is provided funding to improve monitoring of the food industry, improve the FDA's laboratory preparedness, and to implement the recently mandated Food Registration System.

For rural development, this bill provides adequate resources to continue the important programs that include homeownership, essential community facilities, water and waste assistance, business loan and grant programs. The committee has also provided sufficient funds for farm credit programs, which are essential to farmers who could not obtain funding from the commercial sector for ownership and operating loans.

The bill provides sufficient funding for the WIC program to support a monthly participation level of approximately 7.8 million low-income women, infants and children, the same participation level requested in the budget. This level includes funding for several initiatives requested by the President, and includes $25 million for the popular WIC Farmers' Market program and a $125 million contingency fund. Funding for the food stamp program and the commodity supplemental food program is also provided in this bill.

Funding for the child nutrition programs, which include school breakfast, school lunch, the child and adult care feeding program, and the summer food service program, is included at the President's request level. In previous years, I have worked to include several provisions in this bill to expand the availability of these important programs. This year, due to the scheduled reauthorization of the child nutrition programs, these provisions are not included. Instead, I have been working with the chairman and ranking member of the Agriculture Committee to have these provisions included permanently in child nutrition reauthorization.

The FDA is funded in this bill at sufficient levels to continue its mission of promoting and protecting the public health. Increased funding is provided for the food safety items I previously mentioned, as well as patient safety activities, medical device review, over the counter drugs, generic drugs, and pharmaceuticals for children. Last year, consumers spent nearly $1.5 trillion dollars on FDA-regulated products. The work done there is vital to this country, and the nearly $1.4 billion in funding provided to the agency reflects that importance.

I believe that more could be done with additional funding. However, with the dollars available, the chairman has put together a good bill that I fully support. I would like to thank Senator BENNETT for his leadership and hard work, as well as the hard work of his staff Pat Raymond, Fitzhugh Elder, Hunter Moorhead, and Dianne Preece. It is hard to believe that this is their first year working on this bill. Their expertise and professionalism would indicate that they had many years experience on this subcommittee.

Again, I strongly support this bill, and I urge all Members to vote for its passage.

Mr. NICKLES. Mr. President, I commend the distinguished Chairman and the Ranking Member for bringing the Senate a carefully crafted spending bill within the subcommittee's 302(b) allocation and consistent with the discretionary spending cap for 2004.

The Senate reported bill provides $17.0 billion in discretionary budget authority and $17.6 billion in discretionary outlays for fiscal year 2004 for the Department of Agriculture. This is 8.5 percent less than last year in discretionary budget authority and 1.6 percent less than last year in discretionary outlays. This bill also provides $55.5 billion in mandatory budget authority and $39.5 billion in mandatory outlays in fiscal year 2004 for the Department of Agriculture.

The Senate reported bill is at the subcommittee's 302(b) allocation for budget authority and $171 million in outlays below the 302(b) allocation. The bill provides $1.57 billion less in budget authority and $279 million less in outlays than the FY 2003 level and $22 million more in BA and $96 million less in outlays than the President's request.

Mr. President, I ask unanimous consent that a table displaying the Budget Committee scoring of the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1427, AGRICULTURE APPROPRIATIONS, 2004.—SPENDING COMPARISONS—SENATE-REPORTED BILL

[Fiscal year 2004 $ millions]

	General purpose	Mandatory	Total
Senate-reported bill:			
Budget authority	17,005	55,536	72,541
Outlays	17,632	39,472	57,104
Senate Committee allocation:			
Budget authority	17,005	55,536	72,541
Outlays	17,803	39,472	57,275
2003 level:			
Budget authority	18.575	52,763	71.338
Outlays	17,911	40,712	58,623
President's request:			
Budget authority	16,983	55,536	72,519
Outlays	17,728	39,472	57,200
House-passed bill:			
Budget authority	17,004	55,143	72,147
Outlays	17,657	39,142	56,799
Senate-Reported Bill Compared To			
Senate 302(b) allocation:			
Budget authority	0	0	0
Outlays	−171	0	−171
2003 level:			
Budget authority	−1,570	2,773	1,203
Outlays	−279	−1,240	−1,519
President's request:			
Budget authority	22	0	22
Outlays	−96	0	−96
House-passed bill:			
Budget authority	1	393	394
Outlays	−25	330	305

Note: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Mr. BYRD. Mr. President, the Senate is now considering the fiscal year 2004 Agriculture, rural development, and related agencies appropriations bill, and I would like to speak on the issue of increased funding provisions related to the treatment of animals.

Two agencies in the Department of Agriculture are charged with the responsibility of carrying out regulatory programs to protect animals from mistreatment, called for under the Animal Welfare Act and the Humane Methods of Slaughter Act. The Animal Welfare Act is enforced by the Animal and Plant Health Inspection Service, and the Humane Methods of Slaughter Act enforced by the Food Safety and Inspection Service.

The need for this increase in funding and commitment is due, in part, to media reports above livestock being raised in unspeakable conditions where they did not even have room to lie down, and about animal slaughter operations where animals are not properly stunned before beginning the process of dismemberment. While the U.S. Department of Agriculture, and certain state authorities, did initiate investigations regarding some of the more egregious reports, I understand that those charges were dismissed due to evidentiary problems, leaving unanswered the actual degree of severity to which humane slaughter regulations were violated in the reported cases, or the degree to which similar violations occur throughout the Nation.

During consideration of the fiscal year 2003 omnibus appropriations bill, the Senate included, at my request, $5 million for the hiring of at least 50 additional humane slaughter inspectors. Report language accompanying that bill instructed these new inspectors to work solely on the enforcement of the Humane Slaughter Act.

Prior to the $1.25 million allocation in the fiscal year 2001 supplemental appropriations bill for the hiring of 17 district veterinary medical specialists at the Food Safety Inspection Service to work solely on the enforcement of the Humane Slaughter Act, there were no inspectors employed exclusively for this purpose.

On May 7, 2003, the Secretary of Agriculture testified before the Senate Appropriations Subcommittee on Agriculture regarding the administration's fiscal year 2004 budget request. At that hearing, I asked the Secretary about the hiring of additional Food Safety Inspection Service inspectors for which funding had been appropriated in the previously enacted appropriations bill; however, it became apparent that the Department had yet to hire any new inspectors.

As a result of continued interest in this matter, the Senate Appropriations Committee included additional report language clarifying the funding provided in fiscal year 2003 regarding the

Department's goal for hiring 38 new inspectors by the end of fiscal year 2003. As of October 28, 2003, this goal was met, and I understand that the remaining 12 inspectors will be hired by the end of this calender year.

The fiscal year 2004 Senate Agriculture appropriations bill provides statutory language to continue funding for the 50 humane slaughter inspectors and the 17 district veterinary medical specialists, and outlines the Committee's expectation that this funding will be included in the Department's fiscal year 2005 budget request.

I strongly believe that much work remains to be done. I believe that continued attention should be placed on enforcement on both the Animal Welfare Act and the Humane Methods of Slaughter Act to put a stop to the mistreatment of animals.

Mr. President, I thank the chairman and ranking member of the Agriculture Appropriations Subcommittee for their support in this every important effort.

STATUS OF APPROPRIATIONS BILLS

Mr. BYRD. Mr. President, as Members are aware, all 13 appropriations bills have cleared the Senate Appropriations Committee.

Four bills have been sent to the President for signature, of which three have been signed into law. The Defense, Homeland Security, and Legislative Branch appropriations bills have been signed, and the Interior appropriations bill is awaiting signature.

Five appropriations bills are in conference. These are the Military Construction, Energy and Water Development, Labor-HHS-Education, Foreign Operations, and Transportation and Treasury appropriations bills. The Military Construction appropriations bill completed conference yesterday, and the Energy and Water Development conference met today.

Four appropriations bills are awaiting completion of Senate action—Agriculture, VA-HUD, Commerce-Justice-State, and the District of Columbia. The Agriculture appropriations bill is being considered on the floor today.

Mr. President, the Senate should proceed to process these four final bills on the floor and to send them to conference with the House. This will protect our rights as Senators to offer amendments. The Senate should process 13 individual appropriations bills, and avoid an omnibus appropriations bill. Omnibus appropriations bills have the effect of shoehorning large segments of the Federal Government into one monstrous bill. Members' rights to amend legislation are severely limited, and they will not be able to know what they are voting for or against. Omnibus appropriations legislation also has the result of bringing the White House to the table, which has the effect of blurring the distinction between the responsibilities of the executive branch and the constitutional responsibilities of the legislative branch to develop legislation under the separation of powers. This is no way to legislate.

I thank and commend the distinguished chairman of the Appropriations Committee, Mr. STEVENS, for his steadfast pursuit of the goal of processing 13 individual appropriations bills. The Senate would not be at this stage of processing the appropriations bills, if my friend, the Senator from Alaska, had not pursued this matter with such vigor on his side.

Again, I thank my distinguished and able colleague, Mr. STEVENS, for his efforts.

RURAL UTILITIES SERVICE BROADBAND LOAN PROGRAM

Mrs. CLINTON. Mr. President, I support the effort spearheaded by my colleagues, Senator BURNS and Senator DORGAN, and have serious objections to the Bush administration's proposal to gut the only national program we've ever enacted to get broadband high speed Internet connectivity deployed across our country.

It was just last year that Congress passed, as part of the farm bill, the only national broadband deployment incentive I am aware of that has been enacted by the Federal Government—a program that was supposed to provide over $700 million in loans a year to help get broadband to all parts of the country—$700 million in loans a year to help, create and bring jobs to rural parts of the country—$700 million a year to help improve health care and education delivery to places like Upstate New York, rural Montana, North Dakota, Alaska, Iowa, and all across the country—$700 million a year to help improve emergency communications systems so that our first responders can actually receive those calls for help.

From a fiscal perspective, you couldn't ask for a better deal. It takes just $20 million in Federal resources to leverage over $700 million in loans—$700 million in loans plus at least another 20 percent in investment from the private sector. Has the program been popular? You better believe it has. In just 9 months since the Rural Utilities Service published regulations for the broadband loan program, the RUS has received applications that total over $1 billion. Our rural communities across the country recognize the promise of new telecommunications technologies.

Our rural communities and the coalition of Members from Congress that helped create the RUS broadband loan program in last year's farm bill aren't the only ones who recognize the promise of broadband. Look what other countries are doing.

A recent study by the International Telecommunications Union, the UN's telecommunications agency, confirmed what many of us already know. South Korea is leading the world in numbers of high-speed Internet connections per capita, with Hong Kong and Canada coming in at second and third. Where is the U.S. a distant 11th.

And these other countries are outspending us on broadband infrastructure. Sweden has set aside some $800 million on broadband deployment in rural areas of the country. France is following suit, having announced not long ago its plans to invest $1.5 billion on broadband infrastructure over 5 years. In Japan, through the majority government owned Nippon Telegraph and Telephone, the country is in the middle of a huge fiber-to-the-home project across the country. In Korea, the government is laying out some $15 billion to provide an optical fiber connection to 84 percent of homes by 2005.

We are falling behind. I don't know about the rest of my colleagues, but I think that's a huge problem. People in upstate New York know it's a huge problem. There is little disputing that a nation with ubiquitous broadband will be more efficient and productive than a nation without it. Just a couple weeks ago, the Wall Street Journal had a story titled, What's Slowing Us Down?, with the byline, "Broadband is seen as a critical part of the national economy. Yet the U.S. lags behind other countries."

The Wall Street Journal piece points out that, "Rising rates of high-speed Internet access are expected to trigger everything from increased sales of new computers to a massive rise in worker productivity." A recent Brookings Institution study found that universal broadband access could add $300 billion a year to the U.S. economy. Forgoing a major broadband rollout, the Wall Street Journal notes, might not only hinder economic growth, but also worsen an already bleak picture for battered telecommunications and high-tech industries.

That explains the letter that a host of companies and high-tech associations have sent to Senators BENNETT and KOHL, the managers on this important bill. This letter pleading to restore funding of the RUS broadband loan program is signed by 3M, Alcatel, Cisco Systems, Corning, Intel, Nortel Networks, Siemens, and so many others who recognize the importance of this modest investment.

But they are not the only ones we're hearing from. I am hearing from small carriers across New York who need assistance to get broadband deployed to their rural areas—companies like Castle Cable Television in Alexandria Bay, NY who want to do the right thing—who recognize the potential of broadband to bring jobs and better services to their communities.

So what is our plan, our national strategy to help ensure broadband gets deployed across America? What is our plan to ensure America's competitiveness? Well, the administration's plan and the one that's come out of committee in the Senate is to crush the one permanent broadband deployment program the Federal government has ever enacted.

I understand that we have replaced $10 million that would leverage over $350 million in broadband loans with $10 million in grants. That doesn't make any sense. I am not suggesting we not do grants—but it doesn't make fiscal sense to saw off $10 million that will leverage over $350 million in loans for a simple $10 million in grants.

And it certainly doesn't make sense to take away the Rural Utilities Service's administrative funding and capacity to process and review the pending applications. Rural communities across the country, like Alex Bay in New York, need these resources to create and attract jobs. And our country needs to make these investments if we're to stay ahead of—or at least competitive with—South Korea, Hong Kong, Japan, and our neighbors to the north, Canada, who are making the investments in broadband to move ahead.

I commend my colleagues, Senators BURNS and DORGAN, for their leadership in helping restore the full funding level for the RUS broadband loan program, and I ask the managers of this bill and for the administration to join in what should be a national strategy to deploy broadband across America.

Mr. KOHL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I ask unanimous consent to speak as if in morning business.

Mr. BENNETT. Mr. President, reserving the right to object, could I ask the Senator from West Virginia how long he intends to speak?

Mr. ROCKEFELLER. I would say 15 to 18 minutes.

Mr. BENNETT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I thank my distinguished friend and colleague.

LEAK OF STAFF DRAFT MEMO

Mr. ROCKEFELLER. There have been statements made on the floor today—which I was not here to listen to because I was in a Commerce Committee meeting—expressing concern, outrage, et cetera, about what is happening with the Senate Intelligence Committee's inquiry into the prewar Iraqi intelligence. We have heard charges that a draft memo taken from the Intelligence Committee spaces and provided to the media somehow represents a plan to discredit what the Intelligence Committee is doing and to politicize the inquiry. These charges are inaccurate and unfortunate. I wish to speak to them as vice chairman of that committee.

I would suggest to my colleagues that there is in fact reason for concern today, but it is not because of the content of this draft staff memo—a memo which, for the record, was not approved by me, was not given to any other member of the Senate Intelligence Committee, nor to any other staff person, my own staff on the Intelligence Committee, nor to any other member of the Senate, nor anybody else. It was an internal draft memo. It happens all the time in the Senate. At some point very soon the committee and the Senate are going to have to explore the chain of events surrounding this draft memo since it raises serious questions about whether the majority is obtaining unauthorized access to private internal materials of the minority, and who made the decision in this case to leak the draft of an unofficial memo to the press.

It is disturbing that individuals are seeking, perhaps or perhaps not, to score political points with a draft paper describing the rights of the minority to push for a full and fair review of the issues of the committee and that the memo is being so grossly mischaracterized to try to deflect attention from the real issue.

More importantly, the concern this body should feel today is that the Intelligence Committee is not conducting a thorough and in-depth inquiry into all aspects of the intelligence process leading up to the war in Iraq. This body should be disturbed that 5 months after we started asking questions, we are still going, in essence, hat in hand to the administration to try to get the documents we need to conduct this review.

I most sincerely regret the impression that the draft memo has apparently given to some of my Republican colleagues, but it clearly reflects staff frustration that the Senate Intelligence Committee's investigation has not tackled all of the tough issues, and frustration with the difficulties we have had in obtaining information from the administration. It should come as no surprise to anyone that there is tension on the committee. I have said publicly for months that the committee must review not only the accuracy of prewar intelligence on weapons of mass destruction and terrorism but also the use or misuse of that intelligence by senior policymakers in this administration. This is fundamental to answering the questions the American people have about how we got into this war. But at every turn, the chairman has made it clear that the inquiry will be limited to reviewing the prewar intelligence against the low threshold of a standard called reasonableness. We have a basic disagreement. These kinds of things happen in the Senate.

I was pleased last week ended with the chairman and myself standing side by side, as we should, insisting on the committee's need for evidence wherever it might be located. But the information we have requested to date is only part of our work. It should be obvious to all that our committee still has much to do to assure that our inquiry into prewar intelligence about Iraq's weapons of mass destruction and links to terrorism fulfills our responsibilities to the Senate and to the American public.

I want to take a minute—it is important for me to do so—to describe these responsibilities because I am not sure all of our colleagues know. The committee's responsibilities come to us from the Senate. We don't make them up. The Senate created the Senate Select Committee on Intelligence in 1976. The measure that established it, S. Res. 400 of the 95th Congress, remains the Senate's charter to us as a committee. It is very specific.

S. Res. 400 was not a casual measure. It was the product of years of interest in improving oversight of intelligence, a major investigation chaired by Senator Church, reports of several standing committees, about eight or nine, and extensive floor consideration. It is not up to the 17 of us who happen now to be on that committee to make up the boundaries of our responsibility. They are given to us and written out very clearly.

S. Res. 400 begins by stating its purpose: To create a Senate select committee "to oversee and make continuing studies of the intelligence activities and programs of the United States Government."

The Senate did not leave the term "intelligence activities", the object of oversight, to the imagination of generations of members of the Intelligence Committee. Instead, the Senate carefully defined the term "intelligence activities" in section 14 of the resolution to include "the collection, analysis, production, dissemination, or use of the information."

The five elements of intelligence activity—that is collection, analysis, production, dissemination, and use—represent the full cycle with which the committee must be concerned. That is our charter. If we examine analysis of information without considering the collection of it, we fail in our responsibility. If we examine both of them but not the production of reports and the dissemination of information, we fail in our responsibility. If we stop at dissemination and do not examine the use of intelligence, we will equally fail in our responsibility. That examination is what I have been pushing for and it is what I will continue seeking.

I have heard it said that policy is the responsibility of other committees. Of course, other committees have responsibilities relating to national security policies. But so do we. Our mandate from the Senate is clear. S. Res. 400 also says the information which is subject to the committee's oversight includes information relating to foreign countries and to "the defense, the foreign policy, the national security, or related policies of the United States." It is broad. It is thorough.

We should be committed as a committee to developing a full record. The joint letters the chairman and I wrote last week insisting the administration provide us with the necessary documents and interviews are a step in the right direction which I very much appreciate. But there is a lot more to be done. Even if we might disagree about the evaluation of evidence, we should put the full weight of the committee behind obtaining all the facts our members believe to be necessary for a complete inquiry. For me, that means all communications, not just a limited list, about Iraqi weapons of mass destruction and terrorism intelligence between the Intelligence Committee and policymakers, including the White House.

Without those, our record will not be complete. We cannot assess, for example, whether intelligence agencies were pressured to conform to the views of policymakers unless we know what policymakers were asking of these agencies. This is a key objective of this inquiry, and we are in danger of completely missing it.

Albeit in strong language, what staff suggests in the draft memo—which, again, nobody on the committee saw and nobody else had seen it until it was leaked, and then everybody has it—is that the minority work with the majority to get as far as we can in this effort. That was our purpose—to work as far as we can and be as successful as we can in this effort, and if the majority continued to refuse, then the minority should be prepared to point out shortcomings consistent with the rules.

It is misleading to suggest this possible approach comes as a surprise to anyone in this body. I have been clear with the chairman for months that there is growing interest among many members of the committee in pursuing a separate investigation. It is not a course I choose to follow. Many Senate Democrats are on record in support of an independent commission. We voted it down the other day. I voted against it, but many Members did not; they voted for it. I am on record opposing that approach and I continue to oppose it. But, it is an option that cannot be ruled out.

Exploring or asserting the rights of the minority under the Intelligence Committee rules in no way amounts to politicizing intelligence. A substantive disagreement is not grounds for charges of partisan politics; it is a difference of approach, a difference of opinion.

I have worked for months within the committee to try to get these critical questions answered. It was not until the committee Democrats, in fact, exercised their rights under the rules and forced a meeting in June that the committee first discussed the parameters of a review. Democrats, some of them, wanted a formal investigation and ultimately agreed to the majority's less formal, less structured approach because the issue was too important to descend into political bickering.

In August, I wrote the chairman with a list of 14 areas where I thought the committee needed to do more work. I got no response. In September, after press reports that the chairman was planning to wrap up the interim investigation by the end of September, I wrote again to express my belief that we had more work to do and set out a framework for how we should approach the task we faced. I got no response. I met with the chairman on numerous occasions and got no response.

Then, 2 weeks ago, after reading press stories from the chairman describing a committee report that I had not seen and a deadline I knew we could not meet, I sat down with the chairman—again, we are good friends, and we will remain that way—to talk about where the inquiry was and what was left to do. In that meeting, I provided him with draft letters to the different agencies that owed us documents and interviews which the committee staff, under the control of the majority, had long since asked for, months ago. I cosigned a tough letter, along with the chairman, to the head of the Central Intelligence Agency, pressing him to provide materials requested by the committee staff—fundamentally one which his staff director directs. When I provided the majority with a list of nine examples of the use of intelligence we must have to understand the interplay between policymakers and the intelligence community, I was turned down.

The fact is that I have approached the majority in every way I know how—in private letters, in meetings, in committee meetings, in public statements, on the Senate floor, imploring the majority to work together with us and imploring the majority to meet the committee's fundamental responsibility to investigate the potential misuse of intelligence by policymakers leading up to the war in Iraq. My entreaties have been to no avail, eliciting either no response or, worse yet, public statements by the chairman unilaterally announcing that the committee will, in fact, not pursue the critical issue of use.

The majority has left the Senate minority with two choices: Either abandon what we believe is a fundamental obligation in this body to the American people as is laid out in the Senate resolution creating us, or, reluctantly, part ways and use our rights as a minority to get the job done on our own. I prefer not to do that. It is not my nature. I prefer not to do that. That calls for members working together and calls for following committee rules and following our charter.

Throughout this difficult situation, I have remained committed to the committee's investigation. I have been vocal in my appreciation of the absolutely excellent job done to date by the staff on the aspects of the investigation they have been asked to perform, which is reviewing the prewar Iraqi intelligence. They have done a superb job, absolutely superb job.

I still strongly believe the committee can and should do this job. I am confident that, presented with the facts, the American people can and will judge this administration fairly. For my part, I have and I will continue to support the President when I believe he is right. I had the same approach with the previous President, President Clinton. When I believed he was wrong, I went after him really hard, on steel and other things. But when he was right, I said so. On the other hand, I will also challenge and question the President and his administration when I think they are in error. That is my duty. I am an elected Senator and I represent my people. That is my job as a Senator. It is my responsibility as vice chairman of the Senate Intelligence Committee.

I conclude by saying I am also confident that the members of the Intelligence Committee can put aside their differences and continue with the tough tasks facing members. Maybe it took this to somehow embarrass all of us enough to bring us together. I want the result to be that we do this together under the Senate resolution. I hope we can put this behind us.

I suggest to the chairman that the full committee meet again this week to bring us to a point of consensus. We must pursue this inquiry to the end. These are extraordinarily important matters we are discussing, not to score political points on either side but because we must make sure we fix problems and provide our country with the best intelligence possible. That is our job.

I yield the floor.

Mr. BENNETT. Mr. President, we are back on the bill. I see some Senators have come to the floor and I ask those who are here if they intend to offer amendments.

Mr. DORGAN. Mr. President, in response to the Senator from Utah, it is my intention to offer an amendment. I would like to speak about a subject that is going to prompt the amendment and then discuss with my colleague, Senator BURNS from Montana, who will be joining me with an amendment. There are several ways we might offer this amendment. I would like to have a discussion with Senator BURNS and also with Senator KOHL and Senator BENNETT about the specific amendment because my hope is we can work things out as this bill is on the floor.

It is my intention to offer an amendment with my colleague, Senator BURNS from Montana. I would like to speak about it, and he would probably want to speak as well.

Mr. REID. Mr. President, if I may respond, the Senator from California is here. In fact, she left a very important conference committee to come here because she feels strongly about her amendment. She has an amendment to offer and she is not in a position to agree to any time. She will probably take an hour, an hour and a half. So it will be the first lengthy amendment on this bill.

Mr. BENNETT. I understand the Senator from California had the desire to offer her amendment, and I encouraged her to come to the floor to do so. Now she has come.

I ask the Senator from North Dakota how long he might want to take because I want to accommodate the Senator from California. I say that as if I control the time, which I clearly do not, but the Senator from Nevada has suggested the Senator from California be allowed to offer her amendment and I want to be as accommodating as I can be to all Senators.

Mr. DORGAN. Might I inquire of the Senator from Utah? First of all, I would like to speak for perhaps 5 to 7 minutes initially. I guess the Senator from Montana may want to speak for a very short time. Following the presentation by Senator FEINSTEIN and perhaps after a meeting I will attend, I will speak at greater length, if I could be recognized—I would be very brief—in order to describe to the Senator from Wisconsin and the Senator from Utah what Senator BURNS and I want to try to achieve this afternoon on this piece of legislation.

I think we can introduce that very shortly and then perhaps discuss it at greater length at a later time.

Mr. BURNS. If the Senator from North Dakota will yield.

Mr. DORGAN. I yield.

Mr. BURNS. It is a good idea to give us time to work it out to the agreement of both sides. This can be done. We are going to have to offset it. We would work with the chairman and the ranking member.

I don't need any time prior to Senator FEINSTEIN speaking. We can do that after because she has come, with all good intentions, to offer her amendment, and I think she should be allowed to do so.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. In that case, Mr. President, I ask unanimous consent that the Senator from North Dakota be recognized for 7 minutes and, further, that he be followed by the Senator from California.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 7 minutes.

Mr. DORGAN. Mr. President, as I said, I will speak about this at greater length this afternoon, but I did want to advance the topic Senator CONRAD BURNS and I wish to advance, an amendment on this bill dealing with something called the Broadband Loan Program.

Let me describe what that is. Let me describe it by telling you I was recently in my hometown, a town of fewer than 300 people, in southwestern North Dakota. I visited a home there. I stopped by to say hello, and there was a woman in that home who had a little device on her counter. It looked different to me. It had a camera mounted on it. It was no bigger than a shoe box. She had a bracelet hanging on a little round projectile on it.

I said: Well, what are you doing there? She said: I am taking a picture of this bracelet. I said: Why are you doing that? She said: I sell on eBay.

Here in my hometown is a woman who sells on eBay, and she takes a picture of those products and puts them on her computer. She told me she has been supplementing her income by doing business on eBay.

It describes the need, even in a town of 300 people, for computer access, the need for broadband, the need for the big pipes in which you can do business on the Internet in a way that does not take you a day to download something others are downloading in 5 minutes.

So the question of the building out of broadband to rural communities all across this country, including rural areas especially, is a very important question. Because if you do not build out broadband capability, then what happens is you leave some parts of the country behind. You have an Internet divide. You have people on the right side of it and you have people on the wrong side. The people on the wrong side will never have any economic development opportunities because when you talk to somebody about building a business in this town, they will ask: Do you have the capability to connect us by computer with some reasonable speed? When you say: No, we don't, they will say: Well, so long. We're going elsewhere. That is why this is so important.

Let me describe quickly what we did. In the farm bill, a group of us—Senator BURNS, myself, and others—included a provision that deals with a broadband loan program. It is the first and the only program in this country designed to spur the development of the buildout of broadband capability to rural areas. It was scheduled to use $100 million in direct spending to subsidize $3.5 billion of loans over the 6 years of the farm bill.

Pursuant to that, RUS, down at the Department of Agriculture, put together the first 2 years $40 million, and they announced they would make $1.4 billion in loans available. As a result of that, they set a July 31 deadline. They received $1 billion in loan applications because we have people with interests and businesses really interested in building out this broadband capability to rural areas, very much like the old REA program.

Prior to REA, there was no electricity on America's farms. They were dark. When the Sun went down, you could not plug into anything because no one built electricity infrastructure out to America's farms. We created the Rural Electrification Act, and all of a sudden America's farms got electricity. It created dramatic explosions in productivity on America's farms. That is what this is about: the buildout of the infrastructure for broadband to our small rural communities and to our farms.

So what happened was the USDA put together this program. The loans were requested. We have applications for loans. They came in by July 31. What happened, however, is the language that is included now in this appropriations bill eliminates the broadband section of the farm bill—it eliminates it—and in its place puts a $9.1 billion appropriation, which is less than half the amount that should have been available this year.

If we move down this road, it appears to us the money that has been applied for, for loans will not be at this point continued. They will have to start over. You will have half the money. There is no assurance the additional money will be available in future years because this will be an appropriated amount rather than being in the farm bill which authorized this for 6 years.

This is very important. This is about the haves and have-nots in this country with respect to access to the Internet and with respect to broadband capability. If we decide that access to the Internet, with pipes that are of reasonable circumference so you get some decent speed, does not matter to rural areas, we will have, in my judgment, economic development only in areas of the country where we have broadband, and small towns and rural areas are going to be told: So long, Charlie. Just tough luck. You are not going to be developed because we have a digital divide, and we support that digital divide. That is a terrible message to come from the Congress.

What I would like to do, with my colleague, Senator BURNS, is to work with Senator BENNETT and Senator KOHL to try to deal with this problem that is created in the appropriations bill. We have two problems. One is a language problem. We need to restore the language that existed in the farm bill that calls for this Broadband Loan Program. We should not kick that out in this appropriations bill, No. 1.

No. 2, we should restore the funding that was there that was promised and upon which applicants now have applied for $1 billion in investment funds to build out broadband capability to rural areas of the country.

I know rural areas are sometimes looked at as kind of the "back 40." Well, it is not the "back 40." It is a wonderful part of this country. It is small towns and good families trying to make a living, often in circumstances where they are losing population. These are places with strong schools, places in which you can raise kids without worrying about their safety, with good neighbors, good places to be. But if we decide, as a country, in the age of information technology and information revolution, that only the big cities are going to have the aggressive, robust buildout of broadband, then we are consigning rural America to a pretty desperate struggle for their future. That is not what we want. That is not what Congress decided.

Congress already made this judgment when it passed the farm bill. It said: Rural America matters as well. Small towns matter, too. That is what the Congress decided. As a result of that decision, it made a specific, deliberate investment to say we are going to fund, through loans, and we are going to encourage, through loans, the buildout of broadband infrastructure to help small towns and family farms in this country.

That promise was well underway, and now what has happened is, in this bill, we have a problem that derails it. We want to fix it. I want to work with my colleagues, Senator BENNETT and Senator KOHL, to do that. I will return this afternoon to see if we can do that.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator's time has expired.

The Senator from California is recognized.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

AMENDMENT NO. 2083

(Purpose: To improve the operation of energy markets)

Mrs. FEINSTEIN. On behalf of Senators LUGAR, LEVIN, HARKIN, CANTWELL, BOXER, LEAHY, WYDEN, DURBIN, and HOLLINGS, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The bill clerk read as follows:

> The Senator from California [Mrs. FEINSTEIN], for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS, proposes an amendment numbered 2083.

Mrs. FEINSTEIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mrs. FEINSTEIN. Mr. President, this amendment has to do with providing some regulatory oversight over energy trading. It has to do with closing the Enron loophole. It has to do with providing transparency. Energy trades today are not subject to the 2000-passed Commodity Modernization Act. Rather, these energy trades take place electronically, take place in secret, without transparency, with no records kept, with no audit trail available, and with no regulatory oversight to prevent fraud and manipulation in energy trading.

I would like, first of all, from the Derivatives Study Center, to indicate and read a couple of paragraphs from the letter they have sent, which I think defines the issue very well.

I quote:

> This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, "energy markets are in severe financial distress." Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Then he defines what derivatives are. This is important for Members to know. It is complicated. We went through this once before. I would like to give you this definition because it is a good one:

> Derivatives are highly leveraged financial transactions, allowing investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives, such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

That is exactly what happened. He goes on to say:

> Derivatives are often combined into highly complex, structured transactions that are difficult, even for the seasoned securities trader and finance professionals, to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact on the level of trust in energy markets.

That is a good definition of what we are trying to do, why we are trying to do it, and what we are trying to involve.

Now I would like to read into the RECORD a portion of a letter from Eliot Spitzer. Mr. Spitzer is the attorney general of the State of New York. That is the place where many of these cases are now coming to trial.

He says:

> I firmly support your efforts to make energy markets competitive and protect those markets from fraud and manipulation. The bill sponsored by Senators Feinstein, Levin, and Lugar, and under consideration as an amendment to the proposed 2004 agricultural appropriations bill, is a major step toward both goals.

He goes on to say:

> The amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission. This system will provide open access to comprehensive, timely, and reliable wholesale electricity and transmission, price and supply data, greatly expanding the choices of both buyers and sellers. In addition, the reliability of market information would be markedly improved by the amendment's general prohibition on manipulation of the purchase or sale of electricity or the transmission services needed to deliver electricity, and by specific prohibition of the round-trip trading manipulation used so effectively to inflate electricity prices to the public's injury.

This is a letter from the attorney general of the State of New York. As such, it places an imprimatur of correctness, of need, and of value on the amendment that we introduce today.

Now, what is in that amendment? Specifically, the amendment would improve price transparency in wholesale electricity markets. The amendment directs the Federal Energy Regulatory Commission to do just what Mr. Spitzer said it would do: to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, to sellers, and to the public. This provision is actually similar to the transparency provision offered by my colleague from New Mexico, Senator DOMENICI, in the Energy bill.

Secondly, this legislation would prohibit round-trip electricity trades. What is a round-trip trade? It is the simultaneous buying and selling of the same quantity of electricity at the same price, in the same location, with no financial gain or loss. In other words, no commodity ever changes hands. Again, this is similar to a provision that Senator DOMENICI offered during consideration of the Energy bill. Round-trip or wash trades are bogus trades. No electricity changes hands but the profits from the trades enrich the bottom line of a company's financial report.

In fact, I think we had one company—I believe it was CMS—say that 80 percent of their balance sheet in a given year was from bogus trades. And there is nothing we can do about it? Does anyone believe that is right? I think not. I don't think the American people do, and that is one of the reasons these markets are so decimated.

Next we would increase penalties for violations of the Federal Power Act and the Natural Gas Act. Maximum fines for violations of the Federal Power Act would be increased from $5,000—that is nothing to a big company—to $1 million. And maximum sentences are increased from 2 to 5 years. Remember, these rip-offs were tremendous. Just look at the people plea-bargaining from Enron, look at what they did, look at the amounts of money they fraudulently compromised.

This language is identical to section 209 of the Senate-passed Energy bill. Current fines are extraordinarily low and, therefore, provide no deterrence to illegal activity.

We also amend the Natural Gas Act to do essentially the same thing. Senator DOMENICI, in his substitute electricity title to the Energy bill, increased the fines in the Gas Act but he did not do so in the Federal Power Act. We would do both in this amendment.

Next the amendment would prohibit manipulation in electricity markets. Manipulation is prohibited in the wholesale electricity markets, and FERC is given discretionary authority to revoke market-based rates for violators.

Strangely enough, manipulation of energy markets is not prohibited in current law. Can you believe that? Manipulation of energy markets is not prohibited in current law. This would add language to part 2 of the Federal Power Act to do just that.

Most importantly, this bill would repeal the Enron exemption and allow the Commodities Futures Trading Commission, which has oversight over virtually all other trading, to monitor the over-the-counter energy market.

This would repeal what happened in 2000 when Enron pushed the Commodities Futures Modernization Act exemption for large traders in energy commodities. And it would apply antimanipulation and antifraud provisions of the Commodities Exchange Act to all over-the-counter trades in energy commodities and derivatives.

In my view, when Congress exempted energy from the Commodities Futures Modernization Act of 2000, it created the playing field for the western energy crisis of 2000 and 2001. The western energy crisis cost millions of people millions of dollars in my home State of California. So this is a charge I am making. When this Congress permitted the Enron loophole to exist in the Commodities Modernization Act, they created the loophole for the playing field that Enron and others used to manipulate the western energy markets.

Next, our bill would provide the Commodity Futures Trading Commission the tools to monitor over-the-counter energy markets. Over-the-counter energy trade in energy commodities and derivatives performs a significant price discovery function, including trade on electronic trading facilities. Our amendment requires large, sophisticated traders to keep records and report large trades to the Commodity Futures Trading Commission. This doesn't change the law. It only applies the law that exists for futures contracts to over-the-counter trades in energy markets.

We would limit the use of data. This requires the CFTC to seek the information that is necessary for the limited purpose of detecting and preventing manipulations in the futures and over-the-counter markets for energy, to keep proprietary business data confidential, except when used for law enforcement purposes. This does not require the real-time publication of proprietary data. It does not.

This would have no effect on nonenergy commodities or derivatives. The amendment would not alter or affect the regulation of futures markets, financial derivatives, or metals. We have specifically stated on page 20 the following:

> The amendments by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act.

In addition, we state:

> The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act.

Mr. President, my colleagues may be asking themselves why I continue to press this cause. Here I note that Senator LEVIN has come to the floor. I want the Senate to know how helpful the Senator from Michigan has been in working on this complicated issue. He has spent hours and hours of his time. His staff has worked with my staff in evolving this measure. We have carefully vetted it. I believe we really know what we are doing here.

The energy crisis in the West demonstrated that, without Federal oversight, a business becomes solely concerned with its bottom line and not with any sense of ethical behavior; and arrests and convictions to date have clearly documented this to be the case.

Californians are still paying the price of this unethical behavior. I make the point that we are not talking about one bad player in the California market. This goes way beyond Enron. It extends to others as well—to Reliant, Dynegy, Williams, AEP, CMS, El Paso Merchant Energy, Duke, Mirant, Coral, Sempra Energy Trading—unfortunately, in my own State—Aquila, the City of Redding, Morgan Stanley Capital Group, Pacificorps, and to the Puget Sound Energy.

We believe California was duped out of $9 billion. The Federal Energy Regulatory Commission has illustrated its inability to refund California the money it is owed by recently recommending settlements that in no way, shape, or form reflect the damage that was caused to both consumers and the economy of the largest State in the Union. In fact, FERC settled with Reliant on August 29, allowed them not to admit wrongdoing, and fined them $836,000. That was $836,000 for rules of conduct that cost the State $13 million—hardly fair.

This disproportionately low fine gives credibility to the fact that the price one would have to pay in penalties, if caught manipulating the market, is worth the risk since the benefits of not getting caught far outweigh any penalty that may be levied upon a company.

I think it is pretty clear that this disproportionately low fine gives credibility to the fact that the price one would have to pay in penalties, if caught manipulating in the market today, is worth the risk. There is no deterrence, since the benefits of not getting caught far outweigh any penalties that may be levied on a company. That is what we are trying to change.

If I left any doubt in my colleagues' minds about the widespread manipulation that took place during the western energy crisis, let me point out some recent examples of a case that was brought by the Securities and Exchange Commission against David Delaney, a former chief executive with two of the most prominent divisions of Enron.

On October 30, 2002, Delaney pled guilty to insider trading. The SEC brought charges against him for selling millions of dollars in Enron stock at a time he knew it was being manipulated. While these charges appear to be financial in nature, the underlying facts of the case were that Enron was engaged in manipulative business practices, especially in California.

In March of 2003, the FERC staff report on price manipulation in western markets: Investigators said they suspected Enron was using price information obtained in regulated deals to manipulate trades in unregulated energy derivative markets.

In one instance, Enron manipulated the price of physical gas, upward, then downward. Although the price change in the physical markets was only 10 cents per million Btus, Enron profited due to the effect that this small change in the physical price had on its large financial position. Enron earned more than $3 million in the unregulated over-the-counter markets, while losing only $86,000 on the physical sale of natural gas.

I think it is important to note that the FERC report also states:

> Enron's corporate culture fostered a disregard for the American energy customer. The success of the company's trading strategies, while temporary, demonstrates the need for explicit prohibitions on harmful and fraudulent market behavior and for aggressive market monitoring and enforcement.

That is what we are trying to provide in this amendment. That is what FERC says is missing.

Our amendment would provide greater oversight over these markets so that fraudulent and manipulative behavior could be prevented. It would increase the penalties if, in fact, a company engaged in fraudulent or manipulative behavior, and it would outlaw all types of manipulation including round-trip trading, wash trades, false reporting, churning, and deliberately withholding generation. All of the Enron trading strategies, such as Ricochet, Death Star, Get Shorty, Fat Boy, Non-Firm Export, Load Shift, Wheel Out, Black Widow, Red Congo, and Cuddly Bear: these are euphemisms for fraud and manipulation and our amendment would cover them all.

It is not clear to me why energy derivatives are not regulated while the Federal Government oversees some physical energy transactions. In other words, if I buy natural gas, and it is delivered to me, then that transaction is overseen by FERC, which has the authority to ensure that this transaction is both transparent and reasonably priced.

But a giant loophole is opened where there is no Government oversight, when transactions are carried out in electronic exchanges. As a result, if I sell natural gas to you, and you sell it to someone else who sells it to another person who then sells it again, none of these transactions are covered by FERC or the CFTC. Because of that, what we saw in the western energy crisis is that this particular loophole allowed energy companies to manipulate prices and to escape any investigation or prosecution by any regulatory agency.

Our amendment will close the loophole, as Senator LEVIN said, created in 2000 when Congress passed the Commodities Futures Modernization Act.

The loophole exempted energy trading from regulatory oversight, and it excluded it completely if the trade was done electronically. At the time, Enron was the main force behind getting this exemption in this act. By closing this loophole, the amendment will prohibit fraud and price manipulation in all over-the-counter energy commodity transactions and provide the CFTC the authority it needs to investigate and prosecute allegations of fraud and manipulation.

Opponents of this amendment have questioned why we need to explicitly give the CFTC this authority. The answer is we need to give the Commodities Futures Trading Commission this authority because we learned during the western energy crisis that there was, in fact, pervasive manipulation and fraud in energy markets, and that FERC and the CFTC were either unable or unwilling to use the authority they had to intervene. I think Mr. Delaney's plea bargain is eloquent testimony to that.

We need to give the CFTC this authority because we need regulators to protect consumers and make sure they are not taken advantage of. We need to give the CFTC this authority because, when there are inadequate regulations, consumers are ripped off. Let me be clear. Our amendment will provide the same protections to consumers in energy markets as these same consumers have in all other commodity markets such as the New York Merchantile Exchange or the Chicago Merchantile Exchange. Our amendment does not provide more regulation or greater oversight than what currently exists for other commodity markets, merely the same protections: Protections which are currently lacking.

In fact, in an effort to avoid onerous or complicated requirements, Senator LEVIN, Senator LUGAR, and I have worked together to make sure the recordkeeping and reporting requirements are very clear. Our amendment only requires traders to keep records of over-the-counter trades in energy commodities and derivatives that perform a significant price discovery function. In other words, these are the trades that affect the pricing for everyone. These are the big trades, and these are the trades where there needs to be transparency because they affect the market.

If I am a large company and I sell you 1,000 decatherms of natural gas in a typical transaction on the spot market, this is a price discovery transaction because the prices of these transactions are usually covered and reported by the press and will affect prices of subsequent transactions. Trades on electronic markets serve, by their very nature, as price discovery functions. They should be available for everyone to see because they will very likely influence what price the next trader will buy or sell at in an open and transparent fashion.

Our amendment would require traders to keep records of their trades and to maintain an audit trail. This requirement would simply regulate energy trading in the same way other finite commodities are handled. Why should pork bellies or frozen concentrated orange juice have more protection for consumers than electricity?

There is nothing in this amendment that should be burdensome for traders in any way. I would think responsible traders would already be keeping records and maintaining an audit trail for their own protection in this world. In fact, the amendment only allows the CFTC to seek information to investigate allegations of wrongdoing.

We have worked for almost 3 years to craft this provision. It has had hearings in the committee. It has been discussed on the floor. We have met with dozens of people. We understand there are those who do not want to support it. But in not supporting it, what they are doing is condoning a marketplace that has practiced deep fraud and deep manipulation and for the most part gotten away with it.

I don't think we do our job as Senators if we can't protect an unsuspecting public. As the Derivative Center pointed out, these markets are in disarray now. Why are these markets in disarray? They are in disarray because people do not have confidence in them. They are in disarray because there is no transparency because there are hidden markets, and when they explode, they explode big time.

Why should Mrs. Smith from Texas or Mr. Jones from Pennsylvania or Mr. CORNYN from Texas invest in these markets? Why should he? He wouldn't have confidence in them. He would have no transparency. He would have no ability to know what is going on.

What we are trying to do is put that confidence back in the marketplace by providing some prudent, commonsense, antifraud, antimanipulation oversight by saying: If you trade this way, you must keep a record of the trade. You must keep an audit trail. And these trades must be transparent so that the Smiths, the Jones, and the Cornyns, if they so desire, can find out what in fact is going on.

Let me stress that this does not impact financial derivatives in any way whatsoever. We have clarified that. Our opponents persist in using the argument that financial derivatives are affected. They are not. Look at page 20, lines 17 to 20, if you want to see it in black and white. Nothing in this provision affects the authority of the Federal Energy Regulatory Commission. We don't change it in any way.

To respond to concerns about trading platforms that only match buyers and sellers, there is no capital requirement. Let me repeat that because people are going around saying there is. To respond to concerns about trading platforms that only match buyers and sellers, there is no capital requirement.

Bottom line: Our amendment merely gives back to the CFTC most of the authority it had before Congress passed the Commodity Futures Exchange Act.

I note that Senator LEVIN is in the Chamber. I wonder if it would be appropriate for him, if other Members would agree, to make some comments at this time.

Mr. BENNETT. Mr. President, I would have no objection to having the Senator from Michigan make his statement. But I wonder if we can arrive at some kind of time agreement as to how much longer we are going to spend on this amendment. I was told the Senator from California originally said she could deal with it in an hour and a half. I suggested an hour and was told that was not acceptable. I am now willing to say an hour and a half if we can, in fact, nail that time down, with the Senator's statement until now applying against the full hour and a half.

Mrs. FEINSTEIN. If I might respond, I believe Senator LEVIN will speak, Senator LUGAR wishes to speak, and Senator CANTWELL wishes to speak. So on our side of this issue, I believe it will be at least an hour and a half.

Mr. BENNETT. An additional hour and a half, I ask?

Mrs. FEINSTEIN. It may not be. I will try to move it rapidly along. These Senators have indicated they wish to come to the floor.

Mr. BENNETT. I ask unanimous consent, then, that the debate on the minority side be limited to an hour and a half from this point forward, and I will control the time on the majority side and see that we have no more than an hour and a half to respond.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. In that case, I have no objection to the Senator from Michigan speaking now.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, first let me thank Senator FEINSTEIN for her leadership on this issue and for her typical courtesy in interrupting her statement so I may give mine at this time. It is most appreciated. More important, I thank her for her leadership and Senator LUGAR's leadership in bringing this amendment to the floor.

Recent highly negative events in our energy markets show that there is an urgent need to prevent price manipulation in those markets, improve the transparency of energy markets, and to strengthen the ability of State and Federal agencies to enforce the rules governing the operation of those markets.

Widespread price manipulation and falsification of price information in the electricity and natural gas markets in the last few years have inflicted billions of dollars in extra costs on energy consumers and businesses and have been a severe blow to our economy.

The corruption and manipulation of these markets by Enron and other companies fueled the collapse of some energy markets in the United States, the bankruptcy of some energy companies, and a huge decline in investment and trading in the energy markets.

The bipartisan amendment of Senators FEINSTEIN, LUGAR, myself, and others would close these "Enron loopholes." Enron used these loopholes, and other companies joined with them, to manipulate energy markets at the public's expense. Our amendment would strengthen prohibitions on fraud and manipulation and give both the Federal Energy Regulatory Commission, FERC, and the Commodity Futures Trading Commission, CFTC, the necessary tools to monitor the energy markets, to prevent manipulation, and ensure that prices are fairly and competitively arrived at.

This legislation is needed because companies such as Enron are now permitted to trade large amounts of energy in virtually unregulated markets, making those unregulated markets and the resulting price of the energy we use vulnerable to fraud and manipulation.

FERC's recent report on manipulation in the western energy market provides some stunning examples of how the energy markets can be manipulated.

FERC found that Enron, through an unregulated electronics trading center called EnronOnline, "manipulated the price of physical gas upward and downward," earning huge amounts of illegal profits. FERC determined that Enron often "invited counterparties to wash trades, and these trades created a false sense of liquidity, which can distort prices. Enron also manipulated prices on the EOL by having affiliates on both sides of certain wash-like trades. This created artificial price volatility and raised prices."

The report by FERC concluded that "large-volume, rapid-fire trading by [Enron] . . . substantially increased natural gas prices in California." FERC found "significant market manipulation" in the "inextricably linked" natural gas and electricity markets, and that "dysfunctions in each fed off one another" during the energy crisis in California.

According to FERC:

> Spot gas prices rose to extraordinary levels, facilitating the unprecedented price increase in the electricity market. Dysfunctions in the natural gas market appeared to stem, at least in part, from efforts to manipulate price indices compiled by trade publications. Reporting of false data and wash trading are examples of efforts to manipulate published price indices.

Finally, the report found:

> The widespread false reporting led staff to conclude that reported prices did not reliably reflect market activity.

I would like to give one specific example on how one day, January 31, 2002, Enron used an unregulated, nontransparent Internet trading system to manipulate the natural gas market in California.

In August of 2002, the FERC staff issued an investigatory report finding that out of a total of 227 trades on that day, January 31, 2002, 174, or more than two-thirds of the trades on that day, involved Enron and a single unnamed party. Most of these trades took place during the last hour of trading with two parties buying huge amounts of natural gas from each other in numerous transactions.

FERC determined that the trades took place at "higher prices," in their words, than other trades that day, and resulted in a steep price increase over the last hour of trading. FERC described this trading activity as "difficult to rationalize as a normal or standard business practice" and noted:

> [O]nly Enron and possibly the counter party could have known that so much of the trading was going on between themselves, because parties looking at EOL's screens could only see the bid and ask prices; they could not know who the counter party was on any particular trade.

The FERC report indicated that EnronOnline's prices were routinely used to prepare published reports on natural gas prices, which meant that the Enron price data was not just affecting Enron trades but also causing higher natural gas prices industry-wide. The report concluded that Enron had "significant ability and incentive to manipulate the price data published by the reporting firms."

This spring, FERC issued a number of recommendations to fix the problems in the energy markets. FERC recommended new policies and procedures for the oversight of commodity trades and prices and a system of market surveillance to detect and prevent manipulation.

In March of this year, following a year-long investigation, I released a Permanent Subcommittee on Investigations staff report into the operation of crude oil markets. The report describes the regulated and unregulated markets for buying and selling crude oil and explains how crude oil prices are set and how they affect the price of critical oil commodities, such as gasoline, home heating fuel, jet fuel, and diesel fuel.

The report describes the vulnerability of unregulated commodity markets to price manipulation and the need for and beneficial effects of U.S. commodity regulation. The report also explains how the over-the-counter markets are virtually unregulated and, therefore, vulnerable to manipulation.

The report recommends that traders in over-the-counter markets be required to "provide the CFTC with routine information on large positions in crude oil and energy contracts and derivatives, as well as other information that would aid the CFTC in detecting, preventing, and halting commodity market manipulation."

So we have two reports reaching the same conclusions about the need for more market transparency and strengthened oversight to detect and prevent fraud and manipulation in energy markets.

How did we get to this position where companies, such as Enron, are permitted to manipulate prices in our energy markets? The answer lies in how the energy markets and the Federal regulations have evolved over the last 20 years.

Billions of dollars' worth of contracts for the future delivery of energy are now traded every day. These contracts are called energy derivatives because they derive their price from the price of the energy commodity in the contract.

There are two basic types of energy derivatives. Energy derivatives that are traded on futures exchanges are called futures contracts. The trading of futures contracts on futures exchanges is regulated by the Commodity Futures Trading Commission under the Commodity Exchange Act.

The other type of energy derivatives, which are not traded on futures exchanges, are called over-the-counter energy derivatives. These derivatives may be traded by fax, by phone, in face-to-face meetings, or over the Internet. The trading of these derivatives is virtually unregulated.

Both the futures markets and the over-the-counter markets perform identical economic functions. Both markets enable traders to buy and sell commodities at fixed prices, disseminate information about commodity prices, and provide a way for buyers and sellers to hedge against changes in the price of these commodities. Commodity traders routinely use both the futures markets and the over-the-counter markets for price discovery and hedging.

Today, the types of contracts traded in the futures markets and the over-the-counter markets are virtually identical. As an indication of how indistinguishable these contracts really are, the NYMEX even calls some of the contracts that it offers on its over-the-counter electronic market "futures contracts."

This is an example of what is shown on the NYMEX boards. This is the way the NYMEX advertises: Light Louisiana sweet crude oil futures—futures. Futures are supposed to be bought and sold on futures markets, not over-the-counter markets, but this is an over-the-counter sale and offer.

This is a picture the New York Mercantile projects over the Internet for the purchase and sale of over-the-counter contracts. Notice it says: Trading venue is over the counter, and yet it calls that over-the-counter offer "futures." If they were really futures, they would be regulated as futures contracts are by the Commodity Futures Trading Commission. But these are over-the-counter sales. These are unregulated, and yet they are characterized as futures. The language used here is interchangeable. The economic function is interchangeable. The only difference—and it is a critical difference—is that futures contracts are regulated by the Commission and over-the-counter contracts are not. And they should be. They perform the same economic function. The language used is exactly the same and yet there is one group of contracts unregulated. The other group of contracts is regulated. It is the unregulated contracts which got us into so much trouble, the lack of transparency which got us into so much trouble.

Let me give another example. The largest over-the-counter electronic trading facility is the IntercontinentalExchange, known as ICE, in Atlanta. It trades contracts that it calls futures, and yet these are not futures; these are over-the-counter transactions, described by the ICE as futures. It says you can trade futures from your desktop. Yet these are over-the-counter transactions.

Here is what they say on their Web site:

> IntercontinentalExchange brings parallel trading in IPE Brent crude of futures to the ICE platform. Electronic futures trading sessions operate in parallel with the regular open-outcry session on the IPE floor in London.

Now, that open-outcry session, as they phrase it, is the futures trading session that occurs at the exchanges. So they are treating them the same. They are saying, one can trade in futures electronically. The language now has become the same, the economic function is the same, but there is one key difference, and it is a deadly difference in terms of consumers and in terms of manipulation of prices. That difference is that futures contracts are in fact regulated and must be disclosed and are in fact transparent, whereas the over-the-counter trades are not. They are now dealt with interchangeably by the largest exchange, the largest over-the-counter electronic trading facility in the country, the IntercontinentalExchange in Atlanta.

Only real futures markets are regulated to prevent price manipulation. That is a fact. The over-the-counter market is not. That is what has got us in the hole we are in. That is what permitted Enron to dig us deeper into the hole we are in and to cause the loss of huge amounts of money to our consumers and to many customers. No disclosure, take care of these trades over the market. If the market were a regulated market, such as the futures market is, it would have been regulated. It could have been transparent. We would not have seen the Enron disaster and the manipulation that we saw in Enron and by other companies.

The Commodity Exchange Act regulates the futures exchanges so that they cannot be artificially manipulated. This regulation and transparency has bolstered the confidence of traders in the integrity of these markets and it has helped to propel our country into the leading marketplace for many commodities.

For example, the New York Mercantile Exchange, NYMEX, is the world's leading exchange for futures contracts, for energy products such as natural gas, crude oil, gasoline, and home heating oil. The CEA makes it a felony to manipulate the price of any commodity, and it contains a number of provisions to enable the futures exchanges and the CFTC to detect and prevent price manipulation. The CEA requires the regulated futures exchanges to ensure that trading is orderly and to detect and prevent price manipulation. The CEA directs the CFTC to oversee the operations of the futures exchanges and to itself perform market oversight and ensure that trading is orderly.

According to a former CFTC Chairman:

> The job of preventing price distortion is performed today by regulatory and self-regulatory rules operating before the fact and by threats of private lawsuits and disciplinary proceedings after the fact. Both elements are essential.

According to the CFTC:

> The heart of the commission's direct market surveillance is a large-trader reporting system, under which [the futures exchanges and brokers] electronically file daily reports with the commission. These reports contain the futures and option positions of traders that hold positions above specific reporting levels set by the CFTC regulations.

There are no protections against manipulation in the over-the-counter markets. Unlike the futures markets, the over-the-counter markets are not required to monitor trading to detect and deter fraud and price manipulation. Information that is routinely reported to the futures exchanges and the CFTC is not available to the over-the-counter exchanges or to the CFTC. Traders do not have to report large trades. There are no position limits or daily price limits. The over-the-counter markets lack all of the critical features of an effective program to detect and prevent price manipulation.

Over-the-counter energy derivatives are unregulated because of a provision that was added to a conference report at the last minute in an amendment to the Commodity Exchange Act in an omnibus appropriations bill at the end of the Congress in the year 2000. The Commodity Futures Modernization Act of 2000 was intended to clarify the regulation of financial instruments. Most of the provisions in the CFMA were based upon the recommendations contained in the Report of the President's Working Group on Financial Markets, Over-the-Counter Derivatives Markets and the Commodity Exchange Act, which was jointly issued in November 1999 by the Treasury Department, the Federal Reserve, the SEC, and the CFTC.

The working group recommended that financial derivatives be excluded from regulation under the CEA but that derivatives involving nonfinancial commodities with a limited supply, such as energy commodities, not be excluded.

The working group stated:

> Due to the characteristics of markets for nonfinancial commodities with finite supplies, however, the working group is unanimously recommending that the exclusion not be extended to agreements involving such commodities.

A unanimous recommendation of the working group and the House and Senate bills leading up to that conference in fact did not extend the exclusion to commodities transactions. Yet the exemption in the current law for trades in over-the-counter energy derivatives, the Enron exemption, somehow or another got inserted in that law at the eleventh hour during a House-Senate conference. This exemption was never considered by any committee. It was never discussed at any hearing. It was never commented on by interested parties. It was simply inserted in the conference report at the last minute. It is one of the reasons for the Enron mess that we have had to clean up after.

This amendment would correct that situation. It is essential we have this kind of transparency regulation in the commodities markets. I hope this amendment, which is a bipartisan amendment, will be adopted by this body and close the Enron loophole which was created in the dark of night, without any debate in this body, without any knowledge of this body, in a bill which this body had passed without such an exemption, in a bill which the House had passed without such an exemption, and yet the exemption showed up nonetheless in a conference report and helped to create the Enron disaster and mess which we have been trying to clean up ever since.

Exempting energy commodity trades from the CEA did not make sense when it happened in 2000. It would be irresponsible to continue it now, especially after we have seen how it facilitated the market fraud and manipulation by Enron and others.

The amendment before us would return the commodities law to the way it was for decades prior to the passage of the Enron exemption. It would ensure that fraud and price manipulation would be a felony, and it would remove "the Enron exemption" as a shield against regulation and prosecution. It would authorize the CFTC to establish recordkeeping requirements to enforce the anti-fraud and anti-manipulation prohibitions in the CEA.

This amendment also contains important provisions to improve FERC's ability to ensure the transparency and integrity of wholesale energy prices. It would direct FERC to establish an electronic price reporting system, strengthen the penalties for violations of the Federal Power Act and the Natural Gas Act, prohibit wash trading and other collusive and manipulative practices in wholesale energy markets, and clarify FERC's authority to fashion appropriate remedies in cases of wholesale price manipulation.

There is a great deal of support for this legislation.

Governor Jennifer Granholm, of my home State of Michigan, writes that, in the aftermath of the massive electricity blackouts that struck Michigan and large areas of the midwest and northwest this past summer, "all necessary steps should be taken to bolster business and consumer confidence in the Nation's energy markets and promote additional investment in reliable energy delivery at a fair price." Governor Granholm says our language "would improve energy price transparency in wholesale electricity markets, greatly increase criminal and civil penalties for trading violations, prohibit market manipulation and fraud in all energy market sectors, and strengthen day-to-day energy market oversight, including over-the-counter market transactions that significantly affect energy prices."

The American Public Gas Association supports the amendment because "it will improve market transparency and provide the essential regulatory oversight to detect and prevent manipulation and improve the efficiency of energy markets."

Attorney General Eliot Spitzer, from the State of New York, urges swift adoption of the amendment, writing that "the amendment closes loopholes used to manipulate energy markets, improves the ability to detect fraud and other manipulation, and deters manipulation by establishing substantive penalties."

The North American Securities Administrators Association, the association representing the securities administrators of the 50 States, supports this amendment because it "would provide more transparency to the wholesale electricity markets, supply the CFTC with the authority to detect fraud and manipulation, and help to deter wrongdoing by significantly increasing the penalties for violations of the Federal Power Act."

Consumers Union, the Consumer Federation of America, Public Citizen, and the U.S. Public Interest Research Group support this amendment. They state it "would go a long way towards addressing the serious problems plaguing the Nation's energy markets."

The Derivatives Study Center comments that "this important legislation will assure that [energy commodities] will be covered by Federal prohibitions or fraud and manipulation. . . . It will subject [energy] derivatives to some of the same regulations that apply to securities, banking, exchange-traded futures and options and other sectors of U.S. financial markets."

The National Association of State Utility Consumer Advocates writes that this legislation "will help fix broken energy markets and given regulators the tools needed to protect consumers from market manipulators."

One hundred and fifty years of history of our commodity markets demonstrates that market integrity and investor confidence will not magically spring up in markets that have been tainted by manipulation. That same history shows that fair and efficient markets do not emerge by themselves. Rather, regulation and oversight are necessary to ensure that markets are fair and efficient. Without fair and efficient, and that means transparent, energy markets consumers will pay higher prices for energy products, capital will be misallocated, and out national economy and energy security will be harmed.

This history also shows that a legal prohibition against commodity market manipulation, without more, does not deter or prevent manipulation. Continuous market disclosure and oversight are essential to halt manipulation before economic damage is inflicted upon the market and the public. This is why a major portion of the CFTC's budget and resources is devoted to oversight of the futures markets.

Although some enforcement actions have been brought following the manipulation of the western markets, these enforcement actions will do little to make whole the consumers and businesses that suffered billions of dollars in losses from those misdeeds. It would be far better to ensure that such abuses do not occur in the first place, rather than rely on the hope that a few of the manipulators are caught after the fact.

We cannot afford to have more Enrons, more manipulations, more frauds, and more flight of capital in the energy sector. It is imperative that we restore the integrity and credibility of our energy markets.

Our bipartisan amendment will help create fair and transparent energy markets that investors can trust.

Mr. President, I thank the Senator from California for her tenacity on this and so many other issues. But in this matter she and her State have suffered firsthand probably more than any other State as a result of this Enron loophole which she is so heroically and determinedly trying to close this afternoon.

Mrs. FEINSTEIN. I thank the Senator from Michigan. More than just thank him, I thank him for his brilliance and for his willingness to be part of this effort. I think Senator LEVIN is really one of the fine minds in this Senate. It has been a great delight for me to have the opportunity to work with him. I think he has helped us make this a much better bill. I thank him so much.

Mr. President, at this point I would like to read into the RECORD a colloquy between the two leaders, Senators FRIST and DASCHLE, which makes clear the parameters of this and why we are on the floor on this bill. If I may:

> Senator DASCHLE: Mr. President, Senator FEINSTEIN has a market manipulation amendment that she was seeking a vote on. It is my understanding that the agricultural appropriations bill would be the appropriate bill for that amendment. I would inquire of the majority leader, should she offer her amendment to that bill, would she be assured of a vote on or in relation to her

amendment with no second-degree amendments, prior to such vote?

The majority leader responds:

> The Democratic leader is correct. If Senator FEINSTEIN offers her amendment to that bill, she will get a vote on or in relation to it.

I just offer that to clarify the present legal situation.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator. I compliment her and I compliment Senator LEVIN on this work. I am pleased to be associated with them in this amendment.

I come to this amendment from an experience serving on the Agriculture Committee throughout the 27 years of my service in the Senate and 6 years as chairman of the committee. The Agriculture Committee spent a great deal of productive time working with the CFTC to make certain that the regulatory aspects with regard to trading were as strong and as just as possible. We did so, not in a sense of being punitive with regard to new markets and new innovations to weigh in on how American enterprise might flourish, but rather to try to give confidence to hundreds of thousands of traders and beyond—the farming community in particular—of our country. That was the basis for the creation of the Commodity Futures Trading Commission. We have had renewals of the CFTC during my tenure, and I believe we have improved upon the situation on each occasion.

Historically, energy has been exempted from CFTC regulations. I will not attempt to trace the history of why those exemptions occurred. But I will say, in the give and take of compromise as the legislation made its way through the committees of the House and the Senate, and conferences in consultation with the White House, on each occasion in which energy was about to be incorporated in a regulatory pattern, it was exempted as a final compromise in order to gain passage of legislation at one juncture or another. That turned out to be a fatal flaw.

The testimony before the Agriculture Committee, quite apart from testimony before other committees represented by the Senators here today, indicated it was not the entirety of the problem but certainly an example of the contribution of a very grave set of circumstances in which traders without particular scruples and with a minimum of regulation bankrupted each other, and unfortunately, a good number of other innocent parties in the process.

Even in the midst of all of this rubble, as we witnessed the whole thing collapsing, there were still brave spirits in committee and elsewhere who said: "Let freedom rein; don't regulate anything that doesn't need regulating." But, of course, by that time, most of the market aspects of it—all the electronic aspects of it—the poles and the plugs, had literally been pulled.

I do not claim to understand the entirety of the complexities of how those markets work. At some point, if there are not people who can make good trades, you literally pull the plug and stop your electronic mechanism and the trading stops, and those who are still on the merry-go-round are out of luck.

There has always been the arguments that this is simply a subject for a few wealthy Americans to consider as they deal with each other. But that is not the case. The principal users of these markets are very wealthy people—people who ought to know better and who have proper legal or financial counsel so they don't make mistakes.

But there are other people who get involved. The ramifications of the energy markets are not just for private corporations but they branch out into services for communities and the governing systems of this country.

I appreciate very much those who will continue to advocate in the midst of all of the devastation which is apparent—and books are now being written about the difficulties. These books will point out, as some already have, that the President's working group—whose members testified before the Agriculture Committee several times when I was chairman—let the markets go without regulation; and said if you have not regulated at this point, let them alone. I am here to advise the President and the member of this working group, that these markets do not work well without public confidence, and without a degree of transparency. If there is anything occurring in American financial markets now, anything encouraging to investors, it is the thought that finally many people in Government have come to their senses and realized a good number of things have been going on to undermine confidence in those markets. Those of conservative persuasion who favor the markets and believe markets work, have to take responsibility and make certain they do actually work. In order for them to work, markets must be just, and investors must understand that there are remedies, as opposed to pulling the plug, literally, and letting the trades flounder and bankruptcy ensue.

Mr. President, this is a very serious problem. I appreciate very much the persistence of the Senator from California in insisting that this issue needed to be raised again. She has raised it, and this is why I have come to the floor today in support of it.

I recognize the atmosphere in which we are involved in trying to come to grips with the Agriculture appropriation in such a short time frame. It is a necessity to complete our work.

This is not, perhaps, the most conducive manner to study this complex subject matter that Senators might require. However, I simply say, during my chairmanship, the Agriculture Committee studied this issue to a fault. Beyond circumstances I can control, I was no longer chairman, and the issue slid from the agenda. I do recall that we researched the issue, brought all the parties together, and held 2 days of study with experts on how future markets work. Many Members came to the conclusion that energy should be included, and it should be reformed. I pray that will occur.

The CFTC, I believe, is the logical repository, but I am not insistent upon that. The need for reform is at hand and this amendment advances that ball.

I yield the floor.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Indiana. He has taken a position based on extraordinary knowledge, having served on that committee for 27 years, having been its chair, having seen what happened with the Commodity Futures Oversight Act.

In resisting, as he termed it, the movement just to have anything go, let anything go, if they are not regulated, let it go that way, he realizes the American people are not well served and the investment community is not well served when every day you pick up a newspaper and someone else is being arrested for fraud or manipulation. Our laws can prevent that from happening.

I thank the Senator very much. You have been terrific. Your support is very meaningful to us.

I have stated in the Senate numerous times it is the duty of this Congress to make sure our regulators have all the authority they need to prevent fraud and manipulation in the energy markets. Simply put, this is what our amendment does.

Enron remains the perfect example of how the systems were so easily gamed. After Enron successfully lobbied for an exemption to the Commodity Futures Modernization Act in 2000, they and others in the energy sector quickly took advantage of this new freedom by trading energy derivatives absent any transparency and regulatory oversight. In other words, in secret. Thus, after the 2000 legislation was enacted, Enron began to trade energy derivatives literally without being subject to proper regulatory oversight. That is how all these schemes came about. Some hotshot trader, sitting in front of his computer, found a way to evolve a strategy for the fraudulent and manipulative action of the marketplace. They let these various strategies play out.

Unlike the NASDAQ, from which timely electronic trade reports are available to the public, even prior to its transparency-enhanced reforms in 1997—in 1997, the NASDAQ reformed itself to make their traders more transparent—EnronOnline did not offer timely reporting of executions. This means EnronOnline provided no data regarding recently executed transactions. Consequently, even after the trades, basic market information was not provided to market participants.

It should not surprise anyone that without basic transparency, without the ability to see what is happening, prices would soar. What interests me is they did and yet there is still resistance to this legislation.

In 2 years, Enron's derivatives business had been a stand-alone company. It would have been the 256th largest company in America. That year, according to author Robert Bryce, Enron claimed it made more money from its derivatives business, $7.23 billion, than Tyson made from selling chickens. That is huge, if you think about it. Think what that means. This segment of the market in one year made $7 billion and nobody knew how. No one knew what the trades were. They were all in secret. Nothing was registered. There was no audit trail. There was no antifraud, antimanipulation oversight. Boom. It happened.

EnronOnline rapidly became the biggest platform for electronic energy trading. But unlike the regulated exchanges, such as the New York Mercantile Exchange, the Chicago Mercantile Exchange, and the Chicago Board of Trade, EnronOnline was not registered with the CFTC. So Enron set its own standards. In other words, it had a very secure, quiet, protected niche on the market.

Others have tried to replicate that. The banks, for example, Senator LEVIN said, devised something called the IntercontinentalExchange so they could do the same thing Enron has done. It is wrong.

Traders and others in the energy sector came to rely on EnronOnline for pricing information. Yet the company's control over this information and its ability to manipulate it was tremendous. As author Robert Bryce went on to describe—and this is very colorful and true—Enron did not just own the casino. On any given deal, Enron could be the house, the dealer, the oddsmaker, and the guy across the table you are trying to beat in diesel fuel futures, gas futures, or the California electricity market. You tell me that is a good situation?

You tell me this Senate and this Congress should let that happen. We should not. That is just plain wrong. Those who want to protect this secret niche are just dead wrong. It is not in the American people's interest to have a secret trading niche that can be an empire for fraud and manipulation. We need to protect consumers from future Enron-like scams because they are going to happen.

Now, was Enron and its energy derivative trading arm, Enron Online, the sole reason California and the West had an energy crisis? Absolutely not. Was it a continuing factor to the crisis? I certainly believe that evidence has shown it was.

Unfortunately, because of the energy exemptions in the 2000 Commodity Futures Modernization Act, which took away the CFTC's authority to investigate, we may never know for sure. In other words, quite purposely, this Congress, in 2000, let this secret world be created and said: We are going to take energy and metals out of the entire trading regulatory structure and we are going to let them go "on operating" on their own, without the proper oversight. That is exactly what happened. It is just plain wrong.

I repeat, once again, the amendment we offer will subject electronic exchanges such as EnronOnline to the same oversight as other commodity exchanges, such as the Chicago Mercantile Exchange, the New York Mercantile Exchange, and the Chicago Board of Trade—no more, no less. Without this type of legislation, there is insufficient authority to investigate and prevent fraud and price manipulations since parties making the trade are not required to keep a record.

This amendment is not going to do anything to change what happened in California and the West. That is done. But it does provide the necessary authority for the CFTC to protect other parts of this country against this kind of thing happening again. And it well could happen.

Nobody thought we would ever see the kind of event that blacked out most of the east coast and the Midwest, but we did. Nobody thought we would ever see what happened in the West, but we did. Nobody ever thought anybody would come up with schemes like "Ricochet," "Death Star," "Get Shorty," "Fat Boy," but they did. Nobody thought they could use them to commit a manipulation of the market, but they did.

I will leave you with one fact: The total cost of electricity in California in 2000 was $7 billion. The cost the next year was $28 billion. Does anyone believe that market forces—namely, supply and demand—could account for a 400-percent increase in the cost of electricity in a year? The answer has to be no. The answer has to be that bad things were done.

So we have worked on this amendment. I sit on the Energy Committee. I have tried to pay a great deal of attention to these matters, to follow this, and I am absolutely convinced that America and the business climate of America is much better off when things are transparent, when there are records kept, when there is a regulatory authority that can say: Whoa. Something may be going haywire. Let's take a look at it. That is all we do—no more and no less than for any commodity.

I wish to say one other thing. A financial derivative is not like an energy derivative. For people to confuse this and say it affects financial derivatives is not right. Energy is a finite commodity. There is a beginning and there is an end, and it is different from a financial derivative.

Mr. President, may I ask how much time our side has remaining?

The PRESIDING OFFICER. The Senator from California has 32 minutes remaining.

Mrs. FEINSTEIN. Thank you. I retain the remainder of my time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I yield half an hour to the Senator from Idaho.

Just a moment, Mr. President. I was unaware that the Senator from Mississippi was on the floor. He was hiding behind me. So I yield 15 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, thank you very much. I thank the chairman very much for yielding me this time.

Mr. President, the Feinstein amendment suggests a significant change in the regulatory regime that exists today for energy markets.

My understanding of the Senator's amendment is that it would, for the first time, require regulation of off-exchange energy derivatives. These complex instruments, used to transfer risk among sophisticated traders, are vital tools in today's energy trading environment.

The Commodity Futures Trading Commission exempted off-exchange energy derivatives from regulation in 1993. The Congress codified this exemption, largely without change, as part of the Commodity Futures Modernization Act of 2000. The Congress considered regulating off-exchange energy derivatives when it debated the modernization act but chose not to do so because of the disruption new burdensome regulation would cause to these sophisticated traders.

Senators should remember that the distinguished Senator from California initially offered an amendment similar to the one before us today during last year's Senate debate on the Energy bill. On April 10, 2002, the Senate voted 48 to 50 not to invoke cloture on this initial version of the Feinstein amendment. Senator FEINSTEIN tried again with a new version of her amendment in June of this year, again during debate on the Energy bill. On June 11, 2003, the Senate tabled this amendment by a vote of 55 to 44. It should be noted that the second version of her amendment received four fewer votes than the first version. Now we have before us a third version of the Feinstein amendment.

Senators may remember from the debate last summer on the second version of the Feinstein amendment that I read into the RECORD a June 11, 2003, letter from the President's Working Group on Financial Markets. In that letter, Alan Greenspan, Chairman of the Federal Reserve; John Snow, Secretary of the Treasury; William Donaldson, Chairman of the Securities and Exchange Commission; and James Newsome, Chairman of the Commodity Futures Trading Commission, all expressed opposition to the Feinstein amendment.

The letter warned that the Feinstein amendment would have significant unintended consequences for this important risk management market. It also pointed out that the Commodity Futures Trading Commission has brought formal legal actions against Enron, Dynegy, and El Paso for market manipulation, wash—or round-trip—trades, false reporting of prices, and operation of illegal markets.

The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions and make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of Federal regulators.

To my knowledge, the President's working group has not changed its position on this latest version of the proposal of the Senator from California.

Finally, the Feinstein amendment may create regulatory uncertainty for off-exchange energy derivatives from multiple Federal agencies. On one hand, the amendment before us requires the Commodity Futures Trading Commission to regulate off-exchange energy market derivative transactions. However, the amendment also contains a provision that appears to preserve the Federal Energy Regulatory Commission's authority in this market. At a minimum, the amendment appears to muddy the regulatory water with respect to this market.

Remember, the CFTC has antifraud authority. It has brought legal actions against Enron, El Paso, Dynergy, and others regarding energy market problems. It has recovered millions of dollars in fines from these companies. It has numerous ongoing investigations in this area. And more charges are possible. The Senator from California has said that her amendment is needed to prevent wash trades. The CFTC has wash trade authority. It has specific authority under section 4 of the CEA. The CFTC has brought several wash trade actions in the last several years, and its authority to do so has been upheld recently by two U.S. appeals courts. Just this year, the Commodity Futures Trading Commission has recovered tens of millions of dollars from merchant energy traders for wash trades and false trades.

It has also been suggested by the Senator that because exempt commercial markets such as the InterContinentalExchange are exempt from regulation under the Commodity Exchange Act that they have no regulatory oversight. These markets are subject to many regulatory requirements. They are required by statute to have an electronic audit trail. They are required by statute to keep records for 5 years. They are subject to antifraud and antimanipulation authority under the CFTC's jurisdiction. They are subject to special call examinations by the commission as well.

This amendment would impose large trader reporting on exempt commercial markets. Large trader reporting works on retail futures exchanges with standardized contracts but wouldn't work on exempt commercial markets which do not have the same type of standardization. Large trader reporting on exempt commercial markets could actually lead to misleading information being provided to the public. Large trader reporting is used for market surveillance in retail futures markets.

The Commodity Futures Trading Commission's statutory authority for exempt commercial markets is after-the-fact antifraud and antimanipulation enforcement and is, therefore, inconsistent with a large trader reporting scheme.

For these reasons, which I think are very compelling, the Senate should reject this amendment.

I ask unanimous consent to print in the RECORD the text of a letter that went out to all Senators signed by myself, Senator PETE DOMENICI, Senator MIKE CRAPO, and Senator ZELL MILLER on this subject, along with enclosures which are letters addressed to Senators CRAPO and MILLER from the Department of the Treasury, Board of Governors of the Federal Reserve System, signed by John W. Snow, Alan Greenspan, William Donaldson, and James E. Newsome, along with a Department of the Treasury letter, dated September 18, 2002, to these same two Senators, Mr. CRAPO and Mr. MILLER.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OPPOSE FEINSTEIN DERIVATIVES AMENDMENT TO AGRICULTURE APPROPRIATIONS BILL

DEAR COLLEAGUE: We are writing to express our opposition to the Feinstein Derivatives Amendment to the Agriculture Appropriations bill. This amendment has been defeated twice before on a motion to invoke cloture in April 2002 (48–50) and most recently on a motion to table in June 2003 (55–44).

The amendment before us today is an up or down vote. The amendment would significantly modify portions of the Commodity Futures Modernization Act of 2000 (CFMA) and re-introduce legal uncertainties into derivatives markets. It is our understanding that the amendment's goal is to provide additional regulatory oversight to the over-the-counter (OTC) energy derivatives markets in light of the California energy crisis and Enron's bankruptcy; however to date, there is no evidence that derivatives caused either crisis.

Attached please find copies of two letters from the President's Working Group. The 2002 letter discusses reasons why the derivatives amendment is not warranted and urges Congress "to be aware of the potential unintended consequences of current legislative proposals." The 2003 letter discusses all the civil, criminal and enforcement actions taken by the various federal agencies against the wrongdoers in the energy markets since Enron and specifically highlights the CFTC's actions.

Finally, the Energy Policy Act of 2003 will address many of the provisions in Senator Feinstein's proposed legislation, including increased protection against fraud and manipulation, which addresses the Enron-On-Line problem, a ban on roundtrip trading, and increased penalties for violations of the Federal Power Act and Natural Gas Act. Any attempt to undermine the Energy bill by adding similar provisions to the Agriculture Appropriations legislation is unnecessary and we strongly oppose this effort.

Sincerely,

THAD COCHRAN.
MIKE CRAPO.
PETE DOMENICI.
ZELL MILLER.

Attachments.

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,

June 11, 2003.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: Thank you for your letter of June 10, 2003, requesting the views of the President's Working Group on Financial Markets (PWG) on proposed Senate Amendment #876 to S. 14, the pending energy bill. As this amendment is similar to a proposed amendment on which you sought the views of the PWG last year, we reassert the positions expressed in the PWG's response dated September 18, 2002, a copy of which is enclosed. The proposed amendment could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy. For that reason, we believe that adoption of this amendment is ill-advised.

We would also point out that, since we wrote that letter last year, various federal agencies have initiated actions against wrongdoing in the energy markets. As you note, the CFTC has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash (or roundtrip) trades, false reporting of prices, and operation of illegal markets. The Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector. Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of federal regulators.

The Commodity Futures Modernization Act of 2000 brought important legal certainty to the risk management marketplace. Businesses, financial institutions, and investors throughout the economy rely upon derivatives to protect themselves from market volatility triggered by unexpected economic events. This ability to manage risks makes the economy more resilient and its importance cannot be underestimated. In our judgment, the ability of private counterparty surveillance to effectively regulate these markets can be undermined by inappropriate extensions of government regulation.

Yours truly,

JOHN W. SNOW,
Secretary, Department of the Treasury.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
WILLIAM H. DONALDSON,
Chairman, U.S. Securities and Exchange Commission.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

DEPARTMENT OF THE TREASURY, BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, U.S. SECURITIES AND EXCHANGE COMMISSION, COMMODITY FUTURES TRADING COMMISSION,
September 18, 2002.

Hon. MICHAEL D. CRAPO,
U.S. Senate, Russell Senate Office Building, Washington, DC.
Hon. ZELL B. MILLER,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS CRAPO AND MILLER: In response to your letter of September 13, we write to express our serious concerns about the legislative proposal to expand regulation of the over-the-counter (OTC) derivatives markets that has recently been proposed by Senators Harkin and Lugar.

We believe that the OTC derivatives markets in question have been a major contributor to our economy's ability to respond to the stresses and challenges of the last two years. This proposal would limit this contribution, thereby increasing the vulnerability of our economy to potential future stresses.

The proposal would subject market participants to disclosure of proprietary trading information and new capital requirements. We do not believe a public policy case exists to justify this governmental intervention. The OTC markets trade a wide variety of instruments. Many of these are idiosyncratic in nature. These customized markets generally do not serve a significant price discovery function for non-participants, nor do they permit retail investors to participate. Public disclosure of pricing data for customized OTC transactions would not improve the overall price discovery process and may lead to confusion as to the appropriate pricing for other transactions, as terms and conditions can vary by contract. The rationale for imposing capital requirements is unclear to us, and the proposal's capital requirements also could duplicate or conflict with existing regulatory capital requirements.

The trading of these instruments arbitrages away inefficiencies that exist in all financial and commodities markets. If dealers had to divulge promptly the proprietary details and pricing of these instruments, the incentive to allocate capital to developing and finding markets for these highly complex instruments would be lessened. The result would be that the inefficiencies in other markets that derivatives have arbitraged away would reappear.

It is also unclear who would benefit from the proposed disclosures and regulations other than whoever simply copied existing products and instruments for their own short-term advantage. Weakening the protection of proprietary intellectual property rights in the market arena would undercut a complex of highly innovative markets that is among this nation's most valuable assets.

While the derivatives markets may seem far removed from the interests and concerns of consumers, the efficiency gains that these markets have fostered are enormously important to consumers and to our economy. We urge Congress to protect these markets' contributions to the economy, and to be aware of the potential unintended consequences of current legislative proposals.

Yours truly,

PAUL H. O'NEILL,
Secretary, Department of the Treasury.
ALAN GREENSPAN,
Chairman, Board of Governors of the Federal Reserve System.
HARVEY L. PITT,
Chairman, U.S. Securities and Exchange Commission.
JAMES E. NEWSOME,
Chairman, Commodity Futures Trading Commission.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. I yield a half an hour to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I rise to address the Feinstein amendment, as the Senator from Mississippi has indicated, for the third occasion that we have debated this issue in this Congress. It is important to note that each time this amendment has been raised, it has been defeated. Each time the amendment has been raised, it has been opposed by those in the regulatory community—again as has been indicated by the Senator from Mississippi—whether it be the CFTC, the Department of the Treasury, the Board of Governors of the Federal Reserve, or others. The fact is that consistently those who are in charge of regulating, overseeing, and managing our economy and our financial markets have been opposed to this amendment. The question that we must ask ourselves is, Why?

To do so it is important to go back over the history of this act. The Commodity Futures Modernization Act that we are debating is one with which we have had a long history of dealing in this Congress. In fact, before 2000, when President Clinton was in office, a President's working group was established which brought together experts from across the industry, not only those who were in the financial industries, but those who were regulating the financial industries, those we have already mentioned. The Secretary of the Treasury, the Commodity Futures Trading Commission, the Board of the Federal Reserve, and others were a part of this Presidential working group. Those who were involved in this Presidential working group looked at all the different commodities that we deal with, the different types of manners in which we deal with these commodities, and came up with an approach to how we should reform and modernize our law to best take advantage of the types of trading contexts or trading ideas that were utilized in the management and trading of commodities.

It is a difficult subject to talk about because it is so complicated. The bottom line is that this act was then put forward. It was brought forward on a bipartisan basis in Congress, studied extensively by congressional committees after the Presidential committee brought forward its recommendations. And in the year 2000, reforms of the act were implemented.

The amendment seeks to change the structure of regulation that this act established. The first time this challenge to the act was brought forward, we had occasion to have Mr. Greenspan before the Banking Committee. Mr. Greenspan was asked in his testimony what the proposed amendment would mean and what this concept of derivatives, that most people in America don't really get very engaged with, meant to our economy. I was the one who asked the question at that time.

Mr. Greenspan's answer is very illuminating. He said, in his opinion, increasing the regulation and changing the scheme for regulating the management and the trading in derivatives from that which had been put together by the President's working group and approved by Congress would actually increase the threat to our economy. In fact, he pointed out that a very simple way to understand derivatives is that they are a tool by which sophisticated participants in the market are able to allocate risk so that those who are better able to bear it can pick it up, and that by being an instrument or a tool through which we allocate risk in our economy, the American economy actually was able to respond more quickly, more resiliently, and more effectively to the threats that have faced it over the last few years.

Had we not had the capacity for derivatives transactions between sophisticated buyers, had that been regulated and diminished or pushed offshore because the United States chose to regulate it so aggressively, we would not have had the resilience and the response in our economy that we had.

We would have had a deeper trough and a more difficult recovery. Again, this amendment seeks to change that regulatory system Congress and the President and his working group so carefully put together.

How did that act work? Well, the act created three different categories of derivatives transactions. The first category that was fully covered and is on an exchange—regulated exchange—where the first category was the category of agricultural transactions. Those transactions are fully regulated and fully covered under the act.

The act identified certain types of transactions that should not be covered at all and should have no regulatory impact. Those were called financial derivatives. They include things such as treasury bonds, foreign exchange, or interest rates—those types of transactions that occur in the financial markets, and it was concluded they should not have any regulation. They were simply excluded from the act.

A middle category was created for all other kinds of transactions. We have, on the one hand, agricultural transactions, which are fully covered. On the other hand, we have financial transactions, which are fully excluded and, in the middle, all other types of commodities, where the energy transactions fall. It has been argued today that these energy transactions simply are not covered. In fact, the phrase that has been used is one that would imply those engaged in energy derivatives transactions simply don't have any regulatory coverage at all. The phrase "let anything go" has been used, or it has been said there is literally no antifraud or antimanipulation provision or protection in the law regarding these types of transactions. That simply is not the case. This middle type of transaction was not put on an exchange because these are not the kinds of transactions that general investors in the market get involved with. These are highly sophisticated transactions, detailed negotiations between very sophisticated buyers and sellers, accomplishing this result which I talked about earlier of trading and exchanging risk. It is done in such a way that it doesn't effectively work on an exchange. That is why in this middle category the exchange was not included, but regulation for price reporting, antiprice manipulation, antimarket manipulation, and antifraud protection was included. So it is simply not correct to say those engaged in energy transactions—derivatives transactions—are not subjected to antifraud, antimanipulation, or price-reporting requirements. They are, which brings to bear the question of why we need to change this system of regulation.

Again, on the floor today, as has been the case in the past each time we have debated it, the argument has been made that the Enron transaction or the Enron problem would not have been a problem had we had the aggressive kind of antifraud and antimanipulation this amendment proposes to create. Well, again, when we have had experts before us, and as has been said on the floor already by others, the Agriculture Committee and other committees have studied this very carefully. The experts have said to us there is no indication the lack of regulatory authority, if such exists, was any cause for what happened with Enron, and the lack of having regulated derivatives transactions, in terms of putting them on an exchange, or failure to have further fraud or antiprice manipulation and enforcement authority, was the cause of what happened with regard to the Enron transaction.

As a matter of fact, I asked that same question, when this issue first came up, to Alan Greenspan. He, among many others, has indicated there is no evidence the failure to have more rigorous regulatory schemes in place on derivatives transactions would have stopped Enron from doing exactly what it did.

Nobody is saying Enron did not violate the market, that Enron did not engage in price manipulation, that Enron did not engage in these wash transactions, that Enron did not engage in fraudulent behavior. The fact is, Enron did engage in these types of activities. The fact is the CFTC is currently investigating and enforcing its antifraud and antimanipulation enforcement authority against Enron and others in the market who might engage in these types of activities.

The point is, as we proceed, we must understand whether what happened in terms of the Enron circumstance was as a result of the law not being strong enough or was simply the result of the fact that Enron violated the law. The fact is Enron did violate the law, those violations are being identified, and something over $90 million in fines and penalties against Enron and other market violators have already been enforced.

Again, the point is enforcement is occurring. Why should we be concerned about adding a further regulatory scheme on top of that which is already in place? It gets back to the point Alan Greenspan made in that first hearing, where I first asked him about the issue; that is, we have a need in this country for resilience in our marketplace, in terms of allocation of risk.

Our management of derivatives is critical in terms of how well we achieve that objective. If we want to increase the regulatory burden and increase the potential of diminishing our ability in the market to have the benefit of these very important types of transactions, then we better have a very good reason for doing so. If we want to have the benefit of a resilient marketplace, where derivatives transactions can occur between sophisticated buyers and sellers, then we want to be very careful about how we regulate it or overregulate it.

I agree with anybody who says we want to make sure there should be antiprice manipulation or antifraud provisions in place. We should have those kinds of protections in place. But we should be very careful that, as we implement this type of regulatory scheme, we don't drive offshore derivatives transactions or cause a loss of resilience in our marketplace because we overregulate these important transactions.

I note the chairman is looking to perhaps intervene here to conduct other business. I will reserve the remainder of my time.

ORDER OF PROCEDURE

Mr. BENNETT. Mr. President, I ask unanimous consent that the vote in relation to the Feinstein amendment No. 2083 occur at 2:30 today; provided that no second-degree amendments be in order to the amendment prior to the vote, with the time until then equally divided in the usual form. I further ask unanimous consent that following that vote, the Senate proceed to a vote on passage of H.R. 2622, the Fair Credit Reporting bill. I also ask as in executive session that the Senate then proceed to executive session and an immediate vote on the confirmation of calendar No. 402, Roger Titus to be U.S. District Judge for the District of Maryland; provided further, that following that vote the President be immediately notified of the Senate's action and the Senate then resume legislative session. Finally, I ask unanimous consent that there be 2 minutes equally divided for debate prior to each of the votes following the first vote.

Mr. REID. Mr. President, I wonder if my friend will modify his request to have the votes following the first vote be 10 minutes in length.

Mr. BENNETT. I am happy to have the second two votes be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask the Senator from Idaho if he has further comments.

Mr. CRAPO. I do. I will need 3 or 4 or 5 minutes.

Mr. BENNETT. I yield 5 more minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I want to conclude by once again going over the material that has already been put into the record by Senator COCHRAN from Mississippi.

As I indicated, as we have gone through this battle—now the third time—and the debate over whether we should change the manner in which we address derivatives transactions in this country, each time those who are charged with regulating and overseeing these types of concerns have weighed in in opposition to this amendment. I simply want to go through some of the points they have made from the materials. Again, they are already a part of the record.

The first time we debated this amendment, back in September, a letter was submitted by Alan Greenspan, Chairman of the Board of Governors of the Federal Reserve System, Paul O'Neill from the Department of Treasury, Mr. Harvey Pitt, Chairman of the U.S. Security and Exchange Commission, and James E. Newsome, Chairman of the CFTC.

In their letter at that time, they pointed out that this proposal would subject market participants to disclosure of proprietary trading information and new capital requirements.

The capital requirements, I understand, have been dropped in this amendment. But as they go forward, they explain they don't believe a case exists in public policy to justify this increased level of Government intervention.

The OTC markets, they state, trade a wide variety of instruments. Many of them are idiosyncratic in nature. They are customized markets and do not generally serve a significant price discovery function for nonparticipants, nor do they permit retail investors to participate.

Again, this is not a market in which general investors participate. Highly sophisticated investors engage in these transactions. There has been some debate they have actually created the market through wash transactions and other activity. My point is that type of manipulation, either through manipulating a price or through other activities, such as wash trades, is already regulatable and being addressed by the CFTC.

They go on to make the point: The trading of these instruments arbitrages away the inefficiencies that exist in all financial and commodities markets, and that we should not cause increased regulatory burdens on those important functions in our economy.

Then again in June, when we addressed this issue last, the same group responded again to the same proposal. They wanted to point out then that with regard to the argument there was all of this bad activity taking place and we needed to pass new laws to stop this bad activity, the same group of regulators—the Treasury, the Federal Reserve System, the Securities and Exchange Commission, and the CFTC—stated they have brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash or roundtrip trades, false reporting of prices, and operation of illegal markets, and these actions have already resulted in substantial monetary penalties and other sanctions.

Again, the point there is, as I made earlier, that we are enforcing the existing regime.

Lastly, if there is still concern that we don't have enough protection in the law, our current chairman of the Energy Committee, Senator PETE DOMENICI, and those who are working with him from the Agriculture Committee, and others are beefing up those protections in the current law.

A letter which, again, the Senator from Mississippi has already put in the RECORD, coming from Senator COCHRAN, myself, Senator DOMENICI, and Senator MILLER, explains that the Energy Policy Act, which we are now working through in conference, will contain increased protection against fraud and price manipulation which addresses the EnronOnline problems that have been raised by the Senator from California.

Even if the current situation in the law was not already satisfactory, we are increasing the antifraud and antimanipulation provisions to make certain that any concerns about this possibility occurring again are addressed as we focus the regulation without trying to do something to our derivatives markets that would cause a reduction in the resiliency of U.S. markets.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 2084

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. FEINSTEIN. Is this meant to be an amendment to my amendment?

Mr. BENNETT. No, the unanimous consent agreement, I say to the Senator from California, is that no second-degree amendments are in order to her amendment.

Mrs. FEINSTEIN. Correct.

Mr. BENNETT. This is a freestanding amendment separate and apart. If the Senator from California prefers, I can wait until after the vote to offer this amendment. This is a housekeeping action.

Mrs. FEINSTEIN. Will the Senator be quick? I want to address some of the comments that have been made.

Mr. BENNETT. I will, indeed.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment?

Without objection, the clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2084.

Mr. BENNETT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Statements made by the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, and colloquies engaging the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, given on the Senate Floor or submitted for the Record during Senate consideration of this Act shall be deemed part of Senate Committee Report 108–107 for purposes of conference with the House of Representatives.".

Mr. BENNETT. Mr. President, this amendment provides that statements made by Senator KOHL and myself, as well as colloquies we have with our colleagues during consideration of this bill would be germane for conference with the House. I urge adoption of this amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2084) was agreed to.

Mr. KOHL. I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

AMENDMENT NO. 2083

Mrs. FEINSTEIN. Mr. President, I would like to try to respond to some of the comments that have been made.

I believe the CFTC has antifraud and antimanipulation oversight on futures exchanges but not on over-the-counter energy trades. That is the difference here. We would cover over-the-counter energy trades and particularly those trades that are electronic.

I also want to show where existing law is inadequate. There is a case that has just been brought to my attention which I think shows that the existing law is inadequate, and this is what we are trying to fix.

Two energy traders from the energy firms Dynegy and El Paso were charged by the U.S. Government with reporting false information on a number of trades—at least 48 trades. They falsely reported the number and the prices used in trades they conducted involving natural gas in an attempt to influence the natural gas spot price indices.

The Federal indictment charged them, among other matters, with wire fraud and violation of the Commodity Exchange Act, which is what we are talking about, provisions prohibiting price manipulation and dissemination of false information about energy commodity rates.

The Federal court allowed the wire fraud charges, but it dismissed the Commodity Exchange Act charges on the ground that the wording of the act failed to prohibit persons from knowingly providing false information. While the CEA used the word "knowingly" in an earlier part of the provision, the court ruled that the word had to be repeated in the section prohibiting false information.

The Feinstein-Lugar-Levin amendment would clarify the wording of the CEA provision to resolve the problem identified by this Federal district court in the case of the United States of America v. Michelle Valencia, Criminal Action No. 8–03–024.

That is a pretty clear indication of where present law is not adequate. These were bogus trades. These trades never took place. There were totally bogus, and yet the wording in the Commodity Exchange Act, which we are trying to fix, was judged by the court as too vague to take any action.

Second, I want to make this point: What we are trying to do is prevent fraud and manipulation. We are trying to prevent it and deter it from happening. The soft penalties we have now don't prevent it. That should be very clear. We toughen the penalties in the Electricity Act and in the National Gas Act. Clearly, a number of these schemes that Enron practiced, whether it was Death Star, Ricochet, or Black Widow, or any of these other terrible schemes, took place. Our bill would specifically prevent them.

We are trying to prevent and deter, and the way we do that is by strengthening the law.

I am really puzzled by the administration's position. I am really puzzled because it seems to me they should be on the side of the American people, not on the side of the traders and those who want to get rich quick from this open marketplace.

Additionally, it is interesting to me that the President's working group, when it came out in 1999, specifically said:

"Due to the characteristics of markets for nonfinancial commodities with finite supplies"—that is energy—"however, the working group is unanimously recommending that the exclusion"—the exclusion from the bill—"not be extended to agreements involving such commodities."

So beginning in the year 2000, they have done a total switch and I do not understand why, particularly after the events of 2000 and 2001, where we know fraud and manipulation was explicit. Now when the Government tries to go after two companies for bogus trades, a court finds the Commodities Exchange Act is inadequate; it is vague.

Why would people oppose what we are trying to do? I think we are on the side of the angels.

Let me quickly go over some points. Why do we need this legislation? We need it because companies are now permitted to trade large amounts of energy in virtually unregulated markets, which makes it easier for unscrupulous companies such as Enron to manipulate the price of energy. The bill would close the Enron loophole that allows this unregulated trading.

Secondly, do we have any examples of how these markets have been manipulated? FERC recently released a 1-inch thick report on how the markets for electricity and natural gas in the western United States were manipulated in 2000 and 2001. So we know it happened. The FERC found Enron and other companies lied about the prices of their trades, reported fictitious trades to drive up prices, did wash trades with each other, and engaged in rapid trading to drive prices up and then back down, reaping millions of dollars of profits in the process and costing customers billions of dollars in unjustified energy costs. That is according to FERC. That is a finding in their study. Yet people still oppose this legislation. Unbelievable.

Would this legislation have prevented these manipulations? Under current law, the CFTC is totally in the dark about what goes on in the over-the-counter markets. Under this legislation, manipulation in these markets would be a felony and the CFTC would get reports about large trades in the over-the-counter markets, so it would be able to monitor these markets, something it cannot do now. Should anybody be able to escape from ongoing monitoring of what they do in these markets, big traders? I do not think so. Yet they are in this little loophole that was created. That was the purpose of the loophole, to prevent anybody from looking; keep no records. Therefore, they are not going to be able to catch us, and there will be a weak law so it will not be sustained in court when they try to bring a case.

Another question: Enron is bankrupt. A number of traders have been fined and energy trading is back on the rise. The marketplace seems to be correcting itself. Why is this legislation needed?

It is needed to avoid more problems like we have just had. Although everything mentioned in the question I just asked may be true, there is one other significant fact. The consumers and businesses that paid higher prices have only recovered a small fraction of their losses. It is better to prevent the manipulation and the losses from happening than try to make up for them after they take place. That is the point. What our agencies have shown is there is, up to this point at least, no way for an aggrieved marketplace to recover its losses from fraud and any manipulation. Therefore, it should be our job to see the laws are accurate and in place to prevent this kind of activity from taking place in the beginning. That is where increasing the penalties comes in.

Imagine, a $2,000 penalty for doing this. That is nothing. That is not even a slap on the wrist for multibillion-dollar companies.

How does one respond to the concerns that this legislation will increase costs and uncertainty and scare off investment in the energy markets? It will not. The regulated U.S. commodities markets are the most successful and reliable in the world. Ever since the agricultural exchanges were first regulated, we have heard dire predictions from commodities traders that regulation will drive business overseas. In fact, the opposite has happened. We have seen a flight to quality as investors seek safe and reliable markets. That is a fact. This helps the market.

Many traders and energy companies have said the actual cost of compliance with this legislation will be minimal.

The final question: Why should energy derivatives be regulated differently or more stringently than financial derivatives? Because we do not touch financial derivatives. Mr. Greenspan, please know that.

The price of energy derivatives can be manipulated by manipulating the supply of the underlying energy commodity. The price of financial derivatives is very difficult to manipulate because it is difficult to manipulate the price of financial measures underlying the instruments, which generally are not commodities but abstract financial measures such as interest rates and currency exchange rates.

Then again, in 1999, the President's working group saw this. They recommended they not put energy into the loophole. The Congress saw differently and put energy into this loophole, and the never-never land of secrecy went on. These bogus trades were enabled. These bogus trades took place.

There are cases being brought, and we are even finding that the law is inadequate because a court has said it is too vague. We correct that.

I think this is really an important amendment. I do not think I could live with myself if I did not try to do it. If we lose today, believe me, I will come back again and again, because we saw what happened. We know there was massive fraud and manipulation. We know the loophole was there. We know there is no transparency, no record, no audit trail, and no antifraud and antimanipulation oversight for any over-the-counter energy trade. That is what we are trying to do.

My colleagues have referred to futures exchanges rather than over-the-counter energy trades, and that is what we are referring to in this bill. Please, I know back here people look at the West and they say, aha, it is not us, but what I say to them is some day it could be them. Do they not want the law right? Do they not want to be protected? Do they not want a record kept so the regulatory agency can look at it? I really hope the answer is yes, and I hope this Senate will vote for this amendment.

If there are no further comments, I will yield the remainder of my time. If there are, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand there will be a response on this side so I would recommend to the Senator from California that she hang on to all the cards she has.

Mrs. FEINSTEIN. I thank the Senator. I will do that.

Mr. BENNETT. I yield 10 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Mr. President, I would like to respond to some of the points my colleague from California has made and try to further clarify some of these issues. It appears there may be a difference of understanding between us as to just what the CFTC actually has jurisdictional authority over. My colleague from California has indicated that the antifraud and antimanipulation provisions in the Commodities Futures Modernization Act do not apply to over-the-counter trades. My understanding is very different from that. In fact, it is my understanding that the CFTC has antimanipulation authority that allows the Commission to obtain books and records from any market participant when the CFTC believes the prices are being manipulated. In fact, as I had indicated in my previous comments, enforcement authority with regard to market manipulation and price manipulation is being undertaken with regard to Enron.

The question here is whether there is a standardized set of books and records that are required of each participant. In that case, that is correct; the act does not put the full level of regulation onto those in the energy derivatives markets, only on agricultural commodities. So that might be the difference we are talking about. But the fact is, the distinction here is whether there is an exchange type of document disclosure as opposed to simply the type of document disclosure that the CFTC can ask for if it is investigating alleged price manipulation.

Second, the Senator from California indicated that she believed the penalties were too soft, and her legislation addressed that issue. I suppose there is not a lot of disagreement. I have not really talked with other Members of the Senate about it. I don't know if there is a lot of disagreement in strengthening the penalties, but that is not really all this amendment does. In fact, it is not really the focus of this amendment. What this amendment does, as I said before, is it increases and creates an entirely new regulatory regime for the management of derivatives transactions in energy.

I think this next point is a very critical point that we need to address. The Senator from California said in 1999 the working group said that energy transactions should not be excluded from the act. I am not familiar with the exact quotation or document that is being referred to there. But if the word "excluded" is the word the President's working group used, then that makes sense because, as I said earlier in my remarks, the act that we established after the President's working group went through its analysis created three different categories: Those that were included, those that were excluded, and those that were exempted. Why they use the word "exempted" as opposed to some other category, I don't know. But there is a real distinction in this law between the word "excluded," which means they are not covered, and the word "exempted," which means they are not required to be registered on an exchange.

Those that are in the exempted category are not excluded, which is what the 1999 working group apparently recommended for energy. Energy transactions in derivatives are not excluded, they are exempted, which means they, along with every other commodity transaction except for agricultural and financial transactions, are required to be subject to the reporting and investigatory antifraud and antimanipulation provisions of the act. That is what we are debating here.

Finally, the Senator from California mentioned a case where the court did say there was a sufficient lack of clarity in the act that it could not be enforced against knowing and willful conduct. That is correct. That case, to my knowledge, is one of the only, if not the only, case in the country where there has ever been a court ruling that did not give the CFTC the authority it needs to go after this type of conduct.

As I indicated in my earlier remarks, the Energy bill, which we are now putting together in the Energy conference, is correcting the problem that came up with that case. I actually have the language in front of me that is being changed in the law to address the concern raised by that case.

So because there is a case where the court said the language needs to be tightened up a little bit, that does not mean we then need to create a whole new regulatory regime for the management of derivatives. What it means is we need to correct that problem that the case law pointed out in the statute to be sure that the antifraud and antimanipulation language is able to be enforced as we intended it to be. That is exactly what the chairman of the Energy Committee and the others of us who submitted this letter have stated is being corrected in the Energy bill.

Then just one final comment. There was some question as to whether Mr. Greenspan or those of us on this side were making a distinction between financial derivatives or energy derivatives. I can assure those who were involved in the debate on all sides that Chairman Greenspan, as well as the rest of us, understand that we are talking about different types of derivatives when we talk about financial derivatives or energy derivatives or agricultural derivatives or other types of transactions in these commodities. The fact is, whether it is agriculture or energy or financial or other types of commodities, the manner in which we regulate them has incredible impacts on the way in which the markets operate.

I will conclude my remarks at this time by asking unanimous consent to have printed in the RECORD a letter which was delivered to me today, again by Alan Greenspan, responding this third time to the issue, and discussing the reasons our market needs to retain its resilience as we deal with the management of different types of very sophisticated transactions like these derivatives transactions.

I ask unanimous consent this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, DC, November 5, 2003.

Hon. MICHAEL D. CRAPO,
U.S. Senate,
Washington, DC.

DEAR SENATOR: You have asked me for my views on Senator Feinstein's latest proposal for additional regulation of energy derivatives. By imposing large trader reporting requirements on bilateral transactions in energy commodities, the proposal would take the first steps toward introduction of an ex ante prophylactic regulatory regime for the OTC energy derivatives markets. Such a regime would undermine market discipline to the extent that market participants come to depend on the Commodity Futures Trading Commission (CFTC) to protect their interests and therefore fail to do more to protect themselves. Reliance on market discipline rather than government regulation has allowed derivatives markets to allocate risks very flexibly and effectively, which has contributed importantly to the resiliency of our financial system and our economy.

In my view, concerns about market manipulation in the energy derivatives markets would be addressed more effectively by a combination of: (1) enhanced market discipline on the processes through which price data are gathered and price indexes are constructed, and (2) more vigorous exercise of the CFTC's existing ex post enforcement authority with respect to market manipulation. Some clarification of the CFTC's enforcement authority would be desirable, but

> it is not at all clear that the provisions in the proposed amendment are the best way to accomplish that goal.
>
> Sincerely,
>
> ALAN GREENSPAN.

Mr. CRAPO. With that, I withhold my further remarks. I suspect we may need to get into a little bit of debate on these issues, and that may help us to bring focus on what the differences and concerns we have are. But I withhold further remarks at this time.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from California.

Mrs. FEINSTEIN. Madam President, I would like to respond to the Senator. I think this discussion is constructive and I am pleased to partake in this exchange with my good friend from Idaho.

This is a report entitled "The Over-the-Counter Derivatives Market in the Commodity Exchange Act" which was written by the President's working group on financial markets in 1999.

On page 16 of that report, it goes on to say—and I want to read it in its context:

> Due to the characteristics of markets for nonfinancial commodities with finite supplies—

Which energy would be one—

> the working group is unanimously recommending that the exclusion—

In other words, the loophole—

> not be extended to agreements involving such commodities. For example, in the case of agricultural commodities, production is seasonal and volatile and the underlying commodity is perishable, factors that make the markets for these products susceptible to supply and pricing distortions and to manipulation. There have also been several well known efforts to manipulate the prices of certain metals by attempting to corner the cash or futures markets. Moreover, the cash market for many nonfinancial commodities is dependent on the futures market for price discovery. The CFTC, however, should retain its authority to grant exemptions for derivatives involving nonfinancial commodities as it did in 1993 for energy products, where exemptions are in the public interest and otherwise consistent with the Commodities Exchange Act.

Then the loophole was promulgated. The section of the Commodities Exchange Act which contains that loophole is section 2(g) and is titled, "Excluded Swap Transactions."

The section reads, No provision of this Act (other than section 5a (to the extent provided in sections 5a(g)), 5b, 5d, or 12(e)(2) shall apply to or govern any agreement, contract or transaction in a commodity other than an agricultural commodity if agreement, contract or transaction is . . .

And then it goes on.

This section in the Commodities Exchange Act is what creates the loophole, and that is the problem that we are trying to correct in this legislation. I believe we do correct it.

Again, it is very hard for me—and this might have something to do with the fact we went thorough it the west—to understand why we would not want to deter this activity and strengthen the rules to prohibit such manipulation from happening in the future.

We want to be very certain that with all of this kind of trading, including over the counter trades and electronic trades, that the records are kept and there is an audit trail clearly exists and there is an opportunity for the Commodity Futures Trading Commission to note something may be wrong and hold the proper investigation. This is no more and no less than what exists on the exchange today.

Why should this secret world of trading be allowed to exist? I know people get rich through it. This secret trading world allows people to get rich by engaging in fraudulent trades, as was seen during the Western energy crisis. It is this type of manipulative behavior that we are trying to stop.

I can't understand why the administration would not want to support this. When Mr. Greenspan came in and talked to me a few years ago when we first proposed this legislation, his main concern was financial derivatives. This is why we made certain, as I have said in my comments, that this legislation does not concern financial derivatives. He may well have expanded his view to all kinds of over-the-counter trades since then, but at the time I sat down and met with him, that was not his position.

Regardless, we are talking about public policy. We are talking about protecting the people of America. We are talking about strengthening the law so that what happened on the west coast can never happen in the Midwest or on the east coast or any part of the nation.

I mentioned what the attorney general of the State of New York—the attorney general, not a deputy—Mr. Spitzer, has written. Once again, let me read what he said. He is the one who prosecutes many of these cases and I really think his views in this area should make a difference.

He says:

> I urge your amendment's adoption. In addition to providing wholesale electricity markets, the transparency vital to effective competition, the amendment closes loopholes used to manipulate energy markets. It improves the ability to detect fraud and other manipulation, and it deters manipulation by establishing substantive penalties.

This is the attorney general of the State of New York who is going to be prosecuting many of these cases. He says it is a wise thing to do, it is a prudent thing to do, and you should do it.

He also says that this amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission. I have already talked about this. Earlier, I said how this legislation will provide open access to comprehensive, timely, and reliable wholesale electricity and transmission prices. The attorney general repeats that. He says:

> The reliability of market information would be markedly improved by the amendment's—

Don't we want that? I think so—

> general prohibition on manipulation of the purchase or sale of electricity, or the transmission services needed to deliver electricity and by the specific prohibition of the round trip trading manipulation used so effectively to inflate electricity prices to the public's injury.

This is the prosecutor in one of the main States that would have this kind of litigation.

Then he goes on to say:

> Enforcement of the law and regulation safeguarding our energy markets would be greatly aided by other reforms the amendment provides. The amendment would repeal the so-called Enron exemption which shields large energy traders from oversight.

Once again, I want to iterate that this is the attorney general of New York speaking.

> In addition, the amendment would apply to anti-manipulation and anti-fraud provisions of the Commodity Exchange Act—

I just read to this provision to you. Clearly this section of the Act is inadequate by anybody's reading to effectively regulate all energy transactions—

> Our legislation would improve the Federal Energy Regulatory Commission's ability to address complaints, and it would lift the restriction on the Federal Energy Regulatory Commission's authority to order refunds. These reforms will make accountable parties, which are currently beyond the law's reach accountable for their actions and will increase recovery of overcharges.

Once again, I ask, don't we want to do this? Do we really want to protect these people who are willing to do such harmful things to the American people?

I am shocked at the administration's letter. I thought they were there to protect the public.

I thank the Chair. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I yield an additional 10 minutes to the Senator from Idaho and allow him to yield back whatever time he might decide not to use.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAPO. Thank you very much, Madam President. I will try to be brief.

I wish to respond to what really has become the one focal point in the discussion we have been having over the last few minutes; that is, whether the Commodity Futures Trading Act applies and provides tools to protect against over-the-counter trades and derivatives. There isn't any difference between us in regard to that.

The Senator from California said: Would we want to protect people who would do all of these bad things? She indicated from the letter she read from the attorney general of New York that we were shielding large over-the-counter trades from oversight. I will simply say again that this is not the way the laws have been interpreted by the authorities of the government who administer this act, and it is not the way the law has been interpreted by those who were involved in writing the act. Frankly, with the exception of one case of a word change correction in the energy conference bill to address the issue—with the exception of that one case, to my knowledge, there is no indication that the CFTC does not have authority to regulate these trades.

Let me go on. I will go back to the letter of June 11. This is a letter from the Department of the Treasury, the Board of Governors of the Federal Reserve System, the U.S. Securities and Exchange Commission, and the Commodity Futures Trading Commission in which they state they were aware that one of the arguments was they do not have the authority or that adequate regulation is not taking place.

This is a letter written to me and to Senator ZELL MILLER, whom I commend for his efforts in this matter. They state in the letter:

> As you know, the Commodity Futures Trading Commission has brought formal actions against Enron, Dynegy, and El Paso for market manipulation, wash—roundtrip—trades, false reporting of prices, and operation of illegal markets.

If they don't have the authority under the act to regulate price manipulation or other market manipulations, then how could they have brought formal actions to enforce it? Not only do they bring formal actions but the Securities and Exchange Commission, the Federal Energy Regulatory Commission, and the Department of Justice have also initiated formal actions in the energy sector.

At the time of this letter, which was last June, they indicated:

> Some of these actions have already resulted in substantial monetary penalties and other sanctions. These initial actions alone make clear that wrongdoers in the energy markets are fully subject to the existing enforcement authority of Federal regulators.

We can debate about whether we should increase the penalties or add more regulations on top of this, but the fact is that under the Commodity Futures Trading Act, anti-price-manipulation and other antifraud provisions are enforceable.

I wish to go back also to one other comment the Senator from California made. She read to us out of the 1999 report of the President's working group. I listened very carefully to the words she was reading because it is important to understand the usage of words by the President's working group.

I will go back again to when the President's working group recommended how to create this statutory system. When Congress adopted that recommendation and made it law, we created three categories—included, exempted, and excluded. What this working group language which was read to us said was that due to the characteristics of nonfinancial commodities, exclusion was not intended or not recommended.

That is exactly, in fact, what we did in the law. We did not exclude the energy sector. We put it in the middle category, which is exactly where their working report said it should go. It said they should have authority to be exempted. It was put in the "exempted" category which, again, although that exempted word makes it sound as if they are excluded, is not the way the wording of the statute works. The exempted category is fully subject to antifraud and antiprice manipulation protections and to record-reporting requirements imposed by the CFTC.

Again, we may have a difference of opinion on where the reach of the law is, but the bottom line is the agencies involved in administering these and other laws are fully enforcing the law.

I conclude by reading one further letter sent to the Honorable BILL FRIST and TOM DASCHLE yesterday by a number of associations. I will read the names of the associations. These are not just energy companies but companies, associations, and groups involved with the management of our economy from many different perspectives. They point out that the President's working group's approach, which we have been debating today, has been applied and that enforcement actions are taking place. In their words:

> These actions make it clear that wrongdoers in the energy markets are fully subject to the significant authority of federal and state authorities.

Again, in their words:

> Led by the CFTC, federal and state authorities are currently investigating 32 companies and since last year the Commission has entered into six settlements collecting a total of $96 million in civil penalties from energy companies and power merchants for attempting to manipulate energy prices.

Again, if they do not have the authority to regulate, they are certainly doing a good job of regulating. They have collected over $96 million in civil penalties and continue to enforce the act.

Signers of this letter are: the American Bankers Association, the ABA Securities Association, the Association for Financial Professionals, the Bond Market Association, EMTA, the Financial Services Roundtable, the Foreign Exchange Committee, the Futures Industry Association, the International Swap and Derivatives Association, the Managed Funds Association, the National Mining Association, and the Securities Industry Association.

I bring that up simply to point out that not only are those agencies in our Government—such as the Department of the Treasury and the CFTC and the Federal Reserve and others—concerned about this, but those in the industry, those operating in our financial industries are concerned about what this will do to our economy and the resilience of our ability to manage risk in our economy.

One of the factors that gives us the ability to have the strongest economy in the world is our ability to utilize these types of transactional authorities to allocate risk in a way that gives us the resiliency to defend against the kinds of threats against our economy we faced over the last few years.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Madam President, what is the time situation?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes 16 seconds and the Senator from California has 2 minutes 15 seconds.

Mr. KOHL. Madam President, I would like to make a brief statement on this amendment. This is a complicated issue.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. I would be very happy to yield my 2 minutes to the ranking member if I might have 3 minutes to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. This is a very complicated issue. This is an issue on which the Senator from California has spent a lot of time. I believe she knows it thoroughly. Her proposal would bring more transparency to the derivatives market, something we should all support. With above-board transparent markets, derivatives trading will never be taken seriously and investors will always be at risk of being taken advantage of. I will be supporting the Feinstein amendment. I urge fellow Senators to do the same.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. Madam President, there really is a difference of opinion. I would like to have the time to read part of the transcript in a hearing on the Committee on Agriculture on July 10. A question that Senator CRAPO asks to Mr. Newsome of the CFTC.

> Senator CRAPO: I know we have been over this before but I want to be sure that I have it right. As I listened to the testimony of both of you it seems to me that there is actually a lot more agreement than disagreement with respect to what we ought to be doing and where we ought to be. The disagreement, as I understand it, is over whether 2G excludes from the fraud and manipulation provision swap transactions.

Now, swap transactions are the dominant majority of what goes over the over-the-counter market.

> I am correct about that. Would the two of you agree that is the core of the disagreement between your testimony?

Mr. Newsome: 2G certainly does exclude swap transactions.

That is my point. And he is testifying to it in this committee that this is not covered by the CFTC.

It goes on.

Senator CRAPO: It excludes them from fraud and manipulation protections.

Mr. Newsome: 2G excludes them from jurisdictions of the CFTC.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I yield 2 minutes to the Senator from Wyoming.

Mr. ENZI. Madam President, I rise to oppose this issue.

I ask unanimous consent that an article from the Wall Street Journal that explains how small firms are potentially affected by this amendment, a way that small firms have had for hedging so they could stay in business in markets that fluctuate dramatically so they could keep a level price for consumers and still make a profit, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 3, 2003]

Small Firms Are Turning to Financial Futures for Fuel

(By Russell Gold)

DALLAS.—Deregulated energy markets have taken their fair share of criticism in recent years. But that hasn't scared off some of the nation's small-business owners, who are betting that the wild and woolly world of the financial-futures markets will provide more price stability than the stodgy regulated utilities.

That's a big departure. Typically, small businesses have relied on the regulated utilities for their energy needs. But in the past three years, natural-gas prices have surged and the regulated utilities have been slow to find ways to put a lid on the trend. That's opened the doors to marketers that can use financial derivatives and fixed-rate contracts to offer stable pricing for customers.

By the end of this year, an estimated 550,000 commercial clients nationwide will have purchased fixed-price, natural-gas contracts through energy marketing middlemen, according to Kema, a consulting firm in Fairfax, Va., that researches retail-energy markets. That represents a 10% increase from two years ago. "We are seeing slow and steady growth" in small businesses switching from utilities to deregulated energy marketers for fuel supplies, says Kema's natural-gas research director, Gerry Yurkevicz.

LOCKING INTO FIXED PRICES

In the past, only large industrial companies would take such risks. But an increasing number of small and midsize businesses, including property managers, hospitals and fast-food franchises, are locking in a fixed price rather than watching their energy bills gyrate from month to month. If they're lucky, they will save money on fuel. But if a warm winter causes prices to collapse, they may end up spending more on natural gas than what utilities would charge.

But for most small businesses, natural-gas marketers have something to offer besides the possibility of lower prices: They can offer near-term price stability. This allows businesses to set their energy budgets for the year and not worry.

Mark Beffort, president of a real-estate-management concern in Oklahoma City recently made the switch. Instead of buying natural gas from the local utility for a 22-story suburban office tower he manages, he works with natural-gas marketer Clearwater Enterprises LLC. This past fall, Mr. Beffort called Clearwater and chewed over whether to but natural gas for the winter or wait. "Do we want to lock or do we want to gamble?" he asked. Last month, a government report on levels of natural gas stored in reservoirs for winter use sent natural-gas prices down. At the urging of Clearwater, Mr. Beffort bought on the drop. He orally agreed to take enough natural gas to heat the office tower at a fixed price. Clearwater then locked in supply using a combination of futures contracts and fixed-price deals with producers.

"Customers can fix their energy budgets at the beginning of the year," Mr. Yurkevicz says. "They can set it and forget it." By contrast, regulators set up rules that discourage utilities from hedging, making retail prices almost as volatile as natural-gas prices.

For most of the 1990s, natural-gas prices, as measured by tradable futures contracts on the New York Mercantile Exchange, held stable at about $2.50 per million British thermal units. Since 2000, however, the price has whipsawed, and the average cost so far this year has exceeded $5 per million BTUs.

Many marketing firms are targeting smaller and smaller commercial customers. Peoples Energy Services, a unit of Chicago-based Peoples Energy Corp., reported it number of commercial clients jumped 20% to 13,073 for the year ended Sept. 30. Meanwhile, the company's average customer usage decreased by 9% to 3.2 million cubic feet, as the energy marketer takes on more smaller customers.

UGI Energy Services, a subsidiary of suburban Philadelphia-based UGI Corp., has more than quadrupled its number of customers since 1999. Over the same span, its average customer usage has dropped 13%, to 23 million cubic feet. "We view ourselves as risk managers," says UGI Energy Services President Bradley Hall. "What most people are looking for its stability."

SWITCH TO PROPANE

That's what attracted customer Jeff Uhlenburg. His family-owned industrial furnace in Philadelphia had spent more than six months of its energy budget by mid-March, and high natural-gas prices forced him to switch to propane. "I got burned," he says. This summer, he switched to UGI, which buys natural-gas futures and supplies Mr. Uhlenburg natural gas at a fixed price.

Rather than fighting the trend, some regulated utilities are encouraging their customers to switch. The utilities continue to profit from transporting the natural gas. And often, the utility and energy marketer share a common corporate parent.

Oklahoma Natural Gas Co., a regulated utility owned by Oneok Inc., gained approval from the state earlier this year to permit even smaller customers than previously allowed to switch to third-party marketer. The 97-year old utility last month began asking commercial clients as small as dry cleaners for permission to send their contact information to marketers. Oneok is hoping that commercial customers will choose to sign up with its unregulated subsidiary, Oneok Energy Marketing Co., to provide their natural gas.

Mr. ENZI. I know this is a glaze-the-eyes-over issue. It is hard for me to understand. It is probably hard for me to be able to spell derivatives, let alone understand paragraphs A, B, C, D, G, or whatever they were.

This amendment has come up twice before. We voted it down twice before. There have been some changes to pick up a little bit more of a majority. As the letter read by the Senator from Idaho pointed out, the industries that were excluded in this have not bit into it yet. They understand it is a slippery slope and they will come back up and pick them up.

The SEC has brought action against these companies. If Sarbanes-Oxley had been in place a year before the time that it was, we would not have had any problem. There are protections out there. So let's not take this advantage away from the small businesses.

The proponents of the amendment believe that the trading of derivatives, especially in the energy area, were the cause of the energy problems faced by western States in recent years. Specifically, the proponents believe that energy trading of derivatives by Enron contributed significantly to the energy problems.

Unfortunately, the problems that caused Enron to fail were based upon failures in corporate governance and outright fraud. Ironically, we are addressing this amendment after we celebrated the 1-year anniversary of the passage of the Sarbanes-Oxley act in July. If that act had been in place earlier, the problems of Enron, and companies like Enron, would have been discovered by the independent directors and effective auditors required by the law.

Proponents of the amendment also would have us believe that Federal regulators do not have enough power and authority to seek out and punish the wrong doers. That is simply not true. Three Federal agencies have brought enforcement actions as a result of the activities of Enron and companies like Enron and the Department of Justice has instituted investigations into the matter.

Two weeks after we defeated the amendment in June, the Federal Energy Regulatory Commission issued two "broad show cause" orders to over 60 power trading companies that are alleged to have engaged in manipulative practices that disrupted the western energy markets in 2000 and 2001.

In addition, the Commodities Futures Trading Commission documented administrative and criminal actions of the energy trading industry in the agency's, "Report on Energy Investigations" that was released on April 9 of this year.

Finally, in late July, the Securities and Exchange Commission settled enforcement proceedings in the amount of $255 million against two investment banks that conspired with Enron to commit fraud. This is not the first action by the Securities and Exchange

Commission in this area. In total, the Securities and Exchange Commission has brought six separate actions in connection with the Enron matter.

In addition, the Federal agencies are not sitting idle. In particular, the Federal Energy Regulatory Commission has regulatory initiatives to provide greater clarity and transparency to the energy markets.

It is abundantly clear that the Federal agencies are acting where appropriate and are using their full authority to pursue those who commit fraud on the energy and securities markets.

During the debates on the June 11 amendment, the President's working group, which is comprised of the Chairman of the Board of Governors of the Federal Reserve, the Secretary of the Department of the Treasury, the Chairman of the SEC, and the Chairman of the CFTC, sent a letter to opposed the amendment. In the letter, the working group stated that the June 11 amendment "could have significant unintended consequences for an extremely important risk management market—serving businesses, financial institutions, and investors throughout the U.S. economy."

On July 16, Chairman Greenspan testified before the Senate Banking Committee on the state of monetary policy. In response to question posed at the hearing, he reiterated his opposition to the amendment.

As I stated on June 11, as we debated this amendment before, I believe that the amendment is overly broad and if adopted will likely decrease market liquidity because of increased legal and transactional uncertainties. In addition, I am suspect of this amendment as it includes a carve-out for the metals industries. Congress should be very cautious about carve-outs as it may start out to be a slippery slope where the initial carve-out is for the metals industry. The next move will be to exempt other industries until there are enough votes to pass an amendment—then the process well reverse to pick up the exemptions.

Instead of cutting the throats of particularly small companies, this will be the death by a thousand small slices. Derivatives are protecting hedging for small companies and it works. Evidence of small business use of energy financial products on energy issues can be seen in the November 3 article of the Wall Street Journal entitled, "Small Firms are turning to Financial Futures for Fuel." I also would like to acknowledge the financial services industries opposition to this amendment.

For every reaction Congress tends to have an overreaction. I believe that this is the case here. The Commodities Futures Trading Commission already oversees market manipulation concerns with the energy trading markets. The pursuit of a new broad-based regulatory scheme for the oversight of energy trading may be an unnecessary addition to the market.

Accordingly, I urge my colleagues to vote against this particular amendment as they have voted it down twice before.

Mr. BENNETT. Madam President, as I have listened to this debate, it has reminded me once again of why I am glad I did not go to law school. The details of the legislation are best left to the lawyers who have argued it.

I simply share with my colleagues a conversation I had when the question of derivatives arose with respect to the bankruptcy of Orange County in California. There was an attempt at that point to say we must regulate these derivatives. Derivatives are terrible. Derivatives are responsible for all of our troubles. Chairman Greenspan was asked pointblank if derivatives were responsible for the bankruptcy in California. He said no, all derivatives did was make the stupid actions of the treasurer of Orange County be carried out more effectively than would have been the case without them.

We must remember that derivatives are neutral. They are tools to be used by managers to hedge risks and to make things move more efficiently in the marketplace. We sometimes move away from that understanding and think they are inherently evil in and of themselves.

I accept the assurances that the trading in this area is appropriately managed by the regulatory agencies that have been set up and I intend to oppose the amendment. I urge my fellow Senators to do the same.

Mrs. FEINSTEIN. I ask unanimous consent for 1 minute to permit Senator CANTWELL to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

Ms. CANTWELL. Thank you, Madam President.

Madam President, I come to the floor to support the Feinstein amendment. I think Senator FEINSTEIN has done an outstanding job of trying to communicate what is essential for markets to operate efficiently. For markets to operate efficiently, they need transparency. That is what the underlying amendment does.

It says, let's make these commodities have the same transparency as other products on the market that are sold as futures, have the ability to look at the books, and make sure that manipulation has not happened.

I urge my colleagues to support the Feinstein amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I move to table the amendment and ask for the yeas and nays.

Mr. LEVIN. Will the Senator withhold for a unanimous consent request?

Mr. BENNETT. I will withhold.

Mrs. FEINSTEIN. Madam President, I have a copy of a colloquy between the leaders that we would have an up-or-down vote on the amendment.

Mr. LEVIN. Madam President, while that is being considered, I ask unanimous consent that a statement of the American Public Gas Association, supporting the amendment; a statement of Attorney General Eliot Spitzer, supporting the amendment; a statement of the North American Securities Administrators Association, supporting the amendment; a statement from the Consumers Union, Consumer Federation of America, U.S. Public Interest Research Group, and Public Citizen, supporting the amendment; and a statement from the Derivatives Study Center be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC
GAS ASSOCIATION,
Fairfax, VA, October 8, 2003.

Re protecting electricity markets and consumers.

Hon. RICHARD LUGAR,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR LUGAR: The American Public Gas Association (APGA) is very pleased that you and Senators Levin and Feinstein are leading a bipartisan effort to ensure that energy prices are determined in a competitive and informed marketplace. The provisions in your "Energy Market Oversight Amendment" are significant steps toward closing the gaps that impede effective federal oversight of the energy marketplace. We strongly support the changes you propose to the Commodity Exchange Act (CEA) and the Federal Power Act (FPA). We also urge that you amend the Natural Gas Act (NGA) in the same manner as the FPA so natural gas markets and consumers are provided the same level of protection you propose for electricity markets and consumers.

APGA represents the interests of municipally-owned gas utilities. There are over 950 public gas systems across the country in 36 states serving more than five million residential and commercial customers. APGA represents over 600 of these public gas systems. Our members are not-for-profit utilities, and their boards are composed of locally elected and appointed officials. No other trade association in the gas industry is closer to the customers they serve than APGA members. And, on behalf of APGA, we strongly support your amendment because it will improve market transparency and provide the essential regulatory oversight to detect and prevent manipulation and improve the efficiency of energy markets. Greater transparency and effective oversight are the basic steps necessary to restore confidence in the energy markets and promote the investments needed to provide reliable energy at fair prices to consumers and businesses.

We applaud your efforts and your goals: to improve transparency, strengthen enforcement, and preclude manipulation in energy markets. Fundamental to achieving these goals is to undo the special exclusions and exemptions granted in the closing hours of the 106th Congress. The amendments to the CEA you now propose are focused specifically on energy markets and will provide a basic level of protection for all energy consumers because the provisions clearly establish anti-fraud and anti-manipulation authority in the over-the-counter derivatives contracts for energy commodities.

However, we urge you to include changes to the NGA that are consistent with your changes to the FPA. Unless such changes are made in tandem, there will be even further disparity between the consumer protection provisions in these two important acts. We hope that such disparate treatment will not be tolerated.

Again, public gas utilities and the hundreds of communities we serve commend you for your thoughtful and deliberate leadership on this very important issue. While there may be some who will oppose this amendment, one need not look far to see whether the opposition is looking out for the best interests of Wall Street or Main Street. We pledge to work with you in any way we can to pass this much-needed amendment. Please let me know how I can assist you.

Sincerely,

Bob Cave,
President.

State of New York,
Office of the Attorney General,
New York, NY, October 15, 2003.

Hon. Ted Stevens,
Chairman, Appropriations Committee, U.S. Senate, Washington, DC.

Hon. Robert C. Byrd,
Ranking Member, Appropriations Committee, U.S. Senate, Washington, DC.

Hon. Robert Bennett,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Services, Appropriations Committee, U.S. Senate, Washington, DC.

Hon. Herb Kohl,
Ranking Member, Subcommittee on Agriculture, Rural Development, and Related Services, Appropriations Committee, U.S. Senate, Washington, DC.

Dear Senators: I firmly support your efforts to make our energy markets competitive and to protect those markets from fraud and manipulation. The Energy Market Oversight Amendment, sponsored by Senators Feinstein, Levin and Lugar and under consideration as an amendment to the pending 2004 Agriculture, Rural Development, and Related Services Appropriations legislation, is a major step toward both goals. I urge its swift adoption. In addition to providing wholesale electricity markets the transparency vital to effective competition, the amendment closes loopholes used to manipulate energy markets, improves the ability to detect fraud and other manipulation, and deters manipulation by establishing substantive penalties.

The amendment makes a major contribution to competitive energy markets by initiating an electronic information system to be operated through the Federal Energy Regulatory Commission ("FERC"). This system will provide open access to comprehensive, timely and reliable wholesale electricity and transmission price and supply data, greatly expanding the choices of both buyers and sellers. In addition, the reliability of market information would be markedly improved by the amendment's general prohibition on manipulation of the purchase or sale of electricity or the transmission services needed to deliver electricity, and by the specific prohibition of the "round trip trading" manipulation used so effectively to inflate electricity prices to the public's injury.

Enforcement of the laws and regulations safeguarding our energy markets would be greatly aided by other reforms the amendment provides. The amendment would repeal the so-called "Enron exemption," which shields large energy traders from oversight. In addition, the amendment would apply the anti-manipulation and anti-fraud provisions of the Commodity Exchange Act to energy transactions, would improve FERC's ability to address complaints, and would lift a restriction on FERC's authority to order refunds. These reforms will make accountable parties now beyond the law's reach and will increase the recovery of overcharges.

Finally,the amendment would give effect to the deterrents against energy market abuses. These reforms make FERC penalties more than just a "cost of doing business."

The events of the past three years teach that we need better and stronger laws to protect our energy markets. The Energy Market Oversight Amendment would significantly improve our laws and strengthen crucial deterrents against the fraud and other energy market manipulations that have cost our citizens and our economy billions. The national interest would be served by the amendment becoming law as soon as possible.

Sincerely,

Eliot Spitzer,
Attorney General.

North American Securities
Administrators Association, Inc.,
Washington, DC, October 27, 2003.

Hon. Ted Stevens,
Chairman, Appropriations Committee, Washington, DC.

Hon. Robert C. Byrd,
Ranking Member, Appropriations Committee, Washington, DC.

Hon. Robert Bennett,
Chairman, Subcommittee on Agriculture, Rural Development and Related Services, Washington, DC.

Hon. Herb Kohl,
Ranking Member, Subcommittee on Agriculture, Rural Development and Related Services, Washington, DC.

Dear Senators: The North American Securities Administrators Association is writing to express its support for the Energy Market Oversight Amendment, sponsored by Senators Feinstein, Levin and Lugar. It is our understanding that this amendment will be considered as part of the Agriculture Appropriations bill.

The collapse of Enron, continued reports of fraud, manipulation in the energy markets, and the lack of transparency in over-the-counter (OTC) energy trading underscore the need for this amendment. The Energy Market Oversight Amendment would provide the transparency and regulatory tools necessary to detect and prevent manipulation and improve the efficiency of these markets. Its disclosure requirements will make the energy marketplace more open for all producers and consumers, and the result will be a more sound and efficient market. During this period of market unrest, now is the time to strengthen the oversight of the energy markets.

NASAA supports the Feinstein-Levin-Lugar amendment because it would provide more transparency to the wholesale electricity markets, supply the CFTC with the authority to detect fraud and manipulation, and help to deter wrongdoing by significantly increasing the penalties for violations of the Federal Power Act.

The events of the past three years should be a wake-up call that we need stronger laws to protect the users of our energy markets. This amendment would improve our laws and help to ensure that problems associated with Enron, the Western electricity crisis, and the recent Northeast blackout do not recur. Thank you for your consideration of these 693Y85X views. Please do not hesitate to contact Deborah Fischione House, NASAA's Director of Policy at 202–737–0900, if we may be of assistance to you.

Sincerely,

Ralph A. Lambiase,
NASAA President,
Director of Connecticut Securities.

October 16, 2003.

Dear Senator: We are writing to urge you to support the bipartisan Energy Market Oversight Amendment, which will be offered during consideration of the Fiscal Year 2004 Agriculture Appropriations bill. This amendment, being offered by Senators Feinstein, Lugar, Levin and others, would go a long way towards addressing the serious problems plaguing the nation's energy markets.

Unfortunately, we have been bombarded with a steady stream of news reports about how electricity traders have unscrupulously manipulated the market to unfairly inflate their profits, costing consumers billions of dollars. More than one trader has admitted to engaging in "round trip trading" to artificially inflate prices. Some created transmission congestion in order to be paid to relieve that congestion. Supplies were withheld to drive prices up, resulting in a series of rolling blackouts in California. We are still learning the full extent of the misconduct, and only now are we coming to understand the nature of these schemes.

Today, the loss of trust and confidence in the integrity and creditworthiness of energy and energy derivatives markets has left trading in oil, gas and electricity suffering from a lack of liquidity. If markets are going to be the terrain for setting the price for our key energy products, then it is crucial that they be orderly and efficient. Towards that end this amendment seeks to put an end to this plague of fraud and market manipulation. It will help improve market oversight and surveillance. It will enable the Commodity Futures Trading Commission (CFTC) to detect and deter manipulation. Its disclosure rules will make the marketplace more transparent for all producers and consumers, and the result will be a more sound and efficient market.

Given all this, we believe that it would be irresponsible to weaken consumer protections and cut federal oversight of the electric industry, as both the Senate and House-passed versions of the energy bill would do. That is why the Energy Market Oversight Amendment is so timely. This amendment would:

Improve price transparency in wholesale electricity markets by directing the Federal Energy Regulatory Commission (FERC) to establish an electronic system to provide information about the price and availability of wholesale electricity to buyers, sellers and the general public;

Prohibit round trip trading;

Increase penalties for violations of the Federal Power Act and the Natural Gas Act from $5,000 to $1,000,000;

Prohibit manipulation of the electricity markets, including giving FERC the authority to revoke market-based rates for companies that are found to have engaged in market manipulation;

Repeal the "Enron exemption" in the Commodities Future Modernization Act for large traders in energy commodities and apply the anti-fraud provisions of the Commodity Exchange Act to all over the counter trades in energy derivatives; and

Provide the CFTC tools to monitor energy markets, including requiring traders to keep records and report large trades to the CFTC, focusing on transactions that perform a significant price discovery function, while limiting the CFTC to seeking only information necessary to detect and prevent price manipulation in the futures and over the counter markets for energy.

In addition, the amendment would have no effect on futures markets, financial derivatives, metals, swaps or electronic trading of non-energy commodities.

Energy production is a major sector of the economy, but energy's importance is greater than that measured by its size. One of the hard learned lessons from the Western electricity meltdown of 2000 and 2001 is that when energy companies manipulate the electricity markets, devastating consequences result. Billions of dollars were lost and millions of lives were adversely affected. The toll on businesses both large and small was enormous. The impact of the Northeast-Midwest blackout was also immense. Congress should do everything within its power to ensure that such devastation never occurs again, and, if it does, that those responsible are punished severely.

Please protect the nation's electricity markets from further Enron-style manipulations—support the Energy Market Oversight Amendment.

Thank you.

Sincerely,

Adam J. Goldberg, Policy Analyst, Consumers Union.

Mark N. Cooper, Director of Research, Consumer Federation of America.

Anna Aurilio, Legislative Director, U.S. Public Interest Research Group.

Michelle Boyd, Legislative Representative, Public Citizen.

FINANCIAL POLICY FORUM,
DERIVATIVES STUDY CENTER,
Washington, DC, October 22, 2003.

DEAR SENATOR LEVIN: I am writing regarding the Energy Market Oversight legislation being offered as an amendment to the FY 2004 Agricultural Appropriations bill. This important legislation will assume that over-the-counter derivatives markets in "exempt" commodities such as energy will be covered by federal prohibitions on fraud and manipulation. It will also help to create energy derivatives markets that are more transparent and thus more efficient. In doing so, this legislation will bring OTC energy derivatives out of the shadows and into the same light of financial disclosure. It will subject these derivatives to some of the same regulations that apply to securities, banking, exchange-traded futures and options and other sectors of U.S. financial markets.

This regulatory assistance comes at a critical time. According to the Federal Energy Regulatory Commission's Director of the Office of Market Oversight, "energy markets are in severe financial distress." Along with the decline in credit quality in these markets, the loss of confidence and trust has led to a ruin in the liquidity and depth of these markets. This legislation will go a long way to address this problem.

Derivatives are highly leveraged financial transactions, allowing investors to potentially take a large position in the market without committing an equivalent amount of capital. Moreover, derivatives traded in over-the-counter markets are devoid of the transparency that characterizes exchange-traded derivatives such as futures, and this lack of transparency introduces a greater potential for abuse through fraud and manipulation.

Derivatives are often combined into highly complex structured transactions that are difficult—even for seasoned securities traders and finance professionals—to understand and price in the market. Enron used such over-the-counter derivatives extensively in order to hide the nature of their activities from investors. The failure of Enron and the demise of other energy derivatives dealers has had a devastating impact on the level of trust in energy markets.

This legislation would help ensure that over-the-counter derivatives markets operate with proper federal oversight which will make the markets more stable and transparent. It is appropriate to place this oversight authority with the Commodity Futures Trading Commission, which, as the principal federal regulator of derivatives transactions since its founding in 1975, will provide oversight, surveillance and enforcement of anti-fraud and anti-manipulation laws. The CFTC has the experience to handle these complex financial transactions and to develop the best rules to implement these protections.

At a time when these energy markets are deeply distressed and the investing public looks skeptically at derivatives trading and firms engaged in derivatives trading, we should take decisive steps to ensure that the public is protected from Enron-like abuses and that derivatives are properly regulated so as to make energy markets more efficient. This amendment is just such a step, and the authors of the legislation deserve appreciation for their work in the public interest.

Thank you for introducing this important legislation.

Sincerely,

RANDALL DODD,
Director.

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR,
Lansing, MI, October 2, 2003.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: I am writing to express my strong support for passage of the Feinstein-Lugar-Levin amendment to the Fiscal Year 2004 agriculture appropriation bill.

In the aftermath of the massive electricity blackout six weeks ago that affected at least six million Michiganians, I believe all necessary steps should be taken to bolster business and consumer confidence in the nation's energy markets and promote additional investment in reliable energy delivery at a fair price. Your amendment would improve electricity price transparency in wholesale electricity markets, greatly increase criminal and civil penalties for trading violations, prohibit market manipulation and fraud in all energy market sectors, and strengthen day-to-day energy market oversight including over-the-counter market transactions that significant affect energy prices.

By directing the Federal Energy Regulatory Commission (FERC) to establish an electronic price and supply monitoring system and crack down on manipulation in wholesale electricity markets. Congress would be providing new authorities consistent with my testimony before the House Energy and Commerce Committee last month that urged Congress to sharpen the teeth of federal regulators and hold electricity market participants accountable to assure energy reliability.

I appreciate your efforts in the Senate to strengthen federal oversight of energy markets and promote reliable and fairly priced energy that will protect consumers and fuel economic growth.

Sincerely,

JENNIFER M. GRANHOLM,
Governor.

NATIONAL ASSOCIATION OF
STATE UTILITY CONSUMER ADVOCATES,
October 27, 2003.

DEAR SENATOR: The National Association of State Utility Consumer Advocates strongly support the bipartisan Energy Market Oversight Amendment, which will be offered during consideration of the FY 2004 Agriculture Appropriations bill.

The proposal, offered by Senators Feinstein, Lugar, Levin, and others will help fix broken energy markets and give regulators the tools needed to protect consumers from market manipulators.

The amendment improves price transparency, prohibits round trip trading, and increases penalties for Federal Power Act and Natural Gas Act violations. The amendment also prohibits manipulation of the energy market and repeals the "Enron exemption."

The nation's consumer advocates urge you to support this important consumer protection amendment.

Sincerely,

CHARLES A. ACQUARD,
Executive Director.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, as I understand the colloquy, it was either a vote on the amendment or in relation to the amendment, and that a motion to table is determined as being in relation to the amendment.

Now, out of courtesy to the Senator from California, I will not make the motion to table. But I want to make it clear, I am reserving the right to make a motion to table in future situations similar to this. I do not want to be discourteous to her for her understanding, but it is my understanding that I do, indeed, have the right to make that motion.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, the extraordinary courtesy of the Senator is appreciated because he is actually correct. It did say "in relation to." But I quickly accept his offer to have an up-or-down vote.

Mr. REID. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to amendment No. 2083.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. ENSIGN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Byrd
Cantwell
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Fitzgerald
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lugar
McCain
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—56

Alexander
Allard
Allen
Bayh
Bennett
Bond
Breaux
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Landrieu
Lincoln
Lott
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NOT VOTING—3

Edwards
Kerry
Lieberman

The amendment (No. 2083) was rejected.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will read S. 1753 for the third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 2622, and the clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 2622) to amend the Fair Credit Reporting Act in order to prevent identity theft, to improve the use of and consumer access to consumer reports, to enhance the accuracy of consumer reports, to limit the sharing of certain consumer information, to improve financial education and literacy, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1753, as amended, is inserted in lieu thereof.

The clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

Mrs. FEINSTEIN. Mr. President, I have decided to vote against the National Consumer Credit Reporting System Improvement Act because, bottom line, this bill reduces the privacy rights of 36 million Californians.

These rights were obtained through the passage of landmark legislation sponsored by Senator Jackie Speier earlier this year in California, which gave consumers the right to tell financial institutions that they don't want their most sensitive personal information shared with hundreds or even thousands of affiliated companies.

This practice—affiliate sharing—can include your most sensitive information—the stocks you own, the certificates of deposit you hold, or the amount of money in your checking account.

Importantly, California's financial industry signed off on Senator Speier's bill, rather than face a ballot initiative, which likely would have succeeded.

Industry executives said at the time that the California bill "encompasses all aspects of the workability needed to ensure protection of customers' privacy" and that it is "a workable, reasonable compromise." In fact, the only major reservation expressed about that provision was that the bill did not represent a national standard. But now, given the opportunity to set such a national standard, these same companies worked to wipe out such protections—and I find this conduct particularly concerning. Attached is a letter from Senator Speier that attests to the behavior of California's financial industry.

So in response to calls for a national standard and to protect the rights of Californians, Senator BOXER and I developed an amendment that would have established a strong national standard on affiliate sharing, consistent with California's law, which would have given consumers a real voice in how their personal information is used.

This amendment came up for a vote and, unfortunately, it was defeated. I think time will show that this was the wrong vote, and I have no doubt that this issue will resurface as consumers learn more about the misuse of their most sensitive personal information.

I am disappointed that we did not achieve our main goal of adopting an amendment which would allow consumers to have control over their personal data, but I am pleased that the Senate approved two amendments, which I sponsored along with Senator BOXER, to protect consumers.

The first amendment, authorized by Senator BOXER, which I cosponsored, would give consumers greater protection against unwanted marketing.

Most importantly, the amendment would allow consumers to permanently opt-out of marketing by unrelated affiliates, while the underlying bill would have only limited the opt-out to 5 years. This means that if a consumer asks a corporation not to share information with its affiliates for the purpose of marketing, the affiliate cannot solicit them—forever. Without this amendment, a consumer would have been required to go back to the corporation and reiterate his request after 5 years.

Additionally, this amendment clarified what the bill meant by a "pre-existing business relationship", where there was no definition before. With this amendment, a company's affiliate would only be able to market to consumers who have:

One, purchased, rented or leased the seller's goods or services or completed a financial transaction between the consumer and seller, within the 18 months immediately preceding the date of a solicitation; or

Two, inquired about or applied for a product or service offered by the seller, within the 3 months immediately preceding the marketing contact.

Without this clarification, companies might have been able to market to customers who purchased goods as many as 5 or 10 years earlier, or who made the mildest inquiry a few years ago. It is the same definition developed by the Federal Trade Commission in creating a national "Do Not Call" registry for telemarketers.

The Senate also adopted a second amendment, which I authored and was cosponsored by Senators BOXER and KENNEDY, that essentially provided a far more encompassing definition of medical information than is contained in current law.

Simply put, this amendment will help ensure that consumers aren't discriminated against based on their medical or health information when they apply for credit, insurance, or employment. The amendment also has the support of the American Medical Association, the American Cancer Society, and the California Medical Association.

The Feinstein amendment would broadly expand the definition of "medical information" to read:

> Information or data except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or the consumer that relates to:
>
> (1) The past, present or future physical, mental or behavioral health or condition of an individual;

(2) The provision of health care to an individual; or

(3) Payment for the provision of health care to an individual.

This is the same definition of medical information established by the National Association of Insurance Commissioners in 2002. This definition has been implemented in a vast majority of our states.

Even with these modest amendments, however, I cannot support the reauthorization of the Fair Credit Reporting Act.

The Boxer-Feinstein marketing amendment will help prevent consumers from receiving unwanted solicitation, but it will do nothing to limit the ability of companies to share information with their affiliates.

Affiliates, therefore, will continue to be able to use personal information to profile consumers in a way that leads to unfair increases in premiums or interest rates, to giving certain consumers inferior service, or to outrightly deny them credit cards, insurance policies, or other products.

Furthermore, the bill will do nothing to stop the creation of "internal credit reports" by large financial institutions. Unlike with traditional credit reports, consumers will continue to have no ability to access or correct errors in these documents.

Most Americans consider their personal information their private property. Yet, this bill will continue to deprive ordinary American consumers from having any choice over how their information is shared in the business world. This is the fundamental issue.

To give you a sense of the deep support for privacy, I would point to a survey of California voters completed on February 7 of this year.

The statewide survey found that by a 91-to-7 percent margin, California voters would favor a ballot proposition that "would require a bank, a credit card company, insurance company, or other financial institution to notify a customer and receive a customer's permission before selling any financial information to any separate financial or non-financial company."

This means that 9 out of 10 Californians support even stronger protections—where companies would have to gain your prior consent—opt-in—to share your financial data—than the amendment which Senator BOXER and I offered. And polls across the country reflected similar levels of support by Americans for stronger privacy laws.

This only underscores the need for strong federal standards. Clearly, businesses should be able to manage customer information in order to enhance services. But there must be strong rules that protect consumers. That is why Congress should have given consumers a choice—allowing them to tall companies that they don't want their most personal information shared.

So despite the fact that I support efforts in this legislation to combat identity theft and improve consumer access to credit report information, I believe that the bill doesn't do enough to protect consumer's privacy, and that is why I am voting against it.

Mr. President, I ask unanimous consent that a letter from Senator Jackie Speier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CALIFORNIA STATE SENATE,
Sacramento, CA, October 24, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.
Hon. BARBARA BOXER,
U.S. Senator, California,
Hart Senate Office Building, Washington, DC.

DEAR SENATORS FEINSTEIN AND BOXER: I wish to thank you for your efforts on behalf of consumer privacy rights, and urge you continue to do all that is possible to protect California's hard-fought consumer privacy gains.

It has recently come to my attention that the financial services industry has been criticizing the contents of your amendment to S. 1753, substituting the newly-enacted and stronger California privacy standard on affiliate sharing in the "corporate family of companies," as unworkable and unreasonable. This same industry recently called my California bill "workable and reasonable," specifically removing their opposition to my measure and lavishing praise on it, even helping to gather votes. Industry made it clear that my bill met their workability concerns, progress made with their active participation. If my bill was workable for industry in California, then why shouldn't it be the national standard? A transcript of their August 14, 2003, public comments bear this out and is attached.

One industry representative stood with me on that day and said my bill "encompasses all aspects of the workability needed to ensure protection of customers' privacy," while another called it "a balanced measure that will provide meaningful privacy protections to consumers while also addressing the workability concerns" that industry had. Now the story is different, as industry sees a political opportunity to preempt California's standard on affiliate sharing with a weaker one.

The financial services industry appears to be acting in bad faith—it seems willing to say and do anything to erode California's recent progress on behalf of consumers, first to avoid a costly initiative battle and local ordinances limiting third-party sharing, now to pull the wool over Congress' eyes. Does the financial services industry really believe that millions of American consumers don't deserve a choice over what happens when their personal financial information, their financial DNA, is shared with thousands of affiliated companies? The industry's position is flawed public policy, weaker than their own standards abroad, and the kind of business practice that erodes consumer confidence.

I urge you to continue your efforts in making California's privacy standards those of the nation. California's affiliate standard was good enough for the financial industry two months ago; it certainly is acceptable now. Thank you again for your efforts; I stand ready to help you in any way possible.

All the best,

JACKIE SPEIER,
California State Senator.

Mr. DODD. Mr. President, I rise today to urge my strong support for S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003. I would like to commend both Chairman SHELBY and Ranking Member SARBANES on this legislation and the thoroughness of the hearings which preceded this legislation. I applaud their deep commitment and thank them for their strong leadership on this issue.

This legislation is not perfect. It is not the bill that I would have written. Nor do I believe that this legislation represents a perfect bill from the perspective of the chairman or ranking member. However, I believe that it is a bipartisan bill that does a lot of very good things, and was put together in a very balanced manner.

The Banking Committee, both during the hearing process and the mark-up of this legislation examined the numerous issues surrounding the Fair Credit Reporting Act: accuracy, privacy, security, financial literacy, among others.

We learned some critical information during this process. I believe that the hearing process shed significant light on the positives of the Fair Credit Reporting Act and gave us insight on how to enhance its effectiveness. The consumer credit system is critically important to our nation's economy, and this legislation attempts to balance the greater access to credit for consumers, more efficiency in the credit granting process and the needs of consumers to have greater accuracy and privacy protections.

Numerous witnesses testified to the need to improve accuracy in the credit reporting process. Concerns were raised that currently the critical information that is used in the credit granting process is not as timely and accurate as is necessary. Accurate credit reporting is essential to the proper functioning of our credit system and to the financial security of American consumers. Also, consumers must have a clearly articulated remedy for correcting errors when they do occur.

Additionally, consumers must be given greater knowledge and control over their personal financial information. The hearing on affiliate sharing shed light on current practices and the positives and negatives associated with those practices.

The committee heard from numerous witnesses that consumers were not provided with the tools necessary to fully understand the credit reporting process and become adept to using it to their maximum advantage. Financial literacy is not a one time event—it is a long process—educating more and more Americans as they become consumers.

Of special concern, we learned about the epidemic of identity theft. Identity theft is a growing problem affecting millions of Americans and that we must devote our full attention to increasing the security of financial information. We heard from a witness named John Harrison, a retired Army Captain from Connecticut who was the victim of identity theft. His credit reports clearly contained false information—misinformation that was planted there by a criminal—but Captain Harrison has had—and continues to have—enormous difficulty restoring his credit worthiness.

These are just some of the lessons regarding the current operation of the Fair Credit Reporting Act.

This legislation addresses many, if not all, of the concerns raised throughout the six hearings conducted by the committee.

This legislation strengthens consumers' ability to control both their personal financial and medical information. I have long supported the need to improve the privacy rights of consumers with respect to genetic, medical, and financial information. I am a cosponsor of legislation which would provide greater choices for consumers to prevent sharing of information between affiliates and unaffiliated third parties. While this legislation does not go far enough to completely protect consumers, I believe it is an important step in the right direction.

This legislation provides consumers with the ability to prohibit affiliates from using their personal financial information for solicitations and other marketing purposes. In addition, an important amendment was adopted on the floor to provide consumers with additional protections against the misuse of sensitive medical information. It also contains important provisions that will significantly enhance consumer protections against the growing problem of identify theft.

Additionally, it grants consumers with access to one free credit report per year from the credit reporting bureaus. This access will allow consumers to monitor the accuracy of the information contained in their credit files and ensure that information resulting from identity theft does not end up destroying their financial reputation.

And by providing consumers with a free credit report, and access to the information used by creditors to judge their creditworthiness, this bill equips consumers with the tools to competitively shop for sources of financing and will lead consumers to make better informed and more judicious, credit-related decisions.

I believe that we can do more to give consumers better control over their personal information and how financial institutions share their information with their affiliates, for marketing as well as other purposes. This legislation is an important step in the right direction.

Irrespective of any changes that I, or others, may wish to raise with regard to S. 1753, there is no doubt that this legislation significantly improves the current privacy and accuracy standards of our consumer credit reporting system.

Again, I would like to thank Senators SARBANES and SHELBY and their staffs for their hard work on this legislation. I urge my colleagues to support S. 1753.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? There is 1 minute remaining on each side.

Mr. SHELBY. Mr. President, I yield myself 1 minute or less. We are getting ready to vote on the Fair Credit Reporting Act. We were able yesterday to move it to where we are today. We believe we have put together a bipartisan bill. We expect a heavy vote on both sides of the aisle. It is a complicated piece of legislation.

I commend Senator SARBANES, my colleague and the ranking Democrat, for his leadership in helping us to get where we are today.

I yield back the remainder of my time.

Mr. SARBANES. Mr. President, this is the legislation we spent all day yesterday on. We worked through the issues, I think, in a reasonable and collegial fashion and the measure is now before us for final passage. I thank the chairman of the committee for his many courtesies.

I yield back the remainder of my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—2

Boxer
Feinstein

NOT VOTING—3

Edwards
Kerry
Lieberman

The bill (H.R. 2622), as amended, was passed, as follows:

H.R. 2622

Resolved, That the bill from the House of Representatives (H.R. 2622) entitled "An Act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Consumer Credit Reporting System Improvement Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Sec. 111. Definitions.
Sec. 112. Fraud alerts and active duty alerts.
Sec. 113. Truncation of credit card and debit card account numbers.
Sec. 114. Establishment of procedures for the identification of possible instances of identity theft.
Sec. 115. Amendments to existing identity theft prohibition.
Sec. 116. Authority to truncate social security numbers.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

Sec. 151. Summary of rights of identity theft victims.
Sec. 152. Blocking of information resulting from identity theft.
Sec. 153. Coordination of identity theft complaint investigations.
Sec. 154. Prevention of repollution of consumer reports.
Sec. 155. Notice by debt collectors with respect to fraudulent information.
Sec. 156. Statute of limitations.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

Sec. 211. Free credit reports.

Sec. 212. Credit scores.
Sec. 213. Enhanced disclosure of the means available to opt out of prescreened lists.
Sec. 214. Affiliate sharing.
Sec. 215. Study of effects of credit scores and credit-based insurance scores on availability and affordability of financial products.
Sec. 216. Disposal of consumer report information and records.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

Sec. 311. Risk-based pricing notice.
Sec. 312. Procedures to enhance the accuracy and completeness of information furnished to consumer reporting agencies.
Sec. 313. Federal Trade Commission and consumer reporting agency action concerning complaints.
Sec. 314. Ongoing audits of the accuracy of consumer reports.
Sec. 315. Improved disclosure of the results of reinvestigation.
Sec. 316. Reconciling addresses.
Sec. 317. FTC study of issues relating to the Fair Credit Reporting Act.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

Sec. 411. Protection of medical information in the financial system.
Sec. 412. Confidentiality of medical contact information in consumer reports.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Sec. 511. Short title.
Sec. 512. Definitions.
Sec. 513. Establishment of Financial Literacy and Education Commission.
Sec. 514. Duties of the Commission.
Sec. 515. Powers of the Commission.
Sec. 516. Commission personnel matters.
Sec. 517. Study by the Comptroller General.
Sec. 518. Authorization of appropriations.

TITLE VI—RELATION TO STATE LAW

Sec. 611. Relation to State law.

TITLE VII—MISCELLANEOUS

Sec. 711. Clerical amendments.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

SEC. 111. DEFINITIONS.

Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following:

"(q) DEFINITIONS RELATING TO FRAUD ALERTS.—

"(1) ACTIVE DUTY MILITARY CONSUMER.—The term 'active duty military consumer' means a consumer in military service who—

"(A) is on active duty (as defined in section 101(d)(1) of title 10, United States Code) or is a reservist performing duty under a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10, United States Code; and

"(B) is assigned to service away from the usual duty station of the consumer.

"(2) FRAUD ALERT; ACTIVE DUTY ALERT.—The terms 'fraud alert' and 'active duty alert' mean a statement in the file of a consumer that—

"(A) notifies all prospective users of a consumer report relating to the consumer that the consumer may be a victim of fraud, including identity theft, or is an active duty military consumer, as applicable;

"(B) provides to all prospective users of a consumer report relating to the consumer, a telephone number or other reasonable contact method designated by the consumer for the user to obtain authorization from the consumer before establishing new credit (including providing any increase in a credit limit with respect to an existing credit account) in the name of the consumer; and

"(C) is presented in a manner that facilitates a clear and conspicuous view of the statement described in subparagraph (A) or (B) by any person requesting such consumer report.

"(r) CREDIT CARD.—The term 'credit card' has the same meaning as in section 103 of the Truth in Lending Act.

"(s) DEBIT CARD.—The term 'debit card' means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at such financial institution, for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

"(t) ACCOUNT AND ELECTRONIC FUND TRANSFER.—The terms 'account' and 'electronic fund transfer' have the same meanings as in section 903 of the Electronic Fund Transfer Act.

"(u) CREDIT AND CREDITOR—The terms 'credit' and 'creditor' have the same meanings as in section 702 of the Equal Credit Opportunity Act.

"(v) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(w) FINANCIAL INSTITUTION.—The term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person that, directly or indirectly, holds an account belonging to a consumer.

"(x) RESELLER.—The term 'reseller' means a consumer reporting agency that—

"(1) assembles and merges information contained in the database of another consumer reporting agency or multiple consumer reporting agencies concerning any consumer for purposes of furnishing such information to any third party, to the extent of such activities; and

"(2) does not maintain a database of the assembled or merged information from which new consumer reports are produced.

"(y) DEFINITIONS RELATING TO CREDIT SCORES.—

"(1) CREDIT SCORE AND KEY FACTORS.—When used in connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

"(A) the term 'credit score'—

"(i) means a numerical value or categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit behaviors, including default; and

"(ii) does not include—

"(I) any mortgage score or rating of an automated underwriting system that considers 1 or more factors in addition to credit information, including the loan-to-value ratio, the amount of down payment, or the financial assets of a consumer; or

"(II) other elements of the underwriting process or underwriting decision; and

"(B) the term 'key factors' means all relevant elements or reasons affecting the credit score for a consumer, listed in the order of their importance, based on their respective effects on the credit score.

"(2) DWELLING.—The term 'dwelling' has the same meaning as in section 103 of the Truth in Lending Act.

"(z) IDENTITY THEFT REPORT.—The term 'identity theft report' means a report—

"(1) that alleges an identity theft;

"(2) that is filed by a consumer with an appropriate Federal, State, or local government agency, including the United States Postal Inspection Service and any law enforcement agency; and

"(3) the filing of which subjects the person filing the report to criminal penalties relating to the filing of false information if, in fact, the information in the report is false.".

SEC. 112. FRAUD ALERTS AND ACTIVE DUTY ALERTS.

The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605 the following:

"§ 605A. Identity theft prevention; fraud alerts and active duty alerts

"(a) ONE-CALL FRAUD ALERTS.—

"(1) INITIAL ALERTS.—Upon the request of a consumer who asserts in good faith a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, a consumer reporting agency described in section 603(p) that maintains a file on the consumer and has received appropriate proof of the identity of the requester shall—

"(A) include a fraud alert in the file of that consumer for a period of not less than 90 days, beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose; and

"(B) refer the information regarding the fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

"(2) ACCESS TO FREE REPORTS.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

"(A) disclose to the consumer that the consumer may request a free copy of the file of the consumer pursuant to section 612(d); and

"(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

"(b) EXTENDED ALERTS.—

"(1) IN GENERAL.—Upon the request of a consumer who submits an identity theft report to a consumer reporting agency described in section 603(p) that maintains a file on the consumer, if the agency has received appropriate proof of the identity of the requester, the agency shall—

"(A) include a fraud alert in the file of that consumer during the 7-year period beginning on the date of such request, unless the consumer requests that such fraud alert be removed before the end of such period and the agency has received appropriate proof of the identity of the requester for such purpose;

"(B) during the 7-year period beginning on the date of such request, exclude the consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

"(C) refer the information regarding the extended fraud alert under this paragraph to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

"(2) Verification of Identity Theft Claim.—For purposes of paragraph (1), a consumer reporting agency shall accept as proof of a claim of identity theft, in lieu of an identity theft report—

"(A) a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(B) any affidavit of fact that is acceptable to the consumer reporting agency for that purpose.

"(3) Access to Free Reports.—In any case in which a consumer reporting agency includes a fraud alert in the file of a consumer pursuant to this subsection, the consumer reporting agency shall—

"(A) disclose to the consumer that the consumer may request 2 free copies of the file of the consumer pursuant to section 612(d) during the 12-month period beginning on the date on which the fraud alert was included in the file; and

"(B) provide to the consumer all disclosures required to be made under section 609, without charge to the consumer, not later than 3 business days after any request described in subparagraph (A).

"(c) Active Duty Alerts.—Upon the request of an active duty military consumer, a consumer reporting agency described in section 603(p) that maintains a file on the active duty military consumer and has received appropriate proof of the identity of the requester shall—

"(1) include an active duty alert in the file of that active duty military consumer during a period of not less than 12 months, beginning on the date of the request, unless the active duty military consumer requests that such fraud alert be removed before the end of such period, and the agency has received appropriate proof of the identity of the requester for such purpose;

"(2) during the 12-month period beginning on the date of such request, exclude the active duty military consumer from any list of consumers prepared by the consumer reporting agency and provided to any third party to offer credit or insurance to the consumer as part of a transaction that was not initiated by the consumer, unless the consumer requests that such exclusion be rescinded before the end of such period; and

"(3) refer the information regarding the active duty alert to each of the other consumer reporting agencies described in section 603(p), in accordance with procedures developed under section 621(f).

"(d) Procedures.—Each consumer reporting agency described in section 603(p) shall establish policies and procedures to comply with this section, including procedures that allow consumers and active duty military consumers to request temporary, extended, or active duty alerts (as applicable) in a simple and easy manner, including by telephone.

"(e) Referrals of Fraud Alerts.—Each consumer reporting agency described in section 603(p) that receives a referral of a fraud alert or active duty alert from another consumer reporting agency pursuant to this section shall, as though the agency received the request from the consumer directly, follow the procedures required under—

"(1) paragraphs (1)(A) and (2) of subsection (a), in the case of a referral under subsection (a)(1)(B);

"(2) paragraphs (1)(A), (1)(B), and (3) of subsection (b), in the case of a referral under subsection (b)(1)(C); and

"(3) paragraphs (1) and (2) of subsection (c), in the case of a referral under subsection (c)(3).

"(f) Duty of Reseller To Reconvey Alert.—A reseller shall include in its report any fraud alert or active duty alert placed in the file of a consumer pursuant to this section by another consumer reporting agency.

"(g) Duty of Other Consumer Reporting Agencies To Provide Contact Information.—If a consumer contacts any consumer reporting agency that is not described in section 603(p) to communicate a suspicion that the consumer has been or is about to become a victim of fraud or related crime, including identity theft, the agency shall provide information to the consumer on how to contact the Federal Trade Commission and the consumer reporting agencies described in section 603(p) to obtain more detailed information and request alerts under this section.".

SEC. 113. TRUNCATION OF CREDIT CARD AND DEBIT CARD ACCOUNT NUMBERS.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by adding at the end the following:

"(g) Truncation of Credit Card and Debit Card Numbers.—

"(1) In general.—Except as otherwise specifically provided in this subsection, no person that accepts credit cards or debit cards for the transaction of business shall print more than the last 5 digits of the card account number or the expiration date upon any receipt provided to the cardholder at the point of the sale or transaction.

"(2) Limitation.—This subsection applies only to receipts that are electronically printed, and does not apply to transactions in which the sole means of recording a credit card or debit card account number is by handwriting or by an imprint or copy of the card.

"(3) Effective date.—This subsection shall become effective—

"(A) 3 years after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is in use before January 1, 2005; and

"(B) 1 year after the date of enactment of this subsection, with respect to any cash register or other machine or device that electronically prints receipts for credit card or debit card transactions that is first put into use on or after January 1, 2005.".

SEC. 114. ESTABLISHMENT OF PROCEDURES FOR THE IDENTIFICATION OF POSSIBLE INSTANCES OF IDENTITY THEFT.

(a) In General.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended—

(1) by striking "(e)" at the end; and

(2) by adding at the end the following:

"(e) Red Flag Guidelines and Regulations Required.—

"(1) Guidelines.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

"(A) establish and maintain guidelines for use by each financial institution and each other person that is a creditor or other user of a consumer report regarding identity theft with respect to account holders at, or customers of, such entities, and update such guidelines as often as necessary;

"(B) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to establish reasonable policies and procedures for implementing the guidelines established pursuant to paragraph (1), to identify possible risks to account holders or to the safety and soundness of the institution or customers; and

"(C) prescribe regulations requiring each financial institution and each other person that is a creditor or other user of a consumer report to notify the Federal Trade Commission (and any other agency or person that such rulemaking agency determines appropriate) in any case in which there has been, or is reasonably believed to have been unauthorized access to computerized or physical records which compromises the security, confidentiality, or integrity of consumer information maintained by or on behalf of that entity, except that such regulations shall not apply to a good faith acquisition of information by an employee or agent of such entity for a business purpose of that entity, if the information is not subject to further unauthorized access.

"(2) Coordination.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

"(3) Criteria.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft.

"(4) Consistency with verification requirements.—Policies and procedures established pursuant to paragraph (1) shall not be inconsistent with, or duplicative of, the policies and procedures required under section 5318(*l*) of title 31, United States Code.

"(f) Investigation of Changes of Address.—

"(1) In general.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission, in carrying out the responsibilities of such agencies under subsection (e) shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2), prescribe regulations applicable to card issuers to ensure that, if any such card issuer receives a request for an additional or replacement card for an existing account not later than 30 days after the card issuer has received notification of a change of address for the same account, the card issuer will follow reasonable policies and procedures that prohibit, as appropriate, the card issuer from issuing the additional or replacement card, unless the card issuer—

"(A) notifies the cardholder of the request at the former address of the cardholder and provides to the cardholder a means of promptly reporting incorrect address changes;

"(B) notifies the cardholder of the request by such other means of communication as the cardholder and the card issuer previously agreed to; or

"(C) uses other means of assessing the validity of the change of address, in accordance with reasonable policies and procedures established by the card issuer in accordance with the regulations prescribed under subsection (e).

"(2) Coordination.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

"(3) Definition of card issuer.—For purposes of this subsection, the term 'card issuer' means—

"(A) any person who issues a credit card, or the agent of such person with respect to such card; and

"(B) any person who issues a debit card.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect 1 year after the date of enactment of this Act.

SEC. 115. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(7)—

(A) by striking "transfers" and inserting "transfers, possesses,"; and

(B) by striking "abet," and inserting "abet, or in connection with,";

(2) in subsection (b)(1)(D), by striking "transfer" and inserting "transfer, possession,"; and

(3) in subsection (b)(2), by striking "three years" and inserting "5 years".

SEC. 116. AUTHORITY TO TRUNCATE SOCIAL SECURITY NUMBERS.

Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended by striking "except that nothing" and inserting the following: "except that—

"(A) if the consumer to whom the file relates requests that the first 5 digits of the social security number (or similar identification number) of the consumer not be included in the disclosure and the consumer reporting agency has received appropriate proof of the identity of the requester, the consumer reporting agency shall so truncate such number in such disclosure; and

"(B) nothing".

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

SEC. 151. SUMMARY OF RIGHTS OF IDENTITY THEFT VICTIMS.

(a) In General.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following:

"(d) Summary of Rights of Identity Theft Victims.—

"(1) In general.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall prescribe the form and content of a summary of the rights of consumers under this title with respect to the procedures for remedying the effects of fraud or identity theft involving credit, electronic fund transfers, or accounts or transactions at or with a financial institution.

"(2) Summary of rights and contact information.—If any consumer contacts a consumer reporting agency and expresses a belief that the consumer is a victim of fraud or identity theft involving credit, an electronic fund transfer, or an account or transaction at or with a financial institution, the consumer reporting agency shall, in addition to any other action that the agency may take, provide the consumer with the model summary of rights prepared by the Federal Trade Commission under paragraph (1) and information on how to contact the Commission to obtain more detailed information.

"(e) Information Available to Victims.—

"(1) In general.—For the purpose of documenting fraudulent transactions resulting from identity theft, not later than 20 days after the date of receipt of a request from a victim in accordance with paragraph (3), and subject to verification of the identity of the victim and the claim of identity theft in accordance with paragraph (2), a business entity that has provided credit to, provided for consideration products, goods, or services to, accepted payment from, or otherwise entered into a commercial transaction for consideration with, a person who has allegedly made unauthorized use of the means of identification of the victim, shall provide a copy of application and business transaction records in the control of the business entity, whether maintained by the business entity or by another person on behalf of the business entity, evidencing any transaction alleged to be a result of identity theft to—

"(A) the victim;

"(B) any Federal, State, or local governing law enforcement agency or officer specified by the victim in such a request; or

"(C) any law enforcement agency investigating the identity theft and authorized by the victim to take receipt of records provided under this subsection.

"(2) Verification of identity and claim.—Before a business entity provides any information under paragraph (1), unless the business entity, at its discretion, is otherwise able to verify the identity of the victim making a request under paragraph (1), the victim shall provide to the business entity—

"(A) as proof of positive identification of the victim, at the election of the business entity—

"(i) the presentation of a government-issued identification card;

"(ii) personally identifying information of the same type as was provided to the business entity by the unauthorized person; or

"(iii) personally identifying information that the business entity typically requests from new applicants or for new transactions, at the time of the victim's request for information, including any documentation described in clauses (i) and (ii); and

"(B) as proof of a claim of identity theft, at the election of the business entity—

"(i) a copy of a police report evidencing the claim of the victim of identity theft; and

"(ii) a properly completed—

"(I) copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission; or

"(II) an affidavit of fact that is acceptable to the business entity for that purpose.

"(3) Procedures.—The request of a victim under paragraph (1) shall—

"(A) be in writing; and

"(B) be mailed to an address specified by the business entity, if any.

"(4) No charge to victim.—Information required to be provided under paragraph (1) shall be so provided without charge.

"(5) Authority to decline to provide information.—A business entity may decline to provide information under paragraph (1) if, in the exercise of good faith, the business entity determines that—

"(A) this subsection does not require disclosure of the information;

"(B) the request for the information is based on a misrepresentation of fact by the individual requesting the information relevant to the request for information; or

"(C) the information requested is Internet navigational data or similar information about a person's visit to a website or online service.

"(6) Limitation on liability.—Except as provided in section 621, sections 616 and 617 do not apply to any violation of this subsection.

"(7) No new recordkeeping obligation.—Nothing in this subsection creates an obligation on the part of a business entity to obtain, retain, or maintain information or records that are not otherwise required to be obtained, retained, or maintained in the ordinary course of its business or under other applicable law.

"(8) Rule of construction.—

"(A) In general.—No provision of Federal or State law (except a law involving the nondisclosure of information related to a pending Federal criminal investigation) prohibiting the disclosure of financial information by a business entity to third parties shall be used to deny disclosure of information to the victim under this subsection.

"(B) Limitation.—Except as provided in subparagraph (A), nothing in this subsection permits a business entity to disclose information, including information to law enforcement under subparagraphs (B) and (C) of paragraph (1), that the business entity is otherwise prohibited from disclosing under any other applicable provision of Federal or State law.

"(9) Affirmative defense.—In any civil action brought to enforce this subsection, it is an affirmative defense (which the defendant must establish by a preponderance of the evidence) for a business entity to file an affidavit or answer stating that—

"(A) the business entity has made a reasonably diligent search of its available business records; and

"(B) the records requested under this subsection do not exist or are not available.

"(10) Definition of victim.—For purposes of this subsection, the term 'victim' means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer, with the intent to commit, or to aid or abet, identity theft or any other violation of law.".

(b) Public Campaign To Prevent Identity Theft.—Not later than 2 years after the date of enactment of this Act, the Federal Trade Commission shall establish and implement a media and distribution campaign to teach the public how to prevent identity theft. Such campaign shall include existing Federal Trade Commission education materials, as well as radio, television, and print public service announcements, video cassettes, interactive digital video discs (DVD's) or compact audio discs (CD's), and Internet resources.

(c) Conforming Amendment.—Section 624(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(3), regarding relation to State laws) is amended by striking "section 609(c)" and inserting "subsection (c) or (d) of section 609".

SEC. 152. BLOCKING OF INFORMATION RESULTING FROM IDENTITY THEFT.

(a) In General.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after section 605A, as added by this Act, the following:

"§ 605B. Block of information resulting from identity theft

"(a) Block.—Except as otherwise provided in this section, a consumer reporting agency shall block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft, not later than 3 business days after the date of receipt by such agency of—

"(1) appropriate proof of the identity of the consumer;

"(2) a copy of an identity theft report; and

"(3) the identification of such information by the consumer.

"(b) NOTIFICATION.—A consumer reporting agency shall promptly notify the furnisher of information identified by the consumer under subsection (a)—

"(1) that the information may be a result of identity theft;

"(2) that an identity theft report has been filed;

"(3) that a block has been requested under this section; and

"(4) of the effective dates of the block.

"(c) AUTHORITY TO DECLINE OR RESCIND.—

"(1) IN GENERAL.—A consumer reporting agency may decline to block, or may rescind any block, of information relating to a consumer under this section, if the consumer reporting agency reasonably determines that—

"(A) the information was blocked in error or a block was requested by the consumer in error;

"(B) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact relevant to the request to block; or

"(C) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

"(2) NOTIFICATION TO CONSUMER.—If a block of information is declined or rescinded under this subsection, the affected consumer shall be notified promptly, in the same manner as consumers are notified of the reinsertion of information under section 611(a)(5)(B).

"(3) SIGNIFICANCE OF BLOCK.—For purposes of this subsection, if a consumer reporting agency rescinds a block, the presence of information in the file of a consumer prior to the blocking of such information is not evidence of whether the consumer knew or should have known that the consumer obtained possession of any goods, services, or money as a result of the block.

"(d) EXCEPTION FOR RESELLERS.—

"(1) NO RESELLER FILE.—This section shall not apply to a consumer reporting agency, if the consumer reporting agency—

"(A) is a reseller;

"(B) is not, at the time of the request of the consumer under subsection (a), otherwise furnishing or reselling a consumer report concerning the information identified by the consumer; and

"(C) informs the consumer, by any means, that the consumer may report the identity theft to the Federal Trade Commission to obtain consumer information regarding identity theft.

"(2) RESELLER WITH FILE.—The sole obligation of the consumer reporting agency under this section, with regard to any request of a consumer under this section, shall be to block the consumer report maintained by the consumer reporting agency from any subsequent use, if—

"(A) the consumer, in accordance with the provisions of subsection (a), identifies, to a consumer reporting agency, information in the file of the consumer that resulted from identity theft; and

"(B) the consumer reporting agency is a reseller of the identified information.

"(3) NOTICE.—In carrying out its obligation under paragraph (2), the reseller shall promptly provide a notice to the consumer of the decision to block the file. Such notice shall contain the name, address, and telephone number of each consumer reporting agency from which the consumer information was obtained for resale.

"(e) EXCEPTION FOR VERIFICATION COMPANIES.—The provisions of this section do not apply to a check services company, acting as such, which issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payments, except that, beginning 3 business days after receipt of information described in paragraphs (1) through (3) of subsection (a), a check services company shall not report to a national consumer reporting agency described in section 603(p), any information identified in the subject identity theft report as resulting from identity theft.

"(f) ACCESS TO BLOCKED INFORMATION BY LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed as requiring a consumer reporting agency to prevent a Federal, State, or local law enforcement agency from accessing blocked information in a consumer file to which the agency could otherwise obtain access under this title.".

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by inserting after the item relating to section 605 the following new items:

"605A. Identity theft prevention; fraud alerts and active duty alerts.

"605B. Block of information resulting from identity theft.".

SEC. 153. COORDINATION OF IDENTITY THEFT COMPLAINT INVESTIGATIONS.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by adding at the end the following:

"(f) COORDINATION OF CONSUMER COMPLAINT INVESTIGATIONS.—

"(1) IN GENERAL.—Each consumer reporting agency described in section 603(p) shall develop and maintain procedures for the referral to each other such agency of any consumer complaint received by the agency alleging identity theft, or requesting a fraud alert under section 605A or a block under section 605B.

"(2) MODEL FORM AND PROCEDURE FOR REPORTING IDENTITY THEFT.—The Federal Trade Commission, in consultation with the Federal banking agencies and the National Credit Union Administration, shall develop a model form and model procedures to be used by consumers who are victims of identity theft for contacting and informing creditors and consumer reporting agencies of the fraud.

"(3) ANNUAL SUMMARY REPORTS.—Each consumer reporting agency described in section 603(p) shall submit an annual summary report to the Federal Trade Commission on consumer complaints received by the agency on identity theft or fraud alerts.".

SEC. 154. PREVENTION OF REPOLLUTION OF CONSUMER REPORTS.

(a) PREVENTION OF REINSERTION OF ERRONEOUS INFORMATION.—

(1) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—Section 623(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by inserting after paragraph (1) the following:

"(2) DUTIES OF FURNISHERS UPON NOTICE OF IDENTITY THEFT-RELATED DISPUTES.—A person that furnishes information to any consumer reporting agency shall—

"(A) have in place reasonable procedures to respond to any notification that it receives from a consumer reporting agency under section 605B relating to information resulting from identity theft, to prevent that person from refurnishing such blocked information; and

"(B) take the actions described in subparagraphs (A) through (D) of paragraph (1), if such person receives directly from a consumer, an identity theft report or a properly completed copy of a standardized affidavit of identity theft developed and made available by the Federal Trade Commission."; and

(C) in paragraph (3), as redesignated, by striking "paragraph (1)" and inserting "this subsection".

(2) CONFORMING AMENDMENTS RELATING TO NOTICE OF IDENTITY THEFT DIRECTLY FROM CONSUMERS.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(b)(1)) is amended—

(A) in the matter preceding subparagraph (A), by inserting "or as described in paragraph (2)(B)," after "agency,";

(B) subparagraph (B), by inserting before the semicolon the following: ", and by the consumer, and other documentation reasonably available to the person that is necessary to conduct a reasonable investigation"; and

(C) in subparagraph (C), by inserting before the semicolon at the end the following: ", and to the consumer, if notice of the dispute was received directly from the consumer, as described in paragraph (2)(B)".

(b) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

"(g) PROHIBITION ON SALE OR TRANSFER OF DEBT CAUSED BY IDENTITY THEFT.—

"(1) IN GENERAL.—No person shall sell, transfer for consideration, or place for collection a debt that such person has been notified under section 605B has resulted from identity theft.

"(2) APPLICABILITY.—The prohibitions of this subsection shall apply to all persons collecting a debt described in paragraph (1) after the date of a notification under paragraph (1).

"(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit—

"(A) the repurchase of a debt in any case in which the assignee of the debt requires such repurchase because the debt has resulted from identity theft;

"(B) the securitization of a debt; or

"(C) the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction, or transfer of substantially all of the assets of an entity.".

SEC. 155. NOTICE BY DEBT COLLECTORS WITH RESPECT TO FRAUDULENT INFORMATION.

Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

"(h) DEBT COLLECTOR COMMUNICATIONS CONCERNING IDENTITY THEFT.—If a person acting as a debt collector (as that term is defined in title VIII) on behalf of a third party that is a creditor or other user of a consumer report is notified that any information relating to a debt that the person is attempting to collect may be fraudulent or may be the result of identity theft, that person shall—

"(1) notify the third party that the information may be fraudulent or may be the result of identity theft; and

"(2) upon request of the consumer to whom the debt purportedly relates, provide to the consumer all information to which the consumer would otherwise be entitled if the consumer were not a victim of identity theft, but wished to dispute the debt under provisions of law applicable to that person.".

SEC. 156. STATUTE OF LIMITATIONS.

Section 618 of the Fair Credit Reporting Act (15 U.S.C. 1681p) is amended to read as follows:

“§ 618. Jurisdiction of courts; limitation of actions

“An action to enforce any liability created under this title may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

“(1) 2 years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

“(2) 5 years after the date on which the violation that is the basis for such liability occurs.”.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

SEC. 211. FREE CREDIT REPORTS.

(a) In General.—Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended—

(1) by redesignating subsection (a) as subsection (f), and transferring it to the end of the section;

(2) by inserting before subsection (b) the following:

“(a) Free Annual Disclosure.—

“(1) In general.—A consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 once during any 12-month period upon request of the consumer and without charge to the consumer, only if the request is made by mail or through an Internet website using the centralized system and the standardized form established for such requests in accordance with section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

“(2) Timing.—A consumer reporting agency shall provide a consumer report under paragraph (1) not later than 15 days after the date on which the request is received under paragraph (1).

“(3) Reinvestigations.—Notwithstanding the time periods specified in section 611(a)(1), a reinvestigation under that section by a consumer reporting agency upon a request of a consumer that is made after receiving a consumer report under this subsection shall be completed not later than 45 days after the date on which the request is received.”;

(3) by redesignating subsection (d) as subsection (e);

(4) by inserting before subsection (e), as redesignated, the following:

“(d) Free Disclosures in Connection With Fraud Alerts.—Upon the request of a consumer, a consumer reporting agency described in section 603(p) shall make all disclosures pursuant to section 609 without charge to the consumer, as provided in subsections (a)(2) and (b)(3) of section 605A, as applicable.”;

(5) in subsection (e), as redesignated, by striking “subsection (a)” and inserting “subsection (f)”; and

(6) in subsection (f), as redesignated, by striking “Except as provided in subsections (b), (c), and (d), a” and inserting “In the case of a request from a consumer other than a request that is covered by any of subsections (a) through (d), a”.

(b) Summary of Rights To Obtain and Dispute Information in Consumer Reports and To Obtain Credit Scores.—Section 609(c) of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended to read as follows:

“(c) Summary of Rights To Obtain and Dispute Information in Consumer Reports and To Obtain Credit Scores.—

“(1) Commission summary of rights required.—

“(A) In general.—The Federal Trade Commission shall prepare a model summary of the rights of consumers under this title.

“(B) Content of summary.—The summary of rights prepared under subparagraph (A) shall include a description of—

“(i) the right of a consumer to obtain a copy of a consumer report under subsection (a) from each consumer reporting agency;

“(ii) the frequency and circumstances under which a consumer is entitled to receive a consumer report without charge under section 612;

“(iii) the right of a consumer to dispute information in the file of the consumer under section 611;

“(iv) the right of a consumer to obtain a credit score from a consumer reporting agency, and a description of how to obtain a credit score; and

“(v) the method by which a consumer can contact, and obtain a consumer report from, a consumer reporting agency without charge, as provided in the regulations of the Federal Trade Commission prescribed under section 211(c) of the National Consumer Credit Reporting System Improvement Act of 2003.

“(C) Availability of summary of rights.—The Federal Trade Commission shall—

“(i) actively publicize the availability of the summary of rights prepared under this paragraph;

“(ii) conspicuously post on its Internet website the availability of such summary of rights; and

“(iii) promptly make such summary of rights available to consumers, on request.

“(2) Summary of rights required to be included with agency disclosures.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

“(A) the summary of rights prepared by the Federal Trade Commission under paragraph (1);

“(B) in the case of a consumer reporting agency described in section 603(p), a toll-free telephone number established by the agency, at which personnel are accessible to consumers during normal business hours;

“(C) a list of all Federal agencies responsible for enforcing any provision of this title, and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

“(D) a statement that the consumer may have additional rights under State law, and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general (or the equivalent thereof) to learn of those rights; and

“(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from the file of a consumer, unless the information is outdated under section 605 or cannot be verified.”.

(c) Rulemaking Required.—

(1) In general.—The Federal Trade Commission shall prescribe regulations applicable to consumer reporting agencies described in section 603(p) of the Fair Credit Reporting Act to require the establishment of—

(A) a centralized source, through which consumers may obtain a consumer report from each consumer reporting agency described in that section 603(p) using a single request and without charge to the consumer, as provided in section 612(a) of the Fair Credit Reporting Act (as amended by this Act);

(B) a standardized form for a consumer to make such a request for a consumer report by mail or through an Internet website; and

(C) streamlined methods by which such a consumer reporting agency shall provide such consumer reports, after consideration of—

(i) the significant demands that may be placed on consumer reporting agencies in providing such consumer reports;

(ii) appropriate means to ensure that consumer reporting agencies can satisfactorily meet those demands, including the efficacy of a system of staggering the availability to consumers of such consumer reports using a quarterly method based on the birth month of the consumer; and

(iii) the ease by which consumers should be able to contact consumer reporting agencies with respect to access to such consumer reports.

(2) Timing.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 6 months after the date on which they are issued in final form.

(d) Effective Date.—The amendments made by subsections (a) and (b) shall become effective on the effective date of the regulations prescribed by the Federal Trade Commission in accordance with subsection (c).

SEC. 212. CREDIT SCORES.

(a) Duties of Consumer Reporting Agencies To Disclose Credit Scores.—

(1) In general.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding at the end the following:

“(6) In connection with an application for an extension of credit for a consumer purpose that is to be secured by a dwelling—

“(A) the current, or most recent, credit score of the consumer that was previously calculated by the agency;

“(B) the range of possible credit scores under the model used;

“(C) the key factors, if any, not to exceed 4, that adversely affected the credit score of the consumer in the model used;

“(D) the date on which the credit score was created; and

“(E) the name of the person or entity that provided the credit score or the credit file on the basis of which the credit score was created.”.

(2) Limitations on required provision of credit score.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g), as amended by this Act, is amended by adding at the end the following:

“(f) Limitations on Required Provision of Credit Score.—

“(1) In general.—Subsection (a)(6) may not be construed—

“(A) to compel a consumer reporting agency to develop or disclose a credit score if the agency does not, in the ordinary course of its business—

“(i) distribute scores that are used in connection with extensions of credit secured by residential real property; or

“(ii) develop credit scores that assist creditors in understanding the general credit behavior of the consumer and predicting future credit behavior;

“(B) to require a consumer reporting agency that distributes credit scores developed by another person or entity to provide a further explanation of those scores, or to process a dispute arising pursuant to section 611(a), except that the consumer reporting agency shall be required to provide to the consumer the name and information for contacting the person or entity that developed the score;

"(C) to require a consumer reporting agency to maintain credit scores in its files; or

"(D) to compel disclosure of a credit score, except upon specific request of the consumer, except that if a consumer requests the credit file and not the credit score, then the consumer shall be provided with the credit file and a statement that the consumer may request and obtain a credit score.

"(2) PROVISION OF SCORING MODEL.—In complying with subsection (a)(6) and this subsection, a consumer reporting agency shall supply to the consumer—

"(A) a credit score that is derived from a credit scoring model that is widely distributed to users of credit scores by that consumer reporting agency in connection with any extension of credit secured by a dwelling; or

"(B) a credit score that assists the consumer in understanding the credit scoring assessment of the credit behavior of the consumer and predictions about future credit behavior.".

(3) CONFORMING AMENDMENT.—Section 609(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)(B)), as so designated by section 116, is amended by inserting before the period ", other than as provided in paragraph (6)".

(b) DUTIES OF USERS OF CREDIT SCORES.—

(1) IN GENERAL.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

"(i) DUTIES OF USERS OF CREDIT SCORES.—

"(1) DISCLOSURES.—Any person that makes or arranges extensions of credit for consumer purposes that are to be secured by a dwelling and that uses credit scores for that purpose, shall be required to provide to the consumer to whom the credit score relates, as soon as is reasonably practicable after such use—

"(A) a copy of the information described in section 609(a)(6) that was obtained from a consumer reporting agency or that was developed and used by that user of the credit score information; or

"(B) if the user of the credit score information obtained such information from a third party that developed such information (other than a consumer reporting agency or the user itself), only—

"(i) a copy of the information described in section 609(a)(6) provided to the user by the person or entity that developed the credit score; and

"(ii) a notice that generally describes credit scores, their use, and the sources and kinds of data used to generate credit scores.

"(2) RULE OF CONSTRUCTION.—This subsection may not be construed to require the user of a credit score described in paragraph (1)—

"(A) to explain to the consumer the information provided pursuant to section 609(a)(6), unless that information was developed by the user;

"(B) to disclose any information other than a credit score or the key factors required to be disclosed under section 609(a)(6)(C);

"(C) to disclose any credit score or related information obtained by the user after a transaction occurs; or

"(D) to provide more than 1 disclosure under this subsection to any 1 consumer per credit transaction.

"(3) LIMITATION.—Except as otherwise provided in this subsection, the obligation of a user of a credit score under this subsection shall be limited solely to providing a copy of the information that was received from the consumer reporting agency or other person. A user of a credit score has no liability under this subsection for the content of credit score information received from a consumer reporting agency or for the omission of any information within the report provided by the consumer reporting agency.".

(2) CONFORMING AMENDMENT.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended in the section heading, by adding at the end the following: "**and credit scores**".

(c) CONTRACTUAL LIABILITY.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

"(d) USE OF CREDIT SCORES.—Any provision of any contract that prohibits the disclosure of a credit score by a consumer reporting agency or a person who makes or arranges extensions of credit to the consumer to whom the credit score relates is void. A user of a credit score shall not have liability under any such contractual provision for disclosure of a credit score.".

(d) RELATION TO STATE LAWS.—Section 624(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws) is amended—

(1) in subparagraph (E), by striking "or" at the end; and

(2) by adding at the end the following:

"(G) subsections (a)(6) and (f) of section 609, relating to the disclosure of credit scores by consumer reporting agencies in connection with an application for an extension of credit that is to be secured by a dwelling;

"(H) section 615(i), relating to the duties of users of credit scores to disclose credit score information to consumers in connection with an application for an extension of credit that is to be secured by a dwelling; or".

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 180 days after the date of enactment of this Act.

SEC. 213. ENHANCED DISCLOSURE OF THE MEANS AVAILABLE TO OPT OUT OF PRESCREENED LISTS.

(a) NOTICE AND RESPONSE FORMAT FOR USERS OF REPORTS.—Section 615(d)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681m(d)(2)) is amended to read as follows:

"(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER; FORMAT.—A statement under paragraph (1) shall—

"(A) include the address and toll-free telephone number of the appropriate notification system established under section 604(e); and

"(B) be presented in such format and in such type size and manner as is established by the Federal Trade Commission, by rule, in consultation with the Federal banking agencies and the National Credit Union Administration.".

(b) RULEMAKING SCHEDULE.—Regulations required by section 615(d)(2) of the Fair Credit Reporting Act, as amended by this section, shall be issued in final form not later than 1 year after the date of enactment of this Act.

(c) DURATION OF ELECTIONS.—Section 604(e) of the Fair Credit Reporting Act (15 U.S.C. 1681b(e)) is amended in each of paragraphs (3)(A) and (4)(B)(i)), by striking "2-year period" each place that term appears and inserting "7-year period".

(d) PUBLIC AWARENESS CAMPAIGN.—The Federal Trade Commission shall actively publicize and conspicuously post on its website any address and the toll-free telephone number established as part of a notification system for opting out of prescreening under section 604(e), and otherwise take measures to increase public awareness regarding the availability of the right to opt out of prescreening.

SEC. 214. AFFILIATE SHARING.

(a) LIMITATION.—The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) by redesignating section 624 (regarding relation to State laws), as so designated by section 2413(b) of the Consumer Credit Reporting Reform Act of 1996 (110 Stat. 3009-447), as section 625;

(2) by redesignating section 624 (regarding disclosures to FBI for counterintelligence purposes), as added by section 601(a) of the Intelligence Authorization Act for Fiscal Year 1996 (Public Law 104-93; 109 Stat. 974) (15 U.S.C. 1681u)), as section 626; and

(3) by inserting after section 623 the following:

"SEC. 624. AFFILIATE SHARING.

"(a) SPECIAL RULE FOR SOLICITATION FOR PURPOSES OF MARKETING.—

"(1) NOTICE.—Any person that receives from another person related to it by common ownership or affiliated by corporate control a communication of information that would be a consumer report, except for clauses (i) through (iii) of section 603(d)(2)(A), may not use the information to make a solicitation for marketing purposes to a consumer about its products or services, unless—

"(A) it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons for purposes of making such solicitations to the consumer; and

"(B) the consumer is provided an opportunity and a simple method to prohibit the making of such solicitations to the consumer by such person.

"(2) CONSUMER CHOICE.—

"(A) IN GENERAL.—The notice required under paragraph (1) shall allow the consumer the opportunity to prohibit all such solicitations, and may allow the consumer to choose from different options when electing to prohibit the sending of such solicitations, including options regarding the types of entities and information covered, and which methods of delivering solicitations the consumer elects to prohibit.

"(B) FORMAT.—Notwithstanding subparagraph (A), the notice required under paragraph (1) must be clear, conspicuous, and concise, and any method provided under paragraph (1)(B) must be simple. The regulations prescribed to implement this section shall provide specific guidance regarding how to comply with such standards.

"(3) DURATION.—The election of a consumer pursuant to paragraph (1)(B) to prohibit the sending of solicitations shall be effective permanently, beginning on the date on which the person receives the election of the consumer, unless the consumer requests that such election be revoked.

"(4) DEFINITION.—For purposes of this section, the term 'pre-existing business relationship' means a relationship between a person and a consumer, based on—

"(A) the purchase, rental, or lease by the consumer of that person's goods or services, or a financial transaction between the consumer and that person during the 18-month period immediately preceding the date on which the consumer receives the notice required under this section; or

"(B) an inquiry or application by the consumer regarding a product or service offered by that person, during the 3-month period immediately preceding the date on which the consumer receives the notice required under this section.

"(5) SCOPE.—This section shall not apply to a person—

"(A) using information to make a solicitation for marketing purposes to a consumer with whom the person has a pre-existing business relationship;

"(B) using information to perform services on behalf of another person related by common ownership or affiliated by corporate control, except that this subparagraph shall not permit a person to send solicitations on behalf of another person if such other person would not be permitted to send the solicitation on its own behalf as a result of the election of the consumer to prohibit solicitations under paragraph (1)(B);

"(C) using information in direct response to a communication initiated by the consumer in which the consumer has requested information about a product or service; or

"(D) using information to directly respond to solicitations authorized or requested by the consumer.

"(b) NOTICE FOR OTHER PURPOSES PERMISSIBLE.—A notice or other disclosure that is equivalent to the notice required by subsection (a), and that is provided by a person described in subsection (a) to a consumer together with disclosures required by any other provision of law shall satisfy the requirements of subsection (a).".

(b) RULEMAKING REQUIRED.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621 of the Fair Credit Reporting Act, and in coordination as described in paragraph (2), prescribe regulations to implement section 624 of the Fair Credit Reporting Act, as added by this section.

(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Federal Trade Commission shall—

(A) ensure that affiliate sharing notification methods provide a simple means for consumers to make determinations and choices under section 624 of the Fair Credit Reporting Act, as added by this section; and

(B) consider the affiliate sharing notification practices employed on the date of enactment of this Act by persons that will be subject to that section 624.

(4) TIMING.—Regulations required by this subsection shall—

(A) be issued in final form not later than 6 months after the date of enactment of this Act; and

(B) become effective not later than 3 months after the date on which they are issued in final form.

(c) CONFORMING AMENDMENT.—Section 603(d)(2)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)) is amended by inserting "subject to section 624," after "(A)".

(d) CLERICAL AMENDMENT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended in the table of sections, by striking the items following the item relating to section 623 and inserting the following:

"624. Affiliate sharing.
"625. Relation to State laws.
"626. Disclosures to FBI for counterintelligence purposes.".

(e) STUDIES OF INFORMATION SHARING PRACTICES.—

(1) IN GENERAL.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly conduct regular studies of the consumer information sharing practices by financial institutions and other persons that are creditors or users of consumer reports with their affiliates.

(2) MATTERS FOR STUDY.—In conducting the studies required by paragraph (1), the agencies described in paragraph (1) shall—

(A) identify—

(i) the purposes for which financial institutions and other creditors and users of consumer reports share consumer information;

(ii) the types of information shared by such entities with their affiliates;

(iii) the number of choices provided to consumers with respect to the control of such sharing, and the degree to and manner in which consumers exercise such choices, if at all; and

(iv) whether such entities share or may share personally identifiable transaction or experience information with affiliates for purposes—

(I) that are related to employment or hiring, including whether the person that is the subject of such information is given notice of such sharing, and the specific uses of such shared information; or

(II) of general publication of such information; and

(B) specifically examine the information sharing practices that financial institutions and other creditors and users of consumer reports and their affiliates employ for the purpose of making underwriting decisions or credit evaluations of consumers.

(3) REPORTS.—

(A) INITIAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall jointly submit a report to the Congress on the results of the initial study conducted in accordance with this subsection, together with any recommendations for legislative or regulatory action.

(B) FOLLOWUP REPORTS.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, not less frequently than once every 3 years following the date of submission of the initial report under subparagraph (A), jointly submit a report to the Congress that, together with any recommendations for legislative or regulatory action—

(i) documents any changes in the areas of study referred to in paragraph (2)(A) occurring since the date of submission of the previous report;

(ii) identifies any changes in the practices of financial institutions and other creditors and users of consumer reports in sharing consumer information with their affiliates for the purpose of making underwriting decisions or credit evaluations of consumers occurring since the date of submission of the previous report; and

(iii) examines the effects that changes described in clause (ii) have had, if any, on the degree to which such affiliate sharing practices reduce the need for financial institutions, creditors, and other users of consumer reports to rely on credit reports for such decisions.

(f) DEFINITIONS.—As used in this section—

(1) the terms "consumer", "consumer report", "consumer reporting agency", "creditor", "Federal banking agencies", and "financial institution", have the same meanings as in section 603 of the Fair Credit Reporting Act, as amended by this Act; and

(2) the term "affiliates" means persons that are related by common ownership or affiliated by corporate control.

SEC. 215. STUDY OF EFFECTS OF CREDIT SCORES AND CREDIT-BASED INSURANCE SCORES ON AVAILABILITY AND AFFORDABILITY OF FINANCIAL PRODUCTS.

(a) DEFINED TERM.—As used in this section, the term "credit score" means a numerical value or a categorization derived from a statistical tool or modeling system used to predict the likelihood of certain credit or insurance behaviors, including default.

(b) STUDY REQUIRED.—The Federal Trade Commission shall conduct a study of—

(1) the effects of the use of credit scores and credit-based insurance scores on the availability and affordability of financial products and services, including credit cards, mortgages, auto loans, and property and casualty insurance;

(2) the degree of correlation between the factors considered by credit score systems and the quantifiable risks and actual losses experienced by businesses, including the extent to which each of the factors considered or otherwise taken into account by such systems correlated to risk or loss;

(3) the extent to which the use of credit scoring models, credit scores and credit-based insurance scores benefit or negatively impact persons based on geography, income, ethnicity, race, color, religion, national origin, age, sex, marital status, or creed; and

(4) the extent to which credit scoring systems are used by businesses, the factors considered by such systems, and the effects of variables which are not considered by such systems.

(c) PUBLIC PARTICIPATION.—The Federal Trade Commission shall seek public input about the prescribed methodology and research design of the study required by subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of enactment of this Act, the Federal Trade Commission shall submit a detailed report on the study conducted under this section to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) the findings and conclusions of the Commission;

(B) recommendations to address specific areas of concern that were identified in the study; and

(C) recommendations for legislative or administrative action that the Commission may determine to be necessary to ensure that credit and credit-based insurances score are used appropriately and fairly.

SEC. 216. DISPOSAL OF CONSUMER REPORT INFORMATION AND RECORDS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following:

"§ 627. Disposal of records

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Federal Trade Commission shall issue final regulations requiring any person that maintains or otherwise possesses consumer information or any compilation of consumer information derived from consumer reports for a business purpose to properly dispose of any such information or compilation.

"(2) EXEMPTION AUTHORITY.—In issuing regulations under this section, the Federal Trade Commission may exempt any person or class of persons from application of those regulations, as the Commission deems appropriate to carry out the purpose of this section.

"(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect any requirement imposed under any other provision of law to maintain any record.".

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), as amended by this Act, is amended by adding at the end the following:

"627. Disposal of records.".

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

SEC. 311. RISK-BASED PRICING NOTICE.

(a) DUTIES OF USERS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m), as amended by this Act, is amended by adding at the end the following:

"(j) DUTIES OF USERS IN CERTAIN CREDIT TRANSACTIONS.—

"(1) IN GENERAL.—Subject to rules prescribed as provided in paragraph (5), if any person uses a consumer report in connection with a grant, extension, or other provision of credit on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that person, based in whole or in part on a consumer report, the person shall provide a notice to the consumer in the form and manner required by regulations prescribed in accordance with this subsection.

"(2) EXCEPTIONS.—No notice shall be required from a person under this subsection if—

"(A) the consumer applied for specific material terms and was granted those terms, unless those terms were initially specified by the person after the transaction was initiated by the consumer and after the person obtained a consumer report; or

"(B) the person has provided or will provide a notice to the consumer under subsection (a) in connection with the transaction.

"(3) OTHER NOTICE NOT SUFFICIENT.—A person that is required to provide a notice under subsection (a) cannot meet that requirement by providing a notice under this subsection.

"(4) CONTENT AND DELIVERY OF NOTICE.—A notice under this subsection shall include, at a minimum—

"(A) a statement informing the consumer that the terms offered to the consumer were set based on information from a consumer report;

"(B) identification of the consumer reporting agency that furnished that report;

"(C) a statement informing the consumer that the consumer may obtain a copy of a consumer report from that consumer reporting agency without charge; and

"(D) the contact information specified by that consumer reporting agency for obtaining such consumer reports (including a toll-free telephone number established by the agency in the case of a consumer reporting agency described in section 603(p)).

"(5) RULEMAKING.—

"(A) RULES REQUIRED.—The Federal Trade Commission and the Board of Governors of the Federal Reserve System shall jointly prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this subsection.

"(B) CONTENT.—Rules required by subparagraph (A) shall address, but are not limited to—

"(i) the form, content, time, and manner of delivery of any notice under this subsection;

"(ii) clarification of the meaning of terms used in this subsection, including what credit terms are material, and when credit terms are materially less favorable;

"(iii) exceptions to the notice requirement under this subsection for classes of persons or transactions regarding which the agencies determine that notice would not significantly benefit consumers; and

"(iv) a model notice that may be used to comply with this subsection.".

(b) RELATION TO STATE LAWS.—Section 625(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681t(b)(1), regarding relation to State laws), as so designated and amended by this Act, is amended by adding at the end the following:

"(I) section 615(j), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;".

SEC. 312. PROCEDURES TO ENHANCE THE ACCURACY AND COMPLETENESS OF INFORMATION FURNISHED TO CONSUMER REPORTING AGENCIES.

(a) ACCURACY GUIDELINES AND REGULATIONS.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 15 U.S.C. 1681s–2) is amended by adding at the end the following:

"(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

"(1) GUIDELINES.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in paragraph (2)—

"(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and completeness of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

"(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

"(2) COORDINATION.—Each agency required to prescribe regulations under paragraph (1) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

"(3) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the agencies described in paragraph (1) shall—

"(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and completeness of information furnished to consumer reporting agencies;

"(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

"(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to provide complete and accurate information to consumer reporting agencies; and

"(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.".

(b) FURNISHER LIABILITY EXCEPTION.—Section 623(a)(5) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)(5)) is amended—

(1) by striking "A person" and inserting the following:

"(A) IN GENERAL.—A person";

(2) by inserting "date of delinquency on the account, which shall be the" before "month";

(3) by inserting "on the account" before "that immediately preceded"; and

(4) by adding at the end the following:

"(B) RULE OF CONSTRUCTION.—For purposes of this paragraph only, and provided that the consumer does not dispute the information, a person that furnishes information on a delinquent account that is placed for collection, charged for profit or loss, or subjected to any similar action, complies with this paragraph, if—

"(i) the person reports the same date of delinquency as that provided by the creditor to which the account was owed at the time at which the commencement of the delinquency occurred, if the creditor previously reported that date of delinquency to a consumer reporting agency;

"(ii) the creditor did not previously report the date of delinquency to a consumer reporting agency, and the person establishes and follows reasonable procedures to obtain the date of delinquency from the creditor or another reliable source and reports that date as the date of delinquency; or

"(iii) the creditor did not previously report the date of delinquency to a consumer reporting agency and the date of delinquency cannot be reasonably obtained as provided in clause (ii), the person establishes and follows reasonable procedures to ensure the date reported as the date of delinquency precedes the date on which the account is placed for collection, charged to profit or loss, or subjected to any similar action, and reports such date to the credit reporting agency.".

(c) LIABILITY AND ENFORCEMENT.—

(1) CIVIL LIABILITY.—Section 623 of the Fair Credit Reporting Act (15 U.S.C. 1681s–2) is amended by striking subsections (c) and (d) and inserting the following:

"(c) LIMITATION ON LIABILITY.—Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of—

"(1) subsection (a) of this section;

"(2) subsection (e) of this section, except that nothing in this paragraph shall limit, expand, or otherwise affect liability under section 616 or 617, as applicable, for violations of subsection (b) of this section;

"(3) subsection (e) or (f) of section 615; or

"(4) subparagraph (A) of subsection (b)(2) of this section that is based on the development of procedures required by that subparagraph, except that refurnishing information otherwise in violation of subsection (b) shall be subject to liability under sections 616 and 617, as applicable, to the same extent as such a refurnishing violation was subject to such liability on the day before the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

"(d) LIMITATION ON ENFORCEMENT.—The provisions of law described in paragraphs (1) through (4) of subsection (c) (other than with respect to the exceptions described in paragraphs (2) and (4) of subsection (c)) shall be enforced exclusively as provided under section 621 by the Federal agencies and officials and the State officials identified in section 621.".

(2) State Actions.—Section 621(c) of the Fair Credit Reporting Act (15 U.S.C. 1681s(c)) is amended—

(A) in paragraph (1)(B)(ii), by striking "of section 623(a)" and inserting "described in any of paragraphs (1) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))"; and

(B) in paragraph (5)—

(i) in each of subparagraphs (A) and (B), by inserting after "section 623(a)(1)" each place that term appears the following: "or a violation described in any of paragraphs (2) through (4) of section 623(c) (other than with respect to the exception described in paragraph (4) of section 623(c))"; and

(ii) by amending the paragraph heading to read as follows:

"(5) Limitations on State Actions for Certain Violations.—".

(d) Rule of Construction.—Nothing in this section, the amendments made by this section, or any other provision of this Act shall be construed to affect any liability under section 616 or 617 of the Fair Credit Reporting Act (15 U.S.C. 1681n, 1681o) that existed on the day before the date of enactment of this Act.

SEC. 313. FEDERAL TRADE COMMISSION AND CONSUMER REPORTING AGENCY ACTION CONCERNING COMPLAINTS.

Section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by adding at the end the following:

"(e) Treatment of Complaints and Report to Congress.—

"(1) In general.—The Federal Trade Commission shall—

"(A) compile all complaints that it receives that a file of a consumer that is maintained by a consumer reporting agency described in section 603(p) contains incomplete or inaccurate information, with respect to which, the consumer appears to have disputed the completeness or accuracy with the consumer reporting agency or otherwise utilized the procedures provided by subsection (a); and

"(B) transmit each such complaint to each consumer reporting agency involved.

"(2) Exclusion.—Complaints received or obtained by the Federal Trade Commission pursuant to its investigative authority under the Federal Trade Commission Act shall not be subject to this paragraph (1).

"(3) Agency responsibilities.—Each consumer reporting agency described in section 603(p) that receives a complaint transmitted by the Federal Trade Commission pursuant to paragraph (1) shall—

"(A) review each such complaint to determine whether all legal obligations imposed on the consumer reporting agency under this title (including any obligation imposed by an applicable court or administrative order) have been met with respect to the subject matter of the complaint;

"(B) provide reports on a regular basis to the Commission regarding the determinations of and actions taken by the consumer reporting agency, if any, in connection with its review of such complaints; and

"(C) maintain, for a reasonable time period, records regarding the disposition of each such complaint that is sufficient to demonstrate compliance with this subsection.

"(4) Rulemaking authority.—The Federal Trade Commission may prescribe regulations in accordance with the requirements of section 553 of title 5, United States Code, as appropriate to implement this subsection.

"(5) Annual report.—The Federal Trade Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an annual report regarding information gathered by the Commission under this subsection.".

SEC. 314. ONGOING AUDITS OF THE ACCURACY OF CONSUMER REPORTS.

(a) Audits Required.—The Board of Governors of the Federal Reserve System (in this section referred to as "the Board") shall conduct ongoing audits of the accuracy and completeness of information contained in consumer reports prepared or maintained by consumer reporting agencies. The Board shall independently verify the accuracy and completeness of information contained in consumer reports by evaluating information and data provided by consumer reporting agencies (as defined in section 603 of the Fair Credit Reporting Act).

(b) Subject Matters.—In conducting audits under this section, the Board shall examine—

(1) the accuracy and completeness of information contained in consumer reports, including an analysis of the type of inaccurate or incomplete information, if any, that may have the most significant impact on the availability and terms of various credit products offered to borrowers; and

(2) the impact, if any, of incomplete and inaccurate information on the credit and credit-based insurance scores that are most widely used to determine borrower credit worthiness and to make insurance underwriting and rating decisions, including an analysis of how, if at all, changes to credit scores resulting from inaccurate or incomplete credit reporting information affect the availability and terms of various credit products offered to borrowers.

(c) Biennial Reports Required.—

(1) In general.—The Board shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at the end of the 2-year period beginning on the date of enactment of this Act. Thereafter, the Board shall conduct additional audits and submit additional reports once every 2 years.

(2) Contents.—Each report submitted under this subsection shall contain a detailed summary of the findings and conclusions of the Board with respect to the audits required by this section, and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

(d) Provision of Reports to the Board for Purposes of Analysis.—Section 604(d) of the Fair Credit Reporting Act (12 U.S.C. 1681b(d)) is amended to read as follows:

"(d) Furnishing Consumer Reports for Accuracy or Compliance Audits.—A consumer reporting agency shall provide consumer reports to the Board of Governors of the Federal Reserve System, upon request, for the purpose of conducting an accuracy or compliance audit in accordance with section 314 of the National Consumer Credit Reporting System Improvement Act of 2003.".

SEC. 315. IMPROVED DISCLOSURE OF THE RESULTS OF REINVESTIGATION.

(a) In General.—Section 611(a)(5)(A) of the Fair Credit Reporting Act (15 U.S.C. 1681i) is amended by striking "shall" and all that follows through the end of the subparagraph, and inserting the following: "shall—

"(i) promptly delete that item of information from the file of the consumer, or modify that item of information, as appropriate, based on the results of the reinvestigation; and

"(ii) promptly notify the furnisher of that information that the information has been modified or deleted from the file of the consumer.".

(b) Furnisher Requirements Relating to Inaccurate, Incomplete, or Unverifiable Information.—Section 623(b)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681s-2(b)(1)) is amended—

(1) in subparagraph (C), by striking "and" at the end; and

(2) in subparagraph (D), by striking the period at the end and inserting the following: "; and

"(E) if an item of any information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation under paragraph (1), promptly delete that item of information from the furnisher's records or modify that item of information, as appropriate, based on the results of the reinvestigation.".

SEC. 316. RECONCILING ADDRESSES.

Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by this Act, is amended by adding at the end the following:

"(h) Notice of Discrepancy in Address.—

"(1) In general.—If a person has requested a consumer report relating to a consumer from a consumer reporting agency described in section 603(p), the request includes an address for the consumer that substantially differs from the addresses in the file of the consumer, and the agency provides a consumer report in response to the request, the consumer reporting agency shall notify the requester of the existence of the discrepancy.

"(2) Regulations.—

"(A) Regulations required.—The Federal banking agencies, the National Credit Union Administration, and the Federal Trade Commission shall, with respect to the entities that are subject to their respective enforcement authority under section 621, and in coordination as described in subparagraph (B), prescribe regulations providing guidance regarding reasonable policies and procedures that a user of a consumer report should employ when such user has received a notice of discrepancy under paragraph (1).

"(B) Coordination.—Each agency required to prescribe regulations under subparagraph (A) shall consult and coordinate with each other such agency so that, to the extent possible, the regulations prescribed by each such entity are consistent and comparable with the regulations prescribed by each other such agency.

"(C) Policies and procedures to be included.—The regulations prescribed under subparagraph (A) shall describe reasonable policies and procedures for use by a user of a consumer report—

"(i) to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains; and

"(ii) if the user establishes a continuing relationship with the consumer, and the user regularly and in the ordinary course of business furnishes information to the consumer reporting agency from which the notice of discrepancy pertaining to the consumer was obtained, to reconcile the address of the consumer with the consumer reporting agency by furnishing such address to such consumer reporting agency as part of information regularly furnished by the user for the period in which the relationship is established.".

SEC. 317. FTC STUDY OF ISSUES RELATING TO THE FAIR CREDIT REPORTING ACT.

(a) Study Required.—

(1) IN GENERAL.—The Federal Trade Commission shall conduct a study on ways to improve the operation of the Fair Credit Reporting Act.

(2) AREAS FOR STUDY.—In conducting the study under paragraph (1), the Federal Trade Commission shall review—

(A) the efficacy of increasing the number of points of identifying information that a credit reporting agency is required to match to ensure that a consumer is the correct individual to whom a consumer report relates before releasing a consumer report to a user, including—

(i) the extent to which requiring additional points of such identifying information to match would—

(I) enhance the accuracy of credit reports; and

(II) combat the provision of incorrect consumer reports to users;

(ii) the extent to which requiring an exact match of the first and last name, social security number, and address and ZIP Code of the consumer would enhance the likelihood of increasing credit report accuracy; and

(iii) the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software on the accuracy of credit reports;

(B) requiring notification to consumers when negative information has been added to their credit reports, including—

(i) the potential impact of such notification on the ability of consumers to identify errors on their credit reports; and

(ii) the potential impact of such notification on the ability of consumers to remove fraudulent information from their credit reports;

(C) the effects of requiring that a consumer who has experienced an adverse action based on a credit report receives a copy of the same credit report that the creditor relied on in taking the adverse action, including—

(i) the extent to which providing such reports to consumers would increase the ability of consumers to identify errors in their credit reports; and

(ii) the extent to which providing such reports to consumers would increase the ability of consumers to remove fraudulent information from their credit reports;

(D) any common financial transactions that are not generally reported to the consumer reporting agencies, but would provide useful information in determining the credit worthiness of consumers; and

(E) any actions that might be taken within a voluntary reporting system to encourage the reporting of the types of transactions described in subparagraph (D).

(3) COSTS AND BENEFITS.—With respect to each area of study described in paragraph (2), the Federal Trade Commission shall consider the extent to which such requirements would benefit consumers, balanced against the cost of implementing such provisions.

(b) REPORT REQUIRED.—Not later than 270 days after the date of enactment of this Act, the chairman of the Federal Trade Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a detailed summary of the findings and conclusions of the study under this section, together with such recommendations for legislative or administrative actions as may be appropriate.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

SEC. 411. PROTECTION OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM.

(a) IN GENERAL.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)) is amended to read as follows:

"(g) PROTECTION OF MEDICAL INFORMATION.—

"(1) LIMITATION ON CONSUMER REPORTING AGENCIES.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit or insurance transaction, a consumer report that contains medical information about a consumer, unless—

"(A) if furnished in connection with an insurance transaction, the consumer affirmatively consents to the furnishing of the report;

"(B) if furnished for employment purposes or in connection with a credit transaction—

"(i) the information to be furnished is relevant to process or effect the employment or credit transaction; and

"(ii) the consumer provides specific written consent for the furnishing of the report that describes in clear and conspicuous language the use for which the information will be furnished; or

"(C) such information is restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer, unless the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance, other than property and casualty insurance.

"(2) LIMITATION ON CREDITORS.—Except as permitted pursuant to paragraph (3)(C) or regulations prescribed under paragraph (5)(A), a creditor shall not obtain or use medical information pertaining to a consumer in connection with any determination of the consumer's eligibility, or continued eligibility, for credit.

"(3) ACTIONS AUTHORIZED BY FEDERAL LAW, INSURANCE ACTIVITIES AND REGULATORY DETERMINATIONS.—Section 603(d)(3) shall not be construed so as to treat information or any communication of information as a consumer report if the information or communication is disclosed—

"(A) in connection with the business of insurance or annuities, including the activities described in section 18B of the model Privacy of Consumer Financial and Health Information Regulation issued by the National Association of Insurance Commissioners (as in effect on January 1, 2003);

"(B) for any purpose permitted without authorization under the Standards for Individually Identifiable Health Information promulgated by the Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, or referred to under section 1179 of such Act, or described in section 502(e) of Public Law 106–102; or

"(C) as otherwise determined to be necessary and appropriate, by regulation or order and subject to paragraph (6), by the Federal Trade Commission, any Federal banking agency or the National Credit Union Administration (with respect to any financial institution subject to the jurisdiction of such agency or Administration under paragraph (1), (2), or (3) of section 621(b), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).

"(4) LIMITATION ON REDISCLOSURE OF MEDICAL INFORMATION.—Any person that receives medical information pursuant to paragraph (1) or (3) shall not disclose such information to any other person, except as necessary to carry out the purpose for which the information was initially disclosed, or as otherwise permitted by statute, regulation, or order.

"(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

"(A) REGULATIONS REQUIRED.—Each Federal banking agency and the National Credit Union Administration shall, subject to paragraph (6) and after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs, consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.

"(B) FINAL REGULATIONS REQUIRED.—The Federal banking agencies and the National Credit Union Administration shall issue the regulations required under subparagraph (A) in final form before the end of the 6-month period beginning on the date of enactment of the National Consumer Credit Reporting System Improvement Act of 2003.

"(6) COORDINATION WITH OTHER LAWS.—No provision of this subsection shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.".

(b) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended—

(1) in paragraph (2), by striking "The term" and inserting "Except as provided in paragraph (3), the term"; and

(2) by adding at the end the following new paragraph:

"(3) RESTRICTION ON SHARING OF MEDICAL INFORMATION.—Except for information or any communication of information disclosed as provided in section 604(g)(3), the exclusions in paragraph (2) shall not apply with respect to information disclosed to any person related by common ownership or affiliated by corporate control, if the information is medical information, including information that is an individualized list or description based on the payment transactions of the consumer for medical products or services, or an aggregate list of identified consumers based on payment transactions for medical products or services.

(c) DEFINITION.—Section 603(i) of the Fair Credit Reporting Act (15 U.S.C. 1681a(i)) is amended to read as follows:

"(i) MEDICAL INFORMATION.—The term 'medical information' means information or data, other than age or gender, whether oral or recorded, in any form or medium, created by or derived from a health care provider or the consumer, that relates to—

"(1) the past, present, or future physical, mental, or behavioral health or condition of an individual;

"(2) the provision of health care to an individual; or

"(3) the payment for the provision of health care to an individual.".

(d) EFFECTIVE DATES.—This section shall take effect at the end of the 180-day period beginning on the date of enactment of this Act, except that paragraph (2) of section 604(g) of the Fair Credit Reporting Act (as amended by subsection (a)) shall take effect on the later of—

(1) the end of the 90-day period beginning on the date on which the regulations required under paragraph (5)(B) of such section 604(g) (as added by subsection (a) of this section) are issued in final form; or

(2) the date specified in the regulations referred to in paragraph (1).

SEC. 412. CONFIDENTIALITY OF MEDICAL CONTACT INFORMATION IN CONSUMER REPORTS.

(a) Duties of Medical Information Furnishers.—Section 623(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s–2(a)) is amended by adding at the end the following:

"(6) Duty to provide notice of status as medical information furnisher.—A person whose primary business is providing medical services, products, or devices, or the person's agent or assignee, who furnishes information to a consumer reporting agency on a consumer shall be considered a medical information furnisher for purposes of this title, and shall notify the agency of such status.".

(b) Restriction of Dissemination of Medical Contact Information.—Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended by adding at the end the following:

"(6) The name, address, and telephone number of any medical information furnisher that has notified the agency of its status, unless—

"(A) such name, address, and telephone number are restricted or reported using codes that do not identify, or provide information sufficient to infer, the specific provider or the nature of such services, products, or devices to a person other than the consumer; or

"(B) the report is being provided to an insurance company for a purpose relating to engaging in the business of insurance other than property and casualty insurance.".

(c) No Exceptions Allowed for Dollar Amounts.—Section 605(b) of the Fair Credit Reporting Act (15 U.S.C. 1681c(b)) is amended by striking "The provisions of subsection (a)" and inserting "The provisions of paragraphs (1) through (5) of subsection (a)".

(d) Coordination With Other Laws.—No provision of any amendment made by this section shall be construed as altering, affecting, or superseding the applicability of any other provision of Federal law relating to medical confidentiality.

(e) FTC Regulation of Coding of Trade Names.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), as amended by this Act, is amended by adding at the end the following:

"(g) FTC Regulation of Coding of Trade Names.—If the Federal Trade Commission determines that a person described in paragraph (6) of section 623(a) has not met the requirements of such paragraph, the Commission shall take action to ensure the person's compliance with such paragraph, which may include issuing model guidance or prescribing reasonable policies and procedures as necessary to ensure that such person complies with such paragraph.".

(f) Technical and Conforming Amendments.—Section 604(g) of the Fair Credit Reporting Act (15 U.S.C. 1681b(g)), as amended by section 411 of this Act, is amended—

(1) in paragraph (1), by inserting "(other than medical contact information treated in the manner required under section 605(a)(6))" after "a consumer report that contains medical information"; and

(2) in paragraph (2), by inserting "(other than medical information treated in the manner required under section 605(a)(6))" after "a creditor shall not obtain or use medical information".

(g) Effective Date.—The amendments made by this section shall take effect at the end of the 15-month period beginning on the date of enactment of this Act.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

SEC. 511. SHORT TITLE.

This title may be cited as the "Financial Literacy and Education Improvement Act".

SEC. 512. DEFINITIONS.

As used in this title—

(1) the term "Chairperson" means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term "Commission" means the Financial Literacy and Education Commission established under section 513.

SEC. 513. ESTABLISHMENT OF FINANCIAL LITERACY AND EDUCATION COMMISSION.

(a) In General.—There is established a commission to be known as the "Financial Literacy and Education Commission".

(b) Purpose.—The Commission shall serve to improve the financial literacy and education of persons in the United States.

(c) Membership.—

(1) Composition.—The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) Alternates.—Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant decisionmaking authority.

(d) Chairperson.—The Secretary of the Treasury shall serve as the Chairperson.

(e) Meetings.—The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this title.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Initial Meeting.—The Commission shall hold its first meeting not later than 60 days after the date of enactment of this Act.

SEC. 514. DUTIES OF THE COMMISSION.

(a) Duties.—

(1) In general.—The Commission, through the authority of the members referred to in section 513(c), shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) Areas of emphasis.—To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries; and

(H) improve financial literacy and education through all other related skills.

(b) Website.—

(1) In general.—The Commission shall establish and maintain a website, such as the domain name "FinancialLiteracy.gov", or a similar domain name.

(2) Purposes.—The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) Toll-Free Hotline.—The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) Development and Dissemination of Materials.—The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) Coordination of Efforts.—The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) NATIONAL STRATEGY.—

(1) IN GENERAL.—The Commission shall—

(A) not later than 18 months after the date of enactment of this Act, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) STRATEGY.—The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) NATIONAL STRATEGY REVIEW.—The Commission shall, not less than annually; review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) CONSULTATION.—The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) REPORTS.—

(1) IN GENERAL.—Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this title.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(B) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(C) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(D) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(E) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decision making;

(F) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(G) information about the activities of the Commission planned for the next fiscal year;

(H) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(I) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) INITIAL REPORT.—The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) TESTIMONY.—The Commission shall provide, upon request, testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 515. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this title. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) PERIODIC STUDIES.—The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

SEC. 516. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) ASSISTANCE.—

(1) IN GENERAL.—The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

SEC. 517. STUDY BY THE COMPTROLLER GENERAL.

Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

SEC. 518. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this title, including administrative expenses of the Commission.

TITLE VI—RELATION TO STATE LAW

SEC. 611. RELATION TO STATE LAW.

Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681t(d), regarding relation to State laws), as so designated by section 214 of this Act, is amended—

(1) by striking paragraph (2);

(2) by striking "(c)—" and all that follows through "do not affect" and inserting "(c) do not affect"; and

(3) by striking "1996; and" and inserting "1996.".

TITLE VII—MISCELLANEOUS

SEC. 711. CLERICAL AMENDMENTS.

(a) SHORT TITLE.—Section 601 of the Fair Credit Reporting Act (15 U.S.C. 1601 note) is amended by striking "the Fair Credit Reporting Act." and inserting "the 'Fair Credit Reporting Act'.".

(b) SECTION 604.—Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended in paragraphs (1) through (5), other than subparagraphs (E) and (F) of paragraph (3), by moving each margin 2 ems to the right.

(c) SECTION 605.—

(1) Section 605(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(1)) is amended by striking "(1) cases" and inserting "(1) Cases".

(2)(A) Section 5(1) of Public Law 105–347 (112 Stat. 3211) is amended by striking "Judgments which" and inserting "judgments which".

(B) The amendment made by subparagraph (A) shall be deemed to have the same effective date as section 5(1) of Public Law 105–347 (112 Stat. 3211).

(d) SECTION 609.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended—

(1) in paragraph (2), by moving the margin 2 ems to the right; and

(2) in paragraph (3)(C), by moving the margins 2 ems to the left.

(e) SECTION 617.—Section 617(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681o(a)(1)) is amended by adding "and" at the end.

(f) SECTION 621.—Section 621(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(B)) is amended by striking "25(a)" and inserting "25A".

(g) TITLE 31.—Section 5318 of title 31, United States Code, is amended by redesignating the second item designated as subsection (l) (relating to applicability of rules) as subsection (m).

(h) CONFORMING AMENDMENT.—Section 2411(c) of Public Law 104–208 (110 Stat. 3009–445) is repealed.

Mr. SHELBY. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendments, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint the following conferees:

The Presiding Officer appointed Mr. SHELBY, Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. SARBANES, Mr. DODD, and Mr. JOHNSON, conferees on the part of the Senate.

The PRESIDING OFFICER. Under the previous order, S. 1753 is returned to the calendar.

EXECUTIVE SESSION

NOMINATION OF ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the consideration of Executive Calendar item No. 402, which the clerk will report.

The legislative clerk read the nomination of Roger W. Titus, to be United States District Judge for the District of Maryland.

The PRESIDING OFFICER. There are 2 minutes evenly divided on the nomination.

Who yields time?

The Senator from Vermont.

Mr. LEAHY. Mr. President, I compliment the Republican leadership for finally agreeing to move to the nomination of Roger Titus, who has been cleared on this side for some time.

The nominee has won universal acclaim as a member of the Maryland bar. In fact, it was suggested that he was going to be nominated to the U.S. Court of Appeals for the Fourth Circuit. It would have been a consensus where both Republicans and Democrats would have agreed. I wish the administration had done that. Instead, they have moved him to fill this seat. It is not a confrontational one for the circuit. In any event, he should be supported. He will make the 168th judicial nominee of President Bush's to be confirmed, which sets an all-time record for this time in a President's term in office, surpassing even that of President Reagan, when we had a Republican majority.

Mr. Titus has been an active litigator in Maryland for over 37 years, and has litigated hundreds of cases, both civil and criminal. He has been a partner at the Venable law firm and is a former president of the Maryland Bar Association. He has also served as an adjunct professor at the Georgetown University Law Center. Mr. Titus earned a unanimous "well-qualified" rating from the ABA, and an AV rating from Martindale-Hubbell.

In 2001, Mr. Titus was honored with The Baltimore Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities. In 1999, Mr. Titus received the Century of Service Award from the Montgomery County Bar Association for his outstanding contributions to the legal profession and community during the 20th century.

According to an article in The Baltimore Sun, Mr. Titus was apparently in the running to be nominated for a seat on the U.S. Court of Appeals for the Fourth Circuit. In light of his stellar qualifications, deep roots in his legal community and ability to garner the bipartisan support of his elected officials he would have been a consensus choice for this important appellate seat. It is unfortunate that the President felt the need to nominate someone without any local ties to that Maryland vacancy.

There are reportedly 30,000 practicing attorneys in the State of Maryland. Instead of nominating a well-qualified Marylander like Mr. Titus to Judge Murnahan's vacant seat on the Fourth Circuit, the President selected a younger, more controversial nominee with very little litigation experience. Not surprisingly, that nominee, Claude Allen, received a partial "not qualified" rating by the American Bar Association and his selection for this prestigious lifetime appointment has garnered a significant amount of opposition from concerned citizens groups.

It is regrettable that this President has again chosen the course of confrontation and conflict for his appellate court nominations. Mr. Titus, with his many years of litigation experience and his well-deserved reputation as a leader among lawyers in Maryland, is the type of person who should have been chosen for Judge Murnahan's vacant seat on the Fourth Circuit. His nomination stands in sharp contrast to the inexperienced and divisive candidates chosen by the White House for too many appellate judgeships in what appear to be an effort to pack the court with ideological nominees and tilt these courts.

There is no doubt that Mr. Titus is a Republican, yet he has the support of both of his home-State Senators and has earned the unanimous support of the Members of the Judiciary Committee. I am happy to support his nomination today and I congratulate Mr. Titus and his family on his confirmation. I commend Senators SARBANES and MIKULSKI for their efforts to identify outstanding Maryland lawyers to maintain the high standards of the Federal bench in Maryland.

In less than 3 years' time, President George W. Bush exceeded the number of judicial nominees confirmed for President Reagan in all 4 years of his first term in office. Senate Democrats have cooperated so that this President already surpassed the record of the President Republicans acknowledge to be the "all time champ" at appointing Federal judges. Since July, 2001, despite the fact that the Senate majority has shifted twice, with today's vote, a total of 168 judicial nominations have been confirmed, including 29 circuit court appointments. One hundred judges were confirmed in the 17 months of the Democratic Senate majority and with Mr. Titus' nomination we will have confirmed 68 during the comparative time of the Republican majority.

One would think that the White House and the Republicans in the Senate would be heralding this landmark. One would think they would be congratulating themselves for putting more lifetime appointed judges on the Federal bench than President Reagan did in his entire first term and doing it in three-quarters the time. But Republicans have a different partisan message and this truth is not consistent with their efforts to mislead the American people into thinking that Democrats have obstructed judicial nominations. That is why the President chose to criticize the Senate from the Rose Garden again last week rather than work with us and recognize what we can accomplish together.

Not only has this President been accorded more Senate confirmations than President Reagan achieved during his entire first term, but he has also achieved more confirmations this year than in any of the 6 years that Republicans controlled the Senate when President Clinton was in office. Not once was President Clinton allowed 68 confirmations in a year when Republicans controlled the pace of confirmations. Despite the high numbers of vacancies and availability of highly qualified nominees, Republicans never cooperated with President Clinton to the extent Senate Democrats have. President Bush has appointed more lifetime circuit and district court judges in 10 months this year than President Clinton was allowed in 1995, 1996, 1997, 1998, 1999, or 2000.

Last year alone, the Democratic majority in the Senate proceeded to confirm 72 of President Bush's judicial nominees and was savagely attacked nonetheless. Likewise in 1992, the last previous full year in which a Democratic Senate majority considered the nominees of a Republican President, 66 circuit and district court judges were confirmed.

Historically, in the last year of an administration, consideration of nominations slows, the "Thurmond rule" is invoked and vacancies are left to the winner of the upcoming Presidential election. In 1992, Democrats proceeded to confirm 66 of former President Bush's judicial nominees even though it was a Presidential election year. By contrast, in 1996, when Republicans controlled the pace for consideration of President Clinton's judicial nominees only 17 judges were confirmed and not a single one of them was to a circuit court.

In fact, President Bush has now already appointed more judges in his third year in office than in the third year of the last five Presidential terms, including the most recent term when Republicans controlled the Senate and President Clinton was leading the country to historic economic achievements. That year, in 1999, Republicans allowed only 34 judicial nominees of President Clinton's to be confirmed all year, including only 7 circuit court nominees. Those are close to the average totals for the 6 years 1995–2000 when a Republican Senate majority was determining how quickly to consider the judicial nominees of a Democratic President. By contrast, with today's confirmation, the Senate this year will have confirmed 68 judicial nominees, including 12 circuit court nominees, almost double the totals for 1999.

We have worked hard to balance the need to fill judicial vacancies with the imperative that Federal judges need to be fair. In so doing, we have reduced the number of judicial vacancies today to 40. More than 95 percent of the federal judgeships are filled. After inheriting 110 vacancies when the Senate Judiciary Committee reorganized under Democratic control in 2001, I helped move through and confirm 100 of the President's judicial nominees in just 17 months. With today's 68th confirmation this year, we have reached the lowest number of vacancies in 13 years. There are more Federal judges on the bench today than at any time in American history. These facts stand in stark contrast to the false partisan rhetoric that demonize the Senate for having blocked all of this President's judicial nominations. The reality is that the Senate is proceeding at a record pace and achieving record numbers.

I congratulate Mr. Titus and his family on his confirmation today.

Mr. HATCH. Mr. President, I am especially pleased today to speak in support of our nominee to the United States District Court for the District of Maryland, Roger Titus.

When the White House nominated Mr. Titus last June, Judge Peter Messitte of the district of Maryland, who happens to be an old high school classmate of Mr. Titus, called him a "first-class appointment and just a great guy. He is really one of the finest lawyers around." I agree wholeheartedly.

Not only is Mr. Titus a "great guy" and "one of the finest lawyers around," he is extremely well qualified—and well-deserving of the ABA's unanimous Well Qualified rating. His credentials are impeccable.

Mr. Titus earned a B.A. from Johns Hopkins and a J.D. from Georgetown University Law Center. Following his graduation from law school in 1966, Mr. Titus entered public service. He was first appointed as an assistant city attorney for Rockville, Maryland. He served in that capacity until 1970, at which time he was appointed city attorney.

While serving as a committed public servant, Mr. Titus established a private and prestigious law practice specializing in complex civil and appellate litigation. And in between serving in public office and operating a successful law practice, he found the time to teach at his alma mater, Georgetown University Law Center.

In 1988, Mr. Titus and his law partner merged their practice into Venable, Baetjer and Howard, LLP, where he is currently a partner. His clients include the Board of Education of Montgomery County, the Montgomery County government, the Howard Hughes Medical Institute, Igen International, Inc., and Circuit City Stores, Inc.

Fellow members of the Maryland bar have recognized Mr. Titus's outstanding legal skills. He has received numerous accolades, among them fellowships in notable organizations such as the American Bar Foundation, the American College of Trial Lawyers, the American Academy of Appellate Lawyers, and the Maryland Bar Foundation. In 1989, he was appointed to the Standing Committee on Rules of Practice and Procedure of the Court of Appeals of Maryland. In 1999, he was one of seventeen living attorneys to be awarded the Century of Service Award by the Bar Association of Montgomery County. And in 2001, he was awarded the Leadership in Law Award of The Daily Record.

Mr. Titus brings sterling credentials, legal acumen, and nearly 40 years of experience to the Federal bench. He will undoubtedly be an excellent addition to the bench and I urge my colleagues to join me in supporting his confirmation.

Ms. MIKULSKI. Mr. President, I rise today to express my enthusiastic support for Roger Titus, a dedicated and well-qualified Maryland lawyer, to be a Federal district court judge for the District of Maryland.

When I review nominees for our Federal courts, I consider three criteria. They must have the utmost legal competence, the highest integrity and have a staunch dedication to protecting core constitutional values and guarantees. Mr. Titus meets all of these standards. I believe he will represent Maryland well on the District Court.

Mr. Titus is recognized as one of the best lawyers in Maryland. He has been awarded Century of Service Award by the Bar Association of Montgomery County and has been recognized for his leadership in the legal community with the Leadership on Law Award from The Baltimore Daily Record.

He is committed to serving the community and his profession. For over 16 years he served city attorney's office of Rockville, rising to position of city attorney. He is also a member of Board of Trustees of Suburban Hospital and pro bono counsel to Mobil Medical Care, Inc., a nonprofit dedicated to bringing health care services to Maryland's homeless population.

The position that Mr. Titus is nominated for is important to protecting the rights of all Marylanders. Mr. Titus will join two other distinguished nominees that the Senate confirmed earlier this year, whom I strongly supported, Judges Bennett and Quarles.

These nominees represent the types of lawyers that we should be putting on our Federal courts. They have strong bipartisan support, distinguished legal careers in the state from which they are selected and they are in the mainstream of legal thought.

One of the things that impresses me about Mr. Titus is his strong ties to the community. Mr. Titus was raised in Maryland, attended Bethesda/Chevy Chase high school and went to college at Johns Hopkins University. He was the first in his family to go to law school. In fact, he was an electrical engineering major and had not really had any exposure to lawyers until he eloped with the daughter of a lawyer in college. From there the rest is history. He is now one of many in a family of lawyers.

As a young lawyer, he worked as assistant city attorney in Rockville defending and representing the city. In 1972, he was appointed to be the city attorney of Rockville were he continued to represent the city in matters of complex municipal law. He also served as adjunct law professor at Georgetown Law School and then went on to establish his own successful law firm.

In 1988, his firm merged with one of the top law firms in the United States, based right here in Washington DC—the firm of Venable, Baetjer and Howard, LLP. Mr. Titus is a leader in the firm as the partner in charge of the Montgomery County office and as a member of firm's Management Board.

Roger Titus has had a distinguished legal career both working in the public sector as the advocate for the city of Rockville before the courts, and then in the private sector where he is known for his expertise in complex civil litigation. It is because of his service to the bar and his outstanding legal skills and intellect that Mr. Titus has received a "well qualified" rating from the American Bar Association.

Mr. Titus' dedication to the law is also seen in his work as a volunteer counsel for Mobile Medical Care, Inc. This is an organization that provides free medical services to poor and homeless persons. Some of the most vulnerable citizens in our society. As their legal counsel, he helped them resolve legal hurdles which enabled them to set up a headquarters in Bethesda, MD. His commitment to the law is also reflected in his service to the bar. As a member of the Standing Committee on Rules of Practice and Procedure of the Court of Appeals of Maryland, he worked to secure guidelines for legal representation of minors in proceedings terminating parental rights.

I mentioned before the awards that Mr. Titus has received. These accolades from his colleagues are proof of the respect he has in the legal community and his intellect and ability. They demonstrate his service to bar and community and how much he has accomplished in career.

I do not know how Mr. Titus will vote on every issue that comes before him. I know he has been nominated by a Republican President, and it is likely that my beliefs and Mr. Titus' beliefs on certain issues will differ. But I am confident that he will use his expertise and legal experience to guide him as he makes important decisions affecting Marylanders. I am also confident that his legal background and respect for the law will be his foundation as he serves on the Federal District Court in Maryland.

I am impressed with Mr. Titus' commitment, expressed during his hearing before the Judiciary Committee, to adhering to the law. His dedication to following precedent and a statute's requirements, even where it is inconsistent with his own personal beliefs or is unpopular. It is the ability to put the law first, to know that personal views are irrelevant, that will serve him and Maryland well when he is a Federal district judge

I am proud to support this distinguished Maryland lawyer for a seat on the prestigious Federal court in Maryland. It is well qualified, distinguished members of the bar, who are respected in their legal community and who are in the mainstream of legal thought, like Mr. Titus, that this administration should be nominating. These are nominees who have excelled in their profession and who are looked up to by Republicans and Democrats alike. Like Judges Quarles and Bennett, Mr. Titus is a nominee who both of Maryland's Senators can support. We support him because we are foremost concerned with protecting the integrity and excellence of the Maryland Federal judiciary.

That concern has lead both Senator SARBANES and myself to work with and support the choices of the administration for these District Court nominees. That concern is why I wish the administration had looked to the Maryland legal community when it nominated someone to fill the vacancy left by the death of Judge Francis Murnaghan, an esteemed jurist who served on the Fourth Circuit for over 20 years.

Today, as I rise to enthusiastically support the nomination of Mr. Titus and as I have risen to support the other nominees for the district court, I believe these individuals are a model of the types of lawyers that should be nominated to fill Judge Murnaghan's seat on the Fourth Circuit. These nominees show that the President could easily nominate someone from Maryland who is fit for the bench and will serve with pride and excellence. They also show that the administration would not have to look far for a qualified nominee from Maryland.

Mr. SARBANES. Mr. President, I would like to take this opportunity to express my support for the nomination of Roger W. Titus to the U.S. District Court for the District of Maryland.

I have always believed that one of the most important roles I have as a United States Senator is the responsibility to provide "advice and consent" with respect to nominees to the Federal judiciary, and it is with sober deliberation that I consider all nominations made by our Presidents. When considering nominees, I apply a high standard to determine whether to support them for the Federal bench. A candidate should have had a career that has provided the breadth and depth of experience necessary to be a Federal judge, have contributed to the legal profession of our State, and have been an active participant in Maryland's civic community. All of these factors taken together must have elevated the nominee to a position of respect and esteem in our State that demonstrates that the nominee is ready and worthy for the challenges of a Federal judgeship.

Applying these standards, I am pleased to speak today on behalf of Roger Titus and urge the Senate to confirm his nomination. Roger Titus clearly meets these requirements, and will make a valuable contribution on the District Court.

Roger Titus received his undergraduate degree from Johns Hopkins University and his juris doctorate from Georgetown University Law Center. His legal career has spanned more than 30 years, during which time he has held a variety of positions in the public sector; private sector, with more than 30 years in private practice at firms large and small; and the academic field, as an adjunct professor at Georgetown University Law Center.

Roger Titus' career in private practice has been broad in scope—a fact that will serve him well on the bench. Concentrating in litigation, he has significant experience in State and local government law, general litigation, constitutional litigation, complex commercial litigation, as well as appellate work. Roger Titus has also been a leader in Maryland's legal community, most notably serving as President of the Maryland State Bar Association, but also devoting his time to numerous other legal organizations on a State, local and national level including the Bar Association of Montgomery County, American Bar Association, Maryland Municipal Attorneys Association, and the National Conference of Bar Presidents, among others. During this busy career, he has been active in the Maryland community, devoting substantial time to the Maryland Bar Foundation and as Chairman and member of the Board of Trustees for Suburban Hospital.

Given this record, it is no surprise that the American Bar Association gave Roger Titus a unanimous "well qualified" rating in its evaluation of his nomination. He has also received a number of prestigious awards for his career and record of service, including the Daily Record's first Leadership in the Law Award, which recognizes members of the legal community for their devotion to the betterment of the profession and their communities, and the Century of Service Award from the Montgomery County Bar Association, for his outstanding contributions to the legal profession and community during the twentieth century.

I am pleased to have the opportunity to speak today on behalf of Roger Titus' nomination to the Federal bench, and I would like to congratulate him and his family on his confirmation. It is truly indicative of the exemplary career he has had in the legal profession, his commitment to our State, and the esteem with which Marylanders view his accomplishments.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time for the majority?

Mr. McCAIN. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back? Without objection, all time is yielded back.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Roger W. Titus, of Maryland, to be United States District Judge for the District of Maryland?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 438 Leg.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott

Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—3

Edwards
Kerry
Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be notified of the Senate's action

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LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—Continued

Mr. BENNETT. Mr. President, it is our intention to move next to the amendment of the Senator from Hawaii, Mr. AKAKA; and, after that, to the amendment of Senator CANTWELL. However, Senator SPECTER from Pennsylvania has an amendment which he wishes to propose. The time will not be long and he has another time commitment. I ask unanimous consent that Senator SPECTER be recognized before we proceed in the manner that I have outlined.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Utah.

AMENDMENT NO. 2080

Mr. SPECTER. Mr. President, I call up amendment No. 2080, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2080.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk at the rate prescribed by law)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. LIMITATION ON ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

Mr. SPECTER. Mr. President, this is an amendment which I am offering following a letter on July 8, 2003, to the Secretary of Agriculture, cosigned by some 20 Senators. This amendment provides that the Secretary must take immediate action concerning the Commodity Credit Corporation's purchase price for dairy products. The market price for individual products has fallen below the support levels, thus allowing the price of milk products to fall below the statutory level of $9.90 per hundredweight.

In the year 2000, 7 out of 12 months the price was below the $9.90 set at $8.57. In 2002, 4 out of 12 months were below the support price, and currently, in 2003, 6 out of 12 months were below the support price set at $9.11.

This amendment prohibits the expenditures in the Department of Agriculture unless they follow the clear-cut mandate of existing law, which is to have the prices set.

I had understood a few moments ago that this was cleared on both sides, but it may be that there are some objections to be lodged. It is my hope that this can be worked out in the course of the afternoon.

I thank my colleagues for yielding these few minutes. I yield the floor.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2088

Mr. AKAKA. Mr. President, I rise today to offer an amendment to H.R. 2673, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2004, that will help protect the health of the American public. This amendment would prohibit the U.S. Department of Agriculture (USDA) from utilizing funds under this Act to approve downed animals for human consumption. I thank Senators LEVIN, CANTWELL, and LIEBERMAN for cosponsoring this amendment.

Downed animals are livestock such as cattle, sheep, swine, goats, horses, mules, or other equines that are too sick to stand or walk unassisted. Many of these animals are dying from infectious diseases and present a significant pathway for the spread of disease.

I commend USDA and livestock organizations for their efforts to address the issue of downed animals. However, I am deeply concerned about diseases such as BSE, Bovine Spongiform Encephalopathy, more commonly known as mad cow disease, that pose a serious risk to the United States cattle industry and human health. A food inspection study conducted in Germany in 2001 found that BSE is present in a higher percentage of downed livestock than in the general cattle population. USDA stated that downed animals are one of the most significant potential pathways that have not been addressed in previous efforts to reduce risks from BSE. Stronger legislation is needed to ensure that these animals do not enter our food chain. My amendment prevents downed animals from being approved for consumption at our dinner tables.

On January 21st of this year, USDA's Animal and Plant Health Inspection Service (APHIS) proposed rules in the Federal Register asking for comments on reducing the risks of BSE from downed and dead livestock. In the proposed rules, USDA acknowledges that downed animals serve as a potential pathway for the spread of BSE. Currently, before slaughter, USDA's Food Safety Inspection Service (FSIS) diverts downer livestock that exhibit clinical signs associated with BSE or other types of diseases until further tests may be taken. However, this does not mean that downed livestock cannot be processed for human consumption. If downer cattle presented for slaughter pass both the pre- and post-inspection process, meat and meat by-products from such cattle can be used for human consumption. Routinely, BSE is not correctly distinguished from many other diseases and conditions that show similar symptoms. This was demonstrated by the surveillance of a similar inspection process in Europe, showing that the process is inadequate for detecting BSE. Consequently, BSE-infected cattle can be approved for human and animal consumption.

Although USDA increased the number of cattle tested for BSE from 5,200 during the year 2001 to 19,990 in the year 2002, this still represents less than one percent of the industry that is tested. Of the 5,200 cattle tested for BSE in fiscal year 2001, approximately 87 percent of the animals targeted for testing were downed. Today, USDA has increased its efforts to test approximately 10 percent of downed cattle per year for BSE. It is interesting to note, however, that Japan currently tests each of its 1.3 million beef cattle slaughtered annually for BSE. While I am not asking the industry and Federal Government to test every slaughtered cow, I am asking the Federal Government to address and reduce the real risks associated with BSE and similar diseases in the U.S.

Some individuals fear that my amendment would place an excessive financial burden on the livestock industry. I want to remind my colleagues that one single downed cow in Canada diagnosed with BSE this year shut down the world's third largest beef exporter. It is estimated that the Canadian beef industry lost over $1 billion as a result of the discovery of BSE and more than 30 countries banned Canadian cattle and beef. As the Canadian cattle industry continues to recover from its economic loss, it is prudent for the United States to be proactive in preventing BSE and other animal diseases from entering our food chain.

We must protect our livestock industry and human health from diseases such as BSE. My amendment reduces the threat of passing diseases from downed livestock to our food supply. USDA only tests a small sample of downed animals for diseases. This is not enough. My amendment ensures downed animals will not be used for human consumption. It also requires higher standards for food safety and protects human health from diseases and the livestock industry from economic distress.

I urge my colleagues to support this important amendment.

Mr. BENNETT. Mr. President, it would be my intention on this side to accept this amendment.

Mr. AKAKA. I ask my amendment be set aside momentarily and we return to it at a future time.

The PRESIDING OFFICER. The Senator has not formally sent up the amendment.

Mr. BENNETT. I assumed we would go to the amendment from the Senator from Washington.

The PRESIDING OFFICER. The Senator from Hawaii has not sent his amendment to the desk.

Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. AKAKA], for himself, and Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL, proposes an amendment numbered 2088.

The amendment is as follows:

(Purpose: To restrict funding for the approval for human consumption of meat produced from downed animals)

On page 79, between lines 7 and 8, insert the following:

SEC. 7__. PROTECTION OF DOWNED ANIMALS.

None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

Mr. BENNETT. I ask unanimous consent that this amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 2087

Ms. CANTWELL. Mr. President, I call up my amendment and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Ms. CANTWELL] proposes an amendment numbered 2087.

Ms. CANTWELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit energy market manipulation)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) PROHIBITION.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.".

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance".

Ms. CANTWELL. I ask unanimous consent that Senators BINGAMAN, HOLLINGS, JEFFORDS, DORGAN, and FEINGOLD be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I appreciate the time to discuss this issue.

Some colleagues may wonder why we are talking about energy legislation and market manipulation on the Agriculture appropriations bill. As my colleague from California pointed out in the previous amendment on derivatives legislation and market manipulation prevention, this was part of an agreement that the Western Senators worked out when we were discussing the Energy bill prior to our August recess. The fact that we were willing to move off that debate on a variety of amendments was because we had a commitment for a chance to have further discussion on important issues that impacted the economies of Western States.

That was the agreement made at that time, and today is the moment in which Senator FEINSTEIN and I both have our opportunities to discuss what we consider very important legislation and to get the Congress on the record and make sure the Senate takes a stand against market manipulation.

Many Members know a lot has happened since the time of discussion of these issues about the energy crisis and what we should do. But we should be clear about the sequencing of things that the United States now knows and understands. The Senate knows and understands that Enron has admitted market manipulation. They have executives who have said, yes, these contracts were manipulated and prices were faulty.

We have a report by the Federal Energy Regulatory Commission so thick it is hard for me to hold in one hand that goes through a variety of issues in relation to market manipulation in which FERC found there was not only manipulation, but a demonstration for the need of explicit prohibitions on this kind of harmful and fraudulent market behavior.

That is exactly what this amendment tries to address. The amendment I have offered, and Senator BINGAMAN and others have offered, says something very basic and simple that probably many Americans, and I guarantee many Washingtonians, assumed would already be in a Federal statute such as the Federal Power Act. The amendment simply says that manipulation or manipulated contracts under the Federal Power Act cannot be just and reasonable.

Some of my colleagues may have remembered an earlier amendment where we prescribed some solutions. This amendment has been compromised and offers no specific remedies to the legislation but is specific in saying that market manipulation, in fact, is not something that can be just and reasonable under the Federal Power Act and it is not the kind of activity that the Commission should consider as lawful activity.

Most of my colleagues would say that manipulation and fraud surely has no place in the Federal Power Act; sanctioning those activities is somehow legal. But the absence of that prohibition in the Federal Power Act is leaving some doubt in people's minds that, in fact, manipulation is unlawful.

I bring that up because Washingtonians—as Ohio, Indiana, Nevada, California, Utah—have been suffering from high energy costs related to these manipulations of Enron contracts. Not only will they be stuck with paying those Enron contracts over a long period of time, but my State, the State of Washington, had utilities as much as a 50-percent rate increase because of Enron's contracts, and we will be stuck with those contracts over 5 years.

While Ken Lay remains uncharged, or at least not paying any dues for the crime he perpetrated, and he keeps the millions of dollars of money that he has gotten from Enron, my ratepayers in Washington State for the next 5 years will end up paying the high prices of those manipulated contracts. Not only will we end up paying the high prices of those manipulated contracts, but the utilities in my State and other States—Nevada, California, Oregon, some of the other Midwest States I mentioned—have tried to basically deal with Enron. They have been basically sued by the company. So not only is my ratepayer stuck with paying those high utility bills, they are actually trying to fight the legal battle against Enron, which is turning around and suing them.

My amendment does something very simple today. It basically says in the Federal Power Act that for the prospective issue of making sure it is clear to people throughout the country that the Senate does not tolerate market manipulation.

I have to say we have done great work on this issue as it relates to the Securities and Exchange Commission, and as it relates to making sure that accounting practices have been changed. But nowhere have we been specific in saying that market manipulation is an unlawful practice and cannot be just and reasonable under the Power Act. That is simply what we are trying to say today.

Why is that needed? I have a letter I circulated to my colleagues from one of the newest nominees to the Federal Energy Regulatory Commission, a Republican nominee who spent many hours in the legislative branch working under Energy Secretary Abraham and spent time in the House Energy and Commerce Committee, to whom I posed this question as a nominee before FERC because I wanted to understand where FERC nominees were going in the future.

Mr. Kelliher responded exactly where I think the input needs to be to the Senate. He said:

> I agree with much of what you have said. I agree that the markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets.

He further states:

> You have correctly noted that there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish that prohibition. This is a critical point. The Federal Regulatory Commission only has the tools Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

That is an exact quote from a letter by the FERC nominee Joseph Kelliher from the administration saying, "You want me to be a FERC commissioner? I am telling you exactly what I think about the FERC rules. And I am telling you we need the language that is in this amendment."

I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 2003.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: I am writing at your request to explain at greater length my views on legislation to prohibit manipulation of electricity markets.

I have followed your comments on market manipulation with great interest during the two years since my nomination was announced. I agree with much of what you have said. I agree that markets subject to manipulation cannot operate properly and there is an urgent need to proscribe manipulation of electricity markets. You have correctly noted there is no express prohibition of market manipulation in the Federal Power Act and have proposed legislation to establish an express prohibition. This is a critical point. The Federal Energy Regulatory Commission only has the tools that Congress chooses to give it, and Congress has never given the Commission express authority to prohibit market manipulation. I believe the time has come for Congress to take that step.

Market manipulation is a relatively recent development in electricity markets, but it is not a new problem. Manipulation has occurred in other markets, and Congress has enacted laws to proscribe manipulation in these markets. These laws can serve as models for legislation to prohibit manipulation of electricity markets.

Securities and commodities law establish an express prohibition of market manipulation and authorize a regulatory agency to prohibit specific manipulative practices by rulemaking. That approach allows an agency to act quickly once manipulative practices are identified. These models have worked well over time and could serve as the basis for legislation to prohibit manipulation of electricity markets.

The penalties authorized by ,congress in the Federal Power Act are unlikely to discourage criminal behavior. For that reason, tougher penalties—both higher monetary penalties and longer prison terms—are needed. Legislation is necessary to accomplish this. I should note that I advocated tougher penalties well before the Western electricity crisis and subsequent release of the Enron marketing memoranda. In addition to higher monetary penalties and longer prison terms, I recommend Congress grant the Commission authority to impose a lifetime ban on individuals found guilty of criminal violations of market manipulation laws. That authority exists at the regulatory agencies that oversee securities and commodities markets, and I see no reason why market manipulation in electricity markets should be subject to lesser sanction.

This is not to say that the Commission cannot take steps to prevent market manipulation under its existing legal authority. For example, the Commission can revoke the authorization of a public utility to sell electricity at market-based rates if it determines the public utility engaged in market manipulation. Further, I believe the Commission could prohibit manipulative practices under section 206 of the Federal Power Act if it determined that such practices were inherently unjust, unreasonable, unduly discriminatory or preferential. Since there would likely be legal challenges to any such effort to proscribe manipulative practices, it would be helpful for Congress to give the Commission clear authority to prohibit market manipulation.

At you request, I have reviewed your marked manipulation amendment. I support the goals of your amendment and believe it would go far towards effectively prohibiting manipulation of electricity markets.

I appreciate the opportunity to share my views on this subject with you.

Sincerely,

JOSEPH T. KELLIHER.

Ms. CANTWELL. Mr. President, I think the Kelliher letter and the report we have seen by the Federal Energy Regulatory Commission on price manipulation in western markets is the evidence we need. We have all admitted this manipulation has taken place. What is not clear to the American public is if we plan to do anything about it or if we plan to prohibit it in the future.

I think we need to be clear. The language I have offered in this amendment, as I said, is very simple and straightforward. It is that way because we want to make sure the Federal Energy Regulatory Commission does not misinterpret the intent of Congress, that Congress needs to say manipulating prices cannot be just and reasonable or in the public interest, and their job is to basically protect electric ratepayers from these kinds of manipulation.

I am not going to continue to take up the time of my colleagues who have heard about this amendment and have had an opportunity to review it. I urge them, as part of our further understanding of where the Energy bill is, that it is being set aside. This is the opportunity before us to make sure we take a stand against market manipulation and we need to make it clear to the Federal Energy Regulatory Commission, which seems to be unclear about what authority they currently have, and to make it explicit that market manipulation cannot be tolerated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, quick housekeeping.

AMENDMENT NO. 2088

Mr. President, I ask unanimous consent that we go back to the Akaka amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I call for a vote on the Akaka amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 2088.

The amendment (No. 2088) was agreed to.

Mr. BENNETT. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2087

Mr. BENNETT. Mr. President, I move that we go back to the Cantwell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. CANTWELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am not familiar with this issue, but I have asked members of the Energy Committee about it, and they have indicated opposition to the Cantwell amendment. There are some members of that committee who are on their way here. In the meantime, I will share with my colleagues the contents of a memorandum with respect to the Cantwell amendment that has been provided to Senator DOMENICI.

In this memorandum, the following objections are raised.

First:

> FERC has and is using its authority to stop fraud and manipulation. . . .
>
> FERC has demonstrated that it will use the full extent of its authority to assure honest, fair wholesale electricity markets.

FERC has taken a number of initiatives which are listed in the memo and which I will share with Members if the appropriate members of the Energy Committee do not arrive.

The second objection to the Cantwell amendment is that it is too vague. It is suggested that:

> It is written in such general terms that it will lead to greater uncertainty. A general ban on manipulation will not help companies determine what conduct amounts to manipulation and what conduct is appropriate behavior in a competitive market. . . . [A] blanket prohibition on "manipulation," without defining the elements of what constitutes manipulation . . . could have a chilling effect on the market without meaningfully adding to the protections already available to electricity customers under existing law.

The third objection is that:

> The Cantwell Amendment could lead to duplication and confusion among the agencies.
>
> The enabling statutes of the Commodity and Futures Trading Commission (CFTC) and the Securities Exchange Commission (SEC) already contain broad prohibitions against conduct that is intended to manipulate markets. Adding such another broad general prohibition to the Federal Power Act would only lead to unnecessary duplication and potential conflict between various enforcement agencies.
>
> In addition, the Federal Power Act already prohibits wholesale electricity prices that are not "just and reasonable." Therefore, FERC has the authority to investigate electricity prices and to require refunds if prices are not "just or reasonable" or modify contracts if it is in the public interest to do so.
>
> The House and Senate Energy bills both would enhance FERC's existing refund authority and increase civil and criminal penalties for violations of the Federal Power Act.

The memo makes the point that this issue has been addressed in the Energy bill, and that is the place for it to be done.

The next objection raised is:

> The number of Federal investigations and prosecutions by a broad array of agencies demonstrates there is no need for the Cantwell Amendment.
>
> Federal agencies have been and continue to be active in investigating criminal offenses in the energy industry.

These agencies as listed in the memorandum include the President's Corporate Fraud Task Force, the Federal Bureau of Investigation, the Federal Energy Regulatory Commission, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the United States Postal Service, and numerous U.S. Attorney's offices across the country.

> Through "cooperative enforcement," these agencies have focused on investigations of possible round trip trading, false reporting and fraud and manipulation by energy companies and their affiliates, employees and agents. There have been a number of arrests, settlements and continued investigations and prosecutions reported based on these agencies' efforts.

And the argument is made that:

> The Cantwell Amendment will not improve or change these actions.

Then reference is made to:

> The Domenici Electricity Amendment effectively deals with market manipulation.

This is the amendment that is part of the Energy bill that is now in conference. The memo outlines all the reasons why that particular amendment is sufficient.

As I say, I am waiting for a member of the Energy Committee to come make these arguments with perhaps a little more background than I have. I would like to move to a vote on this amendment, so I ask, before I would suggest the absence of a quorum, if the Senator from Washington would agree to a vote, let us say, at 4:20. Would that be a sufficient period of time for the Senator?

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Washington.

Ms. CANTWELL. Mr. President, I have not taken up a significant amount of time because I think Members have been educated on this issue, so I would suggest we just go ahead and vote on the issue and move ahead.

Mr. BENNETT. The Senator is suggesting we vote right now? I am willing. I am anxious to move as much time as possible. If the Senator is ready, if there is no one else who wants to speak on this issue——

Ms. CANTWELL. Mr. President, I am sure there are Members who, if they had the time, would come and speak, but I think to make this process move as smoothly as possible, I see no need to continue to wait for Members of the Energy Committee to show up. If Members are here who want to speak on behalf of the amendment, one way or another——

Mr. BENNETT. I see the Senator from Nevada is on the floor, and he may wish to speak.

I would ask, then, following the remarks of the Senator from Nevada, if no other Senator has come wishing to speak, we proceed directly to the vote.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Nevada.

Mr. REID. Mr. President, I have always been a great admirer of the Senator from the State of Washington. She always steps forward with amendments that are extremely important.

Mr. BENNETT. Mr. President, will the Senator yield for another unanimous consent request?

Mr. REID. I am happy to yield for a question.

Mr. BENNETT. I would propound a unanimous consent request that the vote occur at 4:30.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BENNETT. I thank the Senator.

Mr. REID. Mr. President, I do not think there is going to be a vote very soon on this matter. I think it is going to be quite a long time before we vote. We have a lot of things we need to talk about.

(The remarks of Mr. REID are located in today's RECORD under "Morning Business.")

Mr. REID. Mr. President, I believe maybe we need a vote.

So when would my friend from Utah like to vote?

Mr. BENNETT. Mr. President, I would be happy to vote on the Cantwell amendment immediately and then go on to other business connected to the bill.

Mr. REID. I think the Senator should move forward.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the Cantwell amendment No. 2087. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 439 Leg.]

YEAS—57

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer

Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Fitzgerald
Graham (FL)
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
McCain
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Sununu
Voinovich
Wyden

NAYS—40

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Campbell
Chambliss
Cochran
Coleman
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Enzi
Frist
Graham (SC)
Grassley
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Sessions
Shelby
Stevens
Talent
Thomas
Warner

NOT VOTING—3

Edwards
Kerry
Lieberman

The amendment (No. 2087) was agreed to.

Ms. CANTWELL. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I understand there are several Senators who have amendments they would like to offer. Senator DAYTON has one. Senator BINGAMAN has one. We have not yet had an opportunity to go through the Bingaman amendment which came to us relatively recently. So I would prefer to go to Senator DAYTON to give us a little more time to examine the Bingaman amendment, but that could be the decision of the minority. I prefer to go to Senator DAYTON's amendment next if that is agreeable.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I defer to the manager of the bill. If he would like time to review the amendment that I have given him, I have no problem with that course of action.

Mr. BENNETT. Mr. President, I ask Senator DAYTON if he would give us some indication of how long he thinks he will take on his amendment and see if we cannot enter into a time agreement so that we can know when we might be able to vote.

Mr. DAYTON. Mr. President, responding to the distinguished manager of the bill, I myself will take less than 10 minutes. It is my understanding there may be one or two other Senators who wish to speak on this matter. I do not have their requests before me.

Mr. BENNETT. Mr. President, I ask unanimous consent then that we vote on the Dayton amendment at 5:15.

Mr. REID. I object. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. DAYTON. It is my understanding then that I have the floor to proceed but there is no further agreement thereafter; is that correct?

The PRESIDING OFFICER. There is no agreement.

AMENDMENT NO. 2089

(Purpose: To provide emergency disaster assistance to Agricultural producers)

Mr. DAYTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DAYTON] proposes an amendment numbered 2089.

Mr. DAYTON. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DAYTON. Mr. President, this summer farmers in my State of Minnesota suffered one of the worst droughts in the State's history. Throughout the critical months of July and August, Minnesota received no rain whatsoever. Those cloudless blue skies with lots of warm sunshine which are considered good summer weather become deadly when it becomes relentless. Ninety-five percent of Minnesota's crop acres suffered some loss as a result, and 62 of our 87 counties were declared by the Secretary of Agriculture to be disaster area counties. Yields, moisture content, and overall quality of crops were all adversely affected by this drought.

To add misery to injury, insect infestation attacked thousands of soybean acres in southern Minnesota, further destroying plants, lowering yields, and forcing already hard-pressed growers to spend $10,000, $20,000, or even more to spray their fields in order to fight off total devastation.

In total, Minnesota farmers lost more than $1.1 billion in expected crop revenues. That is over 30 percent of our State's total crop revenue.

Yet, tragically, another disaster afflicts those unfortunate farmers and thousands of other farmers who suffered similar losses in other States this year. That disaster is that there is no disaster aid funding in the current farm law which was enacted last year. The Senate bill that we passed here provided disaster aid. The House bill did not. The conference report, regrettably, took the House and the administration's position, with the result that if you are hurt by low prices, you are helped under the current law, but if you are devastated, you are on your own and receive no assistance whatsoever.

My amendment provides assistance when disaster does strike. It does so by starting with the formula that was used in last year's disaster aid bill: from losses exceeding 35 percent of total value, farmers received disaster aid payments equal to 65 percent of the losses above the 35 percent threshold. It is a survival payment. It is not a break-even and certainly not a profit payment.

My amendment also adds a lower reimbursement for losses between 25 percent and 35 percent of value. Formerly, those losses would have received no assistance whatsoever. This formula pays 40 percent of those losses between 20 percent and 35 percent of total value.

The amendment also covers unreimbursed losses during the 2001 and 2002 seasons. As my colleagues will recall, farmers who suffered disasters in both of those years were allowed to receive payments from losses in only one of them. In other words, disaster aid is Sophie's choice. This amendment would compensate those farmers for their losses in the second year.

My amendment as written covered program crop losses and specialty crop losses throughout the country. However, I have also added, at the request of other Members, losses suffered during the year, which means the amendment now covers losses of shrimp in Louisiana, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas, and other losses which occurred in the States of Michigan, Florida, and California, as well as other national specialty crops.

The total cost of my amendment, as estimated by the Congressional Budget Office, is approximately $6.3 billion. Because it is, in my view, an emergency expenditure, I do not believe it requires, under the Budget Act, an offset, and I am not providing one.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceed to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. I ask the chairman if this is an appropriate time for me to make a 10- or 15-minute statement relative to an amendment which you have accepted on the FDA and dietary supplements.

Mr. BENNETT. I ask the Senator if he would withhold for just a moment. We are trying to pull a few things together. But I am more than happy to have the time appropriately spent other than in a quorum call.

If the Senator will withhold for just a few moments, I will be in a position to respond.

Mr. DURBIN. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, the chairman of the Budget Committee is anxious to come over to develop the issue of the budget point of order for emergency designation with respect to the amendment offered by Senator DAYTON. As he has indicated, it is $6.3 billion, and there is no offset in the bill. Our bill is $1 billion below last year's fiscal year 302(b) allocation, and therefore this is obviously a very significant number.

Until the Senator from Oklahoma, the chairman of the Budget Committee, has an opportunity to be here to review this matter with us, I would be willing to allow the Senator from New Mexico to begin the description of his amendment because I understand he would like to get that done. He has a timeframe tonight. And we could view the possibility of voting on both amendments at some point when the debate on both amendments has subsided rather than keeping the time tied up in a quorum call.

With recognition of the pressures the Senator from New Mexico is under, I would like to perhaps move ahead on both of those amendments on a double track situation.

Mr. REID. I object. If there is going to be a request to set aside the Dayton amendment, I object.

Mr. BENNETT. All right. There is objection. Therefore, I do not pursue that. I suggest to the Senator from Illinois this might be a good time to hear from him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Chair of the committee and the ranking member, Senator KOHL of Wisconsin, for agreeing to an amendment which will be offered here in a moment as part of a managers' amendment, to my understanding. This is an amendment with which I tried to construct a deal, facing what I consider to be an extremely serious situation.

We now have a body of law in America relative to products which are sold for human consumption, and there are different laws and standards for different products. The ordinary American walking into a pharmacy or drugstore or health food store or nutrition store may not know that, depending on which product you take off the shelf, there is a different standard of care, a different legal requirement.

I would like to spend a moment to discuss the differences.

If you were to go into your local pharmacy and have a prescription filled—which many of us have—this is what you know. This prescription drug has been tested for three things before it was sold to you. First, that it is safe, that you can consume it without injuring yourself; second, that it is efficacious, meaning it will do what it is supposed to do; and, third, it has been packaged and manufactured in a fashion so when they say it is 200 milligrams, it is in fact 200 milligrams. You know that. The Food and Drug Administration has required clinical tests to make sure it is safe—efficacious—and packaged in a fashion as it is represented. With that assurance, your doctor prescribes it and you take the medicine.

Now you walk down from the pharmacy counter in the drugstore and you decide to pick up some cough syrup such as this. You have bought this cough syrup. The question is: What standard of care, what body of law governed the manufacture of this over-the-counter drug, in this case, Robitussin DM, which was previously a prescription drug. It went through the same test for safety and efficacy to determine whether or not it met those tests and could be sold. Then it reached a point where a medical decision was made that you no longer needed a prescription and the component parts of this drug meet the same test of safety and efficacy and it is packaged in such a fashion that you know what you are buying.

I might also add for both the prescription drug and the over-the-counter drugs, which I have just described, if something happens—if you take this prescription, for example, and have a bad health result or this over-the-counter drug with a bad health report and you report it to the company or to your doctor, it is expected and required that adverse event, as it is known, will be reported to the Food and Drug Administration. They keep track of those. If they find out what they thought was a safe drug turns out to have a bad reaction, they will pull it from the market. The same is true with an over-the-counter drug. You know the standard of care for both prescription drugs and over-the-counter drugs.

We have other things which you will find in that same drugstore. One of them would be ordinary vitamin pills, the kind I took this morning. What are the standards for these vitamins—vitamin C or ordinary multivitamins? Unfortunately, the standards are much different. In this case, they are basically being manufactured and sold without the same clinical tests. No one has tested them for safety, for efficacy. Frankly, the standards for many are questionable as to even how they are packaged and sold to the public. But the belief is most of these naturally occurring minerals and vitamins and this type of supplement are generally good for your health. Those who believe in them take them for a variety of conditions. It is believed they cause no great harm; in fact, that they may have real health benefits.

We passed a law about 9 years ago which established a standard for something we call dietary supplements which are also for sale in the same drugstore with prescription drugs, over-the-counter drugs, and vitamins. These dietary supplements might be one such as this, natural herbal formula to promote energy and diet. What kind of standard of testing went into this product? The answer is none. There was no testing in advance required by law that what is included in this bottle is safe for human consumption or in fact even helps you when it comes to your energy or diet, and few, if any, standards about whether or not when they say this is 200 grams of one thing or another, in fact, are included. When you buy a dietary supplement, frankly, there are no standards of testing and care before the product is put on the shelf for the consumers.

I tell you this by way of background because that is why this amendment is important. When we passed the Dietary Supplement Health Education Act, we said we were dealing with natural supplements like vitamin C and garlic, multivitamins and the like. What has happened over the past 8 or 9 years is we have gone way beyond the basic vitamins. We now find a witches brew of a variety of different dietary supplements way beyond vitamins and minerals that are being sold under the same law with no testing standards, with no establishment of their safety or efficacy, no standards as to how they are packaged, and no requirement that they report adverse events to the FDA. As you walk into the drugstore and fill your prescription and walk past the counters, the American consumer has no idea that at end of the counter, the standard of protection and care changes depending on what you are buying.

That is why I am offering an amendment to this bill which earmarks $250,000 for the Food and Drug Administration to examine one particular compound being sold in dietary supplements. The compound is ephedrine. Ephedrine is a naturally occurring chemical that one finds similar to the synthetic chemical ephedra. Ephedrine is very closely monitored by FDA in both prescription drugs and over-the-counter drugs. But when it is sold in these types of dietary supplements, it isn't tested for safety, it isn't tested for efficacy, and it isn't tested in terms of how much is included in the bottle, and certainly no requirement for adverse events to be reported to the FDA.

Sadly, this product I have in my hand, known as Yellow Jackets, is sold as an extreme energizer, an herbal dietary supplement containing ephedrine. The reason I have kept this bottle is because 30 miles from my hometown in Springfield, IL, just last year a young man who was a high school senior and a football player in preparation for a football game decided he needed a shot of energy, a boost of strength to go out and play for his team. He went into a local gas station and bought these Yellow Jacket energizers and washed them down with Mountain Dew, which is heavy in caffeine, had a heart attack, and died. Ephedra products, as a consequence, have been under suspicion for a long time.

The sad reality is the United States is almost last in the world when it comes to dealing with ephedra products. You may not know it, but almost 2 years ago Canada banned ephedra products for sale in their country. They said it is too dangerous. Over a year ago, the American Medical Association said to the Food and Drug Administration, take these ephedra products off the shelf; they are dangerous. After 30 service men and women had serious adverse health effects, we have removed all ephedra products from military commissaries across the United States. The National Football League, the NCAA, the National Basketball Association, and major league baseball have banned the use of these products. You can't use them if you want to compete in Olympic competition. Yet kids in junior high and high school can walk into a gas station and still buy this in most States, with the exception of Illinois, and I believe New York and California have joined suit in banning ephedra products.

Over a year ago, I wrote to Secretary Tommy Thompson of Health and Human Services and said you have to do something. If Canada believes they are dangerous, if we think they are dangerous for service men and women, if the American Medical Association says they are dangerous, and if major sports have banned them, why in the world do we allow them to be sold in America?

What happened in the meantime is the Government did absolutely nothing—issued a press release and did nothing to take these products off the shelf.

What happened was a lot of the victims and their families went into courtrooms. A lot of people are critical of people filing lawsuits. This is a clear example where that was the only place to turn to protect innocent families and victims across America. Because of the class action lawsuits that were filed, we have now determined there were over 16,500 adverse events reports related to ephedra products that had been accumulated by all the companies that were selling them. Now they had to turn them over and disclose them.

Within those 16,500 adverse events there were events including seizures, strokes, and 155 deaths. I think, frankly, we all know what is at stake here. We realize major drugstores see liability if they continue to sell products like these Yellow Jackets and they will take them off the shelf. Walgreen's, CVS, Eckerd, Rite Aid, and Wal-Mart, representing 17,300 stores nationwide, have pulled these ephedra-containing dietary supplements from shelves. GNC, the largest specialty retailer of nutritional supplements in the country, with 5,300 stores nationwide, stopped selling ephedra products in June.

One of the largest sellers of ephedra products, Metabolite—I am sure you have heard that name—sold ephedra compounds and was sued right and left because of these compounds. They said at one point they didn't have any adverse event reports. After they were pressed in a lawsuit they turned over thousands of examples of people who had bad health events because they took Metabolite's ephedra products.

Metabalife is now advertising what they are selling is "Ephedra free." Despite all this having taken place, our Government has done nothing, absolutely nothing. I have written over and over again to Secretary Thompson. I have met with Dr. McClellan, the doctor in charge of the Food and Drug Administration, and asked: When are you going to start protecting Americans? We have a clinical trial in America today. We are selling Ephedra to innocent people and seeing if they have a seizure or heart attack.

Secretary Thompson, in April, said he was concerned about Ephedra and had taken more and stronger actions to address public health issues raised by Ephedra alkaloid than in the previous decade.

That was his letter to me in April. Since Secretary Thompson wrote that letter to me, another 38 reports of death related to Ephedra have been accumulated, bringing the total to 155.

A representative of the FDA spoke in front of the Senate Commerce Committee last week and said the Agency is in the process of analyzing 30,000 comments they have received in response to the reopening of the 1997 proposed rule on Ephedra and they are reviewing scientific evidence. Of course, delay means death, delay means injury, and delay is evidence that the Food and Drug Administration is not meeting its obligation under the law to protect American families from dangerous products.

We had a hearing in the Senate Commerce Committee before Senator McCain last week. A case was made very clearly that it is time to change the law. But first, get Ephedra off the shelves. That is why I introduced this amendment, put $250,000 in the FDA, earmarked to deal with Ephedra, to get an answer, get a conclusion and get it off the shelf as quickly as possible.

When that is done, we will have made progress. But we need to do more. The makers of dietary supplements such as this one must be required by law to report to the Food and Drug Administration if people are dying from their products. That is not too much to ask in this society. Those who say that, because I am going after a deadly product like yellow jackets, that my real war is against vitamin C just do not understand the reality. The reality is vitamin C can help. Vitamin C is not going to kill you.

This product killed a 16-year-old high school football player in Lincoln, IL. It has been attributed to the death of a Major League baseball player of the Baltimore Orioles.

I asked the committee to earmark this money. I am glad the chairman has accepted. I hope that finally this will push Health and Human Services into doing the right thing and banning this dangerous substance.

I yield the floor.

The PRESIDING OFFICER (Ms. Collins). The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, thank you very much for this opportunity to speak on an issue important not only to my State but also to other States in my country as it continues to plague agricultural producers all over the United States. I thank Senator Dayton, my colleague from Minnesota, for offering this amendment and for his continuing good work on this important issue.

Last year at this time this Chamber had a prolonged debate on whether to provide much needed emergency drought assistance to those hurt by continuing record drought. Some argued that there should be no assistance; others argued that, unlike with every other national disaster, assistance for drought victims should be funded through offsets. Some even argued we could always come back to take care of these victims at a later date.

Still some argued that a drought is no less devastating than a hurricane or flood for those who are affected and it should be treated as we would treat other natural disasters, by providing full assistance, treat it as an emergency, which, in fact, it is.

It took a while to get any help to our agricultural producers. Despite the plague of bankruptcies and the anticipated loss of thousands of family farms across the country, we could not get drought assistance passed until last spring, nearly 2 years after the worst of the drought had begun. That assistance came at a cost.

It covered less than half of the damage the USDA estimated had been caused by the drought, and it was paid for out of elements of the new farm bill, robbing Paul to pay Paul. To survive, our farmers would have to sacrifice their future for their present.

Despite all that, despite waiting months for Congress to act, despite getting what assistance was offered at the expense of the farm bill, even now, more than 7 months after the passage of that inadequate bill, many of those hurt are just beginning to receive emergency payments. Some have received nothing while the least fortunate went bankrupt during the wait.

The drought package passed last spring offered a little over $3 billion for drought losses, half the estimated $6 billion in actual damages. By October 1, $1.85 billion had been distributed, just over a quarter of actual damages through 2002. Nebraska, which alone had $1.2 billion in damages, has received only $138 million in crop disaster payments, barely 10 cents on the $1 of what it lost. As of September 15, the sugar beet program had not even been implemented, leaving those producers with nothing.

Still, the drought continues. That is why I am here today. And still, because that drought continues, our farmers and ranchers need help.

I am here today to remind those who settle for less that we still need to do more. This map reflects the current drought impact in the United States. The red and brown areas are those areas that have been labeled as a drought area by the U.S. Drought Monitor at the University of Nebraska. The red areas within the regions have been declared as drought areas by the State or Federal Government. The brown areas have not been declared. As I said, they are considered to be declared drought areas by the U.S. Drought Monitor. The green areas are recovering from drought but could be impacted by recurring or lingering conditions. The yellow areas are under drought watch.

This map is for the time period of September 5 through October 2 of this year, less than 60 days ago. We can see this drought continues.

As is clear from this map, 16 States have seen at least half of their counties declared drought disasters and another 5 have some declared drought area and 2 additional States are considered drought States by the U.S. Drought Monitor but not all declared drought regions. All told, 23 States at the present time have at least some drought regions as labeled by the U.S. Drought Monitor. Another six States have some areas under drought watch.

This map makes it very clear, and it should be clear for everyone to see, the drought has not ended. It remains a national problem and has taken another planting season, another growing season, and another harvest. We need to provide more assistance for our farmers and our ranchers. We need to do more to mitigate the effects of this drought.

Finally, we need to take seriously the fact that a drought is no less devastating to those afflicted than of any other natural disaster.

The unfortunate thing on a comparison basis, some natural disasters are immediate or nearly immediate. This natural disaster takes time to develop. In this case, it is continuing.

If some believe this drought is not as damaging as other natural disasters, I invite them to visit Nebraska and the other States, visit farmers and ranchers who are selling their lands, selling their herds or those who have already sold their land and herds. I invite them to tour our rural communities to see how damaging this drought has been to small businesses, Main Street America, small communities that comprise those Main Streets that are connected to the land and the economic activity that it produces. I invite them to talk to the Governor of Nebraska who a few days ago asked the Department of Agriculture to declare our entire State a disaster area because of drought damages.

I tried a number of measures to focus some attention on the plight of our agricultural producers. I even tried to name the drought, Drought David, thinking that would give it some sort of focus, just as we name hurricanes. I even brought drought ribbons that some of my colleagues were good enough to wear a year ago because they understood the national impact of this drought as well as the impact on their particular States. I worked with leaders in this area such as Senators DASCHLE, HARKIN, BAUCUS, DAYTON, and JOHNSON, who also pushed for comprehensive drought assistance. But still it has not been enough. We need to do more. With economic conditions being what they are, we cannot risk losing more family farms, we cannot risk losing rural businesses, and we cannot risk agricultural bankruptcies and foreclosures.

This issue has not been resolved—not through the rains these counties and States need, and not through the paltry assistance provided by the Federal Government. We need to do more.

So today I rise in support of Senator DAYTON's amendment to provide more support for our family farmers. In fact, I considered offering an amendment myself on this very issue. And that, again, shows the breadth of the disaster. Such States as Nebraska and Minnesota, and everything in between, and all around, are still in dire trouble. Our Nation is at economic risk.

If we dislike importing 50 to 60 percent of our oil for our energy needs, let me assure you, we will hate importing our food if it ever gets to the point that we lose agriculture as we have it today.

So we must act. We must act now or it will be too late for tens of thousands of more family farms and the rural way of life.

I thank you, Madam President. I thank the chairman, and I yield the floor.

Mr. BAUCUS. Mr. President, I would like to thank Senator DAYTON for offering this amendment to secure emergency agricultural disaster assistance for our drought stricken agricultural producers.

I worked the past 2 years to pass meaningful disaster assistance. For 2 years, I worked to attach a disaster assistance package onto every piece of legislation I could. It passed twice in the Senate—once with 70 votes. Unfortunately, the House and the administration failed to see the necessity of disaster assistance for our Nation's agricultural producers.

A disaster package was eventually signed into law, but this package was a mere ghost of the original disaster package and did little to help those who were hurt the most by drought. Producers in my State of Montana experienced devastating drought in 2001 and 2002, but the package that was signed into law only provided relief for one of those years. I don't know many businessmen who would stay in business after 2 years of more than 35 percent losses.

Our Nation's agricultural producers are still hurting. I can count on one hand how many days it has rained in Billings, MT since June. The lack of moisture in my State combined with consecutive days of 100-plus temperatures during the summer exasperated the multiyear drought conditions.

The effects of the drought have gone beyond our farmers and ranchers. Businesses are closing their doors, employees are being laid off, and main streets are literally drying up.

When drought hits, it affects everyone in the area. In Geraldine, MT, which is located in Choteau County—right in the heart of the drought—students who qualify for free and reduced meals increased from 47 percent to 64 percent over the past year. This signals a dramatic fall in income for this area. Farmers who grow food for a living are asking for help to feed their families.

As a Nation, we provide emergency assistance when a hurricane smashes into the East Coast, when a tornado rips through the Midwest, or when a flood destroys southern communities. We step in and help our neighbors who are in need and offsets are not required. There is no reason that a double standard should apply to drought.

The agricultural producers in Montana hung on to strings of hope last year as we were fighting for disaster assistance for drought. After witnessing the atrocity of a package that passed, many of them were forced to sell their farms, their livelihood, their way of life. It was heartbreaking. Many people are still hanging on by their fingertips though and that is why I support this amendment. We need to save these producers—the people who wake up at the crack of dawn every day to ensure that our Nation has a safe, abundant, and inexpensive food supply.

This is about providing relief for the small businessmen and women who raise our food and experienced a natural disaster.

I urge my colleagues to do what is right and what is fair and to vote for this amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I see no other Senators wishing to speak on this matter. The chairman of the Budget Committee has not presented himself. But speaking on his behalf, I will raise a budget point of order about the emergency designation.

Utah is at the bull's eye of the drought. We have more drought problems in Utah perhaps than any other State, and it is with some reluctance that I raise this point of order. But this is $6.3 billion, and there is no offset for it.

I think if it is of value, it is of sufficient value that it is worthwhile to have a supermajority to support going $6.3 billion into an emergency. I think an emergency designation for this much money is something for which this procedure is designed.

Therefore, I raise a point of order against the emergency designation contained in the pending amendment, that it violates section 502 of the concurrent budget resolution on the budget for fiscal year 2004, and therefore is not in order.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, with due respect to the Senator from Utah, it seems to me that if we are going to measure whether something is an emergency by the extent of the emergency, we are misperceiving those situations.

I regret that the cost of this measure is estimated to be $6.3 billion, but that is a function of the extent of the disaster which has occurred nationwide. If disaster aid is not itself considered to be an emergency, frankly, I don't know what possibly could be under the Budget Act.

So, Madam President, I move to waive the budget point of order and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 40, nays 55, as follows:

[Rollcall Vote No. 440 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Bingaman
Bond
Boxer
Breaux
Byrd
Cantwell
Clinton
Coleman
Conrad
Daschle
Dayton
Dodd
Dorgan
Durbin
Feinstein
Graham (FL)
Harkin
Inouye
Jeffords
Johnson
Kennedy
Landrieu
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Talent
Wyden

NAYS—55

Alexander
Allard
Allen
Bennett
Biden
Brownback
Bunning
Burns
Campbell
Carper
Chafee
Chambliss
Cochran
Collins
Cornyn
Corzine
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Kohl
Kyl
Lautenberg
Leahy
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Sununu
Thomas
Voinovich
Warner

NOT VOTING—5

Domenici
Edwards
Kerry
Lieberman
Miller

The PRESIDING OFFICER. On this vote, the yeas are 40, the nays are 55. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained. The emergency designation is stricken.

The question is on agreeing to the amendment.

The Senator from Utah.

Mr. BENNETT. Madam President, the amendment is still pending. It is now $6.3 billion for which there is no offset. Therefore, I believe we should vote the amendment down. We have already said this was the last vote today, but if the Senator wants a vote, I suppose there could be one. This is now $6.3 billion for which there is no offset with the emergency designation stricken.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I will agree to a voice vote if the Senator from Utah concurs.

Mr. BENNETT. Under those circumstances, Madam President, I raise the point of order that this is in violation of the Budget Act since there is no emergency designation and urge a "no" vote on this amendment.

The PRESIDING OFFICER. The point of order is well taken, and it is sustained. The amendment falls.

Mr. BENNETT. Madam President, we now have a group of amendments which have been offered by a number of Senators and examined by a number of Senators on both sides of the aisle, all of which have been agreed to and cleared. I would like to send them to the desk, asking for a voice vote on each one. In every case, the amendment is in behalf of myself and Senator KOHL—I apologize, Madam President, there are other Senators involved. It is just the first amendment that is in behalf of myself and Senator KOHL.

AMENDMENT NO. 2091

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes an amendment numbered 2091.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 50, line 14, strike "$27,745,981,000" and insert in lieu thereof "$29,945,981,000".

Mr. BENNETT. Madam President, due to increased projections of unemployment which result in higher participation and food inflation, it is necessary that we increase the Food Stamp Program by $2.2 billion, and this amendment will enable all qualified applicants to participate in this mandatory program. I ask for a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 2091) was agreed to.

AMENDMENT NO. 2092

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator DURBIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2092.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.".

Mr. BENNETT. Madam President, this amendment will ensure that USDA funding is not used to promote the sale or export of tobacco or tobacco products. This provision was inadvertently left out of the subcommittee bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2092) was agreed to.

AMENDMENT NO. 2093

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself and Mr. KOHL, proposes amendment numbered 2093.

Mr. BENNETT. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, lines 14 through 17, strike "special" and all that follows through "1985," and insert in lieu thereof "special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law),".

Mr. BENNETT. Madam President, this technical amendment clarifies the statutory authority for special assistance to the nuclear affected islands. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2093) was agreed to.

AMENDMENT NO. 2094

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators MURKOWSKI, STEVENS, INOUYE, and AKAKA, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. MURKOWSKI for herself and Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA, proposes an amendment numbered 2094.

The amendment is as follows:

On page 33, line 9, strike "$769,479,000" and insert in lieu thereof "767,479,000" and on page 37, line 2, strike $25,000,000" and insert in lieu thereof "$23,000,000".

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . (a) IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2012(o)(4)) is amended by inserting before the period at the end the following: ", and except that on October 1, 2003 in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002."

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003.".

Mr. BENNETT. Madam President, this amendment will prohibit the food stamp benefit for participants in Alaska and Hawaii from decreasing in the fiscal year 2004. The amendment has been cleared by the Agriculture Committee, and I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2094) was agreed to.

AMENDMENT NO. 2095

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators SNOWE and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Ms. SNOWE, for herself and Mr. DORGAN, proposes an amendment numbered 2095.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES.

"(a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

"(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation.".

Ms. COLLINS. Mr. President, I am pleased to join my colleague, Senator OLYMPIA SNOWE, in offering an amendment that will expand the borders of the Aroostook County Empowerment Zone to include the entire county, so that the benefits of empowerment zone designation can be fully realized throughout the northernmost county in Maine.

The Department of Agriculture's Empowerment Zone program addresses a comprehensive range of community challenges, including many that have traditionally received little Federal assistance, reflecting the fact that rural problems do not come in standardized packages but can vary widely from one place to another. The Empowerment Zone Program represents a long-term partnership between the Federal Government and rural communities—10 years in most cases—so that communities have enough time to implement projects to build the capacity to sustain their development beyond the term of the partnership. An Empowerment Zone designation gives designated regions potential access to millions of dollars in Federal grants for social services and community redevelopment as well as tax and regulatory relief over a ten-year period.

Aroostook County is the largest county east of the Mississippi River. Yet, despite the impressive character and work ethic of its citizens, the County has fallen on hard times. The 2000 Census indicated a 15 percent loss in population since 1990. Loring Air Force Base, which was closed in 1994, also caused an immediate out-migration of 8,500 people and a further out-migration of families and businesses that depended on Loring for their customer base.

Unfair trade practices have also struck a blow to the County's economy. Aroostook shares more border miles with Canada than most northern states. It is bordered for approximately 280 miles to the west, north and east by Canada. Canadian farmers and businesses have been extremely competitive in Aroostook's traditional business markets; as a result, Aroostook's farmers have experienced a loss in sales which has caused additional job loss, and still more people migrating from Aroostook County. Aroostook's economic situation has been further worsened by the strong value of the Canadian dollar in relation to the U.S. dollar and the restrictive personal exemption duty limits that Canada imposes on its citizens when they make shopping trips to U.S. businesses on the border.

In response to these developments, the Northern Maine Development Commission and other economic development organizations, the private business sector, and community leaders in Aroostook County have joined forces to stabilize, diversify, and grow the area's economy. The designation of Aroostook as an Empowerment Zone has been a vital element of this ongoing effort to enhance both the present and the future economic prosperity of the county.

There is, however, a restriction in the law governing empowerment zones that prevents this tremendous program from benefitting all of the small rural communities in Aroostook. Currently, the law limits the Aroostook empowerment zone to 1,000 square miles, despite the fact that Aroostook covers some 6,672 square miles and only has a population of approximately 72,000 people. Including all of the county in the empowerment zone will guarantee that parts of the county will not be left behind as economic prosperity returns to the area. It does little good to have a company move from one community to another within the County simply to take advantage of empowerment zone benefits.

America's greatest success can only be achieved when everyone has the opportunity to enjoy the fruits of a strong economy. It is only fair that all of Aroostook County's population be given the opportunity to fully benefit from the Empowerment Zone Program.

Mr. BENNETT. Madam President, this amendment would expand the boundaries of the Arrostook Empowerment Zone in the State of Maine and the Griggs-Steele Empowerment Zone in the State of North Dakota to encompass the remaining area of the respective counties not currently included in the empowerment zone designation. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2095) was agreed to.

AMENDMENT NO. 2096

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. LEVIN and Ms. STABENOW, proposes an amendment numbered 2096.

The amendment is as follows:

(Purpose: To prohibit the use of funds to issue to implement the proposed rule on cost-sharing for animal and plant health emergency programs)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS.

None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

Mr. BENNETT. Madam President, this amendment prohibits APHIS from requiring affected States to match emergency funding provided by the Federal Government. Many States are currently experiencing their own fiscal problems and may not have sufficient funds to provide a match. If a State is unable to provide matching funds, Federal funds would not be released to address the emergency situation under this proposed rule. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2096) was agreed to.

AMENDMENT NO. 2097

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INHOFE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INHOFE, proposes an amendment numbered 2097.

The amendment is as follows:

On page 77, line 18, strike the comma and insert "; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma,".

Mr. BENNETT. This amendment would allow three communities in the State of Oklahoma to be eligible for the Rural Community Advancement Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2097) was agreed to.

AMENDMENT NO. 2098

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2098.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. ___. Section 601(b)(2) of the rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2) is amended to read as follows:

'(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.'.".

Mr. BENNETT. Madam President, the amendment would allow rural communities with a population of less than 20,000 people to be eligible for broadband grants and loans. This amendment has been cleared by the Senate Agriculture Committee. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2098) was agreed to.

AMENDMENT NO. 2099

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator INOUYE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. INOUYE, proposes an amendment numbered 2099.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. ___. Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the county as a rural area or eligible rural community that the Secretary determines is not urban in character.".

Mr. BENNETT. The amendment allows the Secretary of Agriculture to designate any portion of Honolulu County as a rural area for purposes of programs under the rural development mission area. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2099) was agreed to.

AMENDMENT NO. 2100

Mr. BENNETT. I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2100.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. ___. The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

"(1) by striking 'or title V of the Housing Act of 1949'; and

"(2) by inserting after '1944' the following: ', title V of the Housing Act of 1949,'.".

Mr. BENNETT. The amendment would allow the Government National Mortgage Association, Ginnie Mae, to join other financial institutions in participating in the Multifamily Housing Guarantee Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment.

The amendment (No. 2100) was agreed to.

AMENDMENT NO. 2101

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. KOHL, proposes an amendment numbered 2101.

The amendment is as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. ___. Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities

Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.".

Mr. BENNETT. This amendment would allow a small town which does not have sufficient internal resources to utilize an outside not-for-profit party to perform the service for which the grant was made. For instance, if a community received a grant for a childcare facility, the community could contract with a third party to provide the childcare.

I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2101) was agreed to.

AMENDMENT NO. 2102

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senator BROWNBACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BROWNBACK, proposes an amendment numbered 2102.

The amendment is as follows:

On page 72, line 20, after the word "Utah" insert the following: ", and four flood control structures in Marmaton, Kansas".

Mr. BENNETT. This amendment adds four flood control structures in Kansas to the list of projects which may receive financial and technical assistance through the Watershed and Flood Prevention Operations Program. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2102) was agreed to.

AMENDMENT NO. 2103

Mr. BENNETT. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] proposes an amendment numbered 2103.

The amendment is as follows:

On page 42, line 1, insert "Utah," after "Mississippi,".".

Mr. BENNETT. This amendment adds the State of Utah to the list of States in which a processing worker demonstration pilot project is to be initiated. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2103) was agreed to.

AMENDMENT NO. 2104

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of myself and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for himself, and Mr. KOHL, proposes an amendment numbered 2104.

The amendment is as follows:

On page 74, line 7, insert "(a)" before the word "Notwithstanding" and on line 15 insert the following new subsection:

"(b) The Secretary shall publish a proposed rule to carry out Section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act.".

Mr. BENNETT. This amendment directs the Secretary to move forward with the implementation of the Rural Economic Development Loan and Grant Program authorized in the 2002 farm bill. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2104) was agreed to.

AMENDMENT NO. 2105

Mr. BENNETT. Madam President, I send an amendment to the desk on behalf of Senators GRASSLEY and DORGAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRASSLEY, and Mr. DORGAN, proposes an amendment numbered 2105.

The amendment is as follows:

(Purpose: To limit payments under the environmental quality incentives program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . EQIP PAYMENT LIMIT.

None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of $300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

Mr. BENNETT. Madam President, in recognition that this is the last one of this stack, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2105) was agreed to.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from North Dakota.

Mr. DORGAN. I wonder if the Senator from Utah will yield for a question.

Mr. BENNETT. I would be happy to yield.

Mr. DORGAN. I am not certain exactly what the status of the bill is. I know we have been working on it all day. My understanding is that we have had the last vote of the day so that may suggest that other amendments will not be offered, or certainly not voted on. I did want to inquire of the Senator from Utah about his plans for this bill.

I have a sense-of-the-Senate amendment that deals with the importation of live cattle from Canada. As my colleagues know, last week the Secretary of Agriculture took some action to put Canada on a minimum risk category. This is a country within the last 6 or 8 months that has had one case of mad cow disease. I am very concerned about that, and I want to offer a sense-of-the-Senate amendment dealing with the importation of live cattle from Canada and my concerns about that.

I would certainly be available to do that in the morning or at a time appropriate. I wanted to inquire what the Senator anticipates may happen on this legislation this evening.

Mr. BENNETT. Mr. President, I say to the Senator and to all Senators that I was prepared to go on further tonight but I have been informed that no amendments will be offered tonight. Therefore, no more debate and certainly no more votes. I would be happy to welcome the amendment from the Senator when he is prepared to offer it. It is certainly my intention to go forward tomorrow. I hope the decision not to offer any amendments tonight will be lifted by tomorrow and that we will have amendments before us and therefore items to debate and vote on.

Mr. DORGAN. Mr. President, if the Senator would yield further for an inquiry.

I have worked with the Senator from Utah as a ranking member when he chaired the subcommittee. He is easy to work with and I know we will be able to work with the Senator from Utah and the Senator from Wisconsin on this issue.

Especially in the last week or so, I have been immensely concerned about this issue of the importation of live cattle from Canada, only because the circumstances of live cattle coming across borders from a country in which there has been a case of mad cow disease is a very difficult situation. We want to be very careful about our country's beef herd and the potential devastation to that herd were we to have an outbreak or a case of mad cow disease.

We belong to an organization called the Office of International Des Epizooties, which establishes the guidelines that our country and others follow with respect to animal health. I want to talk about that at some length and then offer the sense-of-the-Senate resolution because I think all of us ought to be very concerned about when and how we decide to take action with respect to the import of live cattle from Canada.

Finally, I might say I regret Canada has suffered this problem. It is a devastating problem for them to have had a mad cow case, but we ought to be very concerned and very careful about our beef herd in this country, and my amendment will address that subject.

I thank the Senator from Utah for his courtesy.

Mr. BENNETT. Mr. President, I say to the Senator, if he wanted to offer that amendment tonight and debate it tonight, certainly that would be very much in order. It has been made very clear there will be no further votes tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak for a period not exceeding 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CORNYN pertaining to the introduction of S.J. Res. 23 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

AMENDMENT NO. 2106

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator CRAIG.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. CRAIG, proposes an amendment numbered 2106.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To facilitate cooperative agreements for wildlife services programs of the Animal and Plant Health Inspection Service of the Department of Agriculture)

At the appropriate place insert the following:

Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under 7 U.S.C. 426–426c, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2106) was agreed to.

AMENDMENT NO. 2107

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. GRAHAM of Florida, and Mr. NELSON of Florida, proposes an amendment numbered 2107.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make a technical amendment to ensure that assistance is provided for tree replacement for losses due to citrus canker)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting "**TREE REPLACEMENT AND**" after "**FOR**"; and

(2) in subsection (a), by inserting "tree replacement and" after "Florida for".

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2107) was agreed to.

AMENDMENT NO. 2108

Mr. BENNETT. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. BURNS, and Mrs. CLINTON, proposes an amendment numbered 2108.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To permit the use of certain unobligated carryover funds to carry out the 911 access loan program)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . RURAL ELECTRIFICATION.

For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading "RURAL COMMUNITY ADVANCEMENT PROGRAM" in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2108) was agreed to.

AMENDMENT NO. 2109

Mr. BENNETT. Mr. President, I call up an amendment which is at the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. DURBIN, proposes an amendment numbered 2109.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To insert a provision relating to funding the processing of comments in response to a Federal Register item concerning ephedra)

At the appropriate place, insert the following:

SEC. . The Commissioner of the Food and Drug Administration shall provide no less than $250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration to process comments submitted in response to Docket No. 95N–0304 published in the Federal Register on March 5, 2003 (68 FR 10417). Provided further, the Commission should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2109) was agreed to.

AMENDMENT NO. 2110

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator SCHUMER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. SCHUMER, proposes an amendment numbered 2110.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To ensure that amounts are made available for the generic drugs program)

On page 57, line 4, insert "and of which no less than $52,845,000 shall be available for the generic drugs program" before the semicolon.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2110) was agreed to.

AMENDMENT NO. 2111

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senator MILLER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. MILLER, proposes an amendment numbered 2111.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict the expenditure of funds for the salary of the Under Secretary for Farm and Foreign Agricultural Services)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . WORKLOAD ANALYSIS OF FARM SERVICE AGENCY.

None of the funds made available by this Act may be used to pay more than ½ of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2111) was agreed to.

AMENDMENT NO. 2112

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of Senators FRIST and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. FRIST and Mr. DASCHLE, proposes an amendment numbered 2112.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of Agriculture to establish university-based research, extension, and educational programs to implement biobased energy technologies, products, and economic diversification in rural areas of the United States)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the “Sun Grant Research Initiative Act of 2003”.

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

“SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

“(a) PURPOSES.—The purposes of the programs established under this section are—

“(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

“(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

“(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

“(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

“(b) DEFINITIONS.—In this section:

“(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term ‘land-grant colleges and universities’ means—

“(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

“(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

“(C) 1994 Institutions (as defined in section 2 of that Act).

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

“(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

“(2) the sun grant centers shall use the grants in accordance with this section.

“(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

“(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

“(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

“(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

“(B) the Commonwealth of Puerto Rico; and

“(C) the United States Virgin Islands.

“(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

“(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

“(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

“(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

“(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

“(e) USE OF FUNDS.—

“(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

“(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

“(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

“(i) research, extension, and educational programs on technology development; and

“(ii) integrated research, extension, and educational programs on technology implementation.

“(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

“(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

“(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

“(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

“(f) PLAN.—

“(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

“(2) GASIFICATION COORDINATION.—

“(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

“(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

"(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

"(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

"(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

"(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

"(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $25,000,000 for fiscal year 2005;

"(B) $50,000,000 for fiscal year 2006; and

"(C) $75,000,000 for each of fiscal years 2007 through 2010.

"(2) GRANT INFORAMTION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).".

Mr. DASCHLE. Mr. President, today Senator FRIST and I are offering an amendment to authorize a new program that we call the Sun Grant Initiative. The Sun Grant Initiative—or SGI—is an effort to provide an innovative approach to creating new biobased products and markets for farmers, thereby enhancing the environment and developing new industries in our Nation's rural communities.

The SGI would establish five Sun Grant Centers across the Nation to stimulate needed research and development projects, while providing leadership and coordination for a regional competitive grant program that will address national research issues and educational needs at the regional and local levels. This new program will provide a much-needed bridge between our Government's current national research efforts and the State-based research education networks of the Land-Grant universities. The SGI will forge a new partnership between the national leadership and energy expertise of the Federal Government and the agricultural and rural community development expertise of the Agricultural Experiment Stations and the Cooperative Extension System.

The United States has steadily increased its reliance on imported oil. Alternative sources of energy and industrial chemicals must be developed as soon as possible. The Sun Grant Initiative will stimulate the production of bioenergy resources to complement and augment petroleum energy resources, while helping to reduce our dependence on imported oil and constrain energy costs for American industries and consumers.

Additionally, American farmers need new products and viable market alternatives. Sun Grant research, development and education programs will stimulate the development bioenergy and bioproducts on American farms, creating an opportunity for an additional, significant source of income to farmers. The SGI will encourage new biobased industries and new capital investments, stimulating the economies of these rural communities.

I want to thank Senator FRIST, Chairman BENNETT, and Senators KOHL, COCHRAN, HARKIN and SMITH for their support of this innovative and exciting effort to build a biobased economy that can assist our Nation in so many ways.

Mr. BENNETT. Mr. President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2112) was agreed to.

AMENDMENT NO. 2090

Mr. BENNETT. Mr. President, I call up amendment No. 2090.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT] for Mr. HATCH, Mr. HARKIN, and Mr. DURBIN, proposes an amendment numbered 2090.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify a minimum level of funding for regulation of dietary supplements)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. DIETARY SUPPLEMENTS.

The Commissioner of Food and Drugs shall provide not less than $11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

Mr. HATCH. Mr. President, I thank the managers, Chairman BENNETT and Senator KOHL, for agreeing to the amendment that Senators HARKIN, DURBIN and I offer today.

The purpose of our amendment is simple. The Food and Drug Administration has advised us that, in fiscal year 2004, it will spend $10.4 million to regulate dietary supplements. The Hatch-Harkin-Durbin amendment would increase those activities by 10 percent, or $1 million.

Let me explain why this amendment is necessary. First, I will explain the pertinent law that the FDA administers.

There is no question that tens of millions of Americans rely daily on safe dietary supplements to maintain and improve their healthy lifestyles. The popularity of these products and the concern over their regulation are what led to enactment of the Dietary Supplement Health and Education Act, DSHEA, in 1994, a bill that Senator HARKIN and I were proud to author with now-Governor of New Mexico Bill Richardson. DSHEA is a strong law that properly implemented will protect the interests of consumers. But, as with any law, it has to be implemented for it to work.

Enactment of DSHEA followed literally decades of Food and Drug Administration animosity toward dietary supplement products. This animosity and the lack of a clear regulatory structure for supplements were clearly demonstrated prior to passage of DSHEA. That is why two-thirds of the Senate cosponsored our bill. That is why a majority of the House cosponsored the bill. And that is why it passed so overwhelmingly.

The basic structure of DSHEA allowed all products marketed as dietary supplements when the bill was enacted to stay on the market unless the FDA could show safety problems with a particular product or line of products—this is the so-called "grandfather" provision; manufacturers must notify the FDA before any new ingredients are marketed. At the same time, we provided the FDA with the full range of enforcement mechanisms to act against unsafe or misbranded supplements, including seizure, injunction, civil monetary penalties and even criminal penalties.

When Chairman DINGELL and Chairman WAXMAN expressed lingering concerns that an unsafe product might be marketed and FDA would not have adequate authority to act against it, we added a new tool—imminent hazard—so that the Secretary could take immediate action against a product that he believed poses an imminent hazard to public health. I might add, the definition as to what constitutes an "imminent hazard" is entirely up to the Department of Health and Human Services, so this is a very broad authority.

Even so, there are some who believe that dietary supplements should not be marketed in the United States without a preclearance similar to that for pharmaceuticals. We who drafted and passed DSHEA along with millions of Americans were persuaded that was not necessary.

First, most supplements cannot be patented, so there is little incentive for manufacturers to undergo the expensive and time-consuming FDA approval process.

Second, many supplements have been used safely for literally centuries, if not millennia, so it is not necessary to subject them to the approval process. That was why even the most liberal members felt comfortable with the grandfather structure.

Finally, we added a provision so that FDA would have the time to examine any ingredient not previously marketed and the evidence of its safety before that product actually reached the stores.

When we drafted DSHEA, ensuring the safety of products was at the forefront of our efforts. The law gives the FDA abundant tools to remove products that are unsafe from the market. It includes a safety standard that was carefully crafted with Senator KENNEDY and Representatives DINGELL and WAXMAN, the chairs of FDA-related panels in 1994.

There is no excuse for a supplement manufacturer to market products that are unsafe or inaccurately labeled or that make outlandish claims. Unfortunately, a small number of irresponsible supplement companies are taking advantage of consumers. I contend that the law is adequate to deal with them if FDA implements and enforces it. So, we come to the purpose of our amendment.

In the nine-plus years since DSHEA was enacted, there has been too much talk that the law handcuffs FDA and too little effort to apply the law.

It is impossible for this law to protect consumers if it is not enforced.

I am not here to criticize the FDA or throw barbs. Frankly, the FDA under Commissioner Mark McClellan has done more to enforce DSHEA than the previous administration had. I credit Commissioner McClellan for his commitment to implement the law fully. I truly believe he wants to make this law work. Congress must support him.

That is why I have joined with Senator HARKIN to introduce the DSHEA Full Implementation and Enforcement Act of 2003, S. 1538. And that is why we are offering this amendment today, which we consider to be a down payment on S. 1538.

Yes, there is a small number of products that do raise serious concerns. Ephedra is one. As I have done for many years, I urge the FDA to act definitively on this issue based on the best available science, not politics. If the agency deems that ephedra poses a significant or unreasonable risk of illness or injury when used as labeled, than the agency can and must move to take the product off the market. This has gone on for too long. That is the reason I am happy to cosponsor the companion amendment offered by Senator DURBIN.

Earlier this year, the FDA advised me it had received 3,000 comments and 12,000 letters in response to the agency's proposed rule-making on ephedra. This has obviously placed a burden on this tiny agency, which needs funding to complete the job it has undertaken.

Indeed, as this example shows, the fight for resources is a huge challenge for FDA. The FDA simply does not have the staff or money it needs to do the job. In short, the agency is woefully underfunded, especially when it comes to dietary supplement regulation. That is the only reason I can see that the safety standard we enacted has never been invoked. That has to be the reason that it has taken almost a decade to promulgate the good manufacturing practice standards that can help guarantee the safety, the purity, and the accurate labeling of products. And that must be the reason that a product like androstenedione, which I believe is not even a dietary supplement, continues to be marketed in this country.

I have been very concerned about the safety of steroid precursor products like andro—and especially when they fall into the hands of our youth.

That is why I have joined with Senator BIDEN, Senator HARKIN and Senator GRASSLEY to cosponsor the Anabolic Steroid Control Act, S. 1780, that will add andro and other steroid precursors, as well as THG, to the list of controlled substances. I intend for the Judiciary Committee to make adoption of S. 1780 a priority, and I hope my colleagues will join me in supporting both S. 1780 and S. 1538.

We have a very solid dietary supplement law that can deal with problems that arise. But, the FDA must use that law for it to be effective, and Congress must support the agency in that effort.

Mr. BENNETT. Mr. President, I ask for a voice vote.

This language has been cleared by both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2090) was agreed to.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

BEAVER CONTROL COST-SHARE PROGRAM IN MAINE

Ms. SNOWE. Mr. President, I rise today to engage in a colloquy with the distinguished chairman of the Agriculture Appropriations Subcommittee. As the chairman of this subcommittee, my good friend from Utah is no doubt aware of the important role that wildlife services provided by the Animal and Plant Health Inspection Service (APHIS) have in managing and protecting wildlife. I am pleased that the subcommittee maintained funding for these operations as many States, including my own, depend on the cooperative efforts of the Federal Government to meet the growing demands for wildlife services. Given the need for beaver management in my State, I would ask the Chairman to work to have APHIS continue providing cooperative beaver management services in Maine.

The State's Cooperative Beaver Management Program (CBMP) was established in 1995 by Maine Wildlife Services as a cooperative effort between State, Federal, and local governments to provide services to landholders, the Maine Department of Transportation, towns and municipalities who are experiencing problems caused by beavers. With the cost-share agreement between the State and APHIS, CBMP has been able to mitigate beaver related property, road, water, and environmental damage.

A reduction in cost share assistance to Maine would have a severe impact on many of the State's public resources and roadways. Beaver-flooded roadways endanger the driving public while beaver-flooded sewer and septic systems create a health hazard as well as incur significant repair expenses. In addition to helping avoid costly repairs to our public infrastructure, cost-share assistance to the CBMP can reduce damage to private logging roads that are important to the forest products based local economies. It reduces environmental damage, such as erosion, sedimentation, and habitat degradation, caused by road wash-outs.

The State of Maine reports that the CBMP provides significant benefits to the public in a very effective way. For example, in fiscal year 2002 CBMP activities prevented the loss of, or damage to, $1.3 million in resources. For the driving public, the benefits are particularly significant. The program saved $500,000 in roadway repair costs by alleviating flooded roads and rights-of way along the interstate and other State maintained highways. Comparing the cost of the program to the value of resources saved gives a cost-benefit ratio of 1 to 10. In other words, for every dollar spent, ten dollars were saved over the long-term.

Ever since the creation of the CBMP in 1995, funding has remained level. Under this agreement Maine has received $75,000 annually. In recent years, however, demand for CBMP services has outstripped program funding thereby limiting the State's ability to prevent property damage and threats to human health and safety. Additionally, the State is concerned that highway safety is being compromised because of flooding caused by beaver dams.

I recognize that the subcommittee has worked to maintain APHIS wildlife services in the face of budget limitations. I appreciate the chairman's effort to continue this program and thank the chairman for considering options to address the unique beaver management needs in Maine.

Mr. BENNETT. I thank the distinguished Senator from Maine for bringing this issue to my attention. It is evident that the funding used for Maine's

Cooperative Beaver Management Program has been used wisely. I expect APHIS to continue its cooperative wildlife agreements with the funding provided by the fiscal year 2004 Agriculture appropriations bill, and I will work in conference to see that these funds continue to be available for the State of Maine.

IMPROVING EMERGENCY COMMUNICATIONS SYSTEMS

Mr. BURNS. Mr. President, the Farm Security and Rural Investment Act of 2002 added new a new provision of the Rural Electrification Act giving the Rural Utilities Service, (RUS), Administrator the authority to make loans "to expand or improve 911 access and integrated emergency communications systems in rural areas."

This new provision was in response to the pressing need in rural America to upgrade and improve the ability to communicate in times of individual and mass emergencies.

In the wake of 9/11 there is no higher telecommunications priority than to ensure that communications systems work best when they are needed most.

Senator CLINTON and I proposed the emergency communications provision in the Agriculture Appropriations bill to give life to that new section of the Rural Electrification Act.

Mrs. CLINTON. I am pleased to join the Senator from Montana in this initiative. Last week the Federal Communications Commission held a two day meeting on their E-911 Initiative. One issue that requires both attention and resources is access to modern emergency communications in rural areas. I was pleased that Ed Cameron represented the Rural Utilities Service at that meeting and reminded the participants of the long partnership the agency has had with rural telephone consumers and carriers and the commitment Administrator Hilda Gay Legg has to improving safety in rural areas.

Mr. BURNS. The Rural Utilities Service, through its talented staff of engineers, operations specialists can play an important role in ensuring that emergency responders can communicate in rural and remote areas.

The Burns-Clinton provision in this appropriations bill would not increase or decrease spending, but would give the administrator of the RUS the flexibility to use funding from several sources within the agency to give emergency communications projects in rural areas the high priority they deserve. It also gives the RUS Administrator a source of loan funds which compliment the grant funds available for emergency communications systems in the Community Facilities program.

Mrs. CLINTON. It is our intent that this funding flexibility not come at the expense of other worthy RUS loan or grant programs.

Mr. BURNS. That is correct. At any given time, there are authorities which are oversubscribed and others which are undersubscribed. This provision gives the Administrator flexibility to use underutilized funds for this high priority purpose.

As a member of the Agriculture Appropriations Committee, I will seek Conference report language to clarify that funding would be available to current and prospective RUS borrowers and that a wide range of projects be eligible for funding including 911 upgrades, broad emergency communications initiatives, statewide emergency communications projects which include rural areas and projects that provide a dual public safety and commercial uses.

Mrs. CLINTON. I strongly support the Senator's effort in this regard. As States and localities in rural parts of New York, Montana and across the country struggle to find sufficient funds to upgrade public safety radio and data systems, there are new opportunities to combine public safety needs with commercial efforts to deploy new wireless and broadband networks. These dual use networks also have the advantage of generating revenues which can be used to pay back loans under this section while bringing advanced voice and data capabilities to rural areas. As my colleague from Montana and I both know through our efforts with the Congressional E-911 Caucus, these funds would represent just a first step in the direction of ensuring deployment of a ubiquitous 911 system across our country.

Mr. BURNS. The emergency communications amendment will help ensure that rural America does not fall on the wrong side of a public safety divide.

NRCS CLARIFICATIONS

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the fiscal year 2004 Agriculture Appropriations bill.

I would also like to take the opportunity to clarify three provisions that it contains. Upon reviewing the bill I wish to bring to your attention three changes I hope can be incorporated in the statement of managers. First, I request that two separate projects, described as Old Canton Road and Watkins Drive in the current bill, be combined to include the same overall funding amount and read as follows: "The Conference agreement provides $350,000 for erosion control and drainage improvements in Hinds County, Mississippi." Second, I request that reference to a specific floodwater retarding structure be removed from language regarding Town Creek in Tupelo, MS, and that the statement of managers read as follows: "The Conference agreement provides funds for the agency to continue assistance for the Town Creek in Lee County, Mississippi." Finally, I request that funding for Oaklimeter Watershed, as provided through the Conservation Operations section of the bill, be provided instead through the Watershed and Flood Control section.

I would ask that the chairman work to incorporate these changes to this bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing these changes to my attention and will work with him to incorporate them in the statement of managers.

Mr. COCHRAN. I thank the Chairman for his assistance in clarifying these issues and for his leadership as we complete work on this bill.

ANIMAL FIGHTING

Mr. ALLARD. Mr. Chairman, I appreciate your help addressing a longstanding concern of mine—the need for greater enforcement by USDA of the Federal law regarding animal fighting. Earlier this year, I and many of our colleagues—a bipartisan group of 38 other Senators—requested $800,000 to enable USDA's Office of Inspector General to focus on strengthening enforcement of the Federal animal fighting law. I am grateful that you were able, in the committee report, to include this $800,000 for the OIG to improve enforcement in this area.

However, I did want to ask the chairman for a bit of clarification on this item, as it was included in the committee report. I noted that the report provides "an increase of $800,000 for OIG to address violations of the Animal Welfare Act and to coordinate with State and local law enforcement personnel in this effort." Would the chairman be willing to clarify that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act, which deals exclusively with animal fighting, rather than having these funds used to enforce the entire Animal Welfare Act? This clarification could be finalized in conference.

Mr. BENNETT. Yes, I will work with the House of Representatives during conference negotiations to ensure that the $800,000 is provided to address animal fighting.

Mr. ALLARD. Senator KOHL, is it your intention as well that this funding would be used specifically to improve enforcement of Section 26 of the Animal Welfare Act?

Mr. KOHL. Yes. I agree with what Chairman BENNETT has said regarding the committee's intentions, and will work with him to make sure this is clear in the final bill.

Mr. ALLARD. I'm grateful to both of you for your help and leadership on this issue.

NUTRITION ASSISTANCE PROGRAM

Mr. KOHL. I would like to engage in a brief colloquy with the distinguished chairman to clarify the intent of language included in the Senate report regarding studies and evaluations in the Nutrition Programs Administration account. In our Senate report, we have included language stating that the committee is providing $3,195,000, the same as the fiscal year 2003 level, for studies and evaluations in the Nutrition Programs Administration Account.

I have since been contacted by USDA noting that the $3,195,000 provided in fiscal year 2003 was actually an increase over their base funding. Therefore, the question becomes whether our intent was simply to maintain $3,195,000 in funding for studies and evaluations, or to maintain the $3,195,000 increase provided in fiscal year 2003. It is may belief that our intention was to maintain the increase, and while I believe we should clarify this in the Statement of Managers during conference negotiations, I also wanted to mention it during our Senate debate.

Is it your understanding that it was our intention to maintain the increase in funding provided in this account?

Mr. BENNETT. I appreciate you bringing this to my attention and I agree our intention was to maintain increased funding for studies and evaluations.

RUS TELEMEDICINE LANGUAGE

Mr. COCHRAN. Mr. President, I would like to thank my distinguished colleague, the chairman of the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Senator BENNETT, for his outstanding work on the FY 2004 Agriculture Appropriations bill.

Upon review of the bill, I request that the following language be included in the statement of the managers:

> The conferees are aware of and encourage the Secretary to support the utilization of remote telemedicine services capable of transmitting medical information in both real-time and stored scenarios for diagnosis, medical monitoring and emergency purposes. Furthermore, the conferees recognize the need for integration and interoperability of real-time remote mobile medical technology with other devices, systems and services which together offer increased capabilities, functionality, and levels of care.

I would ask that the Chairman work to incorporate this language in the bill.

Mr. BENNETT. Mr. President, I appreciate my colleague from Mississippi bringing this language to my attention and will work with him to incorporate it in the statement of the managers.

Mr. COCHRAN. I thank the Chairman for his assistance with this language and for his leadership as we complete work on this bill.

NATIONAL AGRICULTURE STATISTICS SERVICE POTATO PRICING SURVEY

Mr. CRAIG. Mr. President, I would like to engage in a colloquy with the chairman and ranking member of the Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies regarding the National Agricultural Statistics Service—NASS—and the potato size and grade survey.

The NASS provides critical information to growers, processors, shippers, and all other segments of the agricultural industry. Its history of doing so reaches back to the Presidency of Abraham Lincoln and travels forward in time to the present, where those in the agricultural industry now rely heavily on information for planting and pricing decisions.

Of great importance to my State and others is the information NASS provides regarding the potato size and grade survey. The intent of this survey is to provide all market participants with comprehensive potato size and grade data. These data are crucial information to both potato growers and buyers in estimating the current potato crop's quality. This unbiased information will be used by all parties when negotiating sale or purchase contracts of processing potatoes.

The National Potato Council—NPC, which represents all segments of the potato industry, has identified that these data are imperative to the orderly marketing of the annual potato crop. These data also ensure no one group uses their market position to distort the true picture of annual crop quality. The size and grade data will complement the annual production data already provided by NASS and supply the necessary information for the orderly marketing of the potato crop.

Given the importance of the potato industry to the United States, I wish to add language to the fiscal year 2004 Agriculture Appropriations Act that simply asks the NASS to continue its work on the potato size and grade survey within the available funds of the agency.

I would ask the chairman and ranking member, given the subcommittee's continued support for NASS, whether it is also the Committee's intent to continue the vital work of this survey?

Mr. BENNETT. I understand the Senator's interest in this important survey. The Senator is correct that the committee intends that the Department maintain this important work. We will continue to work with the Senator in this area as this bill moves forward.

Mr. KOHL. I appreciate the Senator's comments and agree that this work merits appropriate emphasis in our upcoming conference on Agriculture appropriations.

ALKALINE DIGESTER

Mr. ROBERTS. Mr. President, I would like to engage my good friend and colleague Senator BENNETT, the distinguished chairman of the Senate Agriculture Appropriations Subcommittee, in a colloquy regarding funding for an alkaline digester for Kansas State University. This digester will be used to conduct important animal disease research to protect the United States from an agroterrorist attack.

Mr. BENNETT. I would be pleased.

Mr. ROBERTS. The published committee report for this legislation indicates that $225,000 has been provided for the digester. However, I understand this is typographical error and the Committee has actually provided $1 million. Is that correct?

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the Chairman for his support.

ALLIANCE FOR FOOD PROTECTION

Mr. CHAMBLISS. I thank the Chairman for your hard work on this appropriations bill. I would like to bring to your attention a Cooperative State Research, Education and Extension Service project that is funded in the fiscal year 2004 Agriculture Appropriations bill, the Alliance for Food Protection. At the time which the Subcommittee on Agriculture Appropriations marked up the fiscal year 2004 bill, I had not been notified that the work on this project had been completed.

Mr. BENNETT. How does the Senator from Georgia wish to proceed since $268,000 has been designated in this bill for the Alliance for Food Protection project?

Mr. CHAMBLISS. My intention, with the Chairman's approval, of course, would be to move the funding designated for the Alliance for Food Protection project to the Cooperative State Research, Education and Extension Service Integrated Fruit and Vegetable research project which is in Cooperation with the University of Georgia Cooperative Extension Service.

Mr. BENNETT. I thank the Senator from Georgia for his explanation, and I will be happy to work with him during conference to address his concerns.

Mr. CHAMBLISS. I appreciate the Chairman's cooperation with my request.

RELOCATING THE WILDLIFE HABITAT MANAGEMENT INSTITUTE

Mr. COCHRAN. Mr. President, it is my understanding that the provisions in the Agriculture appropriations bill before the Senate would in no way affect the proposed reorganization of the Natural Resources Conservation Service's field laboratory structure. Does the Senator from Utah agree with that interpretation?

Mr. BENNETT. That is my understanding as well.

Mr. COCHRAN. Is the Senator aware that the Wildlife Habitat Management Institute, an NRCS facility in Jackson, MS, is unique among NRCS facilities in that it is a "virtual institute" which draws on staff from all across the country to develop innovative habitat management recommendations for landowners?

Mr. BENNETT. I was not.

Mr. COCHRAN. Would the Senator agree that relocating this Institute, given its unique organization and the dispersion of its staff, would not yield significant savings or efficiency?

Mr. BENNETT. I agree.

Mr. COCHRAN. Given this information, would it be the intent of the subcommittee that the Wildlife Habitat Management Institute remain in its current location and excluded from the reorganization?

Mr. BENNETT. That is correct.

Mr. COCHRAN. I appreciate the opportunity to discuss this with the distinguished chairman of the appropriations subcommittee.

CHRONIC WASTING DISEASE

Mr. DOMENICI. Mr. President, I appreciate the work that you have done in regard to funding for Chronic Wasting Disease (CWD). As you know, this is a fatal neurological disease of farmed and wild elk and deer that belongs to the family of diseases known as transmissible spongiform encephalopathies (TSE's). My State of New Mexico is inhabited with ample numbers of elk and deer. The elk are oftentimes harvested by hunters who get each animal tested for CWD. With that in mind, there continues to be a demand for the State to provide hunters with an accessible location that can perform the test in a timely fashion.

The State of New Mexico is a Tier I State, which means a confirmed case of CWD has been discovered and the disease is present. I am hopeful that the final version of the fiscal year 2004 Agriculture Appropriations bill will provide the opportunity for the State of New Mexico to work in collaboration with the Department of Agriculture to establish an approved CWD testing facility. The State of New Mexico has requested approval of a proposal to establish, equip, and operate a laboratory to conduct a rapid screening test for CWD in the New Mexico elk and deer population. This would be done at State expense.

Mr. BENNETT. I thank the Senator from New Mexico and will encourage the Department of Agriculture to review the current situation. If the review warrants a testing facility, I will suggest that the Department of Agriculture consider establishing a testing facility in the State of New Mexico.

NUTRICORE NORTHEAST AND GEISINGER RURAL AGING STUDY (GRAS)

Mr. SPECTER. Mr. President, I have sought recognition of the chairman of the Agriculture Appropriations Subcommittee to bring to his attention two projects that are of great importance to the Commonwealth of Pennsylvania: NutriCore Northeast and Geisinger Rural Aging Study.

Mr. BENNETT. Mr. President, I am more than willing to acknowledge my colleague from Pennsylvania with regard to his two projects.

Mr. SPECTER. NutriCore Northeast would be a self-managed and ultimately self-sustaining not-for-profit corporation existing in Pennsylvania working in a cooperative research and development agreement with the United States Department of Agriculture to provide a 50-year road map assessing progress toward a healthy and fit populace. Additionally, Geisinger Rural Aging Study is a USDA Agricultural Research Service cohort study of 21,646 rural older Pennsylvanians that would assist them with proper dietary intake as well as formulate a longitudinal nutrition database. I am hopeful that we can work together to consider these requests as you complete action on the bill.

Mr. BENNETT. I thank my distinguished colleague for bringing these important projects to my attention. While this committee is working within a very tight budget, I will give your requests all due consideration.

Mr. SPECTER. I am keenly aware of the tight budgetary constraints under which you are operating, and I appreciate whatever assistance you may be able to provide with respect to these requests.

FOOD AID PROGRAMS

Mr. ROBERTS. Mr. President, currently, USDA does not distinguish between white (food grade) sorghum and yellow feed grade sorghum in our food aid programs. Unfortunately, sorghum that is used to make animal and pet food, or used to make ethanol, is being sent to African countries where people have been eating sorghum for generations. In fact, sorghum originated in Africa. They are keenly aware of the difference between the food grade sorghum that they eat and the feed grade sorghum that is fed to cattle. It is my view that USDA should provide recipient countries with sorghum that has the food qualities and characteristics with which the people receiving the aid are familiar.

Mr. BENNETT. I understand the Senator's concern and would also like to see that USDA make that distinction.

Mr. ROBERTS. By all appearances, the demand for sorghum in our food aid will be growing in the near future. USAID has doubled the amount of sorghum programmed in food aid over the past three years. My sorghum farmers are appreciative of this fact. I think both of us want USAID and USDA to provide food aid recipients with the commodity that they want, whenever the commodity is available in the market place.

Mr. BENNETT. That is correct.

Mr. ROBERTS. I thank the chairman for his support.

ELIMINATING AVIAN INFLUENZA IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a colloquy with the distinghished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee, as well as my colleague from Rhode Island, Senator CHAFEE, regarding the presence of Avian Influenza in Rhode Island. Since March of this year, the Rhode Island Department of Environmental Management's Division of Agriculture has been working to contain an outbreak of Low Pathogenic Avian Influenza in a poultry operation in Foster, Rhode Island, as well as a live bird market in Providence. The virus has been definitively identified as H7N2 Avian Influenza, of the same genetic sequence as the virus recently found in nearby poultry operations in Connecticut. Little Rhody Farms, the last of the traditional egg houses in Rhode Island, currently houses 32,000 hens producing brown eggs for sale in markets and food stores. Sales and distribution of eggs from the farm have declined due to customers' concerns that the produce may be tainted, and a federally imposed quarantine that has frozen the operation at half capacity. To eliminate the risk of the disease spreading further and to give the farm a greater chance to survive, state officials have strongly recommended depopulating the infected flock and disinfecting the premises. We have been unable to secure financial assistance from USDA to make depopulation possible.

I look forward to working with the Chairman and Ranking Member to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to direct USDA's Animal and Plant Health Inspection Service to provide assistance to Rhode Island Egg producers who have depopulated their flocks.

Mr. CHAFEE. I am grateful to my colleagues on the Appropriations Committee, Senator BENNETT and Senator KOHL, for giving us an opportunity to discuss this matter on the floor. Let me just underscore a few of the points that Senator REED has made.

First, everyone involved with this situation agrees that depopulation is the best strategy for dealing with the problem. The Rhode Island Division of Agriculture, the State Veterinarian, and the farmer favor depopulation and disinfection. And I understand that APHIS has been successful in taking this approach with poultry operations in Virginia and Texas.

Second, it is evident that without some compensation, the farm will face bankruptcy. Maintaining the viability of Rhode Island's family farms is a critical element of our efforts to preserve the state's character, as well as the natural landscape.

Third, I am told that in rare circumstances, low pathogenic forms of avian influenza can transform into high pathogenic organisms that pose serious threats to human health. Not surprisingly, the presence of avian influenza on American poultry and egg farms is a matter of grave concern to our trading partners. No one wants to give the virus and opportunity to mutate.

Given the risks associated with avian influenza and the clear evidence that the current protocol was not successful in containing the original Connecticut outbreak, I am anxious to find a solution to this problem. I thank the chairman and ranking member for working with us, and hope that language directing APHIS to provide the necessary financial assistance can be included in the bill.

Mr. BENNETT. I appreciate Senator CHAFEE and Senator REED bringing this situation in Rhode Island to the attention of the Agriculture Appropriations Subcommittee. For all of the reasons that my colleagues have raised, I agree that it makes sense to try to eradicate this organism from American poultry flocks. I look forward to working with the two Senators and the Ranking Member of the Subcommittee, Senator KOHL, to develop language that directs APHIS to play an active role in depopulating these flocks in Rhode Island.

Mr. KOHL. I rise to join Senator REED and Senator CHAFEE in expressing my concern about this outbreak of Low-Path Avian Influenza in Rhode Island. This disease has resulted in substantial losses in poultry producers in several states and, in response, Congress has previously directed APHIS to help poultry producers cover costs associated with depopulating infected flocks. I agree with the importance of doing what we can to prevent avian influenza from threatening the livelihood of poultry operations in Rhode Island and southern New England. I will work with the distinguished subcommittee chairman and try to include language in the fiscal year 2004 Agriculture, Rural Development, and Related Agencies Appropriations bill to ensure that APHIS provides assistance with depopulation of infected flocks in Rhode Island.

SOUTHERN PLAINS RANGE RESEARCH STATION

Mr. NICKLES. Mr. President, Chairman BENNETT faces many difficult funding decisions as he puts together this year's bill. I appreciate the work he has done in a challenging job. I rise today regarding the United States Department of Agriculture Southern Plains Range Research Station in Woodward, OK.

As you know, the Agricultural Research Service is currently undergoing a facility modernization at the Southern Plains Range Research Station in Woodward. I submitted a request for Phase II funding to allow the ARS to complete construction of the facility and begin realizing the benefits that this facility will bring to both the ARS and the Woodward community.

The Research Station provides economic opportunities for the citizens of Woodward, OK and contributes to USDA's mission of building a competitive agriculture economy while enhancing the natural resources base in the Southern Plains.

This funding is necessary to implement the recommendations of the recent ARS review of facility needs at SPRRS: construction of a new greenhouse, a new laboratory, an office building, and new parking structures and site upgrades. According to USDA, "The [SPRRS] laboratories are in dire need of repair and renovation." This modernization is necessary for SPRRS to employ cutting-edge techniques and procedures in rangeland and pasture research.

It is my hope that you will work with me to provide the funds necessary to complete construction at the USDA Southern Plains Range Research Station in Woodward, OK.

Mr. BENNETT. I appreciate my colleague's comments and the opportunity to discuss the USDA Southern Plains Range Research Station. I am aware of this project's importance to Oklahoma and the Oklahoma delegation. My colleague is uniquely aware of the constraints of the budget we must work within, and of the many areas in need of funding. I look forward to working with my colleague to address the issue of funding for Phase II of construction at the Southern Plains Range Research Station in Woodward.

Mr. NICKLES. I appreciate the difficult challenges that the Chairman is facing as he puts together the FY 2004 Agriculture Appropriations bill. I thank him for his attention to this very important need and for his willingness to work with me to address this issue.

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their help in obtaining funds for cranberry research in the Agriculture appropriations bill. Cranberry production is an issue of great importance to Massachusetts, and I hope that the Manager's will continue to work with Senator KERRY and me to obtain $280,000 for the University of Massachusetts Cranberry Station in Wareham for a complete renovation of the State Cranberry Bog.

The State Cranberry Bog provides income for Cranberry Station operations. More importantly, it is a research site for the Cranberry Station faculty and students. The bog is especially useful for conducting research not appropriate for cranberry farms in production. The faculty and students are able to use the facility to conduct research on new pesticide alternatives, or research that involves changes in practices not yet adopted by farmers.

Unfortunately, over time, the average yield of the state facility has declined because of its research activities, and the bog itself, built on peat, has begun to sink. The funds that Senator KERRY and I have requested will be used for a complete renovation of the bog, so that the Cranberry Station will again be able to conduct cutting-edge research plant physiology, pest and nutrient management, and irrigation management. The renovation will also enhance the Station's ability to demonstrate new technologies and practices as part of its educational mission. All of these activities contribute to both the economic health of the local economy and the overall vitality of the nation's cranberry industry.

Mr. KERRY. Mr. President, I again express my appreciation to Chairman BENNETT and Senator KOHL for their assistance in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill and their ongoing assistance to the Cranberry farmers in Massachusetts who are facing economic difficulties. I would like to express my support for the comments made by Senator KENNEDY regarding funding for Cranberry research in the Fiscal Year 2004 Agriculture appropriations conference report. This important research will develop new technologies to help improve yields of cranberry bogs and help these farmers maintain their livelihood. I look forward to working with the Managers of this legislation to make sure this program receives funding in the Conference Report. I appreciate the Managers' attention to this matter.

Mr. KOHL. Since Wisconsin is also one of the top-producing cranberry states in the country, I recognize the need to support innovative research within this industry. I will continue to work with Senator KENNEDY and Senator KERRY on this issue, and I will do what I can to be of assistance.

FUNDING FOR SEAFOOD SAFETY

Mr. KENNEDY. Mr. President, I commend Chairman BENNETT and Senator KOHL for their effective work on the Agriculture appropriations bill. I particularly commend Senator KOHL for his help in obtaining $422,000 for Seafood Safety in Massachusetts. I'm hopeful that two worthwhile research programs—the Safe Seafood Project at the University of Massachusetts in Amherst, and the Center for Marine Phytoremediation Technologies at Northeastern University will be funded in the Fiscal Year 2004 Agriculture appropriations conference report.

In recent years, the Department of Agriculture, through the Cooperative State Research, Education, and Extension Services, has awarded grants to the University of Massachusetts, Amherst for their work on the Safe Seafood Project. The goal of this project is to provide useful, science-based recommendations to enhance the seafood industry's potential for producing safe, economically viable products. It is essential for the project to receive funding again this year in order to continue its essential work on seafood quality and health.

Northeastern University is also an impressive research university on marine issues. Funding will be used by the Center for Marine Phytoremediation Technologies to develop techniques employing marine plants to eliminate pollutants that result from fish aquaculture, as well as toxic materials found in our waters, such as mercury and TNT. The Center will also establish methods for restoring seagrass habitats where they have been destroyed.

We know that waste from the increasing number of fish aquaculture facilities leads to the production of harmful algae and the destruction of other marine life. If these problems continue, the fish aquaculture industry cannot be sustained, since it will cause greater risks in eating fish, and also endanger seagrass habitats, which are critical to the coastal economy of many states.

Mr. KERRY. Mr. President, I would like to take this opportunity to express my appreciation for the efforts of Chairman BENNETT and Senator KOHL for their work in developing the Fiscal Year 2004 Senate Agriculture Appropriations bill. Their work is especially noteworthy because of the difficult authorization level set by the Budget Resolution. I would like to express my support for the comments made by Senator KENNEDY regarding the Center of Marine Phytoremediation Technologies at Northeastern University. The Center has developed a proposal which I believe is an important opportunity to develop new technologies and help eliminate pollutants from fish aquaculture. This research can help the marine life in our oceans and eliminate pollutants from the seafood we enjoy. It is my hope that Senator KENNEDY and I could work with the Manager's of this legislation to make sure that these important programs receive funding in the Fiscal Year 2004 Agriculture appropriations conference report.

Mr. KOHL. I agree with both Senator KENNEDY and Senator KERRY on the importance of funding food safety initiatives, and I am glad we were able to obtain funding for seafood safety research in Massachusetts.

The University of Massachusetts, Amherst, and Northeastern University have impressive programs vital to improving marine issues and seafood safety. I will continue to work with both Senator KENNEDY and Senator KERRY, as the bill progresses, and do what I can to see that these resources are available to these institutions.

SECTION 306 (a)

Ms. MURKOWSKI. Mr. President, I would like to address a provision that Chairman BENNETT has added to the manager's amendment to the fiscal year 2004 Agriculture Appropriations bill on my behalf.

Mr. BENNETT. Mr. President, I would be happy if Senator MURKOWSKI explained this provision in greater detail.

Ms. MURKOWSKI. The provision in question makes the Alaska Department of Community and Economic Development eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough in Alaska. In addition, this provision allows the funds to be passed through the department to the local governmental entity that will do the water and sewer work on the hospital. This local governmental entity will be chosen by the Regulatory Commission of Alaska.

Mr. BENNETT. Mr. President, I would like Ms. MURKOWSKI to explain her rationale for including this provision in the manager's amendment.

Ms. MURKOWSKI. This new hospital project will be an economic boon for the Matanuska-Susitna Borough. Currently, there is a hospital in Palmer, which is one of the larger communities in the borough. However, this is the only full-service hospital in the entire borough. This borough, which is the home to many people who commute to work in Anchorage, has grown a great deal over the years. In fact, the borough's population is projected to double in the next ten years. Therefore, a new hospital is needed in this borough. This proposed hospital will be located halfway between the communities of Wasilla and Palmer and will be more easily accessible to more of the borough's residents.

Currently, the site on which the proposed hospital will be located does not have a water or sewer connection. Therefore, such a connection is critical to the success of the hospital project, which will serve so many people in a high-growth area in my State.

Please allow me to share with you some details on the economic effect that this hospital project will have on the Matanuska-Susitna Borough. It will create 680 full time and part time construction jobs during the first phase of the construction. Once the hospital is complete, 1,200 to 1,800 new jobs will be created through new hospital operations. It will add $22.8 million in construction labor income. The new hospital will pay approximately $1.3 million in local property taxes and will produce a total of $2.08 million in local and State revenues from construction and another $3.84 million from new hospital operations.

These statistics don't begin to depict the more significant statistics on lives saved and people healed. This project is a win-win for the Matanuska-Susitna Borough and the State of Alaska. It will have the single largest positive impact on the borough's economy for the next decade. More importantly, it will yield the single largest positive impact on the health of the community and residents, as well.

Mr. BENNETT. Mr. President, I thank Senator MURKOWSKI for explaining the need for her provision in the manager's amendment to this important legislation.

ARS RESEARCH

Mrs. LINCOLN. Mr. President, I wish to enter into a colloquy with the distinguished Chairman of the Appropriations Subcommittee on Agriculture to highlight a USDA agency that does extremely good work in my home State of Arkansas. First, I want to commend the chairman's efforts to provide resources to our Nation's most important agricultural and rural development priorities. It has been a difficult task and I appreciate your dedication.

In particular, I want to thank the chairman for his efforts to continue the necessary support for agricultural research, both within the USDA and with the State university partners. The USDA Agricultural Research Service is a critical agency in this effort. With the leadership of the chairman, I am pleased to note that ARS research will continue to have the strong support of Congress.

Mr. BENNETT. I thank the Senator and I share her assessment of the importance of agricultural research and the value of the USDA and its State partners.

Mrs. LINCOLN. The USDA ARS has a small, but vital presence in Arkansas. For example, is the chairman aware that my home State ranks seventh in the Nation in total net farm income?

Mr. BENNETT. I did not know that.

Mrs. LINCOLN. Yes. In fact, few States in the Nation, and none in the South, are blessed with a higher percentage of their economic activity dependent upon agriculture than is Arkansas. I am also aware that traditionally, however, the ARS presence in Arkansas has been surprisingly small, especially in relation to the importance of agriculture to the economy and size of your contribution to the net farm income of the United States.

Mr. BENNETT. In spite of this, I know that the research conducted in Arkansas benefits us all.

Mrs. LINCOLN. Yes, that is certainly true. We are proud of the ARS presence that we do have and the impact of its research on the Nation as a whole. The research that has been generated from Arkansas locations has been of great importance to the rice, poultry, small fruits, and aquaculture industries of the U.S. Additionally, the breakthroughs in human nutrition research that have come from the ARS human nutrition center in Arkansas have been remarkable. In light of the great importance of the research work being carried out at the ARS or ARS-supported research centers in Arkansas, I urge your continued support and ask that every effort be made, including in conference, to insure that the ARS units in Arkansas enter the 2004 fiscal year with no less than the same fiscal resources that they had in 2003. Additionally, I ask the chairman's assistance in working with Members of the House who will be on the conference committee to adopt the most favorable funding recommendations that are brought into conference by either House.

Mr. BENNETT. I share the Senator's commitment to agricultural research and to the ARS. And, I recognize the importance of the ARS research conducted in Arkansas to your State, to the region, and to the Nation. During our conference deliberations with the House, I will keep the importance of these research activities in mind. I look forward to working with my colleagues from the House in conference to insure the highest level of funding possible taking into consideration national research priorities. I am sure the Arkansas units will rank highly on that list of priorities. I thank the Senator for bringing this important matter to my attention:

TRAVEL AND PURCHASE CARD ABUSE

Mr. BENNETT. Mr. President, the Senator from Iowa brought an issue to me which he hopes to remedy through Agriculture Appropriations. The issue involves the Department of Agriculture and the documented fraud and abuse occurring within both the purchase and travel card programs. I would like to ask the Senator from Iowa for further clarification.

Mr. GRASSLEY. I thank the chairman for his interest in this issue. Additionally, I want to thank him for his concern regarding credit card abuse. Working together I'm confident we can help USDA remedy this issue.

As Chairman BENNETT knows, the Department's own Office of Inspector General (OIG) has stated that USDA's travel card program is plagued with problems including fraud, abusive ATM usage, "bounded" check payments, and lack of specific travel card policies and penalties. Many of these problems still remain unchecked despite recommendations from an OIG audit over 5 years ago.

USDA employees accumulated over $5.8 million in fraudulent charges in a six-month period. The majority of these charges were racked up when individuals were not even on travel. Purchases were made at The Gap, Bath and Body, Cigarettes for Less, Tatoo and More Ink, and an Oregon Liquor Store. They also included 900 trips to Wal-Mart, K-Mart and Target; tickets to Ozzy Osbourne, and automotive payments including the purchase of a $6,000 vehicles.

This is a clear abuse of government-issued cards and the trust embodied in these employees. Despite individuals signing an agreement acknowledging that the travel card is solely for work-related travel this abuse continues. The travel card is not meant to be a line of credit for employees, or to be used by individuals as a personal credit card. There is no excuse for this type of abuse.

When I was first made aware of this abuse I asked how this was allowed to occur at USDA. What I found was outdated or non-existent internal controls that do nothing more than provide lip-service to the concept of accountability. USDA's travel card program is operating under 19-year old regulations. Nineteen years ago our banking infrastructure was fundamentally different than it is today. Nineteen years ago we didn't even have ATM's!

In fact, ATM's pose the single most significant vulnerability to travel card misuse due to cash advances fees and other bank surcharges. During the six month review by the OIG, ATM transactions cost the government more than $137,000 in advance fees. There is chronic and intentional misuse with ATM withdrawals, for example, nearly $200,000 was withdrawn to pay personal debts during the six-month review period.

If that isn't bad enough, when individuals leave the department they don't always surrender their travel card! So individuals are out using the travel card as a personal credit card. OIG found that 1,549 individuals still had cards that could be used despite their departure from the Department. One individual was using his travel card nearly 2 years after he left the department!

OIG identified $650,000 in returned checks, stop payment fees and returned check fees in just a six-month period. A little diligence up front could prevent millions of dollars in fraudulent purchases.

I would point out that USDA has made recent efforts to limit abuse. USDA has attempted to reduce the number of credit card holders, revised departmental regulations on purchase cards, and instituted new system alerts to catch abusive transactions.

With Chairman BENNETT's help I plan to monitor the new efforts being made by USDA to remedy these problems I'm cautiously optimistic that USDA will recognize that the reforms must be successful, or we will establish new, more stringent reforms for USDA next year.

Mr. BENNETT. I concur with my colleague's remarks. We will allow USDA to remedy the problems my colleague from Iowa has described. If USDA does not take action immediately and make substantive advances to fix these problems, we'll likely give them something more than encouragement in next year's agriculture appropriations legislation.

Mr. HOLLINGS. I would like to take a moment of the chairman and ranking members' time to discuss a project that has been supported by the committee since 1999. The Natural Resource Conservation Service (NRCS) in South Carolina and the Earth Sciences and Resources Institute at the University of South Carolina (ESRI-USC) have successfully developed technology to aid NRCS, both in South Carolina and throughout the Nation, to meet the needs of the agricultural community in a more effective and efficient manner. Over the years, the University of South Carolina has demonstrated their capabilities and the quality of their products while building a solid working partnership with the NRCS.

The implementation of the software tools they developed has produced significant savings in manpower and cost for many of NRCS's conservation programs. For example, it is estimated that the man-hours needed to create waste management plans using the traditional paper-based way was on the order of 230 man-hours per plan. Using the ESRI-USC geographic information systems tools, this time requirement was reduced to just over 100 man-hours per plan—that is 130 man-hours saved per plan. The evolving products ESRI-USC has developed for comprehensive nutrient management planning have resulted in even greater time, and cost savings than the earlier tools. As a result of the use of another program, EQIP-for-the-Web, South Carolina NRCS has conservatively saved three man-years of effort. Using another tool, NASIS-for-the-Web, we estimate that this automated access to the soil survey reports results in five man-hours per day in NRCS personnel savings. There is also a benefit to the public, which can access these data via the Web. The time savings to foresters, engineers, farmers, and other users of soil survey data is enormous. There are over 170 users of a particular program in 17 States and a user base in 31 States.

Consequently, I wish to continue to pursue this project at the next level and establish a Center of Excellence within ESRI-USC to assure a long-term, cost-effect means to provide a stable and sustained environment for the development of new technologies as well as support of existing capabilities such as AFOPro, C-Grax, NASIS for the Web, and EQIP for the Web. ESRI-USC's value added NRCS programs provide functional, rapidly developed and deployed applications that can be used by conservationists and field office staff level.

Mr. KOHL. I would concur with my friend from South Carolina. I agree it is important for any federal agency to have the ability to establish the appropriate technology to provide functional, rapidly developed and deployed applications that can be used by the field personal in a reliable, user friendly manner. Given the nationwide interest in their applications, it is time that the USDA seriously consider directly longer-term support with ESRI–USC.

Mr. BENNETT. I thank the senior Senator from South Carolina for bringing this matter to my attention. I encourage you to pursue this designation with NRCS. Additionally, In encourage NRCS to give every consideration to the Senator's proposal.

Mr. HOLLINGS. I thank my friend and colleague for your time. It may also be worth noting that Bruce Knight, Chief of NRCS recently visited the University this past April and was very impressed with their capabilities. He concurs that the work completed by ESRI–USC has been of high value to NRCS software development efforts.

ASSISTANCE TO THE MENOMINEE TRIBE

Mr. KOHL. It has recently come to my attention that the Menominee Indian Tribe in Wisconsin is in need of additional assistance from Rural Development. The latest poverty figures indicate 60 percent of rural Americans who are living in poverty reside in census tracks containing or adjacent to Indian reservations. Unfortunately, 50 percent of the members residing on the three reservations of the Menominee Tribe in my State of Wisconsin live below the poverty rate with less than 72 percent of children receiving a high school diploma. Unemployment exceeds 20 percent. The Department of Agriculture needs to consider meritorious applications for water and waste and business development programs which will benefit this tribe.

It is my intention that during our upcoming conference deliberations with the House, to include language in the statement of managers to support the consideration of an application in relation to the Mole Lake Water and Sewer System within the Water and Waste Loan and Grant account to address the current sanitary needs and provide opportunities to attract new homeowners. In addition, there is a need to construct a Menominee Mini-Mall Development project and the Forest Enterprises Technology Center to attract new businesses and create a business incubator. I intend to seek recognition that these two projects be included under the Rural Business Enterprise Grant account. Further, the Menominee Tribal Enterprises should receive consideration under the Intermediary Relending account to support small business loans and thereby, to provide sustainability to the community. The last request includes the Menominee Tribal Enterprises to be considered for the Rural Business Opportunity Grant in order to establish a business network including a market analysis.

RESOURCE CONSERVATION

Mr. NELSON of Nebraska. Resource conservation is an essential element of our Nation's agriculture programs that has proven to be very popular with farmers and ranchers. The incentives incorporated in programs such as the Farmland Protection Program, the Conservation Reserve Program, and the Environmental Quality Incentives Program, have not only heightened the awareness and value of good conservation practices, but they have made it possible for families to continue limited production and be compensated for protecting fragile resources. The success of these programs is that family farms can retain their economic viability and continue to contribute to the stability of communities throughout the Nation.

Conservation programs have touched on many fragile resources, but have not sufficiently encouraged the protection of the historic heritage that is embodied in historic buildings, structures, objects, and archaeological sites on farmland. Congress has declared that the spirit and direction of the nation is reflected in its historic heritage, and that the preservation of this heritage is in the public interest. Therefore, I believe we must work together to protect our common heritage embedded on these private lands.

Senator KOHL, today I am requesting a report to the United States Congress from the United States Department of Agriculture evaluating their conservation programs under the Natural Resources Conservation Service with the objective of determining what affirmative and programmatic actions are being taken to conserve and protect archaeological and historical resources on agricultural lands. Furthermore, this report should also provide or suggest new methods or program modifications to the conservation programs which will increase the protection of historical and archaeological resources on agricultural lands and help determine the manner in which these type of lands can be included within the overall goal of natural resources protection.

Finally, I am requesting that this report be completed within 120 days of enactment of the FY04 Agriculture Appropriations bill.

Senator KOHL, will you support this request and work towards its inclusion in the final conference report of the FY 04 Agriculture Appropriations bill?

Mr. KOHL. I thank the Senator for bringing this matter to my attention. I will work to include this provision during conference negotiations of this bill.

TREE ASSISTANCE PROGRAM FUNDING

Mr. SCHUMER. Mr. President, I would like to recognize Senator BENNETT and Senator KOHL for their effort on behalf of our Nation's farmers. At this time, I would like to engage them in a colloquy regarding the need to provide aid to the fruit orchards of Western New York through the Tree Assistance Program.

Mr. BENNETT. I thank the Senator from New York for his kind remarks, and would be happy to engage in a colloquy with him.

Mr. KOHL. I am also happy to engage in this colloquy with the Senator from New York.

Mr. SCHUMER. As the Senators may know, New York is the third largest producer of tart cherries in the nation and Wayne County is the largest cherry-producing county in New York. Unfortunately, fruit orchards throughout Western New York sustained major damages as a result of a 3-day long ice storm in April. Approximately 85 percent of the tart cherry trees in Wayne County were severely damaged or destroyed by the storm. Throughout the region, sweet cherry, peach, pear, apple and plum trees were destroyed by the violent ice storm. The impact that these losses are already having on the fruit tree industry in New York is devastating and will continue to effect growers in for years to come since it takes new trees over eight years to mature. In fact, it is estimated that losses resulting from this April's storms could reach a total of $15,000,000.

Federal assistance is greatly needed to cover the expenses of removing and replacing the ruined trees. The Tree Assistance Program (TAP) was created in order to help farmers facing the challenges now faced by those in Western New York. The TAP provides assistance to eligible growers who have lost trees used for commercial purposes as a result of a natural disaster.

Since its reauthorization, the TAP has yet to receive funding in order to carry out its mission. However, the House-passed version of the FY04 Agricultural Appropriations Act contains $5,000,000 in funding for the TAP program in order to provide assistance to the growers of Western New York. The inclusion of these funds in this year's USDA budget are extremely important to the long term health of the fruit industry in New York.

Mr. BENNETT. I appreciate the comments of the Senator from New York, and assure him that I will take his concerns into consideration when conferencing the House and Senate bills.

Mr. KOHL. I too, appreciate the difficulties facing these farmers, and will work with the chairman to do what we can during conference.

EELGRASS RESTORATION IN RHODE ISLAND

Mr. REED. Mr. President, I rise to engage in a brief colloquy with the distinguished ranking member of the Senate Appropriations Committee's Subcommittee on Agriculture, Senator KOHL, regarding language in the Committee's report to accompany S. 1427, the fiscal year 2004 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations bill. I thank the Senator from Wisconsin for including language in the committee's report recognizing the importance of eelgrass habitats to marine ecosystems along the coast of the Atlantic Ocean, and urging the Department of Agriculture to make funds available for projects in Rhode Island to enhance these habitats. I understand that it was the Committee's intention to encourage USDA to make such funding available through the Wildlife Habitat Incentives Program (WHIP), rather than through the Environmental Quality Incentives Program (EQIP) as stated on page 101 of Senate Report 108–107. The purpose of our colloquy today is to clarify that the report language should have read as follows: "The Committee urges the Department to give consideration to the use of WHIP funding for projects in Rhode Island, and similar areas, that will enhance these habitats."

Mr. KOHL. Mr. President, the Senator from Rhode Island is correct. I join him in stating for the record that the Committee urges the Department of Agriculture to make funding available through the Wildlife Habitat Incentives Program for eelgrass habitat projects in Rhode Island.

HEBER SPRINGS

Mr. PRYOR. Mr. President, it has recently come to my attention that there is urgent need to construct a new medical facility with the associated water and sewer capability in Heber Springs in my home State of Arkansas.

Heber Springs is located in the medically underserved rural part of north-central Arkansas. It is the only hospital in Cleburne County and surrounding areas providing treatment for local citizens.

Mr. KOHL. Just to make sure I understand, this is a medically underserved area?

Mr. PRYOR. Yes, this 34-year-old facility is the only one in this county and surrounding areas. Secondary facilities are approximately one hour in driving distance. Additionally, the population of Cleburne County and secondary service areas have grown more than threefold during the past thirty-four years.

Mr. KOHL. What are the numbers of emergency room visits for that increased population?

Mr. PRYOR. The emergency room experienced over 8,000 visits during 2001. This volume of patients cannot be managed safely or efficiently in a thirty-four year old emergency room with a four patient capacity. Additionally, the hospital operated on 851 patients in 2001 with only one small preoperative room available and three beds available for recovery. The volume of outpatients reached 13,649 in that year. The current facility has been found deficient by both the Joint Commission on Accreditation of Healthcare Organizations and the Arkansas Department of Health.

I would request that this community be included in the conference report under the Rural Community Advancement Program (RCAP) for the Community Facility Loan and Grant Program and the Water and Waste Loan and Grant Program for consideration of funding for a new facility with water and sewer assistance.

Mr. KOHL. I thank the Senator for making me and the committee aware of Heber Springs' situation and I will work with you to address these issues in conference.

Mr. PRYOR. I thank you for consideration of these requests.

ENERGY PHOTOVOLTAICS IN RURAL AREAS

Mr. LAUTENBERG. Mr. President, I would like to bring to your attention a renewable energy program for rural communities that I believe should be given strong consideration for funding. There is a program in my state of New Jersey in Gloucester, Burlington, and Hunterdon Counties that will use photovoltaics to generate electricity in remote agriculture locations to power water supply systems for farm animals and ventilation systems in livestock barns.

Mr. KOHL. I thank the Senator from the State of New Jersey. This program sounds interesting, but tell me, are rural areas being deprived of adequate energy sources?

Mr. LAUTENBERG. I am glad the Senator asked that question. The economic pressure of rapid suburbanization is forcing farmers to lower operating costs to preserve their farming operations in New Jersey. Farms with livestock often need remote watering stations, ventilation in barns, and shade in grazing fields. Satisfying these requirements traditionally requires substantial capital investment and increases operating costs. The use of electricity from photovoltaics would offer the lowest cost option for farmers to apply these improvements. Energy Photovoltaics, Inc., based in Lawrenceville, NJ, will provide and monitor this technology.

Mr. KOHL. This sounds like the type of initiative that should receive consideration under the Renewable Energy Program. I thank the Senator from New Jersey for bringing this program to my attention. As we proceed to conference, I will do what I can to see that this activity receives proper attention.

LOUISIANA PROGRAMS

Ms. LANDRIEU. Mr. President, I would like to thank the chairman and ranking member of the Senate Agriculture appropriations subcommittee for the opportunity to address several issues as the Agricultural appropriations bill for fiscal year 2004 is considered on the floor of the Senate as well as in a conference with House Agricultural Appropriations Subcommittee. It is my intention in this statement to express positions with respect to several areas of particular importance to me and my State of Louisiana that the chairman and ranking member will take during conference with the House. I would also like to thank both the chairman and ranking member for the number of my requests that have been addressed in S. Rept. 108–107.

First, there are two instances where the House Committee report, 108–193, included references to items that were not provided for in the Senate report. On page 28 of the House Report, $1.5 million was provided for planning and design in the establishment of a new facility at the ARS Sugarcane Research Laboratory in Houma, Louisiana. Also, on page 18 of the same report, language was included that referenced the Pennington Biomedical Research Center (PBRC). Although, neither item is included in Senate Report, 108–107, I request that the Senate defer to the House and provide for both items in a final conference report just exactly as they are referenced in the House Report.

Second, during the fiscal year 2003 appropriation process, both the Senate Agricultural Appropriations Committee Report, 107–223, p. 55 and Senate Amendment 1 to the Consolidated Appropriations Resolution, H.J. Res. 2 or Omnibus Appropriations Bill for fiscal year 2003, provided $70,000 to be used to initiate a multi-year program to conduct clinical epidemiologic research on diseases associated with intensive reptile disease research in Louisiana. Unfortunately, this funding was not included in H.J. Res. 2 as signed into law on February 20, 2003, P.L. 108–7. Although I included this same request among my requests submitted to the Senate Agriculture Appropriations Subcommittee in fiscal year 2004, unfortunately there was no funding provided in either the Senate or House Bills. I am hopeful that during conference negotiations, the chairman and ranking member of the Senate Agriculture Subcommittee can provide some funding for this urgent research.

Third, I am hopeful that during conference negotiations, the Chairman and Ranking Member can recognize the expertise of Grambling State University in Louisiana, one of 117 Historically Black Colleges and Universities (HBCUs) which for over 100 years has been providing African American farmers the education and skills to produce better crops. Specifically, Grambling's contribution in the area of aquaculture research has and would continue to spur economic development and sustainability within impoverished communities in North Central Louisiana and the Louisiana Delta Region. In addition, the significant impact of this research would be felt among farmers and businesses throughout the State. Furthermore, this research would accentuate the intent of the White House Initiatives on HBCUs regarding increasing both the capacity and capability for HBCUs to engage in research. Grambling State University would serve as the lead institution in a collaborative effort that will lend the expertise of institutional resources and technical support in assisting individuals and communities among the tri-State areas of Arkansas, Louisiana and Mississippi.

Finally, I want to thank the chairman and ranking member for maintaining the funding at the same levels as fiscal year 2003 for four accounts that greatly impact the Nation's 18 historically black land-grant colleges and universities or the 1890s as they are often referred. Southern University of my State of Louisiana is among this group of very important and unique public universities. These four accounts include: Evans Allen—research formula funds; Extension formula funds; Capacity building Grants Program and Facilities Funding Grants. While I realize that the Subcommittee's spending cap for this year is significantly less than last year, I request that these four accounts be increased during conference negotiations with the House. With adequate funding the 1890 black land-grant colleges and universities could build and sustain new areas of specialization and, thus become more competitive in attracting public and private financing. Capacity Building is the model for eradicating historic inequities in State and Federal funding to the 1890 black land-grant colleges/universities, especially with regards to chronically under-funded faculty capacity. In fact, a recently released GAO study, 03-541, May 2003, entitled "USDA's Outreach to Minority Serving Institutions Could Improve Grant Competition" highlights capacity building and facilities funding as two key areas necessary for successful competitive grant awards. The GAO study finds that many 1890s need to attract top faculty to perform research, and it is very difficult to do so when research facilities are underfunded. An increase in facilities funding is necessary to fund costs of badly needed facilities while not hindering the improvements today for research, extension, students and faculty on 1890s campuses.

Increased Research and Extension formula funding means saving otherwise lost faculty positions at the Nation's historically black land-grant universities. Cash-strapped States are actually forcing cuts and substantial tuition increases on these institutions who served students from the lower economic scale. Formula funds constitute the core of 1890 land-grant programs and are critical to sustaining the 1890s land-grant mission of teaching, research and extension and public service. I am hopeful that we can find a way to increase the funding for some if not all of these four accounts.

Mr. KOHL. Mr. President, I recognize the importance of the above items to the Senator from Louisiana and will be as helpful as I can during conference negotiations to address these issues as she has requested.

NORTH CAROLINA AGROMEDICINE INSTITUTE

Mr. EDWARDS. As a partnership of three strong North Carolina universities, the North Carolina Agromedicine Institute is a leader in developing collaborative initiatives with colleagues in agencies and universities throughout the country. The Institute is having a significant impact in my State of North Carolina, across the Southeast region, and across the country, on the health and safety of workers and their families in agriculture, forestry, and commercial fishing—three of the four most dangerous occupations in the Nation.

Support from the Congress over the past 3 years has provided essential core funding to the Institute as it has strived to initiate research projects to address some of the important health and safety issues that are found, not just in North Carolina, but also in all the southeastern States and across the Nation. In addition, fiscal year 2003 funding has been used to expand the Institute's focus to address the important areas of food safety, agricultural disasters, and agroterrorism. The Institute is working with the NC State Health Department, Department of Agriculture and other governmental agencies in these efforts. This year, the Senate Agriculture Appropriations Committee appropriated $139,000 while the House Agriculture Appropriations set aside $278,000 for the Institute. It is vital that the Institute receive the House level if it is to maintain its cutting-edge work.

When the House and Senate conference committee considers the fiscal year 2004 agriculture appropriations measure, I strongly urge you and your fellow conferees to provide $278,000 for the NC Agromedicine Institute.

Senator KOHL, you have been a strong supporter of the Institute and I greatly appreciate your efforts.

Mr. KOHL. I appreciate your request and I assure you I and my fellow conferees will give your request full consideration.

GARDEN STATE ETHANOL

Mr. CORZINE. Mr. President, I would like to commend Senators BENNETT and KOHL for their leadership on this appropriations bill for Agriculture and related agencies for fiscal year 2004.

I would also like to take a moment to engage my colleagues Mr. KOHL and Mr. BENNETT in a colloquy.

Mr. KOHL. I thank my colleague for his kind words and would be happy to engage in a colloquy with the Senator from New Jersey.

Mr. BENNETT. And I the same.

Mr. CORZINE. Mr. President, it has come to my attention that in Title III of this bill, a new program in renewable energy has been added to the bill. the Senate committee report accompanying this bill identified a number of worthy projects under this program.

I hope that the conferees to this bill will consider adding to this list a promising project from my State. The State of New Jersey has entered a partnership with Garden State Ethanol, a consortium of farmers that wants to provide the farmers of New Jersey and surrounding States with an alternative market for their field corn, while generating a profit for its investors and producing a domestic, renewable transportation fuel. They plan to create an ethanol plant in order to provide a new opportunity for area producers to sell their grain, and to employ directly significant numbers of farmers and laborers. In addition, this project will create jobs related to the construction/renovation of the plant, generate an increase in wages, and increase the output of the regional economy.

With a strong commitment to agriculture combined with its close proximity to high-value markets, New Jersey makes an excellent location for an ethanol production plant.

Mr. KOHL. I share my colleague from New Jersey's interest in this project and also urge the conferees on this bill to include this project in the conference report under the Renewable Energy Program.

Mr. BENNETT. I would like to join my colleague, Mr. KOHL, in voicing my support for this project, and also hope that it will be added in conference.

Mr. CORZINE. I thank the distinguished chairman and ranking member of the Senate Appropriations Subcommittee on Agriculture for their interest in this project and for their outstanding leadership on this essential appropriations bill.

TREE ASSISTANCE PROGRAM

Mrs. CLINTON. On September 14, I was pleased to have the opportunity to host our second annual Farm Day, an event that I derive great pleasure from. While showcasing agriculture, our State's No. 1 industry, my excitement was put in check by some visitors that stopped by my office before the festivities. Cherry growers from Wayne County had made the long trek down to Washington, not to partake in the fun of Farm Day, but to remind me, and the rest of our country, of the perils of their profession.

Mr. KOHL. It is my understanding that these farmers suffered a devastating loss this spring.

Mrs. CLINTON. That is correct. We depend on farmers for the food on our tables but rarely do we contemplate the vital part farmers and growers play in our local and State economies. On April 3, 2003, Mother Nature dealt our New York cherry growers an unbearable hardship. Seventy-five percent of our cherry orchards and 20 percent of our peach orchards were destroyed by an atypically severe ice storm.

Today, I strongly believe that we as a country have an obligation to specialty crop producers. New York State growers have historically been self-sufficient, asking for little and receiving next to nothing in comparison to large staple crop producers. Ineligible for the crop insurance that many other farmers benefit from, fruit growers' need for direct assistance from the Federal Government is all the more imperative during times of natural disaster.

Mr. KOHL. What assistance is available to these farmers?

Mrs. CLINTON. As I explained in my letter to the Committee dated April 16, 2003, without our help in funding the Tree Assistance Program (TAP), most, if not all cherry growers will not be able to afford the costs of replanting on top of the estimated 20 percent annual income loss they will incur over the next 7 to 10 years while new cherry trees mature to regular production capacity. Wayne County farmers cannot bear this and neither can the economy of New York, a State that ranks second only to Michigan in tart cherry production. I respectfully ask that you recede to the House on this measure in conference.

Mr. KOHL. I understand the concerns of the Senator from New York, and I assure her that I will do what I can to be helpful during our conference with the House.

FARMERS' MARKET ELECTRONIC BENEFITS TRANSFER PROGRAM

Mrs. CLINTON. I would like to ask today that Senator KOHL and other members of the Appropriations Committee give consideration to a matter of great importance to me. Few would disagree that we are living in an increasingly complex world. It is a world dominated by technological innovation but still ruled by the most basic of needs. Two years ago, New York was chosen for a special pilot program related to the Food Stamp Program. Since the food stamp program changed to the debit card system, farmers' markets across the country have been left out of the food stamp program. Lacking electricity or the necessary phone lines to hard wire the terminals needed to process the new food stamp cards, farmers' markets have been forced to refuse business, while food stamp recipients have been denied the opportunity to patronize local fresh markets.

Mr. KOHL. I understand that in previous Agriculture Appropriations bills, the State of New York received a grant to try to curb this problem. What was that funding used for, and what needs remain?

Mrs. CLINTON. USDA grants have paid for the purchase of over 50 electronic benefit transfer machines. Now it is up to us to make sure this investment proves to be a worthwhile one. Though there are already positive reports about the use of this new technology in New York farmers' markets, we have an obligation to insure that in the upcoming fiscal year the necessary funds are made available to facilitate the integration of this new equipment, in such a way that we may have an accurate picture of the viability of EBT nationwide. To do anything less is illogical and unfair to the many communities that have openly embraced this pilot program. I therefore request that you support the House language continuing the electronic benefit transfer grant program in conference.

Mr. KOHL. I appreciate the Senator from New York bringing this to my attention, and appreciate the hard work she does on behalf of her constituents. I will keep her concerns under consideration as we work to complete this bill in our conference with the House.

DELMARVA CONSERVATION CORRIDOR DEMONSTRATION PROGRAM

Mr. BIDEN. Mr. President, I rise today, joined by my good friend and colleague from Delaware, Senator CARPER, to bring to the attention of the esteemed ranking member of the Agriculture Appropriations Subcommittee an important provision in his bill relating to the Delmarva Conservation Corridor Demonstration Program.

I just want to take a few minutes to emphasize the importance of this provision for the State of Delaware and for the entire Delmarva peninsula. As you know, the Secretary of the Department of Agriculture was authorized to develop a Delmarva Conservation Corridor Demonstration Program in the 2002 farm bill. Unfortunately, the USDA has not implemented the program.

The Delmarva Conservation Corridor Demonstration Program does, however, complement the existing conservation provisions in the bill and allows the USDA to target the benefits of watershed-based conservation programs to farmlands that local stakeholders have determined to be the most ecologically and economically important.

We must prevent the shrinking and fragmentation of undeveloped open space that results from increasing growth pressures. By fortifying and restoring green infrastructure, we can maximize the ecological and working lands' potential of our landscape. Creating extensive corridors of both natural and agricultural lands will safeguard wildlife habitat, contiguous headwaters, wetlands and open space. Left unprotected, our remaining green infrastructure is vulnerable and will be further reduced or fragmented.

The Delmarva Peninsula is blessed with an abundance of important natural resources and productive working lands that support agriculture, forestry and the seafood industry. We believe that this is the right time to make this commitment to conservation that reaches across state lines and is important to a much larger region.

Mr. CARPER. Mr. President, let me say that I agree with everything the Senator has said about the importance of the Delmarva Conservation Corridor Demonstration Program.

In addition to your comments, I would only add a request to our colleagues who have been working on this Agriculture appropriations bill that they be made aware that the 2002 Farm bill included specific language that authorized the Secretary to develop this program with the intent that it would provide a benefit not just to the three states of Delaware, Maryland and Virginia, but also to other programs being considered throughout the country. The lessons learned from work on the Delmarva Conservation Corridor will improve similar efforts elsewhere.

Conferees should also be made aware that their colleagues in the House agree that the intent of the provision was to allow the Secretary of Agriculture and the States appropriate flexibility in using the resources of existing agricultural conservation and forestry programs. In supporting this program during the farm bill, it was not our intent, nor is it today, to require new or earmarked funding. The USDA has not yet implemented this program because of what I believe is a misunderstanding regarding the concept of the program and the congressional intent contained within the farm bill. This confusion should be resolved so that this example of effective conservation policy can be realized.

Mr. KOHL. I thank my colleagues for their interest in this program, and I want you to know that I understand the importance the Delmarva Conservation Corridor Demonstration Program has to the State of Delaware and the entire Delmarva Peninsula. I can assure you both that I will support this project in conference and do all I can to see that it becomes a reality.

VITICULTURE ASSISTANCE FOR THE STATE OF IOWA

Mr. GRASSLEY. Mr. President, the State of Iowa has a blossoming viticulture industry, but the demand for technical assistance far exceeds the State's current resources. I have discussed this problem with the Senator from Utah and I appreciate his interest in the issue.

Mr. BENNETT. The Senator from Iowa has explained to me that his State is in need of specialized assistance through funding for a viticulture technician to provide on-site technical assistance.

Mr. GRASSLEY. A viticulture technician would help new producers with the basic knowledge needed about the industry. Such assistance will enable growers to benefit from increased production, and in turn, produce more successful vineyard businesses in Iowa.

This proposal has tremendous support from the Iowa Grape Growers Association, the Mississippi Valley Grape

Growers Association, the Western Iowa Grape Growers Association, and the Iowa Wine and Grape Development Commission.

STUDY ON NORTH CAROLINA HORTICULTURE INDUSTRY

Mrs. DOLE. Mr. President, the horticulture industry in North Carolina is a fast growing industry contributing significantly to the State's economy. Though local, State and Federal officials know that the industry is important, there has been no analysis done to quantify the impact of this industry on North Carolina's economy.

Perhaps a possible remedy might be to direct the USDA Economic Research Service to coordinate with the North Carolina Department of Agriculture and NC State University to collect the economic data and do the statistical analysis necessary to conduct this study.

Mr. BENNETT. Mr. President, let me say to the Senator from North Carolina that I appreciate the suggestion particularly in light of the budget constraints that we face. I will be happy to look into this matter to see if there is a workable solution that will achieve the desired result.

Mrs. DOLE. Mr. President, I thank the Senator for his consideration on this matter.

NATIONAL RURAL DEVELOPMENT PARTNERSHIP

Mr. CRAIG. Mr. President I would like to engage in a colloquy with the distinguished Chairman and Ranking Member of the Agriculture Appropriations Subcommittee regarding funding for the National Rural Development Partnership (NRDP) for federal fiscal year 2004.

Last year, Congress included in the Farm Bill the provisions of the National Rural Development Partnership Act, which I sponsored along with the Senior Senator from North Dakota and 43 of our colleagues. The Farm Bill's NRDP language authorizes annual appropriations of up to $10 million. This authorization was included because of a recognition that the funding arrangement for the Partnership, which has been in place since its establishment a dozen years ago, has failed to provide adequate resources for the NRDP and the state rural development councils (SRDCs). That funding arrangement has depended on voluntary contributions of discretionary funds from USDA and four other federal agencies, as well as matching funds from the states and others.

The work of the NRDP and SRDCs is more important than ever. The current economic downturn has hit rural America hard. Drought and low prices have had a devastating impact on production agriculture, which continues to be the economic foundation of many rural communities. Other rural communities that depend on logging or mining have seen employment and economic activity diminish in those important industries. The nationwide decline in manufacturing has resulted in the closure of thousands of factories in rural areas, eliminating the sole or principal source of good-paying jobs in many rural communities. This situation has been aggravated by the fiscal challenges facing most State governments. As States slash budgets, the level of vital services upon which rural residents depend—from education and health care to transportation and libraries—has been greatly diminished. At this dire time in rural America, we must support organizations like the SRDCs which can help our citizens respond to the many challenges they face.

This year's committee report accompanying the fiscal year 2004 Agriculture Appropriations Bill includes language encouraging the USDA to continue its support of the NRDP and SRDCs by providing stable funding, technical support, and guidance practices as they have done over past years. Similar language was included in the Senate subcommittee's report on the fiscal year 2003 Agricultural Appropriations bill.

I appreciate the support the Chairman and Ranking Member have shown for the NRDP and SRDCs. Besides continuing current USDA involvement, it is important to continue and intensify its efforts to secure support for the NRDP and SRDCs from other federal agencies and with rural responsibilities as it has done successfully in the past. This is consistent with the intention of Congress in the Conference Committee Report of the 2002 Farm Bill.

The committee report has spoken to the importance of the Department continuing to support the continued development and increased involvement of the NRDP and SRDCs. I would also appreciate the Committee's continued emphasis on importance of multi-agency cooperation with USDA to strengthen this vital effort to spur and strengthen our rural economies.

Mr. BENNETT. Mr. President, I concur with my colleague's sentiments on the importance of multi-agency involvement in rural development. I appreciate the Senator's comments and look forward to our continuing to work together to support this effort when this bill goes to conference.

Mr. KOHL. Mr. President, our subcommittee has a consistent history of supporting this rural development effort and promoting this kind of multidisciplinary approach. That was the intent of our committee report and, I am sure, will continue to be an important focus of the subcommittee.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BENNETT. I ask that there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the live of a brave young man from Fort Wayne, IN. Specialist Brian H. Penisten, 28 years old, died in Al Fallujah on November 2, 2003, after the Chinook helicopter he was traveling in made a crash landing. Brian joined the Army with his entire life before him. He chose to risk everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Brian was the seventeenth Hoosier soldier to be killed while serving his country in Operation Iraqi Freedom. Brian leaves behind his father, John Penisten, his mother, Mona, his fiancee, Johnna Loia, and his son, Trevor. Today, I join Brian's family, his friends, and the entire Fort Wayne community in mourning his death. While we struggle to bear our sorrow over his death, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is this courage and strength of character that people will remember when they think of Brian, a memory that will burn brightly during these continuing days of conflict and grief.

Before leaving to fight in Iraq, Brian Penisten told his mother that he was proud to be an American. Today, his family remembers him as a true American hero, and we honor the sacrifice he made while serving his country.

Brian was born on March 30, 1975. He graduated from Bishop Dwenger High School, where he was a member of the wrestling team and was undefeated through the semi-State Championship in 1993. Friends and family members remember Brian for the inner drive he demonstrated in always challenging himself to be his best at whatever task lay at hand.

After joining the Army, Brian left home to begin full-time duty at Fort Carson in Colorado. He was assigned to the 3rd Air Defense Artillery, 3rd Armored Cavalry Regiment.

As I search for words to do justice in honoring Brian's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Brian's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Brian H. Penisten in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families such as Brian's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God bless the United States of America.

Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Umberto P. Fedeli of Gates Mills, OH as a 2003 Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to "remarkable Americans who exemplify outstanding qualities in both their personal and professional lives," and "who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage."

Umberto P. Fedeli is such an American. In addition to creating a business in Ohio and being active in numerous charitable causes, Umberto has maintained strong ties to the Italian American community. I've often said, "show me someone who is proud of their ethnic heritage and I'll show you a great American!"

Mr. Fedeli's parents immigrated from Lascio, Italy to the same neighborhood in which I grew up—the Collinwood neighborhood of Cleveland, OH. He learned many important lessons from his father, Umberto, Sr. including a philosophy of life which is based on integrity, loyalty, civic responsibility and a strong work ethic.

In his early 20s, Mr. Fedeli formed a partnership which led to the creation of his own insurance company, The Fedeli Group which he built to one of the top 100 insurance firms in the nation. Today his company employs 85 people and provides a range of insurance products and services—property, general liability, life, health, workmen's compensation and estate planning. It provides insurance for over 3,000 businesses and, remarkably, has averaged nearly 20 percent growth per year for 20 years.

The Fedeli Group has received many industry awards and has been named several times as winner of the Weatherhead 100's fastest growing companies in northeastern Ohio.

Through the years, Mr. Fedeli has been active in Ohio politics—serving on advisory committees for my campaigns, those of Senator MIKE DEWINE and countless other state, local and national candidates.

As Governor-elect of Ohio in 1991, I appointed Umberto Fedeli to my gubernatorial transition team and after I took office, I was pleased to appoint him to the Ohio Turnpike Commission where he served as chairman for 6 years. Under his leadership, the turnpike's resources served as a catalyst for growth and economic development. In fact, as Governor, I noted that "Umberto's leadership will be remembered as the Turnpike Commission's most energetic and accomplished era." I still believe that today. Umberto Fedeli was the best leader of the turnpike aside from the man who created it.

Mr. Fedeli is very involved in his community and is a friend to countless people in northeast Ohio, across the State—and throughout our Nation. He values serving others above all else, including his family, his church, his clients and his community.

He has been named Man of the Year, for both the Italian-American Sports Hall of Fame and the Americans of Italian Heritage. In 1995, he was recognized by the John Carroll University Business School as one of "Fifty of Its Finest."

Umberto serves as chairman of the Cleveland Chapter of Legatus, an international group of Catholic CEOs for which he also serves on the International Board of Directors. He was recognized as 2002 Officer of the Year for Legatus, and became a Knight of the Holy Sepulchre of Jerusalem, administered by the Holy See, in 1998.

He received both the Grand Illusion Award for the Ohio Cancer Research Associates and the National Multiple Sclerosis Norman Cohn Hope Award for philanthropic and community service. In 2000 he was honored by the Italian Federation with its Columbian Award and 2003 Man of the Year for the Christ Child Society.

In 1995, Umberto was instrumental in the formation of the Northern Ohio Italian American Foundation, a group of prominent business people who lend philanthropic support to various groups in northeast Ohio and which he presently serves as chairman.

In 1997, the Northern Ohio Italian American Foundation established the Bishop Anthony M. Pilla Institute of Italian American Studies at John Carroll University.

Umberto is also a member of the Board of Directors of the Cleveland Clinic Foundation, the Board of Trustees at John Carroll University and trustee of the Cleveland Catholic Diocese Foundation.

Mr. Fedeli cares deeply for others and gives witness to his faith in God every day by helping people he knows well and those he has never met. He gives witness to the second great commandment, "Love thy neighbor as thyself" at every opportunity.

He is a role model in every sense of the word: in terms of his devotion to his family, his success in business and his contributions to his "extended family" in the community.

He and his wife Maryellen, whom he describes as the only girlfriend he ever had, have been married for 19 years and have five children.

Umberto Fedeli is indeed a remarkable American of the highest integrity in both his personal and professional life. He has made many outstanding contributions to the Italian American community, to his local community and to America.

I am proud to recognize my friend, Umberto P. Fedeli and congratulate him on this wonderful honor.

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Daniel Bader, a fellow Nebraskan and staff sergeant in the United States Army. Sergeant Bader was killed on November 2 near Fallujah, Iraq when the Chinook helicopter he was aboard was shot down. Sergeant Bader was one of 15 soldiers killed and 25 wounded en route to the United States for two weeks of leave. He was 28 years old.

Sergeant Bader served in the 3rd Armored Cavalry, Tiger Squadron, based in Fort Carson, CO. He was deployed to Iraq on April 4, 2003.

A York, NE, native, Sergeant Bader was a dedicated soldier who was committed to his family and country. He joined the military shortly after graduating from high school and "absolutely loved" his career in the Army, said his wife, Tiffany. In addition to his wife, Sergeant Bader leaves behind a 14-month-old daughter, Taryn Makenzie. Our thoughts and prayers are with them both at this difficult time.

Sergeant Bader and thousands of brave American service men and women confront danger every day in Iraq. Their tremendous risks and sacrifices must never be taken fro granted. For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring SGT Daniel Bader.

TRIBUTE TO DR. PHILLIP BOARDMAN

Mr. REID. Mr. President, I rise today to congratulate Dr. Phillip Boardman on his selection as Nevada Professor of the Year by the Council for Advancement and Support of Education and the Carnegie Foundation for the Advancement of Teaching.

As someone whose life was transformed by education, I understand the importance of recognizing the work of good teachers, and I consider it an honor to speak today of Dr. Boardman's dedication to teaching and commitment to his students.

This award is a major accomplishment. The Professor of the Year Awards are the only national awards to recognize college and university professors for their teaching skills. But this is by no means the first time Dr. Boardman has been honored for his great gift as a teacher. He has previously received awards from the University of Nevada and the State of Nevada Regents.

A Professor of English and the Chair of Core Humanities at the University of Nevada, Reno, UNR, Dr. Boardman is an expert on English and Renaissance literature and has taught for three decades at UNR. Throughout his career he has taught courses on Shakespeare, C.S. Lewis, the Bible, medieval literature, linguistics, and composition.

Dr. Boardman's contributions to teaching have not been limited to the university classroom. He has also delivered scores of presentations to high school classes, senior centers and libraries. He was the executive co-producer of the The Western Tradition Lectures, a videotaped series of nine lectures by UNR instructors.

Dr. Boardman has also made substantial contributions to scholarship. Not only has he edited books and written numerous articles and reviews, he well soon complete his major 25-year project, The Arthurian Annals: The Tradition in English from the Beginnings to 2000.

Despite his strong commitment to his teaching and scholarly responsibilities, Dr. Boardman also finds time to assist his colleagues in their development as instructors. He was the author of a successful National Endowment for the Humanities Challenge Grant, matched during 1994–1998, to establish an endowment fund to support teacher stipends and faculty development at UNR. He has also written several articles on how to approach teaching medieval literature and culture.

Dr. Boardman has led a distinguished career in an important and noble profession. Please join me in congratulating him on his selection as the Nevada Professor of the Year.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable to our society.

Gregory Beauchamp, a 21-year old gay male, was the last homicide victim of 2002 in Cincinnati, OH. On December 31, Mr. Beauchamp was headed to a nightclub to ring in the New Year with friends. At about 9 p.m. a blue Cadillac pulled up alongside them, and the four or five African American men inside started yelling anti-gay epithets, according to survivors of the attack. Shots were fired from the vehicle, killing Mr. Beauchamp. The murder was reported as a hate crime.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE FORD FOUNDATION AND THE DURBAN CONFERENCE

Mr. SANTORUM. Mr. President. I want to bring to the attention of my colleagues troubling reports that indicate one of America's leading philanthropic foundations has meddled in world diplomacy in a deeply disturbing way.

Let me say that I think my colleagues know very well that I have great respect for the good works done by America's non-profit sector, including philanthropic foundations. So much respect, in fact, that, as my colleagues know, I am working with some of them to get a conference committee to convene with the other body so that we can complete work on the CARE Act and provide a range of incentives that would boost contributions to charities and foundations at a time of great need.

And so it pains me that I must come to the floor today to apprise my colleagues of allegations that have been reported with regard to some of the activities of one of America's leading foundations, the Ford Foundation. The reports—published initially by the Jewish Telegraphic newswire service and picked up by many newspapers around the country and in this week's New Republic magazine—describe how the Ford Foundation gave million of dollars to dozen of Palestinian organizations that have been in the forefront of the anti—semitic and anti-Israel campaign that is ongoing around the world.

In particular, these reports describe how the Ford Foundation funded Palestinian non-governmental organizations, NGOs, that were responsible for transforming the 2001 United Nations Conference on Racism held in Durban, South Africa into a forum of virulent anti-Semitic and anti-Israel hate. According to the investigation and reports—which interviewed dozens of individuals and reviewed 9,000 pages of documents—Ford contributions financed the development of the anti-Israel strategy and its public relations strategy for dissemination.

Accroding to the reports, Ford has extended more than $35 million in grants to more than 270 Arab and Palestinian NGOs in the 2001–01 period alone, and since the 1950s, Ford has distributed nearly $200 million to Arab and Islamic NGOs in the Mideast, and many Palestinian operatives who were involved in the Durban Conference admit that "Ford has made it possible for us to do much of our work" and that "Our biggest donations come, of course, from Ford."

At least two groups identified in the news reports—the Palestinians Committee for the Protection of Human Rights and the Environment and the Palestinian NGO Network—received more than $2.5 million from Ford in the last few years and were key players in hijacking the agenda of the Durban conference.

And let me just remind my colleagues how badly the Durban conference was hijacked. It was so bad that Secretary of State Powell declared the conference to be "a transparent attempt to delegitimize the moral argument for Israel's existence," and Secretary Powell withdrew our country's delegation from participation.

As The New Republic's editor in chief writes—"the Ford Foundation's . . . reckless generously is empowering foreign haters and apologists for killers."

In fairness, the Ford Foundation has denied the charges made in these reports. Ford's vice president has said that his institution was "shocked by the extremist rhetoric of some participants on Israeli-Palestinian issues." Moreover, Ford has said that it shares our government's commitment to "ensure that grant funds are not diverted for terrorist and other purposes."

I appreciate these statements by Ford, but I don't believe they have put this matter to rest. The news reports are too specific and well documented to be dismissed by such generalities.

Fellow senators, we are in a war against terrorism and those who hate us and those who hate Israel are very often one and the same. We, of course, are responsible for ensuring that government funds we distribute as foreign aid are serving our national security interests and those of our allies. But what I think these reports have brought to our attention is that there are other entities out there, foundations, and not just of the sort that are part of extremist communities whose clear purpose is to channel funds to the terrorists and against whom the Treasury Department is moving aggressively and indictments are being handed down but well known, respected foundations can undermine our policies and activities by making an end run and supporting those with whom we deeply disagree,

As a member of the Finance Committee, I am going to be asking Chairman GRASSLEY that the committee look into this more deeply and again review the controls we have in place for foundation activities and grant overseas.

VOLUNTEERS ARE ESSENTIAL TO VA

Mr. GRAHAM of Florida. Mr. President, the Department of Veterans Affairs, VA, has some of the most dedicated volunteers in the country, and today I would like to shine a light on those at the Gainesville VA Medical Center, VAMC, in my home State of Florida.

The Malcolm Randall VAMC in Gainesville is a tertiary care facility that specializes in an array of services including cardiology, neurosurgery, and nursing home care. With its symbiotic relationship to the University of Florida, it is also an active teaching hospital. In 2002, the hospital had 388,471 outpatient visits, and it continues to draw hundreds of volunteers. The hospital currently has over 800 registered volunteers.

The Gainesville Sun profiled some of these selfless individuals and their commitment to service at the VAMC. Included among these volunteers was an 82-year-old widow named Dorothy "Dot" Caldwell. The article described how every Tuesday, Dot leaves her home at 3:30 in the morning to make the 1-hour drive to the medical center and then spends 10 hours there. She makes this 100-mile round trip every week so she can repay VA for the care it gave her husband William, a World War II veteran, her father, and two of her brothers. Dot has been volunteering at the Gainesville VAMC for 21 years.

Each of us owes a debt of gratitude to those who risked their lives defending our country, and I am thankful to all of this Nation's hardworking, compassionate volunteers for helping to repay that debt. I am especially proud that such shining examples of this kind of service hail from my own State, one that is so highly populated with veterans.

I ask unanimous consent that the article from the Gainesville Sun highlighting the work of these volunteers, as well as the complete list of volunteers who work at the Gainesville VAMC be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Gainesville Sun, Sept. 25, 2003]

HOSPITAL ANGELS

(By Julie Garrett)

At a time when friends and loved ones are serving our country overseas and when cuts to veterans' benefits are taking place back home, one way we can support veterans is by taking care of those who need us here in the states.

Dorothy "Dot" Caldwell has given more than 20,500 hours of volunteer time to the Malcom Randall VA Medical Center in Gainesville. That's the equivalent of a full-time job for more than 10 years.

Every Tuesday morning, she rises at 2:30 a.m. ("God wakes me up. I don't need an alarm clock.") so that she can be on the road by 3:30 a.m. to make the one-hour trip to Gainesville from her home in Old Town—a 100-mile round-trip drive. She'll volunteer 10 hours, then start home at about 2:30 p.m. She's 82.

"It's kind of special to see a vet smile at you when you come in and just pat him on the arm or hand him something," says Caldwell. "That look of gratitude on their faces. They light up. They look at us as family."

Caldwell started volunteering at the VA 21 years ago after her husband, William, a combat engineer during World War II, underwent heart surgery.

"I saw the volunteers running around and I said, 'When you get out of this hospital, we're gonna repay. We're gonna volunteer.' He said, 'Like hell I am.' "

But she prevailed, fueled by the fact that William, her father and two of her brothers were veterans who received medical care through the VA. "So I'm trying to pay back," she says.

Her own health is good. William died of cancer 10 years ago after the couple were married for 53 years.

"Volunteering is keeping me young. God is rewarding me," she says. "You see veterans here a lot younger than I am and they can't even feed themselves."

The Gainesville VA had 388,471 outpatient visits in fiscal year 2002, said John Pickens, public affairs officer for the North Florida South Georgia Veteran's Health System.

And last year, more than 800 volunteers gave more than 80,000 hours at the VA Medical Center in Gainesville, says Julie Baker, chief of voluntary services.

The youngest volunteers are 13, the eldest is 88, with a 50-50 split between male and female volunteers, Baker says.

The entire VA orientation takes about three hours and consists of watching a short video and meeting with Baker.

Volunteers perform clerical duties, staff the information desk, transport patients to appointments in departments around the hospital and make hospitality visits. In the pharmacy, they open and sort mail.

Groups from organizations such as the American Legion and Veterans of Foreign Wars serve coffee and doughnuts in the outpatient clinics' reception areas.

"It's a great PR tool for us," says Baker. "This is a great way for a group to volunteer together."

During the holidays, the VA encourages people to sing Christmas carols to patients. You need to coordinate your visit through the Voluntary Services office, but Baker says it tends to be easier to set up a visit at the VA than at other hospitals.

Students planning careers in medicine can get their feet wet by volunteering at the VA. They observe in the emergency room, surgical unit and intensive care unit, take specimens to labs, answer phones and stock supplies.

Helena Chapman, a 22-year-old University of Florida graduate student in public health, began volunteering at the VA through the teen volunteer program as a 15-year-old Oak Hall student.

At first, she volunteered through the recreational therapy department, playing bingo with the veterans on Saturdays. From there, she proceeded to the ICU, where she helped with bedside stocking.

The nurses took her under their wing when they saw she was a serious, consistent and responsible volunteer. It wasn't long before she was drawn to medicine as a career choice.

On the lighter side, Chapman plays piano for the VA's nursing home patients—there's a nursing home onsite—and paints the nails of female veterans.

"I like to pamper them," she said. "Everyone has a story to tell. I love 'em."

Chapman was awarded the Disabled American Veterans' $5,000 National Commander Youth Scholarship for 2002 for her volunteering and plans to become a physician focusing on geriatric medicine. Despite the demands of graduate school, she still volunteers at least three hours a week, sometimes up to 10.

Baker says the VA's teenage volunteer program is growing in popularity as schools require community service for graduation.

In the summer, young people ages 13 to 18 can volunteer two to three full days a week, or weekdays four hours a day. The VA starts accepting applications May 1. Slots fill quickly.

Once teens volunteer for the summer, they can return on school breaks and weekends to continue volunteering, if they choose.

And finally, if you've had bus driver fantasies all your life, you can drive a van through the Disabled American Veterans Driver Program. Drivers are needed to transport veterans to appointments in Jacksonville, Ocala and Inverness. You don't need a special driver's license to do this, but they do check driving records and require a physical.

"We need more drivers. There's always a turnover," says Baker.

Don Myhre, a 79-year-old retired UF professor, started volunteering at the VA 11 years ago.

He and his wife travel a lot to visit family, but when he's home in Gainesville he volunteers about four hours a day at the VA.

He spent three years in the U.S. Army as an X-ray technician during World War II. The GI Bill of Rights sent him to college. He worked as a soil chemist and retired from UF as a meritorious professor in 1991.

"I'm giving back something to the government. That was a good program," he says.

Myhre says he likes volunteering at the VA and being around all sorts of people.

"It's fun, and you get the benefit of lots of exercise. I probably walk about 3 miles a day here. I like to be doing something constructive."

HONORING THE LIFE OF CONGRESSMAN FRANK McCLOSKEY

Mr. BAYH. Mr. President, I rise today to honor the life of my fellow Hoosier, Congressman Frank McCloskey, who lost his battle with cancer on Sunday, November 2. Congressman McCloskey dedicated his life to serving his country and our home State of Indiana, setting an example of personal conviction and political courage throughout his years as a public servant.

Francis Xavier McCloskey was born on June 12, 1939 in Philadelphia. He earned both his undergraduate and law degrees at Indiana University in Bloomington, where he would later serve as mayor for three terms, following 4 years in the Air Force and a brief career as a newspaper reporter.

During his time as mayor, McCloskey transformed Bloomington politics with his new style of leadership. He initiated a transit service and the first direct passageway through the center of Bloomington, and oversaw the formation of city boards and commissions dedicated to the environment, women and human rights.

In 1982, McCloskey was elected to the U.S. Congress from Indiana's 8th district. In a district known across the Nation for its tumultuous and closely contested races, McCloskey held his seat to serve as Congressman for six terms. During his time in office, Frank McCloskey became one of the first public servants to travel overseas and witness first hand the atrocities taking place in Bosnia. A man of great compassion and conviction, Frank McCloskey focused his career on ending the ethnic cleansing taking place in Bosnia during the 1990s. His dedication to the cause continued even after he left public office, until cancer forced him to cancel his plans to return to Bosnia and continue democratic reforms there.

The sense of loss to all those who knew Congressman Frank McCloskey is tremendous. His work in Bloomington and later in Washington inspired a generation of Hoosiers to answer the call to public service. Many of Indian's current political leaders owe their start to the example set by McCloskey, and their continued works will serve as a lasting legacy to a man who dedicated his life to serving others. He is survived by his wife, Roberta Ann Barker, and their two children, Helen and Mark.

It is my honor to enter the name of Congressman Frank McCloskey into the CONGRESSIONAL RECORD.

ADDITIONAL STATEMENTS

HONORING MRS. CAROL KANAREK

• Mr. GRAHAM of Florida. Mr. President, every November organizations throughout America recognize the spirit of community service with National Philanthropy Day.

This November, I would like to take the opportunity to congratulate an outstanding Floridian, Mrs. Carol Kanarek of Vero Beach, who is receiving the 2003 National Philanthropy Day Unsung Hero Award from the Treasure Coast Chapter of the Association of Fundraising Professionals.

The Unsung Hero Award is given to an individual who has been an exceptional volunteer. Carol Kanarek certainly fits this description.

Carol Kanarek is a valued member of the Vero Beach community for her leadership, commitment, and extensive knowledge and experience. She is known as a coalition builder—someone who brings people and resources together to further the goals of the organizations for whom she volunteers. She has a true love of people, and a compassion for all causes.

For more than 20 years, Mrs. Kanarek has volunteered her time and energy to numerous organizations in her community including health care organizations, religious organizations, schools, and charities. For example, Mrs. Kanarek has worked with the Riverside Children's Theatre, the March of Dimes, the United Way, the Visiting Nurses Association Hospice House, St. Edwards School, and the Temple Beth Shalom. This list is by no means exhaustive.

No project is too big or too small for Mrs. Kanarek. From chairing the Rabbi Selection committee at Temple Beth Shalom to working the concession stand at a Riverside Children's Theatre event, she always makes time. When working on committees, Mr. Kanarek is known as a consensus builder, always considering the concerns of others when developing a solution. Her gracious manner and gentle persistence have made Mrs. Kanarek a valuable asset to the many organizations of which she is a member. Mrs. Kanarek's patience and tireless enthusiasm for community service distinguish her as a woman who places others before herself.

Mr. President, philanthropy is one of defining characteristics of American society. Service for the benefit of others and commitment to something greater than personal reward strengthen our communities and neighborhoods, bringing us together and improving our quality of life.

I commend Carol Kanarek for her commitment to community service, volunteerism, and philanthropy. I am pleased that outstanding Floridians like Mrs. Kanarek are setting an example for communities across our nation, and I want to thank her for her service.•

THE EXPLORING FREE ENTERPRISE PROGRAM

• Mr. NELSON of Nebraska. Mr. President, over the past few years the U.S. Senate has acted to stimulate the American economy. This spring we passed an economic stimulus package to provide meaningful tax relief for businesses and assistance for unemployed workers to soften the blow of difficult economic times. We have also worked to approve trade agreements that ensure a free and fair trade market for U.S. businesses.

As we work on these measures to improve our economy today, it is equally important to ensure that America's economy remains strong for the next generation as well.

I recently joined with Chadron State College to establish the Exploring Free Enterprise program. This program will focus on teaching students in elementary, middle and high school the principles of market economics, entrepreneurship, personal financial success and business ethics.

Entrepreneurship is a particularly important skill in Nebraska. A revitalized rural economy requires individuals who are able to seize upon openings in the marketplace and expand employment opportunities.

Business ethics is another area of great importance. I am proud to be a part of a program that will teach our future leaders that being honest is even more important than making money.

In 2002 I was honored to receive the U.S. Chamber of Commerce Spirit of Enterprise award. The Exploring Free Enterprise program seeks to spread that spirit of enterprise to a new generation of young business leaders and entrepreneurs. It is their entrepreneurial spirit that will drive America's economic engine in a competitive world economy.

I would like to thank Chadron State College for the opportunity to participate in this program and especially Dr. Rick Koza, the director of the program, and Dr. Tom Krepel, president Chadron State College, for their leadership.

Together, our investment in education recognizes that while children may only be 20 percent of our population, that they are 100 percent of our future.•

ELLIS ISLAND MEDAL OF HONOR RECIPIENT MONTE AHUJA

• Mr. VOINOVICH. Mr. President, I rise today to congratulate and pay tribute to Mr. Monte Ahuja of Hunting Valley, OH as an Ellis Island Medal of Honor recipient.

The prestigious Ellis Island Medal of Honor award is presented annually to "remarkable Americans who exemplify outstanding qualities in both their personal and professional lives," and "who have distinguished themselves as citizens of the United States, while continuing to preserve the richness of their particular heritage." Monte Ahuja was selected to receive this honor in 2001.

Mr. Ahuja is a distinguished American who immigrated to the United States from India in 1969. He received a bachelor of science degree in mechanical engineering in India and pursued his graduate education at Ohio State University where he received his masters degree in mechanical engineering. He moved to Cleveland, OH in 1972 and received his masters in business administration at Cleveland State University in 1975 while working full time.

While pursuing his MBA, Mr. Ahuja began to dream about creating a global parts distribution network solely dedicated to providing transmission rebuilders the highest quality products and services. He pursued his dream by undertaking considerable research and hard work developing his idea, and he established Transtar Industries, Inc. in 1975.

Over the past 28 years, Transtar Industries has grown from a two-person, one-location operation to a company with over 25 locations nationwide and over 500 dedicated employees that services the automotive transmission aftermarket in over 60 countries.

Transtar Industries, Inc. is headquartered in Cleveland, OH and distributes the world's largest and most comprehensive line of automotive transmission replacement parts and kits. The company's products are the result of proactive product research and development. Transtar also has outstanding business systems. Its sales forecasting system is state-of-the art and its level of customer service consistently exceeds 95 percent. All of Transtar's distribution centers are electronically linked, which makes it possible for Transtar to ship virtually every order the same day.

Mr. Ahuja has provided outstanding leadership at Transtar Industries and he has received numerous awards for his achievements, including the Arthur Anderson 2000 Leadership Award, the Inside Business NEO Success Award and the Association of Corporate Growth Deal Makers Award.

As Governor of Ohio, I was proud to recognize Mr. Ahuja on two occasions as recipient of the "E" Award for Excellence in Export.

In 2002, Mr. Ahuja was chosen the World Trade Center Cleveland International Executive of the Year.

Monte Ahuja is also extremely involved in the community and he demonstrates generously his philosophy of contributing to the community that has given him so much.

He has a passion for education which is demonstrated by his years of commitment to his alma mater where he began to envision and create his company. At Cleveland State University, he has served as director of the Cleveland State University Foundation and he has established the Ahuja Endowed Scholarship Fund in business administration and engineering.

He also established the Distinguished Scholar in Comparative Indian and Western Philosophy—which is so important today as we strive to appreciate the richness of this country's cultural diversity.

I was so impressed with Monte's devotion to education that when I was governor of Ohio I appointed him to Cleveland State's Board of Trustees in 1991. From 1992 to 1998, he served with distinction as chairman of the Board of Trustees.

He also served as chairman of the Cleveland State University Task Force, part of a statewide project I initiated as governor of Ohio, the "Ohio Task Force for Managing Future Higher Education in the State of Ohio" to challenge the universities to conduct private sector management audits to work harder and smarter and do more with less. Under Monte Ahuja's leadership, Cleveland State University's audit was one of the best in the State and saved the University $8.5 million a year.

Monte Ahuja's commitment to education is relentless and he has dedicated himself to the advancement of quality education at Cleveland State and in Ohio.

He is the embodiment of the achievements that a quality education can help facilitate. In 1990, Mr. Ahuja was named one of Cleveland State University's 25 most distinguished alumni. In 1999, he received Harvard University Business School's Dively Award and that same year his alma mater recognized him again by naming the Business School building at Cleveland State University Monte Ahuja Hall.

Mr. Ahuja has served on the boards of many civic, business and philanthropic organizations, including the Greater Cleveland Roundtable, The National Conference, World Trade Center Advisory Council, and Ohio Export Promotion and Trade Council.

Currently, Mr. Ahuja serves on the boards of the Cleveland Cuyahoga County Port Authority, University Hospitals of Cleveland, Greater Cleveland Growth Association, United Way, WVIZ/PBS, Enterprise Development, Inc., and the Cleveland Council on World Affairs.

In addition to his significant contributions to the community, Monte has a wonderful sense of family. He is a loving husband to Usha, his wife of 30 years, a tremendous father to his two daughters and a caring son.

Monte Ahuja is a remarkable American and someone I am privileged to call friend. He has the highest integrity in both his personal and professional life and he has made many outstanding contributions to the Asian Indian community, to his local community in Cleveland, OH and to American society.

I am proud to recognize my friend Monte Ahuja and congratulate him on this wonderful honor.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building".

H.R. 2766. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the "S. Truett Cathy Post Office Building".

H.R. 3118. An act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia.

H.R. 3166. An act to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the "John G. Dow Post Office Building".

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce.

H. Con. Res. 176. Concurrent resolution supporting the goals and ideals of Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring American families and the financial planning profession for their adherence and dedication to the financial planning process.

H. Con. Res. 237. Concurrent resolution honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and communities of Arizona.

H. Con. Res. 262. Concurrent resolution expressing the sense of the Congress in support of the National Anthem "SingAmerica" project.

H. Con. Res. 280. Concurrent resolution recognizing the National Stone, Sand & Gravel Association for reaching its 100th Anniversary, and for the many vital contributions of its members to the Nation's economy and to improving the quality of life through the constantly expanding roles stone, sand, and gravel serve in Nation's everyday life.

The message further announced that the House has disagreed to the amendment of the Senate to the bill (H.R. 2800) making appropriations for foreign operations, export financing, and relaed programs for the fiscal year ending September 30, 2004, and for other purposes, and asks for a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. KOLBE, Mr. KNOLLENBERG, Mr. LEWIS of California, Mr. WICKER, Mr. BONILLA, Mr. VITTER, Mr. KIRK, Mr. CRENSHAW, Mr. YOUNG of Florida, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN, Ms. KAPTUR, and Mr. OBEY.

The message also announced that the House has passed the following bill, without amendment:

S. 677. An act to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes.

S. 924. An act to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The message further announced that the House has passed the following bill, with an amendment:

S. 313. An act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

At 6:26 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The message also announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa; to the Committee on Finance.

H.R. 2438. An act to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi, as the "Major Henry A. Commiskey, Sr. Post Office Building"; to the Committee on Governmental Affairs.

H.R. 2766. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado; to the Committee on Energy and Natural Resources.

H.R. 3029. An act to designate the facility of the United States Postal Service located at 255 North Main Street in Jonesboro, Georgia, as the "S. Truett Cathy Post Office Building"; to the Committee on Governmental Affairs.

H.R. 3118. An act to designate the Orville Wright Federal Building and the Wilbur Wright Federal Building in Washington, District of Columbia; to the Committee on Environment and Public Works.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 94. Concurrent resolution expressing the sense of the Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals, which impedes the availability of a stable, quality direct support workforce; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 176. Concurrent resolution supporting the goals and ideals of Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life's goals, and honoring American families and the financial planning profession for their adherence and dedication to the financial planning process; to the Committee on Banking, Housing, and Urban Affairs.

H. Con. Res. 237. Concurrent resolution honoring the late Rick Lupe, lead forestry technician for the Bureau of Indian Affairs Fort Apache Agency, for his dedication and service to the United States and for his essential service in fighting wildfires and protecting the environment and communities of Arizona; to the Committee on Indian Affairs.

H. Con. Res. 262. Concurrent resolution expressing the sense of the Congress in support of the National Anthem "SingAmerica" project; to the Committee on the Judiciary.

H. Con. Res. 280. Concurrent resolution recognizing the National Stone, Sand & Gravel Association for reaching its 100th Anniversary, and for the many vital contributions of its members to the Nation's economy and to improving the quality of life through the constantly expanding roles stone, sand, and gravel serve in the Nation's everyday life; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 506. An act to provide for the protection of archaeological sites in the Galisteo Basin in New Mexico, and for other purposes.

H.R. 3166. An act to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the "John G. Dow Post Office Building".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5034. A communication from the Secretary of Homeland Security, transmitting, the 5-year business plan for the Coast Guard Yard as directed by the Department of Transportation and Related Agencies Appropriations Bill 2002; to the Committee on Commerce, Science, and Transportation.

EC–5035. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to the use of the Coast Guard Housing Authorities; to the Committee on Commerce, Science, and Transportation.

EC–5036. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Prohibition of Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5037. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure" (ID090503B) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5038. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5039. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure; Prohibition of Directed Fishing for Pacific Cod in the Central Gulf Offshore in the Gulf of Alaska" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5040. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service,. transmitting, pursuant to law, the report of a rule entitled "Prohibition of Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5041. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Retention Limit Adjustment" (ID092403C) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5042. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Reopening Directed Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska for 48 Hours" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5043. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Reopening Directed Fishing for Pollock in Statistical Area 630 of the Gulf of Alaska" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5044. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Magnuson Act Provisions; Fisheries

Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specification Groundfish Fishery Management Measures; Emergency Rule; Corrections" (RIN0648–AR47) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5045. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications; Pacific Mackerel Fishery" (RIN0648–AP43) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5046. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Weakfish Fishery; increases the incidental catch allowance for weakfish caught in the Exclusive Economic Zone (EEZ) from 150 lb to no more than 300 lb per day or trip, whichever is longer in duration, and removes Connecticut from the list of states where commercially caught weakfish from the EEZ can be landed" (RIN0648–AR11) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5047. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement a Fishery Management Plan for Pelagic Sargassum Habitat of the South Atlantic Region" (RIN0648–AN87) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5048. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications, General Category Effort Controls and Permit Revisions" (RIN0648–AQ38) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5049. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727-200 Series Airplanes" (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5050. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney PW40000 Series Turbofan Engines Correction" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5051. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–8–11, -12, -21, 31, -32, -33, -41, -42, -43, -50, -54, -F55, -60, -70, and -70F Series Airplaines" (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5052. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: PILATUS Aircraft Ltd. Model PC–7 Airplanes" (RIN2120-AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5053. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Pratt and Whitney Canada Models PW 118 , PW120, PW120A, PW121 Turboprop Engines" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5054. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–400, 500, 600, 700, and 800 Series Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5055. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model C1–600–2B19 (Regional Jet Series 100 & 400) Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5056. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5057. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747SP, 747SR, 747-100, 200, and 300 Series Airplanes; Equipped with Pratt and Whitney Model JT9D–3, -7, and 7Q Series Engines and Model Jt9D–7R4G2 Engines" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5058. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model AS 350B3, SA–365N, Ni, AS–365N2, AS365N3, and EC155B Helicopters" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC – 5059. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF6–6 Series Turbofan Engines" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5060. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter Deutchland GmbH Model EC135, P1, P2, T1, and T2 Helicopters" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5061. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dirnier Model 328–300 Series Airplanes Equipped with Certain Pratt and Whitney PW306B Engines Nacelles" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5062. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CF34–3A1, -3B , and 3B1 Turbofan Engines" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5063. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Univair Aircraft Corporation Models Alon A2–A and A2–A; ERCO 415–C, 415CD, 415D, 415E, and 415G; Forney f–1, and F–1A, and Mooney M10 Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5064. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Raytheon Aircraft Company 90, 100, and 200 Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5065. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Moedl EMB–135 and 145 Series Airplanes" (RIN2120–AA64) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5066. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Beatrice, NE; Doc. No. 03–ACE–59" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5067. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Cedar Rapids, IA; Doc. No. 4–ACE–42" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5068. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Seaward, NE; Doc. No. 03–ACE–61" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5069. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Wayne, NE; Doc. No. 03–ACE–60" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5070. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Cedar Rapids, IA; Doc. No. 03–ACE–42" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5071. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Fort Leonard Wood, MO; Doc. No. 03–ACE–27" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5072. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Centerville, IA; Doc. No. 03–ACE–66" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5073. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Meade, KS; Doc. No. 03–ACE–65" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5074. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Seward, NE; Doc. No. 03–ACE–61" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5075. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Sullivan, MO; Doc. No. 03–ACE–63" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5076. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Aurora, MO; Correction Doc. No. 03–ACE–58" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5077. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace: Lee's Summit, MO; Doc. No. 03–ACE–64" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5078. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace: Iguigig, AK; Doc. No. 03–AAL–06" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5079. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace: Nelson Lagoon, AK; Doc. No. 03–AAL–5" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5080. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace: Pilot Point, AK; Doc. No. 03–AAL–4" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5081. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5082. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of the VOR Federal Airways in the Vicinity of Tuscaloosa, AL Doc. No. 02–ASO–24" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5083. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airspace Designations; Incorporation By Reference Doc. No. 29334" (RIN2120–ZZ60) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5084. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Jet Routes, Baton Rouge, LA Doc. No. 02–ASW–4" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5085. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Minor Revision of the Legal Description of VOR Federal Airway V–167 in the Vicinity of Hyannis, MA Doc. No. 03–ANE–102" (RIN2120–AA66) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5086. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (77) Amendment No. 3067" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5087. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Procedures; Miscellaneous Amendments (40) Amendment No. 3068" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5088. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments (26) Amendment No. 3074" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5089. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments No. 2058" (RIN2120–AA65) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5090. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Electronic Options for Transmitting Certain Information Collection Responses to MARAD" (RIN2120–AB56) received on October 29, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5091. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, a rule entitled "Interagency Acquisition Approvals" (RIN2700–AC78) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5092. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Prohibition of Directed Fishing for Pollock in Statistical Area 620 of the Gulf of Alaska" received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–5093. A communication from the Secretaries of Energy and Agriculture, transmitting, pursuant to law, a report relative to the Biomass Research and Development Initiative; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5094. A communication from the Chairman, Farm Credit System Insurance Corporation, transmitting, pursuant to law, the Corporation's Strategic Plan for Fiscal Years 2004 through 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5095. A communication from the Under Secretary, Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Food Stamp Program: Non Discretionary Quality Control Previsions of Title IV of Public Law 107–171" (RIN0584–AD31) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5096. A communication from the Staff Director, Office of Regulatory and Management Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Forest System Land and Resource Management Planning; Extension of Compliance Deadline or Site-Specific Projects" (RIN0596–AC02) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5097. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Mexican Fruit Fly; Removal of Regulated Areas" (Doc. No. 02–129–4) received on

October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5098. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Veterinary Services User Fees; Fee for Use of Animal Ramp at Miami International Airport" (Doc. No. 02–041–2) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5099. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law, the report of a rule entitled "Interstate Movement of Swine Within a Production System; Inspection of Swine" (Doc. No. 02–069–2) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5100. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting, pursuant to law; the report of a rule entitled "Agricultural Bioterrorism Act of 2002; Possession, Use, and Transfer of Biological Agents and Toxins" (Doc. No. 02–088–3) received on October 29, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5101. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Imidacloprid; Pesticide Tolerances for Emergency Exemptions" (FRL#7330–4) received on October 30, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5102. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Changes in Fees for Federal Fruits and Vegetables, Processed" (Doc. No. FV–03–333) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5103. A communication from the Administrator, Transportation and Marketing Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "National Organic Program; Amendments to the National List of Allowed and Prohibited Substances" (RIN0581–AC19) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5104. A communication from the Administrator, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate" (Doc. No. FV–03–931–1 FR) received on November 3, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5105. A communication from the Assistant Director, Executive and Political Personnel, transmitting, pursuant to law, the report of a nomination rejected, withdrawn, and returned, for the position of Assistant Secretary of Defense for Special Ops/Low Intensity Conflict, Department of Defense, received on October 30, 2003; to the Committee on Armed Services.

EC–5106. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense , transmitting, pursuant to law, a letter notifying Congress of the intent to obligate funds for one new Fiscal Year 202 out-of-cycle Foreign Comparative Testing project; to the Committee on Armed Services.

EC–5107. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, a report relative to a request in Senate Report 107–151 requesting a study concerning the feasibility of hybrid vehicles in the defense fleet; to the Committee on Armed Services.

EC–5108. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Designation of Round III Urban Empowerment Zones and Renewal Communities" (RIN2506–AC09) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5109. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Participation in HUD Programs by Faith-Based Organizations; Providing for Equal Treatment of all HUD Program Participants" (RIN2501–AC89) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC – 5110. A communication from the Assistant General Counsel for Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled by a Public Housing Agency; Correction" (RIN2577–AC39) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5111. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170; to the Committee on Banking, Housing, and Urban Affairs.

EC–5112. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5113. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 65) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5114. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Final Flood Elevation Determinations" (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5115. A communication from the Acting General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 67) received on October 30, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5116. A communication from the Executive Director, Neighborhood Reinvestment Corporation, transmitting, the Corporation's Five-Year Strategic/Operational Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–5117. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Texas Regulatory Program" (TX–50–FOR) received on October 31, 2003; to the Committee on Energy and Natural Resources.

EC–5118. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Wyoming Regulatory Program" (WY–031–FOR) received on October 31, 2003; to the Committee on Energy and Natural Resources.

EC–5119. A communication from the Assistant Secretary, Fish, Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Special Regulations—Areas of the National Park System: Mountain Bike Use at Saguaro National Park" (RIN1024–AD10) received on November 1, 2003; to the Committee on Energy and Natural Resources.

EC–5120. A communication from the Assistant Secretary, Fish, Wildlife and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Personal Watercraft Use: Assateague Island National Seashore" (RIN1024–AD02) received on November 1, 2003; to the Committee on Energy and Natural Resources.

EC–5121. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Operating Under the Influence of Alcohol and Drugs" (RIN1024–AC69) received on November 3, 2003; to the Committee on Energy and Natural Resources.

EC–5122. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "New River Gorge National River Hunting Regulation" (RIN1024–AD12) received on November 3, 2003; to the Committee on Energy and Natural Resources.

EC–5123. A communication from the Assistant Secretary, Fish, Wildlife, and Parks, National Park Service, transmitting, pursuant to law, the report of a rule entitled "Special Regulations; Areas of the National Park System Personal Watercraft Use at Glen Canyon National Recreation Area" (RIN1024–AC90) received on November 3, 2003; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1669. A bill to reauthorize the Dingell-Johnson Sport Fish Restoration Act (Rept. No. 108-186).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1627. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes (Rept. No. 108–187).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CORNYN (for himself and Mr. LOTT):

S. 1820. A bill to authorize the States to implement such mechanisms as are necessary to endure the continuity of Congress in the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on Rules and Administration.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, and Mr. LAUTENBERG):

S. 1821. A bill to establish a National Space Commission on activities of the United States related to the future of space; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself, Mr. FITZGERALD, and Mr. LIEBERMAN):

S. 1822. A bill to require disclosure of Financial relationships between brokers and mutual fund companies and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1823. A bill to amend the Act of August 9, 1955, to authorize the Assiniboine and Sioux Tribes of the Fort Peck Reservation to lease tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines; to the Committee on Indian Affairs.

By Mr. LUGAR (for himself, Mr. HAGEL, Mr. BIDEN, and Mr. SARBANES):

S. 1824. A bill to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes; to the Committee on Foreign Relations.

By Mr. DEWINE:

S. 1825. A bill to amend title 18, United States Code, to provide penalties for the sale and use of unauthorized mobile infrared transmitters; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1826. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Energy and Natural Resources.

By Mr. SMITH (for himself, Mrs. MURRAY, Ms. CANTWELL, and Mr. WYDEN):

S. 1827. A bill to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KYL (for himself, Mr. CHAMBLISS, Mr. CRAIG, Mr. NICKLES, Mr. SESSIONS, and Mr. CORNYN):

S. 1828. A bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, and for other purposes; to the Committee on the Judiciary.

By Mr. CORNYN:

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 259. A resolution to authorize legal representation in Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al.; considered and agreed to.

ADDITIONAL COSPONSORS

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 973

At the request of Mr. NICKLES, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 973, a bill to amend the Internal Revenue Code of 1986 to provide a shorter recovery period for the depreciation of certain restaurant buildings.

S. 1037

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1037, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1524

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 1524, a bill to amend the Internal Revenue Code of 1986 to allow a 7-year applicable recovery period for depreciation of motorsports entertainment complexes.

S. 1702

At the request of Mr. SMITH, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1702, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S.J. RES. 19

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S.J. Res. 19, a joint resolution recognizing Commodore John Barry as the first flag officer of the United States Navy.

S. RES. 202

At the request of Mr. CAMPBELL, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 244

At the request of Mrs. BOXER, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. Res. 244, a resolution congratulating Shirin Ebadi for winning the 2003 Nobel Peace Prize and commending her for her lifetime of work to promote democracy and human rights.

AMENDMENT NO. 2071

At the request of Mr. COCHRAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 2071 intended to be proposed to H.R. 2673, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself and Mr. LOTT):

S. 1820. A bill to authorize the States to implement such mechanisms as are necessary to endure the continuity of Congress in the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on Rules and Administration.

Mr. CORNYN. Mr. President, I rise to say a few words about the continuity of Government. More than 2 years since the terrible events of September 11, Congress has not taken any steps necessary to protect the Nation by ensuring continuity of Government operations should there be another attack and the tragic loss of life or disability on the part of Members of the United States Congress. The Founders of this country rightly required a majority of each House to constitute a quorum to do business, to ensure a nationally representative Congress. But the Constitution does not provide, I should say, adequate mechanisms to assure a continuing, functioning Congress if a majority of the Members are incapacitated or killed by a terrorist attack.

Our current system of providing for the continuity of Government in the event of a disaster is simply inadequate to meet the realities of a post-9/11 world. As unthinkable as another attack of that magnitude might be, we must be ready for the worst.

In fact, we have a duty as the elected Representatives of our respective States to do everything within our power to provide for a stable continuance and function of Government, despite all possible catastrophes. We must not leave our Nation's citizens without representation, without order, and without defense. We simply owe it to the American people to ensure that our Government will remain strong and stable, even in the face of disaster.

It is my conviction that this issue deserves more than just token attention. It is not something we can or should put off until another day. It is urgent and it is a critical element of our ongoing fight against terror.

Today, I have offered a proposal to provide for the continuity of congressional operations. In coming weeks, I will submit legislation to address the problems of our current system of Presidential succession as well.

Earlier this year, the bipartisan Continuity of Government Commission, which was a joint project of the American Enterprise Institute and the Brookings Institution, issued a report which unanimously recommended a constitutional amendment:

> To allow immediate, temporary appointments to Congress until special elections could be held to fill vacancies or until matters of incapacitation can be resolved.

Many Members of Congress strongly agree with the recommendation of that commission. Some, however, are reluctant to allow for the appointment rather than the election of Representatives, no matter how dire the emergency. To protect the American people and ensure a functioning Congress, we must find a way to bridge the gap on a temporary basis. I submit that this must be an emergency measure which would allow for the ongoing operation of Government in a catastrophe but which would then allow for election in the ordinary course of events, after events had been stabilized.

I have proposed a constitutional amendment that would allow Congress to enact laws providing for congressional succession modeled after the provision of article II, authorizing Congress to enact laws providing for Presidential succession.

I also propose implementing legislation to authorize each State to craft their own mechanisms for filling vacancies in their congressional delegations, which is modeled after the 17th amendment. In other words, my proposal specifically refrains from choosing sides in this debate, as far as whether the temporary emergency measure be by appointment or by election, leaving that decision up to the States, following the model of the 17th amendment, which of course provides for the election or selection of Senators in the event of vacancy. Forty-eight States provide for temporary appointment by the Governor, but two States provide for special elections. This proposal would give each State the option to choose which procedures they deem most advisable. The proposed constitutional amendment would simply defer the question to Congress, and the implementing legislation would defer the question to the States.

In an age of terrorism and weapons of mass destruction, I believe it is high time to address this need that is all that much more apparent post-9/11 to ensure the continuity of this body and of the entire Congress. In my capacity as chairman of the Constitution Subcommittee of the Senate, the Committee of the Judiciary, I plan to convene hearings next year so we can debate this proposal as soon as possible.

I was not in Washington when the attacks came on September 11. Like so many other Americans, I was at home in Texas, getting ready to go to work when I heard the terrible news, and then was rivetted to the events unfolding on television. But I know for many of my friends and colleagues who were here on that horrific day, they and we all feel a tremendous debt of gratitude to the heroes of flight 93. The brave passengers on that airplane did more than just save the lives of their fellow citizens. Absent their courageous sacrifice, flight 93 could have reached its final destination, perhaps this very building, in an attack that could have eliminated an entire branch of government.

That hallowed ground in Pennsylvania, where flight 93 met its ultimate rest, marks a promise left behind by those courageous heroes, a promise carried on to their children, to their loved ones, and, indeed, to this very Nation.

It is a promise that says that freedom will not end here in the violent acts of evil men. It persists, it endures, and it will not be destroyed.

Even as we dedicate ourselves to the ongoing war on terror at home and abroad, even as we hope and pray that the tragedies of September 11 will never be repeated, we must always remain conscious of our promise as Senators, to serve the people of our States and of our Nation, and to support and defend the Constitution of the United States. It is not every day that you introduce legislation hoping and praying that it will never be necessary, but this legislation is, in a very real sense, urgent and necessary.

We must prepare for all contingencies fulfilling our oaths of office to ensure that this promise—the promise of a free government, a government of laws, not men—shall not perish from the Earth.

I yield the floor.

By Mr. HOLLINGS (for himself, Mr. INOUYE, Mr. ROCKEFELLER, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, and Mr. LAUTENBERG):

S. 1821. A bill to establish a National Space Commission on activities of the United States related to the future of space; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, we have 17 dead astronauts on our plate—3 from Apollo I, all preventable; 7 from the *Challenger*, all preventable; and 7 from the *Columbia*, all preventable.

What we are trying to do on behalf of myself and these several other Senators is get to a good healthy debate on the future of space in the United States and, more particularly, on correcting the safety features. There is a culture there that prevents safety from being adhered to, and, more than anything else, NASA is broke.

What is not understood is that at the present time we are going in all directions. It is like the Navy during World War II: When in danger, when in doubt, run in circles, scream and shout.

We here are saying we ought to take the orbital space station and accelerate it. Others on the other side say no, that is should be abolished. Some say we ought to go to Mars, and others say what we really need is to hire more expert personnel and bring them in. No one is going to leave their job and come work for the NASA endeavor at this particular time until we get a mixture and a program and a policy. That has to come from the President of the United States.

I introduce the National Space Commission Act to address the range of issues that the Columbia Accident Investigation Board—CAIB—identified with the National Aeronautics and Space Administration—NASA—and our space program in general, following the tragic loss of the *Columbia* Space Shuttle and its crew of seven astronauts. This bill authorizes the creation of a National Space Commission appointed by the President, to ensure that the safety reforms and recommendations of the *Columbia* investigation board are fully implemented by NASA. The commission will review and make recommendations regarding NASA's return-to-flight proposals and institutional changes that NASA will need to make to improve safety in the agency and to improve safety of the space shuttle, and other actions to assure future safe transportation to space and to the International Space Station. The commission will also look at the broader question of how the United States is organized for the safety of space flight across civilian, military and commercial sectors. It will begin to build a consensus on a future vision of space exploration that I hope will rekindle enthusiasm for our space program and generate the necessary support in the Congress and the administration for these endeavors.

The Columbia Accident Investigation Board shone a laser-sharp spotlight upon NASA and its program of human space exploration. Their pain-staking work to determine the cause of the loss of the Space Shuttle *Columbia* provides the context and justification for a new national agenda for space, a turning point in the history of space. Though the board stopped short of laying out this new future, its clear expectation is that the President and Congress should take up where the board left off.

> The U.S. civilian space effort has moved forward for more than 30 years without a guiding vision, and none seems imminent . . . Recommending the content of this debate goes well beyond the Board's mandate, but we believe that the White House, Congress, and NASA should honor the memory of Columbia's crew by reflecting on the nation's future in space and the role of new space transportation capabilities in enabling whatever space goals the nation chooses to pursue.

Columbia Accident Investigation Board Report, Volume I, August 2003, p. 210

The legislation I am introducing today, the National Space Commission Act, is designed to respond to this challenge. It is a complex challenge, and a complex undertaking, that now lies before the Congress and the Nation. My bill is not intended to supplant, nor substitute for, the President's desire to set a new goal in place for the Human Space Flight Program. But as we have seen in the board's report, merely setting a far-reaching goal into place for NASA and for the Nation is not enough. It will not resolve the many complex issues raised by Admiral Harold Gehman and the Columbia Accident Investigation Board. No, this report, and these challenges, run deeper than a rousing call for future missions to Mars on the Earth's Moon can resolve. As Admiral Gehman said last week in testimony before the Senate Commerce, Science, and Transportation Committee:

> In the course of (our) study, we became convinced how difficult it is to get into and out of low Earth orbit. It is extraordinarily dangerous and very difficult to do . . . We have to do it more safely than 49 out of 50 times, that's not good enough . . . No matter what your vision is for human space flight, whether it's Mars or the L2 or the Moon or whatever it is, it starts in low Earth orbit . . . We need some leadership to say, "Just getting into and out of low Earth orbit is a goal worthy of itself, without killing a lot of people." And that's hard to argue, because it isn't very jazzy.

Hearing on NASA's Future, October 29, 2003

Since the inception of the human space flight program, seventeen astronauts have lost their lives and all were avoidable. In its investigative work, the Columbia Accident Investigation Board reached several fundamental conclusions that went beyond the specific technical and physical causes of the loss of *Columbia*. The Columbia Board found basic flaws in how NASA managers behaved, the belief system that lay behind NASA attitudes and behavior, and NASA's understanding of basic technical and organizational requirements of safety.

> The attitudes and decision-making of Shuttle Program managers and engineers during the events leading up to this accident were clearly overconfident and often bureaucratic in nature.

Columbia Accident Investigation Board Report, Volume I, August 2003, p. 177

> NASA's bureaucratic culture kept important information from reaching engineers and managers alike. The same NASA whose engineers showed initiative and a solid working knowledge of how to get things done fast had a managerial culture with an allegiance to bureaucracy and cost-efficiency that squelched the engineers' efforts. When it came to NASA managers' own actions, however, a different set of rules prevailed. The Board found that Mission Management Team decision-making operated outside the rules even as it held its engineers to a stifling protocol . . .
>
> Each decision, taken by itself, seemed correct, routine, and indeed, insignificant and unremarkable. Yet, in retrospect, the cumulative effect was stunning.

Ibid, p. 202–203

Most troubling to the Board was the fact that these NASA tendencies were not new but existed in full force at the time of both the *Challenger* and the *Columbia* Shuttle accidents.

> The (Rogers) Commission found that NASA's safety system had been silent . . . (denoted by) a lack of problem reporting requirements, inadequate trend analysis, misrepresentation of criticality, and lack of involvement in critical discussions . . .
>
> By the eve of the *Columbia* accident, institutional practices that were in effect at the time of the *Challenger* accident—such as inadequate concern over deviations from expected performance, a silent safety program, and schedule pressure—had returned to NASA.

Ibid, p. 100–101

This "echo" between the events eighteen years ago and the present made the loss of *Columbia* and its explanation all the more confounding, because so many who reviewed the agency, its practices, and its culture had sounded an alarm. The fact that these NASA behaviors and beliefs were so enduring that they persisted beyond the stunning loss of the *Challenger* and her crew was all the more startling to the *Columbia* Board. So startling, that the Board found it necessary to offer a blunt and chilling assessment.

> If these persistent, systemic flaws are not resolved, the scene is set for another accident.

Ibid, p. 195

The *Columbia* Accident Investigation Board also found that it was not only NASA that was at fault for the loss of *Columbia*. Rather, the Board found that the weaknesses at NASA were just as much a result of the Nation's neglect of its human space flight program.

> Post-*Challenger* policy decisions made by the White House, Congress, and NASA leadership resulted in the agency reproducing many of the failings identified by the Rogers Commission. Policy constraints affected the Shuttle Program's organization culture, its structure, and the structure of its safety system.

Ibid, p. 197

The impact of this neglect extended beyond NASA's organizational responses, encompassing broad aspects of planning for NASA's future missions and the development of its technology.

> There (has been a) lack, over the past three decades, of any national mandate providing NASA a compelling mission requiring human presence in space . . . (and a) lack of sustained government commitment over the past decade to improving U.S. access to space by developing a second-generation space transportation system.

Ibid, p. 209

> It is the view of the Board that previous attempts to develop a replacement vehicle for the aging Shuttle represent a failure of national leadership.

Ibid, p. 211

The bill I am introducing today establishes a permanent National Space Commission to oversee the nation's current and future development and use of space. The commission is established with 12 members, appointed by the President and confirmed by the Senate. Commission members will be leaders chosen from industry, academia, and other professions who have a profound expertise in space flight and safety and have worn the mantle of responsibility and challenge in the development and use of space.

The Commission will be independent of NASA and is authorized to hire a staff to develop the engineering and technical expertise to carry out its work. It will begin its work looking at some of our most vexing current problems raised by the Columbia Board's report and provide the necessary oversight to ensure that the Board's recommendations are implemented in the following areas: (1) the return-to-flight of the Space Shuttle and return to assembling the International Space Station, (2) replacement of the Space Shuttle, and (3) changes to the culture of NASA. We specify a number of detailed questions, criteria, and concerns that the Commission should take up in laying out a near-term path forward for NASA's Human Space Flight program. In making its recommendations, the Commission is directed to consider the safety and dignity of human life as its highest priority.

This specific aspect of the bill is a special clause in my mind, one that is not subject redaction—the United States space flight program must, above all, be an American approach to the future of space flight and, as such, must place the dignity and preservation of human life above all other considerations. This assertion is not meant as an accusation or indictment of NASA—Admiral Gehman made it clear that the fault for the loss of Columbia rests with us all, impressed as we all were with space flight and our accomplishments, and naive about its risks and challenges.

> If Shuttle operations came to be viewed as routine, it was, at least in part, thanks to the skill and dedication of those involved in the program. They have made it look easy, though in fact it never was. The Board urges NASA leadership, the architects of U.S. space policy, and the American people to adopt a realistic understanding of the risks and rewards of venturing into space.
>
> Ibid, p.208

For never again should we have to read in a formal accident report of the United States space program:

> Managers failed to fulfill the implicit contract to do whatever is possible to ensure the safety of the crew.
>
> Ibid, p.170

Never again.

In each of these assessments of current issues in NASA's Human Space Flight Program, we intend the commission to provide the President, the Congress, and NASA its informed judgment and advice, so that we can expeditiously return the program to a condition of stability and adopt a NASA culture of safety as soon as possible.

The second aspect of the bill is to set a long-range view of our Nation's participation in and development of space.

Concurrent with the work on current issues at NASA, but due by late 2005, are two ground-breaking studies. These studies are intended to go beyond defining a destination for humans in space and to address broader questions about the goals and methods we use, with a specific concern for public and private utilization and investment in space. Though we have learned that the economics of space flight should never again take precedence over its safety, we also know that, in the past, its cost has driven us down pathways that have not resulted in success.

> In all three (Shuttle replacement) projects—National Aerospace Plane, X-33, and X-34—national leaders had set ambitious goals in response to NASA's ambitious proposals. The programs relied on the invention of revolutionary technology, had run into major technical problems, and had been denied the funds needed to overcome these problems—assuming they could be solved. NASA had spent nearly 15 years and several billion dollars, and yet had made no meaningful progress toward a Space Shuttle replacement.
>
> Ibid, p. 111

> Continued U.S. leadership in space is an important national objective. That leadership depends on a willingness to pay the costs of achieving it.
>
> Ibid, p. 211

First, the commission is chartered to provide a sweeping assessment of the future of space. Included in that assessment is a review of United States capabilities, goals, and uses for space, including the state of our Nation's investment in launch capabilities, how space could benefit State and local governments and regions, and the role of non-governmental, private organizations in the promotion of our space endeavors. The review will also take up the difficult issues related to public and private investment: the role of private institutions in the development and use of space and the business conditions they must meet; how Federal Government programs in space science, exploration, national security, and public safety support or limit the commercial development of space; and how space contributes to the terrestrial economy of the United States.

Given the high cost of space, and the even higher costs of space that the Nation is certain to experience in the near and long-term future, resolution of these questions of private versus public participation and promotion of the development of space is a necessary part of the examination of possible technological and economic futures for the space sector of the economy.

Second, and most importantly, the National Space Commission Act is directed to perform a comprehensive assessment and inventorying of the Nation's programs and practices related to the conduct and safety of space flight. This study will assess the state of the Nation's acceptance, approval, and commercial licensing practices as they relate to the conduct of civil, commercial, and military space flight and explore how space launch and high-risk space operations are conducted across each of these sectors. This study is intended to result in a series of recommendations about the future management of space launch and high-risk orbital and sub-orbital space operations in order to achieve the highest level of safety and management of these risks. To those who question the importance of establishing an authority independent of NASA to assess these provisions, the Columbia Accident Investigation board stated the case most convincingly:

> (NASA) cultural norms tend to be fairly resilient . . . The norms bounce back into shape after being stretched or bent. Beliefs held in common throughout the organization resist alteration.
>
> Ibid, p. 101

> Within NASA, the cultural impediments to safe and effective Shuttle operations are real and substantial . . . Leadership will have to rid the system of practices and patterns that have been validated simply because they have been around so long . . . These recommendations will be difficult to initiate, and they will encounter some degree of institutional resistance.
>
> Ibid. p. 209

> NASA's blind spot is it believes it has a strong safety culture . . . Twice in NASA history, the agency embarked on a slippery slope that resulted in catastrophe . . . A safety team must have equal and independent representation so that managers are not again lulled into complacency by shifting definitions of risk.
>
> Ibid, p. 203

> Since NASA is an independent agency answerable only to the White House and Congress, the ultimate responsibility for enforcement of the recommended corrective actions must reside with those governmental authorities.
>
> Ibid, p. 209

The National Space Commission is established on a permanent basis to maintain oversight of the implementation of space flight across all sectors of industry and government and vigilance in the management of safety in all United States high-risk space operations.

Let me reiterate. Merely announcing a bold new plan to travel to the Earth's Moon or to Mars is not sufficient. If the loss of the Space Shuttle *Columbia* merely results in that proposal, we will have failed the memory of our brave astronauts who lost their lives aboard both *Challenger* and *Columbia*. And we will have failed our own future. Unfortunately, our current charge is more difficult. We must challenge our assumptions, question our decisions and designs, revisit our approaches, and rethink our Nation's ambitions and goals for space. We must submit ourselves to the discipline to begin anew. The future of space and our Nation's reputation that we carry into history rests in the balance.

I ask unanimous consent that the text of the bill and an article from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Space Commission Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Since the enactment of the National Aeronautics and Space Act of 1958, space has become increasingly important for science, public safety, national defense and intelligence gathering, commercial telecommunications and other Earth applications, and the advancement of international relations tied to the use of space for peaceful purposes.

(2) The recent loss of the Space Shuttle Columbia highlighted the true condition of

space flight: that it is highly prone to risk, fundamentally challenges the laws of nature, is extremely unforgiving of lapses in judgment, and demands the utmost consideration of safety and the dignity of human life.

(3) The Columbia Accident Investigation Board expressed extreme misgivings about the management and technical culture of the National Aeronautics and Space Administration. In addition to prescribing a specific menu of recommendations, the Board expressed concerns that the agency may not be able to achieve its own reform, stating that, "Based on NASA's history of ignoring external recommendations, or making improvements that atrophy with time, the Board has no confidence that the Space Shuttle can be safely operated for more than a few years based solely on renewed post-accident vigilance".

(4) Today, American astronauts and International Partner cosmonauts reside in space with limited means of safe rescue and support. The Nation remains dependent on the Space Shuttle as the sole means of International Space Station assembly and human operation in space for the foreseeable future. And the Nation faces a period of greatly in creased expense merely to sustain current space operations.

(5) Even if new vehicle technologies were available, it is a matter of public discussion whether the historic ideals and prospects for the human exploration and development of space still guide our national program in space or whether the role and purpose of human presence in space has become ambiguous in light of other potential purposes for and uses of space.

(6) Meanwhile, our national program in space suffers from an aging space workforce and aging, sometimes dilapidated space facilities and systems, an atrophying of expertise, and a general lack of renewal of purposes, objectives, and methods. Commercial markets requiring space launch that are crucial to establishing the firm economic basis for the development of space and for the commercial development of space technology have not emerged but have withered. Although the use of space for science and national security purposes is expanding, the economic and commercial development of space continues to be fledgling. Although the Nation stands on the doorstep of the permanent human habitation of space, a mature agenda for safe, economic operation in space necessary to broaden the Nation's participation and interest in the peaceful development of space is lacking.

(7) The Nation would benefit by establishing a permanent National Space Commission to advise the President and Congress on issues related to the reflight and future use of the Space Shuttle and on the possibilities for the future development and use of space, and to recommend measures the Nation should take to secure the safety of future space flight.

SEC. 3. NATIONAL SPACE COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as National Space Commission.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall have 12 Members, who shall be appointed by the President by and with the advice and consent of the Senate.

(2) TERM.—Members of the Commission shall serve for a term of 5 years and shall be eligible for reappointment, except that the members initially appointed shall be appointed for terms of 3 years each.

(3) QUALIFICATIONS.—Members shall be selected from among individuals—

(A) with national reputations in the conduct of space flight and the development of space systems and technology;

(B) who are representative of the many views about the future of space and the economic and technical prospects for its use and development; and

(C), who are or have been employed in space-related activities, including—

(i) leaders of aerospace companies and other industries involved in the development and use of space;

(ii) professionals who have performed in significant capacities in the management of space programs or ventures; and

(iii) distinguished members of academia.

(4) VACANCIES.—Any vacancy occurring other than by the expiration of a term shall be filled in a manner that best replaces the qualifications of the person vacating the position, unless a person with different qualifications is to be nominated and appointed for the purpose of changing or re-directing the activities or objectives of the Commission.

(5) STATUS AS SPECIAL GOVERNMENT EMPLOYEES.—Members of the Commission are deemed to be special Government employees (as defined in section 202(a) of title 18, United States Code) without regard to the number of days of service during any 365-day period while engaged in the business of the Commission.

(6) TRAVEL EXPENSES.—Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business.

(c) CHAIR.—The President shall designate an individual to serve as Chair of the Commission for a term of 3 years, except that until the Commission has been in operation for 3 full years the term of the individual so designated shall be 1 year. Any individual designated as chair is eligible for redesignation as chair.

(d) MEETINGS—The Commission shall meet at the call of the Chair. A majority of the members shall constitute a quorum, but a lesser number may conduct the business of the Commission.

(e) STAFF.—

(1) IN GENERAL.—The Commission shall appoint and fix the compensation (in accordance with the guidelines prescribed by the Administrator of General Services under section 7(d) of the Federal Advisory Committee Act) of staff comprising—

(A) staff selected by the Chair as permanent staff of the Commission; and

(B) staff selected by each Member as staff of the Member for the duration of the Member's appointment to the Commission.

(2) QUALIFICATIONS.—Staff shall be selected from among employees of business and professional firms in the business of the development of, manufacture and operation for, or use of space, individuals with entrepreneurial experience, employees of research centers and national laboratories, scholars, professionals, and academics whose work and insights are such that their work in support of the Commission will enhance the Nation's ability to guide and direct the space program.

(3) DETAILING OF FEDERAL EMPLOYEES.—At the request of the Commission, the head of a Federal department or agency may assign an employee to serve as a member of the Commission staff while employed by the United States.

(4) EXPERTS AND CONSULTANTS.—

(A) IN GENERAL.—The Commission may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code.

(B) AVAILABLE ARRANGEMENTS.—In obtaining any service described in subparagraph (A), the Commission may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

(C) NOTICE.—The Commission shall give public notice of any such grant, contract, cooperative agreement, or other arrangement before making any such grant or executing any such contract, cooperative agreement, or other arrangement.

SEC. 4. GENERAL DUTIES.

(a) IN GENERAL.—The Commission shall—

(1) provide advice and counsel to the President and the Congress of the United States on matters related to the future development and use of space;

(2) address questions of special merit posed by the President or by the Congress to be addressed by the Commission,

(3) conduct studies, assessments, and other methods of evaluation, including market, business, and financial assessments, necessary to reach conclusions and to formulate recommendations about the future of space;

(4) convene and establish public forums, reviews, and other means of public discourse for purposes of gathering and distributing information,facts, opinions, and data related to the future of space;

(5) confer With Federal, State, and local governments and regional organizations, United States corporations, laboratories, research centers and universities, and appropriate departments, agencies, and enterprises of other Nations on questions related to the development and use of space;

(6) make other recommendations as necessary to achieve the expanded development and use of space, including assessments of the status, focus, and effectiveness of government and industry pro grams and efforts designed to achieve that purpose;

(7) propose and establish a national approach for the safety of space flight in support of commercial, military and civilian space and suborbital space programs, including issues related to the commercial licensing and operation of space vehicles, the regulation, management, and control of space flight parts, components, systems, and facilities, and the training and advancement of government and industry personnel necessary, to achieve safe space flight; and

(8) advise the President and the Congress on any changes in Federal law or international agreements necessary to achieve the recommendations, solutions, and outcomes proposed by the Commission.

(b) METHODS OF SPACE FLIGHT.—In carrying out its duties under subsection (a), the Commission shall consider the potential for the future use of space by human and robotic means and the likely contribution of both to the long-term development and use of space.

(c) DISCLAIMER.—Nothing in this Act is intended—

(1) to prejudice the disposition, or outcome of decisions related to the ownership or institutional operation and support, of Federal laboratories, centers, or bases; or

(2) to preclude the use of special classes, de signs, or certification rules and standards peculiar to the use of military space vehicles.

SEC. 5. SPECIFIC REPORTS AND ADVISORY ACTIVITIES.

(a) SPACE SHUTTLE; INTERNATIONAL SPACE STATION.—

(1) IN GENERAL.—The Commission shall evaluate the findings, recommendations, and

observations of the Columbia Accident Investigation Board and the activities of the National Aeronautics and Space Administration to respond to the Board's report, including issues related to the re-flight of the Space Shuttle, alternative near-term crewed vehicle options, and changes in the agency's organization, management, technical administration, and conduct of safety, operations and engineering, and training, and other changes intended to ensure the safety of space operations and the dignity of human life.

(2) CRITERIA FOR RETURN TO OPERATIONS.—The Commission shall make recommendations to the President and the Congress concerning—

(A) any additional criteria and conditions that the Commission considers critical for the safe operation of the Space Shuttle that war rant demonstration during the initial and subsequent return-to-flight test and demonstration missions; and

(B) longer-term criteria and conditions necessary for a return to sustained operation and management of human space flight following the initial Space Shuttle re-flight and test and demonstration flights.

(3) EVALUATION OF HUMAN SPACE FLIGHT MANAGEMENT REFORMS.— Commission shall assess—

(A) the capability of the National Aeronautic and Space Administration to resolve all findings, recommendations, and observations of the Columbia Accident Investigation Board to the Commission's satisfaction, including management and technical reforms necessary to achieve safe space flight;

(B) the relationship of the National Aeronautic and Space Administration to its Industrial, scientific, and commercial partners and the proper role of each party in the selection, design, development, and operation of high risk space flight systems; and

(C) additional workforce, organization, and management reforms that may be required to enhance further the ability of the National Aeronautic and Space Administration, its partners, or other agencies of the United States to achieve safety of human space flight.

(4) CONSIDERATION OF THE INTERNATIONAL SPACE STATION AND ALTERNATIVE SPACE TRANSPORTATION SOLUTIONS.—In making its evaluation and recommendations under this subsection the Commission shall consider—

(A) the condition of the International Space Station along with the further risk to or security of human life resulting from any decision to accelerate or slow the return to assembly and operation of the International Space Station and sustained human space flight operations;

(B) alternative space vehicle and crewing options that meet the highest achievable stand and of crew safety and security onboard the international Space Station in the shortest amount of time;

(C) the modification or purchase of existing space vehicles necessary to achieve a higher standard of heightened crew safety or enhanced ability to conduct safe human space flight operations;

(D) the acquisition or development of crewed vehicles on a schedule significantly more aggressive that the proposed schedule of the Orbital Space Plane; and

(E) the contribution of any proposed vehicle options to purposes in space other than servicing and support of the International Space Station.

(4) REPORTS TO CONGRESS.—

(A) ALTERNATIVE MEANS OF CREW TRANSFER.—Within 3 months after the full Commission has taken office, it shall report to the President and the Congress on crewing options for the Space Shuttle during the period of assembly of the International Space Station, alternative interim use of available space vehicles for these operations, and alternative or accelerated United States crewed vehicle modification or development options in lieu of or in addition to the proposed Orbital Space Plane program.

(B) SPACE SHUTTLE RETURN-TO-FLIGHT.—

(i) PREFLIGHT ADVICE.—On a continuous basis from the initial return-to-flight mission of the Space Shuttle through the final such mission, the Commission shall advise the Administrator, the President, and the Congress of the results of its review and assessment of the Space Shuttle return-to-flight, including any additional criteria the Commission establishes for return-to-flight missions.

(ii) FINAL PREFLIGHT RECOMMENDATION.—Within 60 days before the planned date for the first Space Shuttle return-to-flight, and within 30 days before each subsequent test or demonstration flight of the Space Shuttle, the Commission shall transmit its final recommendations for return-to-flight to the Administrator, the President, and the Congress. In addition, the Commission shall attach to each such transmittal to the President and the Congress a record of its recommendations to the Administrator and a description of the Administrator's responses and actions in response to those recommendations.

(iii) POST-RESUMPTION ANALYSIS.—Within 6 months after the first successful return-to-flight mission of the Space Shuttle, the Commission shall submit a report to the President and the Congress summarizing the Commission's and the National Aeronautics and Space Administration's work on the re-flight of the Space Shuttle and addressing further changes that should be accomplished to ensure safe continuous operation of the Space Shuttle and the International Space Station. The report shall address the status of organizational, management, and technical changes in the National Aeronautics and Space Administration, their effectiveness in resolving concerns about the safety, operations, engineering, and management cultures of the agency, and their effectiveness in resolving concerns and risks associated with a return-to-normal operations for the Space Shuttle and the International Space Station.

(b) FUTURE LAUNCH TECHNOLOGY AND THE DEVELOPMENT OF AND USES FOR SPACE.—

(1) IN GENERAL.—The Commission shall—

(A) advise the President and the Congress on the state of the Nation's investment in and development of advanced space launch technology, including advanced space lift propulsion systems;

(B) make recommendations on steps necessary to accelerate the development of technologies and capabilities to advance the economy of space flight and the prospect for the expanded use of space for economic, commercial, and industrial purposes;

(C) assess how State and local governments and regional authorities might benefit from the expanded use of space;

(D) evaluate the ability of the Nation's private research centers, laboratories, and private and public universities to contribute to and benefit from the expanded development and use of space;

(E) assess the future use of space for exploration, science, research, national security, and public safety ensure that such uses are consistent with the long-term economic development of space, and are designed to enhance the industrial and commercial capabilities of space flight whenever possible; and

(F) make detailed recommendations related to the use of budget, regulatory, and licensing powers and authorities of the United States to enhance, to better plan for, and to coordinate the activities of the United States related to the development and use of space.

(2) REPORT TO CONGRESS.—By September 1, 2005 the Commission shall transmit to the Congress a report that—

(A) summarizes its recommendations for future national goals for the development and use of space;

(B) provides a blueprint of capabilities that could and should be achieved by the end of the present decade, by 2015, and by 2025 in order to better position the Nation to achieve those goals; and

(C) addresses potential markets and uses for space and the means of financing the development and use of space.

(c) NATIONAL APPROACH TO THE SAFETY OF SPACE FLIGHT.—

(1) IN GENERAL.—The Commission shall conduct a review and assessment of the Nation's program of safety in space flight as conducted by the United States, the commercial space industry, and other private parties.

(2) CONTENTS.—The review and assessment shall—

(A) assess the current use of inspection, acceptance, and commercial licensing to certify the safety, flight worthiness, and flight readiness of space vehicles and their associated launch and ground control facilities;

(B) evaluate and compare current space launch and flight operations practices, including the promulgation of flight rules and over-flight plans of populated areas;

(C) assess and compare how Federal agencies, private launch operators, and commercial industry make determinations of flight worthiness and ground and flight system readiness, including the use of tests, analyses, demonstrations, and other means whereby the operational readiness of space vehicles, crew, and ground systems are verified to be ready for launch and operation;

(D) address current government and industry practices for conducting and coordinating design and decision rules within and among space management agencies, firms, organizations, and ground control and flight operations management centers before, during, and after flight; and

(E) assess practices and conditions related to the acquisition and sale of parts, components, systems, services, and capabilities among Industry prime and supplier contractors and the Federal Government, including outsourcing, sole source, and other competitive and non-competitive forms of relationship, and their impact upon safety.

(3) REPORT TO CONGRESS.—No later than September 1, 2005, the Commission shall transmit to the Congress a report that—

(A) summarizes the results of the review and assessment required by paragraph (1); and

(B) makes recommendations for a National program of—

(i) management of safe commercial, civil, and military space flight; and

(ii) regulation of the design, certification, or licensing of space flight systems for launch and landing over the United States, or for orbital or suborbital operation using crew or passengers aboard commercial or civil vehicles licensed or operated by the United States.

(c) ANNUAL REPORT.—In addition to other reports required or permitted under this Act, within 60 days after the end of each fiscal year, the Commission shall provide an annual report to the Congress that—

(1) summarizes its activities, reports, findings, conclusions, and recommendations during that fiscal year; and

(2) contains a year-end financial statement of the Commission's operations, including a detailed statement of the purposes for which funds have been expended by the Commission.

(d) OTHER REPORTS.—The Commission may also report to the President and the Congress on other space related questions and issues raised by the Congress, the President, or on its own initiative.

SEC. 6. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) COMMISSION.—The term "Commission" means the National Space Commission established by section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out its duties under this Act.

[From the New York Times, Nov. 5, 2003]

NASA SUPPORTERS SEEK NATIONAL DEBATE ON SPACE GOALS

(By Matthew L. Wald)

WASHINGTON, NOV. 4—After the shuttle Columbia disintegrated on Feb. 1, many supporters of NASA expected a renewed national debate on the goals of the space program. But nine months later, supporters of space exploration and the science program say that the subject appears to be in danger of slipping below the national horizon.

"There have been fits and starts of a national debate," said Senator Ernest F. Hollings of South Carolina, the ranking Democrat on the Commerce Committee, which has jurisdiction over NASA.

Mr. Hollings plans to introduce a bill on Wednesday to create a national space commission to oversee NASA's progress in fixing the hardware and the "broken safety culture" identified in the Columbia investigation, and to help set goals.

Senator Hollings' bill, which has six sponsors, all Democrats, joins a varied flock of measures on the House side, none likely to see major action this year.

"It's not commanding anywhere near the level of attention that the Challenger did," said a House staff aide who was on Capitol Hill at the time of that accident, in 1986.

The war in Iraq helps explain the difference, the aide added, but beyond that, "space is more humdrum now," even when astronauts die.

Sean O'Keefe, the NASA administrator, said in testimony last week that the Bush administration would produce a new plan for space, including a replacement vehicle for the shuttle, now more than 20 years old. He said Congress should wait until that plan is released, but he refused to predict how long that would take.

The leisurely pace contrasts with the push by the Columbia Accident Investigation Board to complete its work over the summer so members of Congress could digest the report during their recess and be ready for a vigorous debate when they returned.

The most prominent feature of the debate so far has been a skirmish between NASA and the chairman of the House Science Committee and the ranking Democrat on the panel. The two lawmakers, Representatives Sherwood Boehlert, Republican of New York, and Ralph M. Hall, Democrat of Texas, suggested that NASA hold off on development of an orbital space plane, a crew-transport vehicle that could replace the shuttle, until an "overall vision for the human spaceflight program" emerges.

Mr. Boehlert said at a hearing on Oct. 16 that NASA would be successful "only if it's pursuing a clear and broad national consensus with sustained and adequate funding," and he added, "That hasn't been the case in three decades."

Mr. O'Keefe, responding to the letter on the orbital space plane, argued that the project was still at a conceptual stage and should proceed.

Beyond establishing a commission to oversee NASA's progress, the Senate bill to be introduced on Wednesday seeks "to address broader questions about the goals and methods we use," with specific concern for public and private investment in spaceflight and use of it. In remarks prepared for delivery on the Senate floor on Wednesday, Mr. Hollings argues that while economics of spaceflight should not take precedence over safety, "we also know that, in the past, its cost has driven us down pathways that have not resulted in success."

On the House side, Representative Bart Gordon, Democrat of Tennessee, introduced a bill that would have future accidents investigated by a presidential commission independent of NASA. The Columbia Accident Investigation Board began under a charter written after the Challenger accident, with members selected according to positions they held in the Air Force, Federal Aviation Administration and other agencies.

Mr. Gordon's bill was approved by a subcommittee but has gone no further.

Mr. Hall, the ranking Democrat on the House Science Committee, introduced a bill on Oct. 1, with 24 sponsors, including 3 Republicans, that would have the National Academy of Sciences and the National Academy of Engineering assemble an oversight committee, as was done after the Challenger accident. NASA has generally opposed outside oversight.

Mr. Hall also introduced an amendment to an appropriations bill that would mandate a $15 million study of shuttle crew escape, to be performed by NASA. The House passed the bill, and it is now in a conference committee.

Representative Nick Lampson, Democrat of Texas, has introduced a measure that would require NASA to develop reusable spaceships that could sit for long periods balanced between the gravitational pull of Earth and the Sun or the Moon; ships that could reach an asteroid; and, ultimately, ones that could reach Mars. The bill has 24 sponsors but has not yet been taken up in committee.

Mr. Lampson said in a telephone interview that he was glad that Senator Hollings was focused on the problem, but he added, "we don't need a commission, we need a commitment for NASA."

"If the goals get set, we will re-energize the academic community, and the space industrial community," he said, predicting that missions to Mars would "do a great deal to move this country forward."

Mr. Hollings, in a separate interview, said, "I want to go to Mars, too, but unless you get the culture changed and fixed, we're not going anywhere."

By Mr. AKAKA (for himself, Mr. FITZGERALD, and Mr. LIEBERMAN):

S. 1822. A bill to require disclosure of financial relationships between brokers and mutual fund companies and of certain brokerage commissions paid by mutual fund companies; to the Committee on Banking, Housing, and Urban Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation intended to restore public trust in mutual funds, the Mutual Fund Transparency Act of 2003. I thank Senator FITZGERALD and Senator LIEBERMAN for cosponsoring my bill. I greatly appreciate the efforts of Senator FITZGERALD to address this issue. Our Financial Management, Budget, and International Security Subcommittee held a very thorough hearing on mutual fund trading abuses on Monday. I applaud the efforts of Representative RICHARD BAKER for his leadership and his efforts to improve mutual fund governance. I also commend the efforts of New York Attorney General Eliot Spitzer and the Secretary of Massachusetts William Galvin for their efforts to pursue individuals that have harmed mutual fund investors.

Mr. President, 95 million people have placed a significant portion of their future financial security into mutual funds. Mutual funds provide middle-income Americans, blue and white collar workers and their families, with an investment vehicle that offers diversification and professional money management. Mutual funds are what average investors rely on for retirement, savings for children's college education, or other financial goals and dreams.

My legislation will bring about structural reform of mutual fund governance and increase disclosures in order to provide useful and relevant information to mutual fund investors. I ask unanimous consent that a letter of support for my bill from the Consumer Federation of America, Fund Democracy, Consumer Action, U.S. Public Interest Research Group, and Consumers Union be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
FUND DEMOCRACY, INC., CONSUMER
ACTION, U.S. PUBLIC INTEREST RESEARCH GROUP, CONSUMERS UNION,
October 31, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate, Washington, DC.

DEAR SENATOR AKAKA: We are writing to express our enthusiastic support for your draft legislation to increase the transparency of mutual disclosures and enhance the independence of fund oversight. Over the last two decades, mutual funds have become firmly established as average Americans' investment vehicle of choice, and investors have for the most part benefitted greatly from the ability mutual funds have offered even those of modest means to diversify their portfolios and obtain professional management. However, fund rules in some areas have not kept pace with industry practices, and the recent scandals embroiling the mutual fund industry have raised serious questions about the quality of corporate governance in this industry.

Given the importance of mutual funds in the financial portfolios of average Americans and the heavy reliance of the least sophisticated investors on these investment vehicles, we applaud your efforts to address key weaknesses in the regulatory structure for mutual funds. Your proposed reforms to improve disclosures about fund costs and strengthen the independence of mutual fund boards, if adopted, should help the fund industry to regain the investor trust that has been the key to its success over the years but has been so severely undermined by recent revelations.

1. We support requiring disclosure of broker compensation for mutual fund transactions

The legislation would require disclosure of the compensation brokers receive for selling funds. While funds are currently required to disclose the existence of such payments in fund prospectuses, the actual amount of the broker's compensation for a particular mutual fund transaction does not currently have to be disclosed. This from of compensation creates a conflict of interest between the broker, who may be inclined to recommend the fund that offers him or her the highest compensation, and the investor, whose interest is in obtaining the highest quality fund at the lowest cost. By requiring timely disclosure to investors of the actual dollar amount of these commissions, your bill should help to increase investors' awareness of the existence and extent of this conflict of interest and its potential to induce their broker to place his or her interests ahead of theirs.

Ample evidence that brokers do not always put investors' interests first can be found in the allegations of improper sale of fund B shares at some fund companies. In addition, a recent Consumer Federation of America-Fund Democracy study of excess costs paid by investors in S&P 500 Index funds found that many of the funds with unjustifiably high expense ratios were funds that brokers sold on commission. Since costs subtract directly from fund performance, investors in these funds end up paying a premium for sub-par performance. Had these investors been made aware of the often substantial payments their brokers received on the sale, they might have been encouraged to look more closely at whether the fund or share type being sold was really the best for them.

2. We support requiring improved disclosure of portfolio transaction costs

The legislation would also require mutual funds to disclosure in the prospectus the brokerage commissions they pay on portfolio transactions and to include this cost in the fund expense ratio. Portfolio transaction costs vary greatly among funds and can be the single largest fund expense, exceeding all other fund expenses combined. These costs are not, however, currently included in fee information provided in the prospectus. The only public disclosure of portfolio transaction costs is a statement of the dollar amount of the fund's commissions in the Statement of Additional Information, a document never reviewed by the vast majority of mutual fund investors.

Fuller disclosure of portfolio transaction costs would help investors to hold fund advisers accountable for their trading practices. It also would provide a collateral benefit in connection with funds' soft dollar practices. Commissions paid by funds typically pay for both execution and research services. Since soft dollars pay for research that fund advisers would otherwise have to pay for themselves, this creates a significant conflict of interest for fund advisers. Requiring brokerage commission cost disclosure would subject these fund expenditures, including expenditures on soft dollar services, to market forces, and in the process provide a practical solution to the problem of regulating soft dollar practices.

3. We support reforms to enhance the independence of mutual fund boards.

The legislation contains a number of provisions to strengthen the independence of fund boards. It would require that 75 percent of board members, including the board chairman, be independent. It would substantially strengthen the definition of independent director by excluding individuals who had served as directors, officers, or employees within the past 10 years of the fund's manager, principal underwriter, or other significant service provider. It would delegate selection of new independent directors exclusively to existing independent directors. And it would establish qualification standards for board members that must be publicly disclosed.

The recent investigation into market timing and late trading at certain mutual funds has raised serious questions about the quality of oversight provided by fund boards. Of particular concern are the allegations that some Putnam fund managers and the CEO of the Strong fund family were timing their own funds—essentially picking the pockets of their own shareholders to the tune of several hundred thousand dollars in each instance. This is an unconscionable violation of these fund managers' fiduciary duty to their shareholders. It is also strong evidence of the need to end the domination of fund boards by the fund manager. Increasing the representation of independent members on boards, making sure that independent members are truly independent, and ensuring that the boards are led by independent members should go a long way toward advancing that goal.

4. Other bill provisions would also benefit investors

The recent mutual fund scandals are not just a corporate governance failure—though they certainly are that. They are also a regulatory failure. The fact is that the SEC was apparently aware of problems related to market timing for years and had drifted along without doing anything about it. Given the lack of clear direction from the SEC, it is hardly surprising that fund boards failed to closely supervise the trading practices at funds they oversaw. Your bill offers an innovative approach to enhancing the quality of fund board oversight. It would direct the SEC to study the benefits of creating a Mutual Fund Oversight Board, generally modeled after the Public Company Accounting Oversight Board, with authority to examine and bring enforcement actions against mutual fund boards of directors. Under this approach, the SEC would retain responsibility for direct oversight of investment adviser, but that responsibility would be supplemented by the new independent agency's supervision of fund boards. We believe this approach is well worth studying.

We also support the bill's provisions requiring disclosure of portfolio managers' compensation and ownership of fund shares (something that might have discouraged market timing by fund managers), as well as its proposed GAO study of mutual fund advertising practices and SEC study of financial literacy. Such a study should look at innovative disclosure methods designed to reach unsophisticated investors—those who fail to take costs into account, for example—with information they understand and act on.

CONCLUSION

Recent events have provided a rude awakening to those who have long trusted mutual funds as the one place where the needs of average investors are generally well protected. Your bill offers a reasonable approach—one that recognizes the continued benefits of mutual fund investing for millions of Americans but also recognizes that reforms are needed to restore investor confidence in the integrity of this industry. Please let us know what we can do to assist in its passage.

Respectfully submitted,

BARBARA ROPER,
Director of Investor Protection, Consumer Federation of America.
MERCER BULLARD,
Executive Director, Fund Democracy.
KENNETH MCELDOWNEY,
Executive Director, Consumer Action.
EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.
SALLY GREENBERG,
Senior Counsel, Consumers Union.

Mr. AKAKA. I also ask unanimous consent that a letter of support for the legislation from AARP be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, November 4, 2003.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: AARP supports your effort to improve investor awareness of mutual fund costs, and to improve the independent oversight and governance functions of fund boards of directors. The legislation you have introduced, "the Mutual Fund Transparency Act of 2003," would put into effect an overdue upgrade in investor protection for the ordinary saver-investor. These reforms are already warranted by the continuing evolution in market practices and the growth in market choices. They are now more urgently required.

Mounting allegations of illegal—at best unethical—practices by mutual fund management companies, executives and brokers highlight the need for prompt action. We are concerned that lay investor confidence in the mutual fund industry not be allowed to deteriorate further—specifically in its ability to reliably provide fairly priced benefits of investment diversification and expert management.

With regard to initiatives designed to increase fund transparency, we strongly support the bill's provisions to require that: fees be disclosed in dollar amounts; fee disclosures incorporate all fees, including portfolio transaction costs; fee disclosures identify all distribution expenses; and compensation paid to portfolio managers and retail brokers be fully disclosed.

While greater transparency is essential to fair competition among funds for investors, we believe it does not provide a sufficient check on the cost of fund governance. Mutual funds allow investors to share the costs of professional money managers—who under the 1940 Investment Company Act are called "advisers." However, most funds are not established by investors but rather are incorporated by advisory firms, who then contractually provide research, trading, money management and customer support services, and also have some representation on the fund's board. The advisory firms have their own corporate charters and are accountable to their own boards of directors, posing—as we are seeing—a range of potential conflicts of interest in the costs of services provided to the fund.

We support the provisions in the proposal to strengthen the role and independence of boards of directors, which should reduce potential conflicts of interest. Specifically, we support the requirement that: a super-majority (i.e., two-thirds to three-fourths) of fund board members be independent; the board chairman be selected from among the independent members; and the independent directors be responsible for establishing and disclosing the qualification standards of independence, and for nominating and selecting all subsequent independent board members.

We also see merit in the bill's requirements for three separate studies of investor financial literacy, the value of creating a mutual fund oversight board, and mutual fund advertising.

The importance of the mutual fund market as a critical component of the economic security of all Americans—especially order persons—should not be underestimated. Similar—although not identical—legislation (H.R. 2420) is pending before the House financial Services Committee. We look forward to working with you and with the other members of the Senate to enact this measured and important piece of investor protection legislation. Please feel free to contact me, or have your staff call Roy Green of our Federal Affair staff at (202) 434–3800, if you have any questions about our views.

Sincerely,

DAVID CERTNER,
Director, Federal Affairs.

Mr. AKAKA. Mr. President, recent revelations of widespread market-timing and late-trading abuses demonstrate the failures of mutual fund boards of directors to fulfill their fiduciary obligations to shareholders. The activities of Canary Capital Partners and Putnam Investments are two deeply troubling examples. However, it is likely that the trading abuses are much more routine. At our hearing, Mr. Stephen Cutler, Director, Division of Enforcement, Securities and Exchange Commission, SEC, testified that preliminary results of an SEC survey show that about "50 percent of responding fund groups appear to have one or more arrangements with certain shareholders that allow these shareholders to engage in market timing." This statistic is just one example of mutual funds having different sets of rules for large and small investors. These differing rules allow the larger investors to profit at the expense of average, ordinary investors who are working toward their long-term financial goals.

The abuses that have been brought to our attention make it clear that the boards of mutual fund companies are not providing sufficient oversight. To be more effective, the boards must be strengthened and more independent. Investment company boards should be required to have an independent chairman, and independent directors must have a dominant presence on the board. My bill strengthens the definition of who is considered to be an independent director. It also requires that mutual fund company boards have 75 percent of their members considered to be independent. To be considered independent, shareholders would have to approve them. My legislation also prohibits the board from making decisions that require a vote of a non-independent director. In addition, a committee of independent members would be responsible for nominating members and adopting qualification standards for board membership. These steps are necessary to add much needed protections to strengthen the ability of mutual fund boards to detect and prevent abuses of the trust of shareholders.

In addition, this bill requires the SEC to develop rules to disclose the compensation of individuals employed by the investment advisor of the company to manage the portfolio of the company and their ownership interest in the company. Consumers deserve to know relevant information about the portfolio manager's incentives and whether they are properly aligned with those of their shareholders. Again, I am referring to ordinary American families patiently working toward their long-term financial goals.

The strengthening of boards to protect shareholders is only one important aspect of my bill. My bill will also increase the transparency of often complex financial relationships between brokers and mutual funds in ways that are meaningful and easy to understand for investors.

Shelf-space payments and revenue-sharing agreements between mutual fund companies and brokers present conflicts of interest that must be addressed. Brokers also compile preferred lists which highlight certain funds, which typically generate more investment than those left off the list. It is not clear to investors that the mutual fund company also may pay a percentage of sales and/or an annual fee on the fund assets held by the broker to obtain a place on the preferred list or to have their shares sold by the broker.

Shelf-space and revenue sharing agreements present risk to investors. Brokers have conflicts of interest, some of which are unavoidable, but these need to be disclosed to investors. Without such disclosure, investors cannot make informed financial decisions. Investors may believe that brokers are recommending funds based on the expectation for solid returns or low volatility, but the broker's recommendation may be influenced by hidden payments.

The SEC has exempted mutual funds from Rule 10b–10, which requires that confirmation notices of securities transactions be sent to customers to indicate how the broker was compensated in the trade. Mutual funds should be subject to this confirmation notice requirement. My legislation will require brokers to disclose in writing, to those who purchase mutual fund company shares, the amount of compensation the broker will receive due to the transaction, instead of simply providing a prospectus. The prospectus fails to include the detailed relevant information that investors need to make informed decisions. Mutual fund investors deserve to know how their broker is being paid.

My bill also will inject a measure of reality into the expenses of mutual funds. In order to increase the transparency of the actual costs of the fund, brokerage commissions must be counted as an expense in filings with the SEC and included in the calculation of the expense ratio, so that investors will have a more realistic view of the expenses of their fund. Consumers often compare the expense ratios of funds when making investment decisions. However, the expense ratios fail to take into account the costs of commissions in the purchase and sale of securities. Therefore, investors are not provided with an accurate idea of the expenses involved. Currently, brokerage commissions have to be disclosed to the SEC, but not to individual investors. Brokerage commissions are only disclosed to the investor upon request. My bill puts teeth into brokerage commission disclosure provisions and ensures that commissions will be included in a document that investors actually have access to and utilize.

This bill also creates a powerful incentive to reduce the use of soft dollars. Soft dollars refer to the bundling of services or products into commissions. Mutual fund companies often pay higher commissions in order to obtain other products and services, typically research on stocks. Soft dollars can be used to lower their expenses by having services and products paid for by soft dollars. Purchases using soft dollars do not count as expenses and are not calculated into the expense ratio. The SEC released a study in September 1998 concluding that soft dollars were used to pay for research, salaries, office rent, telephone services, legal expenses, and entertainment, among other expenses.

At the hearing, Secretary Galvin called for a prohibition of soft dollars. This is a recommendation that needs to be examined. However, my bill provides an immediate alternative, which is to provide an incentive for funds to limit their use of soft dollars by calculating them as expenses. If commissions are disclosed in this manner, the use of soft dollars will be reflected in the higher commission fees and overall expenses. This will make it easier for investors to see the true cost of the fund and compare the expense ratios of funds.

Some may argue that this gives an incomplete picture and fails to account for spreads, market impact, and opportunity costs. However, the SEC has the authority to address the issue further if it can determine an effective way to quantify these additional factors. This bill does not impose an additional reporting requirement that would be burdensome to brokers. It merely uses what is already reported and presents this information in a manner meaningful to investors.

My legislation also directs the SEC to conduct a study to assess financial literacy among mutual fund investors. The SEC will identify the most useful and relevant information that investors need prior to purchasing shares, methods to increase the transparency of expenses and potential conflicts of interest in mutual fund transactions, and a strategy to increase the financial literacy of investors that results in positive change in investor behavior. None of our disclosure provisions will truly work unless investors are effectively given the tools they need to make smart investment decisions.

Finally, my bill requires the General Accounting Office, GAO, to study the current marketing practices for the sale of shares of mutual funds. GAO will provide recommendations to improve investor protections in mutual fund advertising to ensure that investors are able make informed financial decisions when purchasing shares.

Public confidence in mutual funds will not recover if funds continue to employ different sets of rules for large and small investors, engage in ethical misconduct, and enrich themselves at the expense of shareholders. The transgressions brought to light underscore the absence of effective oversight by the boards of mutual funds companies. This legislation will strengthen board independence and enhance the transparency of financial relationships. The American investing public deserves nothing less.

Mr. President, I look forward to working with my colleagues in enacting meaningful reform of the troubled mutual fund industry. We must act to restore trust in this critical investment vehicle that people rely on for their financial future and goals. I ask unanimous consent that the text of the Mutual Fund Transparency Act of 2003 be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mutual Fund Transparency Act of 2003”.

SEC. 2. DISCLOSURE OF FINANCIAL RELATIONSHIPS BETWEEN BROKERS AND MUTUAL FUND COMPANIES.

(a) In General.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended by adding at the end the following:

“(11) Confirmation of transactions for mutual funds.—

“(A) In general.—Each broker shall disclose in writing to customers that purchase the shares of an open-end company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8)—

“(i) the amount of any compensation received or to be received by the broker in connection with such transaction from any sources; and

“(ii) such other information as the Commission determines appropriate.

“(B) Timing of disclosure.—The disclosure required under subparagraph (A) shall be made to a customer not later than as of the date of the completion of the transaction.

“(C) Limitation.—The disclosures required under subparagraph (A) may not be made exclusively in—

“(i) a registration statement or prospectus of an open-end company; or

“(ii) any other filing of an open-end company with the Commission.

“(D) Commission authority.—

“(i) In general.—The Commission shall promulgate such rules as are necessary to carry out this paragraph not later than 1 year after the date of enactment of the Mutual Fund Transparency Act of 2003.

“(ii) Form of disclosure.—Disclosures under this paragraph shall be in such form as the Commission, by rule, shall require.

“(E) Definition.—In this paragraph, the term ‘open-end company’ has the same meaning as in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5).”.

(b) Disclosure of Brokerage Commissions.—Section 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–29) is amended by adding at the end the following:

“(k) Disclosure of Brokerage Commissions.—The Commission, by rule, shall require that brokerage commissions as an aggregate dollar amount and percentage of assets paid by an open-end company be included in any disclosure of the amount of fees and expenses that may be payable by the holder of the securities of such company for purposes of—

“(1) the registration statement of that open-end company; and

“(2) any other filing of that open-end company with the Commission, including the calculation of expense ratios.”.

SEC. 3. MUTUAL FUND GOVERNANCE.

(a) Independent Fund Boards.—Section 10(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(a)) is amended—

(1) by striking “shall have” and inserting the following: “shall—

“(1) have”;

(2) by striking “60 per centum” and inserting “25 percent”;

(3) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(2) have as chairman of its board of directors an interested person of such registered company; or

“(3) have as a member of its board of directors any person that is an interested person of such registered investment company—

“(A) who has served without being approved or elected by the shareholders of such registered investment company at least once every 5 years; and

“(B) unless such director has been found, on an annual basis, by a majority of the directors who are not interested persons, after reasonable inquiry by such directors, not to have any material business or familial relationship with the registered investment company, a significant service provider to the company, or any entity controlling, controlled by, or under common control with such service provider, that is likely to impair the independence of the director.”.

(b) Action by Independent Directors.—Section 10 of the Investment Company Act of 1940 (15 U.S.C. 80a–10) is amended by adding at the end the following:

“(i) Action by Board of Directors.—No action taken by the board of directors of a registered investment company may require the vote of a director who is an interested person of such registered investment company.

“(j) Independent Committee.—

“(1) In general.—The members of the board of directors of a registered investment company who are not interested persons of such registered investment company shall establish a committee comprised solely of such members, which committee shall be responsible for—

“(A) selecting persons to be nominated for election to the board of directors; and

“(B) adopting qualification standards for the nomination of directors.

“(2) Disclosure.—The standards developed under paragraph (1)(B) shall be disclosed in the registration statement of the registered investment company.”.

(c) Definition of Interested Person.—Section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended—

(1) in subparagraph (A)—

(A) in clause (iv), by striking “two” and inserting “5”; and

(B) by striking clause (vii) and inserting the following:

“(vii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of an investment adviser or principal underwriter to such registered investment company, or of any entity controlling, controlled by, or under common control with such investment adviser or principal underwriter;

“(viii) any natural person who has served as an officer or director, or as an employee within the preceding 10 fiscal years, of any entity that has within the preceding 5 fiscal years acted as a significant service provider to such registered investment company, or of any entity controlling, controlled by, or under the common control with such service provider;

“(ix) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

“(I) a material business relationship with the investment company or an affiliated person of such investment company;

“(II) a close familial relationship with any natural person who is an affiliated person of such investment company; or

“(III) any other reason determined by the Commission.”;

(2) in subparagraph (B)—

(A) in clause (iv), by striking “two” and inserting “5”; and

(B) by striking clause (vii) and inserting the following:

"(vii) any natural person who is a member of a class of persons that the Commission, by rule or regulation, determines is unlikely to exercise an appropriate degree of independence as a result of—

"(I) a material business relationship with such investment adviser or principal underwriter or affiliated person of such investment adviser or principal underwriter;

"(II) a close familial relationship with any natural person who is an affiliated person of such investment adviser or principal underwriter; or

"(III) any other reason as determined by the Commission.".

(d) DEFINITION OF SIGNIFICANT SERVICE PROVIDER.—Section 2(a) of the Investment Company Act of 1940 is amended by adding at the end the following:

"(53) SIGNIFICANT SERVICE PROVIDER.—

"(A) IN GENERAL.—Not later than 270 days after the date of enactment of the Mutual Fund Transparency Act of 2003, the Securities and Exchange Commission shall issue final rules defining the term 'significant service provider'.

"(B) REQUIREMENTS.—The definition developed under paragraph (1) shall include, at a minimum, the investment adviser and principal underwriter of a registered investment company for purposes of paragraph (19).".

(e) STUDY.—

(1) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to determine whether the best interests of investors in mutual funds would be served by the creation of a Mutual Fund Oversight Board that—

(A) has inspection, examination, and enforcement authority over mutual fund boards of directors;

(B) is funded by assessments against mutual fund assets;

(C) the members of which are selected by the Securities and Exchange Commission; and

(D) has rulemaking authority.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under paragraph (1) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

SEC. 4. PORTFOLIO MANAGER COMPENSATION.

Not later than 270 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe rules under the Investment Company Act of 1940, requiring that a registered investment company disclose the structure of, or method used to determine, the compensation of—

(1) individuals employed by the investment adviser of the company to manage the portfolio of the company; and

(2) the ownership interest of such individuals in the securities of the registered investment company.

SEC. 5. FINANCIAL LITERACY AMONG MUTUAL FUND INVESTORS STUDY.

(a) IN GENERAL.—The Securities and Exchange Commission shall conduct a study to identify—

(1) the existing level of financial literacy among investors that purchase shares of open-end companies, as such term is defined under section 5 of the Investment Company Act of 1940, that are registered under section 8 of such Act;

(2) the most useful and understandable relevant information that investors need to make sound financial decisions prior to purchasing such shares;

(3) methods to increase the transparency of expenses and potential conflicts of interest in transactions involving the shares of open-end companies;

(4) the existing private and public efforts to educate investors; and

(5) a strategy to increase the financial literacy of investors that results in a positive change in investor behavior.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Securities and Exchange Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 6. STUDY REGARDING MUTUAL FUND ADVERTISING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify—

(1) existing and proposed regulatory requirements for open-end investment company advertisements;

(2) current marketing practices for the sale of open-end investment company shares, including the use of unsustainable past performance data, funds that have merged, and incubator funds;

(3) the impact of such advertising on consumers;

(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and

(2) the Committee on Financial Services of the House of Representatives.

Mr. LIEBERMAN. Mr. President, I rise today to join with my colleagues Senator DANIEL AKAKA and Senator PETER FITZGERALD and cosponsor legislation that would begin the crucial process of reforming the mutual fund industry. In the wake of shocking revelations of abusive trading and self-dealing in some of America's largest funds, it is imperative that we act quickly, and I commend my friend Senator AKAKA for his leadership. We must do two things in order to reassure the 95 million Americans who invest in mutual funds that they have not misplaced their trust. We must find out how this was allowed to happen, and we must put safeguards in place to prevent these widespread abuses from poisoning our markets again.

As the deceptions and conflicts of the Wall Street analysts were uncovered last year in the wake of the Enron scandal, the oft-heard advice to the average investor was to invest in mutual funds. Investors took this advice in droves. Half of all American households own shares in mutual funds, and of the $7 trillion invested in mutual funds, $2.1 trillion of it is invested for retirement.

Perhaps these working families felt comfortable entrusting their precious savings with mutual funds because these funds offer one of the most highly regulated investments available. Mutual funds, their directors and their managers owe their investors a statutory fiduciary duty. Mutual funds are overseen by the SEC through a prescribed registration and reporting process as well as a regular examination and audit process, pursuant to the Investment Company Act of 1940.

Unfortunately, the trust of these American families has been abused. According to a just-released survey conducted by the Securities and Exchange Commission, half of the largest 88 mutual funds have permitted a practice called "market-timing," which allows some investors to trade quickly in and out of the funds, even though many of those funds had explicit policies against such trading because of its detrimental impact on other investors in the fund. Many fund companies admitted providing portfolio information, unavailable publicly, to certain large investors to help them make trading decisions. Also, a full one-quarter of the brokerage firms surveyed indicated that they had allowed certain customers to engage in late-trading, an illegal practice that allows favored investors to execute trades based on that day's price, but after the market close, when new information has come to light. Perhaps most shocking, Stephen Cutler, Director of the SEC's Enforcement Division, has said that there is evidence that officials at fund companies profited personally at the expense of their customers by market-timing their own funds.

The SEC didn't discover these abuses on its own initiative, however. It acted only after the New York State Attorney General and the Massachusetts Secretary of the Commonwealth took steps to investigate and stop this conduct. The SEC didn't discover the abuses through the extensive reporting process mutual funds go through; the SEC didn't discover the abuses through the broad and regular examinations the SEC does of these mutual funds; the SEC didn't even discover the abuses after it received a tip from an insider, who went to the SEC with his attorney, evidence in hand.

Yesterday, I sent a ten-page letter to SEC Chairman William Donaldson, demanding to know how the SEC could have failed to uncover such a sweeping problem in the mutual fund industry. I asked how the SEC planned to change its practices in order to ensure that it is never again caught so unaware. Congress gave the SEC the responsibility to monitor the mutual fund industry, and we must ensure that the SEC does its job.

This is not the first time the SEC has been caught off guard with a scandal on Wall Street. In October 2002, the staff of the Senate Governmental Affairs Committee, of which I was then the Chairman, released a report, Financial Oversight of Enron: The SEC and Private-Sector Watchdogs, detailing the ignored red flags and the missed opportunities that kept the SEC from detecting the problems at Enron before that company collapsed, taking with it the jobs and retirement savings of thousands of Americans. Again, despite being fully aware of the troubling conflicts faced by Wall Street analysts, the SEC turned a blind eye to that problem until this Committee and others held hearings on the issue and New York State Attorney General Eliot Spitzer exposed how deeply deceptive many analyst recommendations truly were. I hope this mutual fund scandal represents the last time the SEC is playing regulatory catch-up.

In addition to holding the SEC accountable, Congress must also act to protect investors by fixing the holes in the statutory scheme for mutual funds. That's why I'm pleased to cosponsor the Mutual Fund Transparency Act of 2003, which enjoys widespread support from consumer groups. It contains many of the policy changes I urged the SEC to consider in my letter to Chairman Donaldson. It would strengthen the independence of mutual fund boards of directors by tightening the definition of independence and by requiring that 75 percent of the directors be independent. The bill would also require that mutual fund boards have nominating committees comprised solely of independent directors, so that directors are not chosen by management.

In my letter to the SEC, I also criticized the opaque or, in some cases, lack of, disclosure to investors about mutual fund fees. The Mutual Fund Transparency Act would significantly improve such disclosure to investors, by including in the fees disclosed to investors the costs the fund incurs when it executes trades of its holdings. Currently, such costs are not included among these more visible fees, which are disclosed in documents provided directly to mutual fund shareholders. Trading costs are currently only disclosed in filings with the SEC, but if this bill became law, trading costs would be included among the fees provided directly to investors. Such information is useful because it can give investors a sense of how often their funds are buying and selling assets and at what expense. The bill would also require funds to tell shareholders how fund advisers are compensated. Public companies are required to tell their shareholders how their managers are paid; mutual fund shareholders should have the same information. Finally, the bill would require that brokers offering mutual funds to investors inform those investors of any fees or incentives those brokers are receiving for making those sales in a sale confirmation.

The bill also mandates that the SEC study three initiatives to improve mutual fund oversight and transparency. The first two ask the SEC and the Comptroller General, respectively, to look at financial literacy among mutual fund investors and at mutual fund advertising, to determine how relevant information can be made clearer and more readily understandable to the average investor. In my letter to the SEC, I suggested the agency consider using consumer research methods in order to achieve such a result. The third study required by the bill relates to the formation of a Mutual Fund Oversight Board to take over the frontline efforts of mutual fund regulation from the SEC, while remaining under that agency's oversight. This may be a good approach, but I have concerns about the costs of such a board being borne by mutual fund investors, which is one of the areas suggested for study. I hope other options would be explored.

The Mutual Fund Transparency Act is clearly an important first step in closing some of the gaps in the laws governing these important investment vehicles. But there is more work to do, and I look forward to working with Senator AKAKA and the other cosponsors of this bill in making further necessary improvements. For example, we should consider strengthening the fiduciary duties owed by mutual fund directors and managers to their shareholders. In addition, as I indicated in my letter to the SEC, guidelines must be developed to prevent mutual fund directors from serving on more boards of funds than they can effectively oversee; at some of the major funds, directors serve on a hundred or more boards. Compliance officers at the funds must be elevated to emphasize their role. I suggested in my letter to the SEC that such a compliance officer should be active at each fund and should report directly to an independent committee of the board.

Moreover, as I pointed out to the SEC in my letter to Chairman Donaldson, we must close the loophole that allowed so many brokers and mutual funds to circumvent the law on late trading. Imposing a hard deadline of a time at which trades must be into the mutual fund may be the solution to this problem. We also must provide even more, clearer information to investors about the fees they are actually paying to participate in mutual funds. In my letter the SEC, I asked the agency why investors should not receive on their monthly statements detail about the fees they actually paid to the fund during that time period, similar to the finance charge information that credit card consumers get. I also suggested that funds be required to provide comparative fee information. This would help people make better investment decisions, and might also encourage more competition among funds to reduce expenses.

Mutual funds hold the nest eggs, the retirement savings, and the college funds for many of America's working families. Through those investments in their own futures, those families are also feeding capital into today's economy, fueling the engine that creates and maintains American jobs. In a very real sense, these mutual fund investments are investments in the American dream. We must act now to protect them, and to restore the integrity to the mutual fund industry.

Once again, I thank Senator AKAKA for his leadership on this issue, and I urge my colleagues to support this important and timely legislation.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1823. A bill to amend the Act of August 9, 1955, to authorize the Assiniboine and Sioux Tribes of the Fort Peck Reservation to lease tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines; to the Committee on Indian Affairs.

Mr. BURNS. Mr. President, I rise today to introduce the Northern Border Lease Extension legislation. Currently, and since 1981, Northern Border Pipeline Company has leased tribally owned lands on the Fort Peck Indian Reservation for its gas pipeline, which carries gas from Alberta, Canada to consumers in the Midwest. This lease expires in March 2011.

Northern Border wishes to have the right to continue to lease tribal lands for up to fifty years beyond 2011 for its pipeline. They need to be assured as soon as possible their lease can be extended. If not, they must look for other options that would include constructing a new pipeline to go around the Reservation by 2011.

If the lease is not extended, not only will Northern Border be forced to build a new pipeline, but also the Assiniboine and Sioux Tribes of the Fort Peck Reservation will lose over $20 million in payments from Northern Border. Additionally, if extended, the lease would provide tens of millions of dollars in additional payments, with the rental payments increasing at an annual rate of three percent per year every five years. These terms came about after negotiations between Northern Border and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

This legislation would allow the Tribes to enter into a lease with Northern Border that would give Northern Border the right to continue to lease tribal lands for up to fifty years beyond 2011 for its pipeline. This is one of those great instances when both sides of a situation agree and are of one mind. This provision was included in a bill previously approved by the Senate

Indian Affairs Committee, but unfortunately for reasons not associated with this provision, is being held up. Therefore, I wish to introduce this important piece of legislation as a stand-alone bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by adding at the end the following:

"(g) LEASE OF TRIBALLY-OWNED LAND BY ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) and any regulations under part 162 of title 25, Code of Federal Regulations (or any successor regulation), subject to paragraph (2), the Assiniboine and Sioux Tribes of the Fort Peck Reservation may lease to the Northern Border Pipeline Company tribally-owned land on the Fort Peck Indian Reservation for 1 or more interstate gas pipelines.

"(2) CONDITIONS.—A lease entered into under paragraph (1)—

"(A) shall commence during fiscal year 2011 for an initial term of 25 years;

"(B) may be renewed for an additional term of 25 years; and

"(C) shall specify in the terms of the lease an annual rental rate—

"(i) which rate shall be increased by 3 percent per year on a cumulative basis for each 5-year period; and

"(ii) the adjustment of which in accordance with clause (i) shall be considered to satisfy any review requirement under part 162 of title 25, Code of Federal Regulations (or any successor regulation).".

By Mr. DEWINE:

S. 1825. A bill to amend title 18, United States Code, to provide penalties for the sale and use of unauthorized mobile infrared transmitters; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, to introduce the Safe Intersections Act of 2003. This bill would criminalize the unauthorized sale and possession of a mobile infrared transmitter, MIRT.

A MIRT is a remote control for changing traffic signals. These devices have been used for years by ambulances, police cars, and fire trucks, allowing them to reach emergencies faster. As an ambulance approaches an intersection where the light is red, the driver engages the transmitter. That transmitter then sends a signal to a receiver on the traffic light, which changes to green within a few seconds. This is a very useful tool when properly used in emergency situations.

In a 2002 survey, the U.S. Department of Transportation found that in the top 78 metropolitan areas, there are 24,683 traffic lights equipped with the sensors. In my home State of Ohio, there is a joint pilot project underway by the Washington Township Fire Department and the Dublin Police Department to install these devices. Other areas in Ohio where they are in use include Mentor, Twinsburg, Willoughby, and Westerville. Across the country, law enforcement officers, fire departments, and paramedics utilize this technology to make communities safer.

However, recently it has come to light that this technology may be sold to unauthorized individuals—individuals who want to use this technology to bypass red lights during their commute or during their everyday driving. MIRT was never intended for this use. MIRT technology—in the hands of unauthorized users—could result in traffic problems, like gridlock, or even worse, accidents in which people are injured or killed.

Let me quote from an ad that was recently posted on the Internet auction site, "eBay":

> Tired of sitting at endless red lights? Frustrated by lights that turn from green to red too quickly, trapping you in traffic? The MIRT light changer used by police and other emergency vehicles Change the Traffic Signal Red to Green [for] only $499.00. Traffic Signal Changing Devices—It's every motorist's fantasy to be able to make a red traffic light turn green without so much as easing off the accelerator. The very technology that has for years allowed fire trucks, ambulances and police cars to emergencies faster—a remote control that changes traffic signals—is now much cheaper and potentially accessible.

This ad demonstrates the extent to which the potential widespread sale and possession of MIRT technology by drivers would be a hazard to public safety and must be stopped before it starts. That is why I am introducing the Safe Intersections Act of 2003. I encourage my colleagues to cosponsor this important piece of legislation.

I ask unanimous consent that the legislation I have just introduced be printed in the appropriate place in the RECORD immediately following the conclusion of my remarks.

By Mr. REID (for himself and Mr. ENSIGN):

S. 1826. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, sometime, when the opportunity arises, I am going to introduce, for myself and Senator ENSIGN, the Dandini Research Park Transfer Act, which will transfer an important tract of land in Washoe County, Nevada, to the University and Community College System of Nevada.

The University of Nevada holds two patents from the Bureau of Land Management for approximately 467 acres of public land located north of downtown Reno. In the early 1970s, the land was patented to the university pursuant to the Recreation and Public Purposes Act. Now known as the Dandini Research Park, it is the home of Truckee Meadows Community College and the Desert Research Institute's Northern Nevada Science Center.

Truckee Meadows Community College and its predecessor, Western Nevada Community College, have provided educational programs and opportunities to the residents of Reno, Sparks, and the surrounding communities for over 30 years. Construction of the College's facilities on the Dandini campus began in 1975, shortly after conveyance of the original patents.

For over 25 years the Desert Research Institute has excelled in applied scientific research and the application of technologies to improve people's lives in Nevada and throughout the world. Its three core divisions of Atmospheric, Hydrologic, and Earth and Ecosystem Sciences cooperate with two interdisciplinary centers to provide innovative solutions to pressing environmental problems. The Center for Arid Lands Environmental Management and the Center for Watersheds and Environmental Sustainability apply scientific understanding to the effective management of natural resources while addressing our needs for economic diversification and science-based educational opportunities. In doing so, DRI undertakes fundamental scientific research in Nevada and around the globe. For example, as a key participant in the U.S. Geological Survey Water Research Program, DRI plays a critical role in identifying and helping protect the region's scarce water resources.

DRI shares its facility with the Western Regional Climate Center, one of six regional climate centers operating under the National Oceanic and Atmospheric Administration's climate program. The Western Regional Climate Center conducts applied research and provides high quality climate data and information pertaining to the western United States.

The Desert Research Institute wishes to expand its Northern Nevada Science Center. DRI is considering an innovative means of financing the expansion, which would involve a private developer who would build and finance the expansion and lease it back to DRI. The private developers with whom DRI has discussed the proposal, as well as the Institute's counsel, however, have pointed out that the terms of the patents and the restrictions imposed by the Recreation and Public Purposes Act represent obstacles to such an arrangement.

Truckee Meadows Community College and the Northern Nevada Science Center are exceptional assets to the scientific and educational community in the Truckee Meadows. The Center serves not only the citizens of Washoe County, but the needs of all Nevadans and the western United States as well. It deserves the opportunity to grow and prosper with the community—one of the fastest-growing communities in the Nation.

The bill Senator ENSIGN and I will introduce simply directs the Secretary of the Interior to convey this property from the Bureau of Land Management to the University and Community College System of Nevada. Because of the overwhelming public benefit provided by the Center, we ask that the land be conveyed for free, but that the University cover the costs of the transaction.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dandini Research Park Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) BOARD OF REGENTS.—The term "Board of Regents" means the Board of Regents of the University and Community College System of Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 2. CONVEYANCE TO THE UNIVERSITY AND COMMUNITY COLLEGE SYSTEM OF NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall convey to the Board of Regents, without consideration, all right, title, and interest of the United States in and to the approximately 467 acres of land located in Washoe County, Nevada, patented to the University of Nevada under the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), and described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) is—

(A) the parcel of land consisting of approximately 309.11 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 1, 2, 3, 4, 5, and 11, SE ¼ NW ¼, NE ¼ SW ¼, Mount Diablo Meridian, Nevada; and

(B) the parcel of land consisting of approximately 158.22 acres and more particularly described as T. 20 N., R. 19 E., Sec. 25, lots 6 and 7, SW ¼ NE ¼, NW ¼ SE ¼, Mount Diablo Meridian, Nevada.

(b) COSTS.—The Board of Regents shall pay to the United States an amount equal to the costs of the Secretary associated with the conveyance under subsection (a)(1).

(c) CONDITIONS.—If the Board of Regents sells any portion of the land conveyed to the Board of Regents under subsection (a)(1)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the Board of Regents shall pay to the Secretary an amount equal to the net proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of Nevada, without further appropriation.

By Mr. KYL (for himself, Mr. CHAMBLISS, Mr. CRAIG, Mr. NICKLES, Mr. SESSIONS, and Mr. CORNYN):

S. 1828. A bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the "Advancing Justice Through DNA Technology Act of 2003." This bill consists of the President's DNA initiative, which will expand and improve DNA databases used for criminal investigations and authorize additional funds to clear the backlog of untested DNA evidence in the nation's crime labs.

This bill offers several advantages over another version of the President's proposal that recently was introduced in the Senate. Today's bill gives States greater leeway in the use of DNA grants, removes arbitrary and unnecessary restrictions on the testing of criminal suspects' DNA samples, authorizes additional funds to clear the backlog of non-DNA forensics evidence, and—most importantly avoids tying this critical program to unrelated and highly controversial anti-death penalty legislation. I include in the record at the end of this statement a news story that describes the nature of the state counsel and other extraneous provisions that others have sought to attach to the President's proposal.

The bill that I introduce today is an unencumbered—and unabridged—version of the President's DNA initiative: the DNA Sexual Assault Justice Act and the Rape Kits and DNA Evidence Backlog Elimination Act, which authorize the Debbie Smith DNA Backlog Grant Program and provide $755 million over five years to address the DNA backlog crisis in the nation's crime labs.

Today's bill includes the following improvements over other congressional versions of the President's proposal: First, this bill also expands funding for non-DNA forensics funding. Section 211 of the bill authorizes $100 million in new grant programs to eliminate "the backlog in the analysis of any area of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence."

Second, this bill increases the authorization for the Paul Coverdell grant program, in recognition of the fact that this program never has been funded at more than a small fraction of its authorization. Other congressional versions of the President's DNA initiative only authorize decreasing Coverdell funding in the coming years. This bill resets the clock on the Coverdell program, authorizing 2004 funding at the level for 2001, and subsequent years accordingly. This will allow sharp increases in Coverdell funding in the coming years.

Third, today's bill allows states to test DNA samples from convicts seeking exoneration against the national DNA database, in order to determine if the convict has committed other rapes or murders. The other congressional versions of the President's DNA initiative would bar such testing; they effectively would give convicts a free roll of the dice to challenge their current convictions while protecting them against the risk that they will be linked to other crimes. There is no reason why states should be prevented from solving such other crimes. If DNA evidence is good enough to test a prisoner's conviction for the crimes that we do know that he committed, it also is good enough to establish the prisoner's involvement in crimes that we do not yet know that he committed.

Fourth, this bill includes all Federal felony arrestees in the federal DNA database. Other versions of this bill exclude arrestees and place other unnecessary and arbitrary limits on the federal DNA index. The federal government already maintains fingerprints for all federal felony arrestees—there is no reason to treat DNA evidence differently. Nor is there any reason to prevent states and the federal government from solving other crimes committed by suspects arrested for a federal felony offense.

The Department of Justice has expressly informed Congress of the benefits of casting a wide net when including criminal suspects in the federal DNA database. During a July 17 hearing on the President's DNA initiative before the Crime Subcommittee of the House Judiciary Committee, Sarah Hart, the Director of the National Institute of Justice, testified that:

> The efficacy of the DNA identification system depends entirely on the profiles entered into it. Experience demonstrates that broad collection and indexing of DNA samples is critical to the effective use of the DNA technology to solve rapes, murders, and other serious crimes.
>
> The DNA sample that enables law enforcement to identify the perpetrator of a rape, for example, often was not collected in connection with an earlier rape. Rather, in a large proportion of such cases, the sample was taken as a result of the perpetrator's prior conviction for a non-violent crime (such as a burglary, theft, or drug offense).
>
> For example, in Virginia, which has authorized the collection of DNA samples from all felons since 1991, a review of cases in which offenders were linked to sex crimes through DNA matching found that almost 40% of the offenders had no prior convictions

for sexual or violent offenses. Most serious offenders do not confine themselves to violent crimes. The experience of States with broad DNA collection regimes demonstrates that DNA databases that include all felons dramatically increase law enforcement's ability to solve serious crimes.

Fifth, today's bill tolls the statute of limitations when a perpetrator has been identified through DNA—including in rape cases. Other congressional versions of the President's initiative inexplicably exclude sexual-assault crimes from the initiative's DNA tolling provision. There is no reason to do so. Indeed, it is in sexual-assault cases that DNA evidence is most likely to identify a perpetrator. At the July 17 hearing before the House Judiciary Committee's Crime Subcommittee, the Department of Justice testified in favor of tolling the statute of limitations to the full extent permitted by the Constitution.

Sixth, this bill allows grants for DNA training and research to be made to prosecutors' organizations, universities, and other private entities. Competing bill versions limit such grants to state and local governments, which is inconsistent with the President's DNA initiative.

Finally, the bill that I introduce today does not include the so-called "Innocence Protection Act" (IPA), a controversial anti-death penalty bill. The other congressional versions of the President's initiative have incorporated the IPA as a third title to the President's bill. At the July 17 hearing on the President's initiative, the Department of Justice made very clear that it "do[es] not believe that legislation embodying the important proposals in the President's DNA initiative should be joined to these controversial [IPA] measures, which intrinsically are unrelated to DNA."

In an October 27 letter to several members of Congress, the National District Attorneys Association also voiced strong objections to the capital-counsel provisions included in the IPA titles of the other bills. The NDAA's letter stated:

> Section 321 [of these bills] attempts to re-establish the old 'death penalty resource centers.' As you no doubt recall, Congress abolished funding for such centers because they devolved into organizations dedicated solely to the abolition of the death penalty and were staffed and controlled by those dedicated to the disruption of the criminal justice system by whatever means available, ethical or otherwise. Section 321 would cause a return to such tactics by removing the ability for the state judiciary to appoint counsel in death penalty cases and giving that authority to a self-appointed group of anti-death penalty attorneys.
>
> . . . NDAA strongly urges deletion of Section 321 from this bill . . . .
>
> Elimination of Section 321 . . . keeps the appointment and control of capital defense counsel in the hands of state court judges who are responsible for insuring that defendants receive quality representation. With Section 321 there is no oversight of those individuals selected to develop state standards for capital defense counsel.

The IPA titles included in the other congressional versions of the President's DNA initiative would authorize $500 million in Federal funding for State public defenders in State capital cases. There is no reason for Congress to finance the States' public-defender systems. The States adequately fund these programs themselves—indeed, many have enacted reforms and substantially increased funding for public defenders in recent years. When the IPA originally was introduced in 2000, it was targeted at the State of Texas. In 2001, the Texas legislature enacted reforms that completely overhauled the State's public-defender system. Yet the IPA provisions of the other Senate bill would declare Texas's reforms "ineffective," and would force the State to again replace its indigent-defense system. Such a mandate makes no sense.

Moreover, there is no reason why States cannot or should not fund their own indigent-defender systems. Basic principles of federalism dictate that each level of government should finance its own operations. Once States become accustomed to and budget for Federal funds, they never are able to reject the money (or its conditions) in the future. And Federal funding inevitably comes with increasing Federal strings. In the long run, the States risk losing control over their own public-defender programs. There is no reason to start down this path.

The IPA proposals in the other congressional versions of the President's initiative begin by placing a number of conditions on the states' receipt of federal funds. Among these conditions is that states transfer control over capital defense to an "entity" composed of persons with "demonstrated knowledge and expertise in capital representation." (This means private defense lawyers; public prosecutors likely would be barred by their jobs from serving or would be conflicted out.) This new "entity" would be charged with: (1) setting standards for capital-defense counsel; (2) deciding which lawyers meet those standards; and (3) appointing lawyers from the roster of qualifying attorneys to represent defendants in particular cases.

Essentially, the bill's new "entity" would completely control staffing of the defense in capital cases. From past experience with the "capital resource centers," which were defunded by Congress in 1996, we know that hard-core death penalty opponents tend to gravitate toward these jobs, and will engage in litigation abuse when not supervised. Congress should not require the states to repeat its own past mistakes. It should not place anti-death penalty partisans in charge of public representation of capital defendants.

The other congressional versions of the President's proposal also include these additional highly problematic provisions:

They allow free DNA testing under very low standards. The competing bills provide that DNA tests shall be available to any prisoners if a negative test match would "raise a reasonable probability that the applicant did not commit the offense." This standard is too low. Not all DNA evidence clearly came from the perpetrator of the crime or had anything to do with the crime—for example, a blood spot near the crime scene may or may not have come from the perpetrator. The "reasonable probability" standard means a prisoner could secure a test even if, despite a negative match, the other evidence would still show that the prisoner more likely than not committed the crime. The bill requires only a chance that the prisoner did not commit the crime. Almost every prisoner with material to test will be able to meet this standard. Reopening old cases forces victims and their families to relive the ordeal of the crime. They should not be put through this unless a negative test result could at least show more likely than not that the prisoner did not commit the crime.

During the July 17 hearing before the House Crime Subcommittee, NIJ Director Sarah Hart expressly warned congress of the consequences of applying unduly low DNA testing standards. Director Hart testified:

> [W]hile post-conviction DNA testing is necessary to correct erroneous convictions imposed prior to the ready availability of DNA technology, experience also points to the need to ensure that postconviction DNA testing is appropriately designed so as to benefit actually innocent persons, rather than actually guilty criminals who wish to game the system or retaliate against the victims of their crimes. Frequently, the results of postconviction DNA testing sought by prisoners confirm guilt, rather than establishing innocence. In such cases, justice system resources are squandered and the system has been misused to inflict further harm on the crime victim. The recent experience of a local jurisdiction is instructive:
>
> "Twice last month, DNA tests at the police crime lab in St. Louis confirmed the guilt of convicted rapists. Two other tests, last year and in 2001, also showed the right men were behind bars for brutal rapes committed a decade or more earlier.
>
> "[The St. Louis circuit attorney's] staff spent scores of hours and thousands of dollars on those tests. She personally counseled shaking, sobbing victims who were distraught to learn that their traumas were being aired again.
>
> "One victim, she said, became suicidal and then vanished; her family has not heard from her for months. Another, a deaf elderly woman, grew so despondent that her son has not been able to tell her the results of the DNA tests. Every time he raises the issue, she squeezes her eyes shut so that she will not be able to read his lips.
>
> "'She finally seemed to have some peace about the rape, and now she's gone back to being angry,' the woman's son said.
>
> "DNA tests confirmed that she was raped by Kenneth Charron in 1985, when she was 59. To get that confirmation, however, investigators had to collect a swab of saliva from

her so that they could analyze her DNA. They also had to inquire about her sexual past, so they could be sure the semen found in her home was not that of a consensual partner.

"The questioning sent the woman into such depression that she's now on medication. 'None of this needed to happen,' her son said."

Post-conviction DNA testing is not without its costs. It should be allowed only in carefully measured circumstances.

Another problematic provision in the other congressional versions of the President's DNA initiative would employ an unduly low standard to authorize new trials for very old cases. This provision of these bills is designed to allow new trials for prisoners who may have been convicted 20 or more years ago. But it is very often impossible to retry a case this old—key witnesses die or disappear or their memories simply fade, and other evidence deteriorates or is lost. For many such cases, ordering a new trial effectively means that the prisoner walks free.

Congress should make sure that there is compelling evidence of innocence before ordering new trials in old cases. Unfortunately, these other bills would allow a new trial if test results simply "establish by a preponderance of the evidence that a new trial would result in an acquittal." The key language here is "result in acquittal." It means a test result would not even have to indicate actual innocence; it need only conflict with other evidence of guilt so as to undermine the jury's ability to convict beyond a reasonable doubt. Prisoners could win new trials—and go free—even if, despite the negative DNA match, other evidence still shows the prisoner very likely committed the crime. Current law, Federal Rule 33, uses the liberal "result in acquittal" standard to allow new trials based on new evidence, but only within three years of trial. It usually is not difficult to retry a case within three years. But for older cases, Congress should insist on a showing of actual innocence before ordering an often-impossible new trial.

There are other problems with the IPA titles in the various congressional versions of the President's DNA initiative. These titles would vastly expand DNA testing by authorizing tests even for prisoners who pleaded guilty. According to the Department of Justice, 90 percent of Federal prisoners pleaded guilty. Extending free tests to these prisoners literally expands the pool of potential test seekers by an order of magnitude. A guilty plea also means that there is no trial record, which makes it much more difficult to assess the potential relevance of DNA-test evidence.

These other bills also impose broad and potentially costly new evidence-retention requirements on the States—requirements that appear to require States to preserve all potential DNA evidence in all cases, indefinitely. And these bills also would give the newly created capital-counsel "entities" an unwarranted degree of control over defense attorneys' budgets. States traditionally have charged courts and other responsible agencies with monitoring budgets for capital representation. Prosecutors do not have unlimited budgets. There is no reason to allow the capital-counsel entity to draw a blank check on State treasuries.

There are other problems with the IPA titles of the competing bills. Suffice it to say that these titles are unrelated to the President's DNA initiative and both the Department of Justice and the NDAA oppose adding them to the President's bill. We should not weigh down the President's DNA initiative with the IPA. For this reason, my colleagues and I today introduce the President's proposal—important, consensus legislation that should be enacted by Congress without delay.

Mr. President, I ask unanimous consent that the text of the bill, the following letter, and the following article all be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

S. 1828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Advancing Justice Through DNA Technology Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION ACT OF 2003

Sec. 101. Short title.
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

Sec. 201. Short title.
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. FBI DNA programs.
Sec. 207. DNA identification of missing persons.
Sec. 208. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 209. Tribal coalition grants.
Sec. 210. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 211. Creation of new Forensic Backlog Elimination Grant Program.
Sec. 212. Report to Congress.

TITLE I—RAPE KITS AND DNA EVIDENCE BACKLOG ELIMINATION ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the "Rape Kits and DNA Evidence Backlog Elimination Act of 2003".

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

"SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or units of local government" after "eligible States"; and

(ii) by inserting "or unit of local government" after "State";

(B) in paragraph (2), by inserting before the period at the end the following: ", including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect"; and

(C) in paragraph (3), by striking "within the State";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or unit of local government" after "State" both places that term appears; and

(ii) by inserting ", as required by the Attorney General" after "application shall";

(B) in paragraph (1), by inserting "or unit of local government" after "State";

(C) in paragraph (3), by inserting "or unit of local government" after "State" the first place that term appears;

(D) in paragraph (4)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking "and" at the end;

(E) in paragraph (5)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "The plan" and inserting "A plan pursuant to subsection (b)(1)";

(ii) in subparagraph (A), by striking "within the State"; and

(iii) in subparagraph (B), by striking "within the State"; and

(B) in paragraph (2)(A), by inserting "and units of local government" after "States";

(5) in subsection (e)—

(A) in paragraph (1), by inserting "or local government" after "State" both places that term appears; and

(B) in paragraph (2), by inserting "or unit of local government" after "State";

(6) in subsection (f), in the matter preceding paragraph (1), by inserting "or unit of local government" after "State";

(7) in subsection (g)—

(A) in paragraph (1), by inserting "or unit of local government" after "State"; and

(B) in paragraph (2), by inserting "or units of local government" after "States"; and

(8) in subsection (h), by inserting "or unit of local government" after "State" both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "(1) or" before "(2)"; and

(B) by inserting at the end the following:

"(4) To collect DNA samples specified in paragraph (1).

"(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.";

(2) in subsection (b), as amended by this section, by inserting at the end the following:

"(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).";

(3) by amending subsection (c) to read as follows:

"(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

"(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

"(B) allocates grants among eligible entities fairly and efficiently to address areas where significant backlogs exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

"(ii) the population in the jurisdiction; and

"(iii) the number of part I violent crimes in the jurisdiction.

"(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

"(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

"(A) For fiscal year 2004, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(B) For fiscal year 2005 not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(C) For fiscal year 2006, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(D) For fiscal year 2007, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(E) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).";

(4) in subsection (g)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.";

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

"(1) $151,000,000 for fiscal year 2004;

"(2) $151,000,000 for fiscal year 2005;

"(3) $151,000,000 for fiscal year 2006;

"(4) $151,000,000 for fiscal year 2007; and

"(5) $151,000,000 for fiscal year 2008."; and

(6) by adding at the end the following:

"(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

"(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which are participating in the National DNA Index System in order to ensure compliance with quality assurance standards;

"(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

"(C) to support future capacity building efforts; and

"(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

"(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act, has undergone an external audit conducted in order to demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.".

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking "of persons convicted of crimes;" and inserting the following: "of—

"(A) persons convicted of crimes; and

"(B) other persons whose DNA samples are collected under applicable legal authorities;"; and

(2) by striking subsection (d).

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

"(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

"(1) Any felony.

"(2) Any offense under chapter 109A of title 18, United States Code.

"(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

"(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).".

(c) MILITARY OFFENSES.—Section 1565 of title 10, United States Code, is amended—

(1) by amending subsection (d) to read as follows:

"(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

"(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

"(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)).";

(2) by striking subsection (e); and

(3) by redesignating subsection (f) as subsection (e).

(d) COLLECTION OF DNA IDENTIFICATION INFORMATION FROM PERSONS ARRESTED FOR QUALIFYING FEDERAL OFFENSES.—

(1) IN GENERAL.—Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "The Director", and inserting the following:

"(A) The Attorney General shall collect a DNA sample from each individual who is arrested for, or accused by information or indictment of, a qualifying Federal offense (as determined under subsection (d)). The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28, United States Code, and may also authorize and direct any other agency that makes arrests for such offenses or supervises persons facing charges of such offenses to carry out any function and exercise any power of the Attorney General under this section.

"(B) The Director"; and

(ii) in paragraphs (3) and (4), by striking "Director of the Bureau of Prisons" each place it appears and inserting "Attorney General, the Director of the Bureau of Prisons,"; and

(B) in subsection (b), by striking "Director of the Bureau of Prisons" and inserting "Attorney General, the Director of the Bureau of Prisons,".

(2) CONDITIONS OF RELEASE.—

(A) SECTION 3142 AMENDMENTS.—Subsections (b) and (c)(1)(A) of section 3142 of title 18, United States Code, are each amended by inserting "and subject to the condition that the person cooperate in the collection of a DNA sample from the person if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a)" after "period of release".

(B) BACKLOG ELIMINATION ACT AMENDMENT.—Section 7(d) of the DNA Analysis

Backlog Elimination Act of 2000 (42 U.S.C. 14135c) is amended by inserting ", or on release under chapter 207 of title 18, United States Code," before "is authorized".

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3297. Cases involving DNA evidence

"In a case in which DNA testing implicates a person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3297. Cases involving DNA evidence.".

(c) Application.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section to the full extent permitted by the Constitution.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting "dating violence," after "domestic violence,";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) Dating violence.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship."; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting "dating violence," after "domestic violence,";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ", dating violence," after "between domestic violence"; and

(ii) by inserting "dating violence," after "victims of domestic violence,";

(B) in paragraph (2), by inserting "dating violence," after "domestic violence,"; and

(C) in paragraph (3), by inserting "dating violence," after "domestic violence,";

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", dating violence," after "domestic violence";

(B) in paragraph (2), by inserting ", dating violence," after "domestic violence";

(C) in paragraph (3), by inserting ", dating violence," after "domestic violence"; and

(D) in paragraph (4), by inserting "dating violence," after "domestic violence,";

(5) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

(6) in subsection (f)(2)(A), by inserting "dating violence," after "domestic violence,".

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

"(3) Use of vouchers or contracts for certain purposes.—

"(A) In general.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

"(B) Redemption.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a non-profit or for-profit basis by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) Payments.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).".

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the "DNA Sexual Assault Justice Act of 2003".

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)), is amended to read as follows:

"(2) prepared by laboratories that—

"(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2003, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

"(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and".

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) In General.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) Authorization of Appropriations.—There are authorized to be appropriated $12,500,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) In General.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) Eligible Entity.—For purposes of this section, the term "eligible entity" includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs; and

(D) State sexual assault coalitions.

(c) Authorization of Appropriations.—There are authorized to be appropriated $30,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) Improving DNA Technology.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) Demonstration Projects.—The Attorney General shall conduct research through grants for demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) National Forensic Science Commission.—

(1) Appointment.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the "Commission"), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under paragraph (2).

(2) Responsibilities.—The Commission shall—

(A) assess the present and future resource needs of the forensic science community;

(B) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(C) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(D) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(E) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(F) examine additional issues pertaining to forensic science as requested by the Attorney General;

(G) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(H) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in subparagraph (G) to ensure—

(i) the appropriate use and dissemination of DNA information;

(ii) the accuracy, security, and confidentiality of DNA information;

(iii) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(iv) that any other necessary measures are taken to protect privacy; and

(I) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in subparagraphs (A) through (H).

(3) PERSONNEL; PROCEDURES.—The Attorney General shall—

(A) designate the Chair of the Commission from among its members;

(B) designate any necessary staff to assist in carrying out the functions of the Commission; and

(C) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 206. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of the fiscal years 2004 through 2008 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 207. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 2004 through 2008 to carry out this section.

SEC. 208. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

"(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.".

SEC. 209. TRIBAL COALITION GRANTS.

Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) TRIBAL COALITION GRANTS.—

"(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against Indian women;

"(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

"(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

"(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

SEC. 210. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS:—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking "shall use the grant to carry out" and inserting "shall use the grant to—

"(1) carry out";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(2) eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence; and

"(3) train, assist, and employ forensic laboratory personnel, as needed, to eliminate a forensic evidence backlog.";

(2) in subsection (b), by striking "under this part" and inserting "for the purpose set forth in subsection (a)(1)"; and

(3) by adding at the end the following:

"(e) DEFINED TERM.—As used in this section, the term 'forensic evidence backlog' means forensic evidence that—

"(1) has been stored in a laboratory, medical examiner's office, or coroner's office; and

"(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.".

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking the "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, or coroner's office in the State that will receive a portion of the grant amount.".

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (24) and inserting the following:—

"(24) There are authorized to be appropriated to carry out part BB of this Act, to remain available until expended—

"(A) $35,000,000 for fiscal year 2004;

"(B) $85,400,000 for fiscal year 2005;

"(C) $134,733,000 for fiscal year 2006;

"(D) $128,067,000 for fiscal year 2007;

"(E) $56,733,000 for fiscal year 2008; and

"(F) $42,067,000 for fiscal year 2009.".

SEC. 211. CREATION OF NEW FORENSIC BACKLOG ELIMINATION GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—The Attorney General is authorized to award grants to States, units of local government, and tribal governments to eliminate forensic science backlogs.

(b) PURPOSE.—The purpose of the grant program established under this section is to—

(1) eliminate the backlog in the analysis of any area of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence; and

(2) train, assist, and employ forensic laboratory personnel as needed to eliminate a forensic evidence backlog.

(c) USE OF FUNDS.—

(1) SUPPLANTING PROHIBITED.—Grant funds made available to applicants under this section shall be used to supplement and not supplant other Federal or State funds.

(2) ADMINISTRATIVE COSTS.—An applicant may use not more than 5 percent of the funds received through grants awarded under this section for administrative costs.

(d) APPLICATION.—

(1) IN GENERAL.—A State, local government, or tribal government desiring a grant under this section, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require.

(2) ASSURANCES AND CERTIFICATION.—The application submitted under paragraph (1) shall—

(A) provide assurances that the applicant has implemented, or will implement not later than 120 days after the submission date of such application, a comprehensive plan for the expeditious analysis of the forensic evidence currently backlogged; and

(B) certify that the forensic science laboratory—

(i) employs generally accepted practices and procedures; and

(ii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors or the National Association of Medical Examiners or any other nonprofit professional organization that may be recognized within the forensic science community as competent to award such accreditation.

(e) DEFINED TERM.—As used in this section, the term "forensic evidence backlog" means—

(1) particular forensic evidence has been admitted to the laboratory faster than it can be analyzed; or

(2) pertinent testing has been curtailed or not performed due to lack of resources.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $20,000,000 for each of the fiscal years 2005 through 2009 for grants under this section.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as "CODIS");

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 205(c);

(7) the use of funds by the Federal Bureau of Investigation under section 206;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 207;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under sections 210 and 211; and

(10) any other matters considered relevant by the Attorney General.

CRIMINAL JUSTICE LEGAL FOUNDATION,
Sacramento, CA, November 5, 2003.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR MR. KYL: Recently, the Judiciary Committee approved H.R. 3214, the "Advancing Justice Through DNA Technology Act of 2003." Although the goals of this bill are laudable, one provision in particular is extremely ill-considered, and it will actually operate to obstruct the system rather than improve it. Section 321 should be deleted from the bill.

Section 321 authorizes grants "for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases." That is certainly a worthy purpose, but this bill will not achieve it. Instead, it is a giant step backward in the direction of the discredited "resource centers" which Congress defunded years ago, after finding that they had become taxpayer-funded nests of saboteurs.

A condition for the grant is that a state establish an "effective system" for capital representation. However, "effective system" is nonsensically defined as one that removes the authority to appoint trial counsel from the trial judge and gives it to a central authority composed of capital defense lawyers.

We saw with the "resource centers" how these capital representation organizations were invariably staffed by hard-core, anti-death-penalty fanatics who saw it as their mission to bring the system to a screeching halt. In an unusual moment of candor, the head of one of the resource centers wrote in a published article that it was the duty of the lawyer to file motions just to "make trouble," Lyon, Defending the Capital Case: What Makes Death Different? 42 Mercer L. Rev. 695, 700 (1991). Such conduct is, of course, clearly unethical. In 1996, Congress finally woke up to what was being done with taxpayer money and defunded the resource centers.

Appointment authority is one of the few checks available against unethical conduct by defense lawyers. The attorney discipline system is toothless. The prosecution cannot appeal on defense misconduct, the way the defense does on prosecutor misconduct. The trial judge's refusal to appoint lawyers who are notorious for obstructionism and other unethical behavior is the most effective deterrent. To remove the appointment authority to an entity full of people who actually encourage such misconduct is a recipe for chaos.

Congress has not removed the appointment authority from federal district judges, for good reason. A number of states have recently implemented improvements to their capital representation systems. These reforms have taken different shapes in different states, as is appropriate for a federal system. Instead of evaluating the different approaches to see which one works best in the real world, section 321 would declare most, if not all, of them "ineffective," and deny defense grants to states that have chosen a different and possibly better path. Section 326 effectively makes a state ineligible for the prosecution grants if it chooses not to change its appointment system to qualify for the defense grants.

Congress should not mandate a single solution without the most careful consideration of the reforms the states have already enacted. The problem of effective counsel is a complex one. It requires more study and more debate before Congress endorses a particular solution. Section 321 of H.R. 3214 is half-baked, and it should be deleted.

Sincerely,

KENT S. SCHEIDEGGER,
Legal Director.

[From National Review Online, Oct. 29, 2003]

PROTECTION RACKET—CONGRESS PREPARES TO FUND THE ANTI-DEATH-PENALTY LOBBY

(By Ramesh Ponnuru)

Why is a Republican Congress considering a bill to fund anti-death-penalty activists? A bill that could result in murderers going free? A bill that was initially introduced to hurt George W. Bush? Beats me. But that's exactly what Congress is doing.

In early 2000, Democrats were portraying George W. Bush's Texas as a third-world hellhole where the water was dirty, the churches were filled with guns, and the streets ran red with blood of unlucky defendants. A few anecdotes in which public defenders really had been lax in capital murder cases were extrapolated into a critique of law enforcement in the state. At around this time, Senator Patrick Leahy of Vermont and Representative William Delahunt of Massachusetts, both Democrats, introduced the "Innocence Protection Act." Supposedly, the bill was going to keep innocents from getting put on death row by, among other things, providing for better legal defenses for accused capital murderers.

In a modified form, the bill has been made part of the "Advancing Justice Through DNA Technology Act of 2003." Sponsors of the bill include Orrin Hatch and James Sensenbrenner, the chairmen of the House and Senate judiciary committees. The House Judiciary Committee voted for the bill 28–1. Conservative Jeff Flake was the only dissenter.

There are two major problems with the bill. First, its low standard for requiring new trials makes it likely that murderers will go free. The bill says that federal prisoners have a right to a new trial if a DNA test "establish[es] by a preponderance of evidence that a new trial would result in acquittal." This standard is very different from a requirement that the DNA test establish that the prisoner probably did not commit the crime. DNA at a murder scene can, of course, come from a variety of sources. It may be that the jury in the original trial, faced with a negative DNA result, would have found the defendant guilty anyway based on other evidence. But witnesses die and evidence deteriorates. Wait long enough to get a DNA test, and a new trial may be unlikely to yield a conviction even if the defendant actually committed the crime. The "result in acquittal" standard is used to allow new trials based on new evidence—but only within three years of the original trial. This bill has no such time limit. The result is not a reduced sentence, but the defendant's walking.

The second problem is that the bill bribes states to give up control of their public-defender systems. Essentially, the bill would funnel taxpayer dollars to the "capital resource centers" that Congress defunded in 1996, having found that they frequently abused the appeals process. (See pages 53–57 of this report for a long list of examples of such abuses.) Abuses would be likely since state courts, and other branches of state and local government, would no longer have supervisory authority over publicly funded defense counsel. Indeed, supporters of the Innocence Protection Act have been positively enthusiastic about one form of abuse. When Leahy ran the Judiciary Committee last year, it issued a report that said that capital resource centers "may legitimately assert a large number of claims" based on a "reversal of existing law." In other words, it's legitimate for tax-funded public defenders to file a "large number of claims" that are precluded by current law.

Is federal intervention necessary? States have been busy reforming their own capital-defense systems. But the same Leahy report mentioned earlier identified five cases in which ineffective counsel had led innocent people to be sentenced to death. But as the dissenting Republican report pointed out, the five cases Leahy discussed established no such thing. In one of the cases, the defendent was never actually sentenced to death. In three of the cases, it is not at all clear that the defendant was innocent. (Prosecutors declined to retry them because evidence had deteriorated. In one case, for example, the building in which the murder took place had been demolished.) The cases are marked more, in any case, by prosecutorial misconduct than by sloppy defenses.

That's true, by the way, of cases in which actually innocent people have been put on death row. It has generally been because prosecutors relied too much on unreliable evidence, such as the testimony of jailhouse informants, or because police and prosecutors acted in grossly improper ways. (Say hello to our friends in Cook County.) When prosecutors suppress evidence, the most competent defense attorneys will be at a disadvantage. The Innocence Protection Act's capital-defense provisions will not ameliorate that problem. But then, it's more about funneling tax money to opponents of the death penalty than springing truly innocent people from death row.

"What's disgusting is we're actually wasting time fighting this in a Republican Congress," says one Republican Senate staffer.

By Mr. CORNYN:

S.J. Res. 23. A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated; to the Committee on the Judiciary

S.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"The Congress may by law provide for the case of death or inability of members of the House of Representatives, and the case of inability of members of the Senate, in the event that one-fourth of either House are killed or incapacitated, declaring who shall serve until the disability is removed, or a new member is elected. Any procedures established pursuant to such a law shall expire not later than 120 days after the death or inability of one-fourth of the House of Representatives or the Senate, but may be extended for additional 120-day periods if one-fourth of either the House of Representatives or the Senate remains vacant or occupied by members unable to serve.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 259—TO AUTHORIZE LEGAL REPRESENTATION IN BELL AVIATION, INC., ET AL. V. SINO SWEARINGEN AIRCRAFT CO., L.P., ET AL.

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 259

Whereas, in the case of Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft, Co., L.P., et al., Cause No. 03-02532, pending in the District Court of Dallas County, Texas, the plaintiffs have obtained from the Superior Court of the District of Columbia subpoenas for deposition testimony and document production by Senator John D. Rockefeller IV and Terri Giles, a staff member in the office of Senator Rockefeller;

Whereas, pursuant to section 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Rockefeller and Terri Giles in connection with the subpoenas issued at this action.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2072. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 2073. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2074. Mr. DASCHLE (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2075. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2076. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2077. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2078. Mr. DASCHLE (for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2079. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2080. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2081. Mr. GRAHAM, of Florida (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2082. Mr. NELSON, of Florida (for himself and Mr. GRAHAM, of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2083. Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2673, supra.

SA 2084. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2085. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2086. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2087. Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. HOLLINGS, Mr. JEFFORDS, Mr. DORGAN, and Mr. FEINGOLD) proposed an amendment to the bill H.R. 2673, supra.

SA 2088. Mr. AKAKA (for himself, Mr. LEVIN, Mr. LIEBERMAN, and Ms. CANTWELL) proposed an amendment to the bill H.R. 2673, supra.

SA 2089. Mr. DAYTON proposed an amendment to the bill H.R. 2673, supra.

SA 2090. Mr. HATCH (for himself, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2091. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2092. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, supra.

SA 2093. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2094. Mr. BENNETT (for Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA)) proposed an amendment to the bill H.R. 2673, supra.

SA 2095. Mr. BENNETT (for Ms. SNOWE (for herself, Mr. DORGAN, and Ms. COLLINS)) proposed an amendment to the bill H.R. 2673, supra.

SA 2096. Mr. BENNETT (for Mr. LEVIN (for himself and Ms. STABENOW)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2097. Mr. BENNETT (for Mr. INHOFE) proposed an amendment to the bill H.R. 2673, supra.

SA 2098. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2099. Mr. BENNETT (for Mr. INOUYE) proposed an amendment to the bill H.R. 2673, supra.

SA 2100. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2101. Mr. BENNETT (for Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2102. Mr. BENNETT (for Mr. BROWNBACK) proposed an amendment to the bill H.R. 2673, supra.

SA 2103. Mr. BENNETT proposed an amendment to the bill H.R. 2673, supra.

SA 2104. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, supra.

SA 2105. Mr. BENNETT (for Mr. GRASSLEY (for himself and Mr. DORGAN)) proposed an amendment to the bill H.R. 2673, supra.

SA 2106. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, supra.

SA 2107. Mr. BENNETT (for Mr. GRAHAM, OF FLORIDA (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2673, supra.

SA 2108. Mr. BENNETT (for Mr. BURNS (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2109. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, supra.

SA 2110. Mr. BENNETT (for Mr. SCHUMER (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673 , supra.

SA 2111. Mr. BENNETT (for Mr. MILLER) proposed an amendment to the bill H.R. 2673, supra.

SA 2112. Mr. BENNETT (for Mr. FRIST (for himself and Mr. DASCHLE)) proposed an amendment to the bill H.R. 2673, supra.

SA 2113. Mr. BENNETT (for Mr. THOMAS (for himself, Mr. BINGAMAN, and Mr. HAGEL)) proposed an amendment to the bill H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

SA 2114. Mr. BENNETT (for Ms. COLLINS) proposed an amendment to the bill S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

TEXT OF AMENDMENTS

SA 2072. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $10,046,000: *Provided*, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $8,707,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $13,997,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $7,544,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, $910,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $15,710,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $119,289,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: *Provided*, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,496,000: *Provided*, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, $794,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $15,445,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, $673,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313, including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $188,022,000, to remain available until expended: *Provided*, That the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation to cover the costs of new or replacement space for such agency, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $15,611,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $23,031,000, to provide for necessary expenses for management support services to offices of the Department and for general administration security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department: *Provided*, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,825,000: *Provided*, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: *Provided further*, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $9,228,000: *Provided*, That not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, $75,781,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $35,343,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $596,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $69,902,000.

National Agricultural Statistics Service

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, $128,922,000, of which up to $25,279,000 shall be available until expended for the Census of Agriculture.

Agricultural Research Service

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,045,533,000: *Provided*, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: *Provided further*, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further*, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: *Provided further*, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further*, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: *Provided further*, That all rights and title of the United States in the 1.0664-acre parcel of land including improvements, as recorded at Book 1320, Page 253, records of Larimer County, State of Colorado, shall be conveyed to the Board of Governors of the Colorado State University for the benefit of Colorado State University.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $46,000,000, to remain available until expended.

Cooperative State Research, Education, and Extension Service

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $617,575,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $178,977,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $21,742,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State College (7 U.S.C. 3222), $35,411,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), $101,637,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $14,976,000; for competitive research grants (7 U.S.C. 450i(b)), $180,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,065,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $840,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,242,000, to remain available until expended; for research grants for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,093,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $3,222,000, to remain available until expended (7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,888,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $992,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $4,073,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,500,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), $994,000; for aquaculture grants (7 U.S.C. 3322), $4,471,000; for sustainable agriculture research and education (7 U.S.C. 5811), $13,661,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University and West Virginia State College, $11,404,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,689,000; and for necessary expenses of Research and Education Activities, $26,698,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: *Provided*, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $9,000,000.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $450,084,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $279,390,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,185,000; payments for the pest management program under section 3(d) of the Act, $10,689,000; payments for the farm safety program under section 3(d) of the Act, $5,489,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State College, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $14,903,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $8,426,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $496,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $4,516,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, $1,983,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,843,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $2,605,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State College, $31,908,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, $2,981,000; and for necessary expenses of extension activities, $20,397,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $46,711,000, as follows: payments for the water quality program, $12,887,000; payments for the food safety program, $14,870,000; payments for the regional pest management centers program, $4,502,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,857,000; payments for the crops affected by Food Quality Protection Act implementation, $1,487,000; payments for the methyl bromide transition program, $3,500,000; payments for the organic transition program, $2,111,000; payments for the international science and education grants program under 7 U.S.C. 3291, to remain available until expended, $497,000; payments for the critical issues program under 7 U.S.C. 450i(c): *Provided*, That of the funds made available under this heading, $497,000 shall be for payments for the critical issues program under 7 U.S.C. 450i(c) and $1,503,000 shall be for payments for the regional rural development centers program under 7 U.S.C. 450i(c).

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $3,470,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $736,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $705,552,000, of which $4,112,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $51,720,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones: *Provided*, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: *Provided further*, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further*, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: *Provided further*, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2004, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, $75,263,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $62,577,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided*, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $15,392,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $3,338,000, of which not less than $2,000,000 shall be used to make noncompetitive grants under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, $35,638,000: *Provided*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: *Provided*, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $611,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $783,761,000, of which no less than $701,103,000 shall be available for Federal food safety inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): *Provided*, That no fewer than 50 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2004 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: *Provided further*, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $988,768,000: *Provided*, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: *Provided further*, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,974,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: *Provided*, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in Public Law 106–387 (114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,079,158,000, of which $950,000,000 shall be for guaranteed loans and $129,158,000 shall be for direct loans; operating loans, $2,067,317,000, of which $1,200,000,000 shall be for unsubsidized guaranteed loans, $266,249,000 shall be for subsidized guaranteed loans and $601,068,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; and for boll weevil eradication program loans, $100,000,000: *Provided*, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $33,648,000, of which $5,130,000 shall be for guaranteed loans, and $28,518,000 shall be for direct loans; operating loans, $160,634,000, of which $39,960,000 shall be for unsubsidized guaranteed loans, $34,000,000 shall be for subsidized guaranteed loans, and $86,674,000 shall be for direct loans.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $290,968,000, of which $283,020,000 shall be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), $71,422,000: *Provided*, That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $761,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $826,635,000, to remain available until expended, of which not less than $9,500,000 is for snow survey and water forecasting, and not less than $11,269,000 is for operation and establishment of the plant materials centers, and of which not less than $23,500,000 shall be for the grazing lands conservation initiative: *Provided*, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: *Provided further*, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further*, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), $10,000,000: *Provided*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $55,000,000, to remain available until expended (of which up to $5,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a)): *Provided*, That not to exceed $20,000,000 of this appropriation shall be available for technical assistance: *Provided further*, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction: *Provided further*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $29,805,000, to remain available until expended: *Provided*, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: *Provided further*, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $51,000,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

Office of the Under Secretary for Rural Development

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $651,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, $769,479,000, to remain available until expended, of which $79,838,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $610,641,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $79,000,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: *Provided*, That of the amount appropriated for rural business and cooperative development programs, $100,000 shall be for a pilot program in the State of Alaska to assist communities with community planning: *Provided further*, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: *Provided further*, That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: *Provided further*, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: *Provided further*, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: *Provided further*, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: *Provided further*, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; $2,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.); and not less than $5,000,000 shall be available for grants in accordance with section 310B(f) of the Consolidated Farm and Rural Development Act: *Provided further*, That of the amount appropriated for rural utilities programs, not to exceed $25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $30,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 1 percent available to administer the program and up to 1 percent available to improve interagency coordination may be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses", of which 25 percent shall be provided for water and sewer projects in regional hubs and $100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, and the State of Alaska shall provide a 25 percent cost share; not to exceed $18,000,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which $5,513,000 shall be for Rural Community Assistance Programs; and not to exceed $13,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: *Provided further*, That of the amount appropriated for the circuit rider program, Alaska shall receive no less than five percent and not less than $750,000 shall be for contracting with qualified national organizations to establish a Native American circuit rider program to provide technical assistance for rural water systems: *Provided further*, That not less than $2,000,000 shall be available to carry out Section 6012 of Public Law 107–171: *Provided further*, That of the total amount appropriated, not to exceed $22,132,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,000,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $12,582,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $8,550,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: *Provided further*, That of the amount appropriated for rural community programs, not to exceed $25,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices: *Provided further*, That of the amount appropriated, $30,000,000 shall be transferred to and merged with the "Rural Utilities Service, High Energy Cost Grants Account" to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): *Provided further*, That of the amount made available for high energy cost grants, up to $3,000,000 shall be available to a not-for-profit consumer-owned cooperative utility provider serving an island community in a non-contiguous State for the purpose of defraying transaction, transition, organizational, and other fair and reasonable costs, as determined by the Secretary, incurred during the period July 1, 1999 through December 31, 2002, and directly related to the successful acquisition by such provider of the investor-owned electric utility facilities (including generation, transmission, distribution, and other related assets) formerly serving ratepayers on the island: *Provided further*, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the "Rural Utilities Service, High Energy Costs Grants" account.

Rural Development Salaries and Expenses

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $140,922,000: *Provided*, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional campaigns, including souvenirs, that support activities conducted by agencies of the Rural Development mission area: *Provided further*, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: *Provided further*, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.

Rural Housing Service

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,084,589,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,359,417,000 shall be for direct loans, and of which $2,725,172,000 shall be for unsubsidized guaranteed loans; $35,004,000 for section 504 housing repair loans; $115,052,000 for section 515 rental housing; $100,000,000 for section 538 guaranteed multi-family housing loans; $5,045,000 for section 524 site loans; $11,500,000 for credit sales of acquired property, of which up to $1,500,000 may be for multi-family credit sales; and $1,623,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $165,921,000, of which $126,018,000 shall be for direct loans, and of which $39,903,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $9,612,000; section 515 rental housing, $49,484,000; section 538 multi-family housing guaranteed loans, $5,950,000; multi-family credit sales of acquired property, $663,000; and section 523 self-help housing land development loans, $50,000: *Provided*, That of the total amount appropriated in this paragraph, $7,100,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $439,453,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $721,281,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: *Provided*, That of this amount, not more than $5,900,000 shall be available for debt forgiveuess or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $20,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further*, That agreements entered into or renewed during the current fiscal year shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $34,000,000, to remain available until expended: *Provided*, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $46,222,000, to remain available until expended, of which $5,000,000 shall be available for a processing and/or fishery workers housing demonstration project in Alaska, Mississippi, and Wisconsin: *Provided*, That of the total amount appropriated, $1,800,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $33,015,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

Rural Business—Cooperative Service

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $40,000,000.

For the cost of direct loans, $17,308,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be available through June 30, 2004, for Federally Recognized Native American Tribes and of which $3,449,000 shall be available through June 30, 2004, for Delta Regional Authority (7 U.S.C. 1921 et seq.): *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That of the total amount appropriated, $2,447,000 shall be available through June 30, 2004, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $4,283,000 shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $15,002,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $2,792,000.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, $3,000,000 shall not be obligated and $3,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $8,967,000, of which $2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: *Provided*, That not to exceed $1,500,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, $14,370,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): *Provided*, That of the funds appropriated, $1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), $23,000,000 for direct renewable energy loans and grants: *Provided*, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

Rural Utilities Service

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $240,000,000; municipal rate rural electric loans, $1,000,000,000; loans made pursuant to section 306 of that Act, rural electric, $2,000,000,000; Treasury rate direct electric loans, $750,000,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $250,000,000; loans made pursuant to section 306 of that Act, rural telecommunications loans, $120,000,000; and for guaranteed underwriting loans pursuant to section 313A, $1,000,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $60,000, and the cost of telecommunication loans, $125,000: *Provided*, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $37,920,000 which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2004 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $173,503,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,182,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of direct distance learning and telemedicine loans, $300,000,000; and for the principal amount of broadband telecommunications loans, $335,963,000, in areas that meet the definition of "rural area" used for the Distance Learning and Telemedicine Program authorized by 7 U.S.C. 950aaa.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $40,000,000, to remain available until expended: *Provided*, That $15,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators, repeaters, and studio-to-transmitter links.

For the cost of direct and guaranteed broadband loans, as authorized by 7 U.S.C.

901, et seq., $9,116,000: *Provided*, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,000,000, to remain available until expended, for a grant program to finance broadband transmission in areas that meet the definition of "rural area" used for the Broadband Loan Program authorized by 7 U.S.C. 901.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $611,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $11,418,441,000, to remain available through September 30, 2005, of which $6,718,780,000 is hereby appropriated and $4,699,661,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That up to $5,235,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,639,232,000, to remain available through September 30, 2005, of which $10,000,000 shall be for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A) and $30,000,000 shall be for a management information system initiative: *Provided*, That of the total amount available, the Secretary shall obligate $25,000,000 for the farmers' market nutrition program: *Provided further*, That notwithstanding section 17(h)(10)(A) of such Act, $14,000,000 shall be available for the purposes specified in section 17(h)(10)(B): *Provided further*, That notwithstanding section 17(g)(5) of such Act, $5,000,000 shall be available for pilot projects to prevent childhood obesity: *Provided further*, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: *Provided further*, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: *Provided further*, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $27,745,981,000, of which $2,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided*, That none of the funds made available under this heading shall be used for studies and evaluations: *Provided further*, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: *Provided further*, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further*, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: *Provided further*, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; and special assistance for the nuclear affected islands, as authorized by Section 103(h)(2) of the Compacts of Free Association Act of 1985, $145,740,000, to remain available through September 30, 2005: *Provided*, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, $138,304,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law; and of which not less than $4,000,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761–1769), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $131,648,000: *Provided*, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $103,887,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,134,000, of which $1,075,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $1,059,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $28,000,000, to remain available until expended: *Provided*, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,192,000,000, to remain available until expended.

MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $25,000,000, to remain available until expended: *Provided*, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,152,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,306,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $846,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,663,228,000, of which not to exceed $249,825,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379h, including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with section 736(g)(4), shall be credited to this appropriation and remain available until expended; and of which not to exceed $29,190,000 to be derived from medical device user fees authorized by 21 U.S.C. 379j shall be credited to this appropriation, to remain available until expended: *Provided*, That fees derived from applications received during fiscal year 2004 shall be subject to the fiscal year 2004 limitation: *Provided further*, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated: (1) $412,020,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $475,655,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than $13,270,000 shall be available for grants and contracts awarded under section 5 of the Orphan Drug Act (21 U.S.C. 360ee); (3) $168,836,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $84,646,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $207,686,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $39,887,000 shall be for the National Center for Toxicological Research; (7) $40,851,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) $119,152,000 shall be for payments to the General Services Administration for rent; and (9) $114,495,000 shall be for other activities, including the Office of the Commissioner; the Office of Management and Systems; the Office of External Relations; the Office of Policy, Legislation, and Planning; and central services for these offices: *Provided further*, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $7,948,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, $90,435,000, including not to exceed $3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,900,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: *Provided*, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 398 passenger motor vehicles, of which 396 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Funds appropriated by this Act shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: *Provided*, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: *Provided further*, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 710. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: *Provided*, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 711. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunications Loans program account, the Rural Housing Insurance Fund program account, and the Rural Economic Development Loans program account.

SEC. 713. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 714. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 715. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 716. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 717. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 718. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: *Provided*, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 719. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 720. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 721. None of the funds made available to the Food and Drug Administration by this Act shall be used to reduce the Detroit, Michigan, Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 1999; or to change the Detroit District Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit District Office: *Provided*, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratory facilities associated with the State of Michigan.

SEC. 722. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2005 appropriations Act.

SEC. 723. None of the funds made available by this Act or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 724. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities; and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

SEC. 725. In addition to amounts otherwise appropriated or made available by this Act, $2,981,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

SEC. 726. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 727. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking "$26,499,000" and inserting "$26,998,000".

SEC. 728. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 729. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 730. Notwithstanding any other provision of law, of the funds made available in this Act for competitive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621).

SEC. 731. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out the Upper Tygart Valley Watershed project, West Virginia: *Provided*, That the Natural Resources Conservation Service is authorized to provide 100 percent of the engineering assistance and 75 percent cost share for installation of the water supply component of this project.

SEC. 732. Agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 733. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 734. None of the funds appropriated or made available by this Act, or any other Act, may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd–7).

SEC. 735. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 736. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and technical assistance through the Watershed and Flood Prevention Operations program for the Kuhn Bayou and Ditch 26 Improvement projects in Arkansas, the Matanuska River erosion control project in Alaska, the DuPage County Sawmill Creek Watershed project in Illinois, and the Coal Creek project in Utah.

SEC. 737. None of the funds made available in fiscal year 2004 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): *Provided*, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 738. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide from appropriated funds financial and technical assistance to the Dry Creek project, Utah.

SEC. 739. The Secretary of Agriculture is authorized to permit employees of the United States Department of Agriculture to carry and use firearms for personal protection while conducting field work in remote locations in the performance of their official duties.

SEC. 740. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of sections 7404(a)(1) and 7404(c)(1) of Public Law 107–171.

SEC. 741. Of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $10,000,000 for costs associated with the distribution of commodities.

SEC. 742. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 189,144 acres in the calendar year 2004 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 743. Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section.

SEC. 744. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $51,000,000.

SEC. 745. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $42,000,000.

SEC. 746. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2503 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $112,044,000.

SEC. 747. There is hereby appropriated $3,000,000 to carry out section 6028 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: *Provided*, That notwithstanding section 383B(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(g)(1)), the Federal share of the administrative expenses of the Northern Great Plains Regional Authority for fiscal year 2004 shall be 100 percent.

SEC. 748. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6029 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: *Provided*, That this section shall not apply to activities related to the promulgation of regulations or the receipt and review of applications for the Rural Business Investment Program.

SEC. 749. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 6103 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002.

SEC. 750. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9006 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002.

SEC. 751. Agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 752. Notwithstanding any other provision of law, for any fiscal year, in the case of a high cost isolated rural area that is not connected to a road system in Alaska, the maximum level for the single family housing assistance shall be 150 percent of the average income level in the metropolitan areas of the State and 115 percent of all other eligible areas of the State.

SEC. 753. Any unobligated balances in the Alternative Agricultural Research and Commercialization Revolving Fund are hereby rescinded.

SEC. 754. There is hereby appropriated $2,000,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 755. Notwithstanding any other provision of law, the Secretary shall consider the City of Vicksburg, Mississippi; the City of Aberdeen, South Dakota; and the City of Starkville, Mississippi as meeting the requirements of a rural area contained in section 520 of the Housing Act of 1949 (42 U.S.C. 1490) until receipt of the decennial Census for the year 2010.

SEC. 756. Notwithstanding any other provision of law, the Secretary shall consider the City of Berlin, New Hampshire, to be eligible for loans and grants provided through the Rural Community Advancement Program until receipt of the decennial Census in the year 2010.

SEC. 757. None of the funds made available in this Act or any other Act may be used to study or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs, animal disease research, or grant review or management activities.

SEC. 758. Section 501(b)(5)(B) of the Housing Act of 1949 (42 U.S.C. 1471(b)(5)(B) is amended by striking "for fiscal years 2002 and 2003,".

SEC. 759. AGRICULTURAL MANAGEMENT ASSISTANCE. Section 524(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)(1)) is amended—

(1) by striking "financial assistance to producers in" and inserting "grants to"; and

(2) by inserting before the period at the end the following: "which shall use the grants to provide financial assistance to producers for uses described in paragraph (2)".

SEC. 760. TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS. Section 910(a) of the Trade Sanctions Reform And Export Enhancement Act of 2000 (22 U.S.C. 7209(a)) is amended to read as follows:

"(a) AUTHORIZATION OF TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS.—The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, are authorized by general license for travel to, from, or within Cuba for the purpose of conferring, exhibiting, marketing, planning, sales negotiation, delivery, expediting, facilitating, or servicing commercial export sale of agricultural and medical goods pursuant to the provisions of this title.".

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004".

SA 2073. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 47, line 13, insert a period after "$335,963,000" and striker the remainder of the sentence, and on page 48, lines 7 through 9, strike all after "transmission in" and insert in lieu thereof the following: "rural areas eligible for Distance Learning and Telemedicine Program benefits authorized by 7 U.S.C. 950aaa.".

SA 2074. Mr. DASCHLE (for himself and Mr. FRIST) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the "Sun Grant Research Initiative Act of 2003".

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

"SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

"(a) PURPOSES.—The purposes of the programs established under this section are—

"(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

"(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

"(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

"(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

"(b) DEFINITIONS.—In this section:

"(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

"(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

"(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

"(C) 1994 Institutions (as defined in section 2 of that Act).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

"(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

"(2) the sun grant centers shall use the grants in accordance with this section.

"(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

"(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

"(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

"(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

"(B) the Commonwealth of Puerto Rico; and

"(C) the United States Virgin Islands.

"(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

"(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

"(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

"(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

"(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

"(e) USE OF FUNDS.—

"(1) CENTERS OF EXCELLENCE:—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

"(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

"(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

"(i) research, extension, and educational programs on technology development; and

"(ii) integrated research, extension, and educational programs on technology implementation.

"(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

"(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

"(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

"(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

"(f) PLAN.—

"(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

"(2) GASIFICATION COORDINATION.—

"(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

"(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

"(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

"(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

"(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

"(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

"(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $25,000,000 for fiscal year 2005;

"(B) $50,000,000 for fiscal year 2006; and

"(C) $75,000,000 for each of fiscal years 2007 through 2010.

"(2) GRANT INFORAMTION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).".

SA 2075. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $2,000,000.

On page 58, line 19, strike "$90,435,000" and insert "$88,435,000".

SA 2076. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the Vermont Division for Historic Preservation, to carry out activities under the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $500,000.

On page 58, line 19, strike "$90,435,000" and insert "$899,350,000".

SA 2077. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PEST INFESTATION OF HASS AVOCADOS.

None of the funds appropriated or otherwise made available by this Act shall be used—

(1) to carry out any provision of law (including rules and regulations) relating to the expansion of imports of Mexican avocados until a scientific study by qualified independent researchers for a continuous 12-month period is completed on the susceptibility of Hass avocados to pest infestation as a result of the expansion of Mexican avocado imports; or

(2) to take any action that would expand imports into avocado-producing States as long as avocado-specific quarantine pests continue to be found in Michoacan, Mexico.

SA 2078. Mr. DASCHLE (for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert:

SEC. ___. SENSE OF SENATE REGARDING COUNTRY OF ORIGIN LABELING REQUIREMENTS.

It is the sense of the Senate that the conferees on the part of the Senate on this bill shall insist that no limits on the use of funds to enforce country of origin labeling requirements for meat or meat products be included in the conference report accompanying the bill.

SA 2079. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF USE OF FUNDS TO IMPLEMENT COUNTRY OF ORIGIN LABELING FOR MEAT OR MEAT PRODUCTS.

None of the funds appropriated or otherwise made available by this Act shall be used to implement or enforce subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) with respect to a covered commodity described in clause (i) or (ii) of section 281(2)(A) of that Act (7 U.S.C. 1638(2)(A)).

SA 2080. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. LIMITATION ON ALLOCATION OF PURCHASE PRICES FOR BUTTER AND NONFAT DRY MILK.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

SA 2081. Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting "**TREE REPLACEMENT AND**" after "**FOR**"; and

(2) in subsection (a), by inserting "tree replacement and" after "Florida for".

SA 2082. Mr. NELSON of Florida (for himself and Mr. GRAHAM of Florida) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. ASSISTANCE TO CITRUS AND LIME GROWERS FOR LOST INCOME AND TREE REPLACEMENT FROM TREES REMOVED TO CONTROL CITRUS CANKER.

The Secretary of Agriculture shall use not more than $15,000,000 of the funds of the Commodity Credit Corporation to compensate commercial citrus and lime growers in the State of Florida for lost income and tree replacement with respect to trees removed to control citrus canker, to remain available until expended.

SA 2083. Mrs. FEINSTEIN (for herself, Mr. LUGAR, Mr. LEVIN, Mr. HARKIN, Ms. CANTWELL, Mrs. BOXER, Mr. LEAHY, Mr. WYDEN, Mr. DURBIN, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___—TRANSPARENCY IN WHOLESALE ELECTRICITY MARKETS

SEC. ___01. MARKET TRANSPARENCY.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. MARKET TRANSPARENCY.

"(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall promulgate regulations establishing an electronic information system to provide the Commission and the public with access to such information as is appropriate to facilitate price transparency and participation in markets subject to the jurisdiction of the Commission.

"(b) INFORMATION TO BE MADE AVAILABLE.—

"(1) IN GENERAL.—The system under subsection (a) shall provide information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

"(2) PROTECTION OF CONSUMERS AND COMPETITIVE MARKETS.—In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from false or misleading information and from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

"(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility or transmitting utility (including any entity described in section 201(f)).

"(d) EXEMPTION.—The Commission shall exempt from disclosure information that the Commission determines would, if disclosed—

"(1) be detrimental to the operation of an effective market; or

"(2) jeopardize system security.

"(e) APPLICABILITY.—The system under subsection (a) shall not apply to an entity described in section 212(k)(2)(B) with respect to transactions for the purchase or sale of wholesale electric energy and transmission services within the area described in section 212(k)(2)(A).".

SEC. 02. ROUND TRIP TRADING.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 01) is amended by adding at the end the following:

"SEC. 216. ROUND TRIP TRADING.

"(a) Prohibition.—It shall be unlawful for any person or entity (including an entity described in section 201(f)) knowingly to enter into any contract or other arrangement to execute a round trip trade.

"(b) Definition of Round Trip Trade.—In this section, the term 'round trip trade' means a transaction (or combination of transactions) in which a person or entity, with the intent to affect reported revenues, trading volumes, or prices—

"(1) enters into a contract or other arrangement to purchase from, or sell to, any other person or entity electric energy at wholesale; and

"(2) simultaneously with entering into the contract or arrangement described in paragraph (1), arranges a financially offsetting trade with the other person or entity for the same electric energy at substantially the same location, price, quantity, and terms so that, collectively, the purchase and sale transactions in themselves result in a de minimis or no financial gain or loss.".

SEC. 03. ENFORCEMENT.

(a) Complaints.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) in the first sentence—

(A) by inserting "(including an electric utility)" after "Any person"; and

(B) by inserting ", transmitting utility," after "licensee"; and

(2) in the second sentence, by inserting ", transmitting utility," after "licensee".

(b) Investigations.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended in the first sentence by inserting "(including a transmitting utility)" after "any person".

(c) Review of Commission Orders.—Section 313(a) of the Federal Power Act (16 U.S.C. 825*l*) is amended in the first sentence by inserting "(including an electric utility)" after "Any person".

(d) Criminal Penalties.—Section 316 of the Federal Power Act (16 U.S.C. 825*o*) is amended—

(1) in subsection (a)—

(A) by striking "$5,000" and inserting "$1,000,000"; and

(B) by striking "two years" and inserting "5 years";

(2) in subsection (b), by striking "$500" and inserting "$25,000"; and

(3) by striking subsection (c).

(e) Civil Penalties.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) in subsections (a) and (b), by striking "section 211, 212, 213, or 214" each place it appears and inserting "part II"; and

(2) in subsection (b), by striking "$10,000" and inserting "$1,000,000".

(f) General Penalties.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(1) in subsection (a), by striking "$5,000" and inserting "$1,000,000", and by striking "two years" and inserting "5 years"; and

(2) in subsection (b), by striking "$500" and inserting "$50,000".

SEC. 04. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) in the second sentence, by striking "the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period" and inserting "the date of the filing of the complaint nor later than 5 months after the filing of the complaint";

(2) in the third sentence—

(A) by striking "60 days after the" and inserting "of"; and

(B) by striking "expiration of such 60-day period" and inserting "publication date"; and

(3) by striking the fifth sentence and inserting the following: "If no final decision is rendered by the conclusion of the 180-day period that begins on the date of institution of a proceeding under this section, the Commission shall state the reasons why the Commission has failed to do so and shall state its best estimate as to when the Commission reasonably expects to render a final decision.".

SEC. 05. DISCOVERY AND EVIDENTIARY HEARINGS UNDER THE FEDERAL POWER ACT.

The Federal Power Act is amended—

(1) in section 206 (16 U.S.C. 824e), by adding at the end the following:

"(e) Discovery and Evidentiary Hearings.—On receipt of a complaint by a State or a State Commission under subsection (a), the Commission shall provide—

"(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

"(2) on request of the State or the State Commission and a showing of a dispute as to material facts, an evidentiary hearing."; and

(2) in section 306 (16 U.S.C. 825e)—

(A) by inserting "(a) In General.—" before "Any person"; and

(B) by adding at the end the following:

"(b) Discovery and Evidentiary Hearings.—On receipt of a complaint by a State or State Commission under this section, the Commission shall provide—

"(1) an opportunity for the State or the State Commission to conduct reasonable discovery; and

"(2) on request of the State or the State Commission and a showing of dispute as to material facts, an evidentiary hearing.".

TITLE —MARKET MANIPULATION

SEC. 01. PROHIBITION OF MARKET MANIPULATION.

(a) In General.—Part II of the Federal Power Act (as amended by section 02) is amended by adding at the end the following:

"SEC. 217. PROHIBITION OF MARKET MANIPULATION.

"(a) In General.—It shall be unlawful for any person, directly or indirectly, to knowingly use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance to affect the price, availability, or reliability of the electric energy or transmission services.

"(b) Regulations.—The Commission may promulgate regulations as appropriate in the public interest or for the protection of electric ratepayers to enforce this section.".

(b) Additional Remedy for Market Manipulation.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

"(e) Remedy for Market Manipulation.—If the Commission finds that a public utility has knowingly employed any manipulative or deceptive device or contrivance in violation of this Act (including a regulation promulgated under this Act), the Commission may, in addition to any other remedy available under this Act, revoke the authority of the public utility to charge market-based rates.".

TITLE —ENERGY MARKET OVERSIGHT

SEC. 01. OVER-THE-COUNTER TRANSACTIONS IN ENERGY COMMODITIES.

(a) Definitions.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

"(34) Included energy transaction.—The term 'included energy transaction' means a contract, agreement, or transaction in an energy commodity that is—

"(A)(i) executed or traded on an electronic trading facility; and

"(ii) entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; or

"(B)(i) executed or traded not on or through a trading facility; and

"(ii) entered into solely between persons that are eligible contract participants at the time the persons enter into the agreement, contract, or transaction, regardless of the means of execution of the agreement, contract, or transaction.

"(35) Energy commodity.—

"(A) In general.—The term 'energy commodity' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy.

"(B) Inclusions.—The term 'energy commodity' includes—

"(i) coal;

"(ii) crude oil, gasoline, heating oil, and propane;

"(iii) electricity; and

"(iv) natural gas.

"(36) Electronic energy trading facility.—The term 'electronic energy trading facility' means an electronic trading facility on or through which included energy transactions are traded or executed.".

(b) Off-Exchange Transactions in Energy Commodities.—Section 2(g) of the Commodity Exchange Act (7 U.S.C. 2(g)) is amended—

(1) by inserting "or an energy commodity" after "agricultural commodity";

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "No provision" and inserting the following:

"(1) In general.—No provision"; and

(4) by adding at the end the following:

"(2) Transactions in Energy Commodities.—

"(A) In general.—Except as provided in subparagraphs (B) and (C) and subsection (h)(7), nothing in this Act applies to an included energy transaction.

"(B) Prohibited conduct.—

"(i) In general.—An included energy transaction shall be subject to—

"(I) sections 5b, 12(e)(2)(B), and 22(a)(4); and

"(II) the prohibitions in sections 4b, 4c(a), 4c(b), 4o, 6(c), 6(d), 6c, 6d, 8a, and 9(a)(2).

"(ii) Transactions exempted by commission action.—Notwithstanding any exemption by the Commission under section 4(c), an included energy transaction shall be subject to the sections specified in clause (i) of this subparagraph, subparagraph (C), and subsection (h)(7).

"(C) Reporting and recordkeeping requirements.—

"(i) In general.—An eligible contract participant that enters into or executes an included energy transaction that performs, or together with other such transactions performs, a significant price discovery function in the cash market for an energy commodity or in any other market for agreements, contracts, or transactions relating to an energy commodity, or an eligible commercial entity that enters into or executes an included energy transaction described in section 1a(34)(A) shall—

"(I) provide to the Commission on a timely basis the information required under clause (ii); and

"(II)(aa) consistent with section 4i, maintain books and records relating to each included energy transaction, for a period of at least 5 years after the date of the transaction, in such form as the Commission shall require; and

"(bb) keep the books and records open to inspection by any representative of the Commission or the Attorney General.

"(ii) Required information.—

"(I) In general.—The Commission shall require that such information regarding included energy transactions be provided to the Commission as the Commission considers necessary to assist in detecting and preventing price manipulation.

"(II) Information to be included.—Such information shall include information regarding large trading positions obtained through 1 or more included energy transactions that involve—

"(aa) substantial quantities of the commodity in the cash market; or

"(bb) substantial positions, investments, or trades in agreements or contracts related to energy commodities.

"(III) Manner of compliance.—The Commission shall specify when and how such information shall be provided and maintained by eligible contract participants and eligible commercial entities.

"(IV) Price discovery transactions.—

"(aa) In general.—In specifying the information to be provided under this paragraph, the Commission shall identify the transactions or class of transactions that the Commission considers to perform a significant price discovery function.

"(bb) Considerations.—In determining which included energy transactions perform a significant price discovery function, the Commission shall consider the extent to which—

"(AA) standardized agreements are used to execute the transactions;

"(BB) the transactions involve standardized types or measures of a commodity;

"(CC) the prices of the transactions are reported to third parties, published, or disseminated;

"(DD) the prices of the transactions are referenced in other transactions; and

"(EE) other factors considered appropriate by the Commission.

"(V) Persons filing.—

"(aa) In general.—The Commission, in its discretion, may allow large trader position reports required to be provided by an eligible commercial entity to be provided by an electronic energy trading facility if the eligible commercial entity authorizes the facility to provide such information on its behalf.

"(bb) Information and enforcement.—Nothing in an authorization under item (aa) shall impair the ability of the Commission to obtain information from an eligible commercial entity or otherwise enforce this Act.

"(VI) Regulations.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided and maintained under this subparagraph.".

SEC. 02. ELECTRONIC TRADING FACILITIES FOR ENERGY COMMODITIES.

Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended—

(1) in paragraph (1), by inserting after "an exempt commodity" the following: "other than an energy commodity";

(2) in paragraph (3), by inserting after "an exempt commodity" the following: "other than an energy commodity"; and

(3) by adding at the end the following:

"(7) Energy transactions.—

"(A) In general.—To the extent that the Commission determines to be appropriate under subparagraph (C), an electronic energy trading facility shall—

"(i) be subject to the requirements of section 5a, to the extent provided in sections 5a(g) and 5d;

"(ii)(I) consistent with section 4i, maintain books and records relating to the business of the electronic energy trading facility, including books and records relating to each transaction in such form as the Commission may require; and

"(II) make the books and records required under this section available to representatives of the Commission and the Attorney General for inspection for a period of at least 5 years after the date of each included energy transaction;

"(iii) make available to the public information on trading volumes, settlement prices, open interest (where applicable), and opening and closing ranges (or daily highs and lows, as appropriate) for included energy transactions; and

"(iv) provide the information to the Commission in such form and at such times as the Commission may require.

"(B) Applicability of other provisions.—

"(i) Paragraph 5.—An electronic energy trading facility shall comply with paragraph (5).

"(ii) Paragraph 6.—Paragraph (6) shall apply with respect to a subpoena issued to any foreign person that the Commission believes is conducting or has conducted transactions on or through an electronic energy trading facility.

"(C) Regulations.—Not later than 180 days after the date of enactment of this paragraph, the Commission shall issue a notice of proposed rulemaking, and not later than 1 year after the date of enactment of this paragraph, the Commission shall promulgate final regulations, specifying the information to be provided, maintained, or made available to the public under subparagraphs (A) and (B).

"(8) Nondisclosure of proprietary information.—In carrying out paragraph (7) and subsection (g)(2), the Commission shall not—

"(A) require the real-time publication of proprietary information;

"(B) prohibit the commercial sale or licensing of real-time proprietary information; or

"(C) publicly disclose information regarding market positions, business transactions, trade secrets, or names of customers, except as provided in section 8.".

SEC. 03. NO EFFECT ON OTHER AUTHORITY.

(a) No Effect on FERC Authority.—Nothing contained in this title shall affect the jurisdiction of the Federal Energy Regulatory Commission with respect to the authority of the Federal Energy Regulatory Commission under the Federal Power Act (16 U.S.C. 791a et seq.), the Natural Gas Act (15 U.S.C. 717 et seq.), or other law to obtain information or otherwise carry out the responsibilities of the Federal Energy Regulatory Commission.".

(b) No Effect on Excluded Commodities.—The amendments made by this title have no effect on the regulation of excluded commodities under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

(c) No Effect on Metals.—The amendments made by this title have no effect on the regulation of metals under the Commodity Exchange Act (7 U.S.C. 1a et seq.).

SEC. 04. PROHIBITION OF FRAUDULENT TRANSACTIONS.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended by striking subsection (a) and inserting the following:

"(a) Prohibitions.—

"(1) In general.—It shall be unlawful (A) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or in interstate commerce, that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person, or (B) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of or with, any other person, other than on or subject to the rules of a designated contract market—

"(i) to cheat or defraud or attempt to cheat or defraud the other person;

"(ii) willfully to make or cause to be made to such other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

"(iii) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for (or, in the case of a contract described in subparagraph (B), with the other person); or

"(iv)(I) to bucket an order represented by the person as an order to be executed, for or on behalf of the other person, on an organized exchange; or

"(II) to—

"(aa) fill an order by offset against the order or orders of the other person; or

"(bb) willfully and knowingly and without the prior consent of the other person, to—

"(AA) become the buyer in respect to any selling order of the other person; or

"(BB) become the seller in respect to any buying order of the other person;

if the order is to be executed on or subject to the rules of a designated contract market.

"(2) Limitation.—This subsection does not obligate any person, in connection with a transaction in a contract of sale of a commodity for future delivery with another person, to disclose to any other person nonpublic information that may be material to the market price of the commodity or transaction, except as necessary to make any statement made to the other person in connection with the transaction not misleading in any material respect.".

SEC. 05. CRIMINAL AND CIVIL PENALTIES.

(a) Enforcement Powers of Commission.—Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9, 15) is amended in paragraph (3) of the tenth sentence—

(1) by inserting "(A)" after "assess such person"; and

(2) by inserting after "each such violation" the following: ", or (B) in any case of manipulation of, or attempt to manipulate, the price of any commodity, a civil penalty of

not more than the greater of $1,000,000 or triple the monetary gain to such person for each such violation,".

(b) Manipulations and Other Violations.—Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence—

(1) by striking "paragraph (a) or (b) of section 9 of this Act" and inserting "subsection (a), (b), or (f) of section 9"; and

(2) by striking "said paragraph 9(a) or 9(b)" and inserting "subsection (a), (b), or (f) of section 9".

(c) Nonenforcement of Rules of Government or Other Violations.—Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended—

(1) in the first sentence, by inserting before the period at the end the following: ", or, in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty of not more than $1,000,000 for each such violation"; and

(2) in the second sentence, by inserting before the period at the end the following: ", except that if the failure or refusal to obey or comply with the order involved any offense under section 9(f), the registered entity, director, officer, agent, or employee shall be guilty of a felony and, on conviction, shall be subject to penalties under section 9(f)".

(d) Action To Enjoin or Restrain Violations.—Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by striking "(d)" and all that follows through the end of paragraph (1) and inserting the following:

"(d) Civil Penalties.—In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation—

"(1) a civil penalty in the amount of not more than the greater of $100,000 or triple the monetary gain to the person for each violation; or

"(2) in any case of manipulation of, or an attempt to manipulate, the price of any commodity, a civil penalty in the amount of not more than the greater of $1,000,000 or triple the monetary gain to the person for each violation.".

(e) Violations Generally.—Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(1) by striking "(or $500,000 in the case of a person who is an individual)";

(2) by striking "five years" and inserting "10 years"; and

(3) in paragraph (2), by striking "false or misleading or knowingly inaccurate reports" and inserting "knowingly false, misleading, or inaccurate reports".

SEC. ___06. CONFORMING AMENDMENTS.

(a) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in subsection (d)(1), by striking "section 5b" and inserting "section 5a(g), 5b,";

(2) in subsection (e)(1), by inserting "(1)" after "(g)"; and

(3) in subsection (i)—

(A) in paragraph (1)—

(i) by striking "No provision" and inserting "In general.—Subject to subsections (g)(2) and (h)(7), no provision"; and

(ii) in subparagraph (A), by inserting "(1)" after "2(g)"; and

(B) in paragraph (2), by striking "No provision" and inserting "In general.—Subject to subsections (g)(2) and (h)(7), no provision".

(b) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended in the first sentence by inserting ", or pursuant to an exemption under section 4(c)" after "transaction execution facility".

(c) Section 8a(9) of the Commodity Exchange Act (7 U.S.C. 12a(9)) is amended—

(1) by inserting "or an electronic energy trading facility" after "direct the contract market";

(2) by inserting after "liquidation of any futures contract" the following: "or included energy transaction"; and

(3) by inserting "or an electronic energy trading facility" after "given by a contract market".

SA 2084. Mr. BENNETT (for himself and Mr. Kohl) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

"Sec. . Statements made by the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, and colloquies engaging the Chairman and/or Ranking Member of the Agriculture Appropriations Subcommittee, given on the Senate Floor or submitted for the Record during Senate consideration of this Act shall be deemed part of Senate Committee Report 108–107 for purposes of conference with the House of Representatives.".

SA 2085. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CONSERVATION RESERVE PROGRAM.

Land shall be considered eligible land under section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) for purposes of enrollment into the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) if the land—

(1) is planted to hardwood trees as of the date of enactment of this Act; and

(2) was enrolled in the conservation reserve program under a contract that expired before the date of enactment of this Act.

SA 2086. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. ___. CENTER OF EXCELLENCE FOR COMMODITY AND CONSERVATION DECISION SUPPORT SYSTEMS.

To encourage the Chief of the Natural Resources Conservation Service to work with the University of South Carolina to establish a Center of Excellence for Department of Agriculture Commodity and Conservation Decision Support Systems.

SA 2087. Ms. CANTWELL (for herself, Mr. Bingaman, Mr. Hollings, Mr. Jeffords, Mr. Dorgan, and Mr. Feingold) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF ENERGY MARKET MANIPULATION.

(a) Prohibition.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.".

(b) Rates Resulting From Market Manipulation.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance".

SA 2088. Mr. AKAKA (for himself, Mr. Levin, Mr. Lieberman, and Ms. Cantwell) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROTECTION OF DOWNED ANIMALS.

None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

SA 2089. Mr. DAYTON proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. EMERGENCY DISASTER ASSISTANCE FOR AGRICULTURAL PRODUCERS.

(a) Crop Disaster Assistance.—

(1) In general.—Subject to paragraphs (2) through (4), the Secretary of Agriculture (referred to in this section as the "Secretary")

shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm that have incurred qualifying crop losses for the 2001, 2002, or 2003 crop, or any combination of those crops, due to damaging weather or related condition, as determined by the Secretary.

(2) Administration.—

(A) In general.—Except as provided in subparagraph (B), the Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(B) Payment rates.—The Secretary shall make a disaster payment available to producers on a farm for a crop under this subsection at a rate equal to—

(i) 40 percent of the established price for the crop for any deficiency in production greater than 20 percent, but less than 35 percent, for the crop; and

(ii) 65 percent of the established price for the crop for any deficiency in production of 35 percent or more for the crop.

(3) Crop insurance.—In carrying out this subsection, the Secretary shall not discriminate against or penalize producers on a farm that have purchased crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(4) Other assistance.—Subject to paragraph (3), the amount of assistance that producers on a farm would otherwise receive under this section shall be reduced by the amount of assistance provided to the producers on the farm for crop losses described in paragraph (1) under any other Federal law.

(b) Livestock Assistance Program.—

(1) In general.—Subject to paragraphs (2) and (3), the Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation as are necessary to make and administer payments for livestock losses to producers for 2001, 2002, or 2003, or any combination of those years, in a county that has received a corresponding emergency designation by the President or the Secretary, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(2) Administration.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549, 1549A–51).

(3) Other assistance.—The amount of assistance that a producer would otherwise receive under this subsection shall be reduced by the amount of assistance provided to the producer for losses described in paragraph (1) under any other Federal law.

(c) Removal of Trees Adversely Affected by the Emerald Ash Borer.—

(1) In General.—The Secretary shall use funds of the Commodity Credit Corporation to pay the costs of removing trees that have been adversely affected by the emerald ash borer.

(2) Priority.—In carrying out paragraph (1), the Secretary shall give priority to trees on public property or that threaten public safety.

(d) Reimbursement of Costs of Removing Commercial Citrus Trees To Control Citrus Cancer.—

(1) Payments for trees removed.—

(A) In general.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial citrus growers located in the State of Florida in the amount of $26 for each commercial citrus tree removed after January 1, 1986, to control citrus canker to allow for tree replacement and associated business costs.

(B) Payment limits.—A payment to any citrus grower under this paragraph shall be limited to—

(i) in the case of grapefruit, 104 trees per acre;

(ii) in the case of valencias, 123 trees per acre;

(iii) in the case of navels, 118 trees per acre;

(iv) in the case of tangelos, 114 trees per acre;

(v) in the case of limes, 154 trees per acre; and

(vi) in the case of other citrus or mixed citrus, 104 trees per acre.

(2) Compensation for lost production.—

(A) In general.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial citrus growers located in the State of Florida to compensate the citrus growers for lost production, as determined by the Secretary, with respect to trees removed after January 1, 1986, to control citrus canker.

(B) Crop insurance.—

(i) Covered.—In the case of a removed tree that was covered by a crop insurance tree policy, compensation for lost production under subparagraph (A) shall be reduced by the amount of any indemnity received with respect to the tree.

(ii) Not covered.—In the case of a removed tree that was not covered by a crop insurance tree policy (even though such insurance may have been available), compensation for lost production under subparagraph (A), shall be reduced by 5 percent.

(e) Promotion of Specialty Crop Agriculture.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide a grant to each State for the promotion of agricultural commodities produced in the State in same proportion as grants are provided under section 7(b) of Public Law 107–25 (115 Stat.202).

(f) Phytophtora crown and root and fruit rot.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to carry out agricultural research on growth and irradiation of Phytophthora crown and root and fruit rot in the State of Michigan.

(g) Reimbursement of Treatment Costs of Avocado Trees To Comply With Fruit Fly Quarantine and Losses Due to Windfall.—

(1) Payments for bait treatment costs.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial avocado growers located in the State of California in the amount of $35 per acre for each individual bait treatment necessary for compliance with a Government-imposed quarantine after November 15, 2002, to control fruit flies.

(2) Compensation for windfall losses.—The Secretary shall use funds of the Commodity Credit Corporation to make payments to commercial avocado growers in the State of California to compensate avocado growers for windfall losses, as determined by the Secretary, with respect to loss due to winds after November 15, 2002, that occurred in a quarantine area.

(h) Compensation of Orchardists for Tree Losses.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide assistance under the tree assistance program under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.), to compensate eligible orchardists (as defined in section 10201 of that Act (7 U.S.C. 8201)) for tree losses incurred since October 24, 2003 due to wildfires in Southern California.

(i) Fire Assistance.—The Secretary of Agriculture shall use funds of the Commodity Credit Corporation to provide assistance to agricultural producers with farms or ranches located in Ventura County, California for losses (including crop, livestock, and related losses) resulting from the Simi Valley and Piru fires occurring during calendar year 2003.

(j) Fisheries Disaster.—In addition to amounts appropriated or otherwise made available, $50,000,000 is appropriated to the Department of Commerce for fisheries disaster assistance to the shrimp industries in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, of which $45,000,000 shall be made available to such States in amounts that are in proportion to the percentage of shrimp catch landed in each State, and $5,000,000 shall be for a national research and development program for new products, improved quality assurance, and marketing, of domestic wild shrimp: *Provided*, That the funds distributed to the States may be used only for: (A) assistance for small business including fishing vessels, fish processors, and shoreside related businesses serving the fishing industry; (B) assistance for the additional incremental costs to fishermen associated with the purchase, installation and use, including but not limited to the loss in revenues due to any reduction in shrimp retention associated with such use of new Turtle Excluder Devices (TEDs) and Bycatch Reduction Devices (BRDs) required by Federal Regulations; (C) State seafood inspection and testing programs; (D) voluntary capacity reduction programs for shrimp fisheries under limited access; *Provided Further*, That not more than 5 percent of such funds may be used for administrative expenses, and no funds may be used for lobbying activities or representational expenses.

(k) Funding.—

(1) In general.—Of the funds of the Commodity Credit Corporation, the Secretary shall use—

(A) such sums as are necessary to carry out subsections (a) and (b);

(B) $20,000,000 to carry out subsection (c);

(C) $15,000,000 to carry out subsection (d);

(D) $26,000,000 to carry out subsection (e);

(E) $184,000 to carry out subsection (f);

(F) $15,000,000 to carry out subsection (g);

(G) such sums as are necessary to carry out subsection (h); and

(H) $12,000,000 to carry out subsection (i).

(2) Availability.—Funds made available under this section shall remain available until expended.

(l) Regulations.—

(1) In general.—The Secretary may promulgate such regulations as are necessary to implement this section.

(2) Procedure.—The promulgation of the regulations and administration of this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(m) EMERGENCY DESIGNATION.—The entire amount made available under this section is designated by Congress as an emergency requirement under section 502(c) of H. Con. Res. 95 (108th Cong.).

(n) BUDGETARY TREATMENT.—Notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the Joint Explanatory Statement of the Committee of Conference accompanying Conference Report No. 105–217, the provisions of this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) were it included in an Act other than an appropriation Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902).

SA 2090. Mr. HATCH (for himself, Mr. HARKIN, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . DIETARY SUPPLEMENTS.

The Commissioner of Food and Drugs shall provide not less than $11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

SA 2091. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 50, line 14, strike "$27,745,981,000" and insert in lieu thereof "$29,945,981,000".

SA 2092. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.".

SA 2093. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 51, lines 14 through 17, strike "special" and all that follows through "1985," and insert in lieu thereof "special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law).".

SA 2094. Mr. BENNETT (for Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. INOUYE, and Mr. AKAKA)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 33, line 9, strike "$769,479,000" and insert in lieu thereof "$767,479,000" and on page 37, line 2, strike $25,000,000" and insert in lieu thereof "$23,000,000".

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . (a) IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2012(o)(4)) is amended by inserting before the period at the end the following: ", and except that on October 1, 2003 in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002.".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003.".

SA 2095. Mr. BENNETT (for Ms. SNOWE (for herself, Mr. DORGAN, and Ms. COLLINS)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES.

"(a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

"(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation.".

SA 2096. Mr. BENNETT (for Mr. LEVIN (for himself and Ms. STABENOW)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS.

None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

SA 2097. Mr. BENNETT (for Mr. INHOFE) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 77, line 18, strike the comma and insert "; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma,".

SA 2098. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

SEC. . Section 601(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2)) is amended to read as follows:

"(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.".

SA 2099. Mr. BENNETT (for Mr. INOUYE) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the country as a rural area or eligible rural community that the Secretary determines is not urban in character.".

SA 2100. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

SEC. . The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

(1) by striking "or title V of the Housing Act of 1949"; and

(2) by inserting after "1994" the following: ", title V of the Housing Act of 1949,".

SA 2101. Mr. BENNETT (for Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following new section:

"SEC. . Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan; *Provided*, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.".

SA 2102. Mr. BENNETT (for Mr. BROWNBACK) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 72, line 20, after the word "Utah" insert the following: ", and four flood control structures in Marmaton, Kansas".

SA 2103. Mr. BENNETT proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 42, line 1, insert "Utah," after "Mississippi,".

SA 2104. Mr. BENNETT (for himself and Mr. KOHL) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 74, line 7, insert "(a)" before the word "Notwithstanding" and on line 15 insert the following new subsection:

"(b) The Secretary shall publish a proposed rule to carry out Section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act.".

SA 2105. Mr. BENNETT (for Mr. GRASSLEY (for himself and Mr. DORGAN)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. EQIP PAYMENT LIMIT.

None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of $300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

SA 2106. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place insert the following:

"Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under 7 U.S.C. 426–426c, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) Serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years."

SA 2107. Mr. BENNETT (for Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CITRUS CANKER ASSISTANCE.

Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

(1) in the section heading, by inserting "**TREE REPLACEMENT AND**" after "**FOR**"; and

(2) in subsection (a), by inserting "tree replacement and" after "Florida for".

SA 2108. Mr. BENNETT (for Mr. BURNS (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. RURAL ELECTRIFICATION.

For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading "RURAL COMMUNITY ADVANCEMENT PROGRAM" in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SA 2109. Mr. BENNETT (for Mr. DURBIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . The Commissioner of the Food and Drug Administration shall provide no less than $250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration, to process comments submitted in response to Docket No. 95N–0304 published in the Federal Register on March 5, 2003 (68 FR 10417). Provided further, the Commissioner should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

SA 2110. Mr. BENNETT (for Mr. SCHUMER (for himself and Mrs. CLINTON)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 57, line 4, insert "and of which no less than $52,845,000 shall be available for the generic drugs program" before the semicolon.

SA 2111. Mr. BENNETT (for Mr. MILLER) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. WORKLOAD ANALYSIS OF FARM SERVICE AGENCY.

None of the funds made available by this Act may be used to pay more than ½ of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

SA 2112. Mr. BENNETT (for Mr. FRIST (for himself and Mr. DASCHLE)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SUN GRANT RESEARCH INITIATIVE.

(a) SHORT TITLE.—This section may be cited as the "Sun Grant Research Initiative Act of 2003".

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

"SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

"(a) PURPOSES.—The purposes of the programs established under this section are—

"(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

"(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

"(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

"(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

"(b) DEFINITIONS.—In this section:

"(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

"(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

"(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

"(C) 1994 Institutions (as defined in section 2 of that Act).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

"(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

"(2) the sun grant centers shall use the grants in accordance with this section.

"(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

"(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

"(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

"(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

"(B) the Commonwealth of Puerto Rico; and

"(C) the United States Virgin Islands.

"(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

"(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

"(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

"(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

"(5) NORTHEASTERN CENTER.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

"(e) USE OF FUNDS.—

"(1) CENTERS OF EXCELLENCE.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

"(2) GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES.—

"(A) IN GENERAL.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multistate—

"(i) research, extension, and educational programs on technology development; and

"(ii) integrated research, extension, and educational programs on technology implementation.

"(B) PROGRAMS.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

"(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

"(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

"(3) INDIRECT COSTS.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

"(f) PLAN.—

"(1) IN GENERAL.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

"(2) GASIFICATION COORDINATION.—

"(A) IN GENERAL.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

"(B) FUNDING.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

"(g) GRANTS TO OTHER LAND-GRANT COLLEGES AND UNIVERSITIES.—

"(1) PRIORITY FOR GRANTS.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

"(2) TERM OF GRANTS.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

"(h) GRANT INFORMATION ANALYSIS CENTER.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

"(i) ANNUAL REPORTS.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

"(A) $25,000,000 for fiscal year 2005;

"(B) $50,000,000 for fiscal year 2006; and

"(C) $75,000,000 for each of fiscal years 2007 through 2010.

"(2) GRANT INFORMATION ANALYSIS CENTER.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).".

SA 2113. Mr. BENNETT (for Mr. THOMAS (for himself, Mr. BINGAMAN, and Mr. HAGEL)) proposed an amendment to the bill H.R. 1442, to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—VIETNAM VETERANS MEMORIAL VISITOR CENTER

SEC. 101. VISITOR CENTER

Public Law 96–297 (16 U.S.C. 431 note) is amended by adding at the end the following:

"SEC. 6. VISITOR CENTER.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Vietnam Veterans Memorial Fund, Inc., is authorized to construct a visitor center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War.

"(2) LOCATION.—The visitor center shall be located underground.

"(3) CONSULTATION ON DESIGN PHASE.—The Vietnam Veterans Memorial Fund, Inc. shall consult with educators, veterans groups, and the National Park Service in developing the proposed design of the visitor center.

"(b) COMPLIANCE WITH STANDARDS APPLICABLE TO COMMEMORATIVE WORKS.—Chapter 89 of title 40, United States Code, shall apply, including provisions related to the siting, design, construction, and maintenance of the visitor center, and the visitor center shall be considered a commemorative work for the purposes of that Act, except that—

"(1) final approval of the visitor center shall not be withheld;

"(2) the provisions of subsections (b) and (c) of section 8908 of title 40, United States Code, requiring further approval by law for the location of a commemorative work within Area I and prohibiting the siting of a visitor center within the Reserve shall not apply;

"(3) the size of the visitor center shall be limited to the minimum necessary—

"(A) to provide for appropriate educational and interpretive functions; and

"(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall; and

"(4) the visitor center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

"(c) Operation and Maintenance.—

"(1) In general.—The Secretary of the Interior shall—

"(A) operate and maintain the visitor center, except that the Secretary shall enter into a written agreement with the Vietnam Veterans Memorial Fund, Inc. for specified maintenance needs of the visitor center, as determined by the Secretary; and

"(B) as soon as practicable, in consultation with educators and veterans groups, develop a written interpretive plan for the visitor center in accordance with National Park Service policy.

"(2) Donation for perpetual maintenance and preservation.—Paragraph (1)(A) does not waive the requirements of section 8906(b) of title 40, United States Code, with respect to the visitor center.

"(d) Funding.—The Vietnam Veterans Memorial Fund, Inc. shall be solely responsible for acceptance of contributions for, and payment of expenses of, the establishment of the visitor center. No Federal funds shall be used to pay any expense of the establishment of the visitor center.".

TITLE II—COMMEMORATIVE WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Commemorative Works Clarification and Revision Act of 2003".

SEC. 202. ESTABLISHMENT OF RESERVE.

(a) Findings.—Congress finds that—

(1) the great cross-axis of the Mall in the District of Columbia, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, is a substantially completed work of civic art; and

(2) to preserve the integrity of the Mall, a reserve area should be designated within the core of the great cross-axis of the Mall where the siting of new commemorative works is prohibited.

(b) Reserve.—Section 8908 of title 40, United States Code, is amended by adding at the end the following:

"(c) Reserve.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work or visitor center shall be located within the Reserve.".

SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.

(a) Purposes.—Section 8901(2) of title 40, United States Code, is amended by striking "Columbia;" and inserting "Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;".

(b) Definitions.—Section 8902 of title 40, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Definitions.—In this chapter:

"(1) Commemorative work.—The term 'commemorative work' means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.

"(2) The district of Columbia and its environs.—The term 'the District of Columbia and its environs' means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003.

"(3) Reserve.—The term 'Reserve' means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (2).

"(4) Sponsor.—The term 'sponsor' means a public agency, or an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs.".

(c) Authorization.—Section 8903 of title 40, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "work commemorating a lesser conflict" and inserting "work solely commemorating a limited military engagement"; and

(B) by striking "the event" and inserting "such war or conflict";

(2) in subsection (d)—

(A) by striking "Consultation with National Capital Memorial Commission.—" and inserting "Consultation with National Capital Memorial Advisory Commission.—";

(B) by striking "House Administration" and inserting "Resources"; and

(C) by inserting "Advisory" before "Commission"; and

(3) by striking subsection (e) and inserting the following:

"(e) Expiration of Legislative Authority.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless—

"(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

"(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

"(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

"(B) 75 percent of the amount estimated to be required to complete the commemorative work has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three additional years. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.".

(d) National Capital Memorial Advisory Commission.—Section 8904 of title 40, United States Code, is amended—

(1) in the heading, by inserting "**ADVISORY**" before "**COMMISSION**";

(2) in subsection (a), by striking "There is a National" and all that follows through "consists of" and inserting the following: "There is established the National Capital Memorial Advisory Commission, which shall be composed of";

(3) in subsection (c)—

(A) by inserting "Advisory" before "Commission shall"; and

(B) by striking "Services" and inserting "Services (as appropriate)"; and

(4) in subsection (d) by inserting "Advisory" before "Commission".

(e) Site and Design Approval.—Section 8905 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "person" each place it appears and inserting "sponsor"; and

(B) in paragraph (1)—

(i) by inserting "Advisory" before "Commission"; and

(ii) by striking "designs" and inserting "design concepts"; and

(2) in subsection (b)—

(A) by striking "Secretary, and Administrator" and inserting "and the Secretary or Administrator (as appropriate)"; and

(B) in paragraph (2)(B), by striking, "open space and existing public use." and inserting "open space, existing public use, and cultural and natural resources.".

(f) Criteria for Issuance of Construction Permit.—Section 8906 of title 40, United States Code, is amended—

(1) in subsection (a)(3) and (a)(4) by striking "person" and inserting "sponsor"; and

(2) by striking subsection (b) and inserting the following:

"(b) Donation for Perpetual Maintenance and Preservation.—

"(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

"(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

"(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

"(4) Upon request of the Secretary or Administrator (as appropriate), the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.".

(g) Areas I and II.—Section 8908(a) of title 40, United States Code, is amended—

(1) by striking "Secretary of the Interior and Administrator of General Services" and inserting "Secretary of the Interior or the Administrator of General Services (as appropriate)"; and

(2) by striking "numbered 869/86581, and dated May 1, 1986" and inserting "entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003".

SEC. 204. SITE AND DESIGN CRITERIA.

Section 8905(b) of title 40, United States Code (as amended by section 203(e)), is amended by adding at the end the following:

"(5) Museums.—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(2).

"(6) Site-specific guidelines.—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter.

"(7) Donor contributions.—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.".

SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Except for the provision in the amendment made by section 202(b) prohibiting a visitor center from being located in the Reserve (as defined in section 8902 of title 40, United States Code), nothing in this title shall apply to a commemorative work for which a site was approved in accordance with chapter 89 of title 40, United States Code, prior to the date of enactment of this title.

SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within six months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on Resources of the United States House of Representatives reports setting forth plans for the following:

(1) To relocate, as soon as practicable after the date of enactment of this Act, the National Park Service's stable and maintenance facilities that are within the Reserve (as defined in section 8902 of title 40, United States Code).

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character.

(3) To limit the sale or distribution of permitted merchandise to those areas where such activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

SA 2114. Mr. BENNETT (for Ms. COLLINS) proposed an amendment to the bill S. 589, to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeland Security Federal Workforce Act of 2003".

SEC. 2. FINDINGS, PURPOSE, AND EFFECT OF LAW.

(a) Findings.—Congress makes the following findings:

(1) The security of the United States requires the fullest development of the intellectual resources and technical skills of its young men and women.

(2) The security of the United States depends upon the mastery of modern techniques developed from complex scientific principles. It depends as well upon the discovery and development of new principles, new techniques, and new knowledge.

(3) The United States finds itself on the brink of an unprecedented human capital crisis in Government. Due to increasing competition from the private sector in recruiting high-caliber individuals, Government departments and agencies, particularly those involved in national security affairs, are finding it hard to attract and retain talent.

(4) The United States must strengthen Federal civilian and military personnel systems in order to improve recruitment, retention, and effectiveness at all levels.

(5) The ability of the United States to exercise international leadership is, and will increasingly continue to be, based on the political and economic strength of the United States, as well as on United States military strength around the world.

(6) The Federal Government has an interest in ensuring that the employees of its departments and agencies with national security responsibilities are prepared to meet the challenges of this changing international environment.

(7) In January 2001, the General Accounting Office reported that, at the Department of Defense "attrition among first-time enlistees has reached an all-time high. The services face shortages among junior officers, and problems in retaining intelligence analysts, computer programmers, and pilots." The General Accounting Office also warned of the Immigration and Naturalization Service's "lack of staff to perform intelligence functions and unclear guidance for retrieving and analyzing information."

(8) The United States Commission on National Security also cautioned that "the U.S. need for the highest quality human capital in science, mathematics, and engineering is not being met." The Commission wrote, "we must ensure the highest caliber human capital in public service. U.S. national security depends on the quality of the people, both civilian and military, serving within the ranks of government."

(9) The events on and after September 11th have highlighted the weaknesses in the Federal and State government's human capital and its personnel management practices, especially as it relates to our national security.

(b) Purposes.—It is the purpose of this Act to—

(1) provide attractive incentives to recruit capable individuals for Government and military service; and

(2) provide the necessary resources, accountability, and flexibility to meet the national security educational needs of the United States, especially as such needs change over time.

(c) Effect of Law.—Nothing in this Act, or an amendment made by this Act, shall be construed to affect the collective bargaining unit status or rights of any Federal employee.

TITLE I—PILOT PROGRAM FOR STUDENT LOAN REPAYMENT FOR FEDERAL EMPLOYEES IN NATIONAL SECURITY POSITIONS

SEC. 101. STUDENT LOAN REPAYMENTS.

(a) In General.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting after section 5379, the following:

"§ 5379a. Pilot program for student loan repayment for Federal employees in national security positions

"(a) In this section:

"(1) The term 'agency' means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency.

"(2) The term 'national security position' means an employment position determined by the head of an agency for the purposes of a pilot program established under this section, to involve important homeland security applications.

"(3) The term 'student loan' means—

"(A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

"(B) a loan made under part D or E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq., 1087aa et seq.); and

"(C) a health education assistance loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part E of title VIII of such Act (42 U.S.C. 297a et seq.).

"(b)(1) The head of an agency shall, in order to recruit or retain highly qualified professional personnel, establish a pilot program under which the head of that agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee if the employee is employed by the agency in a national security position. The head of an agency may provide for a program to apply to, and be administered with respect to, 1 or more organizational units of the agency.

"(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned.

“(3) The amount paid by the agency on behalf of an employee under this section may not exceed $10,000 in any calendar year toward the remaining balance of the student loan for each year that the employee remains in service in the position, except that the employee shall remain in such position for at least 3 years. The maximum total amount that may be paid on behalf of an employee under this paragraph shall be $60,000.

“(4) An employee may participate in the program under section 5379 and any program under this section at the same time, except the total amount paid by all agencies on behalf of that employee under section 5379 and this section may not exceed—

“(A) $10,000 in any calendar year; or

“(B) $60,000 in total.

“(5) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

“(6) Nothing in this section shall be construed—

“(A) to affect student loan repayment programs existing on the date of enactment of this section;

“(B) to revoke or rescind any existing law, collective bargaining agreement, or recognition of a labor organization;

“(C) to authorize the head of an agency to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; or

“(D) as a basis for determining the exemption of any position from inclusion in a bargaining unit under chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the head of an agency under this section, from entitlement to all rights and benefits under such chapter.

“(c)(1)(A) Not later than 6 months after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the implementation of the program under this section.

“(B) Not later than 4 years after the date of enactment of this section, the Director of the Office of Personnel Management shall report to the appropriate committees of Congress on the status of the programs established under this section and the success of such programs in recruiting and retaining employees for national security positions, including an assessment as to whether the program should be expanded to other agencies or to non-national security positions to improve overall Federal workforce recruitment and retention.

“(2) The head of each agency establishing a program under this section shall provide any necessary information to the Office of Personnel Management to carry out this subsection.

“(d) An employee shall not be eligible for benefits under this section if such employee—

“(1) occupies a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(2) does not occupy a national security position.

“(e)(1) An employee selected to receive benefits under this section shall agree in writing, before receiving any such benefit, that the employee shall—

“(A) remain in the service of the agency in a national security position for a period to be specified in the agreement, but not less than 3 years, unless involuntarily separated; and

“(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

“(2) The repayment provided for under paragraph (1)(B) may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that repayment will be required under this subsection.

“(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2)) is voluntarily separated before completing the required period of service fails to repay the amount provided for under paragraph (1)(B), a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

“(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

“(B) such other method as is provided for by law for the recovery of amounts owing to the Government.

“(4) The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

“(5) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation, fund, or account from which the original payment was made. Any amount so credited shall be merged with other sums in such appropriation, fund, or account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

“(f) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

“(1) separates from such agency; or

“(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

“(g) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

“(h) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

“(i)(1) Not later than 60 days after the date of enactment of this section and after consultations with the heads of agencies, the Office of Personnel Management shall propose regulations for criteria to be used by the heads of agencies to make determinations of national security positions.

“(2) Not later than 180 days after the date on which the comment period for proposed regulations under paragraph (1) ends, the Office of Personnel Management shall promulgate final regulations containing such criteria.

“(j) A program established under this section may remain in effect for the 8-year period beginning on the date of enactment of this section. Such program shall continue to pay employees recruited under this program who are in compliance with this section their benefits through their commitment period regardless of the preceding sentence.

“(k) For the purpose of enabling the Federal Government to recruit and retain employees critical to the national security under this section, there are authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year.”.

(b) Technical and Conforming Amendment.—The table of sections for chapter 53 of title 5, United States Code, is amended by inserting after the item relating to section 5379 the following:

“5379a. Pilot program for student loan repayment for Federal employees in national security positions.”.

TITLE II—FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE AND NATIONAL SECURITY SERVICE CORPS

SEC. 201. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by inserting after section 802 the following:

“SEC. 802a. FELLOWSHIPS FOR GRADUATE STUDENTS TO ENTER FEDERAL SERVICE.

“(a) Definitions.—In this section:

“(1) Agency.—The term ‘agency’ means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, the National Security Agency, and the Central Intelligence Agency, and other Federal Government agencies as determined by the Board.

“(2) Institution of higher education.—The term ‘institution of higher education’ has the meaning given to such term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(3) National security position.—The term ‘national security position’ means an employment position determined by the Board, in consultation with an agency, for the purposes of a program established under this section, to involve important homeland security applications.

“(4) Science.—The term ‘science’ means any of the natural and physical sciences including chemistry, biology, physics, and computer science. Such term does not include any of the social sciences.

“(b) In General.—The Board shall establish and implement a program for the awarding of fellowships (to be known as ‘National Security Fellowships’) to graduate students who, in exchange for receipt of the fellowship, agree to employment with the Federal Government in a national security position. The Board may provide for the program to apply to, and be administered with respect to, 1 or more organizational units of an agency.

“(c) Eligibility.—To be eligible to participate in the program established under subsection (b), a student shall—

“(1) have been accepted into a graduate school program at an accredited institution of higher education within the United States and be pursuing or intend to pursue graduate education in the United States in the disciplines of foreign languages, science, mathematics, engineering, nonproliferation education, or other international fields that are critical areas of national security (as determined by the Board);

"(2) be a United States citizen, United States national, permanent legal resident, or citizen of the Freely Associated States; and

"(3) agree to employment with an agency or office of the Federal Government in a national security position.

"(d) Service Agreement.—In awarding a fellowship under the program under this section, the Board shall require the recipient to enter into an agreement under which, in exchange for such assistance, the recipient—

"(1) will maintain satisfactory academic progress (as determined in accordance with regulations issued by the Board) and provide regularly scheduled updates to the Board on the progress of their education and how their employment continues to relate to a national security objective of the Federal Government;

"(2) will, upon completion of such education, be employed by the agency for which the fellowship was awarded for a period of at least 3 years as specified by the Board; and

"(3) agrees that if the recipient is unable to meet either of the requirements described in paragraph (1) or (2), the recipient will reimburse the United States for the amount of the assistance provided to the recipient under the fellowship, together with interest at a rate determined in accordance with regulations issued by the Board, but not higher than the rate generally applied in connection with other Federal education loans.

"(e) Federal Employment Eligibility.—If a recipient of a fellowship under this section demonstrates to the satisfaction of the Board that, after completing their education, the recipient is unable to obtain a national security position in the Federal Government because such recipient is not eligible for a security clearance or other applicable clearance necessary for such position, the Board may permit the recipient to fulfill the service obligation under the agreement under subsection (d) by working in another office or agency in the Federal Government for which their skills are appropriate, by teaching math, science, or foreign languages, or by performing research, at an institution of higher education, for a period of not less than 3 years, in the area of study for which the fellowship was awarded.

"(f) Fellowship Selection.—

"(1) In general.—The Board shall consult with agencies in the selection and placement of national security fellows under this section.

"(2) Functions.—The Board shall carry out the following functions:

"(A) Develop criteria for awarding fellowships under this section.

"(B) Provide for the wide dissemination of information regarding the activities assisted under this section.

"(C) Establish qualifications for students desiring fellowships under this section, including a requirement that the student have a demonstrated commitment to the study of the discipline for which the fellowship is to be awarded.

"(D) Provide for the establishment and semiannual update of a list of fellowship recipients, including an identification of their skills, who are available to work in a national security position.

"(E) Not later than 30 days after a fellowship recipient completes the study or education for which assistance was provided under this section, work in conjunction with agencies to make reasonable efforts to hire and place the fellow in an appropriate national security position.

"(F) Review the administration of the program established under this section.

"(G) Develop and provide to Congress a strategic plan that identifies the skills needed by the Federal national security workforce and how the provisions of this Act, and related laws, regulations, and policies will be used to address such needs.

"(g) Special Consideration for Current Federal Employees.—

"(1) Set aside of fellowships.—Twenty percent of the fellowships awarded under this section shall be set aside for Federal employees who are working in national security positions on the date of enactment of this section to enhance the education and training of such employees in areas important to national security.

"(2) Full- or part-time education.—Federal employees who are awarded fellowships under paragraph (1) shall be permitted to obtain advanced education under the fellowship on a full-time or part-time basis.

"(3) Part-time education.—A Federal employee who pursues education or training under a fellowship under paragraph (1) on a part-time basis shall be eligible for a stipend in an amount which, when added to the employee's part-time compensation, does not exceed the amount described in subsection (i)(2).

"(h) Fellowship Service.—Any individual under this section who is employed by the Federal Government in a national security position shall be able to count the time that the individual spent in the fellowship program towards the time requirement for a reduction in student loans as described in section 5379a of title 5, United States Code.

"(i) Amount of Award.—A National Security Fellow who complies with the requirements of this section may receive funding under the fellowship for up to 3 years at an amount determined appropriate by the Board, but not to exceed the sum of—

"(1) the amount of tuition paid by the fellow; and

"(2) a stipend in an amount equal to the maximum stipend available to recipients of fellowships under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) for the year involved.

"(j) Consultation With Chief Human Capital Officers.—The Board shall consult with the chief human capital officers of participating agencies in carrying out this section.

"(k) Rule of Construction.—Nothing in this section shall be construed—

"(1) to authorize the Board to determine national security positions for any other purpose other than to make such determinations as are required by this section in order to carry out the purposes of this section; and

"(2) as a basis for determining the exemption of any position from inclusion in a bargaining unit under chapter 71 of title 5, United States Code, or from the right of any incumbent of a national security position determined by the Board under this section, from entitlement to all rights and benefits under such chapter.

"(l) Authorization of Appropriations.—For the purpose of enabling the Board to provide for the recruitment and retention of highly qualified employees in national security positions, there are authorized to be appropriated $100,000,000 for fiscal year 2004, and such sums as may be necessary for each fiscal year thereafter.".

SEC. 202. NATIONAL SECURITY SERVICE CORPS.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by inserting after section 802a (as added by section 201 of this Act) the following:

"SEC. 802b. NATIONAL SECURITY SERVICE CORPS.

"(a) Findings and Purposes.—

"(1) Findings.—Congress finds that—

"(A) a proficient national security workforce requires certain skills and knowledge, and effective professional relationships; and

"(B) a national security workforce will benefit from the establishment of a National Security Service Corps.

"(2) Purposes.—The purposes of this section are to—

"(A) provide mid-level employees in national security positions within agencies the opportunity to broaden their knowledge through exposure to other agencies;

"(B) expand the knowledge base of national security agencies by providing for rotational assignments of their employees at other agencies;

"(C) build professional relationships and contacts among the employees and agencies of the national security community; and

"(D) invigorate the national security community with exciting and professionally rewarding opportunities.

"(b) Definitions.—In this section:

"(1) Agency.—The term 'agency' means the Department of Defense, the Department of Homeland Security, the Department of State, the Department of Energy, the Department of the Treasury, the Department of Justice, and the National Security Agency.

"(2) Corps.—The term 'Corps' means the National Security Service Corps.

"(3) Corps position.—The term 'corps position' means a position that—

"(A) is a position—

"(i) at or above GS-12 of the General Schedule; or

"(ii) in the Senior Executive Service;

"(B) the duties of which do not relate to intelligence support for policy; and

"(C) is designated by the head of an agency as a Corps position.

"(c) Goals and Administration.—The Board shall—

"(1) formulate the goals of the Corps;

"(2) resolve any issues regarding the feasibility of implementing this section;

"(3) evaluate relevant civil service rules and regulations to determine the desirability of seeking legislative changes to facilitate application of the General Schedule and Senior Executive Service personnel systems to the Corps;

"(4) create specific provisions for agencies regarding rotational programs;

"(5) formulate interagency compacts and cooperative agreements between and among agencies relating to—

"(A) the establishment and function of the Corps;

"(B) incentives for individuals to participate in the Corps;

"(C) professional education and training;

"(D)(i) the process for competition for a Corps position;

"(ii) which individuals may compete for Corps positions; and

"(iii) any employment preferences an individual participating in the Corps may have when returning to the employing agency of that individual; and

"(E) any other issues relevant to the establishment and continued operation of the Corps; and

"(6) not later than 180 days after the date of enactment of this section, submit a report to the Office of Personnel Management on all findings and relevant information on the establishment of the Corps.

"(d) CORPS.—

"(1) PROPOSED REGULATIONS.—Not later than 180 days after the date on which the report is submitted under subsection (c)(6), the Board shall publish in the Federal Register, proposed regulations describing the purpose, and providing for the establishment and operation of the Corps.

"(2) COMMENT PERIOD.—The Board shall provide for—

"(A) a period of 60 days for comments from all stakeholders on the proposed regulations; and

"(B) a period of 180 days following the comment period for making modifications to the regulations.

"(3) FINAL REGULATIONS.—After the 180-day period described under paragraph (2)(B), the Board shall promulgate final regulations that—

"(A) establish the Corps;

"(B) provide guidance to agencies to designate Corps positions;

"(C) provide for individuals to perform periods of service of not more than 2 years at a Corps position within agencies on a rotational basis;

"(D) establish eligibility for individuals to participate in the Corps;

"(E) enhance career opportunities for individuals participating in the Corps;

"(F) provide for the Corps to develop a group of policy experts with broad-based experience throughout the executive branch; and

"(G) provide for greater interaction among agencies with traditional national security functions.

"(4) ACTIONS BY AGENCIES.—Not later than 180 days after the promulgation of final regulations under paragraph (3), each agency shall—

"(A) designate Corps positions;

"(B) establish procedures for implementing this section; and

"(C) begin active participation in the operation of the Corps.

"(e) CONSULTATION WITH CHIEF HUMAN CAPITAL OFFICERS.—The Board shall consult with the chief human capital officers of participating agencies in carrying out this section.

"(f) ALLOWANCES, PRIVILEGES, AND BENEFITS.—An employee serving on a rotational basis with another agency under this section is deemed to be detailed and, for the purpose of preserving allowances, privileges, rights, seniority, and other benefits with respect to the employee, is deemed to be an employee of the original employing agency and is entitled to the pay, allowances, and benefits from funds available to that agency.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board such sums as may be necessary to carry out this section.".

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended—

(1) in section 803(b)—

(A) by redesignating paragraphs (5) through (7) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (4) the following:

"(5) The Secretary of Homeland Security.

"(6) The Attorney General of the United States.";

(2) in section 803(c), by striking "subsection (b)(6)" and inserting "subsection (b)(8)";

(3) in section 804(b)(1), by inserting ", including section 802a" before the semicolon;

(4) by inserting after section 807, the following:

"SEC. 807a. NONAPPLICATION OF PROVISIONS TO CERTAIN GRADUATE STUDENT FELLOWSHIPS AND THE NATIONAL SECURITY SERVICE CORPS.

"Sections 805, 806, and 807 shall not apply with respect to section 802a or 802b."; and

(5) in section 808(4), by striking "The term" and inserting "Except as provided under section 802a, the term".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. STRATEGIC PLANS.

Section 306(a) of title 5, United States Code, is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, training, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives.";

(2) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), respectively; and

(3) by inserting after paragraph (3) the following:

"(4) a discussion of the extent to which the specific skills in the agency's human capital are needed to achieve the mission, goals, and objectives of the agency;".

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON WATER AND POWER

Ms. MURKOWSKI. Mr. President, I would like to announce, for the information of the Senate and the public, that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, November 13, at 2:30 p.m., in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on S. 1085, a bill to provide for a Bureau of Reclamation program to assist States and local communities in evaluating and developing rural and small community water supply systems, and for other purposes; S. 1732, a bill to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents; S. 1211, a bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes; S. 1727, a bill to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978; and S. 1791, a bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes. Contact: Shelly Randel 202-224-7933, Erik Webb 202-224-4756 or Meghan Beal at 202-224-7556.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510-6150.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, November 5, 2003, at 9:30 a.m. on Aviation Security. The first part of the hearing will be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet on Wednesday, November 5, 2003, at 9 a.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 5, 2003, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, November 5, 2003, at 2 p.m. for a hearing titled "The Report of the Presidential Commission on the U.S. Postal Service: Preserving Access and Affordability."

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ECONOMIC COMMITTEE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Wednesday, November 5, 2003, from 9:30 a.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BENNETT. Mr. President, I ask unanimous consent that the following staff have the privilege of the floor during the consideration of H.R. 2673, the Agriculture appropriations bill: Patricia Raymond, Fitzhugh Elder, Hunter Moorhead, Dianne Preece, Galen Fountain, Jessica Arden, William Simpson, Meaghan McCarthy, Larissa Sommer, and Mike Neilson.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I ask unanimous consent that Ms. Barbara Peicheo, a fellow in my office, be allowed floor privileges for the duration of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Daniela Ligiero, who is a fellow in my office, be granted the privilege of the floor during the pendency of consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING LEGAL REPRESENTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 259 which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 259) to authorize legal representation in Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns representation by the Senate legal counsel of Senator ROCKEFELLER and an employee in his office, who have been subpoenaed to provide testimony and office records at depositions in a civil business dispute in Dallas County, TX.

The subpoenas are seeking information about communications between the defendant business jet aircraft company, which has a manufacturing plant in Martinsburg, WV and the Senator's office, as well as Senator ROCKEFELLER's activities in connection with his service as Chairman, and now ranking minority Member, of the Subcommittee on Aviation of the Senate Committee on Commerce, Science, and Transportation.

This resolution would authorize the Senate legal counsel to represent Senator ROCKEFELLER and his staff in connection with these subpoenas in order to protect the privileges of the Senate.

Mr. BENNETT. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table en bloc, and any statements thereon be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 259) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 259

Whereas, in the case of Bell Aviation, Inc., et al. v. Sino Swearingen Aircraft Co., L.P., et al., Cause No. 03–02532, pending in the District Court of Dallas County, Texas, the plaintiffs have obtained from the Superior Court of the District of Columbia subpoenas for deposition testimony and document production by Senator John D. Rockefeller IV and Terri Giles, a staff member in the office of Senator Rockefeller;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members and employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Rockefeller and Terri Giles in connection with the subpoenas issued in this action.

AUTHORIZING DESIGN AND CONSTRUCTION OF VISITOR CENTER FOR THE VIETNAM VETERANS MEMORIAL

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 310, H.R. 1442.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1442) to authorize the design and construction of the visitor center for the Vietnam Veterans Memorial.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. I ask unanimous consent that the Thomas amendment, which is at the desk, be agreed to; that the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2113) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 1442), as amended, was read the third time and passed.

HOMELAND SECURITY FEDERAL WORKFORCE ACT

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 240, S. 589.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 589) to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist Government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I support passage of the Homeland Security Federal Workforce Act, S. 589, and urge favorable Senate action and swift House adoption, as well. Senators AKAKA and DURBIN deserve great credit for developing this legislation last Congress with Senator THOMPSON and pursuing it to passage this year.

I share their concern that we need to do more to recruit and retain outstanding personnel in our pursuit of national security. I believe that includes our law enforcement personnel. For the last two Congresses I have sponsored the Federal Prosecutors' Retirement Benefit Equity Act, which is now S. 640. That bill, which is cosponsored by Senators HATCH, MIKULSKI and DURBIN, would correct an inequity that exists under current law whereby Federal prosecutors receive substantially less favorable retirement benefits than nearly all others involved in the federal criminal justice system. We have proposed that Assistant United States Attorneys be included as law enforcement officers under the Federal Employees' Retirement System and Civil Service Retirement System. I urge the Republican chairs of the Government Affairs Committee and the Subcommittee on Oversight of Government Management, the Federal workforce, and the District of Columbia to make enactment of that measure a priority rather than allow it to continue to languish without action year after year.

Similarly, I am a cosponsor of the Law Enforcement Officers Retirement Equity Act, S. 819, which was introduced by Senator MIKULSKI and is cosponsored by Senators SARBANES and CAMPBELL. This measure would include Customs agents, Treasury agents, and Homeland Security agents whose duties include the investigation or apprehension of suspected or convicted individuals and who are authorized to carry a firearm within the definition of "law enforcement officer" for purposes of retirement benefits equity. This measure, likewise, is one that has been introduced and reintroduced but that has not received attention from the Government Affairs Committee or Subcommittee. In the interest of fairness and in recognition of the sacrifices that our officers make every day on our behalf, I urge attention to this measure.

I also note that last Congress the Senate Judiciary Committee favorably reported the Innocence Protection Act of 2002, which included provisions on student loan forgiveness. The bill would have established a program under which full-time prosecutors and public defenders could apply for repayment assistance of the Federal Stafford loans and would have extended the Perkins loan forgiveness program to include public defenders. I commend Senator DURBIN for his strong leadership in these matters. Unfortunately, those improvements and encouragements to young lawyers were blocked and are not yet enacted. They need to be. We must ensure that full-time public defenders have equivalent eligibility if the public defense function is to fulfill its constitutionally required role in our criminal justice system.

Specifically, with respect to the Homeland Security Federal Workforce Act that we consider today, I believe the program it establishes for student loan repayment can be an important incentive for our national security programs and understand those to include our law enforcement agents and officers. I regret that the substitute amendment lowers the maximum amount of loan repayment from $80,000 to $60,000 but believe it is an important start and should be used broadly as an incentive to both recruit and retain our national security employees. According to Dr. Paul Light of the Brookings Institution Center for Public Service, in 2002 the Department of Justice and the Department of Defense together awarded student loan repayment to only seven employees. To have its intended effect to recruit and retain outstanding talent to government service, especially national security positions that include law enforcement, we need to have a broad-based incentive through loan forgiveness. Student loans, include law school loans, that saddle talented and public-spirited graduates are a key reason so many opt for higher paying jobs in the private sector. An effective program of student loan forgiveness can help counterbalance that pressure.

I regret that the bill as written limits its application to executive departments like the Department of Justice and does not include Federal courts, which oversee our federal public defenders. Our prosecutors and our public defenders need this assistance and incentive to join and remain as critical components of the criminal justice system. To skew programs to help only one side of the criminal justice system is shortsighted and unfair. For more information on this important topic of loan forgiveness, I urge consideration of pages 37 through 40 of Senate report 107–315.

I am concerned that the Bush administration and its Office of Personnel Management will adopt an unreasonably restrictive view of those Federal employees who contribute to our national security. As I read the substitute amendment, the determination of national security positions is left to the Secretary of the Department of Homeland Security, the Secretary of the Treasury, the Attorney General and the other agency heads. That decision no longer is intended to reside with the Director of the Office of Personnel Management. That is an improvement. I hope that it will lead to a more broadly-based determination of the employment positions eligible for the student loan repayment program to include all who contribute to our national security.

I also look forward to enactment of the fellowship program provided by the bill and the strengthening of our national security workforce. I have been extremely disappointed by the efforts made at the Department of Justice to fulfil the mandates of the USA PATRIOT Act with respect to improving our workforce. As I detailed recently in connection with the confirmation hearing for the nominee to be the Deputy Attorney General, the Attorney General has yet to give us a straight answer with respect to hiring the necessary Arabic translators. That was a need I identified within days of the September 11, 2001 attacks and insisted be addressed in the PATRIOT Act. Over the last 2 years the Department has been both evasive and inconsistent in its answers regarding implementation of those provisions in that Act. Recently the FBI has, again, put out the call for assistance and additional translators. While Senator VOINOVICH may be correct that these provisions in the bill may be necessary, it is my hope that they will encourage the administration to do that which it could have done but has not under existing authority.

The administration has a long way to go to provide for our national security. I support this bill as another bipartisan effort by the Senate to help it along the way.

Mr. BENNETT. I ask unanimous consent that the Collins substitute amendment which is at the desk be agreed to; that the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table; and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2114) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (S. 589), as amended, was read the third time and passed.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108–10

Mr. BENNETT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 5, 2003, by the President of the United States: Convention on International Interests in Mobile Equipment and Protocol to Convention on International Interests in Mobile Equipment (Treaty Document 108–10).

I further ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention on International Interest in Mobile Equipment and the Protocol on Matters Specific to Aircraft Equipment, concluded at Cape Town, South Africa, on November 16, 2001. The report of the Department of State and a chapter-by-chapter analysis are enclosed for the information of the Senate in connection with its consideration.

The essential features of the Convention and Aircraft Protocol are the establishment of an international legal framework for the creation, priority, and enforcement of security and leasing interests in mobile equipment, specifically high-value aircraft equipment (airframes, engines, and helicopters), and the creation of a worldwide International Registry where interests covered by the Convention can be registered. The Convention adopts "asset-based financing" rules, already in place in the United States, enhancing the availability of capital market financing for air carriers at lower cost. The Convention's and Protocol's finance provisions are consistent with the Uniform Commercial Code with regard to secured financing in the United States.

This new international system can significantly reduce the risk of financing, thereby increasing the availability and reducing the costs of aviation credit. As a result, air commerce and air transportation can become safer and environmentally cleaner through the acquisition of modern equipment facilitated by these instruments. The new international system should increase aerospace sales and employment, and thereby stimulate the U.S. economy.

Negotiation of the Convention and Protocol has involved close coordination between the key Federal agencies concerned with air transportation and export, including the Departments of State, Commerce, and Transportation, as well as the Eximbank, and U.S. interests from manufacturing, finance, and export sectors.

Ratification is in the best interests of the United States. I therefore urge the Senate to give early and favorable consideration to the Cape Town Convention and Aircraft Protocol, and that the Senate promptly give its advice and consent to ratification, subject to the seven declarations set out in the accompanying report of the Department of State.

ORDERS FOR THURSDAY, NOVEMBER 6, 2003

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, November 6. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for 60 minutes, with the first 30 minutes under the control of the minority leader or his designee, and the second 30 minutes under the control of Senator HUTCHISON or her designee; provided that following morning business, the Senate proceed to executive session and the consideration of Calendar No. 310, the nomination of William Pryor, to be U.S. circuit judge for the Eleventh Circuit, and that there then be 60 minutes equally divided for debate on the nomination prior to the vote on the motion to invoke cloture.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Thank you, Mr. President.

Let me just say, very briefly, we have been told that next Wednesday the majority leader is going to move to a period of time where the majority will come and talk for some 30 hours about how the judges that have been recommended by President Bush have been treated.

I would say, I cannot possibly imagine why in the world we would take the time of this body at such an important time in the history of this country. On this side of the aisle, we have bent over backwards to cooperate on appropriations bills. We have cajoled, begged members on our side not to offer controversial amendments. On any one of these appropriations bills, there can be all kinds of things offered. Maybe they would be deemed not appropriate procedurally, but certainly a debate could be had and they would have to be disposed of by a vote. But we wanted to work for what we thought was the betterment of this body and this country.

We agreed, without any reservation or hesitation, to be in next Monday and Tuesday, Tuesday being a legal holiday. And when we are told that the sacrifices made to move this matter along are going to, in effect, play second fiddle to two legislative days; that is, 30 hours talking about judges, keep in mind we have done a pretty remarkably good job on these judges.

We have approved 168 judges; we have turned down 4—168 to 4. We have the lowest vacancy rate of the Federal judiciary in some 15 years.

So I say—and not in any way as criticism other than constructive criticism—I cannot imagine how the majority would allow this to happen. We are aware of this. And as my friend, the distinguished Senator from Utah knows, we work very hard to try to make things as convenient for Members as possible. But, keep in mind, recognizing how we can work to make things easy on Members, we can also work to make things hard on Members.

If this is going to be done, there has to be some reasonable response to it. You cannot be slapped around forever. We believe in turning our cheeks, and we have done it. Our cheeks have been turned and both sides slapped and we still move forward. But I think this is the ultimate. I think we have taken about as much as we are going to take.

I say to everyone within the sound of my voice, this is not to threaten, but just to make people understand that there is going to have to be some appropriate action taken if this is going to happen. We have been told it is going to happen by the highest authorities on the majority side. We have asked that it not happen. We have been told it is going to happen. I think it is too bad for our Nation.

I have no objection to the unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. For the information of all Senators, tomorrow, following morning business, there will be 60 minutes for debate prior to the cloture vote on the Pryor nomination. If cloture is not invoked on the nomination, the Senate is expected to resume consideration of H.R. 2673, the Agriculture appropriations bill. It is hoped that we can finish that bill at an early hour during tomorrow's session, and therefore Senators should expect a very busy day tomorrow with rollcall votes occurring throughout.

ORDER FOR ADJOURNMENT

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator SESSIONS.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

The Senator from Alabama.

JUDICIAL NOMINATIONS

Mr. SESSIONS. Mr. President, I thank Senator BENNETT for his leadership today and the work he does. He is such an able part of this body. I will just say to Senator REID, the assistant Democratic leader, that something has happened here in this body that has never happened before.

Even though there are a majority of Senators prepared to vote and confirm a series of highly qualified nominees for the Federal bench, for the first time in the history of this Nation, the Democratic leadership—Senator DASCHLE and his team—have deliberately and systematically filibustered. That has never been done before on Federal judges. It should not be done. It is a complete change in the history of this body.

I believe that Senator FRIST is correct that we need to talk about these nominees, and we need to spend some time talking about them. We need to state what their records are, what their accomplishments are, why they are fine and decent men and women, and why they ought to be confirmed.

I hope the American people will listen because everywhere I go people tell me they are concerned about the courts. They believe judges are stepping outside of their bounds. They are legislating when they ought to be adjudicating. They are taking over schools, prisons, hospitals, and whatever else, and running them for years and years. And people question that.

President Bush has said: I am going to nominate judges who believe in the rule of law and who believe in doing the right thing, who do not legislate but adjudicate, who decide cases based on what the law says, not what they think is good politics.

Now we have these filibusters for the first time in history. I cannot imagine why Senator DASCHLE and his team would object to utilizing the legitimate, historic rules of this body, to talk all night, if need be, about why filibustering is unfair. They are not going to be out here anyway doing business. We are not doing anything in the middle of the night anyway.

To take a day of this session to talk it all the way through that day about the incredible, historical change in procedure that has occurred here is eminently justified. Why they would think they should, therefore, be offended is really amazing to me. There is just no basis for it. It is mock anger that they are going to now block legislation, which apparently was the intention all along.

We passed the CARE Act 90 to 5. We can't move the bill to conference because that bill is being filibustered under the leadership of Senator DASCHLE and the Democrats. We passed the Healthy Forests Act 80 to 14, an overwhelmingly bipartisan vote. That is being blocked, so it cannot be sent to conference. This is obstructionism again and again. I believe it is not harmful for the American people to have a glimpse of what is going on in this body.

When we saw what went on in the Intelligence Committee with the disclosure of this internal memorandum for the first time in history that I know of—the Intelligence Committee, which has always been organized and always been led to be a nonpartisan—not bipartisan, a nonpartisan entity dealing with the most sensitive secrets this Nation deals with, wrestling with the idea of whether or not we have enough intelligence, do we have enough interpreters, do we have enough agents, do we have enough high-tech equipment to defend our country and to give our men and women in uniform the best information they have; that is what this committee has been about. Now we know that the minority Democratic staff were plotting and making plans to drag out the committee hearings, then turn on the chairman who has tried his best to be fair and open with them, and then attack him and attack the President next year during the election year. This is what we are seeing here to an unprecedented degree.

Let me talk now about Bill Pryor, the attorney general of the State of Alabama, who is nominated by the President for the Eleventh Circuit Court of Appeals. He represents the highest and best and finest qualities in lawyering in America today. I know Bill Pryor. I hired him as an assistant attorney general. I put him in charge of the most complex and important cases in my office. He was a partner in two of Birmingham's finest law firms, two of Alabama's finest law firms. He gave that up for public service. No more idealistic public servant exists in America today, a man of unquestioned integrity, unquestioned ability, a man who is willing to give up the high salaries he could make in any law firm in America and give his service to the people of America because that is the way he was raised.

His daddy was band director at the McGill-Toolen High School in Mobile, AL, a Catholic school. He was raised to do right. He believes in doing right. His family believes in doing right. His mother has taught in African-American schools voluntarily for most of her career as a schoolteacher. They have done the right things. They are the good people, people who always wanted to make America better, to reach a higher level of morality and decency and faithfulness. That is the way he is.

Bill Pryor attended Tulane University. I know the Presiding Officer knows Tulane is an excellent school, in the league with the Ivy League institutions. They think so at least. It is certainly a superb institution. He graduated magna cum laude. He was editor in chief of the Tulane Law Review. For those who understand law school, they know that the editor of the law review is the most respected graduate of the law class. Somebody might have higher grades, although few had higher grades than Bill Pryor. But if you are selected by your compatriots on the law review to be editor in chief, that is an additional indication of respect that even high grades don't have.

That is what he came from. He then clerked for Judge John Minor Wisdom on the Fifth Circuit Court of Appeals, the very type of position he will be undertaking. He was a law clerk sitting at the right hand of Judge John Minor Wisdom on the old Fifth Circuit Court of Appeals. Judge Wisdom is known as a champion of civil rights. He was one of the giants on the Fifth Circuit who was faced with rendering the decrees that dismantled segregation throughout the South. That is Bill Pryor's background.

His father was a John F. Kennedy Democrat, Catholic Democrat, who believed in that and voted for President Kennedy years ago. So this is his background.

He was very successful in his clerkship with Judge Wisdom. Then he served as an attorney with two law firms in Birmingham, first rate firms. I called on him to join my office-the office of the State Attorney General—and he took over the most important cases in my office. And, lo and behold, 2 years later I find myself in the Senate. The Governor made a decision to appoint Bill Pryor as my successor. He was one of the youngest, if not the youngest, attorneys general in America at the time. He handled that office with courage, with brilliance, with commitment to the rule of law, and with enthusiasm and commitment to a degree matched by few.

In the course of it, he won tremendous respect throughout the State. He had case after case that were exceedingly difficult, tough cases, more than you would normally get, in which he was called on to make choices, make legal decisions in litigation that placed him at odds with his core supporters, friends of his, friends of mine.

For example, there was a redistricting in Alabama. In the State legislature, the Republicans hold not many offices, well below half. But five of the seven Congressmen are Republicans. The Governor is Republican. Both Senators are Republican. But the way they organized those districts—some would say gerrymandered the districts—it favored Democrats being elected. Republicans filed a lawsuit to attack it. Unfortunately, the lawsuit was legally improper and not sound.

Bill Pryor is attorney general of the State of Alabama. He has to speak for the State. This reapportionment plan, whether he liked it or not—I assume he didn't like it; I haven't liked it—he was empowered and required under the duty of an attorney general to defend the acts of the Alabama Legislature, the reapportionment plan they had, and defend it he did.

It made them mad. A lot of our Republican friends were mad at Bill Pryor. They said he ought to work with them, he ought to help them. This was several years ago. He said: My job is to defend the law. My job is to do what an attorney general should do. An attorney general should defend the duly enacted laws of the State of Alabama, including the laws they passed to redistrict the State, as long as they are defensible.

He lost in the court of appeals. The Eleventh Circuit Court of Appeals, which he would be joining, ruled against him. But he didn't stop there. He knew he was correct. He appealed to the U.S. Supreme Court. The U.S. Supreme Court heard the case, ruled against the Republicans, ruled with Attorney General Pryor, and kept in place the reapportionment plan in that State.

I hear people say: Attorney General Pryor is an activist. He has political views. He is a conservative. He won't follow the law.

I am telling you, this man, as much as any man I have ever known in my life—and I have spent 20 years in the full-time practice of law and I know a lot of lawyers—is committed to the rule of law. He is committed to doing what is right. That is the way he was raised. That is the way he always does.

He has had many other difficult positions. Right this very minute, this very week, he has been drawn into the case of the Ten Commandments at the Supreme Court. Justice Roy Moore, chief justice of the Alabama Supreme Court, had a Ten Commandments plaque in his office as county judge. It was carved out of wood. And when he got elected to the supreme court, he was sort of known as the Ten Commandments judge. After that, he decided to put in a block of stone, not much bigger than these desks, and it had the Ten Commandments on the top.

Frankly, I am not offended by it. At least three replicas of the Ten Commandments are in the Supreme Court Building right across that street. Right up on that wall in the Senate Chamber are the words "In God We Trust." I don't see anything wrong with it, frankly. But Judge Moore had some very strong views about this. He had his own ideas about separation of church and state. He read all the papers of the Founding Fathers. He can quote from them at length. He thinks we are misinterpreting what the Founding Fathers thought about separation of church and state. He believes it deeply, and I respect him for it.

Attorney General Pryor says: I am sympathetic with you, Judge, and I support your opinion. But as attorney general, I write the briefs for the State and we will argue it my way.

Judge Moore said: No, I want you to argue it my way.

He is chief justice. But, basically, what happened was the attorney general said: You hire your lawyer, and you argue it the way you want to; I am the attorney general, and I represent the State, and I will make the best argument that I think is worthy of merit and that could protect the ability to preserve the Ten Commandments.

The story goes that the supreme court did not agree and the courts have not agreed. They have ordered the Ten Commandments block to be removed, and there has been quite a bit of stir about it. So what do you do?

Under Alabama law, the attorney general is required to, and has a duty to, argue cases brought by the Judicial Inquiry Commission. The Judicial Inquiry Commission met and returned charges against the chief justice, saying he violated a court order to remove the Ten Commandments. The attorney general now is required to handle that case. There is no way he can get away from it. He is either going to violate his duty and obstruct the rule of law, or he is going to prosecute the case. So he is prosecuting the case. He is going forward.

I say this: Go back and look at the documents put out by People for the American Way in opposition to the confirmation of William Pryor, and some of these other trashy, sorry, dishonest documents that were put out there. They have accused Bill Pryor of being in cahoots with Judge Moore to upset the rule of law, to impose religious views on people because he has expressed his personal belief in God and his personal faith in public statements. So they have accused him of being a religious extremist and are trying to attack him on that basis.

Nothing could be further from the truth. It is just a false charge. As a matter of fact, when former Gov. Bob James—who was the Governor who appointed Bill Pryor—resisted the Federal court rulings that said teachers could not lead children in prayer, Governor James took the view that football coaches ought to be able to lead the boys in prayer. He didn't see anything wrong with that. He didn't think the Constitution prohibited that. Frankly, I don't think it does either. The Constitution says that Congress shall make no law respecting the establishment of a religion nor prohibiting the free exercise thereof. That is all it says.

Anyway, the courts say you cannot have a football coach lead the kids in prayer before the ball game. So it caused a big stir. Some schools thought they could and some didn't. Lawsuits were being filed. Attorney General Pryor researched the law of schools and prayer and wrote a letter to every school board in the State asserting leadership. He acted in a way that the Atlanta Journal Constitution even said helped to bring a cooling voice in a heated period. He told them what they could do and what they could not do. As it turns out, that opinion he wrote was very similar to the position the Clinton Department of Education took on these matters. He researched the law and decided what the law was, and he followed it. So it is a pretty high price that some people are trying to put on him, because it is not true.

Dr. Joe Reed is one of the most powerful political figures in the State of Alabama. Every Democratic Presidential candidate will know Dr. Reed. He is an important African-American leader in the State. When he speaks as chairman of the Alabama Democratic Conference, an arm of the Alabama Democratic Party, and endorses a candidate for President, or Governor, or Lieutenant Governor, he has tremendous weight. His opinions are followed closely. He is a member of the Democratic National Committee. Dr. Reed is a vice chairman of the teachers union in Alabama—another source of influence and power. He is a man who has always been interested in Federal courts. He has endorsed Attorney General Pryor, saying, "He is a first-class public official" who will "be a credit to the judiciary and a guardian of justice."

Some of the national civil rights groups have attacked Bill Pryor. They don't know him, don't know anything about him, and they have accused him of being a southerner who is conservative; they try to say he is anti civil rights. Joe Reed is a serious leader in this State, and has been for 30 years, and he endorses him.

Thurbert Baker, an African-American Democratic attorney general in Georgia, says that Attorney General Pryor "has always done what he thought was best for the people of Alabama" and "know[s] that his work on the bench will continue to serve as an example of how the public trust should be upheld."

Attorney General Baker strongly supports him.

Former Democratic Governor, Don Siegleman, stated:

> Bill Pryor is an incredibly talented, intellectually honest attorney general. He calls them like he sees them. He's got a lot of courage, and he will stand up and fight when he believes he's right.

That is absolutely true. They are not political allies, but that is true.

State Representative Alvin Holmes, who is one of the most outspoken African-American leaders in the State senate, is very supportive of Bill Pryor. He told me he would come up here and speak for him and that he believes this very strongly. One of the stories he tells is that, under Alabama's constitution—and a number of States had this—was a provision that prohibited interracial marriage. Mr. Holmes opposed that. Attorney General Pryor was sworn in as attorney general of Alabama, and he made reference to that as being wrong. Of course, it is unconstitutional. Clearly, it is in violation of the Federal Constitution, and the courts, if they have not already declared it invalid, would do that at any time. But it was still in the document. It ought not to have been there.

Bill Pryor led the charge around the State to remove this improper language in the Alabama Constitution that said people of different races could not marry. Alvin Holmes said no other state wide elected politician stood with Bill Pryor.

Artur Davis, an African-American Congressman from Alabama, is a big supporter of Bill Pryor and also supports his confirmation.

Mr. President, we will talk about this more tomorrow. I know the chairman of the Judiciary Committee, Senator ORRIN HATCH, is extremely impressed with Attorney General Bill Pryor. He has seen him as a witness. He has met him personally. He told me after Attorney General Pryor's confirmation hearing that Attorney General Pryor testified brilliantly. He was one of the best witnesses he had ever seen before the Judiciary Committee. They tried to give him a hard time and they never laid a glove on him.

He spoke carefully. He spoke pleasantly. He spoke with conviction and with great intelligence and legal acumen. It was a tremendous performance. They questioned him about his views on abortion because he doesn't believe in abortion. I know that is a big subject with some people. He believes abortion is taking of innocent human life, and when pressed on it, that is what he said. He said: Senator, I believe it is taking of innocent human life. The reason I criticize Roe v. Wade is because I believe it is unprincipled, and I also believe it has led to the death of millions of innocent unborn.

That is his view. That is the view of the Catholic Church, the largest Christian church in the world. It is the view of a lot of other churches and denominations, and a lot of people who don't go to church believe that is a life.

We have to get our heads straight in the confirmation process. We have to get our thinking clear in this process.

It makes no difference what he may believe personally about abortion. The question is, if the United States passed a constitutional law that deals with abortion, will he follow it? If the Supreme Court of the United States makes a declaration of interpretation of the U.S. Constitution, will he follow it? Bill Pryor has proved he will.

With regard to abortion, which he feels deeply about, Bill Pryor wrote a number of years ago, before he was ever considered for a Federal judgeship, to the attorneys general in Alabama and told them the Supreme Court had rendered an opinion on partial-birth abortion and that a large part of it had been declared unconstitutional; that it could not be enforced by them and they should not bring legal actions under it.

Even though he deeply believes abortion is wrong and certainly even more strongly believes that partial-birth abortion is wrong, which is overwhelmingly the view of the American people, indeed overwhelmingly of this Senate because we passed a law declaring it unconstitutional, he told them they couldn't enforce it. They had to allow this procedure to go forward under certain terms. He was condemned by the pro-life movement of which he shares many friends and shares many beliefs.

What we have to do as a Senate throughout this confirmation process is not ask what a person's political beliefs are or their religious beliefs but whether or not they understand the law of America and whether or not they will enforce it. That is the key to it. If we get away from that, we are going to be in trouble.

Orthodox Jews have views I do not share and most Americans do not share. The Muslim faith has views I may not share that is in the Koran. Other denominations and church groups throughout America have views I do not share and in which I do not believe. Are we going to get to the point of asking these questions and saying: I don't agree with you and your religion; I don't agree with how you interpret the Scripture; therefore, I am not going to vote for you. How ridiculous can that be? We will never get anybody confirmed.

We have to say to Mr. Pryor, as was asked of him: OK, Mr. Pryor, I respect how you believe this, but the Supreme Court has held otherwise, and I want to know whether or not you will follow that law. He has demonstrated time and again that he will follow the law. He believes in the rule of law. He will carry his duties on in a way that brings credit to the rule of law. The rule of law is the key cornerstone of American greatness, in my view.

Bill Pryor is a champion of the rule of law. We couldn't have a finer nominee. I am so distressed his record has been distorted. I am so distressed people have tried to make him out to be something he is not. It is not right to have a decent, kind, Christian gentleman who has done nothing throughout his life but try to serve his Lord and his country with distinction and integrity, to have these skunks come in here, as Senator HATCH calls them, the usual suspects, with their distorted interpretations of his career and try to paint him as something he is not is just wrong. We need to stop it.

It is wrong to have a filibuster, and it is wrong to distort a man's record—it is not correct—in a way that demeans him and undermines his true worth as a human being. He is first rate in every way.

I am confident he will make a great judge. I see my time has passed. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, before the Senator from Alabama leaves, may I ask him a question, and if it is appropriate to make a comment about his remarks?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. Mr. President, I listened very carefully to the Senator from Alabama, and I have been listening to the debate about the judges. I understand what some of our colleagues on the other side are saying is somehow Mr. PRYOR is, for some reason, not sensitive to civil rights, is an activist, is a person who is unwilling to put his own personal beliefs, political beliefs aside and enforce the law; is that what the charge is?

Mr. SESSIONS. That is part of it; that he is insensitive to civil rights.

Mr. ALEXANDER. As I was listening to the Senator from Alabama, and maybe he will correct me if I have this wrong, but we are talking about Alabama, this is not Brooklyn, NY, we are talking about; right? And we are talking about the attorney general of the State of Alabama.

If I understand it right, after he was appointed, he went out of his way to point out that to have the words banning an interracial marriage in the Alabama State Constitution was wrong; did I understand the Senator to say that?

Mr. SESSIONS. Absolutely. He said it was bad law, but more than that, he said it was morally wrong and not to be accepted any longer in our Constitution.

Mr. ALEXANDER. Then, Mr. President, I believe the Senator from Alabama talked about the situation going on there today where the chief judge is embroiled in a great controversy over whether the Ten Commandments have to be taken out of the courtroom. I ask the Senator from Alabama, Mr. President, what percent of Alabamians probably believe the chief judge is right about the Ten Commandments?

Mr. SESSIONS. Mr. President, I don't have the numbers for Alabama particularly, but I saw a USA Today poll that said 77 percent of the people in the United States believe it is all right to have the Ten Commandments in the building.

Mr. ALEXANDER. I am going to just guess, having lived a long time in a State that borders Alabama, that it is higher than that in Alabama. If I understood the Senator from Alabama correctly, here is the attorney general of Alabama, who may also agree with Judge Moore about the Ten Commandments, but he is endorsing the judicial proceedings against Judge Moore; is that what I heard the Senator say?

Mr. SESSIONS. That is correct.

Mr. ALEXANDER. Against the judge who wants to keep the Ten Commandments there.

I think I also heard the Senator from Alabama say there was a reapportionment case in the State of Alabama, and the Republican Party wanted the attorney general to work with them, since he was appointed by a Republican Governor and is a Republican, and that he wouldn't do that, and that he even lost the case in the appellate court and kept going. He finally defeated a law that was adverse to his party; did I understand that right, too?

Mr. SESSIONS. That is correct. I think he could have not appealed to the Supreme Court. The Supreme Court doesn't take a lot of these cases. He could have probably justified that and rationalized that, but if he believed that the existing Alabama reapportionment system was duly enacted and defensible, an attorney general of integrity would appeal to the Supreme Court, and he did so, to the detriment of the interest of his political party.

Mr. ALEXANDER. Just a couple of other questions, because I think the Senator from Alabama is making an important statement. I believe I heard him say that the attorney general of Alabama wrote a letter to every school district in Alabama, every superintendent and every school, telling them that the football coach could not lead a prayer before the football game, not because that was what he believed but because he researched the law and came to the conclusion that is what the law requires, and then he went ahead and suggested to the schools what they could do as well as what they could not do, and that his advice turned out to be almost exactly the same advice that President Clinton and former Secretary of Education Dick Riley advised schools all over America. Do I have that about right?

Mr. SESSIONS. That is correct.

Mr. ALEXANDER. Again, thoroughly unpopular. Alabama is interested in football and Alabama is interested in prayer, and for a public official to write every school and tell them they cannot pray before a football game is not an easy thing to do, even if the law does require it.

Then, on the issue of abortion, he is a Roman Catholic and he has a religious belief about it, but did I understand the Senator from Alabama to say that he told the legislature that he could not enforce a law they passed limiting abortion because it was unconstitutional?

Mr. SESSIONS. Well, very similar. What he actually did, I say to the Senator from Tennessee, is that as attorney general he has the authority to superintend all of the State district attorneys who enforce the law.

Mr. ALEXANDER. I see.

Mr. SESSIONS. There was an already-passed partial birth abortion ban in Alabama. The Supreme Court ruled that big chunks of that were not constitutional and could not be enforced, and Attorney General Pryor, even though he strongly thinks that abortion is not good policy, wrote those district attorneys throughout the State and told them they could not enforce the law.

Mr. ALEXANDER. So the point I am trying to make is, if I were to come before my colleagues today and we had no other——

Mr. SESSIONS. May I say one thing on that?

Mr. ALEXANDER. Of course.

Mr. SESSIONS. The pro-life groups in Alabama that supported Mr. Pryor criticized him for that letter, and the ACLU thanked him for it.

Mr. ALEXANDER. If we had never heard of this individual and someone came today and said he is attorney general of the State of Alabama, and he voluntarily scolded the State for still having interracial marriage words in the State constitution at a time when he really did not have to, who is enforcing the proceedings against a judge who has taken an overwhelmingly popular position about the Ten Commandments, who took to the Supreme Court a case that was adverse to the Republican Party of which he was a member, who advised the district attorneys they could not enforce a law about abortion that he personally disagreed with but he felt that the law required it, who wrote all of the schools that they could not pray before a football game, where is someone going to find anybody who has more clearly proven that he or she is able to take personal positions and subjugate them to a willingness to enforce the law?

As I said earlier, this is not northern California or the Bronx we are talking about, even though those might be difficult positions in those States. He was taking positions that were contrary to virtually all of the people that he represented and against his own beliefs.

I am not sure the Senator from Alabama is even aware of this, but I was also a law clerk for Judge John Minor Wisdom of the Fifth Circuit Court of Appeals, as was Mr. Pryor. Judge Wisdom was one of the great judges of America. He was a part of the panel that ordered Ole Miss to admit James Meredith in 1962. He, along with Judge Elbert Tuttle of Atlanta, Richard Rives of Florida, and John R. Brown of Texas, presided over the peaceful desegregation of the South.

I want to be careful how I say this. I was technically not a law clerk. I was a messenger to Judge Wisdom in 1965 and 1966 because he already had one of the top graduates of Harvard, but he had a little money left for a messenger and he said he would treat me like a law clerk. So I am saying that so people will not think I am talking about myself.

All through the 1960s and 1970s and 1980s and 1990s, law graduates in America fought each other to be a law clerk for Judge Wisdom. I was lucky to be his messenger who was treated as a law clerk. He hired the best and the brightest. He was also a graduate of Tulane Law School. He would consider the editor in chief of the Tulane Law School to be one of the finest persons in America eligible for a law clerkship.

I can also guarantee that he would never have hired anyone as a law clerk who he did not think of as someone of the highest character, good intelligence, capacity to be a good lawyer and committed to civil rights and to the rights of the individual.

So something is really amiss in our system of approving judges when someone of the academic character and personal integrity of Mr. Pryor, who clearly is one of the finest lawyers in the country, who has taken a position contrary to the position of most of the people of the State he represents because he believes in the law, how could he not be confirmed by the Senate? What is it that causes our friends on the other side to pick someone like that out and seek to destroy him or turn him down?

I congratulate the Senator from Alabama for his vigorous advocacy of such an outstanding person, and I hope very much when the vote comes he will be confirmed.

Mr. SESSIONS. I remain and have always been impressed with the Senator from Tennessee since the day he came to the Senate. I did not know he clerked for or worked for Judge Wisdom. He gave some real insight into the prestige of an appointment to clerk for a judge like Judge Wisdom on the court of appeals, a very competitive thing.

Bill Pryor is one of the best lawyers in America, and these charges from People for the American Way that he tried to undermine the separation of church and State, he had a majoritarian ideology—actually, he stood firm for minorities and against the majority in many cases, as we just mentioned. They call him an extreme ideologue, a crusader to push the law far to the right. Anybody who knows him and knows the circumstances under which he has operated knows the courage he has shown and knows that these charges are just bogus. It is not fair, and we are doing that too often here.

I thank the Senator from Tennessee for his fine comments. I believe Bill Pryor is the most principled, committed lawyer I have known in this country. I know he would be a magnificent Federal judge, and we will make a big mistake if this body does not see fit to confirm him. He needs an up-or-down vote, and we will have that vote tomorrow to see if he gets an up-or-down vote. If he gets an up-or-down vote, he will be confirmed.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate stands adjourned until Thursday, November 6, at 9:30 a.m.

Thereupon, the Senate, at 7:14 p.m., adjourned until Thursday, November 6, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 5, 2003:

DEPARTMENT OF HOMELAND SECURITY

JAMES M. LOY, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HOMELAND SECURITY, VICE GORDON ENGLAND, RESIGNED.

UNITED STATES INSTITUTE OF PEACE

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007, VICE HARRIET M. ZIMMERMAN, TERM EXPIRED.

THE JUDICIARY

PETER G. SHERIDAN, OF NEW JERSEY, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY, VICE STEPHEN M. ORLOFSKY, RESIGNED.

WILLIAM S. DUFFEY, JR., OF GEORGIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF GEORGIA, VICE J. OWEN FORRESTER, RETIRING.

CONFIRMATION

Executive nomination confirmed by the Senate November 5, 2003:

THE JUDICIARY

ROGER W. TITUS, OF MARYLAND, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND.

HOUSE OF REPRESENTATIVES—*Wednesday, November 5, 2003*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. BASS).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 5, 2003.

I hereby appoint the Honorable CHARLES F. BASS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend James Thomas, Pastor, Jefferson Street Missionary Baptist Church, Nashville, Tennessee, offered the following prayer:

Our God, who has given this Nation the democratic ideals by which our destiny is fashioned, we thank You, that You have blessed our land to survive the infectious climate of confusion, uncertainty, poverty, war and numerous of other ills; but raising up among us capable leaders from the North, South, East and West, our best who have been elected by us.

We set them before thee. Bless each one, one by one. Give them the shoes for the journey and strength for their feet. Let us never forget the least, the less, and the left out, whose side You are on.

We ask a special prayer for our sons and daughters on the battlefield, whose days are darker than our nights. We pray for the mighty who have fallen. We pray for the hurt of their families and remind them that hurt goes away, but memories will last forever. Humble us as a people to know the high costs of freedom.

Now we ask that You be not just another guest this day, but You be the host. Make us nothing that You may be everything. God bless America. In Your name we pray.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Florida (Mr. FOLEY) come forward and lead the House in the Pledge of Allegiance.

Mr. FOLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3365. An act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1720. An act to provide for Federal court proceedings in Plano, Texas.

HONORING THE REVEREND JAMES THOMAS

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, the Congress of the United States is honored today to have Pastor James Thomas, the reverend of Jefferson Street Missionary Baptist Church, to deliver the opening prayer.

Pastor Thomas has been a force for good in the Nashville community since 1964 when he hitchhiked from Texas with $4 in his pocket to attend American Baptist Theological Seminary.

Our colleague, the gentleman from Georgia (Mr. LEWIS), and many other civil rights leaders were trained at American Baptist.

Reverend Thomas was ordained as a minister of the gospel in 1970 and was called almost immediately in 1971 to lead Jefferson Street Missionary Baptist Church. There he has established a very powerful symbol for the grace of God on Jefferson Street, a street formerly known for its rock and roll music and blues. The church is now known around the Nation and around the world as a creative force in Christian leadership and community improvement.

Reverend Thomas is one of 13 children raised in Beaumont, Texas; and his love for his native State is still so great that people call him "Tex"; but in Nashville, Tennessee, he is more likely to be called the mayor of Jefferson Street because he has always been a spokesman for the poor and the downtrodden, a spiritual leader for his congregation and the adversities of their daily lives, and a teacher of Governors and Senators and Congressmen and mayors and councilmen, including a Vice President, on what the right thing to do is on civil rights and many other social policy issues.

A small example of Pastor Thomas' work is his prison ministry. I was in his congregation one day when an ex-convict stood up and repaid the money that Pastor Thomas had loaned him, in fact, paid him many times over, thanking the minister for his kindness.

Pastor Thomas is a friend of the friendless. He is an activist who works hard every day to not only improve our lives in this life but to prepare us for the next. He is a man of God who speaks the word of God. And Nashville has been blessed for almost 40 years now to have this fine spiritual example, and we appreciate him every day.

ESSENTIAL BORDER SECURITY

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, this week the Associated Press carried a biased and inaccurate story on border security.

The writer said the U.S. has not prevented "even one known militant" from crossing our border with Mexico. I guess the person caught with a telephone number in his pocket linking him to three of the 9–11 terrorists did not count.

The point of border security is to prevent would-be terrorists from entering. Of course, there is no way of knowing how many people did not come because they were worried about being caught.

The reporter then tries to suggest that border security is a waste of money and blames the U.S. Border Patrol for deaths in Mexico of prospective illegal aliens.

Most Americans oppose illegal immigration and support our efforts to know who is coming into our country and why. They also know better than to blame America for Mexico's failure to stop its own citizens from making a dangerous trip.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HONORING SIEGFRIED AND ROY

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, I rise today with my colleague, the gentleman from Nevada (Mr. PORTER), in support of House Resolution 431, a resolution honoring the contributions of my good friends, Siegfried Fischbacher and Roy Horn, two men who are not only great entertainers but noted conservationists and generous philanthropists.

Every year, 36 million people visit Las Vegas hoping to catch a glimpse of these master illusionists. A staple of the Las Vegas community, this legendary duo has brought both magic and success to their many endeavors.

Siegfried and Roy have performed for more than 10 million people and have touched countless thousands of lives in my community and across the globe. Despite their enormous popularity, many do not know of their charitable contributions or world-renowned conservation efforts. Siegfried and Roy have made generous financial and personal donations to the communities and local charities in Las Vegas.

For more than 2 decades they have devoted their efforts to the conservation of Royal White Tigers and Magical White Lions. Today, these breeds are thriving due to Siegfried and Roy's persistence and successful efforts.

On October 3, on his birthday, Roy Horn was injured during a performance. Roy Horn is a close personal friend, and I know his strong spirituality and his persistence will aid him in his recuperation. There has been an outpouring of support from the Las Vegas community and the world, and I lend my voice to those who wish Roy a full and speedy recovery.

To audiences, Siegfried and Roy are illusionists without equal. To their friends, they are beloved and respected for all they have given and all they have accomplished. My thoughts and prayers are with Roy Horn and his family during this difficult time.

VETERANS ASSOCIATION ACCOMPLISHMENTS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, on the 11th hour of the 11th day of the 11th month, we will celebrate America's heroes and those are our veterans.

Since President Bush and Secretary Principi have taken office, one as President, one as the head of the VA, we have opened 194 new community clinics for a total of 676 clinics; 87 percent of the veterans now live within 30 minutes of a VA medical facility.

We have increased enrollment, increased outpatient visits. We have reduced waiting times for our veterans. We have increased prescription drugs coverage for our veterans. We lead for all veterans health clinic quality indicators throughout the entire scope of these facilities.

We have increased homeless veterans outreach with a $35 million collaborative program with HUD and HHS. We have reduced the inventory of related claims from over 432,000 to 253,000. We have reduced waiting times for claims answers. We have increased national cemeteries, now six new cemeteries: Atlanta, Detroit, South Florida, Fort Sill, Pittsburg, and Sacramento. We remain on course to complete our national shrine commitment to improve the appearance of our national cemeteries.

Veterans have received great response from this administration. We are proud of our record.

TRULY HONORING AMERICAN VETERANS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the gentleman that preceded me in the well is correct. We should all celebrate Veterans' Day. In fact, we should celebrate Veterans' Day and honor Veterans' Day every day in this Chamber. But I do remember on the night that the war began in Iraq, we passed a resolution supporting the troops and an hour later we passed a budget that cut $2 billion out of the veterans budget.

I do remember that the President proposed doubling the prescription drug fee for veterans. I do remember that our veterans, the Democrats have offered a proposal to stop taxing disabled veterans, the disabled veterans tax. The President has threatened to veto any legislation which contains that.

So although the gentleman can rattle off those great statistics, that is not the experience of the veterans in my district. They are waiting longer to get minimal service. Fewer of them can get service. They have now established a new Category 8 of veterans who cannot get service even if they have served with valor in combat.

It is one thing to get up here and spout statistics and that, but the reality is can your veterans get the service they need that we promised when they need it; and the answer is for many, no.

INTERNATIONAL ACTION NEEDED IN BURMA

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today to ask once again, what more must happen in order for the international community to take deliberative, decisive action against the ruthless military dictatorship in Burma? Why would any country befriend this savage dictatorship that has no qualms about engaging in slave labor, systematic rape of women, destruction of villages, and murder of many innocent civilians?

The U.N. Security Council should act, not only because of the regional security problems related to Burma, but also because of the regime's horrific human rights abuses. The abuses have caused a humanitarian disaster as hundreds of thousands of people have fled across Burma's borders in almost every direction.

The military's brutal campaigns have created between 600,000 and 1 million internally displaced people, innocent men, women and children who live hiding in the jungles of Burma as they fear further attacks.

Mr. Speaker, the U.S., the U.N. Security Council, the international community should act now to stop the atrocities. Oppose the blockage of humanitarian aid, bring an end to the suffering of the people of Burma, and address the regional security problems from this regime.

HONORING SIEGFRIED AND ROY

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, I rise today with my colleague, the gentlewoman from Nevada (Ms. BERKLEY), in expressing my thoughts and prayers to our fellow Las Vegan, Roy Horn of Siegfried and Roy.

As many of you know, Roy Horn was seriously injured on October 3, 2003, when he was hurt on stage by one of his star tigers, Montecore. Since then Roy has been in critical condition, and I wish him quick and speedy recovery.

It was 30 years ago when Siegfried and Roy first debuted in Las Vegas. At that time it was only a dream for Las Vegas to be the entertainment capital of the world as it is today. Through hard work and perseverance, Siegfried and Roy became one of Las Vegas' top-selling shows, having performed in front of roughly 40 million people.

Recently named Magicians of the Century, Siegfried and Roy personify Las Vegas. Their shows are unlike anything Las Vegas has ever seen, a theatrical production, symbolic of a grandiose and flamboyant style of entertainment for which Las Vegas has become famous. Their success has been Las Vegas' success as well. Today, when people think Las Vegas, they think Siegfried and Roy. But when I think of Siegfried and Roy, I think of two men who came to this country with a dream and succeeded even beyond their wildest expectations.

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As they once said, it is better to be an ordinary guy living an extraordinary life, than any other way. I would like to take a moment to applaud them for their conservation but also to give them our prayers and thoughts at this time.

GROWING FRUSTRATION WITH MEDICARE PRESCRIPTION DRUG BENEFIT NEGOTIATIONS

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, I rise today to voice my growing frustration with the ongoing negotiations to create a Medicare prescription drug benefit. This could be the largest expansion of this program since the inception almost 40 years ago. Changes to this program will affect every senior in every District.

Unfortunately, leaders of the conference committee only seem interested in pushing their own agenda. They are not listening to Members on this side of the aisle, and they are not listening to the growing numbers of senior citizens.

We have to find out from media reports that our colleagues are considering provisions to increase premiums, means test the program and ultimately privatize Medicare. If these media reports are to be believed, then the proposed benefit is even worse than what initially passed this House floor by one vote.

Combined costs of the premiums, deductibles and copays amount to $1,300 per senior, just for $2,000 worth of coverage. That means that the government pays $700 and our seniors pay $1,300, almost twice as much.

Mr. Speaker, my seniors do not like the sounds of any of these proposals. They are already paying 22 percent of their out-of-pocket costs on health care, and even though they may vote for a Democratic Member of Congress, they still deserve to have their voices heard.

I urge my conferees to listen to their House and Senate colleagues and do a bipartisan bill that provides seniors with the relief they need.

CONGRATULATIONS GOVERNORS-ELECT HALEY BARBOUR AND ERNIE FLETCHER

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, congratulations to Governor-elect Ernie Fletcher, our colleague from Kentucky, on his historic election yesterday as the first Republican-elected Governor in the Commonwealth in 32 years. I was honored to spend the last 4 days campaigning door-to-door for the Fletcher team, and I discovered firsthand our colleague and his wife Glenna are greatly admired for their integrity and competence.

Yesterday was also a big day in Mississippi with the election of Haley Barbour, who unseated a sitting Democratic Governor. As the RNC chairman, Governor-elect Barbour has proven he can make a difference. The Republican revolution inspired by Ronald Reagan for limited government and expanded freedom continues to consolidate throughout the South, building on last year's success in South Carolina with Mark Sanford, Georgia with Sonny Perdue and Alabama with Bob Riley.

The past month's Republican gubernatorial victories begun by Republican Governor-elect Arnold Schwarzenegger of California underscores the confidence by the American people in President Bush's economic policies reflected by this 7.2 percent gross domestic product increase and by support of the President's serious resolve to win the war on terror to protect the American people at home.

At this time, in conclusion, God bless our troops.

A REAL PRESCRIPTION DRUG PLAN

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, just as the seniors in Texas and all across the country are concerned about prescription drug coverage and the action of the conferees, so are those in Illinois. I met with a group of seniors on Saturday, and they are waiting in anticipation of a real plan, a real program, and they are saying, Mr. Speaker, that they do not want a watered-down version. They do not want a pig in a poke. They want something that is real, meaningful.

Please conferees, listen to the seniors. Let us come up with a real prescription drug plan.

SIGNING OF THE PARTIAL BIRTH ABORTION BAN

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to thank President Bush who will be signing the Partial Birth Abortion Ban later today. By making the Partial Birth Abortion Ban law, Congress and President Bush have listened to the strong voices of our constituents who want to protect the health of women and fight for the sanctity of life.

The Partial Birth Abortion Ban Act of 2003 bans the procedure in which a living fetus is partially delivered before the fetus is killed and delivery is completed. This law will have the power to stop partial birth abortion and prosecute the doctors who continue to practice this horrific procedure. Furthermore, it will give the parents of minors and husbands the right to bring civil actions against said doctors.

As a father of three daughters and a member of the medical community, I am proud to have played a part in the preservation of women's health and the sacredness of life.

CONTEMPLATE THE WAR DEAD

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, it is easy to come into this House and forget what is going on out in the world, but on Friday when I got back to my office, I received a phone call from one of my constituents who had received a notification on Sunday that her son was killed in Iraq. Talking to this woman and understanding how she had felt, she had marched against the war, but her son believed that he was doing the right thing for this country. He believed that what he was doing was important, even though his parents thought that the war was not the right thing to be doing.

I think that as we go forward with a President who refuses to look at how to change the situation over there, we risk more and more of these deaths. We had them on Sunday. We had them on Monday, and I think we ought to take a moment to be silent and contemplate the war dead.

CONCURRENT RECEIPT

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, as our military men and women continue to do a great job to keep us safe and secure, heated debate has broken out about whether veterans should receive both disability pay and retirement pay. This issue is called concurrent receipt.

Right now, when a veteran retires, military pension benefits from the Department of Defense are reduced dollar for dollar by the amount of disability benefits received from the Veterans Affairs Department. Republicans have proposed commonsense solutions that will send more disability money to our veterans.

Under the plan, disabled veterans will see more retirement money, and benefits will now be available to Reservists and Guardsmen injured in service. This is a solution that is fair, responsible, and honors our Nation's disabled veterans.

I encourage all veterans to contact their lawmakers and urge them to support this important legislation and pass it by the end of the year.

CRACKDOWN IN BURMA

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I ask all freedom-loving people to pay attention to the latest crackdown in Burma by that country's brutal military regime.

A few days ago, the military again reminded us why Burma has one of the most despicable regimes in the world, by cruelly cracking down on a demonstration by Buddhist monks. Over 900 monks took to the streets, calling for freedom and democracy. These people, who are dedicated to peace themselves, found themselves the targets of not only water guns but of brutal beatings. One of them was killed. Four have been put in intensive care.

It is time for the people of Burma to join the Buddhist monks and to rise up against their tyrants. It is time for the people in the Burmese Army to rise up and turn their guns against the military regime that has destroyed freedom in their country and led their country into such deprivation and poverty, the regime that is stealing from their own people and giving their country to the Communist Chinese, and it is up to us, the United States, to back up the freedom-loving people of Burma.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3349) to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

The Clerk read as follows:

H.R. 3349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF SALARY ADJUSTMENTS FOR FEDERAL JUSTICES AND JUDGES.

Pursuant to section 140 of Public Law 97–92, Justices and judges of the United States are authorized during fiscal year 2004 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3349, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, by way of background, Congress enacted the Executive Salary Cost-of-Living Adjustment Act in 1975 which was intended to give judges, Members of Congress and high-ranking executive branch officials automatic COLAs accorded other Federal employees unless rejected by Congress. In 1981, Congress amended the statute by enacting section 140 of Public Law 97–92, which requires a specific congressional authorization to grant judges a COLA.

Mr. Speaker, the legislation before us is based on the template set forth in H.R. 16, now Public Law 108–6, which the House passed back in January and the President signed in February. H.R. 16 satisfied the section 140 requirement and thereby enabled judges to receive a COLA for this past fiscal year. H.R. 3349 accomplishes the same purpose for fiscal year 2004.

One final point, Mr. Speaker. The House will recall that Congress passed the Ethics Reform Act in 1989 to address the issue of Federal public service compensation. The mechanism for raising judicial salaries under the Act is premised on congressional action following a Presidential recommendation. A key feature of the 1989 law, however, was. and still is, that certain Federal judicial salaries are effectively linked to those of Senators and House Members as set forth in a statutory pay schedule for executive officials. In other words, the Federal judges cannot receive a pay raise unless Congress is willing to increase its own compensation along with that of various executive branch officials.

I do not believe that Congress should deviate from this construct by raising the salaries of life-tenured judges by nearly $25,000, as the Senate version of the Commerce-Justice-State appropriations bill would do. Along with many of our colleagues and other interested parties, I am not convinced that Federal judges work harder or have greater responsibility than Members of Congress or executive branch officials.

I believe in fairness, Mr. Speaker, and that is why I introduced H.R. 3349, to ensure that Federal judges receive a COLA when other civil servants, including Members of Congress, receive theirs. I otherwise maintain that neither Congress nor the third branch is entitled to a massive pay raise at this point, and I would urge the House appropriators to reject any attempt to raise judicial salaries by deviating from the parameters set forth in the Ethics Reform Act.

To conclude, Mr. Speaker, H.R. 3349 will assist in the administration of justice in our Federal courts and is otherwise noncontroversial and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support H.R. 3349 and ask that my colleagues support it as well. This legislation gives Federal judges a 2.2 percent cost-of-living pay adjustment for 2004. Members of the Federal judiciary deserve this raise. The hardworking men and women of the Federal bench are a critical, if sometimes underappreciated, part of our constitutional democracy. We should do everything we can to ensure that we attract and retain the highest quality judges.

While judges are predominantly called to service by a sense of duty and honor, financial considerations can be a powerful deterrent to service. Judges already make far less than they could earn in private firms. While this pay disparity will always exist, Congress should at the least ensure that judicial pay does not effectively shrink. The failure to give judges a COLA would constitute just such a reduction in pay.

Unfortunately, Congress has failed several times in the past decade to give Federal judges a COLA pay adjustment.

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Thus, over time, the pay of Federal judges has effectively shrunk. We should pass this legislation today to ensure this inequity is not increased further.

I want to make clear to my colleagues that this legislation in no way decouples judicial pay from the pay of Members of Congress and senior executive service. While I personally would not oppose such a decoupling, I know some of my colleagues, perhaps the gentleman who just spoke, would oppose it.

This legislation simply ensures that Federal judges can receive the same COLA increase that Members of Congress and senior executive service officials are already slated to receive for fiscal year 2004. Members of Congress and SES officials receive automatic COLA pay adjustments each year unless Congress specifically prohibits it. Federal judges, on the other hand, do not receive such COLAs unless Congress provides specific statutory authorization each year.

Congress typically provides this authorization in the annual commerce-justice-state appropriations legislation. Unfortunately, Congress has lately had some difficulty in passing the CJS appropriations bill by the start of the calendar year, let alone the fiscal year. The fiscal year 2003 CJS bill did not pass until 2003 was well under way, and now it looks like the fiscal year 2004 CJS bill will not be enacted until sometime in 2004. Such congressional action should not be allowed to imperil the COLA that Federal judges are rightfully do.

I applaud the gentleman from Wisconsin (Chairman SENSENBRENNER) for taking swift action to remedy the situation both earlier this year and now. In January of this year, the chairman of the Committee on the Judiciary ensured that virtually the first action of the 108th Congress was to pass H.R. 16, which authorized COLAs for 2003. He exhibits great forethought by bringing H.R. 3349 before the House before 2004 is upon us. I applaud him for taking swift action to make sure that judges will not be denied their COLAs through congressional inaction.

Of course, if future Congresses continue to have trouble moving the CJS appropriations bill in a timely fashion, the chairman may want to consider a different approach. A simple repeal of section 140 of Public Law 97-92 would dispense with the need to engage in this annual exercise. I commend this approach for the chairman's consideration and will not use this time to argue about whether or not it makes sense to pay judges more than third-year lawyers in excellent law firms. In conclusion, I urge my colleagues to support this measure.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am a cosponsor. This bill provides the Federal judiciary with a much needed cost of living adjustment (COLA) for their salary for fiscal year 2004. I also would like to thank Chairman SENSENBRENNER for his leadership and bipartisanship on this issue.

The Constitution mandates that the pay of Federal judges "shall not be diminished during their Continuance in Office." Unfortunately, by failing to provide judges with annual COLA's over the last decade, they have faced the equivalent of a $77,000 reduction in salary. Currently, Federal district court judges earn $150,000 per year. This is much less than they could earn in private practice; in fact, it is less than an attorney right out of law school can earn in private practice. Even the judges' employees, those who work at the Administrative Office of the U.S. Courts, can make more than their employers. In the last 30 years, while average pay has increased 12 percent for most workers, it has decreased 25 percent for Federal judges.

This issue can seem to be just a matter of salary, but it extends deeply into our concept of a democracy and judicial independence. The Constitution establishes a system of checks and balances, granting independent judges lifetime tenure and the right to an undiminished salary, in order to ensure the judiciary remains independent of financial, political, and social pressures. Unfortunately, many Federal judges are leaving the bench for private practice, and many experienced and qualified private practitioners are deterred from serving in the judiciary. The pay disparity has diminished the independence of our third branch and made it difficult to attract and retain qualified attorneys.

The timing for this legislation also is critical. Last year, Congress passed a continuing resolution that provided a cost of living adjustment to most Federal employees except judges. The omission required us to pass a law early this year to extend the COLA to judges. To ensure that we do not let this issue fall by the wayside again, we must pass this bill today.

I urge my colleagues to vote "yes" on this legislation.

Mr. BERMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3349.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3214) to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Advancing Justice Through DNA Technology Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEBBIE SMITH ACT OF 2003

Sec. 101. Short title.
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

Sec. 201. Short title.
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. National Forensic Science Commission.
Sec. 207. FBI DNA programs.
Sec. 208. DNA identification of missing persons.
Sec. 209. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 210. Tribal coalition grants.
Sec. 211. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 212. Report to Congress.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

Sec. 301. Short title.

Subtitle A—Exonerating the Innocent Through DNA Testing

Sec. 311. Federal post-conviction DNA testing.
Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.

Subtitle B—Improving the Quality of Representation in State Capital Cases

Sec. 321. Capital representation improvement grants.
Sec. 322. Capital prosecution improvement grants.
Sec. 323. Applications.
Sec. 324. State reports.
Sec. 325. Evaluations by Inspector General and administrative remedies.
Sec. 326. Authorization of appropriations.

Subtitle C—Compensation for the Wrongfully Convicted

Sec. 331. Increased compensation in Federal cases for the wrongfully convicted.
Sec. 332. Sense of Congress regarding compensation in State death penalty cases.

TITLE I—DEBBIE SMITH ACT OF 2003

SEC. 101. SHORT TITLE.

This title may be cited as the "Debbie Smith Act of 2003".

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

"SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or units of local government" after "eligible States"; and

(ii) by inserting "or unit of local government" after "State";

(B) in paragraph (2), by inserting before the period at the end the following: ", including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect"; and

(C) in paragraph (3), by striking "within the State";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or unit of local government" after "State" both places that term appears; and

(ii) by inserting ", as required by the Attorney General" after "application shall";

(B) in paragraph (1), by inserting "or unit of local government" after "State";

(C) in paragraph (3), by inserting "or unit of local government" after "State" the first place that term appears;

(D) in paragraph (4)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking "and" at the end;

(E) in paragraph (5)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "The plan" and inserting "A plan pursuant to subsection (b)(1)";

(ii) in subparagraph (A), by striking "within the State"; and

(iii) in subparagraph (B), by striking "within the State"; and

(B) in paragraph (2)(A), by inserting "and units of local government" after "States";

(5) in subsection (e)—

(A) in paragraph (1), by inserting "or local government" after "State" both places that term appears; and

(B) in paragraph (2), by inserting "or unit of local government" after "State";

(6) in subsection (f), in the matter preceding paragraph (1), by inserting "or unit of local government" after "State";

(7) in subsection (g)—

(A) in paragraph (1), by inserting "or unit of local government" after "State"; and

(B) in paragraph (2), by inserting "or units of local government" after "States"; and

(8) in subsection (h), by inserting "or unit of local government" after "State" both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "(1) or" before "(2)"; and

(B) by inserting at the end the following:

"(4) To collect DNA samples specified in paragraph (1).

"(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.";

(2) in subsection (b), as amended by this section, by inserting at the end the following:

"(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).";

(3) by amending subsection (c) to read as follows:

"(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

"(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

"(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

"(ii) the population in the jurisdiction; and

"(iii) the number of part 1 violent crimes in the jurisdiction.

"(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

"(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

"(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).";

(4) in subsection (g)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.";

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

"(1) $151,000,000 for fiscal year 2005;

"(2) $151,000,000 for fiscal year 2006;

"(3) $151,000,000 for fiscal year 2007;

"(4) $151,000,000 for fiscal year 2008; and

"(5) $151,000,000 for fiscal year 2009."; and

(6) by adding at the end the following:

"(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

"(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

"(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

"(C) to support future capacity building efforts; and

"(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

"(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.".

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking "of persons convicted of crimes;" and inserting the following: "of—

"(A) persons convicted of crimes;

"(B) persons who have been indicted or who have waived indictment for a crime; and

"(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;"; and

(2) in subsection (d)(2)—

(A) by striking "if the responsible agency" and inserting "if—

"(i) the responsible agency";

(B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.".

(b) Felons Convicted of Federal Crimes.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

"(d) Qualifying Federal Offenses.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

"(1) Any felony.

"(2) Any offense under chapter 109A of title 18, United States Code.

"(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

"(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).".

(c) Military Offenses.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

"(d) Qualifying Military Offenses.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

"(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

"(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).".

(d) Keyboard Searches.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) Authority for Keyboard Searches.—

"(1) In general.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

"(2) Definition.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

"(3) No preemption.—This subsection shall not be construed to preempt State law.".

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3297. Cases involving DNA evidence

"In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3297. Cases involving DNA evidence.".

(c) Application.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting "dating violence," after "domestic violence,";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) Dating violence.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship."; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting "dating violence," after "domestic violence,";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ", dating violence," after "between domestic violence"; and

(ii) by inserting "dating violence," after "victims of domestic violence,";

(B) in paragraph (2), by inserting "dating violence," after "domestic violence,"; and

(C) in paragraph (3), by inserting "dating violence," after "domestic violence,";

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", dating violence," after "domestic violence";

(B) in paragraph (2), by inserting ", dating violence," after "domestic violence";

(C) in paragraph (3), by inserting ", dating violence," after "domestic violence"; and

(D) in paragraph (4), by inserting "dating violence," after "domestic violence,";

(5) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

(6) in subsection (f)(2)(A), by inserting "dating violence," after "domestic violence,".

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U,S.C. 14135(d)(3)) is amended to read as follows:

"(3) Use of vouchers or contracts for certain purposes.—

"(A) In general.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

"(B) Redemption.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) Payments.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).".

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the "DNA Sexual Assault Justice Act of 2003".

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

"(2) prepared by laboratories that—

"(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2003, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

"(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and".

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) In General.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) Eligible Entity.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) Authorization of Appropriations.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) In General.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) Eligible Entity.—For purposes of this section, the term "eligible entity" includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) Authorization of Appropriations.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) Improving DNA Technology.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) Demonstration Projects.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) Authorization of Appropriations.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) Appointment.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the "Commission"), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) Responsibilities.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) Personnel; Procedures.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) Authorization of Appropriations.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 207. FBI DNA PROGRAMS.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) Programs and Activities.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.

(a) In General.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) Authorization of Appropriations.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

"(c) Criminal Penalty.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.".

SEC. 210. TRIBAL COALITION GRANTS.

(a) In General.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) Tribal Coalition Grants.—

"(1) Purpose.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against Indian women;

"(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

"(2) Grants to Tribal Coalitions.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

"(3) Eligibility for Other Grants.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

(b) Technical Amendment.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107-273 (116 Stat. 1789) is amended in section 402(2) by striking "sections 2006 through 2011" and inserting "sections 2007 through 2011".

(c) Amounts.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107-273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg-1(b)(4)) to read as follows:

"(4) 1/64 shall be available for grants under section 2001(d);".

SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) Forensic Backlog Elimination Grants.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking "shall use the grant to carry out" and inserting "shall use the grant to do any one or more of the following:

"(1) To carry out"; and

(B) by adding at the end the following:

"(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

"(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.";

(2) in subsection (b), by striking "under this part" and inserting "for the purpose set forth in subsection (a)(1)"; and

(3) by adding at the end the following:

"(e) Backlog Defined.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

"(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

"(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.".

(b) External Audits.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.".

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $20,000,000 for fiscal year 2007;

"(H) $20,000,000 for fiscal year 2008; and

"(I) $20,000,000 for fiscal year 2009.".

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as "CODIS");

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 206;

(7) the use of funds by the Federal Bureau of Investigation under section 207;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 208;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 211;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE III—INNOCENCE PROTECTION ACT OF 2003

SEC. 301. SHORT TITLE.

This title may be cited as the "Innocence Protection Act of 2003".

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

"CHAPTER 228A—POST-CONVICTION DNA TESTING

"Sec.
"3600. DNA testing.
"3600A. Preservation of biological evidence.

"§ 3600. DNA testing

"(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

"(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

"(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

"(B) another Federal or State offense, if—

"(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

"(ii) in the case of a State offense—

"(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

"(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

"(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(3) the specific evidence to be tested—

"(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2003; or

"(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

"(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

"(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

"(6) the applicant identifies a theory of defense that—

"(A) is not inconsistent with an affirmative defense presented at trial; and

"(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

"(8) the proposed DNA testing of the specific evidence—

"(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

"(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

"(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

"(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

"(b) NOTICE TO THE GOVERNMENT; PRESERVATION ORDER; APPOINTMENT OF COUNSEL.—

"(1) NOTICE.—Upon the receipt of a motion filed under subsection (a), the court shall—

"(A) notify the Government; and

"(B) allow the Government a reasonable time period to respond to the motion.

"(2) PRESERVATION ORDER.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

"(3) APPOINTMENT OF COUNSEL.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

"(c) TESTING PROCEDURES.—

"(1) IN GENERAL.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

"(3) COSTS.—The costs of any DNA testing ordered under this section shall be paid—

"(A) by the applicant; or

"(B) in the case of an applicant who is indigent, by the Government.

"(d) TIME LIMITATION IN CAPITAL CASES.—In any case in which the applicant is sentenced to death—

"(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

"(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

"(e) REPORTING OF TEST RESULTS.—

"(1) IN GENERAL.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

"(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

"(3) RETENTION OF DNA SAMPLE.—

"(A) ENTRY INTO NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

"(B) MATCH WITH OTHER OFFENSE.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

"(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

"(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

"(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

"(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

"(A) deny the applicant relief; and

"(B) on motion of the Government—

"(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

"(ii) assess against the applicant the cost of any DNA testing carried out under this section;

"(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

"(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

"(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

"(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

"(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

"(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

"(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

"(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

"(B) in the case of a motion for resentencing, another Federal or State offense, if—

"(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

"(h) OTHER LAWS UNAFFECTED.—

"(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

"(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

"(3) APPLICATION NOT A MOTION.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

"§ 3600A. Preservation of biological evidence

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

"(b) DEFINED TERM.—For purposes of this section, the term 'biological evidence' means—

"(1) a sexual assault forensic examination kit; or

"(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

"(c) APPLICABILITY.—Subsection (a) shall not apply if—

"(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

"(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2003;

"(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

"(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

"(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

"(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

"(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2003, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

"(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.".

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

"228A. Post-conviction DNA testing ... 3600".

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) State Defined.—For purposes of this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 203, 205, 207, and 312 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 203, 205, 207, or 312, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) Defined Term.—In this section, the term "legal representation" means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) Use of Funds.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) Effective System.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) Use of Funds.—

(1) Permitted Uses.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) Prohibited Use.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 323. APPLICATIONS.

(a) In General.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) Application.—

(1) In General.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) Contents.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 326(b).

SEC. 324. STATE REPORTS.

(a) In General.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) Capital Representation Improvement Grants.—With respect to the funds provided under section 321, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 321(d)(1)(A), an entity described in section 321(d)(1)(B), or selection committee or similar entity described in section 321(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 321(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 321(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 321(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 321(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 321(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 321(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 321(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 321(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 321(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) Capital Prosecution Improvement Grants.—With respect to the funds provided under section 322, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 322(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 322(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 322(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) Public Disclosure of Annual State Reports.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) Evaluation by Inspector General.—

(1) In general.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the "Inspector General") shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 324, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) Priority.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) Determination for statutory procedure states.—For each State that employs a statutory procedure described in section 321(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 323(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) Administrative Review.—

(1) Comment.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) Corrective action plan.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) Report to congress.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) Penalties for Noncompliance.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 321 and 322 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) Periodic Reports.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) Administrative Costs.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) Special Rule for "Statutory Procedure" States Not in Substantial Compliance With Statutory Procedures.—

(1) In general.—In the case of a State that employs a statutory procedure described in section 321(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period

beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 321.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 321 and the uses described in section 322, except as provided in section 325(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking "exceed the sum of $5,000" and inserting "exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff".

SEC. 332. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 3214, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, news stories extolling the successful use of DNA to solve crimes abound. Consider the following: in 1999, New York authorities linked a man through DNA evidence to at least 22 sexual assaults and robberies that had terrorized the city. In 2002, authorities in Philadelphia, Pennsylvania, and Fort Collins, Colorado, used DNA evidence to link and solve a series of crimes perpetrated by the same individual. In the State of Washington during 2001, DNA evidence provided a major breakthrough of the "Green River" killings, a series of crimes that had remained unsolved for years despite a large law enforcement task force and a $15 million investigation.

DNA is generally used to solve crimes in one of two ways. In cases where a suspect is identified, a lawfully obtained sample of that person's DNA can be compared to evidence from the crime scene. The results of this comparison may help establish whether the suspect committed the crime. In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator.

DNA evidence has also been used successfully to free individuals who have been wrongfully convicted. In my home State of Wisconsin, one such individual, Steven Avery, was exonerated by DNA evidence after serving more than 17 years in the Stanley Correctional Institution in Chippewa County for a sexual assault and attempted murder he did not commit. He was released last month, by the same judge who sentenced him in 1986, after DNA tests exonerated him. Evidence collected from the victim was determined to belong to another inmate, who is serving time for a different sexual assault.

In the late 1980s, the Federal Government laid the groundwork for a system of national, State, and local DNA databases for the storage and exchange of DNA profiles. This system, called the Combined DNA Index System, CODIS for short, maintains DNA profiles obtained under Federal, State, and local systems in a series of databases that are available to law enforcement agencies across the country for law enforcement purposes only. Currently, all 50 States and the Federal Government have laws requiring that DNA samples be collected from some categories of offenders for inclusion in CODIS. Evidence from a crime scene can be linked to other crime scenes through the use of the CODIS database to identify repeat offenders or serial criminals. CODIS can be used to compare crime scene evidence to a database of DNA profiles obtained from convicted offenders.

We are fortunate to have this tool available to ensure accuracy and fairness in our criminal justice system. It has the potential to make our great justice system even better. However, if DNA samples are not tested, or not entered into the databases, that potential is completely wasted. Sadly, the reality is that many samples are not being tested or recorded in the database. To have this tool available and not to fully use it is tragic. Many crimes could be solved, many guilty people could be taken off the streets, and many victims could be spared from further crimes.

Despite DNA's enormous potential, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples, samples that could be used to solve violent crimes if the States had the funds to eliminate this backlog. Some estimates indicate that DNA evidence from at least 300,000 rape crime scenes have been collected but never analyzed in a crime lab. In addition, many of the labs are ill equipped to handle the increasing flow of DNA samples and evidence.

The problems of backlogs and the lack of up-to-date technology result in significant delays in the administration of justice. The system needs more research to develop faster methods to analyze DNA evidence. Legal and medical personnel need additional timing and assistance in order to ensure the optimal use of DNA evidence to solve crimes and assist victims. The criminal justice system needs the means to provide DNA testing in appropriate circumstances for individuals who assert that they have been wrongly convicted.

This legislation, cosponsored by 250 Members of the House, will help eliminate these problems. This bipartisan, bicameral legislation authorizes $755 million over 5 years to eliminate the current backlog of rape kits and other crime scene evidence awaiting DNA analysis in crime labs.

It authorizes funding for training for law enforcement, correctional, court, and medical personnel on the use of DNA evidence. H.R. 3214 funds research to improve forensic technology and authorizes $10 million per year in grants to States, local governments, and tribal governments to eliminate forensic backlogs. It also authorizes funding for the use of forensic DNA technology to identify missing persons and unidentified human remains. Most of these provisions are part of the President's DNA initiative.

H.R. 3214 also seeks to prevent wrongful convictions. The Innocence Protection Act provisions of H.R. 3214, which are also the result of bipartisan and bicameral negotiations, will ensure that our justice system is working. They establish rules for post-DNA testing of Federal prison inmates and require the preservation of biological evidence in Federal criminal cases where the defendant remains incarcerated. These provisions also authorize funding to help States to provide competent legal services for both the prosecution and the defense in death penalty cases. They provide funds for postconviction DNA testing and bonus grants to States that adopt adequate procedures for providing postconviction DNA testing and preserving biological evidence.

This legislation came out of the Committee on the Judiciary by a vote on 28 to 1. After that vote, a few Members raised concerns about the new grant program in title III which provides grants to States which put an effective system in place for appointing and compensating attorneys in capital cases. Members from States that already have a system established by statute felt that those States should be eligible to receive these grants for improving both prosecution and defense training. Along with a few other technical tweaks, the manager's amendment allows those States to be eligible for these grants.

Additionally, the manager's amendment provides improvements to the CODIS and NDIS databases by allowing DNA samples which have been lawfully collected, other than from arrestees or voluntary samples, to be entered into CODIS. DNA samples from arrestees may be analyzed for a match in the database but may not be retained. This distinction provides a balance between protecting individual rights and ensuring that law enforcement has the tools it needs to solve crimes. I think States like Louisiana, which recently had to track down a serial killer, can appreciate the importance of this change in the law.

Finally, I would like to respond to a couple of the complaints that I have heard about this legislation. I have heard that this bill funds advocacy for those who are opposed to capital punishment. That is not the case at all. The legislation specifically prohibits the direct or indirect use of grant funds for representation in a particular case, and the report language further specifies that grants cannot be used for advocacy.

Finally, I heard some complaints from people who support capital punishment that the innocent protection provisions in this bill will make it more difficult for the death penalty to be imposed upon those who have been convicted and have exhausted their appeals. Let me say that I am a supporter of capital punishment; and unless we use the most modern technology to make sure that those who are convicted are indeed guilty, and those who are not guilty are not put to death, sooner or later the Supreme Court will accept the invitation and declare capital punishment per se a violation of the Constitution.

I believe that this bill is something that death penalty supporters should be supporting because it will provide for a greater degree of accuracy in making sure that those who are convicted of a crime and sentenced to death by a jury in those States which do allow for capital punishment are truly guilty.

I believe that we have crafted a bill that will do much to assist law enforcement in solving crimes and ensuring that the right people are convicted. I urge my colleagues to recognize the benefit of this legislation and vote in favor of its passage today..

Mr. Speaker, I reserve the balance of my time.

□ 1045

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

This bill is the culmination of many months of diligent bipartisan and bicameral efforts in the service of a common goal, which is to use all of the tools at our disposal to solve crimes and protect the innocent. As indicated by the chair of the committee, the bill consists of three titles. First, it authorizes $755 million for the Debbie Smith DNA Backlog Grant Program to eliminate the current backlog of unanalyzed DNA samples in this Nation's crime laboratories which, I would submit, is bordering on disgraceful. I wish, at this point in time, to commend the gentleman from Wisconsin (Mr. GREEN) and the gentlewoman from New York (Mrs. MALONEY) for their efforts to raise this issue and to see it incorporated in this omnibus bill today. Secondly, it authorizes grant programs to expand and improve the capacity of Federal, State and local crime labs to conduct DNA analyses, reduce other forensic science backlogs, train criminal justice and medical personnel in the use of DNA evidence, and promote the use of DNA technology to identify missing persons. Finally, the bill includes the Innocence Protection Act, a measure which I introduced several years ago with the gentleman from Illinois (Mr. LAHOOD), which will help ensure Federal and State inmates access to DNA testing to establish their innocence and will authorize grants to the States to improve the quality of legal representation for both indigent defendants and the public in capital cases.

I would like to thank Chairman HATCH, Senator BIDEN and all our Senate colleagues for working with us to reach this milestone. I want to express my particular appreciation to Senator LEAHY with whom the gentleman from Illinois and I first introduced the Innocence Protection Act some 3½ years ago and who has worked so hard to advance that legislation.

As with any compromise, the version of the Innocence Protection Act that is included in this bill is not all that I had wished for. But it is an important step forward, and I know that Senator LEAHY shares my satisfaction with this achievement. Finally, I want to pay tribute to the distinguished chair of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), without whose good faith and commitment this process would not have achieved this breakthrough, which I believe represents a remarkable achievement for the Committee on the Judiciary. Our staffs have worked closely together over the course of these months and both he and they deserve our gratitude. In particular, I want to thank the chief of staff of the committee, Phil Kiko, who has made a major personal commitment to this effort and has devoted countless hours to keeping the negotiations on track. I would be remiss not to acknowledge the contribution of my own legislative director, who sits to my right for the last time as this is his last day as a member of my staff. For me, it will be painful to see him leave. He is a man of considerable talent, incredible integrity, a friend and one whose efforts in this particular initiative have truly been prodigious.

The criminal justice system, Mr. Speaker, is about the search for the truth. Like all human enterprises, it is fallible. Judges, juries, police, eyewitnesses, defense attorneys and prosecutors are all human beings and all make mistakes. As a prosecutor for more than 20 years in the greater Boston area, I know that I made my share of them, but we have the means at our disposal to minimize the possibility of error, especially where lives are at stake. We must use them, and especially where public safety is at stake, we must use them.

Debbie Smith, a courageous advocate who has done so much to help her fellow survivors of sexual assault and for whom title I of this bill is named, has said, "It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets."

Surely no person in America understands this better than Kirk Bloodsworth, for whom we have named another title of the bill. Mr. Bloodsworth was the first death-row inmate to be exonerated by DNA testing. Not only did DNA establish that he did not commit the terrible crime for which he was convicted, but only a few weeks ago from today, it brought about the identification of the true perpetrator.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect. By eliminating the backlog of unanalyzed DNA samples in the Nation's crime labs, the bill will help ensure that DNA technology is fully deployed to solve past crimes and prevent future ones. And by ensuring that eligible Federal and State inmates have access to postconviction testing that can establish their innocence, the bill will help correct wrongful convictions when they occur and will prompt in those cases renewed efforts to identify the real perpetrator, as it did in the case involving Kirk Bloodsworth.

No one knows whether innocent people have been executed since the death penalty was reinstated in 1976. We do know there have been some very close calls, however. Since 1976, 111 people in 25 States have been released after spending years on death row for crimes they did not commit. Some of them came within days or hours of being put to death. It was cases like these that have called respected, conservative judges like Sandra Day O'Connor to express concern that the system, and I quote: May be well allowing some innocent defendants to be executed.

I think the closing remarks of the chair relative to the position and the posture of those that support the death penalty ought to mark well the words of Sandra Day O'Connor when it comes to this particular legislation. Many of these miscarriages of justice can be corrected by giving eligible inmates access to DNA testing. DNA testing was responsible for exonerating 12 of the people freed from death row and another 126 who were wrongfully convicted of serious crimes. In at least 34 of these cases, the same tests that exonerated an innocent person led to the apprehension of the real perpetrator. Yet access to testing often is litigated, sometimes for years, allowing the real perpetrator to continue to prey upon the neighborhoods and communities in this country. Evidence that might have established innocence has been misplaced or destroyed. If we are to advance justice, we must ensure that biological material is preserved and DNA testing is made available in every appropriate case.

The bill takes a significant step toward achieving this goal by ensuring eligible inmates access to DNA testing and establishing the Kirk Bloodsworth Postconviction DNA Testing Program, which will help States defray those costs. But DNA is not a magic bullet that will eliminate the problem of wrongful convictions. Biological evidence, which is utilized in DNA testing, is available in less than 20 percent of violent crimes. And even where such evidence exists, postconviction testing only tells us that the system failed. It does not prevent the failures from occurring in the future. The best way to do that is to make sure that every indigent defendant who is facing the death penalty has access to a competent attorney. I was a prosecutor, as I indicated, for over 20 years and I know the adversarial process can find the truth only when the prosecution and the defense are up to the job. Our system of justice depends on it. We cannot tolerate a system that leaves capital defendants at the mercy of lawyers who are poorly trained and poorly compensated who fail to conduct a proper investigation and examine the evidence, or, worse, who drink or sleep their way through the trial. The reality is that that has occurred in the courts of justice here in America. We cannot tolerate a system that relies on reporters and journalism students to develop new evidence which was never presented in court. We cannot tolerate a system in which chance, or the luck of the draw, plays such a profound role in determining whether a defendant lives or dies and a murderer escapes justice.

The bill addresses this problem by authorizing grants to the States to improve the quality of legal representation for both indigent defendants and the prosecution and the people in capital cases. Lawyers assigned by the court to these unpopular and unprofitable cases are often overworked, inexperienced and sometimes incompetent. It is little wonder that over half of all death sentences are overturned on appeal or after postconviction review because of the errors at trial.

Ultimately, however, this bill is not about the death penalty. It is not about DNA backups. It is about restoring public confidence in the integrity of the American justice system as a whole, without which our Constitution and our democracy is put at risk. For the rule of law, due process and everything that we stand for incorporated in our justice system and in our jurisprudence is what sets America apart among the family of nations. That is a goal on which we stand united.

I look forward to working closely with my colleagues to see that this extremely important initiative is signed into law.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. I thank the gentleman for yielding me this time.

Mr. Speaker, let me begin by thanking the gentleman from Massachusetts (Mr. DELAHUNT) and the gentlewoman from New York (Mrs. MALONEY) for their great work and their contributions to this legislation and the gentleman from Illinois (Mr. LAHOOD) for his outstanding work on it, but most of all let me personally and publicly thank the chairman of the Committee on the Judiciary for his work, because without his work, simply put, we would not be here today. I want to thank him so much for his hard work here.

DNA technology is a truly amazing tool for the modern-day investigator and prosecutor. We can identify a perpetrator from one single hair. We can now indict a person by their DNA and match that code to a name at a later time. This is the great promise of DNA technology, the promise of justice. However, sadly, justice is not always timely. Too many people have had to wait years for justice. They wait in fear as their rape kits sit on a shelf untested. They wait as dangerous criminals walk free, free to strike yet again. Debbie Smith, who has been a courageous leader on this issue, went through this battle. I have worked with Mrs. Smith and heard her story numerous times. Each time I hear the passion in her voice on this topic, it encourages me and others to fight even harder to help the hundreds of thousands of victims that have DNA samples taken but have not yet found justice. Today, Debbie, you are victorious. The fact that hundreds of thousands of pieces of vital evidence essentially sit unused is outrageous. It is unacceptable. We need to get these rape kits off the shelves so they can be used to get rapists off the streets.

The Debbie Smith Act is about justice being done. It is about rapists being caught, convicted with irrefutable DNA evidence and put away for a long, long time. It is about helping thousands of victims receive justice by harnessing an exciting, emerging technology.

I urge all of my colleagues to support this legislation. It is a critical part of restoring the public's faith in our justice system.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY) who along with the gentleman from Wisconsin has done such tremendous work.

Mrs. MALONEY. Mr. Speaker, this bill marks the end of a very long journey to pass legislation that will put criminals behind bars and protect the innocent. I thank the extraordinary work of the gentleman from Wisconsin (Mr. GREEN) and the gentleman from Wisconsin (Mr. SENSENBRENNER) who brought all the pieces together and the long, long leadership of the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Virginia (Mr. SCOTT), the gentleman from New York (Mr. WEINER) and so many others that have brought this successfully to the floor.

☐ 1100

In the 107th Congress, I authored a bill to provide funding to process the backlog of DNA evidence after holding a hearing with Congressman HORN where a courageous rape survivor, Debbie Smith, testified. After her testimony, there was not a dry eye in the room, where she told how she was dragged from her home and brutally raped while her husband slept upstairs. After medical attention and after many years of living in fear, Debbie finally learned that DNA processing techniques had produced a cold hit identifying her assailant.

But her story in many ways is a story of many women. There is great violence against women in America. Every 2 seconds, there is a sexual assault against a woman. And we know that DNA techniques can convict and prevent rapists from attacking in the future. We know that each rapist will attack at least seven or eight times, according to law authorities, and each unprocessed DNA kit represents an innocent person, like Debbie Smith, or a rapist who could attack again if he is not put behind bars.

This bill will literally protect many women from sexual assault. It is an extremely important bill, and it will help with this backlog of hundreds of thousands of rape kits that are sitting on shelves across America gathering dust, when, if it was processed, could convict and place a rapist behind bars.

Mr. Speaker, there are many various important aspects of this bill. I am delighted that it includes the Debbie Smith act. I thank her for her courageous work, and many, many others.

Earlier this year, I reintroduced similar legislation, along with Representative MARK GREEN. The bill would accomplish several critical objections including providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, providing grant money for Sexual Assault Forensic Examiner programs, and providing funding to train law enforcement authorities on the collection and handling of DNA evidence.

I am delighted that the legislation that we are about to pass today includes "The Debbie Smith Act." H.R. 3214 represents a bipartisan and bicameral effort to pass legislation that will put rapists in prison.

Many domestic violence groups and activists, including former Congresswoman Liz Holtzman, have helped us to get to this point. I also want to acknowledge the outstanding efforts of Lifetime Television in fighting against domestic violence and sexual assault. And of course, this bill has had no greater champion than Debbie Smith herself.

Tragically, the dismal reality is that only 6 percent of women who have been raped will ever see their attacker spend a day in jail.

Once again, I sincerely thank Chairman SENSENBRENNER for his leadership on this issue, and I urge my colleagues to vote for this legislation so that we can put an end to this travesty of justice.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), who has been one of the principal motivators behind this legislation.

Mr. LAHOOD. Mr. Speaker, I want to thank the chairman of the full committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), and our Senate colleagues, Mr. HATCH and Mr. LEAHY, for their many, many hours of work.

I rise today as a supporter of the death penalty and an original cosponsor of the bill. In the 106th and 107th Congresses, I sponsored the Innocent Protection Act with my friend, the gentleman from Massachusetts (Mr. DELAHUNT), whom I have great admiration for. This bill, which is now included as section 3, includes the Innocence Protection Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides materials necessary to repair a flawed system, and we do have a flawed system. I believe those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel or unprocessed DNA kits. We must permit inmates access to postconviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue rightful punishment of the guilty, we must establish minimum standards for competency of counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit, some within hours of execution. A death sentence is the ultimate punishment, and there must be 100 percent certainty of guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman, I applaud the gentleman from Massachusetts (Mr. DELAHUNT) and our Senate colleagues, and I ask Members to support this legislation.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. SCOTT), the ranking member of the Committee on the Judiciary Subcommittee on Crime, Terrorism and Homeland Security, and a leader on these issues.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me time.

This bill makes DNA technology available to our criminal justice system in a way that effectively enhances the efficiency and certainty in exonerating the innocent, as well as identifying, prosecuting and convicting the guilty.

In recent years, the advent of DNA evidence has shown us, unequivocally, we have been convicting and incarcerating innocent people, while allowing many guilty people to go free. As a result of DNA identifications, many offenders have been convicted. At the same time, 138 convicted and sentenced individuals have been exonerated by DNA evidence, including 12 who were on death row.

The numbers of suspects who have been excluded as offenders at the outset of criminal investigations is even greater. The FBI reveals that 25 percent of suspects who are DNA tested are, in fact, exonerated.

This bill includes the provisions of the Debbie Smith Act, which authorizes significant funding to process DNA analysis for evidence. Many evidence kits are not now analyzed simply because of lack of funding, which means that many offenders are evading justice just because of lack of funds. This bill will mean they will be tracked down and prosecuted.

Virginia is a leader in solving crimes and DNA technology, and all States will benefit from the provisions of the Debbie Smith Act. The Debbie Smith Act is from Virginia.

While DNA technology has provided uncontrovertible proof that innocent people have been convicted and sentenced, DNA evidence covers only a small portion of those who are ultimately found to be innocent. One frequent reason for innocent people being convicted and sentenced, even to death, is incompetent and ineffective counsel. This is also the reason why many convictions are overturned. So we are pleased that there are minimum standards assured in the bill for qualifications of attorneys who will represent potential death row inmates.

Mr. Speaker, this will actually also mean that not only innocent people will not be convicted, but also many of the convictions will in fact be upheld on appeal.

I urge my colleagues to support the legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I rise with great reluctance today to oppose this bill, particularly because of the respect I have for the chairman and for the main sponsor on the Democratic side. I certainly support the goals of this legislation, but I think it is appropriate to ask, why is Congress authorizing $100 million in Federal funds to operate a State program?

There seems to me to be no reason for Congress to finance the State public defender system. Basic precepts of federalism dictate that each level of government should finance its own operations. Once States become accustomed to and budget for Federal funds, they can never reject the money, and Federal funding inevitably comes with increased Federal strings. We have seen that in every other area, most notably public education.

In the long run, States risk losing control over their own public defender programs. I believe there is no reason to start down that path.

I would like to yield to the gentleman from Arizona (Mr. SHADEGG), who has direct experience in the State Attorney General's office.

Mr. SHADEGG. Mr. Speaker, will the gentleman yield?

Mr. FLAKE. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I, too, rise reluctantly to oppose the legislation, in admiration for the committee chairman and the ranking member, but I think it is important for our colleagues to know that this legislation, while it does many good things and is certainly well-intended, is opposed by the National District Attorney's Association. They wrote the Speaker of the U.S. House very recently to express their concern. They talked about the good aspects of the bill, but they expressed concern on two topics, both the funding in the bill, in terms of what it would do to death penalty cases, but also and most importantly, the standard of proof that the bill sets for a new trial.

Specifically, the National District Attorney's Association wrote that the standard of evidence is set dangerously low. What they mean by that is under this legislation, convicted felons will have the ability to make a demand for a retrial under circumstances which are far lower than any other circumstances similar in other situations, and they expressed grave concern about that. Convicted criminals will be allowed to make consecutive, multiple requests for DNA testing under this bill. They would have an ability to tie up the courts over and over again by submitting separate requests.

I reluctantly urge my colleagues to oppose this bill and join the National District Attorneys' Association in opposing the bill so we can improve it and pass it in an improved fashion.

Mr. DELAHUNT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEINER), another author and a champion of the Debbie Smith Act and a member of the committee.

Mr. WEINER. Mr. Speaker, I thank the gentleman from Massachusetts for his great leadership and the chairman of the committee.

Mr. Speaker, the way we treat the victims of rape in this country is a crime. Evidence that is collected at crime scenes often sits for years, sometimes beyond the statute of limitations, completely untouched by human hands. When that victim goes into a hospital emergency room, frequently they sit in triage with dozens of other people for hours at a time waiting to be examined by someone with no experience in such cases. With this legislation, we change both of those things.

More than 350,000 rape kits, evidence, sits on warehouse shelves throughout the country. We had as many as 16,000 in New York City, until the city began its own program of trying to analyze that evidence.

The technology exists, quite frankly, to match victims' DNA collected at crime scenes with those of criminals. We can make hits and we can often put people away; 154 cold cases have resulted in cases being solved, and in 204 more cases, we know who did it. And now it is just a matter of finding that perpetrator of a crime.

Can you imagine being a person who has been victimized in that way, having that crime scene created, having the evidence taken in the most invasive of ways, only to learn that it is sitting and sitting and sitting without any effort to analyze it.

Why do we have this problem? One word, money. Now the Federal Government, for the second time in this House we are passing legislation to deal with that backlog, $75 million over the next 5 years.

For those of us who have become concerned that in the past money has been grabbed by the States, never makes it to the city, this allows cities to make direct applications. This is an opportunity for us to bring justice to thousands of women. This is an opportunity for us to allow women who have been victimized by rape not to be victimized a second time by a system that does not pay enough attention to it.

I would point out to my colleagues that one of the indexed crimes is going up while all the others is going down, and that is crimes against women, rape. That is because people who perpetrate rape, we know, do it again and again and again and again. One crime we solve may stop seven women from being victimized in the future. That is why these provisions are so important.

We all see DNA evidence through the lens of our own interests. I see it as both what my friend, the gentleman from Massachusetts (Mr. DELAHUNT), says and through my lens as someone who cares about civil liberties, but also wants these crimes solved.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I thank the chairman for yielding me time.

I rise in support of this legislation. People across the country, including 100,000 women watching Lifetime Television, have signed a petition supporting the bill. My constituents, law enforcement, have supported this bill. There are a number of reasons.

Nearly 12 years ago, a high school girl from the Pittsburgh area was raped and murdered shortly after she arrived in Fort Lauderdale for a vacation. For 12 years, that crime went unsolved. The family of that young girl was left not only with the loss of a daughter and sister, but also with the void of not knowing who committed the crime. Finally, a detective in Florida was able to match the DNA evidence to that of a convicted murderer on death row in Arkansas, and the mystery was solved.

That Fort Lauderdale officer said of matching the DNA evidence, "It is basically getting that needle in the haystack and making the haystack smaller."

This is what H.R. 3214 accomplishes. It makes the haystack smaller. DNA evidence is not just effective in murder cases, it is an extremely valuable tool in sexual assault cases.

A year ago, a man kidnapped and raped two women near Pittsburgh, but they could not identify him because the crimes occurred in the dark. As our district attorney noted, but for the work of the police and the coroner's division of laboratories, the man would never have been apprehended. Instead, because of DNA evidence, his crimes earned him a sentence of over 200 years in prison.

While these are all positive cases, unfortunately, there is a backlog of DNA samples. Experts have determined that DNA evidence from over 180,000 rape crime scenes have been collected and never analyzed. Imagine those families, wondering, waiting and worrying.

In addition, many labs do not have the technology to analyze these samples. The funding in this bill will provide grants to local governments to eliminate that backlog, improve technology used to collect and analyze that DNA evidence, and catch those criminals. Ultimately, this funding will help not only solve crimes, but it will make our communities safer.

In addition, the bill will improve the accuracy of our judicial system for those who believe they may have been wrongfully convicted. Despite criticisms of opponents of this bill, it will not open the floodgates of litigation by prisoners claiming innocence. It will not remove the State's responsibility for prosecution. It will help them to accomplish their purpose, and that is our job here.

Mr. DELAHUNT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished member of the Committee on the Judiciary, someone whose input into this effort has been well-noted, and who has made a very significant contribution.

□ 1115

Mr. SCHIFF. Mr. Speaker, I appreciate the gentleman yielding me this time and his effort on this legislation.

As lead cosponsor of the Advancing Justice Through DNA Technology Act of 2003, I rise in strong support of this landmark piece of legislation that will solve countless crimes and potentially exonerate innocent individuals wrongly imprisoned.

For years we have attempted to deal with crime by focusing almost exclusively on increasing sentences of those that we catch rather than catching those who continue to elude all punishment. We have been tough on crime, but not always smart about our tactics.

As a former Federal prosecutor, I have long recognized what a powerful tool the use of DNA profiles has become in solving crime. The FBI DNA database contains about 1.5 million DNA profiles and has yielded thousands of matches in criminal investigations, and thousands of additional matches can and must be made.

For this reason, I introduced legislation earlier this year to increase the effectiveness of DNA databases. This legislation was aimed at replicating nationwide the success that many States have had, and I am pleased that many of these policy improvements have been included in the bill before us today.

I want to thank the majority and minority members of the House and Senate for their willingness to work together to incorporate some of the provisions that I authored to provide additional database searching capabilities for Federal, State, and local law enforcement agencies. These additional tools will help solve thousands of cold cases, including unsolved murders and rapes.

The legislation before us provides much-needed funding to eliminate the backlog of unanalyzed samples and will do much to protect the innocent and apprehend the guilty.

Mr. DELAHUNT. Mr. Speaker, I have no further speakers; but I yield the balance of the time on this side of the aisle to the gentleman from North Carolina (Mr. COBLE), my friend and the chairman of the Subcommittee on Crime and a well-known crime fighter.

Mr. COBLE. Mr. Speaker, I thank the gentleman for yielding me this time. I rise in hearty support for this legislation. I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), and the gentleman from Virginia (Mr. SCOTT) and many others on the subcommittee and the full committee for their hard work.

Mr. Speaker, this is a good piece of legislation, and I urge my colleagues to support it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the two gentlemen from Arizona and their arguments in opposition to the bill, I think, are really misdirected. The gentleman from Arizona (Mr. FLAKE) said that the system of federalism in terms of State public defenders is abused by this bill, and this really is not the case at all.

One of the reasons capital convictions end up being overturned has been that there has not been adequate counsel. This bill provides money to make sure that there is adequate counsel, not just on the defense side, but on the prosecution side as well, because States that use a public defender system to provide a defense in capital cases are eligible under this bill for both prosecution and defense frames.

The other gentleman from Arizona (Mr. SHADEGG) argues that the low standard for requiring new trials would allow criminals to go free. The bill does set appropriate standards for postconviction testing and new trials, but a judge must find that there is reasonable probability that the defendant did not actually commit the offense in order to even order a DNA test; and the preponderance of evidence standard would kick in once the court has ordered the test, and the test is either not inculpatory or is inconclusive. The court would then take the DNA test into account with all other evidence in deciding whether or not to order a new trial.

Mr. Speaker, this is a good bill. It will ensure that the guilty have a better chance of being convicted and will serve their punishment, and those who are innocent will have a better chance of being found not guilty and go free. I urge the House to support this bill.

Mr. EMANUEL. Mr. Speaker, today I rise as a strong supporter and cosponsor of H.R. 3214 the "Advancing Justice Through DNA Technology Act of 2003." This bill would provide prosecutors with solid DNA evidence, and a stronger defense for the accused. Ultimately, it will strengthen and renew faith in our judicial system. Allow me to offer just one example of why this bill is so important.

In 1999, Shawn Armbrust, Tom McCann and other students at the Medill School of Journalism at Northwestern University discovered that Illinois death row inmate Anthony Porter had been falsely convicted. Also through the hard work of other Medill students, the "Ford City Four" were also found to be wrongfully accused. The public exposure of the discoveries led to a review of all death row cases in Illinois and ultimately 156 inmates were given a blanket commutation. These remarkable events focused the global spotlight on Illinois and caused many to question the basic tenets of the judicial system. Disturbingly, Illinois, and indeed many other States, may have wrongfully executed innocent people. The Medill students combined their investigative reporting skills with new technology to free those wrongly accused. Similarly, this bill will go a long way towards ensuring that those wrongly accused. Similarly, this bill will go a long way towards ensuring that those accused of crimes have a better defense. It will also help prosecutors ensure that justice is served.

Mr. Speaker, the students at Medill opened the door by highlighting the flaws in Illinois' system. Now it is our job to guarantee a fair and impartial judicial system. H.R. 3214, the "Advancing Justice Through DNA Technology Act of 2003" takes us one step closer to righting the system.

Mr. NADLER. Mr. Speaker, I strongly support this legislation.

I want particularly to congratulate Mr. DELAHUNT who first introduced the Innocence Protection Act several years ago, and has worked tirelessly on this matter ever since. I want to thank the chairman and the members of the committee from both sides of the aisle for working together to put politics and sound bites aside and to pass meaningful legislation to fight crime and advance the cause of justice.

I am pleased that this bill includes the modified Innocence Protection Act that aims to reduce the possibility that innocent people will be put to death. I understand this is a delicate compromise, but I must say that this bill is only a first step, not a final step, in our efforts to reform our Nation's capital punishment laws. These laws are broken and major reform and full funding of this legislation is necessary to prevent the innocent from being wrongfully convicted and executed.

It is imperative that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way toward that goal. On the issue of rape kits, again, let me say, "It's about time." Many Members have been personally involved in the fight to test rape kits for several years now. I have worked with NOW, RAINN, and Liftime Television to raise awareness of this issue and to build consensus for decisive action. Together we have pushed, prodded, and demanded that Federal funding be provided to test these kits right away. Today, we are one step closer to our goal.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, but also actually appropriate funding when the time comes to pass the Commerce Justice State appropriations bill.

This issue is too important to ignore. Police Departments must have the resources they need to solve crimes and put criminals behind bars.

I am pleased that this bill includes a provision similar to the "Rape Kit DNA Analysis Backlog Elimination Act" which I introduced back in March 2002, which would have provided $250 million to eliminate the rape kit backlog 2 years ago. The bill before us today acknowledges that we were right back then when we requested major increases in funding, since this bill offers even more funding for this task. In addition, I am pleased to see that, like my bill, the phrase "rape kits" has been specifically added to our current law to further underscore the need for this funding to address rape crimes in particular. These heinous crimes deserve our full attention and the victims of the crimes deserve the certainty that DNA evidence can bring to them.

Once again, I am pleased to support this bill because it represents a serious effort to combat crime, locate and apprehend rapists, and use powerful evidence to put them in prison.

Mr. CASE. Mr. Speaker, I rise today in strong support of H.R. 3214, the Advancing Justice Through DNA Technology Act of 2003, and urge my colleagues to vote in support of final passage of this vital legislation.

Recently, my Honolulu Police Department received a grant from the U.S. Justice Department to cover the costs of conducting DNA analysis on backlogged cases, many of which are sexual assault crimes. While I am sure that we are all grateful for funding such as this, we must recognize that much more must be done, on a broader, more coordinated basis, to take full advantage of the legitimate uses of DNA evidence in criminal justice.

As an original cosponsor of H.R. 3214, I believe that this bill will bring a far better measure of justice to both victims and accuseds. It will also provide desperately needed support and resources for our local law enforcement efforts.

H.R. 3214 establishes new procedures for DNA testing for Federal inmates, and authorizes $5 million in grants over 6 years to help States defray the costs of post-conviction DNA testing. In addition, $755 million is authorized to help decrease the backlog of more than 300,000 rape kits, and more than $500 million is provided for grant programs to improve the capacity of federal, state and local crime labs to conduct DNA analyses, train criminal justice personnel in how to use DNA evidence, and promote the use of DNA technology to identify missing persons.

I commend the work of the members of the Committee on the Judiciary, especially Chairman SENSENBRENNER and Ranking Member CONYERS, who worked together in a true bipartisan fashion to develop the legislation and bring it to the floor in such a swift manner. Your efforts yielded broad support as H.R. 3214 has 249 cosponsors, which includes 69 Republicans, 179 Democrats, and 1 Independent.

Again, I urge my colleagues to support final passage of H.R. 3214.

Ms. PRYCE of Ohio. Mr. Speaker, today the House considers legislation that makes important progress in our fight against crime. H.R. 3214 represents months of bipartisan work by Members who are dedicated to improving law enforcement in our country. Through the increased and improved use of DNA evidence, law enforcement officials will be able to better identify criminals while protecting the innocent. I wholeheartedly support this bill.

Across the country, States are experiencing unprecedented backlogs in analyzing DNA evidence in criminal cases. These backlogs create interminable delays, robbing our system of the accuracy and efficiency necessary to identify the innocent, punish the perpetrators, and provide justice to victims. President Bush has recognized the gravity of this problem, and H.R. 3214 provides $755 million to help enact his initiative to reduce the backlogs of unanalyzed DNA evidence.

More specifically, H.R. 3214 includes essential provisions that provide for the testing of thousands of unexamined rape kits. According to the Department of Justice, across the United States there are at least 350,000 rape kit DNA samples that need to be analyzed. Many of these kits have been sitting on the shelves of laboratories for years. As a woman and as a Member of Congress, I find the delay in the processing of these kits appalling and unacceptable.

DNA evidence from rape kits can provide solid evidence of a perpetrator's identity. Often, these samples are the key piece of evidence, providing "cold hits" in cases for which there is no suspect. It is a crime in itself that the processing of these kits has been delayed so long. It is time for the Federal Government to provide the States with the assistance and direction needed to correct this injustice.

The bill we consider today provides $151 million each year for the next 4 years for States to eliminate their rape kit backlogs. The bill also ensures that private laboratories can assist in processing rape kits. These measures will ensure that thousands of women in the United States will finally have closure.

I urge my colleagues to support this important legislation.

Mr. CONYERS. Mr. Speaker, I want to thank Chairman SENSENBRENNER, Representative DELAHUNT and Members on both sides of the aisle for their hard work in developing this bipartisan, bicameral compromise. H.R. 3214 takes the first of hopefully many steps toward improving the integrity of our criminal justice system.

First and foremost, the bill provides Federal inmates with access to DNA testing, thereby enabling them to establish their innocence after being subjected to a wrongful conviction. As many of you know, over the past few years, more than 110 innocent Americans have already been exonerated thanks to post-conviction DNA testing. This provision will ensure that others wrongfully convicted will also have an equal chance at obtaining justice.

Second, the bill authorizes grants to be awarded to States with the express purpose of improving the quality of legal representation afforded indigent defendants in capital cases. Experts have indicated that many of the most egregious cases in which an innocent person was wrongfully convicted involved attorneys who were incompetent, ill-trained, or simply ineffective. These grants will dramatically alter this situation by providing defendants with defense counsel that meet a minimum standard of competency.

Finally, the bill contains a provision—not often mentioned—but of extreme importance to those that have been subjected to a wrongful conviction. I'm speaking of the provision in the bill that increases the maximum amount of damages an individual may be awarded for being wrongfully imprisoned from $5,000 to $50,000 per year in noncapital cases and up to $100,000 per year in capital cases.

Having pointed out the many virtues of the bill, I must admit this bill remains far from perfect. I would prefer the legislation include an outright ban on the use of the Federal death penalty. I also think the bill would have been considerably better if it addressed some of the many factors that contribute to the unacceptably high rate of wrongful convictions, including eyewitness error, perjury, false confessions, and police torture.

Nevertheless, I strongly support the delicate compromise that has been reached today. And, I urge my colleagues to support this worthwhile initiative.

Mr. COBLE. Mr. Speaker, very seldom do we find a law enforcement tool that benefits everyone involved in the criminal justice system equally. DNA is this tool. Prosecutors, defendants and victims all benefit from the fact that DNA provides an unquestionable evidence of guilt and innocence. Forensic DNA technology is the future of investigations and Congress must ensure that the criminal justice system has the necessary resources so that this technology can keep pace with the future demands an eliminate any backlog that may slow its progress.

The bill before us would ensure just that. The "Advancing Justice Through DNA Technology Act," would provide grants to improve the administration of justice by eliminating the DNA backlog, testing rape kits, improving forensic science and DNA labs in states, and providing training for law enforcement, prosecutors, medical personnel in DNA analysis.

There is no question that the current federal and state DNA collection and analysis system needs improvement. In many instances, public crime labs are overwhelmed by backlogs of unanalyzed DNA samples. In addition, these labs may be ill-equipped to handle the increasing influx of DNA samples and evidence. More research is needed to develop faster methods for analyzing DNA evidence and professionals involved in the criminal justice system need additional training and assistance to solve crimes.

The bill would also provide grants to states to improve the quality of legal representation for both indigent defendants and the public in capital cases. As my Chairman stated earlier, it is important to note that these grants may not be used for representation in a particular case or to fund political advocacy. This prohibition will prevent such dollars from being used to promote an anti-death penalty agenda.

The bill would also allow funding to process post conviction DNA test if certain criteria are met.

It is important to clarify that the bill allows DNA testing of evidence only when an applicant can show that it is consistent with a theory of defense, that testing would produce new material evidence to support the theory of defense, and assuming it excluded the defendant, would raise a reasonable probability that the applicant did not commit the offense.

Further, a judge would only be authorized to grant a new trial after considering potentially exculpatory DNA evidence in conjunction with all other evidence in the case.

Finally, a defendant could only apply for post conviction testing if the specific evidence to be tested was not previously subjected to DNA testing or new technology in testing has been developed and the defendant did not voluntarily waive his right to have the evidence tested. Again, it is important to note, a judge would still have to have to consider all evidence in the case.

I believe that the Innocence Protection Act provisions in the bill are necessary to both protect the rights of those wrongfully convicted and to preserve the integrity of the death penalty. As a proponent of capital punishment in appropriate cases, I also believe that individuals convicted of a crime and subsequently sentenced to death by a jury of their peers should have fair access to competent legal advice and due process under the law.

It is my opinion that as technology improves and new tools are available to investigate crimes and prosecute criminals, we must grow our justice system to accommodate such tools to preserve equal justice for all.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHADEGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REAUTHORIZING THE BAN ON UNDETECTABLE FIREARMS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3348) to reauthorize the ban on undetectable firearms, as amended.

The Clerk read as follows:

H.R. 3348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THE BAN ON UNDETECTABLE FIREARMS.

Section 2(f)(2) of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) is amended—

(1) by striking "15" and inserting "25";

(2) in subparagraph (B)—

(A) by striking "and (h)" and inserting "through (o)"; and

(B) by striking "and (g)" and inserting "through (n)"; and

(3) by striking subparagraphs (D) and (E) and inserting the following:

"(D) section 924(a)(1) of such title is amended by striking 'this subsection, subsection (b), (c), or (f) of this section, or in section 929' and inserting 'this chapter'; and

"(E) section 925(a) of such title is amended—

"(i) in paragraph (1), by striking 'and provisions relating to firearms subject to the prohibitions of section 922(p)'; and

"(ii) in paragraph (2), by striking ', except for provisions relating to firearms subject to the prohibitions of section 922(p),'; and

"(iii) in each of paragraphs (3) and (4), by striking 'except for provisions relating to firearms subject to the prohibitions of section 922(p),'.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3348, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the last few years, we have had to make a lot of adjustments in security for our Nation's airports, government buildings, and ports. We have recognized that this heightened security is necessary to protect the United States from terrorist threats. However, even before the events of September 11, 2001, Members of Congress recognized the possibility of threats from terrorists, both from within and without our borders.

In 1988, Congress passed a ban on undetectable firearms to prevent the manufacture, sale, importation, shipping, possession, transfer, or receipt of firearms that could not be detected by metal detectors or x-ray machines. Since passengers are not permitted to bring firearms on to planes and individuals cannot bring firearms into government buildings, it only makes sense that we ensure that the firearms purchased in this country are detectable by the security machines in those places.

The Undetectable Firearms Act of 1988 provided a sunset on the ban after 10 years to take into account any changes in technology of security machines or firearms. The ban was extended in 1998 for an additional 5 years, and H.R. 3348 would extend this ban for an additional 10 years. The penalties will remain the same: any violation of the ban is punishable by a fine or imprisonment up to 5 years.

It is easy to see why this ban, now more than ever before, must be extended. This is not the time to put our Nation's airports in jeopardy by allowing individuals to pass through security with undetected firearms. Plastic firearms, which are real guns that can do real harm, can breach this security. We can prevent that by prohibiting the manufacture of plastic firearms in the first place, and that is what this bill does.

I would point out that both the National Rifle Association and the U.S. Department of Justice support this legislation. I would like to read into the RECORD a letter which I received 2 days ago from Chuck Cunningham, director of Federal affairs for the NRA:

> Dear Chairman Sensenbrenner: On behalf of our 4 million members, I am writing to express our support for H.R. 3348, your legislation to extend the sunset of the restriction of undetectable firearms.
>
> It is very important to be absolutely clear about the history of this legislation. When originally passed in 1988, the Undetectable Firearms Act did not ban any existing firearm. The extension of this restriction would also not prohibit any firearm in production today. This legislation was and still is purely preventive. The sunset provision was included as a way to balance the possible future development of nonmetallic firearms against likely improvements in detection technology. The statute also allows the executive branch to reduce restrictions under the bill to adapt to those changes.
>
> Based on the current state of firearms and detection technology, we believe that a straight 10-year extension is an appropriate way to allow continued flexibility, while removing the issue beyond current political debates. Please let me know if we can be of assistance in the speedy passage of this legislation.

This is signed, "Charles H. Cunningham, Director of Federal Affairs" for the National Rifle Association.

I believe that this is commonsense legislation. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman of the Committee on the Judiciary for his leadership on this issue. In the wake of the September 11 attacks, we need to do much more to prevent dangerous firearms from falling into the hands of would-be terrorists and other violent criminals.

We could start by renewing the current assault weapons ban. We could also strengthen criminal background checks and close the gun show loophole so that rogue gun dealers will not be able to evade the current spirit of the law and sell guns to criminals and suspected terrorists. Finally, we need to protect us from firearms that cannot be detected by metal detectors or x-ray machines.

The bill before us today achieves the last of these objectives. It renews the Undetectable Firearms Act of 1988, also known as the Plastic Gun Law, which makes it illegal to manufacture, import, possess, or transfer a firearm that is not detectable by walk-through metal detectors or airport x-ray machines.

Renewing the ban on plastic guns is vital. The gun industry clearly has the technology to manufacture firearms that cannot be detected by metal detectors or x-ray machines. As early as 1986, the Congressional Office of Technology Assessment determined that the "technology does exist to manufacture certain firearms which would be completely or almost completely nonmetallic" and that "plastic handguns may be available on the commercial market quite soon."

Indeed, shortly thereafter, in 1986, an attempt was made by Libyan dictator Muammar Qaddafi to purchase more than 100 firearms produced in Austria and constructed almost entirely out of hardened plastic.

With the ongoing war on terrorism, it is even more important than ever that we take an aggressive stance against dangerous weapons that make our society vulnerable to future terrorist-related attacks. H.R. 3348 was introduced with this in mind; and while I would strongly prefer to make this bill permanent and not just an extension, I think the extension is an important step in the right direction, and I urge my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3348, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1130

GENERAL LEAVE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to go to conference on H.R. 2800, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 2800, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

Mr. KOLBE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2800) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mrs. LOWEY moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2800, making appropriations for foreign operations, export financing, and related programs for the fiscal year 2004 be instructed to insist on the provisions of the Senate bill providing a total of $1,726,000,000 to combat HIV/AIDS, tuberculosis and malaria.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII the gentlewoman from New York (Mrs. LOWEY) and the gentleman from Arizona (Mr. KOLBE) each will control 30 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion to instruct the conferees on the fiscal year 2004 foreign operations bill will ensure that the House is clearly on record to provide the highest possible funding level for HIV/AIDS, tuberculosis, and malaria in 2004.

With the $700 million provided in the Labor HHS bill for these purposes, acceptance of these funding levels would bring the total amount provided for HIV/AIDS, TB, and malaria in 2004 to $2.4 billion.

This motion urges the House conferees to approve the higher levels in the Senate-passed bill. While I had hoped to reach the level of $3 billion, as the President has promised, acceptance of this motion gets us most of the way there. A Republican-sponsored amendment to add $300 million in HIV/AIDS funding passed overwhelmingly in the other body. In addition, the Senate bill increases the amounts for TB and malaria by $30 million above House levels. This motion simply solidifies the funding levels implied by the HIV amendment and the underlying bill.

We should not forget that this House voted to authorize $3 billion to fulfill the first year of the President's 5-year/$15 billion global AIDS initiative. The President left the distinct impression during his visit to Africa that the full $3 billion would be provided in 2004, despite the fact that the President only requested $2 billion in funding.

While our attention, and much of the media's, has appropriately focused on Iraq, we must not lose sight of the fact that HIV/AIDS is not only a humanitarian crisis but it is a grave threat to global stability. The African continent is being destroyed by this pandemic. Of the 42 million people infected with HIV, almost three-quarters live in Africa. Life expectancies in Africa are falling rapidly. In some countries, people are not expected to live past their 40s. By the year 2010, there will be 40 million AIDS orphans.

There are still many countries in Africa where condom distribution, access to HIV testing, treatment, and education programs are simply not available. More resources are necessary. And our capacity to plan and deliver programs can, and must, be expanded.

The global AIDS bill, recently passed by Congress, requires that our HIV programs begin a transition from awareness and comprehensive prevention to treatment and abstinence promotion programs. This will be an expensive undertaking, and it should not replace current efforts which emphasize a balanced approach to prevention and awareness. New efforts require new resources.

We have been heartened by recent breakthroughs in the availability of drugs to treat HIV. Countries such as Thailand, India, and China are moving aggressively to produce and distribute drugs to HIV-infected populations at affordable prices. However, those same drugs remain unavailable in most African countries. Similarly, there are many promising new forms of malaria treatment now being researched. New resources will speed up their availability and save lives.

The additional funds can be used next year to speed expansion of mother-to-child transmission programs, accelerate the creation of viable treatment programs, establish drug purchase and distribution programs, expand the President's initiative beyond the 14 countries currently identified, and expand prevention programs.

With respect to the Global Fund to fight HIV, the passage of this motion will help ensure the highest possible funding level. While the House bill has $400 million for the fund, the Senate bill has only $250 million. More for HIV means more for the fund.

This additional funding can be used wisely next year. It will make a real difference and save lives and it will demonstrate to the world that when the United States makes a promise, we keep it.

Mr. Speaker, I urge support of the motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the motion of my friend and colleague, the gentlewoman from New York (Mrs. LOWEY), deserves a few comments from me here this morning. I also would like to see more resources applied to the HIV/AIDS pandemic, as well as the other diseases such as malaria and tuberculosis that are included in our infectious diseases account and in the Global Fund. I think all of us would like to see that happen.

I certainly voted for the $3 billion authorization that passed this House earlier. I also spoke during our debate on our bill and said that I believe the amount that we had in there was a reasonable amount of money, that could be expended during the course of the coming fiscal year. I still believe that to be the case. But if we can find ways to put this money into existing programs or other programs and make sure that it works given the constraints that we have, and I think we need to acknowledge the constraints that we have, for example, on the Global Fund of contributing no more than one-third of the total dollars that are made available to that fund, if we can do that, given the constraints that we have, then I am in favor of it. For that reason, I do not oppose this motion to instruct the conferees.

But whether or not the conference provides $1.426 billion, as passed by the House, or $1.726 billion as passed by the Senate, in other words a $300 million difference there, if it is something in between, depends in my view, on three factors:

The first is the allocation that the foreign operations conference will have under the Congressional Budget Resolution. The second, of course, will be the competing priorities that we have when we go to conference. There is going to be a priority of some for more money for maternal health. There is going to be a priority for more money for education. Some will argue for the creation of jobs in the United States through export promotion.

The third factor that I think will be critical in determining exactly how much we finally are able to allocate to fighting this HIV/AIDS pandemic is the funding that not only the Foreign Operations appropriation conference gets, but the Labor HHS appropriations conference. Because they also have money in there that goes to the Global Fund and to fight this disease. Each of them contain differing House and Senate levels for the Global Fund to Fight AIDS, TB, and malaria and for other bilateral programs.

So this is not as though we are operating entirely within the confines of the Foreign Operations bill, but rather we also have to know what is going to be done by our sister subcommittee that handles Labor and Health and Human Services.

Given those three factors, Mr. Speaker, I am hopeful, however, that we will be able to add to the amount of dollars that we have now allocated for HIV/AIDS. And I look forward to working with my colleague, the gentlewoman from New York (Mrs. LOWEY) and other members of the conference committee both from the House and Senate to resolve this issue in a way that will give us the maximum funds available to fight this pandemic, which is not only a moral issue for most of us here in the Congress, but I think also a matter of national security for the United States.

Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that I know of the chairman's real commitment to this issue and know that he understands the pain and suffering that is resulting from the lack of finances in providing the education, the prevention education, the drugs that are so necessary. And now that the cost of these drugs are so very reasonable, when you think about the choices we have either to increase the dollars and save lives or not increase the dollars and continue the terrible tragedy, and I know of the chairman's commitment to this issue, I would expect that there will be a commitment on the part of the chairman to work with the leadership in the House to find the additional funds, as we know they did in the Senate, without taking the funds away from other critical programs. I am pleased that the Senate has been able to locate these additional funds.

I look forward to working with the gentleman and finding these funds for this very vital cause.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentlewoman from New York (Mrs. LOWEY) for yielding me this time. I also want to commend the gentleman from Arizona (Chairman KOLBE) and the ranking member for the outstanding work that they have both done in shaping this legislation.

I rise in support of the Lowey motion to instruct conferees on the Foreign Ops appropriation bill to reflect the Senate version of assistance for the U.S. Agency for International Development, for child survival and disease programs for HIV/AIDS, polio, malaria, tuberculosis, and other infectious diseases, including family planning and reproductive health programs.

I commend the gentlewoman from New York (Mrs. LOWEY) for this motion because it reflects her keen insight and understanding and sensitivity to the health and medical needs of underdeveloped nations, especially in Africa.

Mr. Speaker, this motion is not a budget breaker. It is not a program alterer. It does not change any program, nor does it create any serious imbalances. It simply asks that the conferees support the other body's mark which is $1,726,000,000. It is not a lot of additional money between the two. But when we think of what a little bit of money can do in Africa, what it can do for individuals who are simply waiting to die, who have no hope, who have lost it all, given up, who have said that the only thing that they can do is wait and hope that something happens, well, this gives hope to those millions, this gives hope to those thousands, it is a very rational motion. I am pleased to support it.

Mr. Speaker, again, I commend both the gentleman from Arizona (Chairman KOLBE) and the gentlewoman from New York (Ranking Member LOWEY) for the outstanding work that they have done.

Mr. KOLBE. Mr. Speaker, I continue to reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield 4½ minutes to the distinguished gentlewoman from California (Ms. LEE) who has been a real leader on this issue and has certainly traveled to Africa over and over again to see the pain and suffering.

Ms. LEE. Mr. Speaker, let me just take a moment to thank the gentlewoman from New York (Mrs. LOWEY) for her tireless efforts on the Foreign Operations Appropriations subcommittee to secure more funding for our global AIDS, tuberculosis, and malaria programs. She has been consistent and has really helped put the appropriations funding process in perspective. So I just want to commend and thank the gentlewoman from New York (Mrs. LOWEY) for her leadership.

Mr. Speaker, I rise today to join all of our colleagues by supporting this motion to instruct conferees to accept the Senate's level of funding for our global AIDS, TB, and malaria programs in the fiscal year 2004 Foreign Operations Appropriations bill.

□ 1145

Mr. Speaker, AIDS, TB and malaria have quite simply ravaged Africa and the developing world. Every year over 6 million people worldwide die needlessly, sometimes of all three of these diseases. Six million people. Can you imagine. Just think for a minute. Six million people. Six million. That is roughly equivalent to losing the entire State of Indiana, Massachusetts, or Washington every single year.

Now, the vast majority of these deaths could be prevented for just over $300 a year, a price that is really continuing to drop. HIV/AIDS patients who are really on the brink of death can be revived with lifesaving antiretroviral therapies. For just $10 an entire course of DOTS treatment, TB-infected patients, who are often coinfected with AIDS, can be cured. For just 2 to $3 we can provide individuals with an insecticide-treated bed net to kill mosquitos and reduce malaria infections.

That is not a lot of money to save so many millions of lives, Mr. Speaker. These are not complicated interventions. Success stories like the clinic run by Dr. Paul Farmer in Haiti have proven that members of the community can be trained in a single week to monitor and provide effective drug treatments with a minimal level of supervision while ensuring maximum adherence of patients to an often-strict drug regime.

Programs like these must be strengthened and accelerated. With the help of the Global Fund to fight TB, AIDS, and malaria and the World Health Organization's new three by five AIDS initiatives, the capacity to scale up such programs will be greatly improved. Contrary to what many say and believe, the capacity is there to provide the care and treatment and prevention. These NGOs and these faith-based organizations, they only need the resources to do that. So that is where we must come in.

By agreeing to this motion to instruct the conferees, we can expand upon the initiatives of the Global Fund and WHO while also strengthening our own bilateral AIDS program.

This is very necessary, this motion. Last week the other body added the $289 million for the Global AIDS Fund via the defense budget authority, I believe, the budget authority offsets to their version of the foreign ops appropriations bill.

I want to be clear, though. This motion should not infringe on the $400 million that the House has already endorsed for the Global Fund this year. While I urge my colleagues to accept this motion, I must again voice my discontent that we are still not at the $3 billion which we authorized.

Secretary of State Colin Powell, I want to remind us all that he has said time and time again that the global AIDS pandemic is far more deadly and insidious than any form of terrorism. So by failing to treat it as such, we devalue the lives of those who are already suffering and dying. And by delaying the full funding of this initiative now, we only make the task more difficult later on.

Mr. Speaker, I want to thank the gentlewoman from New York (Mrs.

LOWEY) for her leadership and for making sure that this body moves forward in addressing this pandemic in the way that we should.

Mr. KOLBE. Mr. Speaker I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan (Ms. KILPATRICK), a distinguished member of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Committee on Appropriations, and a strong leader on this very issue.

Ms. KILPATRICK. Mr. Speaker, I thank the gentleman from Arizona (Mr. KOLBE) for his leadership. I enjoy working with him and the things we do together.

To my ranking member, the gentlewoman from New York (Mrs. LOWEY), who continues to be a bright spot as we help and serve countries all over this world, I thank her for her leadership, generally and particularly on the HIV/AIDS issue.

Mr. Speaker, I rise to support the motion to instruct and ask that this body also support the motion to instruct. The pandemic that we see all over the world, HIV and AIDS, is serious trouble. That is what a pandemic is.

It started in the continent of Africa, moving to Asia, to India, to the former Soviet Union and other places of the world. This is truly a pandemic that can be contained, not cured, but can be contained with the proper resources.

As has been mentioned before, HIV/AIDS, TB, and malaria are illnesses and diseases that, if contained properly with education of those who are infected and in those regions of the world, we can cease the pandemic and begin to address the problems that we now face.

The motion to instruct provides the resources that our country can give to those countries who find themselves in assault. We must do no less than to support the motion to instruct.

We know how to contain this. We know where it is in pandemic proportions. When the resources are available in our world community, in our world global AIDS effort, we will find more children more healthy in their communities, in their families, in their countries. The troops that we send out across this world in these various places where the pandemic is, we then have resources to address that so that they do not then encounter these very same illnesses.

The nongovernmental organizations, the NGOs that practice and actually teach and educate, and in some instances actually treat and provide the services, are there, are up and ready and can dispense the money that we have available.

The faith-based network that is around this world, they give resources, training, education, as well as treatment. So I support the gentlewoman from New York (Mrs. LOWEY) in her effort. It is important that we go along with the Senate. And this motion to instruct is a small step towards the $3 billion and the $15 billion commitment that this President made for a 3-year commitment.

I hope that we will support the motion to instruct. It is the right way, and again, less than the President has advised he would do but better than what we have right now. I urge Members to support the motion to instruct.

Mr. KOLBE. Mr. Speaker, I reserve the balance of my time.

Mrs. LOWEY. Mr. Speaker, I have no further speakers, and I reserve the balance of my time to close.

The SPEAKER pro tempore (Mr. BASS). The gentlewoman from New York (Mrs. LOWEY) has the right to close.

Mr. KOLBE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that I appreciate the comments we have heard here today. The expression of concern about the HIV/AIDS pandemic is one that I share and I think all Members of the House share.

I would just note that we are concerned not only about this HIV/AIDS pandemic which is already ravaging the continent of Africa, but we are very concerned about the growing scourge in South Asia, in India, in Central Asia, and in China and in Russia. These are countries where the epidemic is just beginning to take off.

We have an opportunity to do something there about preventing it from becoming that much worse. So I would hope that as we go through with the efforts to fight this disease that we focus not just on where it is already taking such a heavy toll but in preventing it from taking a very heavy toll in other places.

Mr. Speaker, I yield back the balance of my time.

Mrs. LOWEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to again express my appreciation for the support of the chairman for the dollars that were appropriated in the Senate side. However, I have heard rumors which I strongly oppose that there are those who are talking about an across-the-board cut. As we know, there are many possibilities for adjustments in the 302(b); and I would hope that we can work together with the leadership in both Houses in making the adjustment of the 302(b) and add the additional dollars that have been included in the Senate bill.

We know that given the incredible progress that is made, we know that when we can save lives for $300 a year that we have a moral obligation to do as much as we can within the confines of what is possible; and I look forward to working closely with the gentleman in finding these additional dollars, adjusting the 302(b), and appropriating in conference the dollar amount that has already been appropriate in the Senate. I thank the chairman for his acceptance of this motion to instruct.

Mr. HOYER. Mr. Speaker, I rise in support of the motion offered by Mrs. LOWEY to accept the Senate's level of funding for the U.S. contribution in fiscal year 2004 to global programs to combat the spread of HIV/AIDS.

Mr. Speaker, this should not be a difficult motion for Members on either side of the aisle to support.

It simply calls for the adoption of a funding level for HIV/AIDS programs that was supported in the Senate last week by a vote of 89–1.

Furthermore, it does not even reach the authorized level of funding that was signed into law by the President and supported by 375 Members of this House in May.

In fact, the President during his State of the Union Address committed $15 billion in foreign assistance spending over 5 years to stop the spread of HIV/AIDS. Congress has since authorized this level through the enactment of H.R. 1298.

Regrettably, the President's budget did not call for the full $3 billion authorized for FY 2004, and the amount provided in the House version of the fiscal year 2004 Foreign Operations bill falls woefully short of that $3 billion which is necessary to begin making good on our commitment.

Mr. Speaker, the problem of HIV/AIDS is especially acute on the Continent of Africa, particularly sub-Saharan Africa, where 29.4 million people are living with HIV and AIDS.

Put another way, while the African Continent accounts for only about 10 percent of the world's population, more than 70 percent of the worldwide total of infected people reside there; and there are 11,000 new infections in Africa every day.

Earlier this year I had the opportunity to travel to South Africa and saw first hand the extent of the pandemic, the challenges facing African countries as they attempt to deal with this scourge, and the dire need for economic assistance to implement prevention programs and to provide treatment for those already infected.

We are at a crucial stage in the global war against HIV/AIDS, with the number of worldwide deaths expected to double from last year's estimate of just over 5 million to nearly 12 million next year.

To those who would argue that we cannot afford the additional funding provided in the Senate bill, I say that even this level is still not enough.

Mr. Speaker, we have the opportunity to help stop the spread of this HIV/AIDS, to provide comfort and relief to those already suffering its effects, and to give hope to millions around the world who live in despair because of this horrible disease.

Our compassion and morality command that we seize that opportunity and live up to the commitment we have made.

Mrs. LOWEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from New York (Mrs. LOWEY).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. KOLBE, KNOLLENBERG, LEWIS of California, WICKER, BONILLA, VITTER, KIRK, CRENSHAW, YOUNG of Florida, Mrs. LOWEY, Mr. JACKSON of Illinois, Ms. KILPATRICK, Mr. ROTHMAN, Ms. KAPTUR and Mr. OBEY.

There was no objection.

MILITARY FAMILY TAX RELIEF ACT OF 2003

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the "Military Family Tax Relief Act of 2003".

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) Table of Contents.—

Sec. 1. Short title, etc.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

Sec. 101. Exclusion of gain from sale of a principal residence by a member of the uniformed services or the Foreign Service.
Sec. 102. Treatment of death gratuities payable with respect to deceased members of the Armed Forces.
Sec. 103. Exclusion for amounts received under Department of Defense homeowners assistance program.
Sec. 104. Expansion of combat zone filing rules to contingency operations.
Sec. 105. Modification of membership requirement for exemption from tax for certain veterans' organizations.
Sec. 106. Clarification of the treatment of certain dependent care assistance programs.
Sec. 107. Clarification relating to exception from additional tax on certain distributions from qualified tuition programs, etc. on account of attendance at military academy.
Sec. 108. Suspension of tax-exempt status of terrorist organizations.
Sec. 109. Above-the-line deduction for overnight travel expenses of National Guard and Reserve members.
Sec. 110. Tax relief and assistance for families of Space Shuttle Columbia heroes.

TITLE II—REVENUE PROVISION

Sec. 201. Extension of customs user fees.

TITLE I—IMPROVING TAX EQUITY FOR MILITARY PERSONNEL

SEC. 101. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY A MEMBER OF THE UNIFORMED SERVICES OR THE FOREIGN SERVICE.

(a) In General.—Subsection (d) of section 121 (relating to exclusion of gain from sale of principal residence) is amended by redesignating paragraph (9) as paragraph (10) and by inserting after paragraph (8) the following new paragraph:

"(9) Members of uniformed services and foreign service.—

"(A) In general.—At the election of an individual with respect to a property, the running of the 5-year period described in subsections (a) and (c)(1)(B) and paragraph (7) of this subsection with respect to such property shall be suspended during any period that such individual or such individual's spouse is serving on qualified official extended duty as a member of the uniformed services or of the Foreign Service of the United States.

"(B) Maximum period of suspension.—The 5-year period described in subsection (a) shall not be extended more than 10 years by reason of subparagraph (A).

"(C) Qualified official extended duty.—For purposes of this paragraph—

"(i) In general.—The term 'qualified official extended duty' means any extended duty while serving at a duty station which is at least 50 miles from such property or while residing under Government orders in Government quarters.

"(ii) Uniformed services.—The term 'uniformed services' has the meaning given such term by section 101(a)(5) of title 10, United States Code, as in effect on the date of the enactment of this paragraph.

"(iii) Foreign service of the United States.—The term 'member of the Foreign Service of the United States' has the meaning given the term 'member of the Service' by paragraph (1), (2), (3), (4), or (5) of section 103 of the Foreign Service Act of 1980, as in effect on the date of the enactment of this paragraph.

"(iv) Extended duty.—The term 'extended duty' means any period of active duty pursuant to a call or order to such duty for a period in excess of 90 days or for an indefinite period.

"(D) Special rules relating to election.—

"(i) Election limited to 1 property at a time.—An election under subparagraph (A) with respect to any property may not be made if such an election is in effect with respect to any other property.

"(ii) Revocation of election.—An election under subparagraph (A) may be revoked at any time.".

(b) Effective Date; Special Rule.—

(1) Effective date.—The amendments made by this section shall take effect as if included in the amendments made by section 312 of the Taxpayer Relief Act of 1997.

(2) Waiver of limitations.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 102. TREATMENT OF DEATH GRATUITIES PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) Increase in Amount of Death Gratuity.—

(1) In general.—Section 1478(a) of title 10, United States Code, is amended by striking "$6,000" and inserting "$12,000".

(2) Effective date.—The amendment made by this subsection shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

(b) Exclusion From Gross Income.—

(1) In general.—Subsection (b)(3) of section 134 (relating to certain military benefits) is amended by adding at the end the following new subparagraph:

"(C) Exception for death gratuity adjustments made by law.—Subparagraph (A) shall not apply to any adjustment to the amount of death gratuity payable under chapter 75 of title 10, United States Code, which is pursuant to a provision of law enacted after September 9, 1986.".

(2) Conforming amendment.—Subparagraph (A) of section 134(b)(3) is amended by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)".

(3) Effective date.—The amendments made by this subsection shall apply with respect to deaths occurring after September 10, 2001.

SEC. 103. EXCLUSION FOR AMOUNTS RECEIVED UNDER DEPARTMENT OF DEFENSE HOMEOWNERS ASSISTANCE PROGRAM.

(a) In General.—Section 132(a) (relating to the exclusion from gross income of certain fringe benefits) is amended by striking "or" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", or", and by adding at the end the following new paragraph:

"(8) qualified military base realignment and closure fringe.".

(b) Qualified Military Base Realignment and Closure Fringe.—Section 132 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Qualified Military Base Realignment and Closure Fringe.—For purposes of this section—

"(1) In general.—The term 'qualified military base realignment and closure fringe' means 1 or more payments under the authority of section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) (as in effect on the date of the enactment of this subsection) to offset the adverse effects on housing values as a result of a military base realignment or closure.

"(2) Limitation.—With respect to any property, such term shall not include any payment referred to in paragraph (1) to the extent that the sum of all of such payments related to such property exceeds the maximum amount described in clause (1) of subsection (c) of such section (as in effect on such date).".

(c) Effective Date.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 104. EXPANSION OF COMBAT ZONE FILING RULES TO CONTINGENCY OPERATIONS.

(a) In General.—Section 7508(a) (relating to time for performing certain acts postponed by reason of service in combat zone) is amended—

(1) by inserting ", or when deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the Secretary of Defense as a contingency operation (as defined in section 101(a)(13) of title 10, United States Code) or which became such a contingency operation by operation of law" after "section 112",

(2) by inserting in the first sentence "or at any time during the period of such contingency operation" after "for purposes of such section",

(3) by inserting "or operation" after "such an area", and

(4) by inserting "or operation" after "such area".

(b) Conforming Amendments.—

(1) Section 7508(d) is amended by inserting "or contingency operation" after "area".

(2) The heading for section 7508 is amended by inserting "**OR CONTINGENCY OPERATION**" after "**COMBAT ZONE**".

(3) The item relating to section 7508 in the table of sections for chapter 77 is amended by inserting "or contingency operation" after "combat zone".

(c) Effective Date.—The amendments made by this section shall apply to any period for performing an act which has not expired before the date of the enactment of this Act.

SEC. 105. MODIFICATION OF MEMBERSHIP REQUIREMENT FOR EXEMPTION FROM TAX FOR CERTAIN VETERANS' ORGANIZATIONS.

(a) In General.—Subparagraph (B) of section 501(c)(19) (relating to list of exempt organizations) is amended by striking "or widowers" and inserting ", widowers, ancestors, or lineal descendants".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 106. CLARIFICATION OF THE TREATMENT OF CERTAIN DEPENDENT CARE ASSISTANCE PROGRAMS.

(a) In General.—Section 134(b) (defining qualified military benefit) is amended by adding at the end the following new paragraph:

"(4) Clarification of Certain Benefits.—For purposes of paragraph (1), such term includes any dependent care assistance program (as in effect on the date of the enactment of this paragraph) for any individual described in paragraph (1)(A).".

(b) Conforming Amendments.—

(1) Section 134(b)(3)(A), as amended by section 102, is amended by inserting "and paragraph (4)" after "subparagraphs (B) and (C)".

(2) Section 3121(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(3) Section 3306(b)(13) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(4) Section 3401(a)(18) is amended by striking "or 129" and inserting ", 129, or 134(b)(4)".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

(d) No Inference.—No inference may be drawn from the amendments made by this section with respect to the tax treatment of any amounts under the program described in section 134(b)(4) of the Internal Revenue Code of 1986 (as added by this section) for any taxable year beginning before January 1, 2003.

SEC. 107. CLARIFICATION RELATING TO EXCEPTION FROM ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS, ETC. ON ACCOUNT OF ATTENDANCE AT MILITARY ACADEMY.

(a) In General.—Subparagraph (B) of section 530(d)(4) (relating to exceptions from additional tax for distributions not used for educational purposes) is amended by striking "or" at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

"(iv) made on account of the attendance of the designated beneficiary at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy, to the extent that the amount of the payment or distribution does not exceed the costs of advanced education (as defined by section 2005(e)(3) of title 10, United States Code, as in effect on the date of the enactment of this section) attributable to such attendance, or".

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 108. SUSPENSION OF TAX-EXEMPT STATUS OF TERRORIST ORGANIZATIONS.

(a) In General.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Suspension of Tax-Exempt Status of Terrorist Organizations.—

"(1) In general.—The exemption from tax under subsection (a) with respect to any organization described in paragraph (2), and the eligibility of any organization described in paragraph (2) to apply for recognition of exemption under subsection (a), shall be suspended during the period described in paragraph (3).

"(2) Terrorist organizations.—An organization is described in this paragraph if such organization is designated or otherwise individually identified—

"(A) under section 212(a)(3)(B)(vi)(II) or 219 of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization,

"(B) in or pursuant to an Executive order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction, or

"(C) in or pursuant to an Executive order issued under the authority of any Federal law if—

"(i) the organization is designated or otherwise individually identified in or pursuant to such Executive order as supporting or engaging in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act) or supporting terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989); and

"(ii) such Executive order refers to this subsection.

"(3) Period of suspension.—With respect to any organization described in paragraph (2), the period of suspension—

"(A) begins on the later of—

"(i) the date of the first publication of a designation or identification described in paragraph (2) with respect to such organization, or

"(ii) the date of the enactment of this subsection, and

"(B) ends on the first date that all designations and identifications described in paragraph (2) with respect to such organization are rescinded pursuant to the law or Executive order under which such designation or identification was made.

"(4) Denial of deduction.—No deduction shall be allowed under any provision of this title, including sections 170, 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), and 2522, with respect to any contribution to an organization described in paragraph (2) during the period described in paragraph (3).

"(5) Denial of administrative or judicial challenge of suspension or denial of deduction.—Notwithstanding section 7428 or any other provision of law, no organization or other person may challenge a suspension under paragraph (1), a designation or identification described in paragraph (2), the period of suspension described in paragraph (3), or a denial of a deduction under paragraph (4) in any administrative or judicial proceeding relating to the Federal tax liability of such organization or other person.

"(6) Erroneous designation.—

"(A) In general.—If—

"(i) the tax exemption of any organization described in paragraph (2) is suspended under paragraph (1),

"(ii) each designation and identification described in paragraph (2) which has been made with respect to such organization is determined to be erroneous pursuant to the law or Executive order under which such designation or identification was made, and

"(iii) the erroneous designations and identifications result in an overpayment of income tax for any taxable year by such organization,

credit or refund (with interest) with respect to such overpayment shall be made.

"(B) Waiver of limitations.—If the credit or refund of any overpayment of tax described in subparagraph (A)(iii) is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the last determination described in subparagraph (A)(ii).

"(7) Notice of Suspensions.—If the tax exemption of any organization is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations and shall publish appropriate notice to taxpayers of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.".

(b) Effective Date.—The amendments made by this section shall apply to designations made before, on, or after the date of the enactment of this Act.

SEC. 109. ABOVE-THE-LINE DEDUCTION FOR OVERNIGHT TRAVEL EXPENSES OF NATIONAL GUARD AND RESERVE MEMBERS.

(a) Deduction Allowed.—Section 162 (relating to certain trade or business expenses) is amended by redesignating subsection (p) as subsection (q) and inserting after subsection (o) the following new subsection:

"(p) Treatment of Expenses of Members of Reserve Component of Armed Forces of the United States.—For purposes of subsection (a)(2), in the case of an individual who performs services as a member of a reserve component of the Armed Forces of the United States at any time during the taxable year, such individual shall be deemed to be away from home in the pursuit of a trade or business for any period during which such individual is away from home in connection with such service.".

(b) Deduction Allowed Whether or Not Taxpayer Elects To Itemize.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following new subparagraph:

"(E) Certain expenses of members of reserve components of the armed forces of the united states.—The deductions allowed by section 162 which consist of expenses, determined at a rate not in excess of the rates for travel expenses (including per diem in lieu of subsistence) authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, paid or incurred by the taxpayer in connection with the performance of services by such taxpayer as a member of a reserve component of the Armed Forces of the United States for any period during which such individual is more than 100 miles away from home in connection with such services.".

(c) Effective Date.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

SEC. 110. TAX RELIEF AND ASSISTANCE FOR FAMILIES OF SPACE SHUTTLE COLUMBIA HEROES.

(a) Income Tax Relief.—

(1) In general.—Subsection (d) of section 692 (relating to income taxes of members of Armed Forces and victims of certain terrorist attacks on

death) is amended by adding at the end the following new paragraph:

"(5) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.".

(2) CONFORMING AMENDMENTS.—

(A) Section 5(b)(1) is amended by inserting ", astronauts," after "Forces".

(B) Section 6013(f)(2)(B) is amended by inserting ", astronauts," after "Forces".

(3) CLERICAL AMENDMENTS.—

*(A) The heading of section 692 is amended by inserting "**, ASTRONAUTS,**" after "**FORCES**".*

(B) The item relating to section 692 in the table of sections for part II of subchapter J of chapter 1 is amended by inserting ", astronauts," after "Forces".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any astronaut whose death occurs after December 31, 2002.

(b) DEATH BENEFIT RELIEF.—

(1) IN GENERAL.—Subsection (i) of section 101 (relating to certain death benefits) is amended by adding at the end the following new paragraph:

"(4) RELIEF WITH RESPECT TO ASTRONAUTS.—The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty.".

(2) CLERICAL AMENDMENT.—The heading for subsection (i) of section 101 is amended by inserting "OR ASTRONAUTS" after "VICTIMS".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid after December 31, 2002, with respect to deaths occurring after such date.

(c) ESTATE TAX RELIEF.—

(1) IN GENERAL.—Section 2201(b) (defining qualified decedent) is amended by striking "and" at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) any astronaut whose death occurs in the line of duty.".

(2) CLERICAL AMENDMENTS.—

*(A) The heading of section 2201 is amended by inserting "**, DEATHS OF ASTRONAUTS,**" after "**FORCES**".*

(B) The item relating to section 2201 in the table of sections for subchapter C of chapter 11 is amended by inserting ", deaths of astronauts," after "Forces".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 2002.

TITLE II—REVENUE PROVISION

SEC. 201. EXTENSION OF CUSTOMS USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking "March 31, 2004" and inserting "March 1, 2005".

Amend the title so as to read: "An Act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from New York (Mr. MCNULTY) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to stand before the House today in support of the Military Family Tax Relief Act.

I want to start out today by saying how extremely proud I am of the men and women who serve in our military. No matter where I go, I have absolute rapt attention from everyone when I talk about the members of our Armed Forces. I hope our troops know that. All across the Nation, citizens are proud of the work our troops do and Americans are grateful for the sacrifices that they and their families make for the defense of our Nation.

This bill doubles the military death benefit gratuity to $12,000 and excludes from taxation that whole amount. Just last week we passed this concept for the third time. This will be the last time this Congress will need to vote on this bill because this version has been approved by our colleagues on the Senate side of the Capitol, and we will be passing the exact bill so that President Bush can sign it into law.

This bill is also retroactive to September 11, 2001, so that all of our men and women who have died in service of their country since that day will receive this benefit. This is what a grateful country does for the families of those servicemembers. I am proud that we will be fixing the problem of having a knock at the door by the military chaplain which will no longer be followed by a knock at the door from the tax man. This bill does that and more.

It will also make taxes a smaller problem for active military and reserves. The Military Families Tax Relief Act provides reasonable accommodations to members of the military so that they too can benefit from the current $500,000 exclusion from capital gains on the sale of a home. To get this exclusion, a family must live in a home for at least 2 of the previous 5 years. This is generally a reasonable requirement, but for those serving in the military such a requirement is out of their control when orders ship them to any of the four corners of the Earth.

As a 29-year veteran of the Air Force, my wife and I moved many times. In the last 7 years we had seven different moves. So I know firsthand about being transferred. And sometimes you live in base housing, and sometimes you live in your own home.

□ 1200

It was a part of the job then and it still is today, and I think it is a reasonable accommodation for the tax code to hold them harmless for those times when they are not living in their homes. As long as the servicemember or his or her family have lived in the home for 2 years, the tax code will hold them harmless for years away from home at distant postings. Servicemembers are not going to be able to become real estate moguls by buying properties all over the country and getting this treatment for each. Only one property at a time is eligible for this exclusion.

I am glad to report that another provision I have been working on has also been included. It will permit students at our Nation's military academies to be treated as being on scholarship for purposes of Section 529 education savings accounts. It is only the United States military academy students who are not eligible for this benefit. Serving this country is a noble profession. Congress will now encourage, not discourage, young people to join our Armed Forces, especially today.

I think when hardworking, patriotic young Americans are rewarded with an appointment to a service academy we should not turn around and impose a 10 percent penalty on their parents who saved for their children's education. We should provide the same penalty-free withdrawals for the plebe, the middy and the cadet as we provide for those who play sports, earn an academic scholarship or pay for school through ROTC.

This is a great bill. It is long overdue. It has been a long time since 9/11, and we are trying to take care of our military, and this is retroactive back to that point.

Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to be back on the floor this week to discuss an expanded version of the bill that we talked about last week. I am thankful to the gentleman from New York (Mr. RANGEL) for again designating me to manage the bill on the Democratic side, and it is always a great honor to be on the floor with a true American hero like the gentleman from Texas (Mr. SAM JOHNSON).

Last week when we discussed this bill, we were talking about how it was so inadequate compared to the tremendous sacrifices made by the men and women in uniform serving our country. So I am very happy to be discussing a bill which is expanded in its scope, and will, in addition to the initial provisions, provide a number of new elements of tax relief for the men and women of our Armed Forces. These include: special rules for the sale of a principal residence, tax-free assistance payments for dependent care and homeownership, liberalized tax return filing requirements, and deductions for overnight travel expenses of the National Guard and Reserve. There is also a provision in The Bill to provide tax relief for the families of our shuttle *Columbia* heroes.

So I would again state to my colleague from Texas and to the Speaker and all of the Members that I still think, even with its additions, it is a very, very modest bill for the members of our Armed Forces. I thank our colleagues for their unanimous support last week, and I hope they give us that same support today.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve my time.

Mr. MCNULTY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), a member of the committee.

Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time and also thank my friend from Texas for his service to our country and for this bill coming before us.

This is an important bill. It contains many provisions that will be important for the people who are affected by the changes that are made, our military families that have served our Nation so well. They deserve the consideration of this legislation, and I encourage my colleagues to support it.

As the gentleman from Texas (Mr. SAM JOHNSON) pointed out, this is either the fourth or fifth time that we have been taking this bill up in this body, and at last, it looks like we are going to be able to get this bill to the President for signature, and I think that is good news for military families.

I think we should learn the lesson, though, that the other body put in offsets, revenue offsets, so that there will be no net impact on the deficit as a result of passage of this legislation. That is as a result of adding Customs fees, user fees to the legislation. That is a good thing to do. We have a large deficit. We should try to pay for what we do here, and I am encouraged about what we have done on this legislation. And I hope we will use it as an example for other legislation that has come out of the committee I serve on, but is not paid for. And I expect it is going to have a much more difficult time in the other body, until we also figure out a way to find offsets for tax changes that we bring forward.

As I pointed out, Mr. Speaker, this is a bill that contains many important provisions for the military families that will be affected by it. We have mentioned the death benefit. Obviously, this is the least that we can do.

We mentioned some of the tax impacts of certain benefits that are changed by this. The home sale tax relief, that is very important for military families that are often called upon to sell their homes, to make it a little bit easier for them to handle the tax consequences of a move.

The overnight expenses for our National Guard and Reservists, above-the-line deduction of $500. It is a modest amount, but I think it recognizes the fact that our National Guard and Reservists are a very important part of our national defense and homeland security needs. That became particularly apparent in our current efforts on fighting terrorism in Iraq. We have called upon our Reservists. We have called upon our National Guard. We should recognize the fact that they have additional expenses that should be treated fairly in our tax code, and I hope as my friend, the gentleman from New York (Mr. MCNULTY) pointed out, I hope the provisions in this bill are a starting point, not an ending point for dealing with these tax issues. So we can try to provide some appropriate relief to our military families.

Let me last mention the point that the gentleman from Texas (Mr. SAM JOHNSON) raised about those in our military academies that have been discriminated against under Section 529, the educational savings accounts. I am glad that we finally are able to correct that error in the law. I have the honor of representing the jurisdiction that includes the United States Naval Academy, and we have been contacted by families that felt that was terribly unfair, and they were right. Now, we have listened to them, and we have corrected that. It is another reason why I hope that we will unanimously support this very important legislation.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I appreciate the gentleman from Maryland's (Mr. CARDIN) remarks. I yield such time as he may consume to the gentleman from New York (Mr. HOUGHTON), our distinguished subcommittee chairman on the Committee on Ways and Means.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman very much for those kind words. I will not take a lot of time because so much has been said, and much of it is felt even though the words have not been there, but it is clear when I stand up here, I am going to support this bill, and I encourage everyone else who knows anything about the issues here to support it.

We started this bill back in July of last year, and it has finally come to the finish line after many trips back and forth between here and the Senate. What the bill does is, as I am sure as has already been spoken, provides a number of tax benefits for the active military, as well as the Reservists. Also, we made modest improvements to help the families of the members of the military who have given the supreme sacrifice.

I am not going to go into the details, Mr. Speaker, of this bill. We have discussed these over the past year. We have discussed them ad infinitum. So those are really behind us, and furthermore, the most important thing is the bill is paid for.

I was in Iraq several weeks ago, and it was an impressive time for a variety of reasons, not the least of which is the fact that I met people from not only my own district but from other districts, and with all the problem of the greed and the discussion about the economic system here, here these people are laying their lives on the line, they are getting underpaid, they are tired, they go out in this absolutely crushing heat. The only thing they asked of us when we were there was are you with us, are you supportive of us, and this is one small thing I can do to say, yes, we are.

Mr. MCNULTY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), a friend who was an author of one of the original bills to increase the tax free benefits for service personnel.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague from New York (Mr. MCNULTY) for yielding me the time and for all of his great leadership on this and so many other issues that impact military families.

I also want to pay my respects and acknowledge the great leadership of the gentleman from Texas (Mr. SAM JOHNSON) for all he has done.

Mr. Speaker, I rise in strong support of H.R. 3365. Among other things, this legislation, as has been mentioned, includes several provisions that my colleague from Arizona (Mr. RENZI) and I have been working on for some time. This bill doubles the military death gratuity from $6,000 to $12,000, makes it tax exempt, and makes those changes are retroactive to September 11, 2001. Currently, the gratuity is $6,000, of which about $3,000 is subject to Federal taxes.

The death gratuity is a lump-sum payment to the surviving spouse of a military servicemember killed in the line of duty or to the children of the servicemember in equal shares if there is no spouse. The purpose of the benefit is to provide cash quickly to the survivors in order to help them meet immediate needs.

Mr. Speaker, I am also pleased that this bill contains a number of other provisions that were part of the Armed Forces Tax Fairness Act which will benefit the brave men and women serving our Nation overseas. As we have seen just this week, the loss of life continues for our men and women in uniform serving in Iraq and Afghanistan.

All of us are united in expressing our condolences for the families left behind. We are also united in wanting to ensure that the surviving families' most pressing needs are met. This bill takes a small but important step in that direction, and it is the right thing to do.

Mr. Speaker, I want to commend the tireless work of the gentleman from Texas (Mr. EDWARDS), who has been an incredible leader on this whole issue, as well as the gentleman from North Carolina (Mr. JONES). They were pioneers on this issue and so many other benefits that are important to our military and their families.

I also want to acknowledge the gentleman from Missouri (Mr. SKELTON), my good friend and colleague, the ranking member of the House Committee on Armed Services, for ensuring that language to increase the death gratuity and make it retroactive to September 11, 2001 would be included in the Defense authorization conference report.

Mr. Speaker, as has been said, this bill contains other benefits for our uniformed men and women, and while I believe we need to do much, much more in order for the actions of this House to meet up with its rhetoric, nonetheless these are important steps in the right direction. They are a symbol that we respect the men and women who serve our country and who serve in our military.

Mr. Speaker, this bill is long, long, long overdue, and I am pleased that both the House and the Senate have come together to send this legislation to the President's desk. I urge my colleagues to vote yes on H.R. 3365, and I call upon President Bush to sign it quickly.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RENZI) who is an author of some of this bill.

Mr. RENZI. Mr. Speaker, I want to begin by thanking those people who have worked across party lines to help bring together this substantial piece of legislation and the many elements that make it up. A good deal of thanks goes to the gentleman from Texas (Mr. DELAY) for helping us to move through the logjam.

The gentleman from North Carolina (Mr. JONES), one of the innovators, as well as the gentleman from Massachusetts (Mr. MCGOVERN), and in the final days, the gentleman from California (Mr. THOMAS) of the Committee on Ways and Means all deserve an immense amount of credit, as well as our great leader here, the gentleman from Texas (Mr. SAM JOHNSON).

I want to focus on a couple of elements of the bill that I think need to be communicated. First of all, to our soldiers in Afghanistan and Bosnia, to our soldiers out there in Iraq, on the tip of the spear, defending our sacred liberties and freedoms, when they do come home, we want them to know that we worked on a bipartisan basis to provide them with tax relief and an increase in benefits.

I had the duty to go up and see Lori Piestewa's family up on the Hopi reservation when we lost the first Native American woman in battle in Iraq, and we had a discussion of the benefits that came to that family. She left behind two children, a boy and a girl, and the Hopi reservation is a tough place. Poverty is immense. The housing conditions there are tough, and Lori's children are going to be okay. They are left with a beautiful grandmother in Perci Piestewa, but to think we were going to provide a $6,000 death gratuity benefit and come back in and tax it on the initial $3,000 was unconscionable.

That began the initiative with the gentleman from North Carolina (Mr. JONES) that allows us to look at some of the key legislation that many of our friends across both aisles have offered for so long.

I would also like to point out to the American people that part of this tax package and benefit includes the ability to now shut down the nonprofit organizations that were developed by the al Qaeda network, those Wahabists, those extreme fundamental Islamic organizations that existed in the United States that were set up in order for high-wealth sheiks to donate money into, those organizations that were set up in order to be a channel for illegal contributions that were gained through the sale of stolen goods both in America and in South America.

□ 1215

When the terrorist organizations are now identified, this bill allows us to go in and shut down those nonprofit organizations so terrorist organizations do not continue to get tax breaks while our military families do not. This provides the ability and the tools for the Department of Justice to go in there and shut those organizations down.

Finally, let me speak to the fact that the veterans service organizations who have carried the mantle and the banner for so long on behalf of our veterans also benefit from this bill. As a member of the Committee on Veterans' Affairs on the Republican side, we have worked with many of our colleagues on the Democratic side to come up with language that allows an expansion of linear dependence to be included toward the classification of that nonprofit organization. At a time when we are losing 1,400 to 1,500 of our greatest veterans from World War II, this allows the ability for their sons and daughters of the American Legion, for delinear descendants to be included and counted as members within the organization so those VSOs can have a future and a legacy that has been fought for by their fathers and mothers.

In closing, Mr. Speaker, I want to again emphasize that the military men and women overseas deserve this bill. The time has come for us to put aside any partisan politics, any type of logjam from the past; and I urge my colleagues to pass this Fallen Patriots Act today.

Mr. MCNULTY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, I have the privilege of representing over 42,000 Army soldiers at Fort Hood, Texas. At present, 17,000 of those soldiers are fighting for our country in Iraq and risking their lives. By the end of next year, over 30,000 of my constituents will have served in Iraq.

There is no way our Nation or this Congress can repay its debt of gratitude to those troops, to all of our servicemen and -women, any more than we can repay our debt of gratitude to our friend and colleague, the gentleman from Texas (Mr. SAM JOHNSON), for his service and sacrifice to our country during time of war. But this is a good and significant downpayment on that debt of; gratitude, and I commend those who have worked on a bipartisan basis to pass it, the gentleman from Texas (Mr. SAM JOHNSON), the gentleman from New York (Mr. MCNULTY), the gentleman from Arizona (Mr. RENZI), and the gentleman from Massachusetts (Mr. MCGOVERN), who have fought for this issue, improvements in death gratuity payments, for so very long.

I think the question I would like to raise in a few moments is not why is this good bill passing today, but why did it take so much effort and time to pass it over the past year. This bill, these benefits to our servicemen and -women, could have passed and should have passed 7 months ago. The House passed the bill unanimously in March. Seven days later, on March 27 to be exact, the Senate passed the bill. It came back. Unfortunately, the House leadership chose to sit on the bill for 7 months, apparently because the bill was being paid for by closing the tax loophole for Benedict Arnolds who turn their backs on our country and renounce their citizenship to keep from paying American taxes.

Despite the good news of this bill today, I have continuing concerns that our veterans and servicemen and -women seem to have to work so hard and to beg for very meager benefits, even those in this bill. Why did it take the Military Officers Association running a radio ad over the last several weeks to get the attention of the House leadership on this bill? Why did it take a press conference with me and others, many veterans groups and military family groups, several weeks ago to get the attention of the House leadership to bring this bill forward?

A Congress that passed quickly this year a $230,000 tax break for wealthy Americans making $1 million a year in dividend income, a Congress which can do that should have been able to pass this bill months ago.

Mr. Speaker, it is of concern to me that we continue to have a disabled veterans tax, to actually, in effect, tax disabled veterans for their disabilities by reducing their military retirement income. We continue to underfund VA health care.

I hope today is not considered a final payment, but a first payment on our debt of gratitude to our servicemen and -women. With the leadership on both sides of the aisle who played such a key role in this bill, I am confident that it will be. But I am going to continue to raise concerns in this House when our veterans have to beg for a $1 billion benefit over 12 years, or 10 years, whereas the Committee on Ways and Means can pass out a $60 billion corporate tax break just last week and dividend tax cuts that help our wealthiest Americans.

We need to make our servicemen and -women and their families and America's veterans a first priority, not an afterthought. I salute the gentleman from Texas (Mr. SAM JOHNSON), the gentleman from Arizona (Mr. RENZI), and the gentleman from New York (Mr. MCNULTY) for this positive step forward. Let it be the first of many other steps forward in honoring our servicemen and -women and veterans with our words and our deeds.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just make one comment to clear the record. The House did not sit on this bill, as was stated by the previous speaker. I think the gentleman failed to realize the Senate sent that first bill back July 2002. Since that time, the House has passed bill after bill after bill. It was passed three times this year, on April 9, June 12, and October 29. Then again this month we passed this bill, and the last one was totally clean.

Mr. EDWARDS. Mr. Speaker, will the gentleman yield?

Mr. SAM JOHNSON of Texas. I yield to the gentleman from Texas.

Mr. EDWARDS. Mr. Speaker, I think it is important to keep the record straight. I believe the record will show that the House passed H.R. 1307, the Armed Forces Tax Fairness Act, on March 20. The Senate passed it on March 27, and since that time period the bill has been sitting in the House. The House leadership could have brought that bill to the floor of the House for a vote literally months ago. We would need to accept the one major Senate amendment in that bill which said we ought to pay for tax benefits for our service men and women and their families by closing the loopholes on Benedict Arnolds who turn their backs on America and renounce their citizenship to keep from paying taxes.

I think there was a delay on this bill, but my main focus today is to say thank you to the gentleman for his leadership in getting it to the floor today and on to the President for his signature. And let us work together better in the future to see that our veterans and service men and women do not have to work so hard and beg to get even meager benefits. And I know the gentleman with his distinguished career of service to our country would not disagree with that.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I do not disagree with that, and I think we are in accord on both sides of the aisle today. It is wonderful that we can support our troops in a bipartisan manner.

Mr. EDWARDS. Mr. Speaker, I thank the gentleman from Texas for his leadership.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. MCNULTY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I am going to repeat what I said last week: we need to keep our priorities straight. Part of that, for me, is to remember that had it not been for all of the men and women who wore the uniform of the United States military through the years, the rest of us would not have the privilege of going around bragging—as I often do—about how we live in the freest and most open democracy on the face of the Earth. Freedom is not free. We have paid a tremendous price for it.

I try not to let even a single day go by without remembering with deepest gratitude all of those who, like my own brother, Bill McNulty, made the supreme sacrifice, and like those 16 young Americans who died in that helicopter incident just a few days ago. We should also remember the veterans who came back home, like the one who is managing this bill, a true American hero who was a prisoner of war for 7 years, who endured torture on our behalf, and then came home and continues to render outstanding service to his community, his State and his Nation.

Mr. Speaker, these are the things that I am most grateful for today. All of those Americans who served before us; and people like the gentleman from Texas (Mr. SAM JOHNSON), have been, are, and will continue to be the reasons why when I get up in the morning the first two things I do are to thank God for my life and veterans for my way of life.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the comments of the gentleman from New York (Mr. MCNULTY). I agree with the gentleman; what he says is true. I remember an inscription on the wall that we left over there which I think says it all: Freedom has a taste to those who fight and almost die that the protected will never know. That is what this Nation is all about, freedom. And, man, I will tell you, America is great. This is for our service men and women that we pass this in a bipartisan way.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3365.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SAM JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the Senate amendments to H.R. 3365.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 429 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

The rule waives all points of order against the conference report to accompany H.R. 2559, Military Construction Appropriations Act for Fiscal Year 2004, and against its consideration. The rule provides that the conference report shall be considered as read.

This conference report provides funds for all types of construction projects on military installations here in the U.S. and abroad. The projects range from barracks and housing to training ranges and runways.

Mr. Speaker, we are asking a lot of our military today, and our military personnel on active duty know they will be deployed overseas and perhaps on dangerous missions. So we want to provide them a quality of life for themselves and for their families that will allow them to serve, knowing their families will be taken care of with good health care and good housing.

□ 1230

We must honor the most basic commitments we have made to the men and women of our Armed Services. We must ensure a reasonable quality of life to recruit and retain the best and the brightest to America's fighting forces. Most importantly, we must do all in our power to ensure a strong, able, dedicated American military so that this Nation will be ever vigilant and ever prepared.

I would like to take a moment to highlight some of the key areas of the bill. First, $1.2 billion is provided for troop barracks. This is a $58 million increase from last year's level. This sends a positive message to our unaccompanied personnel stationed all around the world that their quality of life is a priority. It also provides $2.7 billion to operate and maintain existing housing units and $1.1 billion for new housing units. Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides $16.5 million for child development centers.

In conclusion, we have focused our efforts on programs that directly support the men and women in our Armed Forces. We would like to do more, of course. We always have and we will always try to do that. The bottom line is this: With this conference report, we meet the military's critical infrastructure needs and their efforts to improve the quality of life for our men and women in the Armed Forces.

To that end, I urge my colleagues to support the rule and support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I would like to express my appreciation for the bipartisan work of the conferees, and especially for the leadership of Chairman KNOLLENBERG and ranking member EDWARDS, whose long service to meeting the needs of our uniformed men and women is well known to all the Members of this House.

Mr. Speaker, in June when the House passed its version of H.R. 2559, it was $41 million less than the President's request and was a $1.5 billion cut from fiscal year 2003 funding levels. The conference report, while an improvement somewhat over the House-passed bill, is still defective. While it is $199 million more than the amount requested by President Bush, it still reduces funding overall for military construction by $1.38 billion from the fiscal year 2003 levels. Mr. Speaker, we simply cannot continue selling our military men and women short.

We have all seen the pictures from Fort Stewart in Georgia where our Guard and Reserves, returning wounded and sick from Iraq, are warehoused in the most miserable conditions. How can we stand on the floor of this House day after day, week after week declaring how much we support our military men and women when the funding providing for family housing in this conference report is over $400 million less than last year? That total is even worse than what it was in the original House-passed bill. How can we stand on the floor of the House day after day and week after week and say that we are engaged in a long-term struggle against a global enemy and then cut military construction funds by $600 million from last year's level?

Mr. Speaker, poor facility conditions are not only unsafe, they hamper readiness, contribute to low morale and decrease troop retention. According to the Pentagon, 180,000 of the 300,000 units of military housing are substandard. Sixty-eight percent of our military facilities have deficiencies so serious that they might impede mission readiness, or they are so deteriorated that they cannot support mission requirements. The current reductions in funding for construction in these facility categories means that the rate at which buildings are renovated or replaced has increased from 83 years to 150 years.

Mr. Speaker, I said it in June, and I am going to say it again. This is a national scandal. I keep hearing that since the events of September 11, we live in a changed world. I keep hearing how much we appreciate our Armed Forces, how much we appreciate their sacrifice and their service. Then why do we keep cutting and cutting and cutting the military construction appropriations bill? If we truly appreciate our military men and women, should we not give them and their families decent housing? I keep being told, just wait for next year and the funding will get better. Only it never gets any better. It just keeps getting worse. "Next year" should be now.

This conference report, while a small improvement overall from the House-passed bill, continues to be, in the words of Chairman KNOLLENBERG, woefully inadequate. This is what happens when our priorities are wrong. This is what happens when we deny our Nation the most basic revenue needed to adequately fund our national priorities. We rob our valiant military personnel of decent homes and facilities. We rob our veterans of their basic benefits. We cut back funding for schools and child care for military families, and we are faced with passing a bill like this.

I call upon the President to include in his fiscal year 2005 budget request a budget figure that genuinely begins to meet the military construction and family housing needs of our Armed Forces. Mr. Speaker, I regret that this is the best that this Congress can do for our military and their families.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1829, FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. QUINN). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, yesterday the Committee on Rules met and granted an open rule for H.R. 1829, the Federal Prison Industries Competition in Contracting Act. Coming from a district that is facing many challenges in the manufacturing sector, I am very pleased to see this bill on the floor today. Federal Prison Industries, FPI, is a depression-era Federal agency that has a special status in the Federal procurement process that forces government agencies to buy from FPI without competition. Over 300 products and services are produced by Federal prisoners that totaled nearly $680 million in sales to the Federal Government in 2002. Federal agencies are forced to buy these products and services from FPI even though the private sector has proven they can better address the needs of Federal agencies by providing higher quality products, cheaper and faster. I understand that there is concern about prisoners having jobs, et cetera. I have no problem with that. I have always supported that. But we are living in an era where the Federal Government needs to also save as much money as possible when we are looking at procurement, and this is an area we can do that.

This will simply allow the private sector to compete for contracts that are paid for with their own tax dollars. The bill will end the monopoly that FPI holds over all government purchases, including office furniture and textiles. In my own district in North Carolina, I hear from many small business owners who are growing increasingly frustrated with the ongoing challenges of dealing with government procurement when FPI is involved. If this monopoly was ended, these companies could compete on a level playing field. That is all we have ever asked for, is just a level playing field to provide the government with their products. This bill would help stop the bleeding of jobs from the textile and furniture industries. H.R. 1829 will provide protections for businesses of all sizes, and also the hardworking, law-abiding workers they employ, from FPI's unfair practice.

As a cosponsor of this bill, I would like to commend the gentleman from Michigan (Mr. HOEKSTRA) for sponsoring this fine piece of legislation. As many of you know, this legislation enjoys broad support from a somewhat unusual coalition, including majority and minority leadership, conservatives and liberals, and business and labor groups. To that end, I look forward to a fair, open, and thorough debate on this bill. It is a good bill. I urge my colleagues to support this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentlewoman for yielding me the time, and I yield myself such time as I may consume.

Mr. Speaker, I rise today in opposition to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003. In 1934, Congress established Federal Prison Industries, a government corporation that employs inmates in Federal prisons to produce goods and services for the Federal Government. FPI employs 21,000 inmates in 111 prison factories to manufacture a number of products for the government. Prisoners manufacture such items as clothing, textiles, electronics, fleet management and vehicular components, graphics and industrial products. In return for cheap labor, inmates receive valuable job training opportunities that teach them the necessary skills that may help them become productive, hardworking citizens once they reenter society.

Under current Federal law, FPI is a mandatory source of goods and services for Federal agencies. That means, Mr. Speaker, that any agency that wants to buy at least $2,500 worth of goods and services must first seek to do so through FPI. If FPI cannot process an order, the agency is then given a waiver to make the purchase from another source.

Mr. Speaker, this legislation seeks to phase out, over a 5-year period, the preference given to Federal Prison Industries in contracts with Federal agencies. Supporters claim that it is unfair to exclusively employ prisoners when small businesses and private firms want to secure contracts with the Federal Government. However, I claim that if it ain't broke, don't fix it. I claim that it is unfair to spend $587 million tax dollars to dissolve an effective and self-sustaining program.

□ 1245

I claim that it is unfair to obligate an additional $75 million a year for the next 5 years to implement an educational and vocational program to replace the already successful educational and vocational program. I say that is a wasteful way to spend tax dollars.

As a former judge, I know the importance of prison employment training programs. I personally witnessed the benefits of giving prisoners constructive work when incarcerated. While the FPI may be reform, I propose we seek other options. I propose we first ask the Bureau of Prisons what they think about reforming FPI. I propose we ask the Federal agencies that receive FPI products and services what improvements can be made. I am not convinced that H.R. 1829 is necessary or that it is the best solution in reforming Federal Prison Industries. Mr. Speaker, I will oppose H.R. 1829.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the sponsor of this bill.

Mr. HOEKSTRA. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, H.R. 1829, the Hoekstra-Frank-Collins-Maloney-Sensenbrenner-Conyers Federal Prison Industries Competition in Contracting Act of 2003 will bring fundamental and necessary comprehensive reform to Federal Prison Industries, Incorporated.

This is a Depression-era authorizing statute that permits it to operate in a manner that is detrimental to all participants in the Federal procurement process except Federal Prison Industries. Change is needed.

Because of FPI's status as a mandatory source, noninmate workers and the firms that employ them are completely precluded from having the opportunity to even bid, to even bid, on almost $700 million in Federal contracting opportunities, contracting opportunities that are funded by the tax dollars of those workers and those firms. Workers are denied the job opportunities funded by these Federal contracts.

That is why the bill is supported by a broad coalition of business groups led by the U.S. Chamber of Commerce and NFIB. That is why the bill is concurrently supported by organized labor led by the AFL–CIO with the vocal support of its affiliated unions whose members are most impacted. They included the IAM, the International Association of Machinists and Aerospace Workers; UNITE!, the Union of Needletrades, Industrial, and Textile Employees; the UAW, the United Automobile, Aerospace and Agricultural Implement Workers of America; AFSCME; the IBT, the International Brotherhood of

Teamsters; and CJA, the United Brotherhood of Carpenters and Joiners of America.

Because of FPI's mandatory-source status, FPI's captive Federal agency customers cannot get the best value for the taxpayer dollars entrusted to their care. They are required, required, to purchase from FPI. FPI, rather than the Federal agency, determines whether FPI's offered product and promised delivery schedule meets the mission needs of the buying agency. FPI, rather than the buying agency, determines whether FPI's price represents even an approximation of a fair and reasonable price.

That is why H.R. 1829 enjoys the support of Federal managers represented by Federal Managers Association.

The justification for FPI's mandatory-source status is that inmate work opportunities help combat idleness and better prepare inmates for a successful return to society. Neither of these cited benefits are linked to the corrosive manner in which FPI is currently permitted to operate in the Federal market.

Frequently cited is the statistic that inmates participating in prison industry programs are 24 percent less likely to return to prison. That finding is drawn from the report of a multiyear study by the Federal Bureau of Prisons, the "Post-Release Employment Project." What the proponents of the status quo forget to mention is that the same PREP study demonstrated that inmates participating in remedial and vocational education programs were 33 percent less likely to return to prison. Such programs better prepare inmates for a successful return to society; but FPI does not use one dime, not one dime of its gross profits, which were $72 million in fiscal year 2002, to fund such educational programs. No. Those gross profits are devoted exclusively to FPI's expansion.

H.R. 1829 provides additional funding to expand the opportunities for Federal inmates to participate in remedial and modern hands-on vocational training programs, those that are most likely to reduce recidivism. H.R. 1829 will require FPI to help fund the broad array of alternative rehabilitative programs authorized by the bill.

Similarly, H.R. 1829 provides alternative work opportunities for inmates by authorizing them to do work for nonprofit entities. No one is against prisoners working. No one is against prisoners acquiring the skills to be successful once they leave. So we offer them additional work opportunity; plus we enable them to continue to compete for Federal Government business. All 1829 does is say they have to compete for the business, and they have to compete successfully if they are going to get it.

I also intend to offer an amendment that will broaden the bill in this regard, allowing Federal inmates to perform services in support of units of local governments and special-purpose districts like school districts. A public service inmate program run by the Ohio Department of Corrections now provides more inmate jobs than the Department's traditional industries program. Such a program provides no unfair competition to the private sector and costs less to operate than the traditional prison industry program.

Mr. Speaker, I urge adoption of the rule and look forward to what I expect will be a spirited debate on the bill tomorrow. This is an important issue. My colleague on the Permanent Select Committee on Intelligence indicated that there is not a need for change. There is a phenomenal need for change around the country. Members have joined in this effort to reform Federal Prison Industries because their constituents have been negatively impacted. They have lost the opportunity to provide goods and services to the Federal Government. Even though they can provide them at a better price and a better quality and a better delivery schedule, they cannot even compete for the business. That is why we have got a broad coalition of business, labor, and Federal Government procurement managers who are saying this is the way to go. They sense the need for change.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), my good friend.

Mr. SCOTT of Virginia. Mr. Speaker, the Federal Prison Industries program, or FPI, has been around since the 1930s. Under the law, the Federal agencies are required to buy needed products from FPI if they can meet the order. The purpose of the program is to teach prisoners real work skills so when they are released from prison, they will be able to find and hold jobs to support themselves and their families and be less likely to commit more crimes.

And it is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are more likely to be employed and less likely to commit crimes than others who do not participate in the program. And while this certainly benefits the offenders and their families, that is beside the point from a public policy perspective. The real benefit is that all of us, as a result of the program, are less likely to be victims of crimes. We are prepared to spend billions of dollars in prison construction and prison upkeep in our efforts to reduce crime. This program reduces crime and pays for itself.

H.R. 1829 will result in fewer inmate jobs, with increased taxpayer costs and an increase in crime. The CBO, for example, estimates it will cost at least $177 million just in extra security costs to guard the inmates made idle by this bill.

The total revenues of FPI represent a very small percent, approximately ¼ of 1 percent of Federal agency procurement dollars, about the same as it was when it started in 1934. Furniture and apparel industries are two industries in which FPI does most of its work; but when asked, a representative of these industries conceded that FPI sales represent "insignificant" and "negligible" portions of their industries. And if such industries have problems, it is not due to FPI. On textiles, for example, I was told that 600,000 jobs were lost over the last 10 years. Where there are approximately 7,000 prisoners working in textiles in FPI, we certainly cannot blame 7,000 prisoners for the loss of 600,000 jobs.

The program generates almost as much business as it takes in by pumping three quarters of the roughly $600 million it takes in back into the economy to purchase supplies and whatnot, primarily from small minority and women-owned and disadvantaged businesses. The FPI has received awards for spending almost 60 percent of its expenditures in these small and disadvantaged businesses.

I am the first to concede that there may be problems with FPI which should be fixed. When a small business making a single product such as an Army helmet is dependent on the Department of Defense for contracts for its operations, FPI should not be able to take away that business. But this bill should be fixing the problems not by gutting it by taking away all its primary source of contracts. And while the bill suggests that the lack of competition is a problem, the bill seeks to stranglehold FPI as a competitor not only by strengthening the prohibitions against activities in the commercial market but also in the government as well. We are already seeing the effects of a Department of Defense restriction in FPI passed last year. The information I have obtained from the program indicates that it has already had to close 13 factories and eliminate over 1,700 inmate jobs and expects to eliminate an additional 500 jobs before the end of the year.

We should fix these problems, but we should do so in a way that assures the viability of the vital crime-reducing program. With additional prisons scheduled to come on line over the next few years, we can ill afford to diminish the successful crime-reduction program. But for their crimes and imprisonment, they are indistinguishable from the rest of us; and treating them as if they are a foreign competitor and viewing the work as private businesses, we should not be in a position where the policy of the committee with oversight responsibility for the safe and efficient operation of our prisons should be at risk.

Mr. Speaker, these are important jobs. This program reduces crime. We can do better than just gut the entire program with a meat ax approach. We can improve the program without ending it. So I would hope that we would defeat the rule and, if the rule passes, defeat the bill.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership.

I rise in support of this rule and in support of the bill that will protect the jobs of American taxpayers. In a time when 3 million workers have lost their jobs, we should be doing everything possible to keep workers employed. FPI is not competing on a level playing field. It pays its workers pennies and is not required to pay taxes. With its predatory practices, FPI has contributed to the closure of private companies and the loss of tens of thousands of jobs throughout our Nation.

With its predatory practices, I confronted them in 1997 when they tried to close one of my constituent's company, Glamour Glove. FPI sought to simply come in and take away all the competitively won contracts with the Department of Defense to make military gloves. If they had succeeded, Glamour Glove would be out of business and the workers of UNITE! would have been out of work. Outraged, I appeared before the FPI board with the gentleman from Michigan (Mr. HOEKSTRA), who was facing similar challenges in his own district, and we were successful in negotiating and saving these jobs; but this effort led to the bill that we have before us today.

□ 1300

It has been a 7-year effort. I thank the gentleman from Michigan (Mr. HOEKSTRA) for helping me save the jobs in Glamor Glove and for his work on this legislation.

By passing this bill, we will save thousands of jobs across this country, and we will protect competition. We will allow the prison industries to compete with hardworking, tax-paying workers in America. This legislation will ensure that contracts are awarded to the company that will provide the best products, delivered on time and at the best prices, thereby saving not only jobs, but taxpayer dollars; in short, the way the free market is supposed to operate.

The bill has large bipartisan support, over 140 of our colleagues on both sides of the aisle, and it has support both from the business community, led by the Chamber of Commerce, and organized labor, led by the AFL–CIO.

Passage of this legislation will not mean that inmates will sit idly in prison. It also requires and provides for alternative rehabilitative opportunities, including work in support of nonprofit public service organizations, to better prepare inmates for a successful return to society.

I urge my colleagues to put an end to this unfair, government-sponsored monopoly, which really would be more at home in communist Russia, under Fidel Castro or in mainland China, where people are paid pennies for their work, where there is no competition and workers are stripped of their jobs and thrown out on the street and not even given an opportunity to compete.

This allows our workers to compete. It will save jobs. It is good for America, it is good for workers, and it is good for business. I urge a yes vote on the underlying bill and the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS), my good friend from Chicago.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman for yielding me time.

Mr. Speaker, at first blush, I thought that this was a good bill, good piece of legislation, that it made some sense. But then I thought about the fact that the goal of our prison system really should be to try and make sure that individuals are better off when they leave than they were when they got there.

If they cannot read, we need to teach them how to read; if they cannot write, we should teach them how to write; if they have got drug problems, we should give them counseling and treatment; if they do not have job skills, if they have never had a work ethic, then we ought to provide opportunities for them to learn what work is all about.

We ought to provide an opportunity for them to develop a skill, so that when they get out, there is something that they can do, other than stand on the corner and holler "crack and blow," or "pills and thrills." Any diminution of opportunity for these individuals to work is not in the best interest of America. It will cause recidivism, and those who get out will be right back. So I would urge us to look seriously.

I understand competition. I understand small business. I am an avid supporter of small business, but I believe that we would do much more harm than good by denying any single person incarcerated the opportunity to work and learn a skill.

I will vote no, and urge that we reject this rule and this bill.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.J. RES. 76, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 430

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2004, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 430 is a closed rule that provides for the consideration of H.J. Res. 76, a continuing resolution that will ensure further appropriations for fiscal year 2004. The rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, we passed the first continuing resolution, H.J. Res. 69, in late September, continuing appropriations through October. The provisions of H.J. Res. 75, which was the second CR enacted by this Congress, are scheduled to expire this Friday, November 7.

Under the joint resolution that H. Res. 430 makes in order, the provisions of that second continuing resolution would be extended until November 21, 2003. In brief, for the fiscal year 2004 appropriations bills that have not yet been enacted into law, the CR provides 2 additional weeks of funding for those Federal departments and agencies whose operations depend on the enactment of those appropriations.

We are approaching the completion of this first session of the 108th Congress, but there are a number of appropriations bills and other must-do legislative priorities that we are working to resolve. Additional time is needed. Nonetheless, it is our goal to have this represent the last continuing resolution, as the appropriators are working hard to complete conference reports and are moving toward making the tough decisions that will lead us to the end of the appropriations process for this year. This continuing resolution gives us the time needed to complete this process in an orderly manner.

The Committee on Rules approved this rule yesterday. I urge my colleagues to join me in supporting its passage.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Georgia for yielding me the customary 30 minutes.

Mr. Speaker, since George W. Bush got his job and Republicans took over the entire Federal Government, nearly 3 million Americans have lost their jobs. So, under these circumstances, you might think the Republicans who control the town and the government and CBS would be very conscientious about doing their jobs. But here we are, once again, passing yet another continuing resolution to keep the government running because the Republican Congress refuses to do the most fundamental job the American people have given to it. While millions of Americans cannot find any jobs, Republicans refuse to do the jobs that they have and the taxpayers pay us to do. The House has not put in a full week's worth of work in months.

So what is the problem Mr. Speaker? After all, the Republicans control this body, the other body, the Presidency. Are they stuck haggling with each other over how much to shortchange schools this year? Or looking for an excuse to continue penalizing disabled veterans? Or arguing over which slick procedural trick to use to try to hide the hundreds of billions of dollars in debt they have run up?

Well, one thing is for sure, you know this is not a Republican Party priority, because when the Republican Party wants something, the Republican Party is ruthlessly efficient.

Just take a look at the record. When it comes to Republican priorities, like tax breaks for the small, elite group of big contributors who fund Republican campaigns, this Congress has been tremendously successful. But when it comes to the priorities of the American people, like tax relief for the military and working families, this Congress cannot or will not get it done.

Mr. Speaker, Republican leaders have protected big corporate tax dodgers, but Republicans will not do anything about the high health care costs or help the millions of Americans who need unemployment insurance in the midst of President Bush's jobless recovery. They actually blocked a Democratic pay raise for the military, which would have given the soldiers in Iraq and Afghanistan a $1,500 bonus.

Mr. Speaker, I fear this is not a government of the people, by the people and for the people. It is a government of the Republican Party, by the Republican Party, and for the Republican Party.

Unfortunately, the rest of America does not seem to matter. Today, millions of hardworking Americans no longer share in the prosperity they enjoyed during the Democrat-led economic boom of the nineties. George W. Bush has compiled the worst record of job loss of any President since Herbert Hoover in the Great Depression. Some 1.4 million Americans have been unemployed for so long in this economy that they have exhausted their unemployment insurance. After the end of this year, Americans who lose their jobs, people like the nearly 3 million jobs lost since President Bush took office, will not be able to enroll in unemployment insurance.

Over that same period, the Republican fiscal irresponsibility turned record surpluses into astronomical and out-of-control deficits, increasing the debt tax on all Americans and threatening the future of Medicare and Social Security. And it is getting worse. In the coming years, the tax breaks for the wealthiest few will become even more expensive, at the same time that the Bush administration will be asking taxpayers to send untold hundreds of billions of dollars to Iraq.

This government has no plan to clean up the mess it has made of America. Instead, they just keep offering more of the same and hope the American people will not notice that their Congress has stopped working for them, because it is too busy using the power of the people's government to protect the privileges of their party.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING AND HONORING FIREFIGHTERS AND OTHER PUBLIC SERVANTS WHO RESPONDED TO 2003 CALIFORNIA WILDFIRES

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 425) recognizing and honoring the firefighters and other public servants who responded to the October 2003, historically devastating, outbreak of wildfires in Southern California.

The Clerk read as follows:

H. RES. 425

Whereas in late October 2003, Southern California simultaneously experienced a number of devastating wildfires destroying thousands of homes, taking many lives, and burning hundreds of thousands of acres of grasslands and forests exceeding the devastation of any fires in the past century;

Whereas in the space of a few days, all of the resources of local firefighting companies were called upon to man fire lines on first one and then on many fronts;

Whereas firefighters were thrown into extraordinarily dangerous situations because of the fast-moving, fuel- and wind-driven fires;

Whereas firefighters exhibited resilience and courage in continuing to stay on the lines often in back-to-back shifts while knowing, in some instances, that their own families were in danger or that their personal homes had been lost and even giving the ultimate sacrifice of life;

Whereas those firefighters who were called initially were later assisted by skilled and courageous pilots flying water-drop flights in the most challenging wind and smoke conditions and by firefighters from throughout the State of California and neighboring States;

Whereas additional emergency personnel, such as law enforcement and medical personnel, have coordinated with local authorities and firefighters and have performed beyond the call of duty in the preservation and protection of human lives; and

Whereas members of the Armed Forces have once again met their country's call to duty, providing valuable firefighting assets and assistance to California's emergency response efforts; their actions are in keeping with the finest traditions of United States military service: Now, therefore, be it

Resolved, That the House of Representatives recognizes and honors those firefighters and every public servant who participated in responding to the October 2003, historically devastating, outbreak of wildfires in Southern California and commends them for their dedicated service to the people of California.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 425.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 425 recognizes and honors the deserving firefighters in southern California for their response to the devastating wildfires there which have affected so many lives. The raging fires have scorched hundreds of thousands of acres and burned thousands of homes in one of the worst disasters in California history. Regrettably, 22 people have lost their lives due to the fires.

Mr. Speaker, the devastation of the blazes has been overshadowed by the vigilance and bravery of the men and women who have fought the fires nonstop over the last 2 weeks. These firefighters have endured extreme heat and dangerous smoke in saving countless lives and properties. Their incredible work will help all California citizens go back to their everyday lives once the fires are fully extinguished, and, indeed, the fires may be nearing the end. Due to the firefighters' efforts, many believe that the blazes are becoming contained and the worst is over. People are already returning home, children are going back to school and interrupted utility service is resuming.

□ 1315

These facts are a testament to the determination of the Southern California firefighters for their unyielding efforts. The firefighters have indeed earned the thanks of a grateful House of Representatives.

Mr. Speaker, the President joined many of our colleagues yesterday during a visit to the ravaged area. I think the President thoughtfully summed up the situation in California during his tour when he observed, "I see human tragedy and heartache. I see the loss of a lot of material possessions. However, I see a strong spirit which exists here. I see people who are resolved to rebuild their lives. Amidst their tears they do see hope. And that is a great tribute to the people in this part of California."

Mr. Speaker, we commend the firefighters in California for their invaluable lifesaving work. The thoughts of the Members of this House are with the resilient citizens of California during this extraordinarily trying time.

I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 425, introduced by the gentlewoman from California (Mrs. DAVIS).

Mr. Speaker, the fires raging through Southern California have killed 20 people, destroyed more than 3,400 homes, and scorched over 750,000 acres of forests. Most of the deaths and demolished homes were in San Diego County, where a 280,000-acre blaze was apparently started by a lost hunter who set a signal fire.

Every year, fires and other emergencies take thousands of lives and destroy property worth billions of dollars. Firefighters are on the front lines between the public and the devastation the fire can cause. Firefighters help protect the public interest from these dangers by rapidly responding to a variety of emergencies. Firefighting involves hazardous conditions and long, irregular hours.

Firefighters must be prepared to respond immediately to a fire or to any other emergency that arises. Because fighting fires is dangerous and complex, it requires organization and teamwork.

When fires break out in forests and parks, firefighters are brought in to suppress the blaze by using heavy equipment, hand tools, and water hoses. Forest firefighting is rigorous work. One of the most effective means of battling a blaze is to create fire lines by cutting down trees and digging out grass and all other vegetation, thereby creating bare land in the path of the fire that deprives it of fuel. Elite firefighters, called smoke jumpers, parachute from airplanes to reach otherwise inaccessible areas. This is extremely hazardous, because the crews have no way to escape if the wind shifts and causes the fire to burn towards them.

That is what firefighters do. They risk their lives for the public, and Steven Rucker was not any different. Steven Rucker died in the line of duty last week while battling the Cedar fire near the town of Julian in San Diego County. Steven Rucker and three other firefighters were battling to save a home as part of a strike team called in to battle the immense San Diego County blaze. The four men were working to save a structure when the swirling flames overwhelmed their position.

Rucker's colleagues, Captain Doug McDonald, Engineer Shawn Kreps, and Firefighter/Paramedic Barrett Smith were injured on the lines before the group was evacuated by helicopter from the scene.

We owe the California firefighters, and all firefighters, a debt of gratitude for what they do to protect us from the devastation of fires. That gratitude should be extended when the fire is blazing and when it has dimmed.

I support this resolution, and I urge all of my colleagues to do the same.

Mr. Speaker, it is my pleasure to yield 6 minutes to the gentlewoman from California (Mrs. DAVIS), the sponsor of this bill.

Mrs. DAVIS of California. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) for managing House Resolution 425, and I also want to thank and let the gentleman from California (Mr. HUNTER), my colleague from San Diego, know how much I honor working with him on this, as well, as we honor brave firefighters with this resolution.

We all sympathize with our colleague, the gentleman from California (Mr. HUNTER), for he was one of the victims of this devastating fire. He exemplifies the thousands of families whose homes were leveled. He celebrates the resilience of families whom we heard over and over again say, We will rebuild.

I am proud to welcome every member of the California congressional delegation as cosponsors of this bill, as well as Members from around the country, including those States which sent firefighters to help.

As I had an opportunity to visit the burned-out communities, streets, and neighborhoods of San Diego City and County, I was struck by the velocity of this fire storm. In the community of Scripps Ranch, the eucalyptus trees did not burn. The fire moved so quickly that the trees did not ignite, yet almost every home on several streets on the ground turned to ash.

As I toured in a helicopter, I was overwhelmed by the sheer magnitude of the 280,000 acres in San Diego that burned and the capriciousness of the fire that leveled 2,232 residences while, in some places, neighboring houses remained standing.

Yet, the mission of the firefighters was clear: saving lives first and then property. That is what they did; that is what they always do. They were joined by law enforcement, who handled the evacuation of tens of thousands of families.

This bill is just a small way to say thank you, thank you to people whose bravery, whose courage and perseverance went so far beyond the ordinary.

Many of my colleagues have read the individual events and acts of heroism. I know I join with the gentlewoman from California (Ms. WOOLSEY) in honoring the firefighter from her district, Steven Rucker, who volunteered to go to San Diego along with thousands of firefighters from throughout the State and the country and gave the ultimate sacrifice of his life. We remember also his colleagues who remain seriously burned from the fire that swiftly overran their position.

In addition, we have read of numerous, just numerous unnamed firefighters who performed way beyond their own safety. Responding to a 911 call, firefighters, choking from the smoke, entered a home to find an elderly woman. When they pulled her to safety, she told them that her husband was still inside the house. It took three attempts to enter the burning home to find him. He was trying to move in his walker toward safety. And then they brought him out and worked to get the couple air-lifted to a hospital.

We learned of firefighters overcome with frustration and sadness in the early-morning darkness when the fast-moving blazes prevented them from reaching secluded homes to warn the residents and to try to help them escape. Four of the residents of one community died. There were 22 fire-related deaths in Southern California, and we join in expressing our condolences to their families for their losses.

The stories, I say to my colleagues, are legion, and all San Diegans hold great appreciation for the dedication of the Julian firefighters who, with so much determination, saved the historic mining town that is home to all of our fantasies of the world's best apple pies. So dedicated were they that many of them lost their own homes on the neighboring hillsides while protecting the village. I talked to a firefighter who saved many homes, only to learn that his own home was taken by the firestorm.

The simultaneous fires throughout Southern California put extreme stress, not only on the resources that we are all committed to share in mutual response, but in overwhelming all of those resources. The coordination of so many agencies and equipment was indeed a critical, critical effort.

We thank, in particular, the firefighters from Northern California, the central valley, and neighboring States. I saw fire trucks lined up not only from Novato and Milpitas, but also from Fresno and Sacramento, from Arizona and Nevada, all different colors of firefighting equipment. It was impressive, and we knew of their efforts.

We are proud of our servicemen and women who are at the ready to offer their support and to supply backup resources to meet this implacable foe.

There is another whole story of neighbors helping neighbors, strangers helping the tens of thousands of evacuees, and the dominant spirit of victims who have committed their will to rebuild.

There will be many, many days to contemplate the lessons from this tragedy and many will be focusing on lessons learned. San Diego has learned much about the preparation, coordination, and effort needed to be prepared to respond to seasonal fires, as well as homeland security threats. We will have much to offer, I believe, our country in that search for answers.

But today, we have one very simple message: from the bottom of our hearts, we thank each and every one of you, the firefighters.

Mr. SHAYS. Mr. Speaker, I thank the gentlewoman for her introduction of this legislation, and I yield 1½ minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, we always seem to find the words to express our gratitude for heroes, and today I rise in strong support for H.R. 425, a resolution to recognize those heroes, honor the brave men and women who responded to the horrendous wildfires that plagued Southern California last month.

While we all recognize that hundreds of first responders from the State of California bravely risked their lives to fight these wildfires, many Americans were less aware that hundreds of Nevada's first responders were also enlisted in this fight. In fact, during the course of this deadly natural disaster, the State of Nevada deployed over 450 brave Americans to Southern California to join our neighbors in this effort to quell this deadly natural disaster. These Nevadans included dozens of firefighters, paramedics, and highly skilled mechanics.

Northern Nevada-based crews from the United States Forest Service and the Bureau of Land Management, along with engine crews from the Nevada Division of Forestry, Reno, Sparks, Storey County, Elko County, and North Lake Fire Protection District, were dispatched on October 27 to fight the Southern California fires. Two strike teams composed of firefighters from Las Vegas, Clark County, Henderson, Pahrump, the Nevada Test Site and the Naval Air Station at Fallon drove by personal car to offer their support to a base camp in Santee.

Mr. Speaker, I encourage all of my colleagues to join me in supporting this resolution. The brave first responders from all over the western States and Nevada have earned this honor, and I am pleased to recognize their selfless efforts today.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the sensitive Democratic leader, the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and my colleague, the gentlewoman from California (Ms. WOOLSEY), for allowing me to speak out of turn here.

I want to commend my colleagues from California, (Chairman HUNTER) and (Mrs. DAVIS), for bringing this resolution to the floor, enabling Members of Congress to express our appreciation for the brave service of the firefighters in our great State of California. These firefighters battled 17 wildfires over the course of more than a week, saving countless lives and protecting us in this great natural disaster. I want to join with my California colleagues in offering my praise, respect, and admiration for the heroic men and women who put their lives at risk under extremely hazardous conditions to contain this disaster and minimize the damage to land, homes, and businesses in Southern California.

During our debate last week on another piece of legislation, I conveyed my condolences to all of our colleagues who had lost lives and families who had lost their homes in Southern California. I especially wanted to express concern to our distinguished chairman, the gentleman from California (Mr. HUNTER), for the loss of his home in the fire, and hope that his family will be made whole, as well as all of the families of the region affected.

The tales of these firefighters, Mr. Speaker, are tales of bravery and sacrifice. We mourn the loss of the gentlewoman from California's (Ms. WOOLSEY) constituent, Marin County firefighter Steven Rucker, who made the ultimate sacrifice. We all extend our sympathy to his family at home and his friends at the firehouse.

□ 1330

In San Diego County, represented by my colleague, the gentlewoman from California (Mrs. DAVIS), who I acknowledged earlier for her leadership, as well as by the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. CUNNINGHAM) and others, a number of volunteer firefighters have sacrificed their own homes while battling the blazes to preserve the homes of others in their communities.

I would also like to commend the efforts of the 72 members of the San Francisco Fire Department who were quick to join the strike teams to assist our neighbors to the south. These devastating fires have burned almost 750,000 acres, caused the death of 22 of our fellow Californians, and destroyed more than 3,500 homes. It is almost inconceivable.

As we prepare to help families and communities recover from devastation and loss, we recognize without the tireless and heroic efforts of thousands of firefighters, our losses could have been much greater. We salute their bravery, their heroism, and the decisions they make every day to risk their own safety even to protect the safety of others. I might add we commend and salute their families, their courageous families.

I commend my colleagues, the gentlewoman from California (Mrs. DAVIS) and the gentleman from California (Mr. HUNTER). I also want to, once again, acknowledge the gentlewoman from California (Ms. WOOLSEY) who has so sensitively dealt with the loss of her constituent Steven Rucker. And we all acknowledge the debt we owe to California's bravest for their successful efforts to contain these massive fires.

Mr. Speaker, I again thank the gentleman from Illinois (Mr. DAVIS) for his leadership and for yielding time.

Mr. SHAYS. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MCKEON).

Mr. MCKEON. Mr. Speaker, I want to thank the gentleman from Connecticut (Mr. SHAYS) for yielding the time. I want to thank the gentleman from California (Chairman HUNTER) and the gentlewoman from California (Mrs. DAVIS) for their support and their bringing this legislation before us, as has already been mentioned.

The gentleman from California (Mr. HUNTER) lost his home. I know he has been handling it a whole lot better than I would.

I rise today, Mr. Speaker, to express my heartfelt support for this bill, House Resolution 425, which honors the courageous firefighters and other emergency service persons who so tirelessly fought the devastating wildfires of southern California.

Over the past couple of weeks, more than 14,000 firefighters from five States have taken to the front lines in this wildfire, selflessly risking their lives for the protection of their fellow Americans. These ongoing fires have ravaged almost 750,000 acres, destroyed over 3,500 homes, and resulted in the loss of 22 lives, including the life of a young firefighter by the same of Steven L. Rucker, an engineer from the Novato Fire District.

On October 29, 2003, Engineer Rucker made the ultimate sacrifice for his fellow man while defending a home in the Cedar Fire incident in San Diego County. It is the bravery of Firefighter Rucker and other heroes like him in the Los Angeles County Fire Department who saved my district and the lives and property of my neighbors, friends, and families in the Stevenson Ranch and Sunset Point areas of the Santa Clarita Valley, where the fire literally came within feet of their homes.

My community was spared from major devastation as a result of the efforts of our firefighters from the Nation, from the county and from the areas surrounding, as well as the efforts of the Armed Services and other emergency personnel who came to the rescue.

Mr. Speaker, on behalf of my constituents from the 25th District of California, I express my deep gratitude to our firefighters for their continued bravery and valor in fighting this wildfire and urge my colleagues to unanimously adopt this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 6 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for organizing today's effort. And I rise to support H. Res. 425 and to honor the memory of firefighter Steve Rucker, a resident of Novato, California, and to wish the speedy recovery of three other Novato firefighters, Captain Doug McDonald, Shawn Kreps, and Barrett Smith. These four men were among the dozens of firefighters from my district who sped to southern California to fight the recent fires, fires that burned hundreds of thousands of acres.

The day before yesterday, I stood alongside Steve's colleagues, firefighters, and police officers and watched the mile-long precession that carried his casket from the airport in Santa Rosa to his beloved city of Novato. My heart was filled with emotion as I watched the great sadness this community felt, the sadness and the grief that come with the death from within the family. But lingering in this grief, there was also pride, pride in recalling the time and heroism of one of their own, these four firefighters served the Novato Fire Protection District.

Novato is a prosperous place, a family town that touches San Francisco Bay and reaches into the golden coastal hills. But the warm sun of Indian summer never lulls Novato firefighters. They know that the days before the rains come are the most dangerous times of the year. They also know that firefighters throughout the State are members of a large community and when help is needed anywhere, they are honored to help.

So it was with that and without any contractual obligation but out of compassion and comradeship that Shawn Kreps drove Novato fire engine 6162 all night a week ago Monday to join the fire lines at the Cedar fire, more than 400 miles from Novato. And so it was that Steve Rucker, Doug McDonald, Shawn Kreps, and Barrett Smith found themselves Wednesday on a back road, 5 miles from the rural village of Julian, fighting to protect a scattering of homes.

Fire can be a fierce and swift enemy, and when flames suddenly threatened to engulf the men, all they could do is run for their lives. Steve Rucker did not make it. Apparently the intense heat of the fire seared his lungs. And when Captain McDonald went out to look for his friend, he was critically burned. Fortunately, Kreps and Smith suffered minor injuries, and I expect they will have many fires to fight in the future. Captain McDonald, however, remains hospitalized with serious burns, the wounds of a hero, and my prayers go out to him and his family.

It was too soon for 38-year-old Steve Rucker to leave this earth. He left behind a loving wife, Cathy, a 7-year-old daughter Kerstin, and a 3-year-old son Wesley, in a home he had just built. His friends in the department knew Steve as "The Ruckster," a cheerful, enthusiastic man ready to joke, ready to laugh, a man they could counted on to be a calm and competent firefighter and paramedic. A man who loved his job. He was, according to his friends and colleagues, a firefighter's firefighter.

In fact, they told me just the other day that Steve was the "go-to guy" during times of tragedy like now, and that his loss was felt even greater because they really needed him to help them get through their pain. Twelve thousand firefighters battled the flames that threatened to burn from southern California to the Pacific Ocean. Steve Rucker was the only firefighter to die in this historical battle. In this, he receives a measure of immortality. He also stands for all of those brave men and women who unselfishly risked their lives to save others, whether facing a wall of flames on a rural back road or the billowing smoke of the World Trade Center.

Mr. Speaker, Steve Rucker was an irreplaceable man, but his family must go on without him. I wish them consolation in knowing that this man, son, husband, father, died giving the gift of himself.

Mr. SHAYS. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me the time, and I want to thank my colleagues for cosponsoring this resolution and for the initiative of the gentlewoman from California (Mrs. DAVIS) on this resolution.

And, Mr. Speaker, I thought I would lead off simply by reading the names of the people who lost their lives in this fire. Steven Rucker, Galen Blacklidge, Christy-Anne Seiler Davis, Edward Downs, Nancy Morphew, Mary Peace, Asleigh Roach, Stephen Shacklett, James Shohara, Solange Shohara, Randy Shohara, Robin Sloan, Jennifer Sloan, Ralph Westy, Charles Cunningham, James McDermith, Chad Williams, Gene Knowles. And there are some other names which have not yet been released, and we will recount them when they are released.

Mr. Speaker, this was a time of enormous disaster and tragedy for our colleagues and for our neighbors and friends who lived in our communities who have lost so much, some who have lost their lives. It is also a time of great heroism. And I was reminded as the stories came in of the firefighters and the valiant stands that they were making as they were trying to keep these fires from advancing into our neighborhoods. I was reminded that all the heroism that is displayed by uniformed services in this country are not just being displayed on the battlefields of the Middle East, but rather in these battles that we undertake in the West, especially all over the country, but for some reason during this season in the West and those Santa Ana winds come up, those battles are to protect our communities against fire.

And it was very moving to be out yesterday and the day before when we carried the body of Steve Rucker, who was the Novato firefighter who has been so eloquently described by my colleagues, when we carried his body to the C–130 to take him home. And I rode in the procession with Maureen McDonald, who is the wife of Doug McDonald, who was Steven's partner, who also was caught by this fire, and who was burned over 30 percent of his body and is currently doing well in San Diego in the hospital.

And I was taken by the great bravery and the eloquence of this lady, this Maureen McDonald whose own husband was in very difficult condition, but who was focusing all of her attention on the Rucker family. When I asked her to talk a little bit about how she had gotten to know the Ruckers, she said something that will always stick with me: She said, "I met them in the glow of the birth of their first child." So she had met them right after they had that first baby, and that was Kerstin, who now is some 7 years old, Wesley is now 2. But for me that personalized this fire.

And this country enjoys not only great freedoms, but a wonderful, wonderful way of life. I mean, every part of this country has great charm, but for us in California, most of us can go to the ocean fairly easily, fairly quickly, one can go to the desert within a couple miles from almost any part of southern California, one can go to the mountains, those great, beautiful mountains. You can raise your family in these wonderful, wonderful surroundings. And yet we have some dangers and some tragedies that we are protected from by those people that wear the uniform of the various firefighting units and communities.

And I noticed as Steve Rucker's body was being carried to the C–130 that that community is one community as they all lined up. It was indeed seamless. There were not individual areas or districts represented. They were all firefighters. They were all people who gave so much so that we might have this great wonderful life that we enjoy in California and other places.

So, Mr. Speaker, I saw the coming together of the firefighters, all these units they came in to honor Steve Rucker. And also it was good to see the President come out with the outgoing Governor of California, Gray Davis, stand side by side with him and the incoming Governor, Mr. Schwarzenegger, and to see them all together after some heavy duty political arm wrestling to all unite in common cause. And the common cause was to thank the people that wear firefighting uniforms.

I think that the language of the gentlewoman from California (Mrs. DAVIS) in this resolution very eloquently expresses that, and, certainly, I want to thank her and everyone who participated in putting this resolution together.

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Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentleman for yielding me time. I would like to thank my colleague, the gentlewoman from California (Mrs. DAVIS), and also the gentleman from Connecticut (Mr. SHAYS), for bringing forth this resolution that is just so timely. To my colleague and friend who just spoke, the gentleman from California (Mr. HUNTER), our best regards to him because we know that his district was extremely devastated, including the loss of his home; and we are with him on whatever he needs us to be with him on.

I rise today, Mr. Speaker, in support of H. Res. 425. As a Representative from Southern California and a resident of Los Angeles County, I want to thank those brave men and women who are firefighters and public servants who have worked so hard to put out those fires that have devastated Southern California. They are truly our heroes. We thank them so much.

As I stand here today, our firefighters continue to make excellent progress towards containing four major fires involving over 271,000 acres of State, Federal, and private lands. Three of these fires involve national forest lands. Six other fires totaling an additional 473,778 acres have been contained. Three more fires are expected to be fully contained by the end of the week.

The devastation of these wild fires in Southern California is unprecedented, Mr. Speaker. To date, the Forest Service wild fire cost is $45 million. The total cost of wild fires is $92 million, which represents all fires both contained and active.

I look forward to working with Congress and with the administration, and we thank the President for being out there this week to look at the devastation and to continue to provide more emergency relief to California in the near future. We will work together to get our State, our region, and our citizens back on their feet.

Mr. SHAYS. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, this body should be proud. The California delegation, Republicans, Democrats, united. There were no party lines. There were no district lines in California. Members whose districts were not even affected called to help and offered concern.

The day before yesterday, the gentlewoman from California (Mrs. DAVIS), the gentleman from California (Mr. HUNTER), the gentleman from California (Mr. ISSA), and myself went through 10 town hall meetings with FEMA, Red Cross, SPA and other government agencies. We witnessed in some cases firefighters who had fought fires, saving other people's homes while their own homes burned down.

I witnessed people at each of these emergency centers that had actually lost their homes, and they were volunteering at those centers to help other people that had lost their homes and things. The events of 9–11 showed that people do come together, and it did so in the State of California also.

In Lake Wolford we saw the sight of a young girl, her brother was driving a car, overcome by smoke, crashed the car and she died a horrible death in front of the firefighters that could not get to her to save her life.

We honor our firefighters. We lost 23 firefighters in 2003. We lost a firefighter, Steven Rucker, in this fight. Captain Doug McDonald its fighting for his life with over 18 percent of his body burned.

If you really want to help our firefighters, if you really want to pay them homage, there are some things we can do. We are putting in the defense bill that there are strange laws where Federal tankers cannot get airborne. They could be there fully loaded with water and chemicals, and they cannot touch the fire if State and local funds have not maxed out. We are changing that, and we are asking for this body's help to do that.

Firefighters for years have asked for us to put more roads in our forests, not just to have access to the fire, but so that they can get out. We lost 15 firefighters in Colorado because they could not get out of the fire. They did not have a road to come through. But yet we have been stopped from doing that by some people in this body and the other body.

The bark beetle, we asked to be able to cut the dead wood and the trees, and not to cut just the dead wood but to cut wherever the bark beetles are. And that same group stopped us from doing that. In Julian, we lost most of Julian because of bark beetle trees and the fuel. The firefighters could not get to it.

We also have for a decade been wanting to take care and thin brush out. For a decade. We have dead brush piled on dead brush every year, and we want to thin it; but we cannot do it because of a bird called a gnat catcher and the desert tortoise and those things. Well, I ask this body, how many of the endangered species do we have today? They are all burned up.

Can you imagine what the winter rains are going to do with the mud and erosion in our lakes and streams? Those who stopped us from doing that are responsible for the aftermath that we are going through right now.

So we can make those changes, ladies and gentlemen. Honor the firefighters and give them what they need.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no greater gift that one can give than his or her own life. There is no greater service than one can provide than looking after the needs of others while neglecting those of your own. I urge passage of this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, my colleague who just spoke, the gentleman from

California (Mr. CUNNINGHAM), spoke from the heart and from years of experience in this body. In Congress talk is cheap.

This resolution splendidly lays out our feelings as a body for the brave and courageous acts of firefighters during this statewide fire emergency. As the firestorms spread throughout California at a rate never before seen, we became acutely aware of just how much we depend on the brave men and women who come from all over the country to fight our wild fires. But here today as we speak in such kind words of Steven Rucker, and we talk about his important contribution and we talk about the loss of 22 innocent people, it is certainly my profound wish and my dedication here that they not die in vain. And although these losses of life seem senseless today, they will be even more senseless if a year from now we have more wild fires with more build-up of fuel that could have been cleared away if the President's Healthy Forest Initiative which has now been passed by both of our bodies does not, in fact, become law.

If we talk profoundly and then our actions are hollow, then talk is cheap. So I ask this body here today in the passing of this resolution, a very appropriate one, to cast your vote not just for this resolution but to have this resolution have meaning a year from now. A year from now someone probably will die, but if fewer die because we acted between now and then to streamline firefighting, yes, to facilitate the dollars necessary to clear underbrush and fuel that has been building up but also to work on the core cause of that fuel building up, the fact that America has not managed its forests properly, the President laid down a marker asking us to produce a bill to manage forests, we have done so. Once conferenced and becoming law, we would begin the process of giving meaning to these firefighters' selfless acts by ensuring that in years to come there will be for the first time in a generation fewer wild fires rather than more.

Mr. Speaker, I rise today in support of H. Res. 425, recognizing and honoring the firefighters and public servants who responded to the October, 2003 wildfires in California.

The fires of the past 2 weeks have ravaged the southern California landscape, consuming over 746,000 acres and destroying 3,587 homes. The fires have also claimed the lives of at least 22 in San Diego County. The sense of loss and devastation that is felt by many of my constituents and other residents of southern California cannot be overstated. The scope of these fires, in terms of lives lost and property damaged, was beyond comparison to anything we have experienced in recent memory. These events were truly a catastrophe, and we mourn with those who have suffered loss.

But I also want to take this opportunity to honor the thousands of men and women who put themselves in harm's way to fight the fires and provide emergency humanitarian assistance to people in need. Over 14,000 firefighters from five different states participated in the firefighting effort. This was particularly dangerous duty, with firefighters confronting quickly-moving wind-driven blazes. Firefighters exhibited resilience and courage, often working back-to-back shifts on the front lines while knowing that, in some cases, their own homes were threatened.

I am particularly proud of the incredible effort made by firefighters to save the town of Julian in my district. Early last week, the Cedar Fire, which eventually destroyed nearly 300,000 acres and more than 2,200 homes, was burning a direct path toward Julian. It looked like the town would be completely destroyed. Through an incredibly heroic effort, firefighters were able to save the town and the lives of dozens of people who were trapped by the fires.

One of these firefighters was Steven Rucker of Marin County. He was battling a part of the Cedar Fire that was dangerously approaching the outskirts of Julian, when his crew was entrapped by a wind-driven blaze. The fire moved so quickly they were not able to reach their engine before becoming engulfed in the flames. Three of his colleagues, Captain Doug McDonald, Shawn Kreps, and Barret Smith were seriously injured in the incident. These men will be remembered as heroes. Their resolve, in the face of extreme danger, is a testament to the fine men and women we have serving us in fire departments throughout California and its neighboring states.

I also want to honor the thousands of men and women who have assisted with the relief and support effort these past 2 weeks. Private non-profit charities, public emergency organizations like the Red Cross and the Federal Emergency Management Agency, local and state law enforcement agencies, emergency medical teams, as well as thousands of community volunteers have all extended themselves to bring critical relief to those who were in the greatest need. These efforts saved lives and brought comfort to those who had lost property. We would be in a much more difficult situation without them.

Mr. Speaker, I am proud to be a co-sponsor of H. Res. 425, which honors the brave men and women who stood in the face of danger and saved the lives and property of so many. We owe these heroes a debt of gratitude. I urge my colleagues to support this resolution.

Mr. SHAYS. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Connecticut has 4 minutes remaining.

Mr. SHAYS. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding me time.

My colleague, the gentlewoman from San Diego, California (Mrs. DAVIS), I appreciate her helping with this very important recognition of a group of our citizens that have given everything we could ask in order to protect our community.

Many do not know that my district, which includes the San Bernardino National Forest, was as dramatically impacted by this fire as any in the country or any in California. The San Bernardino National Forest has been in desperate condition for some time, in no small part because of serious management problems we have experienced in recent years; also in no small part because of a series of years of serious drought that has allowed the ever-present bark beetle to kind of have its way with our forests. And presently there are literally millions of trees standing tall, but which are dead.

It looks like fall time here in the East, but in our forests it is not fall at all. Instead the trees are yellow because they have died. Indeed, we cannot control that piece of nature; but on Saturday I had the occasion to travel with the Under Secretary who is responsible for the Federal Emergency Management Agency. He is the Under Secretary with homeland defense responsibilities.

As we flew over the forest, there were two things that were very obvious to both of us. The first was that where fire has effectively taken place, the erosion that is bound to take place as soon as the rains start to fall will be a tremendous challenge—to see the Earth move as a result of those rainfalls in the future. It is going to have a huge effect upon our ability to rebuild the forest. But the other factor that was a stark reality was that at least three-quarters of those trees we were so worried about which were standing dead are still standing. Many of those trees were not caught up in the fire, and they are indeed a fire looking for somewhere in the future to happen.

Both the Under Secretary and I immediately saw the challenges that lie before us. Indeed, I would like to spend just a moment expressing my deep appreciation for a community that was ready, for they saw on the horizon this huge challenge that was facing the San Bernardino National Forest.

The firefighters, the law enforcement officers, citizens from the community for months came together learning more and more about the challenge that lay ahead. The Lord gave us a fire about 6 weeks before this big one, and that fire caused us to recognize that it could really happen. In that case, we actually had some 600 people leave their homes in order to protect their own lives. Very quickly it became obvious that real fire, of a nature that we had not seen for perhaps 20 years, was about to take place. And so our people got ready.

Community leaders in every city and town throughout the mountains recognized that we were in this together and their preparations saved many a life.

There is little doubt that the combination of our firefighters, law enforcement officers, and those citizens themselves made all the difference. We are grateful for their recognizing this crisis and being ready to respond.

Mr. BACA. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. BACA. Mr. Speaker, I thank the gentleman and majority leaders on both sides. I stand in support of this resolution, H. Res. 425.

□ 1400

I went out there with the gentleman from California (Mr. LEWIS), and we saw many of the firefighters who were willing to stand up and fight for us. We saw the devastation in our immediate area, but one really cannot explain what happens when a person is willing to go on the battle line.

Many of these men and women were willing to fight for us, when all of us are willing to witness what happens right now, and we saw the fires that are going on, but these men and women continued to go back into the battle because they knew what it meant to save that particular home or save that forest or save our immediate areas in terms of our communities.

I know that my son, Joe Baca, Jr., and I and the highway patrol went directly into the fires and saw some of these homes that were burning, and we saw the firefighters that were willing to fight the fight. They did not ask any questions, but these men and women continued to be brave and continued to work on behalf of us.

I stand in support of this resolution. I commend both sides for coming up and honoring these men and women who are heroes and continue to fight in our behalf, and we need to continue to support individuals that are willing to stand on the line for us.

Mr. FILNER. Mr. Speaker, I rise today to support H. Res. 425, a resolution honoring and commemorating the heroic efforts of the firefighters who fought to save lives and property. These firefighters exhibited resilience and courage, continuing to stay on the lines, often in back-to-back shifts and, in some instances, knowing that their own families were in danger or that their personal homes had been lost.

The fires that swept across Southern California tested our resolve. All of us in the fire's path were forced to wrestle with the magnitude of the destructive force bearing down on our neighborhoods. Clearly, we owe a huge debt of gratitude to the brave firefighters who met this huge obstacle head on, and I think all of us were impressed by the outpouring of compassion in our communities as neighbors helped neighbors, and strangers came to the aid of those they had never met.

I have made a commitment to my constituents to fight for our neighbors as we begin the difficult process of rebuilding. I will be a vocal advocate in Washington for the necessary federal assistance being made available so our neighbors can begin to put their lives back together. Just yesterday, I took part in meetings with the President of the United States when he visited San Diego to tour the fire damage, telling him that our people need all the resources of the federal government marshaled for their support over the upcoming weeks and months. There will be questions that need to be answered about what preparations were made to combat a fire of this magnitude in our region, and I will not pull punches in getting to the bottom of any culpability that could have hampered our ability to stop this fire.

In addition to co-sponsoring this important legislation, I have co-sponsored two other important fire related bills. H.R. 3407, the California FIRE Act, to provide $500 million in immediate disaster relief to the victims of the California fires, and H.R. 3431, the Firefighters Medical Monitoring Act, to keep track of the health of the California firefighters after the fires are extinguished. We must ensure that the firefighters who put their lives at risk do not become ill following the fires. I recently voted in favor of the Supplemental Appropriations bill because of the terrible suffering and devastation endured by the citizens of San Diego County as a result of the firestorm, $500 million was added for Federal Emergency Management Agency (FEMA) disaster assistance in California. Last week, I contacted FEMA Director Michael Brown and President Bush, urging them to make a FEMA center operational immediately in San Diego, to help my constituents in processing the necessary paperwork to begin the process of rebuilding their lives. This important funding will allow FEMA to open one-stop clearinghouses for information and assistance in expediting the huge volume of disaster claims that will result from this tragedy.

I know, in a very personal way, the suffering of San Diegans in the recent firestorm and because I want to say "thank you" to the thousands of professional firefighters who exhibited so much bravery and courage in recent days, I support this important bill.

Mr. DREIER. Mr. Speaker, I rise today to express my strong support for House Resolution 425, which recognizes and honors the firefighters and other public servants who responded to the devastating wildfires in Southern California which began last month. I commend Congressman DUNCAN HUNTER and Congresswoman SUSAN DAVIS for their work on recognizing these heroic efforts.

More than 14,000 firefighters from five different states were called upon to fight these fires. Those on the fire lines continue to make excellent progress toward full containment, which in the course of the past three weeks, consumed over 745,000 acres, destroyed over 3,500 homes, and took the lives of twenty-two individuals.

Among those lives lost was firefighter Steven L. Rucker, who died in the line of duty on Wednesday, October 29, 2003, battling the Cedar Fire in San Diego County. Steve, just 38 years old, was an 11 year veteran of Novato Fire District. He is survived by his wife and two children. This tragic loss, as well as the hard battle the firefighters are still engaged in, is why we come to the House Floor today.

It is devastating to hear the numbers of people lost, homes gone, and communities that are faced with rebuilding. However, by far greater numbers are the people saved, homes protected, and communities sheltered by the tireless efforts of firefighters. I also want to take this time to recognize all the volunteers who are working at the various shelters, many of whom lost their own homes in these fires.

And while we still look forward to full containment of the fires that have burned in five counties in Southern California, we are already working toward rebuilding, mitigating for potential mudslides and erosion during the rainy season, and looking at every opportunity to prevent another disaster of this magnitude. The firefighters are aided in this by support from a number of federal agencies including the U.S. Forest Service, the Federal Emergency Management Agency, the Small Business Administration, the Army Corps of Engineers, and the U.S. Department of Agriculture's Natural Resources Conservation Service.

We are resolved, in remembering Steve Rucker and the other fire victims, as well as in sharing the devastation with those who lost their homes and businesses, to do all we can to ensure the expedited delivery of federal disaster assistance dollars, to coordinate with federal, state, and local agencies to assist in the recovery effort, and most importantly, to engage in preventing further damage from potentially damaging winter storms.

Mr. Speaker, I encourage all my colleagues to join me in supporting this resolution today.

Mrs. BONO. Mr. Speaker, I rise in strong support of H. Res. 425, a bill recognizing and honoring the firefighters and other public servants who responded to the October 2003, historically devastating, outbreak of wildfires in Southern California.

Whether it be the tragic day of September 11, 2001 or a single structure fire in town, it is the brave firefighter who rushes in when others rush out. It is only fitting then, that we take time to honor these brave men and women who took on the flames that wrecked so much damage in Southern California.

The 45th Congressional District lost twenty-one homes. But I believe if it were not for the valiant efforts of those individuals who risked their lives to battle this blaze, the devastation could have been even worse.

Sadly, we lost Steve Rucker, a 38-year-old fire engineer from the Novato Fire Protection District near San Francisco. Steve, a husband and father, stood up to this fire while hundreds of miles away from his home. The amazing thing is that Steve, and the thousands of other firefighters, fought these flames as if they were threatening their own homes and families. It was a battle fought as much with the heart as anything else.

It certainly takes a special kind of spirit to serve as a firefighter. I know many of these individuals knew this was their calling from the earliest of ages—probably after seeing a bright red fire truck make its way down the street. But from those childhood dreams grew the reality that this job was fraught with danger. Yet still, these men and women pursue with vigor the job that captivated them so many years ago. They work so very hard at protecting us and our homes.

I am also grateful to those in the Red Cross and hundreds of other volunteers who spent their time and efforts comforting the victims of this disaster. I cannot imagine what it is like to lose one's home, but how much more tragic would it have been to have nowhere to go and no one to help. But at this time, strangers turned into family and all that is good about human spirit rose above this disaster.

Californians are full of courage and do not weaken in the face of adversity. The will to rebuild took root even in the darkest of hours. But if not for our firefighters and volunteers, keeping such faith would have been much more difficult.

On behalf of the constituents of the 45th Congressional District of California, I want to thank these individuals for their tireless efforts and extreme bravery during our time of need.

Mr. CALVERT. Mr. Speaker, I rise today to honor and pay tribute to each and every firefighter and citizen whose dedication to our communities and families of Southern California again demonstrated exceptional spirit and strength in a time of disaster. Our nation is fortunate to have dedicated citizens who willingly and unselfishly give their time and talent and make their communities a better place to live and work. Our firefighters confronted the unprecedented fires which swept through our region with unwavering courage. They exemplify community leadership. I was fortunate enough to accompany President Bush yesterday as he thanked these spirited public servants and talked to the victims and survivors of the Southern California fires.

Without the dedication and tireless passion of our Firefighters and public servants there would have been even more extensive destruction of property and devastation of lives above and beyond the 3,300 homes and 4,000 other structures destroyed and hundreds of thousands of acres burned. Our Firefighters fought and finally brought under control these devastating wildfires and continue in aiding the victims left homeless in the wake of the destruction.

I know I speak for all the people from California's 44th district when I say that our thoughts and prayers have been with the firefighters as they worked vigorously to contain and control the wildfires. Laboring day and night in extreme conditions, the firefighters that responded to the Southern California wildfires will always have our nation's respect for their dedication to their profession. There is no better example for Americans than those who stare down adversity and meet every challenge with true conviction, just as the firefighters have done during this very difficult time.

While the firefighter worked tirelessly on the front lines of the fires, the support personnel that were tasked with an overwhelming job of reconstruction and recovery are equally honored for their efforts. Often it is the aftermath of a crisis that brings the most arduous challenges. The dedicated public servants that have come to the aid of their victims of the Southern California wildfires are to be commended for their ongoing contributions. Law enforcement, medical personnel, emergency responders, and community leaders have all come together to complete a daunting task; recovering from the loss of loved ones and property, and rebuilding in the aftermath.

I am proud to cosponsor H. Res. 425, recognizing and honoring the firefighters and public servants who responded to the October 2003 Southern California wildfires. I am sincerely grateful for the leadership and sacrifice firefighters and their families endure in order to secure property and protect our lives. As a native Southern Californian I know that our communities will persevere through this tragedy and successfully rebuild our beloved homes and families. We all stand ready to help in any way I can.

Mr. SCHIFF. Mr. Speaker, I rise today to support House Resolution 425 honoring the heroic efforts of the firefighters and safety personnel who responded so bravely to the devastating outbreak of wildfires in Southern California.

At the peak of the blazes, more than 14,000 firefighters from across California and several other Western states were deployed over hundreds of miles in an arc around Los Angeles and into San Diego County as far south as the Mexican border.

These courageous men and women have gone far beyond the call of duty. Fighting fires that took the lives of 20 people, destroyed more than 3,400 homes and scorched more than 750,000 acres since igniting in different locations around Southern California nearly two weeks ago, they worked around the clock, despite considerable risk to their personal safety, in order to ensure the well-being of the nearly 100,000 evacuated residents.

And as the evacuated sought safety and shelter, the American Red Cross, the Federal Emergency Management Agency, and a number of similar organizations mobilized hundreds of volunteers to assist in providing clothes, food and other essential items to the many who were forced to abandon all of their possessions. As the rebuilding process begins, these same agencies and organizations will serve as a helping hand to too many Southern California residents whose homes have been either badly damaged or lost.

I would like to pay special recognition to the firefighters in my California District who were called upon to fight these blazes. Coordinated by the Glendale Fire Department, firefighters from my District were called to battle one of the very earliest blazes and for two weeks after the first blaze, devoted almost every resource in the District to assisting in the effort to knock down these fires. I have no doubt that their heroic actions saved thousands of lives.

This is a devastating time for Southern California residents. I send my deepest condolences to the families who have lost loved ones and to the thousands who have lost homes to these fires. It is only then appropriate that through the passage of House Resolution 425 we honor the actions of the firefighters and safety personnel who prevented the additional loss of life and property. I urge all Members to support this resolution and pay respect to some of our Nation's bravest heroes.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of House Resolution 425 honoring those who fought the devastating fires that have struck Southern California. In particular, I want to mention Steven Rucker, 38 years old and the father of two young children, who died fighting the Cedar fire, which began on the Cleveland National Forest and moved over 25 miles in less than 10 hours. He joins the roll of 29 other wildland firefighters who perished this summer across this country. Every wildland firefighter who takes up this occupation knows that on the next fire, they could face a similar fate.

Brave men and women choose the profession of firefighting with a keen awareness of the dangers inherent in the job. What they do requires bravery similar to that required of our armed forces. However, they fight a foe that isn't driven by ideology, or religion, or a lust for power. Wildfire has none of these motivations, and is something altogether more unpredictable as a result. If not for the efforts of our firefighters, many more homes and businesses, not just in California but across the country, would be lost, and many more civilians would have lost their very lives.

House Resolution 425 focuses on the Southern California fires, which are fresh in our memories. However, I think it's important that we recognize that wildland firefighters face these dangers in many states across the country. Wildland firefighters have died on the fire ground in States as diverse as Florida, Arkansas, Indiana, Montana, New York, Wisconsin, Texas, Louisiana, and Oregon over the last ten years. Moreover, when wildfires strike anywhere in the United States, wildland firefighters from across the country—Federal, state, and local—mobilize to defend our forests, our homes, our families, from the devastation brought about by catastrophic fire.

The firefighters who bravely face these infernos also understand something that many here in Washington are just beginning to grasp; that these wildfires are getting worse because we've tied the hands of our Federal land managers and prevented them from addressing hazardous fuel buildups. We have a bill that begins to address this issue, and I hope we can work with the other body to finish that important work soon.

I am saddened by the loss of life and the destruction of our resources that we witnessed in the last weeks. I am humbled by the bravery of our wildland firefighters and the tenacity of all our first responders without whom the disaster in California would have been far worse. I am honored to join my colleagues whose constituents have suffered so much in recent weeks in passing this resolution.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). All time has expired.

The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 425.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1904. An act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

FRANCIS X. McCLOSKEY POST OFFICE BUILDING

Mr. SHAYS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3379) to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the "Francis X. McCloskey Post Office Building."

The Clerk read as follows:

H.R. 3379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FRANCIS X. MCCLOSKEY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, shall be known and designated as the "Francis X. McCloskey Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Francis X. McCloskey Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut (Mr. SHAYS).

GENERAL LEAVE

Mr. SHAYS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3379 designates the facility of the United States Postal Service located at 3210 East 10th Street, Bloomington, Indiana, as the Francis X. McCloskey Post Office Building. Congressman Frank McCloskey, a six-term Representative from Indiana, sadly passed away at age 64 on Sunday, November 2, 2003.

Mr. Speaker, I want to join with the gentleman from Indiana (Mr. HILL) in offering the deepest sympathies to the family of Frank McCloskey and to say to the Chair and to the other Members of this House, Frank was an extraordinarily caring individual, tremendously hardworking, a gentle man and a very effective Member of Congress. Mr. Speaker, he was a devoted Member of this body, with whom many of us served, and we are all saddened to hear the news that he had passed away on Sunday and are grateful for the opportunity to remember him here today.

Mr. Speaker, I urge passage of H.R. 3379.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 3379, and I yield 3 minutes to the gentleman from South Carolina (Mr. SPRATT), the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to pay tribute to an old friend and dear colleague. Frank McCloskey and I came to Congress together in 1983, and for all the time that he served here, we sat beside each other on the Committee on Armed Services. I enjoyed him as a person. He became a good friend. I admired him as a colleague. I learned a lot from him.

Frank was plain and unpretentious, but beneath a serious and even studious sort of demeanor, he was passionate about the things that he believed in and dogged in their pursuit. He stayed on top of the issues. We get confronted continually with issue of all sorts.

I will never forget the morning after Reagan made his SDI speech, March 1983. Frank was the one member of the committee then who was probing the Defense Department witnesses about strategic defense. He was skeptical but he was always, always informed and diligent and fair-minded as a critic. Long before Srebrenica, he was troubled, deeply, personally conflicted about the war and current issues in the Balkans, and he was an early advocate and lone supporter of our intervention there. There were those who said it was not feasible, it was not possible or it was not desirable, but in the long run Frank McCloskey's position was vindicated.

Frank McCloskey was not glib. He was not flashy. He was not smooth. He was not, in Sam Rayburn's famous analogy, a show horse, but he was a workhorse. He took his job seriously and never himself. He was never one to preen or pontificate. There was no conceit about him. He was a plain spoken Hoosier who worked hard in the House, worked hard for his constituents, and every election ran hard to hold on to his seat.

Frank was gone from the House before we really knew it, and now he is gone altogether. Naming this post office after him is completely appropriate, though it seems a small gesture. This does give us, however, at least the chance to say to an old colleague whom we greatly respected, well done. Well done for all the years you served here. Well done in all your friendships you have given to us, and also to say to Frank and his family, we have never forgotten you, and this bill proves it.

I hope this post office will also give his constituents, whom he served so well, cause to remember him and all that he did for them. Our hearts go out to his family. We understand their grief. We share their loss, but we hope that they will take solace in hearing his old colleagues here in the House say that the years he spent here were years well spent in service to his country.

While he left here more than 8 years ago, I believe his example still shines among us, as the passage of this resolution will demonstrate.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from Indiana (Mr. HILL), the sponsor of this legislation.

Mr. HILL. Mr. Speaker, I thank the gentleman for yielding such time to me.

Mr. Speaker, this past Sunday we lost in Indiana another man by the name of Frank. A couple of months ago we lost our Governor, Frank O'Bannon, and this past Sunday, we have lost Frank McCloskey.

Frank was born on June 12, 1939, in Philadelphia, Pennsylvania. He graduated from Bishop Kendrick High School in Norristown, Pennsylvania in 1957, and got his undergraduate degree at Indiana University in 1968, his law degree at Indiana University in 1971. He served in the United States Air Force from 1957 until 1961. He was a newspaper reporter from 1961 to 1968. Admitted to the Indiana bar in 1971.

He became mayor of the great city of Bloomington, Indiana for 10 years, from 1972 until 1982. He was elected at the ripe old age of 32 years of age. He was in the U.S. Congress from the 8th District from 1983 until 1995.

He was an attorney, he was a good guy, and we are going to miss him. We are losing too many Franks in Indiana. Frank was a special guy. I like what the gentleman from South Carolina (Mr. SPRATT) had to say about Frank. He was a good and decent fellow, mellow, mild, dedicated, especially to the cause in Bosnia and made many trips over there. He was a good Congressman.

He created some controversy in this House on an election one time, and I think some Members still remember that, but the House has always been full of controversy, and we look beyond that in these kind of special things that happen to people in their lives.

It is the right thing for us to do today to honor Frank McCloskey by naming this post office after him.

I spoke with Frank last week in the hospital, and he told me he did not want to go. He was still fighting, wanted to fight to live, but he actually told me that he thought that he was not going to win this fight, but he went down swinging.

We have always respected that element in Frank McCloskey. He was a fighter for the things that he believed in, to the last day that he died.

My heart and my prayers go out to Roberta, his wife; his daughter, Helen; and his son, Mark, and to the people of Bloomington, Indiana who loved Frank McCloskey. They will miss him, I know, but we honor him here today by naming this post office in the city that he loved, in Bloomington, Indiana.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentlewoman from Indianapolis, Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I would commend my colleague the gentleman from Indiana (Mr. HILL) who represents the district that the Honorable Frank McCloskey represented so well, and certainly appreciate very much the fact that he has expedited this measure to the floor today on behalf of a great man.

Congressman Frank McCloskey passed away Sunday after a long battle with cancer, and as my colleagues already know, the Honorable Frank McCloskey served more than 10 years as mayor of Bloomington and was an elected Member of Congress for 6 years.

What I think, Mr. Speaker, that I would emphasize today is that this country has produced great scientists. When I fly back and forth from Indianapolis on a weekly basis, I think about the incredible brilliance of the Wright brothers who taught us how to annihilate space and circumscribe time, and I am wondering when and where and how we will be able to amass that same kind of talent to eradicate this deadly, deadly disease called cancer.

Frank McCloskey was a very strong man who brought to the ears and eyes of America the problems with ethnic cleansing among the Balkans in Bosnia, a very courageous and decent individual, and I know that his wife Roberta is full of pain, even though she would not want to see him in pain any longer. His congressional career, the leadership that he exhibited, the fact that he worked at the local bases and was just an ordinary person, a reporter for the Star and the Herald-Telephone in Bloomington, and the City News Bureau in Chicago, named director of the Kosovo programs for the Democratic National Institute for International Affairs, where he was teaching leaders how to govern democratically.

I am pleased to support this effort by the gentleman from Indiana (Mr. HILL) on H.R. 3379 designating the Frank X. McCloskey Post Office in memory of the former Frank McCloskey, to the citizens of Bloomington and, yes, to the entire State of Indiana, and I urge all of my colleagues to support this legislation and keep Frank and his family very near and dear in our thoughts and prayers.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I rise in support of H.R. 3379, a bill to designate the Bloomington, Indiana, post office in honor of the late Congressman FRANK McCloskey.

Indiana has lost one of its more dedicated and valued public servants. Frank McCloskey, his sincerity, his compassion for people not only here in America but around the world, was very profound.

I served with him on the Committee on Armed Services when I was a new Member here, and he was very informative because in the 1993 time period he was very eager to teach a new President at that time about the plights in Bosnia, at a time where our country wanted to turn more inward, and he wanted to focus us more outward.

As I look back on that, a lot of things that Frank spoke of came to pass, and for that reason, for his public service, not only as the mayor of Bloomington but also what he helped do for our country in a very difficult time in the world, this is an honor fitting of the gentleman, and for that, I urge my colleagues to join me in support of this bill.

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Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. VISCLOSKY), the pride of northeastern Indiana, and my neighbor and friend across the water.

Mr. VISCLOSKY. Mr. Speaker, I want to join my colleagues in asking all of the House to support this resolution on behalf of a great American, a true Hoosier, and an outstanding public servant, that is, the former Indiana Congressman, Frank McCloskey. Frank devoted his life to serving people, whether it was in the military service of our country, whether it was as a mayor, whether it was as a Member of Congress, or subsequently as a private citizen. He was a man of great passion over those things that mattered to him and those things that mattered to people who could least defend and protect themselves.

Frank McCloskey was a noble man engaged in noble work, and he was a man of courage. The gentleman from Indiana (Mr. HILL) mentioned he was courageous to the last breath that he took. He was always courageous in the words he spoke and in the actions he took in the House of Representatives. Frank did come to Congress in 1983, and he served his district with distinction for 12 years. He was passionate about helping working families, their children and their parents.

It is also said, and it is certainly true, that Frank was as much at home in the coal mines of southern Indiana as he was in the halls of Congress. Frank authored legislation for children to make sure that companies could not send free samples of drugs or cleaning products through the mail without child safety caps. In 1990, he authored other legislation against deceptive practices.

But subsequent to his public service in the United States Congress, he acted most nobly when he took great interest in humanitarian issues worldwide. He was one of the first U.S. public servants to visit Bosnia when it was embroiled in warfare and ethnic cleansing. He successfully brought the suffering to the attention of the American people, our government, and championed humanitarian intervention; and he continued that work throughout his life.

In 2002, Frank was named director of the Kosovo Programs for the National Democratic Institute for International Affairs, where he taught other leaders from around the globe how to govern democratically. I would close by again reflecting on Mr. McCloskey's courage, courage of his convictions, of his life, and of his commitment to everyone.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI), the Democratic leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time, and I thank the gentleman from Indiana (Mr. HILL) for making this resolution possible this afternoon.

Mr. Speaker, it is with great personal sadness that I rise to pay tribute to Frank McCloskey, who passed away on Sunday surrounded by family and friends, and that is exactly how he lived, surrounded by family and friends. Frank was a respected colleague in this body, a dear friend and a faithful public servant. He was the mayor of Bloomington for 10 years. He was just out of law school when he was elected mayor of Bloomington, and he was always in touch with his district. He was so proud to represent Indiana in the Congress, and those of us who served with him learned from him every single day about the wonders of Indiana and about the prospects for our great country.

Frank was a fighter, a gentleman, a diplomat, a lovely and gracious man, but a fighter. He believed in causes greater than himself, and he worked tirelessly to achieve them. Anyone who served in Congress with Frank knew once he grabbed hold of an idea, he did not let go. In his work on the Committee on Armed Services and Committee on Foreign Affairs, he knew that our highest priority as Members of Congress was to provide for the common defense. He honored that commitment and became an expert on national defense policy. He was passionate and eloquent in his support for the people of Bosnia and a leader in stopping the genocide there. What a source of pride that must have been for him. The gentleman from Connecticut (Mr. SHAYS) is nodding his head and acknowledging that Mr. McCloskey was such a champion for human rights and respecting the dignity and worth of every person. He cared deeply for the people of Bosnia and refused to believe that the United States could not stop the atrocities occurring there. On that issue, Frank was ahead of his time, as he was on so many issues.

I thank the gentleman from Indiana (Mr. HILL) for his work to designate the Francis X. McCloskey Post Office Building. Frank served on the post office and civil service subcommittee, and I know it would be a source of great pride to have a post office named in his honor.

Our thoughts and prayers are with Roberta and their two children. I had the pleasure of being in their company on a number of occasions and spoke to Frank as recently as last week. He was still a fighter and was fighting to get through this rough patch. But he knew that he had wonderful things in store, but they might not be with us here on Earth. We hope it is a comfort to Roberta and Frank's children that so many people share their loss. We miss Frank not only as a colleague, but as a precious and dear friend. He was a leader. People who never met him benefited from his great service in this Congress of the United States. Again our sympathies go out to his family, to his constituents whom he cared so much about, and I thank again the gentleman from Indiana (Mr. HILL) for making this tribute to Frank possible.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the Democratic whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, Dr. Martin Luther King, Jr., once remarked, "An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity."

Today as we note the untimely passing on Sunday afternoon of our friend and former colleague, Indiana Congressman Frank McCloskey, who lost a year-long battle with cancer, let it long be remembered that this Hoosier embraced not only the important concerns of his constituents in southwest Indiana, but also the broader concerns of all humanity.

In the early 1990s, I worked very closely with Congressman McCloskey and others to call attention to the atrocities and ethnic cleansing perpetrated by Slobodan Milosevic and his henchmen in Bosnia. Many in the international community, indeed many in this country, looked away. Frank McCloskey did not.

A fact-finding trip to Bosnia in 1991 stirred and galvanized Frank's passion. As a member of the Committee on Armed Services and Committee on Foreign Affairs, Congressman McCloskey was among the first in Congress to call for air strikes against Serbian positions in Bosnia-Herzegovina from which Bosnians were being shelled and murdered. Frank urged that Slobodan Milosevic be tried as a war criminal, which now is happening. He and I worked to lift the arms embargo against Bosnia, and he was not shy in criticizing the Clinton administration when he disagreed with its handling of that conflict.

Mr. Speaker, political expediency practically demanded that Frank McCloskey focus on shoring up his position in the 8th Congressional District. As is well known, he won his first election to this body in 1984 by four votes. But in spite of the fact that he won six congressional races in one of the most competitive districts in America, political calculation did not crowd out the humanity in Frank McCloskey's heart. He was commanded by conscience to do what he believed was right.

Frank McCloskey lived a full life serving in the Air Force, working as a newspaper reporter, and serving as Bloomington's mayor for 10 years before he was elected to this Congress.

Let me close, Mr. Speaker, by quoting John Kennedy who inspired Frank and inspired many of us in this body. Kennedy said: "I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas."

Mr. Speaker, those were words that Frank McCloskey lived by. We mourn his loss and offer our condolences to Roberta, his wife of 30 years, and his two children, Helen and Mark, as well as his family and many friends. Frank McCloskey made this a better body. He made this country better. We mourn his loss.

Mr. Speaker, Dr. Martin Luther King, Jr., once remarked that: "An individual has not started living until he can rise above the narrow confines of his individualistic concerns to the broader concerns of all humanity."

Today, as we note the untimely passing on Sunday afternoon of our friend and former colleague, Indiana Congressman Frank McCloskey—who lost a year-long battle with cancer—let it long be remembered that this Hoosier embraced not only the important concerns of his constituents in southwest Indiana but also the broader concerns of all humanity.

In the early 1990s, I worked very closely with Congressman McCloskey and others to call attention to the atrocities and ethnic cleansing perpetrated by Slobodan Milosevic and his henchmen in Bosnia.

Recall that as the former Yugoslavia disintegrated and Milosevic trained his fury on Bosnia, millions were displaced, hundreds of thousands were killed, and tens of thousands were raped and tortured.

Many in the international community—indeed many in this country—looked away. Frank McCloskey did not.

A fact-finding trip to Bosnia in 1991 stirred and galvanized Frank's passion, which, as the Indianapolis Star said on Monday, dominated both the twilight of his life and his political career. At the time of his death, he was the Director of Kosovo Programs for the National Democratic Institute for International Affairs, where he taught leaders how to govern democratically.

Back in the 1990s, as a member of the Armed Services and Foreign Affairs Committees, Congressman McCloskey was among the first in Congress to call for air strikes against Serbian positions in Bosnia-Herzegovina. He believed such strikes were needed to prevent hostilities from spilling over to Croatia, Kosovo, Macedonia and other provinces.

Frank urged that Milosevic be tried as a war criminal, which now in fact is happening. He and I worked to lift the arms embargo against Bosnia. And he was not shy about criticizing the Clinton administration when he disagreed with its handling of the conflict.

Mr. Speaker, political expediency practically demanded that Frank McCloskey focus on shoring up his position in the Eighth Congressional District. As is well know, he won his first attempt at re-election to this body in 1984 by four—yes, four—votes.

But in spite of the fact that he won six congressional races in one of the most competitive districts in America, political calculation did not crowd out the humanity in Frank McCloskey's heart. He was commanded by conscience to do what he believed was right—for his constituents, for his nation, and for humanity, too.

Mr. Speaker, Frank McCloskey crowded an enormous amount of living into his 64 years. He served our Nation for 4 years in the Air Force; graduated from Indiana University with bachelor's and law degrees; worked as a newspaper reporter in Chicago, Bloomington and Indianapolis; and served as Bloomington's mayor for 10 years before being elected to Congress.

Still, though his contributions were many, one cannot help but think that they would have been even greater had he been given the gift of more time in his life.

Let me close by quoting John F. Kennedy, who inspired Frank McCloskey, as well as myself: "I believe in human dignity as the source of national purpose," said President Kennedy, "Human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas."

Mr. Speaker, those were words that Frank McCloskey lived by.

We are all the beneficiaries of his tireless efforts on behalf of human rights and basic dignity.

As we mourn his loss and honor him by naming this post office in his honor, I want to express my sincere condolences to his wife of

30 years, Roberta, and his two children, Helen and Mark, as well as his family and many friends.

Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I want to second what the gentleman from Maryland (Mr. HOYER) said. Because of Frank McCloskey's life, there are a lot of people alive in Bosnia-Herzegovina, Croatia, Serbia, and Kosovo. He, along with several other Members, did more to sensitize this Congress, which was not very interested at that time in those areas. Neither the Clinton administration nor the Congress, quite frankly, wanted to do anything with regard to what took place. Frank McCloskey went over there and because of his actions did a lot of good and saved a lot of lives.

Also, as many people know, even after Congressman McCloskey left this Congress, he continued his work. He did not let this cause go. I want to rise to salute Congressman McCloskey; and on behalf of all of the people that are alive in Bosnia-Herzegovina, Croatia, Slovenia, Serbia and Kosovo, who may not even know the reason why, I thank Frank on their behalf and want to let his family know he made a tremendous difference not only for their district, not only for our country, but for our entire world.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time and compliment the gentleman from Indiana (Mr. HILL) for bringing forward this resolution, along with the gentleman from Connecticut (Mr. SHAYS).

All of us cared very deeply for our beloved colleague, Frank McCloskey. To his wife, Roberta, to his children, family and friends, to the citizens of Indiana, you sent America a beautiful man to serve here in this Congress.

I can remember when Frank first arrived. We were both babies of the 1980s here. The economy was not so good. He being from the Hoosier State, and I from the neighboring Buckeye State, were fighting to try to restore some economic sanity to the country so people could have decent jobs at good wages and we could manage our accounts in a way that would be responsible for future generations. He was a part of that great struggle of the 1980s. I remember how in the 1990s after his trip to the Balkans, he would come up to us on the floor and say we cannot tolerate this genocide. I remember his very straight, erect figure becoming a bit bent as the weight of that affected him. I could see it in his face. The young Congressman who had come here was taking on a cause that was global in proportion. He truly made a difference. Millions and millions of children will grow up in a different and better world because of the life that he lived.

He was beyond reproach in terms of his honor and his devotion to public service. He always had a good word for us. He was such a pleasant gentleman here. He added to the comity. Partisanship was not the main aspect that drove Frank.

When we look up on the wall of Congress, there is a saying by Daniel Webster which talks about performing something in your time and generation worthy to be remembered. Surely, Congressman Frank McCloskey of Indiana fits that level of achievement as a Member of this precious body of the Congress of the United States, and we send deepest condolences to his family. He made a difference.

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Mr. SHAYS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise to mourn with those who mourn, and grieve with those who grieve, with gratitude for my colleague the gentleman from Indiana (Mr. HILL) for his swift and decisive leadership in moving this important legislation honoring a great public servant, Frank McCloskey, to the floor of the Congress of the United States.

When Frank McCloskey breathed his last this Sunday, Indiana lost a leader, but as we have heard again and again from colleagues who served with him and those who simply admired his work from afar, the world community most certainly lost a champion of justice. Congressman Frank McCloskey was a man of courage, courage he demonstrated very recently in his struggle with cancer, staying positive and optimistic even to the very end in all of his public statements to family and friends and neighbors.

But he was also, as we have heard today, a man of genuine courage in public service. In addition to his tenacity in representing the people of southwestern Indiana during six terms in the U.S. House of Representatives, Frank McCloskey will long be remembered for his courage in challenging the United States to confront the genocidal aims of President Slobodan Milosevic in the Balkans.

As a member of the House Committee on International Relations, I had the occasion to speak to former Congressman Frank McCloskey on several occasions about his efforts to confront the evils of ethnic cleansing and what was without exaggeration, Mr. Speaker, his foresight and his vision. Long before the world community and long before the United States, certainly, came to recognize the threat to peace and the deep injustice that was taking place in the Balkans, Indiana's Frank McCloskey came to this floor and spoke with passion.

It is accurate to say as we remember him here and we commemorate him in a building in his beloved home State, that also the name of Frank McCloskey will be remembered by generations of Bosnians. In fact, there are thoroughfares in that nascent nation this day that bear his name. Generations of Bosnians will remember the name of Frank McCloskey of Indiana on a short list of leaders who, across the globe, had the vision to confront the evil aims of the Serbian dictator who beset them.

It has been said long ago that a man who has done nothing for mankind should fear to die. I speak with confidence and humility when I say I am sure Frank McCloskey did not fear to die given his extraordinary contributions to life and liberty in the Balkans. We mourn his loss with his friends, his colleagues, most especially his wife, his family and his children. We strongly support this resolution and this measure to recognize this true Indiana leader.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

In closing for our side, I did not have the opportunity to serve with Representative McCloskey, but from listening to the accolades that have been given to him by his colleagues who did serve with him and know him, it is clear that he was not only honorable, but that he was also seriously committed to what he believed in even if, at the time, there was not the full level of support that one often looks for. I commend the gentleman from Indiana (Mr. HILL) for introducing this resolution. I commend all of the members of the Indiana delegation, all of those who are supportive of this measure. I urge its swift passage.

Mr. Speaker, I yield back the balance of my time.

Mr. SHAYS. Mr. Speaker, I yield myself such time as I may consume.

I join with the gentleman from Illinois (Mr. DAVIS) in thanking the gentleman from Indiana (Mr. HILL) for introducing this resolution and thanking our colleagues for coming to the floor of the House and reminding us of what Mr. McCloskey has done, just some of what he has done, and to again urge passage of this resolution.

Mr. BURTON of Indiana. Mr. Speaker, I rise today in honor and recognition of my former colleague and fellow Hoosier, Congressman Frank X. McCloskey, upon his untimely death after a year-long battle with bladder cancer. I strongly support the "Francis X. McCloskey Post Office Building Designation Act" (H.R. 3379), renaming the United states Post Office located in downtown Bloomington, Indiana, after former Congressman McCloskey.

Born in Philadelphia, Pennsylvania, in 1939, McCloskey attended high school in Norristown, PA, and entered the Air Force immediately after graduation. After honorably serving his country, McCloskey attended Indiana

University, where the received both his undergraduate degree and a Doctorate of Jurisprudence. He then settled down in Bloomington and began his service to both the state of Indiana and our Nation in a most distinguished manner, beginning with his ten-year term as mayor of the city of Bloomington. McCloskey had the highest of aspirations, and was eventually elected to the U.S.House of Representatives in 1982, serving a 6-term career as U.S. Representative from the 8th Congressional District of Indiana.

During his tenure in the House of Representatives, Frank McCloskey became highly involved in the Balkan crisis, introducing several pieces of legislation seeking to avert a humanitarian disaster in the former Yugoslav republics. In the years following his Congressional service, Frank drew upon those experiences in foreign relations and human rights by pursuing formal training in Balkan studies and serving as a mediator in negotiations over territorial disputes in Bosnia. As a result of his dedication and tireless efforts, McCloskey was awarded by being named Director of Kosovo Programs for the National Democratic Institute for International Affairs.

Mr. Speaker and my esteemed colleagues, please join me in honoring and recognizing the service and commitment that Congressman Frank McCloskey gave to his fellow Hoosiers, the American people, and the international community. It is only fitting that we dedicate a last memorial by renaming the Post Office in downtown Bloomington, Indiana, after a man who helped change the course of history and served the public with distinction. Please join me in supporting the "Francis X. McCloskey Post Office Building Designation Act."

Mr. BUYER. Mr. Speaker, today I rise in support of H.R. 3379, a bill to designate the Bloomington, Indiana Post Office in honor of the late Congressman Frank McCloskey. Indiana has lost one of its most dedicated and valued public servants. Frank McCloskey's sincerity and compassion for people, not only here in America, but around the world, was profound. My thoughts and prayers are with his family during this time. I urge my colleagues to join me in support of this bill.

Mr. SHAYS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and pass the bill, H.R. 3379.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report to accompany H.R. 2559, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. SHAYS). Is there objection to the request of the gentleman from Michigan?

There was no objection.

CONFERENCE REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

Mr. KNOLLENBERG. Mr. Speaker, pursuant to House Resolution 429, I call up the conference report on the bill (H.R. 2559) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2004, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHAYS). Pursuant to House Resolution 429, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of November 4, 2003, at page H10253.)

The SPEAKER pro tempore. The gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Texas (Mr. EDWARDS) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my pleasure to present to the House the conference report on H.R. 2559, the fiscal year 2004 military construction appropriations conference report. This legislation provides funds for all types of construction projects on military installations here in the United States and abroad. These projects include family housing, barracks, training ranges, runways, aircraft hangars and fitness facilities.

I would in particular like to thank my ranking member, the gentleman from Texas (Mr. EDWARDS), for all the great work that he has worked with me on, all the great activity. I also wanted to thank all members of the committee. Let me thank, in addition, the committee staff, including, and I am going to run down the list, Valerie Baldwin, Brian Potts, Kim Reath, Mary Arnold, Tom Forhan, John Conger, Jeff Onizuk and Lieutenant Commander Scott Gray for their support in producing this report. I would also like to sincerely thank Chairman YOUNG and the chief clerk Jim Dyer for their assistance in bringing this negotiation with the other body to a close. Further, I would like to acknowledge the advice and counsel provided by the House Committee on Armed Services. The bill is the culmination of a joint effort with subcommittee chairman HEFLEY and full committee chairman HUNTER.

The conference report today totals some $9.316 billion which complies with the 302(b) allocation for budget authority and outlays. This recommendation is $199 million more than the President's request. These additional funds address critical infrastructure and quality-of-life requirements above and beyond that request. Excluding funds provided for the global war on terrorism and the Iraq/Afghanistan supplementals, the conference report is nearly $1.4 billion, or nearly 13 percent below fiscal year 2003 enacted levels. This year there were significant differences between the House's military construction bill and that of the other body. While we sought to preserve funding for military construction in Europe and Korea and to support the quality of life and operational readiness of our forces abroad, the other body chose to significantly reduce overseas funding to support projects here in the United States.

I am pleased to inform my colleagues that this conference report strikes a balance between both these approaches. We preserve the most critical overseas requirements for the services, but brought the balance of the funding for other overseas projects back to the United States to fund critical infrastructure here. While the House aggressively supported the President's request and the priorities of the combatant commanders in this conference report, we share the concern of the other body about funding overseas projects in light of the ongoing review of our overseas footprint. The review currently being conducted by the Department of Defense will determine our long-term overseas basing strategy and will thus help us set funding requirements to support our forces abroad. It will be absolutely essential for both military construction subcommittees to have the completed plan prior to moving forward with the military construction appropriation for fiscal year 2005. We look forward to receiving this plan in the very near future.

Though this conference report is below the fiscal year 2003 enacted levels, we are fully supporting the military's mission critical infrastructure needs and quality-of-life initiatives. We are able to do so in large part because we are getting far more "bang for the buck" through innovative programs such as the Military Housing Privatization Initiative, barracks privatization and utilities privatization. These programs are enabling the services to rapidly replace family housing and infrastructure at a cost that is dramatically lower than what we could ever have afforded through traditional military construction appropriations. Our motto is to let the military do what they do best, which is defending America.

In short, we are doing it smarter, not harder, and the beneficiaries are single soldiers, military families, men and women serving our country around the world and the U.S. taxpayers. We have and will continue to support sweeping quality of life improvements for those in the military.

This conference report was forged through the compromise of both bodies of this Congress. This report directly supports the men and women in uniform, fully funds projects vital to our national security, provides critical infrastructure support to ongoing operations worldwide, and fully funds our efforts to improve the quality of life of our military personnel and their families. It is a fair report. I encourage my colleagues to support it.

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2004 (H.R. 2559)
(Amounts in thousands)

	FY 2003 Enacted	FY 2004 Request	House	Senate	Conference	Conference vs. Enacted
Military construction, Army	1,472,022	1,602,060	1,533,660	1,255,155	1,448,239	-23,783
Defense emergency response fund (DERF)	211,688	---	---	---	---	-211,688
Subtotal	1,683,710	1,602,060	1,533,660	1,255,155	1,448,239	-235,471
Rescissions	-49,376	-66,050	-183,615	-183,615	-183,615	-134,239
Supplemental appropriations (P.L. 108-11)	2,000	---	---	---	---	-2,000
Total	1,636,334	1,536,010	1,350,045	1,071,540	1,264,624	-371,710
Military construction, Navy	1,095,698	1,147,537	1,211,077	1,195,659	1,238,458	+142,760
Defense emergency response fund (DERF)	209,430	---	---	---	---	-209,430
Subtotal	1,305,128	1,147,537	1,211,077	1,195,659	1,238,458	-66,670
Rescissions	-1,340	-14,679	-39,322	-39,322	-45,622	-44,282
Supplemental appropriations (P.L. 108-11)	48,100	---	---	---	---	-48,100
Total	1,351,888	1,132,858	1,171,755	1,156,337	1,192,836	-159,052
Military construction, Air Force	891,650	830,671	896,136	1,056,377	1,067,751	+176,101
Defense emergency response fund (DERF)	188,597	---	---	---	---	-188,597
Subtotal	1,080,247	830,671	896,136	1,056,377	1,067,751	-12,496
Rescission	-13,281	---	---	---	-23,000	-9,719
Rescission (P.L. 108-7)	-18,600	---	---	---	---	+18,600
Supplemental appropriations (P.L. 108-11)	152,900	---	---	---	---	-152,900
Total	1,201,266	830,671	896,136	1,056,377	1,044,751	-156,515
Military construction, Defense-wide	836,345	695,298	813,613	712,567	773,471	-62,874
Defense emergency response fund (DERF)	33,300	---	---	---	---	-33,300
Subtotal	869,645	695,298	813,613	712,567	773,471	-96,174
Rescission	-2,976	-997	-32,680	-32,680	-72,309	-69,333
Total	866,669	694,301	780,933	679,887	701,162	-165,507
Total, Active components	5,056,157	4,193,840	4,198,869	3,984,141	4,203,373	-852,784
Military construction, Army National Guard	241,377	168,298	208,033	304,085	311,592	+70,215
Military construction, Air National Guard	194,880	60,430	77,105	221,013	222,908	+28,028
Defense emergency response fund (DERF)	8,933	---	---	---	---	-8,933
Total	203,813	60,430	77,105	221,013	222,908	+19,095
Military construction, Army Reserve	100,554	68,478	84,569	73,979	88,451	-12,103
Military construction, Naval Reserve	67,804	28,032	38,992	34,742	45,498	-22,306
Defense emergency response fund (DERF)	7,117	---	---	---	---	-7,117
Total	74,921	28,032	38,992	34,742	45,498	-29,423
Military construction, Air Force Reserve	63,650	44,312	56,212	57,426	62,032	-1,618
Defense emergency response fund (DERF)	3,576	---	---	---	---	-3,576
Subtotal	67,226	44,312	56,212	57,426	62,032	-5,194
Miscellaneous appropriations (P.L. 108-7)	18,600	---	---	---	---	-18,600
Total	85,826	44,312	56,212	57,426	62,032	-23,794
Total, Reserve components	706,491	369,550	464,911	691,245	730,481	+23,990
Total, Military construction	5,762,648	4,563,390	4,663,780	4,655,386	4,933,854	-828,794
Appropriations	(5,185,580)	(4,645,116)	(4,919,397)	(4,911,003)	(5,258,400)	(+72,820)
Defense emergency response fund	(662,641)	---	---	---	---	(-662,641)
Rescissions	(-85,573)	(-81,726)	(-255,617)	(-255,617)	(-324,546)	(-238,973)
North Atlantic Treaty Organization Security Investment Program	167,200	169,300	169,300	169,300	169,300	+2,100
Rescission	---	---	---	---	-8,000	-8,000
Total	167,200	169,300	169,300	169,300	161,300	-5,900

MILITARY CONSTRUCTION APPROPRIATIONS BILL - FY 2004 (H.R. 2559)
(Amounts in thousands)

	FY 2003 Enacted	FY 2004 Request	House	Senate	Conference	Conference vs. Enacted
Family housing construction, Army	280,356	409,191	409,191	409,191	383,591	+103,235
Rescission	-4,920	-52,300	-52,300	-52,300	-94,151	-89,231
Total	275,436	356,891	356,891	356,891	289,440	+14,004
Family housing operation and maintenance, Army	1,106,007	1,043,026	1,043,026	1,043,026	1,033,026	-72,981
Family housing construction, Navy and Marine Corps	376,468	184,193	184,193	184,193	184,193	-192,275
Rescission	-2,652	---	-3,585	-3,585	-40,508	-37,856
Total	373,816	184,193	180,608	180,608	143,685	-230,131
Family housing operation and maintenance, Navy and Marine Corps	861,788	852,778	852,778	852,778	835,078	-26,710
Family housing construction, Air Force	684,824	657,065	657,065	657,065	657,065	-27,759
Rescission	-8,782	-19,347	-29,039	-29,039	-19,347	-10,565
Total	676,042	637,718	628,026	628,026	637,718	-38,324
Family housing operation and maintenance, Air Force	833,419	834,468	826,074	834,468	816,074	-17,345
Defense emergency response fund (DERF)	29,631	---	---	---	---	-29,631
Subtotal	863,050	834,468	826,074	834,468	816,074	-46,976
Supplemental appropriations (P.L. 108-11)	1,800	---	---	---	---	-1,800
Total	864,850	834,468	826,074	834,468	816,074	-48,776
Family housing construction, Defense-wide	5,480	350	350	350	350	-5,130
Family housing operation and maintenance, Defense-wide	42,395	49,440	49,440	49,440	49,440	+7,045
Department of Defense Family Housing Improvement Fund	2,000	300	300	300	300	-1,700
Rescission	---	---	---	---	-9,692	-9,692
Total	2,000	300	300	300	-9,392	-11,392
Total, Family housing	4,207,814	3,959,164	3,937,493	3,945,887	3,795,419	-412,395
Base realignment and closure account	561,138	370,427	370,427	370,427	370,427	-190,711
General provision (sec. 118)	---	55,000	55,000	55,000	55,000	+55,000
Grand total:						
New budget (obligational) authority	10,698,800	9,117,281	9,196,000	9,196,000	9,316,000	-1,382,800
Appropriations	(10,108,455)	(9,270,654)	(9,536,541)	(9,536,541)	(9,812,244)	(-296,211)
Defense emergency response fund	(692,272)	---	---	---	---	(-692,272)
Rescissions	(-101,927)	(-153,373)	(-340,541)	(-340,541)	(-496,244)	(-394,317)

Mr. KNOLLENBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG), chairman of the committee. I just want to say again without Chairman YOUNG's support, we may still be slogging it out, but frankly rising to the occasion as he will and has done numerous times, he helped bring this thing to a closure.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding me this time. I will be very brief. It is a good bill. There is more we could have done if we would have had more funds available, but we did not. But I wanted to say to the House that this was probably one of the most difficult conferences that we have had in a long, long time. I really rise to say congratulations and compliments to the strong leadership that the gentleman from Michigan provided during this very difficult period of time, and also the gentleman from Texas, the ranking member. They were strong supporters of the effort to preserve the position taken by the House which we thought was a much better position than that of the other body. These two gentlemen and the staff did an outstanding job. I just wanted to take a couple of minutes to compliment them because their leadership was extremely important to get us where we are today, to have this bill on the floor as a conference report.

Mr. EDWARDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report. It does many good things for our service men and women, providing better housing, health care clinics, day care clinics, training facilities, not only here in the continental United States, in our 50 States, but throughout the world as well, wherever American troops might be training or serving their country. I want to especially compliment the gentleman from Michigan, the chairman, in his first term as the chairman of this important subcommittee, a committee that does work that makes such a difference in the quality of life for our service men and women to whom we know we can never repay our debt of gratitude to them.

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At all times the gentleman from Michigan (Chairman KNOLLENBERG) put as his first priority what is best for the service men and women. He was fair. He was thorough. He fought hard for military families, our service men and women, as well as their families, and did a magnificent job in working with the other body and kind of working our way through a maze of very difficult issues; and I really salute the gentleman from Michigan (Chairman KNOLLENBERG) for his leadership along with his very fine staff. I also want to join with the gentleman from Florida (Mr. YOUNG), chairman, in thanking the chairman of the full committee for his involvement and support in this effort to see that we not only fight for quality of health care and training facilities for our troops here at home but that we also should not forget about the sacrifices made by our service men and women serving overseas that are thousands of miles away from their families, oftentimes in harm's way, risking their lives in duty to country; and I thank the gentleman from Florida (Chairman YOUNG) for his many years of leadership in the area of national defense but particularly his deep personal commitment, aside from his title, his deep personal commitment to our service men and women.

Mr. Speaker, I also want to send a message to the administration about this bill today. While the leadership of this committee did a tremendous job in making the most good out of a budget that was underfunded, I would remind the administration for next year that there is an old proverb. I believe it is a Chinese proverb, "Be careful what you ask for because you just might get it."

What happened is the administration, probably with a heavy hand from OMB, asked for a $1.5 billion cut in military construction funding compared to last year. I think that is unconscionable to ask for a 14 percent cut in military quality-of-life and training programs at a time when so many American service men and women are at war and, yes, even risking their lives. Because of the good leadership of the gentleman from Michigan (Chairman KNOLLENBERG) and his staff and our staff, we were able to take those inadequate funds and stretch them as far as anybody could stretch them. The RCI housing program, the Residential Community Initiative, is an example of trying to take a limited amount of dollars and stretch them a long way to improve quality of life in terms of housing for our service men and women.

But I hope the administration and the Pentagon and OMB are on notice. Do not play this game of sending to Capitol Hill what they know is an unfair, inadequate budget for military construction with the assumption that somehow magically we are going to find an extra $1.5 billion. We did not find an extra $1.5 billion. Had it totally been up to the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from Florida (Mr. YOUNG) and me, I think we would have somehow found that money; but that was above our pay grade, that decision on how much money we had to deal with. And I think as someone who has the privilege of representing 42,000 Army soldiers at Fort Hood in Texas, 17,000 of which are presently serving in Iraq, I think it sends a terrible message to them if next year we were to inadequately fund military construction once again.

So all of that having been said, not a word of it takes in any way anything from the tremendous leadership of the gentleman from Michigan (Chairman KNOLLENBERG) and the bipartisan effort with which he led this effort. If anything, being given such an inadequate funding request from the Pentagon and the administration and OMB, it even adds more respect from me to him for the leadership he showed to get this bill passed, as it will pass in just a few minutes.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the conference report on H.R. 2559, the Military Construction appropriations bill for fiscal year 2004. This Member would like to offer particular thanks to the Chairman of the Subcommittee on Military Construction Appropriations, the distinguished gentleman from Michigan (Mr. KNOLLENBERG), and the Ranking Minority Member on the Subcommittee on Military Construction Appropriations, the distinguished gentleman from Texas (Mr. EDWARDS) for their work on this important bill. Furthermore, this Member would like to thank the Chairman of the Armed Services Subcommittee on Military Readiness, the very distinguished gentleman from Colorado (Mr. HEFLEY), and the Ranking Member of the Armed Services Subcommittee on Military Readiness, the distinguished gentleman from Texas (Mr. ORTIZ), for their critical work in authorizing this appropriation.

Furthermore, this Member is very appreciative that the Committee has approved the appropriations of $3 million for the frontage levee segment protecting the Nebraska National Guard Camp at Ashland, Nebraska.

Mr. Speaker, the Nebraska National Guard Camp Frontage Levee Segment is a central element of the Clear Creek portion of the Western Sarpy Levee project. Completion of the Guard camp segment must coincide with the other elements of the Western Sarpy project to assure mutual protection and support from the beginning of the project to its completion. Indeed, without building this section of the levee along the Platte River, the entire levee system will not work; there would be a gap in the levee that would only accentuate the flooding risks and flood volume that would affect the Nebraska National Guard Camp unless this project moves forward with the rest of the levee construction project.

Previously, the Clear Creek Project was authorized at $15.6 million in the Water Resources Development Act of 2000 (WRDA 2000) to provide protection to the City of Lincoln's water supply, I–80, and U.S. 6, BNSF RR (Amtrak Line), telecommunication lines and other public facilities. In the fiscal year 2003 omnibus appropriations bill, Congress included $500,000 for construction start-up costs.

The Nebraska National Guard Camp at Ashland, Nebraska, provides training for Nebraska and other States' Army guard units to maintain mission readiness. The Guard camp levee is an essential element of the Clear Creek structure on the western side of the Platte River since it also is that part of Clear Creek nearest to the Lincoln wellfield. Planning and design funds for the Guard's segment have been previously provided by the Congress to the Department of Defense through the Military Construction appropriations bill. Planning has resulted in development of a more cost-effective frontage levee to replace a previous ring-levee approach.

In closing, Mr. Speaker, this Member urges his colleagues to vote in support of the conference report for H.R. 2559.

Mr. EDWARDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 76, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 430, I call up the joint resolution (H.J. Res. 76) making further continuing appropriations for the fiscal year 2004, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of H.J. Res. 76 is as follows:

H.J. RES. 76

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 108–84 is amended by striking the date specified in section 107(c) and inserting "November 21, 2003".

SEC. 2. Section 8144(b) of the Department of Defense Appropriations Act, 2003 (Public Law 107–248), as amended by Public Law 108–84, is further amended by striking "November 7, 2003" and inserting "November 21, 2003".

The SPEAKER pro tempore. Pursuant to House Resolution 430, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this continuing resolution, H.J. Res. 76, just extends the date of the previous CR until November 21. There are no additional changes. It just continues the anomalies that were included in the previous continuing resolutions. So there is really not much to debate here except the date.

I would take just a minute and say that the House passed all of our bills in the summer, but the other body has not concluded all of its bills yet. But we are making some progress. This morning we concluded the conference meeting and the conference report on the energy and water appropriations bill. In addition, we appointed conferees this morning in the House on the foreign operations appropriations bill. So there are three other bills presently in conference, labor-HHS, transportation-treasury; and as I said, foreign operations for which we appointed conferees this morning. There are still four bills that the Senate has not passed; but, Mr. Speaker, we are hoping that we can conclude those and get to the conferences and get the appropriations business for this year completed.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 10 minutes.

Mr. Speaker, I think this would be a good time to try to analyze exactly why we are in the situation of having to again ask the House to pass yet another resolution keeping the government open until we finish our appropriations work. I note in the CongressDaily A.M. edition of this morning that there is a headline on page 12 which says: "Senate Nearing Halfway Point on fiscal 04 Appropriation Bills." I thought that when a race was run that it would be over when it was over. But the fiscal year ended on October 1 and what this headline indicates is that the other body had not yet even run half the race. So I concur with the gentleman that a lot of these bills are dragging because the Senate has not yet been able to take them up.

But I think we need a little bit more detailed description of what has happened. As I see it, there is one bill which is hung up, the Labor, Health and Human Services bill, which is hung up because there are deep divisions between the two parties in this Congress about how adequately education is funded in that bill, how adequately research is funded under NIH; and there is also, I think, a deep division between us on how workers ought to be treated with respect to their overtime rights. And because our party believes that the bill is woefully inadequate on all three of those counts, we have not supplied votes for it on this side of the Capitol and are still hoping that the majority will come to its senses in terms of recognizing the need to at least provide the money which was provided in the Republican Party budget resolution for education and for special education.

But once we get beyond the Labor, Health and Human Services bill, I find the story even more interesting. The other bill that was passed with deep divisions between the two parties in this House was the District of Columbia appropriation bill. That bill passed almost exclusively with Republican votes because the Republican majority saw fit to include the controversial issue of vouchers. So they went beyond where they could go and still maintain a bipartisan consensus for that bill and in the process lost the votes of most of the people on this side of the aisle.

In the other body, the other body has not yet even taken up that bill because not only Democrats, but I think moderate Republicans in that body, recognize that that bill was passed by the House in a shape too partisan or at least too ideological in order to be able to pass muster. So that is being held up for that reason.

Then we have the Energy and Water appropriations bill which passed both Houses with over 90 percent of the vote. In fact, the Senate vote was unanimous; and yet because of majority party scheduling decisions in the Senate, that bill was not considered until September 16 even though it passed the House on July 18. And I want to say that I am happy that finally today we have come to an agreement in conference. I think the gentleman from Ohio (Chairman HOBSON) did a good job on that. But, nonetheless, it was the majority party scheduling problems in the Senate which delayed consideration of this conference until this week.

Then we take a look at the Military Construction bill, the bill that was just disposed of. That bill passed unanimously in this House, and it passed by a vote of 91 to 0 in the Senate. It passed the Senate on July 11, and yet the bill was held up until today because of differences within the majority party about how the funds ought to be allocated. Then if we take a look at the Transportation bill, that bill passed the House very late in the cycle, September 9. It took that long to pass it because the subcommittee produced a product which not even the majority party Members in this House could support without substantial repair. Finally, after it was somewhat repaired, the bill passed the House with 85 percent of the votes of both parties; and yet it did not pass the other body until October 23, some 3 weeks after the deadline for the fiscal year.

□ 1500

So, again, majority problem scheduling problems determined the delay for that bill.

Then if you take a look the budget for the Department of Veterans Affairs and Housing, that bill passed with over 75 percent support in both parties when it passed the House. The other body has not yet taken up the bill. So, again, we have scheduling decisions by the majority party which have determined that this bill will be late to the gate.

I think there is an understandable reason for that, because the substance of the bill is unacceptable in large part to the veterans community in this country because it shortchanges needed veterans funding by more than $1.3 billion. So I do not blame the majority party for being discombobulated because it is having a debate with itself about how it can correct that problem.

Then we have the Foreign Operations bill, which passed the House on July 24. It did not pass the Senate until October 30, 1 month after the expiration of the fiscal year. Again, even though that passed the House with huge bipartisan agreement, it was hung up because of scheduling decisions and scheduling problems in the other body by the majority party because their party was split around the edges on issues such as Mexico City and concern about the fact that HIV funding was not adequately handled in that legislation.

Then we have the Agriculture bill, which passed the House on July 14 with support of more than 75 percent of Members of both parties. It passed this House on July 14, well before the end of the fiscal year. But, again, because of majority party scheduling decisions in the Senate, the Senate has yet to take up that bill. That is being hung up, as I understand it, over questions that relate to changing the authorization for the farm bill.

Then, lastly, we have Commerce-Justice-State, which passed this House with over 90 percent of both parties voting for it, and yet the Senate has yet to take up this bill. So, again, a majority party scheduling problem has led to a long delay in consideration of this bill.

I would simply say, Mr. Speaker, I do not know how long it is going to take before the majority party is able to overcome their differences with themselves, but I do hope that they recognize that we are ready and anxious to help if they will produce bills which meet at least minimal standards for meeting the needs of the country in areas such as veterans' health care, education, special education and aid to our local law enforcement officials, who will see a large squeeze on traditional law enforcement programs such as the Byrne Grants, unless some substantive decisions are made that produce a different bill than we are facing today.

Mr. Speaker, that is my analysis of why we are sitting here with so much of the appropriations work still not done.

Mr. Speaker, I yield 10 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me time.

Let me start, as we start almost every one of these discussions, with the expression of respect and affection for the gentleman who chairs our committee, the gentleman from Florida (Mr. YOUNG), one of the best Members of this House. We disagree, obviously, from time to time on issues, but he is a gentleman who runs his committee and leads, to the extent that he can, this institution in a fair manner.

But, Mr. Speaker, I am concerned, because perhaps above his pay grade we have not seen the same kind of fairness extended and the same kind of adherence to good order that ought to happen. My distinguished friend says sometimes below his pay grade perhaps we do not find that either.

Mr. Speaker, this Congress seems destined to end the first session of the 108th Congress in the same hapless and undemocratic way in which we began it. One of our first acts this year was to pass an omnibus appropriations bill on February 13 that wrapped up 11 of the 13 annual spending measures for fiscal year 2003 in one piece of legislation. It was bad enough that we could not finish our work on time and had to pass that omnibus bill 4½ months, a full third of the year, after the start of the fiscal year. But what was even worse was the fact that the Republican leadership dropped that 3,000 page bill on the Members and forced them to vote on it within a few short hours, a 3,000 page-plus bill.

As I said back in February, that was the worst appropriation process that I had seen in 22 years in this body. That was not the desire of the gentleman from Florida (Mr. YOUNG) nor the result of his leadership.

However, we now seem determined to outdo ourselves once again. Here it is, November 5, and only 3 of the 13 annual appropriations bills have been signed into law; Defense, Homeland Security and the Legislative Branch. Another spending bill, Interior, awaits the signature of the President. This body today will consider the conference report on the fifth, Military Construction. At least four other spending bills, however, are likely to be included in a year-end omnibus, Agriculture, Commerce-Justice-State, District of Columbia and VA-HUD, and three others are theoretically, Mr. Speaker, theoretically, in conference; Energy and Water, Transportation-Treasury and Labor-HHS-Education.

I will say, since this was written, it is my understanding there is actually, shockingly, a conference being held on Energy and Water. How do I know? Because the gentleman from Arizona (Mr. PASTOR) told me he was going to one. So I am very pleased to see that. I am convinced if the gentleman from Florida (Mr. YOUNG) were making the decisions, we would have full conferences on every bill that is pending.

But, Mr. Speaker, there is none, as far as I know, except a motion to go to conference on Foreign Operations which was approved this morning, so we cannot really hold them accountable yet.

Mr. Speaker, I am a conferee, duly appointed by Speaker HASTERT, on two of those bills allegedly in conference, Transportation-Treasury and Labor-HHS. But let me say, if there are conference meetings going on today or in the past or in the future, I have not been notified of those hearings. I have not attended any. I do not know where they are occurring. I have not had an opportunity to have any input, nor have the 662,000 people that I represent had a voice in those conferences.

Either no meetings are being held, or duly appointed conferees on our side of the aisle are being purposely, deliberately, undemocratically excluded.

This House passed the Labor-Health bill on July 10. The Senate passed its version nearly a month ago, on September 10. When and where are the meetings, Mr. Speaker? Why are the conferees being deliberately excluded? I have asked the gentleman from Texas (Mr. DELAY) that, and he assures me that we are having "conferences of the willing." I presume that means conferences of those who agree. But the voices of dissent or difference are stifled, ignored and shut out.

This House passed the Transportation-Treasury bill on September 9. The Senate passed its version 2 weeks ago tomorrow, October 23. Are we meeting on that bill? I have no notice of it. If we are, why are conferees on our side of the aisle, appointed by the Speaker, being deliberately excluded from those meetings?

Mr. Speaker, let us face the facts: This leadership is rendering conference committees absolutely meaningless. That is a corruption of the processes of this House. It is a corruption of democracy and the people we represent in this, what we call proudly, the People's House. I do not believe that it is the policy that the gentleman from Florida (Mr. YOUNG) would pursue if he were making the decisions.

I have served, Mr. Speaker, on the Treasury and Labor-Health-Education subcommittees for more than 21 years. I am not a new kid on the block. I am used to being included in conferences. I can never remember a time when Democrats controlled the majority, Mr. Speaker, that we failed to hold real conferences on appropriations bills.

The distinguished gentleman from Florida, my friend for whom I have unlimited respect and affection, he and I have participated in numerous conferences on the Labor-Health bill that went for days, sometimes weeks. I can remember an extraordinary, historic debate between Senator BYRD and Bill

Natcher on a very important provision of our bill that went on literally for days. They had a disagreement. They talked about it in conference. Reporters could see it, the public could see it, Members could see it.

There are no conferences that the public can see. There are no conferences the press can report on. Whatever is being done, is being done in secret, undemocratically, unfairly, and it demeans this institution, Mr. Speaker.

There are other conferences other than the Committee on Appropriations. There have been no real conference committees on two of the most important pieces of legislation still facing this Congress, on adding a prescription drug benefit to Medicare and on comprehensive energy reform.

The gentleman from Michigan (Mr. DINGELL), the dean of the House of Representatives, serving on this floor longer than any other Member, has been excluded from the conference to which the Speaker appointed him.

The gentleman from New York (Mr. RANGEL), third or fourth in seniority in this House of Representatives, excluded from the conference on prescription drugs. He, however, heard there was a meeting. He went to the meeting. He went through the door, and the gentleman from California (Mr. THOMAS) said, "You are not welcome, Mr. RANGEL. This is only a meeting of the willing. No dissent is allowed in this room," except if you happen to be a Republican on the other side of the Capitol, in which case maybe we have to talk to you. But, then again, as we know, Mr. Speaker, Mr. GRASSLEY apparently feels in effect he is shut out.

Mr. Speaker, let me say that it is absolutely outrageous that Congressional Republicans are considering across-the-board cuts to cover a $3 billion gap, we hear, between House and Senate spending bills. We have not been asked, however, to participate in a conference in which you may make the decisions on what to cut.

In the last 7 months, this Congress has passed two emergency supplemental appropriations bills totaling $166 billion. There was zero, none, no debate on how we would pay for those.

There was a bill pending in which the Committee on Ways and Means wants to add $60 billion to the debt confronting this country. No question about how it is going to be paid for, it will just be passed. And yet we worry about how to pay for some $3 billion for election reform, for veterans health care and for money to combat global HIV-AIDS, and how to provide $400 million to the Forest Service so they can fight devastating wildfires in the Interior bill.

Mr. Speaker, if this process were being run by the gentleman from Florida (Mr. YOUNG), you would find the gentleman from Wisconsin (Mr. OBEY) and I standing here and saying we may disagree on this item, that item or the other item, but we have had a fair opportunity, as he gives us in every committee meeting, to state our points, to offer our amendments, to vote. That is not happening. It is not the gentleman from Florida's fault. The leadership of this House demeans the House by not providing for those procedures.

□ 1515

Mr. YOUNG of Florida. Mr. Speaker, I have no further requests for time, so I will reserve the balance of my time.

Mr. OBEY. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. OSE). The gentleman from Wisconsin has 10 minutes remaining.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think that what the distinguished minority whip has just told the House is right on the button; and I want to emphasize, I do not believe these decisions, I do not believe that these practices, are being imposed upon the House and the Congress because of the desires of the people who run this committee. This committee has had an honorable tradition of dealing fairly with the majority and minority Members alike ever since I have been here. In my early years, I think junior Democrats were as unhappy with some of the decisions that were made by senior Democrats as some of the Republicans were. The unhappiness was bipartisan. And I think in that sense things have changed because today, many of the decisions that affect the way this committee works are being made, as the gentleman from Maryland said, at a higher pay grade. But I think the result is, unfortunately, that we have many closed-door decisions being reached in a closed-minded atmosphere, and that does the House no good in the long term.

What has happened, I think, is that we have seen almost an unparalleled institutional arrogance on the part of the leadership of the majority party in the way they conduct this House's business.

First of all, they have assured that when each of the appropriation bills has come to the floor, they have come to the floor under conditions which guarantee that no meaningful, comprehensive alternatives can be offered which differ in any significant way with the priorities mandated by the majority party leadership. They bring bills to the floor which have been exempted from the normal rules, processes, and procedures of the House so that the committee product produced by the Republican majority can have the luxury of not having to compete with any other significant approaches. But then, they say that proposals that the minority party seeks to offer will not be granted those same exceptions from the rules and procedures of the House. That creates a very uneven playing field, and it is intended to do that.

And then, when that happens, and when bills pass because we have no way of reaching them and changing them in a significant way, then we run into a situation where, as the gentleman from Maryland (Mr. HOYER) says, in many instances conferences are simply conferences between a few well-connected people on the majority side of the aisle, with no real consultation with the minority. That can occur anytime that the leadership wants to exercise their ability to find 218 votes for their product.

But it is not democracy. It is not the kind of collegial vetting of differences that we have had in this House through the years. It is simply an arrogant assertion of will. It is a power play on the part of the majority party. And the purpose is not just to hold the minority party in check; the purpose is to, by their actions, hold Members of the majority party under control, so that no one does too much thinking for himself, so that no one will dare to say, "Well, I think there ought to be a different path that is pursued."

So, Mr. Speaker, having said that, I want to emphasize again, I recognize the effort of the gentleman from Florida to be fair; but I also recognize that sometimes he has to be a loyal soldier, and I think if he were to run these conferences in a way that suited his desires, some of them would be run quite differently.

Having said that, Mr. Speaker, the matter before us, as the gentleman from Florida has indicated, is simply whether or not we should keep the government open for another short period while these differences are resolved. We have no choice but to do so. So I urge a "yes" vote on the resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

I rise in support of this continuing resolution. I wish we did not have to have a CR on the floor today. I wish it would have been possible for the Congress to have concluded all of its appropriations bills. The House did, but the entire Congress did not.

Mr. Speaker, we have a two-House, bicameral legislature. And I think that is a great idea, to have a bicameral legislature, where we have the checks and the balances, not only within the three branches of government, but checks and balances within the Congress itself. I will have to admit that there are times when I am tempted to believe that a different approach would be better, such as a one-House legislature. A one-House Congress would be easier to work with, because some of our conferences that we have had this year and in previous years have been very, very difficult and very trying.

But nevertheless, that is our system. We make the system work. We do a pretty good job at it. I would say, Mr. Speaker, to my colleagues that in most of the conferences for this year, the House has prevailed, I think, far more than the other body. So I do not feel too bad about this. But I know it is very time consuming. It gets very frustrating.

But on the issue that the gentleman from Maryland (Mr. HOYER) raised, and the gentleman from Maryland is one of my very best friends and has been for years. He and I work very closely together. We serve on one of the same subcommittees, and the two subcommittees that the gentleman from Maryland (Mr. HOYER) serves on have not been called to conference yet. So obviously, he has not been called to a conference.

But I think, generally, the gentleman from Wisconsin (Mr. OBEY) would agree, that he and I work very closely in keeping each other informed. He will tell me when he has a proposition or a proposal; and if I can agree with him, I agree with him, and I do not have any problem with that just because he is the minority leadership. But if I disagree with him, then I also tell him that; and he understands that. When I go to him with a proposition and tell him what my plan is, sometimes he will agree and sometimes he will not, and the committee settles that. There are no hard feelings; it is just the idea that the two parties have different general philosophies.

But it works okay. It works well. As my colleagues know, we concluded all of our House bills in the summer when we were supposed to conclude them, and that was partially because of the strong relationship that the gentleman from Wisconsin (Mr. OBEY) and I have and that our subcommittee chairmen and their ranking members have.

Now, on the issue of excluding any member from conference committee or their staff, we do not do that. The Committee on Appropriations does not do that. A lot of staff work goes into preparing the bills and a lot of staff work goes into preparing for the conferences. When that staff work is being done, we keep the minority staff just as involved as the majority staff, and I think that they would admit to that and agree to that.

I would not stand for any member of my committee being excluded from the considerations of the committee. The majority is going to prevail, but the minority has every right in the world to be part of that process. In fact, I remember a couple of years ago that the gentleman from Wisconsin (Mr. OBEY) came to me with a problem that some of the minority staff were not being involved in one of the subcommittee considerations, and I solved that almost more than overnight. I solved that problem in a matter of hours, and I think to the satisfaction of the minority. While the majority is going to prevail, the minority has every right to be a part of the process.

Except for those single-Member States, all of us are elected by about the same number of people. All of us have the same rights as Members of the House of Representatives. I will tell my colleagues as one who believes in this institution, I am going to do whatever I have to do to guarantee that those rights are protected and preserved for all of the Members; again, pointing out that the majority is going to prevail. I recall being in the minority here for a long time, and I did not like it a lot of times when the majority prevailed, but that is the way it is. But I think on the Committee on Appropriations, there are not very many complaints about the issue of the minority being excluded.

Now, I do know that there was an issue last week when, as the gentleman from Maryland (Mr. HOYER) pointed out, that the gentleman from Michigan (Mr. DINGELL) was uninvited to attend a fairly important conference meeting. I did not know about that until I heard the comments on the floor. But I would say this: my leadership believes very strongly in the rights of each individual Member. I will tell my colleagues that all of the committee chairmen were called to a meeting last night actually, and were told, do not ever let that happen again, that every member of that committee or that subcommittee has the right to be involved, and our leadership made it very clear that any committee chairman who allowed that to happen would not be standing in good favor with the leadership.

So we try. Now, nobody is perfect, and I am sure that there are times when there will be complaints, even from majority members, that maybe they were not told in advance or were not told enough. But sometimes, members have an obligation to either do the proper staff work or prepare themselves when things are happening. This is not a babysitting institution. But for the most part, our members are very good about things that they are interested in, inquiring of the committee, inquiring of the staff, making their contribution to what they think should be the outcome. We do the best we can with 435 Members to reach a consensus. But I would just say again, on that issue of excluding minority members or staff from what is happening on the Committee on Appropriations, as long as I am chairman, that will not happen. And if any of my subcommittee chairmen were to permit that to happen, we would have a serious conversation. But I know that all of my subcommittee chairmen believe the same as I do, that the majority and the minority members all have equal rights as Members of this House; but the majority will make the final decision.

Mr. Speaker, having said that, it did not have too much to do with the CR, but I thought I would just make that response.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate having been yielded, the joint resolution is considered read for amendment, and pursuant to House Resolution 430, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

The SPEAKER pro tempore (Mr. YOUNG of Florida). Pursuant to House Resolution 416 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2443.

□ 1530

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, with Mr. OSE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from Minnesota (Mr. OBERSTAR) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. LOBIONDO).

Mr. LOBIONDO. Mr. Chairman, I yield myself such times I may consume.

Mr. Chairman, I rise in strong support of H.R. 2443, the Coast Guard Maritime Transportation Act of 2003. Before I discuss the bill or make comments on it, I would first like to thank the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the full committee, for all of his efforts on behalf of the Coast Guard and, in particular, for this bill, also thank the gentleman from Minnesota (Mr. OBERSTAR), our ranking member, who certainly has been a champion of the Coast Guard and worked closely with us, and the gentleman from California (Mr. FILNER), the ranking member on the Coast Guard Maritime Transportation Subcommittee, for their help and cooperation with this legislation.

This legislation was developed in a bipartisan manner and deserves the support of all the Members of Congress. The primary purpose of this bill is to authorize expenditures for the United States Coast Guard and the Federal Maritime Commission for the fiscal year 2004.

Title I of the bill authorizes for fiscal year 2004 approximately $7.1 billion for Coast Guard programs and operations. The bill also authorizes the administration's request for 18.5 million for the Federal Maritime Commission.

This legislation will increase funding for Coast Guard programs at a level above the administration's request to ensure that the service can meet its traditional missions and make meaningful progress toward carrying out its homeland security responsibilities under the Maritime Transportation Security Act of 2002.

The bill funds the Coast Guard at levels requested by the President plus an additional $460 million. Of this amount, $70 million is for conducting the mandated U.S. port security plan approvals, $202 million to keep the Deepwater Capital Acquisition Program on track to meet its original 20-year implementation plan, $80 million to install equipment on already delivered C–130J aircraft, $39 million to establish a west coast HITRON squadron, $50 million for conducting foreign port security assessments and foreign vessel security plan reviews, and, finally, $19 million is for making the Truman-Hobbs bridge alterations.

I am particularly concerned about the funding shortfalls for the critically important Deepwater recapitalization program designed to replace the Coast Guard's aging fleet of vessels and aircraft. From the start, Deepwater has been underfunded, jeopardizing on-time delivery of important assets. The effective accomplishment of the Coast Guard's national and homeland security missions, as well as its ability to sustain the level of performance of its traditional missions, is predicated upon having the required funding to recapitalize its aging assets sooner than the appropriated 20-year plan.

As evidence of this, I attended on Saturday the return of the Coast Guard cutter Dependable from a drug interdiction mission in the Caribbean where it actually had confiscated a record Coast Guard bust. The drug smugglers had dumped about 2,500 pounds overboard and the Dependable and its crew had actually confiscated about the same amount. DEA was there to take control of the substance, to destroy it, but when listening to the discussion and listening to the account of how this took place, it is remarkable that the Coast Guard cutter Dependable, which was commissioned during the 1960s, with a top speed of only 17 knots and an aging frame, was able to counter the drugies with their fast boat with only a rigid-hull inflatable that was like a Corvair chasing a Corvette.

Operation Deepwater is critically needed. I strongly endorse increasing the Coast Guard's overall funding level in order to support a faster Deepwater recapitalization program commensurate with the findings of the Deepwater acceleration plan submitted to the Congress in March of 2003.

In addition to authorizing the Coast Guard's fiscal year 2004 budget and personnel resources, the measure also provides parity between certain Coast Guard and Department of Defense authorities, improves personnel management, and includes provisions to allow the service to better accomplish its traditional regulatory and law enforcement missions.

The recent ferry accident in New York Harbor shows that the maritime transportation will never be perfect. However, the Coast Guard's constant and careful review of vessel and crew minimizes the number of maritime accidents we see in the United States. The service's response efforts also minimize the impact those incidents have in terms of loss of life and damage to property.

I did hold a hearing in New York, on Tuesday of this week, to look for ways in which we can further improve our prevention and response system.

In preparing this bill, the Coast Guard and Maritime Transportation Subcommittee held hearings on the Coast Guard's and the Federal Maritime Commission's budget request and the legislative provisions in the Coast Guard's proposal. The bill contains many of the Coast Guard's legislative requests, as well as items of concern to Members of Congress that were brought to our attention.

Mr. Chairman, I want to take this opportunity to commend the men and women of the Coast Guard. They do an amazing and remarkable job. Their ongoing traditional missions of illegal drug interdiction, of fisheries law enforcement, search and rescue, is always making the news. But what is really remarkable is the job that they are now doing on homeland and port security which is something that is new, that has been added to them since the terrible tragedy of September 11 of 2001.

America benefits from a strong Coast Guard that is equipped to stop terrorists and drug smugglers, support the country's defense, protect our natural resources, rescue mariners in distress, and respond to national emergencies.

We must act now to put the Coast Guard on sound financial footing, to be ready to respond to our increased homeland security demands, and other critical duties that the Coast Guard carries out daily. And the men and women of the Coast Guard are more than prepared to do their mission if we will only give them enough resources, enough assets and enough personnel to do the job. This bill will help ensure that that happens.

Mr. Chairman, I urge all Members to support this piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the good words of the chairman of the subcommittee. I note that our full committee chairman has arrived, and I will curtail my remarks so that the chairman, the gentleman from Alaska (Mr. YOUNG) can speak. But I just want to say to what a difference a week makes and how refreshing it is to be on the floor under an open rule where issues that are of concern to Members can be resolved in open fashion and that we can conduct the work of this committee in its traditional fashion, working in a bipartisan manner.

I respect enormously the work of the gentleman from New Jersey (Mr. LOBIONDO), the chairman of the subcommittee, and our ranking member, the gentleman from California (Mr. FILNER), and particularly our riverboat captain chairman, the gentleman from Alaska (Mr. YOUNG), who has not only firsthand experience on the water commanding a vessel, but has enormous respect, as I have, for the United States Coast Guard.

The chairman and I served on the Merchant Marine and Fisheries Committee from our very outset of service in the Congress, and through that work, we both came to have a great respect and admiration for the work of the Coast Guard, which started out, along with the Corps of Engineers, as one of the two oldest agencies of the Federal Government in its infancy in 1789. It was known as the Revenue Cutter Service and provided the first revenue and source of funding for our infant republic.

In the years since then, I have, in my observation and my work on the Coast Guard subcommittee, I have observed that there is probably no entity of the Federal Government from which the citizens of this country get a greater return on their investment than from the United States Coast Guard. As a former Commandant once observed, it takes a special person to wear this color blue. And they are all special people, men and women, of the United States Coast Guard.

What I regret about the Coast Guard is that in my 29 years of service, I have seen some 27 new responsibilities added by the Congress to the list of duties that the Coast Guard must perform. But that list of new duties and responsibilities has not been accompanied by a commensurate increase in personnel and in funding. And that has happened under Democratic and Republican administrations and Democratic and Republican Congresses.

Now, we bring to the floor a $7.1 billion bill to deal with the needs of the Coast Guard, and unfortunately, in past Congresses, this bill has not become law because of issues that the other body has wanted to hang on to it and slow down its progress. This time, the authorization has been done through the appropriation process. And I earnestly hope that we are not engaged in yet another exercise in futility getting a Coast Guard authorization passed and that indeed the other body will act expeditiously and not try to tie in unrelated issues to this very important authorization.

I further believe very strongly that although we have provided, I think, a responsible funding for the Coast Guard, it is still inadequate to the responsibilities that the Congress has saddled the Coast Guard with and visited upon it because we felt they could carry out all those responsibilities of drug interdiction and immigration interdiction, and now the homeland security responsibilities. They simply need more personnel and more funding to continue to carry out the job and not stretch the human resources of the Coast Guard as thin as has been done in the last few years.

Mr. Chairman, I reserve the balance of my time.

Mr. LoBIONDO. Mr. Chairman, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG), the distinguished chairman of the Committee on Transportation.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of H.R. 2443, the Coast Guard and Maritime Transportation Act of 2003. The bill is a result of a bipartisan effort, and it deserves the support of all the Members. I especially again want to thank the subcommittee chairman, the gentleman from New Jersey (Mr. LoBIONDO), and the full and subcommittee ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from California (Mr. FILNER), for their help and cooperation in developing this bill.

I want to stress that, again, as the gentleman from Minnesota (Mr. OBERSTAR) has mentioned, it has been a long time since this bill has become a law, and it is time that the other body acts as we pass it today.

I am pleased we are taking the action today to authorize funding for the most important programs of the United States Coast Guard and Federal Maritime Commission.

In addition to authorizing the fiscal year of 2004 FMC budget at the level requested by the administration, this bill authorizes the fiscal year 2004 Coast Guard budget at the level requested by the President, plus an additional $460 million.

Of this amount, $70 million is authorized for the Coast Guard domestic port security activities, $80 million is to equip four C–130J aircraft for Coast Guard missions, and $202 million is for the Coast Guard's Deepwater capital equipment modernization project.

We have also provided $39 million for an armed Coast Guard helicopter squadron, $50 million for Coast Guard foreign port security activities, and $19 million for the alteration of bridges which obstruct navigation.

H.R. 2443 will result in improved operation of the Coast Guard and the Federal Maritime Commission and safer, more efficient maritime transportation.

However, nearly one-third of our exclusive economic zone lies off the shores of Alaska. These waters include the Nation's largest fishery, and sufficient cruise ship and oil tanker traffic. Therefore, I am concerned about the ability of the Coast Guard to carry out its traditional search and rescue, fisheries law enforcement, and vessel inspection missions. There are concerns that some of these missions may be suffering as a result of the new emphasis on homeland security.

I remain optimistic that this legislation will provide the Coast Guard with the resources and legal authorities necessary to get the service back to an acceptable state of mission balance.

Mr. Chairman, all of us recognize the exceptional work performed by the Coast Guard, often under dangerous circumstances.

I urge all my colleagues to support this bill which authorizes sufficient resources for the Coast Guard to carry out its many missions and make necessary improvements of laws governing maritime transportation.

Mr. Chairman, I again speak about the role of the Coast Guard in the great State of Alaska. We have more coastline than all the United States combined and more Coast Guard activities, not only in the fisheries, but again in the oil tanker business, and in the interception of all types of foreign vessels that occur.

□ 1545

I can only compliment my Coast Guard contingency in Alaska for the work they do in adverse conditions, flying in weather that you cannot believe, rescuing people, fishermen, and, yes, even some tourists, recovering them with helicopters and with ships themselves. They have done yeoman's duty day after day in very adverse conditions.

I will again stress, as one of the authors of Homeland Security, and I expressed at that time the Coast Guard be put at the top of the list in homeland security and they were, not at the bottom, which they were under the original proposal.

But I am still very concerned. There is a possibility that their mission, which is actually navigation, safety, interdiction of drugs, of doing duties which this Congress made them responsible for, now there is sort of an emphasis on security purposes and that alone. We must protect and make sure that does not occur, that they have their mission. In fact, I will at the appropriate time, not in this legislation but during the coming year, make a proposal that we take Coast Guard out of Homeland Security, put it back where it belongs and make sure it can do the missions that we have charged them with.

Mr. Chairman, I urge all of my colleagues to understand the importance of this legislation. We will have some amendments offered. We hope to work most of them out before they are offered. We will debate those, and we will finally pass a very good piece of legislation for the United States Coast Guard.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the chairman of our subcommittee, the gentleman from New Jersey (Mr. LoBIONDO); the ranking member of our committee, the gentleman from Minnesota (Mr. OBERSTAR); and the chairman, the gentleman from Alaska (Mr. YOUNG), for bringing us this legislation—and that I was proud to work on it with them. It is a culmination of our work this session examining the Coast Guard mission, with particular emphasis on the funding for the Maritime Transportation Security Act of 2002.

This bill, H.R. 2443, authorizes $7.1 billion, and we hope that this will be sufficient funding for the Coast Guard to carry out the many missions that Congress has given the Coast Guard, including homeland security, search and rescue, marine safety, drug and migrant interdiction and law enforcement.

H.R. 2443 authorizes $39 million for a squadron of what are called HITRON armed helicopters for the west coast. The gentleman from Minnesota (Mr. OBERSTAR) talked about return of investment on this bill. Well, that is true, certainly, of this HITRON helicopter. Since their establishment, the Jacksonville, Florida, HITRON squadron has stopped over $1.5 billion in illegal drugs from entering the United States.

Deployment of the HITRON squadron on the west coast will help stem the flow of illegal narcotics through the eastern Pacific Ocean. If one were to look at this using a cost-benefit analysis, $39 million is spent for the armored HITRON squadron on the west coast, but drugs that are stopped and interdicted are worth more than 20 times that amount.

It is my strong view that the Coast Guard must increase Airborne Use of Forces assets for port security and drug interdiction. The lease option for these aircraft is already in place. The lease provides antiterrorist and antidrug coverage for the next 3 to 5 years while providing flexibility for the Coast Guard to engage in competition to select a permanent multimission cutter helicopter to meet our challenges post-9/11. When these multimission helicopters are deployed, the HITRON helicopters can be returned to their manufacturer at the option of the Coast Guard.

There are a number of changes to existing law which the previous speakers have spoken to. I would again like to thank the members of the committee for their bipartisan effort to put this bill together and look forward to working with them as we work with the Senate to reach an agreement on the authorizing legislation.

Mr. Chairman, I urge my colleagues to support passage of the Coast Guard and Maritime Transportation Act.

Mr. LoBIONDO. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN), former ranking member on the Subcommittee on the Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure.

Ms. CORRINE BROWN of Florida. Mr. Chairman, I want to thank all of the members on the Committee on Transportation and Infrastructure who have worked to bring this bill to the floor.

The Coast Guard has been protecting our shores for more than 200 years, and they have done an outstanding job. The Coast Guard was the first agency to react to the terrorist attack on September 11 and within minutes was guarding our ports and bridges and directing maritime traffic out of New York. This Nation's ports and waterways are still very vulnerable to terrorist attacks, and the Coast Guard is the first line of defense against those wishing to harm us.

This $7.1 billion authorization will go a long way in allowing the Coast Guard to continue its mission while expanding its authority to fight terrorists. This bill will increase the size of the Coast Guard, improve benefits for those serving, increase the authority to inspect foreign vessels, allow additional force against fleeing vessels, and give them the authority to revoke the credentials of individuals that pose a safety or security threat.

I have major concerns when they moved the Coast Guard to the Department of Homeland Security because I fear that it would prevent them from doing their core mission of drug interdiction, search and rescue, enforcing maritime and fisheries laws, and protecting our marine environment. This bill will allow them to accomplish everything we ask of them, but we need to keep the Department's feet to the fire so they can follow the law and not reduce the Coast Guard's traditional mission.

I hope that Members of this body will do the right thing and fund the Coast Guard at $7.1 billion. It is the right thing to do for America.

Mr. LoBIONDO. Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, how much time remains on each side?

The CHAIRMAN. The gentleman from Minnesota (Mr. OBERSTAR) has 20 minutes remaining. The gentleman from New Jersey (Mr. LoBIONDO) has 19 minutes remaining.

Mr. LoBIONDO. Mr. Chairman, we have no further speakers on general debate. I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 6 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding me time.

I would like to enter into a colloquy with the ranking member from Minnesota (Mr. OBERSTAR).

I thank the gentleman from Minnesota (Mr. OBERSTAR) for recognizing the importance of implementing national maritime safety initiatives on our Nation's waters. In a little over a year, carriage of electronic technology for nonvoice chip communication that would exchange navigation and ship data between ships or ship and coastal stations, called the Automatic Identification System, will be required in certain vessels that operate in vessel traffic service zones.

While I certainly understand the need to implement further navigation safety and maritime security on our waters, the fact is that the Coast Guard estimates that the cost of the AIS is over $9,300 per vessel. This is a considerable amount of money for small passenger vessel operators.

In Michigan's first district, small island ferries and the Soo Locks Boat Tours operate small passenger vessels seasonally from May through October that have a maximum capacity of under 300 passengers per vessel. Although most tours and passenger services carry less than 100 passengers per trip, my concern is how are these small governmental transit authorities and small mom and pop businesses in rural America going to be able to bear the extraordinarily high cost of AIS.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for raising this issue. It is a matter of concern to just that very class of vessel operator that the gentleman has described. The technology known as AIS, automatic identification system, is very sophisticated. It probably has too many bells and whistles for small operators, ones they do not need.

The Coast Guard has come back to reconsider this issue and is working with the International Maritime Organization to adopt what is an international standard that will be far less technologically sophisticated, if you will, than the system they have required, which will give the operator e-mail and other technology downloaded from the signal. They do not need all of that stuff.

What they really need for the small vessels is name, GPS position and bearing, where they are headed; and that is what the Coast Guard will do. That will draw the cost from nearly $10,000 down to $2,000 or less for the small vessels operators, and give them and the Coast Guard the information that they really need without the bells and whistles. So I think that this ruling will be completed by next spring, hopefully in time for the boating season in the gentleman's district and in mine.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for working with us to ensure that the costs of this technology is more conducive to small business. I look forward to working with him and the majority on this.

While I have the ranking member here, I would like to ask him, and thank both him and the gentleman from Alaska (Mr. YOUNG) for their support, including my provision in the manager's amendment calling for the timely review and adjustment of pilotage rates by the United States Coast Guard.

I would ask the gentleman if he knows anything further on this issue that we have raised.

Mr. OBERSTAR. Mr. Chairman, the issue of pilotage rates on the Great Lakes is one of the most vexing matters that I have had to deal with going back to my service with my predecessor as the administrative assistant when we had so many problems with the Great Lakes Pilotage Administration. We once had an administrator of that agency who would go off to his farm in Northern Virginia over the weekends when he was needed most. We could not find him. They needed regulations changed or approvals to undertake certain activities; we could not find this guy. It has just been a big headache over the years. We have shifted back and forth between the Coast Guard and the pilotage administration and who is going to administer it. I think it has now been on track.

Again, pilotage has sort of been a football kicked back and forth between

Coast Guard and DOT by the Office of Management and Budget; and in the process, pilots have been stiffed, to be very honest with the gentleman. Coast Guard first developed a rule for pilotage rates, sent it to the Office of Management and Budget. They reviewed it. They sent it back to the Coast Guard. The Coast Guard then sent it to the Department of Transportation because that is where they used to live. Now they live over in the Homeland Security Department.

So Secretary Mineta's staff got right on it, and they worked it over and they said, well, we have these questions. And they asked the Coast Guard to answer certain questions. The Coast Guard questions were then sent to OMB. The OMB sent the questions back and now DOT has asked the Coast Guard to respond.

Secretary Mineta has assured me that his office, his staff will clear the way, hopefully get it done by the end of this week so that the interim rate can be approved, at least on an interim basis, pending a final rule.

It should not have to take this long. I assure the gentleman. I appreciate his advocacy on this issue. Hopefully, this will all get done within a week and pilots can apply their trade.

Mr. STUPAK. Mr. Chairman, I urge the Members to support the legislation, and I urge this committee and this Congress to continue to urge the Coast Guard to follow its own rules and regulation and adjust those pilot rates as soon as possible on the Great Lakes. The season is just about over. I appreciate the gentleman's concern.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. DEFAZIO), the former ranking member of the subcommittee.

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me time. I am pleased we are taking up this bill today. For too many years the needs of the Coast Guard were neglected as we failed year after year to pass authorizing bills, and the amount of funds to the Coast Guard for their mission were inadequate.

Their mission, of course, today, is even more difficult than it was then; but I think that this bill is beginning to recognize the need for more funds, the need for better housing allowances, the need of fulfilling that expanded mission. So I am pleased to stand in general support of the bill before the House.

□ 1600

I mean, the Coast Guard is crucial to my District. I represent more than half the Oregon coast, difficult port entrances, still an active fishing fleet and pleasure boats, and the Coast Guard is called upon many times to conduct rescues at the risk of their own life and also to do fisheries enforcement, drug interdiction and now, of course, the whole new emphasis on homeland security and all the problems in that.

There are two issues where I would raise concerns. The first, I will have an amendment on later, and that is the potential that the Coast Guard museum, which I support the idea of a Coast Guard museum, could be sited on property taken by eminent domain, and I think Congress should speak clearly on that issue, and I will have an amendment on that later.

The other is something I have raised with the Commandant in hearings, and it is just a general note of concern to other Members of Congress. I feel that the Coast Guard is doing an excellent job in its mission of homeland security, but the one place where I would fault them is as our lead negotiator with the International Maritime Organization.

The International Maritime Organization works by consensus, and often I feel rather than us setting down a hard marker and saying, this is where the rest of the world has to go on shipping, crew certification and safety issues, the Coast Guard gets much too involved in bargaining. We should lead by example with world standards. It is not enough to say, well, we always have port/State control issues where we can board these ships once they get here. No, we do not want those ships on the ocean at all. We do not want ships out there where we do not know who the owners are. We do not want ships out there where we do not know who the crews are, and we do not want ships out there when we do not know what the cargoes are.

Those are extraordinary threats both to the safety, the environment as with the *New Carissa* incident in my district. We had a totally incompetent foreign skipper, who did everything in defiance of good practice and managed to put his ship on the beach, spilling a tremendous amount of bunker fuel, causing an environmental disaster, and the ship is still there. He skipped out of the country before we could put him in jail unfortunately, but I do not think he will be coming back, but there are other skippers like that out there, not to say there are not many good ones.

But we need better crew certification requirements. We cannot have these paper schools that issue certificates. That is what we have got today. We are allowing to say, well, these schools exist in the Philippines. There is no one that goes around to certify that the schools exist, certify the curriculum, certify people have gone through the curriculum. We do not know who the crew members are. We do not have noncounterfeitable ID cards. We do not have a way of knowing better what the cargo is.

The Coast Guard is just starting to work on these things, and they are not taking the toughest position they could in the International Maritime Organization to secure our borders, our security and our safety, and I just want to urge them to redouble their efforts and set a higher standard to protect the homeland of the United States of America.

Mr. OBERSTAR. Madam Chairman, how much time, may I inquire, do we have left?

The CHAIRMAN pro tempore (Mrs. BIGGERT). The gentleman from Minnesota (Mr. OBERSTAR) has 11 minutes remaining.

Mr. OBERSTAR. Madam Chairman, I yield 5 minutes to the distinguished gentleman from Mississippi (Mr. TAYLOR) guardian of the Jones Act.

Mr. TAYLOR of Mississippi. Madam Chairman, if I could, I would like to engage in a colloquy with either the subcommittee or full committee chairman.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Madam Chairman, I gladly will accept a colloquy with the good gentleman.

Mr. TAYLOR of Mississippi. Mr. Speaker, for the sake of the folks who do not know it, I am pleased to mention that the full committee chairman owns his own commercial license as a tugboat captain, so I think he will appreciate this question.

In reading the synopsis, it says the measure requires foreign flagged vessels that depart and return to the same U.S. port without stopping at any other port in between to comply with the safety requirements of the International Safety Management Code whenever any part of the voyage occurs in international waters.

For the folks around here, that would be called a cruise to nowhere. As the chairman knows better than most, there really is not a law that allows cruises to nowhere. It is a Customs ruling going back to about the 1950s, and it has been used by foreign-owned, foreign-manned and foreign-built ships to operate in the U.S. trade. They merely go 12 miles out to sea, turn around and come back.

One of the few things that I thought we had protecting Americans from this glaring loophole in the law was that the Coast Guard at least had to inspect these vessels. If I understand this properly, and this is a colloquy, and I am asking for an answer and, hopefully, something that will stick up in law, I hope by doing this we are not taking a bad Customs ruling and making it the law of the land. A bad Customs ruling we can fix with good administration. I have not had one to do so in the three that I have dealt with, but we could still fix with a good administration.

If this becomes the law of the land, and that is why I am asking for my colleague's opinion, then we have, in effect, taken a bad practice and made it the law of the land.

Mr. YOUNG of Alaska. Madam Chairman, if the gentleman would yield, my concern is that we were going to have another colloquy on something else that is very dear to your heart.

Mr. TAYLOR of Mississippi. I am going to get to that one next.

Mr. YOUNG of Alaska. Madam Chairman, I cannot specifically answer the gentleman's question at this time. It is my intent to make sure the vessels, whatever vessels operate in these waters, will be under Coast Guard jurisdiction, and I think that is what the intent of this is. It is my intent, personally, as chairman.

The gentleman brings up a point about a Customs ruling that can be changed. I do not intend to do anything. As my colleague knows, I support the Jones Act equally as he does, and we will be reviewing this, and I am willing to work with the gentleman as this legislation goes forward to see if we cannot make sure that his and my ideas are implemented because I am not going to get involved right now with the trips to nowhere because I do not know the effect of this legislation on those activities at this time.

Mr. TAYLOR of Mississippi. Madam Chairman, if I may ask this question, is it the intent of this legislation to legalize cruises to nowhere?

Mr. YOUNG of Alaska. To my knowledge, no, and if that is the case, we will be taking care of that as time goes by. I was unaware of it. If that does this, we will be looking at it very closely.

Mr. TAYLOR of Mississippi. Second question, again coming from the synopsis, and I know it is not perfect, but it says the bill would authorize two U.S.-built, -owned and -flagged vessels to enter into the U.S. coastwise trades.

My question is, it has been highly publicized in the New York Times and other publications that through the unintended consequences, and I do mean unintended consequences, of the foreign lease provisions in the 1996 Coast Guard authorization bill that some of these U.S.-owned corporations are actually chartering out of the Bahamas and, therefore, totally avoiding their U.S. tax obligations for vessels that are protected by the Coast Guard, for vessels that use channels that are dredged by the Army Corps of Engineers and God forbid if the vessel is seized by terrorists. That owner would never hesitate to call upon the U.S. Navy Seals to go rescue his vessel.

My question is, do these two vessels fall into that category of being owned by a corporation that has already inverted overseas in order to avoid U.S. taxes?

Mr. YOUNG of Alaska. No, and I believe if the gentleman is talking about the M/V *Coastal*, which vessels is the gentleman talking about?

Mr. TAYLOR of Mississippi. Again, the synopsis says two, does not have the names, just says two U.S.-built, -owned and -flagged vessels.

Mr. YOUNG of Alaska. Madam Chairman, if the gentleman is referring to page 35, the *Bluefin* and the M/V *Coastal Merchant*, I do believe this applies as long as it is retroactive. We do not go back and disown them. We have to probably allow them to continue to operate as American-flagged vessels, these two vessels. There are only two vessels mentioned in the bill.

Mr. TAYLOR of Mississippi. Again, my fear is this is an interpretation that we might actually be putting into law, and I hate to be doing that, and I do not think that is my colleague's intention as well.

Mr. YOUNG of Alaska. Madam Chairman, I can assure the gentleman that it is not my intent to do so at this time. That is why we will have the committee to review it, but if these vessels were actually authorized and they were done under a law of 1976 I believe it is, then we cannot make it say, no, they are no longer eligible.

Mr. OBERSTAR. Madam Chairman, does the gentleman have further speakers?

Mr. LoBIONDO. We are reserving the balance of our time.

Mr. OBERSTAR. Madam Chairman, I yield 2½ minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Madam Chairman, I thank the gentleman, my friend from Minnesota, for recognizing me, and I rise in support of the manager's amendment that will be offered later, and I want to thank the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Ranking Member OBERSTAR), the gentleman from New Jersey (Subcommittee Chairman LOBIONDO) and the gentleman from California (Ranking Member FILNER) for their support of my amendment which they have included as part of the manager's amendment.

I also rise in support of the overall bill. The Coast Guard is a vital part of our national security. We must provide them with the tools they need and the funding to successfully execute their mission. I am especially pleased with the funding for the Integrated Deepwater Systems program.

Madam Chairman, I offer my amendment because I continue to have grave concerns about the safety of my constituents should the Indian Point nuclear power plant be attacked. I am concerned about the safety and security of the plant. I have even more concerns about the ability to evacuate people safely, but that is for another debate.

This amendment is simple. It requires that the Coast Guard conduct a vulnerability assessment of the facility. As of January 1, 2003, the Coast Guard had established a permanent safety and security zone around Indian Point. However, the Coast Guard's Hudson River cutter passes Indian Point about twice a week, and its copter only about three times a week.

Indian Point is located in Buchanan, New York, 35 miles north of midtown Manhattan and just a few miles northeast of my district. Almost all of my district is located within the 10-mile radius of the plant, and approximately 20 million people live within the 50-mile emergency planning zone or EPZ.

In addition, as we know, blueprints for American nuclear power plants were found in al Qaeda caves in Afghanistan, and that point bears repeating. Al Qaeda has the plans to some U.S. nuclear power plants.

A study conducted by the Marist Institute found that 82 percent of people living within a 50-mile radius of the plant are concerned about a potential terrorist attack on the facility, moreover, a majority of residents in the 50-mile radius do not feel that the plant is secure and protected against a terrorist attack.

I support closing Indian Point completely. Absent that solution, I am working with my colleagues to ensure that it is the most safe and secure nuclear power plant possible.

Therefore, I urge all my colleagues to support the manager's amendment and the bill.

Mr. OBERSTAR. Madam Chairman, how much time do we have remaining?

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. OBERSTAR) has 3½ minutes remaining.

Mr. OBERSTAR. Madam Chairman, I yield myself 3 minutes.

Yesterday, the Subcommittee on Coast Guard and Maritime Transportation conducted a hearing on the Staten Island ferry accident in which 10 passengers were killed. Even at this date, the captain and the pilot of the ferry claim to be too ill to testify before the National Transportation Safety Board. The Coast Guard can take no action against them because they are incompetent or a danger to the safety of a vessel because of their statements and because of a loophole in existing law.

The bill that the committee has reported includes a provision recommended wisely and appropriately by the administration to close that loophole. It does not give the Coast Guard authority to go on fishing expeditions to look at the health records of a mariner, but it does what I have long advocated, provide the Coast Guard authority that the FAA has, to require all mariners that are on medication or have illnesses that could affect their ability to operate a vessel safely, to report those circumstances to the Coast Guard so they can determine whether the individual can operate safely.

Enactment of this legislation is going to close a very troublesome loophole in existing law and result in far better safety on the waters as we have an obligation to provide and should undertake, and I thank the chairman for recognizing that circumstance. I know the chairman has been under enormous pressure, to put it mildly, advocacy, to do something differently, but at the hearing yesterday it became apparent why we need to proceed with the language in the bill, which I strongly support.

Let me conclude by saying, we have an outstanding bill. We have an excellent piece of work.

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I wish we were doing more in personnel and more in funding for the Coast Guard, but I think we have done all we can under the circumstances; and we will continue to work to improve those two areas, personnel and funding, for the Coast Guard in the future.

Mr. PETRI. Madam Chairman, I applaud the vision of the Chairman of the Subcommittee and the Ranking Minority Member in recommending additional helicopter assets to be deployed on the West Coast for drug interdiction and port security. Currently, there are eight leased, armed helicopters based in Jacksonville, FL, which make up the entire Coast Guard Airborne Use of Force capability. Pre 9–11, this Helicopter Interdiction Tactical Squadron (or HITRON) was used solely for drug interdiction, primarily in the Caribbean. Occasionally, some or all of the fleet was sent to the West Coast since about 50 percent of the drug interdiction has occurred in the eastern Pacific. Post 9–11, insofar as possible, these same eight armed helicopters have also assumed port and inland waterway security duties.

Lakes Michigan and Superior form part of the Wisconsin border. Currently the air stations at Travers City, Michigan, and Detroit monitor the Great Lakes from Niagara Falls through Lake Superior. They are already stretched very thinly. To meet increased terrorist threats wherever they occur, the Coast Guard must rob Peter to pay Paul. The humanitarian aspect of the Coast Guard's mission is a constant, so it is imperative that they obtain more assets—ships, fixed wing and rotary wing aircraft.

Since their introduction into the Coast Guard Inventory many years ago, the role of helicopters has expanded. They had primarily been used for search and rescue missions at sea until the introduction of the lighter, armed Sting Rays. Beginning with the introduction of the Sting Rays in 2000, they have deployed as a cutter-based aircraft to pursue, intercept and disable "go-fast" boats engaged in drug running. To date, they have intercepted over 30 Tons of illegal drugs valued at more than $2.1 billion. There are just not enough of them to go around!

The Coast Guard motto is Semper Paratus—Always Prepared. As stated on their web site, they are The Shield of Freedom; The Defender of the Homeland; The Port in the Storm and The Enforcer of the Sea. They are indeed all those things and always have been. However, since 9–11, all those things have taken on added significance. To accomplish these missions, they need more assets to meet the increased burden.

Mr. STUPAK. Madam Chairman, I would like to thank Committee Chairman YOUNG and Ranking Member OBERSTAR for their support in including my provision in the Managers amendment calling for the timely review and adjustment of pilotage rates by the United States Coast Guard.

Every foreign vessel that enters the Great Lakes must secure the services of a ship pilot, whose primary responsibility is the safe navigation of the vessel. The rates that American pilots charge shipping companies for pilotage services are set by the Coast Guard.

The Great Lakes pilotage system performs a critical safety and environmental protection function for the Great Lakes. It doesn't make sense to underfund a pilotage system that is crucial to the largest freshwater body in the world. Yet the Coast Guard failed to complete a rate adjustment of any kind last year. At the beginning of this year it announced that it intended to establish a new rate in time for the beginning of the 2003 shipping season yet with the shipping season now over, that still has not occurred.

The Coast Guard continues to set funding levels for key elements of the pilotage system at 1997 and even 1995 levels. This is particularly disturbing because the Coast Guard regulations require rates to be reviewed and adjusted on an annual basis. Setting rates to 1997 or 1995 levels will inevitably result in the fraying of the Great Lakes piloting system.

It has been reported that the delay of any rate adjustment is a result of objections from foreign shipping companies, which pay for pilot services. I have made the protection of the Great Lakes a crusade throughout my years in Congress. My Congressional District is surrounded by three Great Lakes. I would object in the strongest possible terms if the Coast Guard is placing the bottom lines of foreign shipping companies ahead of adequate funding for a pilotage system that is designated to protect the Great Lakes. The Coast Guard should not put the economic interests of a few foreign shipping companies ahead of the safety of the Great Lakes.

I urge the Coast Guard to follow its own regulations and adjust pilotage rates on the Great Lakes as soon as possible. Until they do so it places the entire Great Lakes in jeopardy.

I urge all members to support.

Ms. MILLENDER-MCDONALD. Madam Chairman, I rise to express my strong support for the Coast Guard and Maritime Transportation Act (H.R. 2443).

Specifically, I want to thank the chairman and Ranking Member FILNER for including my amendment in the manager's amendment.

My amendment will provide the Department of Homeland Security the authority to issue port security grants, by amending the Maritime Transportation Security Act.

This is a simple act, but I believe it will go a long way in clarifying the responsibility of issuing port security grants in a timely, predictable and efficient manner.

In November 2002, when the Maritime Transportation Security Act passed this House, the Department of Homeland Security had not yet been created.

Since the beginning of the 108th Congress we have worked to iron out the kinks that go with creating a new federal agency such as the Department of Homeland Security. This is, yet, another wrinkle that I hope has been ironed out.

As a representative from Long Beach, the home of the largest port complex in the country and third largest port complex in the world, we in southern California, as well as other port cities around the country, want to know where the responsibility for issuing port security grants lies.

By clarifying the authority of issuing port security grants it is my hope that we can begin to define the federal role in port security.

Specifically, from this point on, we need to provide more funding for port security and we need to establish a dedicated stream of funding for port security.

Finally, I believe, for the large port security projects, we need to provide the authority for multi-year grants so that our ports and local governments can adequately plan to build their new projects.

In closing I want to reiterate my support for this bill and look forward to continuing to work with my colleagues on the committee on these very important issues.

Ms. HARMAN. Madam Chairman, I rise in support of the Coast Guard and Maritime Transportation Act of 2004.

As the former representative of the Port of Los Angeles, and currently the representative of the communities neighboring the Port, I know the critical role the Coast Guard plays in protecting the nation's ports and sea-borne commerce.

Indeed, even before the events of September 11, the women and men of the Coast Guard worked tirelessly to ensure safe and secure operations in and around the Port of Los Angeles and Santa Monica Bay. Since that date, the role of the Coast Guard has increased in pace and intensity.

The bill before us recognizes the operational tempo of the Coast Guard and helps ensure that it has the assets and personnel to do its critical job.

I also want to point out the bill's endorsement of the Marine Exchange of Los Angeles and Long Beach. Since 1923, the Marine Exchange has maintained a continuous 24-hour operation providing detailed records of all vessel arrivals and departures of the busiest habor complex in America. Jointly with Coast Guard, the Marine Exchange operates a Vessel Traffic Information Service. This program uses state of the art electronic tracking equipment and radar and radio systems to manage all commercial vessels that travel through San Pedro Bay. The Marine Exchange VTS is the first public-private VTS partnership operation in the country that is funded by industry.

This bill notes that it is a national model for other ports to study, evaluate, and emulate and authorizes the Coast Guard to enter into similar cooperative agreements elsewhere in the nation. The VTS keeps the Ports of Los Angeles and Long Beach safe, more efficient, and environmentally protected by assisting with the movement of over 35,000 vessel transits annually and I commend its executive director, Capt. M.H.K. "Manny" Aschemeyer, and all those associated with the Marine Exchange for a job well done.

Lastly, I want to express my gratitude to the Chairman and Ranking Member for including in the manager's amendment a proposal first suggested to me by the City Council of Torrance, California. That proposal recognizes the linkage between the critically important roles of both the Coast Guard and the nation's cities in the fight against terrorism and recommends the Coast Guard name a class of vessels in its Deepwater program in honor of specific U.S. cities.

It is my hope that the Coast Guard will respond favorably to the sense of Congress language included in the bill and, in fact, name one of its new ships in honor of the city of Torrance, which has been on the forefront of honoring our Armed Forces and is strategically located on the shore of the Pacific Ocean.

Madam Chairman, I urge passage of the Coast Guard and Maritime Transportation Act.

Mr. HOEFFEL. Madam Chairman, I rise in support of H.R. 2443, the Coast Guard and Marine Transportation Act of 2003.

This legislation highlights the need to expand our Coast Guard aviation assets to fight the war against drugs. I strongly support the provision in this measure which permits the Coast Guard to establish a West Coast fleet of HITRON drug interdiction helicopters. This provision will afford the Coast Guard the opportunity to select a new state-of-the-art, multimission helicopter to assist in its drug interdiction efforts.

The HITRON MH-68A Sting Ray was designed, built, and maintained by the Agusta Aerospace facility in Philadelphia. Constructed on the frame of an A109E Power civilian helicopter, the Sting Ray employs state-of-the-art navigation, communication, and avionics equipment.

In 2000, eight Sting Rays were leased to the Coast Guard for the purpose of establishing an armed HITRON Squadron in Jacksonville, specifically for drug interdiction efforts. This Fleet has enjoyed a fabulous success rate in its missions.

HITRON aircrews have interdicted 30 tons of illegal drugs on the high seas valued at more than $2.1 billion. In addition, the Sting Ray is the only Homeland Security helicopter authorized for airborne use of force over civilian populations. Since September 11, the Sting Rays have also been pressed into port security service for all U.S. ports and associated waterways.

Therefore, I am pleased to support H.R. 2443 which accommodates the leasing and stationing of six HITRON helicopters in Southern California. The failure to establish a permanent West Coast Fleet will result in a serious shortage of armed assets for drug interdiction and homeland defense.

Thank you for your consideration of this important piece of legislation.

Mr. OBERSTAR. Madam Chairman, I yield back the balance of my time.

Mr. LoBIONDO. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mrs. BIGGERT). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment, and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Coast Guard and Maritime Transportation Act of 2003".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-term leases.
Sec. 202. Nonappropriated fund instrumentalities.
Sec. 203. Term of enlistments.
Sec. 204. Enlisted member critical skill training bonus.
Sec. 205. Enhancement of Coast Guard authority to stop vessels liable to seizure or examination.
Sec. 206. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 207. Expansion of Coast Guard housing authorities.
Sec. 208. Requirement for constructive credit.
Sec. 209. Maximum age for retention in an active status.
Sec. 210. Payments.
Sec. 211. Coast Guard fellowship program.
Sec. 212. Air search and rescue facility in Muskegon County, Michigan.
Sec. 213. National Coast Guard Museum.
Sec. 214. Limitation on number of commissioned officers.
Sec. 215. Redistricting notification requirement.

TITLE III—NAVIGATION

Sec. 301. Marking of underwater wrecks.
Sec. 302. Use of electronic devices; cooperative agreements.
Sec. 303. Inland navigation rules promulgation authority.

TITLE IV—SHIPPING

Sec. 401. Reports from charterers.
Sec. 402. Suspension of documents in lieu of mandatory revocation for proved drug convictions.
Sec. 403. Inspection of records of merchant mariners' documents.
Sec. 404. Exemption of unmanned barges from citizenship requirements regarding command of vessel.
Sec. 405. Administrative, collection, and enforcement costs for certain fees and charges.
Sec. 406. Compliance with International Safety Management Code.
Sec. 407. Civil penalties for failure to comply with recreational vessel and associated equipment safety standards.
Sec. 408. Revision of temporary suspension criteria in document suspension and revocation cases.
Sec. 409. Revision of bases for document suspension and revocation cases.
Sec. 410. Hours of service on towing vessels.
Sec. 411. Automatic identification system electronic charts.
Sec. 412. Prevention of departure.

TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of appropriations for Federal Maritime Commission.

TITLE VI—MISCELLANEOUS

Sec. 601. Increase in civil penalties for violations of certain bridge statutes.
Sec. 602. Conveyance of decommissioned Coast Guard Cutter SUNDEW.
Sec. 603. Tonnage measurement.
Sec. 604. Operation of vessel STAD AMSTERDAM.
Sec. 605. Great Lakes National Maritime Enhancement Institute.
Sec. 606. Agile Port and Intelligent Border Security National Demonstration Project.
Sec. 607. Koss Cove.
Sec. 608. Miscellaneous certificates of documentation.
Sec. 609. Dredging study.
Sec. 610. Report regarding security inspection of vessels and vessel-borne cargo containers entering the United States.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.
Sec. 702. Requirements for tank level and pressure monitoring devices.
Sec. 703. Liability and cost recovery.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) OPERATIONS AND CAPITAL ACQUISITIONS.—

(1) IN GENERAL.—Funds are authorized to be appropriated for fiscal year 2004 for necessary expenses of the Coast Guard as follows:

(A) OPERATING EXPENSES.—For the operating expenses of the Coast Guard, $4,996,000,000, of which—

(i) $4,979,000,000 is for operation and maintenance of the Coast Guard; and

(ii) $17,000,000 is for environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance).

(B) CAPITAL ACQUISITIONS.—For the capital acquisitions of the Coast Guard, $1,097,000,000, of which—

(i) $355,000,000 is for acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto;

(ii) $702,000,000 is for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems program;

(iii) $22,000,000 is for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness; and

(iv) $18,000,000 is for the alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program.

(2) SOURCE OF FUNDS.—

(A) OPERATING EXPENSES.—Of the amount authorized in paragraph (1)(A), $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(B) CAPITAL ACQUISITIONS.—Of the amounts authorized by paragraph (1)(B)—

(i) $20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(ii) $3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(b) RETIRED PAY.—There is authorized to be appropriated for Coast Guard retired pay (including the payment of obligations otherwise

chargeable to lapsed appropriations for this purpose), payments with respect to the Coast Guard under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired Coast Guard personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2004.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2004, 2,500 student years.

(2) For flight training for fiscal year 2004, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2004, 350 student years.

(4) For officer acquisition for fiscal year 2004, 1,200 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. LONG-TERM LEASES.

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting "(a)" before "For the purpose"; and

(4) by adding at the end the following:

"(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

"(2) A lease referred to in paragraph (1) is a lease—

"(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

"(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.".

SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

"The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.".

SEC. 203. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking "terms of full years not exceeding six years." and inserting "a period of at least two years but not more than six years.".

SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

"§ 374. Critical skill training bonus

"(a) The Secretary may provide a bonus, not to exceed $20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

"(b) If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting the following after the item relating to section 373:

"374. Critical skill training bonus.".

SEC. 205. ENHANCEMENT OF COAST GUARD AUTHORITY TO STOP VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "after a" and all that follows through "signal," and inserting "subject to paragraph (2),"; and

(3) by adding at the end the following:

"(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.".

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting "or" after the semicolon; and

(2) in paragraph (2) by striking "; or" and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by inserting after subsection (b) the following:

"(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

"(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

"(2) A private enterprise or business employed by the Secretary to collect fees or charges—

"(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

"(B) shall provide appropriate accounting to the Secretary; and

"(C) may not institute litigation as part of that collection.

"(e) The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended."; and

(3) by adding at the end the following:

"(g) In this section the term 'costs of collecting a fee or charge' includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.".

SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) ELIGIBLE ENTITY DEFINED.—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

"(3) The term 'eligible entity' means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.".

(b) DIRECT LOANS FOR PROVIDING HOUSING.—Section 682 of title 14, United States Code, is amended—

(1) in the section heading by striking "LOAN GUARANTEES" and inserting "DIRECT LOANS AND LOAN GUARANTEES";

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

"(a) DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

"(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.";

(4) in subsection (b) (as so redesignated) by striking "subsection (b)," and inserting "subsection (c),"; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking "GUARANTEE"; and

(B) by striking "Loan guarantees" and inserting "Direct loans and loan guarantees".

(c) LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.—Section 684 of title 14, United States Code, is amended—

*(1) in the section heading by striking "**NONGOVERNMENTAL**" and inserting "**ELIGIBLE**";*

(2) in subsection (a) by striking "nongovernmental" and inserting "eligible";

(3) in subsection (b)(1) by striking "a nongovernmental" and inserting "an eligible";

(4) in subsection (b)(2) by striking "a nongovernmental" and inserting "an eligible"; and

(5) in subsection (c) by striking "nongovernmental" and inserting "eligible".

(d) HOUSING DEMONSTRATION PROJECTS IN ALASKA.—Section 687(g) of title 14, United Sates Code, is amended—

(1) in the heading by striking "PROJECT" and inserting "PROJECTS";

(2) in paragraph (1) by striking "a demonstration project" and inserting "demonstration projects";

(3) in paragraph (1) by striking "Kodiak, Alaska;" and inserting "Kodiak, Alaska, or any other Coast Guard installation in Alaska;";

(4) in paragraph (2) by striking "the demonstration project" and inserting "such a demonstration project"; and

(5) in paragraph (4) by striking "the demonstration project" and inserting "such demonstration projects".

(e) DIFFERENTIAL LEASE PAYMENTS.—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

"§687a. Differential lease payments

"Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

"682. Direct loans and loan guarantees.";

(2) in the item related to section 684 by striking "nongovernmental" and inserting "eligible"; and

(3) by inserting after the item related to section 687 the following:

"687a. Differential lease payments.".

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

Section 727 of title 14, United States Code, is amended in the second sentence by striking "three years" and inserting "one year".

SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended—

(1) in subsection (a), by striking "sixty-two" and inserting "60"; and

(2) in subsection (c), by striking "sixty-two" and inserting "60".

SEC. 210. PAYMENTS.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"§517. Payments

"(a) The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

"(b) The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by adding at the end the following:

"517. Payments.".

SEC. 211. COAST GUARD FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—Title 14, United States Code, is amended by adding at the end of chapter 11 the following:

"§337. Coast Guard Congressional Fellowship Program

"(a) There is established in the Coast Guard a Coast Guard Congressional Fellowship Program to broaden Coast Guard officers' knowledge of the Congress.

"(b) The Commandant may appoint 4 mid-grade officers as fellows under the program, subject to the following limitations:

"(1) The maximum length of a fellowship is one year.

"(2) A fellow may be assigned to an office of the House of Representatives or the Senate, including a committee, during the period of the fellowship, or may rotate between such offices.

"(3) To protect against abuses of separation of powers principles and conflicts of interest, a fellow may not engage in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge.

"(c) An individual violating this section is subject to appropriate discipline by the Commandant.".

(b) LIMITATION ON APPLICATION.—Section 337(b)(1) of title 14, United States Code, as amended by this section, does not apply to an individual serving on June 10, 2003, as a Coast Guard congressional fellow.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 336 the following:

"337. Coast Guard Congressional Fellowship Program.".

SEC. 212. AIR SEARCH AND RESCUE FACILITY IN MUSKEGON COUNTY, MICHIGAN.

(a) LEASE AUTHORITY.—The Commandant may enter into a long-term lease for a period of up to 20 years with Muskegon County, Michigan, for use of a facility constructed by the County at Muskegon County Airport as an air search and rescue station, if such a facility that meets criteria established under subsection (b) is available.

(b) CRITERIA.—Any facility leased under subsection (a) must meet criteria established by the Commandant.

SEC. 213. NATIONAL COAST GUARD MUSEUM.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§98. National Coast Guard Museum

"(a) ESTABLISHMENT.—The Commandant of the Coast Guard may, subject to subsections (b) and (c), establish a National Coast Guard Museum on Federal lands that are administered by the Coast Guard and specified by the Commandant.

"(b) LOCATION.—The National Coast Guard Museum may be located at, or in close proximity to, the Coast Guard Academy in New London, Connecticut.

"(c) LIMITATION ON EXPENDITURES.—The Secretary of the Department in which the Coast Guard is operating shall not expend any Federal funds for the planning, engineering, design, construction, operation, or maintenance of any museum established under subsection (a).

"(d) OPERATION AND MAINTENANCE PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Transportation and Infrastructure of the House of Representatives a plan for operating and maintaining such a museum, including—

"(1) estimated operation and maintenance costs;

"(2) proposed sources of operation and maintenance funds; and

"(3) a certification by the Inspector General of the Department in which the Coast Guard is operating that items included in the plan pursuant to paragraph (1) and (2) are reasonable and realistic.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"98. National Coast Guard Museum.".

SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.

Notwithstanding section 42(a) of title 14, United States Code, the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed 6,700 in fiscal year 2004.

SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) shifting of more than 10 per cent of the personnel or equipment from the station where such personnel or equipment is based.

TITLE III—NAVIGATION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (33 U.S.C. 409), is amended—

(1) by striking "day and" and inserting "day and, unless otherwise authorized by the Commandant of the Coast Guard,"; and

(2) by striking "lighted lantern" and inserting "light".

SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking "and" after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting "; and"; and

(C) adding at the end the following:

"(6) may prohibit the use on the bridge of a vessel of electronic or other devices that interfere with communications and navigation equipment."; and

(2) adding at the end the following:

"(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

"(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

"(3) As used in this paragraph, the term 'inherently governmental function' means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.".

SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) REPEAL OF INLAND RULES.—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

"SEC. 3. INLAND NAVIGATION RULES.

"The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels

upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.''.

(c) Effective Date.—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

TITLE IV—SHIPPING

SEC. 401. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking ''owners and masters'' and inserting ''owners, masters, and charterers''.

SEC. 402. SUSPENSION OF DOCUMENTS IN LIEU OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS.

Section 7704(b) of title 46, United States Code, is amended by inserting ''suspended or'' after ''shall be''.

SEC. 403. INSPECTION OF RECORDS OF MERCHANT MARINERS' DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking ''The records are not open to general or public inspection.''.

SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CITIZENSHIP REQUIREMENTS REGARDING COMMAND OF VESSEL.

(a) Exemption From Limitation on Command.—Section 12110(d) of title 46, United States Code, is amended by inserting ''or an unmanned barge not engaged on a coastwise voyage'' after ''recreational endorsement''.

(b) Exemption From Seizure and Forfeiture.—Section 12122(b)(6) of title 46, United States Code, is amended by inserting ''or an unmanned barge not engaged on a coastwise voyage'' after ''recreational endorsement''.

SEC. 405. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 2110(d) of title 46, United States Code, is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) For purposes of subparagraph (A), costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges.''.

SEC. 406. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) Application of Existing Law.—Section 3202(a) of title 46, United States Code, is amended to read as follows:

''(a) Mandatory Application.—This chapter applies to a vessel that—

''(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

''(B) is of at least 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, that is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

''(2)(A) is engaged on a foreign voyage; or

''(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.''.

(b) Compliance of Regulations With International Safety Management Code.—Section 3203(b) of title 46, United States Code, is amended by striking ''vessels engaged on a foreign voyage.'' and inserting ''vessels to which this chapter applies under section 3202(a) of this title.''.

SEC. 407. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT SAFETY STANDARDS.

Section 4311(b) of title 46, United States Code, is amended—

(1) by striking the first sentence and inserting ''A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than $5,000, except that the maximum civil penalty may be not more than $250,000 for a related series of violations.''; and

(2) in the second sentence, by striking ''4307(a)(1)'' and inserting ''4307(a)''.

SEC. 408. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7702(d) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking ''if, when acting under the authority of that license, certificate, or document—'' and inserting ''if—'';

(2) in paragraph (1)(B)(i), by inserting '', while acting under the authority of that license, certificate, or document,'' after ''has'';

(3) by striking ''or'' after the semicolon at the end of paragraph (1)(B)(ii);

(4) by striking the period at the end of paragraph (1)(B)(iii) and inserting ''; or''; and

(5) by adding at the end of paragraph (1)(B) the following:

''(iv) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.''.

SEC. 409. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by striking ''incompetence,''; and

(B) by striking the comma after ''misconduct'';

(2) by striking ''or'' after the semicolon at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(4) by adding at the end the following:

''(4) has committed an act of incompetence; or

''(5) is a threat to the safety or security of a vessel or a structure located within or adjacent to the marine environment.''.

SEC. 410. HOURS OF SERVICE ON TOWING VESSELS.

(a) Regulations.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

''(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and record-keeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).''.

(b) Demonstration Project.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

SEC. 411. AUTOMATIC IDENTIFICATION SYSTEM ELECTRONIC CHARTS.

Section 70114(a)(1) of title 46, United States Code, is amended by inserting '', including an electronic chart and related display,'' after ''automatic identification system'' the first place it appears.

SEC. 412. PREVENTION OF DEPARTURE.

(a) In General.—Section 3505 of title 46, United States Code, is amended to read as follows:

''§3505. Prevention of departure

''Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or that embarks passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.''.

(b) Conforming Amendment.—Section 3303 of title 46, United States Code, is amended by inserting ''and section 3505'' after ''chapter 37''.

TITLE V—FEDERAL MARITIME COMMISSION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There is authorized to be appropriated to the Federal Maritime Commission $18,471,000 for Fiscal Year 2004.

TITLE VI—MISCELLANEOUS

SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) General Bridge Act of 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(b) Drawbridges.—Section 5(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(c) Alteration, Removal, or Repair of Bridges.—Section 18(c) of the Act entitled ''An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes'', approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10,000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

(d) General Bridge Act of 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking ''$1,000'' and inserting ''$5,000 for a violation occurring in 2004; $10 000 for a violation occurring in 2005; $15,000 for a violation occurring in 2006; $20,000 for a violation occurring in 2007; and $25,000 for a violation occurring in 2008 and any year thereafter''.

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER SUNDEW.

(a) In General.—Upon the scheduled decommissioning of the Coast Guard Cutter SUNDEW, the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota; in this section referred to as the ''recipient''), located in Duluth, Minnesota, without consideration, if—

(1) the recipient agrees—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in an amount of at least $700,000; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 603. TONNAGE MEASUREMENT.

(a) M/V BLUEFIN.—The gross tonnage of the M/V BLUEFIN (United States official number 620431) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 488 tons.

(b) M/V COASTAL MERCHANT.—The gross tonnage of the M/V COASTAL MERCHANT (United States official number 1038382) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 493 tons.

(c) TERMINATION OF APPLICATION.—Subsection (a) or (b) shall not apply on and after any date on which the Secretary of the Department in which the Coast Guard is operating determines, respectively, that the vessel M/V BLUEFIN or the vessel M/V COASTAL MERCHANT has undergone any major modification.

SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM to be used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade.

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) DESIGNATION.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes Region.

(b) AUTHORIZED ACTIVITIES.—In addition to the activities that may be undertaken by that Institute under section 8(b) of Public Law 101–115 (46 App. U.S.C. 1121–2), the Great Lakes National Maritime Enhancement Institute may—

(1) conduct research and evaluate short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(2) evaluate markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(3) evaluate the environmental benefits of waterborne transportation in the Great Lakes region;

(4) analyze the effect of the Harbor Maintenance Tax on Great Lakes shipping;

(5) study the state of shipbuilding and ship repair base on the Great Lakes;

(6) evaluate opportunities for passenger vessel services on the Great Lakes;

(7) analyze the origin to destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(8) evaluate the economic viability establishing transshipment facilities for oceangoing cargoes;

(9) evaluate the adequacy of the infrastructure in ports to meet the needs of marine commerce; and

(10) study and develop new vessel designs for domestic and international shipping on the Great Lakes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2004 through 2008 for the activities described in subsection (b).

SEC. 606. AGILE PORT AND INTELLIGENT BORDER SECURITY NATIONAL DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Transportation may carry out an Agile Port and Intelligent Border Security National Demonstration Project under the Center for the Commercial Deployment of Transportation Technologies to develop and deploy dual use transportation technologies for commercial applications, including the following:

(1) Agile port facilities, including inland multi-modal transportation facilities.

(2) Advanced cargo and passenger vessel hull design, propulsion systems, and construction.

(3) Regional supply chain efficiency, improved mobility, and air quality.

(4) Maritime, port, cargo, and supply chain security, and total asset visibility.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the demonstration project under subsection (a) there is authorized to be appropriated to the Secretary of Transportation $5,000,000 for fiscal year 2004.

SEC. 607. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as "Koss Cove", in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) 3/4 mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seaward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 608. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

SEC. 609. DREDGING STUDY.

(a) STUDY.—The Director of the Congressional Budget Office shall study and report to the Committee on Transportation and Infrastructure of the House of Representatives on the impacts of chartering by foreign citizens of dredges documented under the laws of the United States, on—

(1) the structure, conduct, and performance, of the United States dredging market; and

(2) costs paid by Federal agencies for dredging projects.

(b) FOREIGN CITIZEN DEFINED.—In subsection (a), the term "foreign citizen" means any corporation, partnership, or association that does not qualify as a citizen of the United States under section 2 of the Shipping Act of 1916 (46 APP. U.S.C. 802).

SEC. 610. REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall report to the Congress regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(b) CONTENTS.—The report under this section shall include the following:

(1) A section regarding security inspection of vessels that includes the following:

(A) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(B) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(C) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessels that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

(2) A section regarding security inspection of containers that includes the following:

(A) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(B) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container.

(C) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) Nontank Vessel Defined.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

"(9) Nontank vessel defined.—In this subsection, the term 'nontank vessel' means a self-propelled vessel of 400 gross tons (as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title) or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

"(A) is a vessel of the United States; or

"(B) operates on the navigable waters of the United States.".

(b) Amendments To Require Response Plans.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting ", NONTANK VESSEL," after "VESSEL";

(2) in paragraph 5(A) by inserting ", nontank vessel," after "vessel";

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting ", nontank vessels," after "vessels";

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

"(ii) A nontank vessel.";

(5) in paragraph (5)(D)—

(A) by inserting ", nontank vessel," after "vessel";

(B) by striking "and" after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting "; and"; and

(D) by adding after clause (iv) the following:

"(v) for nontank vessels, consider any applicable State-mandated response plan and ensure consistency to the extent practicable.";

(6) in paragraph (5)(E), in the matter preceding clause (i), by inserting "nontank vessel," after "vessel.";

(7) in paragraph (5)(E)(i) by inserting "nontank vessel," , after "vessel,";

(8) in paragraph (5)(F) by striking "tank vessel or" and inserting "vessel or";

(9) in paragraph (5)(G) by inserting "nontank vessel," after "vessel,";

(10) in paragraph (5)(H) by inserting "and nontank vessel" after "each tank vessel";

(11) in paragraph (6) in the matter preceding subparagraph (A) by striking "Not later than 2 years after the date of enactment of this section, the President shall require—" and inserting "The President may require—";

(12) in paragraph (6)(B) by inserting ", and nontank vessels carrying oil of any kind as fuel for main propulsion," after "cargo"; and

(13) in paragraph (7) by inserting ", nontank vessel," after "vessel".

(c) Implementation Date.—The President shall not require the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9), as amended by this section) to prepare and submit a vessel response plan for such vessel before the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking "Not later than 1 year after the date of the enactment of this Act, the Secretary shall" and inserting "The Secretary may";

(2) in subsection (b)—

(A) by striking "Not later than 1 year after the date of the enactment of this Act, the Secretary shall" and inserting "No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may"; and

(B) by striking "the standards" and inserting "any standards".

SEC. 703. LIABILITY AND COST RECOVERY.

(a) Definition of Owner or Operator.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

"(26) 'owner or operator'—

"(A) means—

"(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

"(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

"(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

"(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

"(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

"(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

"(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

"(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

"(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

"(B) does not include—

"(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

"(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility;

"(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

"(I) forecloses on the vessel or facility; and

"(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;".

(b) Other Definitions.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking "and" after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

"(38) 'participate in management'—

"(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

"(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

"(B) does not include—

"(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

"(ii) holding a security interest or abandoning or releasing a security interest;

"(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

"(v) monitoring or undertaking one or more inspections of the vessel or facility;

"(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

"(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

"(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

"(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

"(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33

U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

"(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

"(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

"(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

"(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

"(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

"(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).".

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

"(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

"(1) IN GENERAL.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

"(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;

"(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

"(C) the responsible party complies with paragraph (3).

"(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

"(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was placed on, in, or at the facility.

"(B) The responsible party is a government entity that acquired the facility—

"(i) by escheat;

"(ii) through any other involuntary transfer or acquisition; or

"(iii) through the exercise of eminent domain authority by purchase or condemnation.

"(C) The responsible party acquired the facility by inheritance or bequest.

"(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

"(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

"(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

"(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

"(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

"(4) REASON TO KNOW.—

"(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

"(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

"(ii) the responsible party took reasonable steps to—

"(I) stop any continuing discharge;

"(II) prevent, minimize or mitigate any substantial threat of discharge; and

"(III) prevent or limit any human, environmental, or natural resource exposure to any discharged oil.

"(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

"(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards provisions regarding each of the following:

"(i) The results of an inquiry by an environmental professional.

"(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

"(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

"(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

"(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at the facility and on the real property on which the facility is located.

"(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

"(vii) Specialized knowledge or experience on the part of the responsible party.

"(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

"(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

"(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

"(D) INTERIM STANDARDS AND PRACTICES.—

"(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

"(I) any specialized knowledge or experience on the part of the responsible party;

"(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property;

"(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

"(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

"(V) the ability of the responsible party to detect the oil by appropriate inspection.

"(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

"(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

"(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

"(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.".

The CHAIRMAN pro tempore. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. LO BIONDO

Mr. LOBIONDO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOBIONDO:

Strike section 101 (page 3, beginning at line 2) and insert the following:

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2004 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, $4,865,000,000, of which $25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $1,147,000,000, of which—

(A) $23,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(B) $702,000,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System program.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $22,000,000, to remain available until expended, of which $3,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,020,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $19,250,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), $17,000,000, to remain available until expended.

(7) For maintenance and operation of facilities, supplies, equipment, and services necessary for the Coast Guard Reserve, as authorized by law, $114,000,000.

Strike section 205 (page 10, beginning at line 12) and insert the following:

SEC. 205. INDEMNIFICATION FOR DISABLING VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "after a" and all that follows through "signal," and inserting "subject to paragraph (2),"; and

(3) by adding at the end the following:

"(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.".

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting "or" after the semicolon; and

(2) in paragraph (2) by—

(A) inserting "or military aircraft" after "surface naval vessel"; and

(B) striking "; or" and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

(d) TECHNICAL CORRECTION.—

(1) CORRECTION.—Section 637 of title 14, United States Code, is amended in the section heading by striking "immunity" and inserting "indemnification".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking the item relating to section 637 and inserting the following:

"637. Stopping vessels; indemnification for firing at or into vessel.".

Page 12, line 21, insert ", subject to the availability of appropriations," after "expense, and".

Strike section 209 (page 17, beginning at line 7) and insert the following:

SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended to read as follows:

"§ 742. Maximum age for retention in an active status

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

"(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

"(c) Notwithstanding subsection (a)and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

"(d) For purposes of this section, 'active duty' does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.".

At the end of title II (page 22, after line 5) insert the following:

SEC. 2 . ROTC DEMONSTRATION PROJECT.

(a) IN GENERAL.—For the purpose of preparing selected students for commissioned service in the Coast Guard, the Secretary of the Department in which the Coast Guard is operating (in this section referred to as the "Secretary"), in consultation with the Superintendent of the Coast Guard Academy, may establish and maintain a Senior Reserve Officers' Training Corps demonstration project at the University of Alaska (in this section referred to as the "University").

(b) OBLIGATIONS OF UNIVERSITY, GENERALLY.—As part of any demonstration project undertaken under this section, the University shall—

(1) give the senior commissioned Coast Guard officer who is assigned to the project the academic rank of professor;

(2) adopt, as a part of its curriculum, a 4-year course of military instruction as prescribed by the Secretary; and

(3) provide advanced training to eligible members of the project.

(c) STUDENT ELIGIBILITY.—To be eligible for membership in the project an individual must—

(1) be a student at the University;

(2) be a citizen of the United States;

(3) be selected for advanced training under procedures prescribed by the Secretary;

(4) enlist in the Coast Guard for the period prescribed by the Secretary;

(5) contract (with the consent of the individual's parent or guardian if the individual is a minor) with the Secretary, or a designated representative of the Secretary, to serve for the period required by the program;

(6) agree in writing to accept an appointment, if offered, as a commissioned officer in the Coast Guard and to serve for the period prescribed by the Secretary;

(7) either—

(A) complete successfully—

(i) the first 2 years of the 4-year Senior Coast Guard Reserve Officers' Training Corps course; or

(ii) field training or a practice cruise of a duration prescribed by the Secretary as a preliminary requirement for admission to the advanced course; or

(B) at the discretion of the Secretary concerned, agree in writing to complete field training or a practice cruise, as prescribed by the Secretary, within 2 years after admission to the advanced course; and

(8) execute a certificate of loyalty in such form as the Secretary prescribes or take a loyalty oath as prescribed by the Secretary.

(d) SERVICE OBLIGATION.—A member of the project who is selected for advanced training under subsection (c), and who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary to serve in the member's enlisted grade or rating for such period of time as the Secretary prescribes but not for more than 2 years.

(e) APPOINTMENT AS OFFICER.—

(1) IN GENERAL.—Upon satisfactorily completing the academic and military requirements of the program of advanced training under subsection (c), a member of the project who was selected for advanced training under subsection (c) may be appointed as a regular or reserve officer in the Coast Guard in the grade of second lieutenant or ensign, even if under 21 years of age.

(2) DATE OF RANK.—The date of rank of officers appointed under this subsection in May or June of any year is the date of graduation of cadets from the Coast Guard Academy. The Secretary shall establish the date of rank of all other officers appointed under this subsection.

(3) COMPUTATION OF LENGTH OF SERVICE.—In computing length of service for any purpose, an officer appointed under this subsection may not be credited with enlisted service for the period covered by advanced training under this section, other than any period of enlisted service performed in the Coast Guard.

(f) APPOINTMENT AS CADET.—

(1) IN GENERAL.—The Secretary may appoint as a cadet in the Coast Guard reserve any eligible member of the project who will be under 31 years of age on December 31 of the calendar year in which the member is eligible under this section for appointment as an ensign in the Coast Guard.

(2) ELIGIBILITY REQUIREMENTS.—To be an eligible member of the project for purposes of paragraph (1) a member must—

(A) be a citizen of the United States;

(B) be specially selected for the financial assistance program under procedures prescribed by the Secretary;

(C) enlist in the Coast Guard reserve as a cadet for the period prescribed by the Secretary;

(D) contract (with the consent of the member's parent or guardian if the member is a minor) with the Secretary, or a designated representative of the Secretary, to serve for the period required by the project; and

(E) agree in writing that, at the discretion of the Secretary, the member will—

(i)(I) accept an appointment, if offered, as a commissioned officer in Coast Guard, and, if the member is commissioned as a regular officer and the member's regular commission is terminated before the sixth anniversary of the member's date of rank, the member accept an appointment, if offered, in the Coast Guard reserve and not resign before that anniversary or before such other date, not beyond the eighth anniversary of the member's date of rank, that the Secretary may prescribe; and

(II) serve on active duty for 4 or more years;

(ii)(I) accept an appointment, if offered, as a commissioned officer in the Coast Guard; and

(II) serve in the Coast Guard reserve until the eighth anniversary of the receipt of such appointment, unless otherwise extended under subsection (g)(4), under such terms and conditions as shall be prescribed by the Secretary; or

(iii)(I) accept an appointment, if offered, as a commissioned officer in the Coast Guard; and

(II) serve in the Coast Guard reserve until at least the sixth anniversary and, at the discretion of the Secretary, up to the eighth anniversary of the receipt of such appointment, unless such appointment is otherwise extended under subsection (g)(4), under such terms and conditions as may be prescribed by the Secretary.

The performance of service under subparagraph (E)(ii) or (E)(iii) may include periods of active duty, active duty for training, and other service in an active or inactive status in the Coast Guard reserve, except that performance of service under subparagraph (E)(iii) shall include not less than 2 years of active duty.

(3) APPOINTMENT AS OFFICER.—Upon satisfactorily completing the academic and military requirements of the project, a cadet may be appointed as a regular or reserve officer in the grade of second lieutenant or ensign, even if under 21 years of age.

(4) DATE OF RANK.—The date of rank of officers appointed under this subsection in May or June of any year is the date of graduation of cadets from Coast Guard Academy in that year. The Secretary shall establish the date of rank of all other officers appointed under this subsection.

(5) SERVICE OBLIGATION.—A cadet who does not complete the 4-year course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary to serve in the member's enlisted grade or rating for such period of time as the Secretary prescribes but not for more than 4 years.

(g) ADVANCED STANDING.—

(1) IN GENERAL.—The Secretary may give to any enlisted member of the Coast Guard, or any person who has served on active duty in any armed force, such advanced standing in the program as may be justified by the member's education and training.

(2) ELIGIBILITY FOR ADVANCED TRAINING.—In determining a member's eligibility for advanced training, the Secretary may credit the member with any military training that is substantially equivalent in kind to that prescribed for admission to advanced training and was received while the member was taking a course of instruction in a program under the jurisdiction of another armed force or while the member was on active duty in the armed forces.

(3) EXCUSE FROM PRESCRIBED INSTRUCTION.—The Secretary may excuse from a portion of the prescribed course of military instruction, including field training and practice cruises, any member found qualified on the basis of the member's previous education, military experience, or both.

(4) PARTICIPATION FOLLOWING UNDERGRADUATE STUDIES.—An individual may become, remain, or be readmitted as, a member of the advanced training program after receiving a baccalaureate degree or completing preprofessional studies if the member has not completed the course of military instruction or all field training or practice cruises prescribed by the Secretary. If a member of the project has been accepted for resident graduate or professional study, the Secretary may delay the commencement of the member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in the Coast Reserve, until the member has completed that study.

(5) RELEASE FROM PROJECT.—The Secretary, if the Secretary determines that the interest of the service so requires, may release any individual from the project and discharge the member from the Coast Guard.

(h) MISCELLANEOUS AUTHORITIES.—

(1) IN GENERAL.—The Secretary may issue to the senior commissioned Coast Guard officer who is assigned to the project, or to the officers of the Coast Guard who are designated as accountable or responsible for such property—

(A) supplies, means of transportation including aircraft, arms and ammunition, and military textbooks and educational materials; and

(B) uniform clothing, except that he may pay monetary allowances for uniform clothing at such rate as he may prescribe.

(2) FLIGHT INSTRUCTION.—The Secretary may provide, or contract with civilian flying or aviation schools or educational institutions to provide, the personnel, aircraft, supplies, facilities, services, and instruction necessary for flight instruction and orientation for properly designated members of the project.

(3) MEDICAL CARE.—The Secretary—

(A) may transport members of, and designated applicants for membership in, the project to and from installations when it is necessary for them to undergo medical or other examinations or for the purposes of making visits of observation; and

(B) may furnish to such members subsistence, quarters, and necessary medical care, including hospitalization, while they are at, or traveling to or from, such an installation.

(4) PARTICIPATION IN FLIGHTS AND CRUISES.—The Secretary may authorize members of, and designated applicants for membership in, the project to participate in aerial flights in Coast Guard aircraft and in indoctrination cruises in naval vessels.

(5) FINANCIAL ASSISTANCE.—The Secretary may, to the extent amounts are available, provide for the payment of financial assistance to students participating in the project, including for tuition, fees, books, and laboratory expenses.

(i) DETAIL OF RESERVE OFFICERS.—The Secretary may detail regular or reserve Coast Officers for instructional and administrative duties related to the project.

SEC. 2 . SHOCK MITIGATION REQUIREMENTS.

(a) REQUIREMENTS.—Chapter 17 of title 14, United Sates Code, is amended by adding the end the following:

"§ 675. Shock mitigation requirements

"(a) The Secretary shall establish a shock standard for Coast Guard vessels.

"(b) The Secretary shall include shock mitigation requirements for boat decking in each procurement of a vessel for the Coast Guard that does not meet the standard established under subsection (a).

"(c) Requirements under subsection (a) shall specify the weight and durability of decking material, effects on decking material of repeated use and weather conditions, and the capability of decking material to mitigate impacts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, of title 14, United States Code, is amended by adding at the end the following:

"675. Shock mitigation requirements.".

SEC. 2 . COAST GUARD YARD.

(a) IN GENERAL.—Section 648 of title 14, United States Code, is amended by—

(1) amending the section heading to read as follows:

"§ 648. Industrial work";

(2) inserting "(a)" before the existing text; and

(3) adding at the end the following:

"(b) The Commandant may enter into a contract or cooperative agreement with any person for the performance of work on a local, State, or Federal government vessel, or the engine, ordnance, electronics, or other equipment related to such a vessel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by amending the item relating to section 648 to read as follows:

"648. Industrial work.".

SEC. 2 . RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (w) by striking "and" after the semicolon at the end;

(2) in paragraph (x) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(y) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.".

SEC. 2 . ASSIGNMENT OF OFFICER TO NATIONAL WAR COLLEGE.

(a) IN GENERAL.—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"§ 152. Assignment of officer to National War College

"The Commandant shall assign an officer in the grade of captain to serve as the Coast Guard's Service Chair at the National War College.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

"152. Assignment of officer to National War College.".

SEC. 2 . COAST GUARD EDUCATION LOAN REPAYMENT PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 13 of title 14, United States Code, is amended by inserting after section 471 the following:

"§ 472. Education loan repayment program

"(a)(1) Subject to the provisions of this section, the Secretary may repay—

"(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

"(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

"(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

"(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

"(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or $1,500, whichever is greater, for each year of service.

"(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

"(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

"(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 471 the following:

"472. Education loan repayment program.".

Strike section 405 (page 25, beginning at line 17).

At the end of title IV (page 30, after line 21) insert the following:

SEC. 4 . SERVICE OF FOREIGN NATIONALS FOR MARITIME EDUCATIONAL PURPOSES.

Section 8103(b)(1)(A) of title 46, United State Code, is amended to read as follows:

"(A) each unlicensed seaman must be—

"(i) a citizen of the United States;

"(ii) an alien lawfully admitted to the United States for permanent residence; or

"(iii) a foreign national who is enrolled in the United States Merchant Marine Academy.".

SEC. 4 . CLASSIFICATION SOCIETIES.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) A person shall not operate in interstate or foreign commerce as a classification society unless the Secretary has reviewed and approved the person with respect to the conduct of those operations.

"(2) The Secretary may approve a person for purposes of paragraph (1) only if the Secretary determines that—

"(A) the vessels surveyed by the person while acting as a classification society have an adequate safety record; and

"(B) the person has an adequate program to—

"(i) develop safety standards for vessels surveyed by the person;

"(ii) make the safety records of the person available to the Secretary in an electronic format;

"(iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and

"(iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.

"(3) The Secretary shall issue regulations implementing this subsection, including regulations describing activities that constitute operation in interstate or foreign commerce as a classification society.".

(b) APPLICATION.—Section 3316(c)(1) of title 46, United States Code, shall apply with respect to operation as a classification society on or after January 1, 2005.

SEC. 4 . MEMBERSHIP OF AREA MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112(b) of title 46, United States Code, is amended by adding at the end to following:

"(5) Membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.".

SEC. 4 . SECURITY PLANS.

Section 70103(c) of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "operator of a vessel or facility" and inserting "operator of a vessel (including a foreign vessel) or facility"; and

(B) by striking "a security plan" and inserting "in writing a detailed security plan";

(2) in paragraph (5), by striking "A vessel" and inserting "A vessel (including a foreign vessel)";

(3) in paragraph (6), by inserting "(including a foreign vessel)" after "authorize a vessel" ; and

(4) in paragraph (7), by inserting "(including a foreign vessel)" after "operator of a vessel".

Strike section 602 (page 32, beginning at line 21) and insert the following:

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the "recipient"), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least $700,000; and

(3) agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

Strike section 607 (page 38, beginning at line 17) and insert the following:

SEC. 607. KOSS COVE.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as "Koss Cove", in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) 3/4 mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

Strike section 609 (page 40, beginning at line 3) and insert the following:

SEC. 609. REGULATIONS.

No later than February 1, 2004, the Secretary of the department in which the Coast Guard is operating shall implement final regulations to carry out section 12106(e), title 46, United States Code.

At the end of title VI (page 43, after line 2) insert the following:

SEC. 6 . CONVEYANCE OF DECOMMISSIONED COAST GUARD VESSELS.

(a) IN GENERAL.—Upon the scheduled decommissioning of a Coast Guard vessel listed in subsection (d), the Commandant of the

Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to the respective recipient listed in subsection (d) for that vessel, if—

(1) the recipient agrees—

(A) to use the vessel for public safety activities;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function.

(d) VESSELS AND RECIPIENTS.—The vessels and recipients referred to in subsection (a) are the following:

(1) A 21-foot rigid hull Coast Guard vessel, to the Berrien County Sheriff's Department, Berrien County, Michigan.

(2) A 44-foot motor life boat, to the Port Norris Fire Company, Commercial Township, New Jersey.

(3) A 44-foot motor life boat, to the City of Margate, New Jersey.

(4) A 44-foot motor life boat, to the Lower Alloway Creek Fire Company, Hancocks Bridge, New Jersey.

(5) A 44-foot motor life boat, to the Fortescue Fire Rescue Company 1, Downe Township, New Jersey.

(6) A 21-foot rigid hull inflatable, to the Longport Volunteer Fire Department, Longport, New Jersey.

(7) A 21-foot rigid hull inflatable, to West Wildwood Fire Company, West Wildwood, New Jersey.

(8) A 21-foot rigid hull inflatable, to the San Diego Unified Port District, California.

SEC. 6___. ASSATEAGUE LIGHTHOUSE LENS.

The Secretary of the department in which the Coast Guard is operating shall convey to the Oyster and Maritime Museum, located in Chincoteague, Virginia, without consideration, all right, title, and interest of the United States in and to the first order Fresnel lens formerly used in the Assateague Lighthouse located on Assateague Island, Virginia.

SEC. 6___. STUDY OF THE ROLE OF COAST GUARD ICE BREAKERS IN SUPPORTING UNITED STATES OPERATIONS IN THE ANTARCTIC AND THE ARCTIC.

(a) IN GENERAL.—The Commandant of the Coast Guard may enter into an arrangement with the Polar Research Board and the Marine Board of the National Academy of Sciences to—

(1) conduct a study of the role of Coast Guard icebreakers in supporting United States operations in the Antarctic and the Arctic, including—

(A) roles in logistics and material support and a general inventory of contributions to science in both regions;

(B) alternative methods for staging, supporting, and conducting Arctic and Antarctic activities other than by use of Coast Guard icebreakers;

(C) the operational status of the POLAR STAR and POLAR SEA, including the projected life expectancy of vessel systems, and strategies for extending the service life of these vessels; and

(D) key short-term and long-term functions provided by the Coast Guard icebreaker fleet and how these functions might be addressed under different service life extension and replacement scenarios; and

(2) conduct a study of changes in the roles and missions of Coast Guard icebreakers in the support of future marine operations in the Arctic that may develop due to environmental change, including—

(A) the amount and kind of icebreaking support that may be required in the future to support marine operations in the Northern Sea Route and the Northwest Passage;

(B) the suitability of the Polar Class icebreakers for these new roles; and

(C) appropriate changes in existing laws governing Coast Guard icebreaking operations and the potential for new operating regimes.

(b) REPORT.—Not later than 18 months after the date of enactment of the Act, the Commandant shall submit a report on the studies required under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) CHARGE FOR ICEBREAKING SERVICES.—After the date on which the Commandant submits the report under subsection (b), and notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may charge other Federal agencies for the Secretary's cost of providing icebreaking and related transportation services to those agencies.

SEC. 6___. CORRECTION OF REFERENCES TO NATIONAL DRIVER REGISTER.

Title 46, United States Code, is amended—

(1) in section 7302—

(A) by striking "section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)" and inserting "30305(b)(5) of title 49"; and

(B) by striking "section 205(a)(3)(A) or (B) of that Act" and inserting "30304(a)(3)(A) or (B) of title 49";

(2) in section 7702(d)(1)(B)(iii) by striking "section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982" and inserting "section 30304(a)(3)(A) or (B) of title 49"; and

(3) in section 7703(3) by striking "section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982" and inserting "section 30304(a)(3)(A) or (B) of title 49".

SEC. 6___. WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

SEC. 6___. ALASKA MERCHANT MARINERS' DOCUMENTS PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall conduct a pilot program in the 17th Coast Guard District to demonstrate methods to improve processing and procedures for issuing merchant mariners' documents.

(b) USE OF EXISTING TOOLS.—Before conducting the pilot program authorized under subsection (a), the Secretary shall consult with the Secretary of the Air Force regarding the efficiency and effectiveness of the content management technology and information management tools that are currently used by the department of the Air Force in the Air Force Publishing Directorate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $5,000,000 to carry out the pilot program under subsection (a).

SEC. 6___. CONVEYANCE OF SENTINEL ISLAND LIGHT STATION, ALASKA.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Department in which the Coast Guard is operating shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the Sentinel Island Light Station and Sentinel Island, Alaska, to the Gastineau Channel Historical Society.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on property conveyed under this section at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Secretary shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—

(A) IN GENERAL.—Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) LIMITATION.—The owner of a property conveyed under this section is not required to maintain any active aids to navigation on the property, except private aids to navigation authorized under section 83 of title 14, United States Code.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) AIDS TO NAVIGATION.—The term "aids to navigation" means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment that are operated or maintained by the United States.

(2) OWNER.—The term "owner" means, for property conveyed under this section, the person to which property is conveyed under subsection (a)(1), and any successor or assign of that person.

SEC. 6 . MARITIME INTELLIGENCE AND LONG-RANGE VESSEL TRACKING SYSTEM.

(a) MARITIME INTELLIGENCE.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating $25,000,000 for fiscal year 2004 to implement a system to carry out section 70113(a) of title 46, United States Code.

(2) SYSTEM REQUIREMENT.—Any system implemented with amounts made available under this subsection shall—

(A) include a vessel terrorism risk profiling system that assigns incoming vessels a risk rating; and

(B) be based on independently verified intelligence data.

(b) VESSEL TRACKING SYSTEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Department in which the Coast Guard is operating $12,000,000 for fiscal year 2004 to carry out section 70115 of title 46, United States Code.

(2) SYSTEM REQUIREMENTS.—Any automated vessel tracking system implemented with amounts made available under this subsection shall be operated by an existing nonprofit maritime organization that—

(A) operates satellite communications systems, and vessel tracking software and hardware; and

(B) can have nationwide vessel tracking capability in operation by no later than 90 days after the date the organization enters into a contract with the Coast Guard to establish and operate the system.

SEC. 6 . COLUMBIA SLOUGH.

Section 325 of Public Law 97–369 (96 Stat. 1785) is repealed.

SEC. 6 . SENSE OF CONGRESS REGARDING CARBON MONOXIDE AND WATERCRAFT.

It is the sense of the Congress that the Coast Guard should continue—

(1) to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide that are unique to watercraft; and

(2) to work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to adequately address this public safety issue and minimize the number of tragic carbon monoxide-related boating deaths that occur each year.

SEC. 6 . SENSE OF CONGRESS REGARDING NAMING NEW VESSELS UNDER THE DEEPWATER PROGRAM FOR CITIES OF THE UNITED STATES.

It is the sense of the Congress that the Coast Guard should consider including in its naming protocols for new vessels constructed under the Deepwater Program the names of cities of the United States and its territories and possessions.

SEC. 6 . PORT SECURITY GRANT AUTHORITY.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "Secretary of Transportation, acting through the Maritime Administrator," and inserting "Secretary, acting through the Commandant of the Coast Guard,";

(2) by striking "Secretary of Transportation" each place it appears and inserting "Secretary, acting through the Commandant of the Coast Guard,"; and

(3) by striking "Department of Transportation" each place it appears and inserting "department in which the Coast Guard is operating".

(b) EFFECTIVE DATE.—Subsection (a)—

(1) shall take effect October 1, 2004; and

(2) shall not affect any grant made before that date.

SEC. 6 . SECURITY ASSESSMENT OF INDIAN POINT ENERGY CENTER.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

(1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the navigable waters adjacent to Indian Point Energy Center, located in Westchester County, New York; and

(2) submit a report on that assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate.

SEC. 6 . MITIGATION OF PENALTY DUE TO AVOIDANCE OF A CERTAIN HAZARDOUS CONDITION.

(a) TREATMENT OF VIOLATION.—For purposes of any administrative proceeding to consider mitigation of any civil penalty for a violation described in subsection (b), such violation is deemed to have been committed by reason of a safety concern.

(b) VIOLATION DESCRIBED.—A violation referred to in subsection (a) is any violation of the Act of June 19, 1886 (chapter 421; 46 App. U.S.C. 289), occurring before August 1, 2003, and consisting of operation of a passenger vessel in transporting passengers—

(1) between the Port of New Orleans and another port on the Gulf of Mexico at a time when the power lines across the Mississippi River at Chalmette, Louisiana, are a hazard to the safe return transport of passengers on that vessel to the Port of New Orleans; or

(2) in repositioning the vessel to the Port of New Orleans after that hazard is temporarily resolved.

SEC. 6 . DESIGNATION OF EMPRESS OF THE NORTH AS A TOUR VESSEL.

Notwithstanding any other law, the passenger vessel EMPRESS OF THE NORTH (United States official number 1140867) is deemed to be a tour vessel for the purpose of the regulations promulgated by the Secretary of the Interior under section 3(h) of Public Law 91–383 (16 U.S.C. 1a–2(h)) and section 3 of the Act of August 25, 1916 (16 U.S.C. 3), with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska.

SEC. 6 . SENSE OF CONGRESS REGARDING TIMELY REVIEW AND ADJUSTMENT OF GREAT LAKES PILOTAGE RATES.

It is the sense of the Congress that the Secretary of the department in which the Coast Guard is operating should, on a timely basis, review and adjust the rates payable under part 401 of title 46, Code of Federal Regulations, for services performed by United States registered pilots on the Great Lakes.

Strike section 703 (page 46, beginning at line 19) and insert the following:

SEC. 703. LIABILITY AND COST RECOVERY.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

"(26) 'owner or operator'—

"(A) means—

"(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

"(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

"(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

"(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

"(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

"(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

"(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

"(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

"(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

"(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

"(B) does not include—

"(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

"(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility; or

"(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

"(I) forecloses on the vessel or facility; and

"(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;".

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking "and" after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

"(38) 'participate in management'—

"(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

"(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

"(B) does not include—

"(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

"(ii) holding a security interest or abandoning or releasing a security interest;

"(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

"(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

"(v) monitoring or undertaking one or more inspections of the vessel or facility;

"(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

"(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

"(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

"(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

"(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

"(39) 'extension of credit' has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

"(40) 'financial or administrative function' has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

"(41) 'foreclosure' and 'foreclose' each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

"(42) 'lender' has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

"(43) 'operational function' has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

"(44) 'security interest' has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C: 9601(20)(G)(vi)).".

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

"(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

"(1) IN GENERAL.—For purposes of subsection (a)(3) the term 'contractual relationship' includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

"(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;

"(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

"(C) the responsible party complies with paragraph (3).

"(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

"(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was located on, in, or at the facility.

"(B) The responsible party is a government entity that acquired the facility—

"(i) by escheat;

"(ii) through any other involuntary transfer or acquisition; or

"(iii) through the exercise of eminent domain authority by purchase or condemnation.

"(C) The responsible party acquired the facility by inheritance or bequest.

"(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

"(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

"(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

"(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

"(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

"(4) REASON TO KNOW.—

"(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

"(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

"(ii) the responsible party took reasonable steps to—

"(I) stop any continuing discharge;

"(II) prevent, minimize or mitigate any substantial threat of discharge; and

"(III) prevent or limit any human, environmental, or natural resource exposure to any previously discharged oil.

"(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

"(C) Criteria.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards and practices provisions regarding each of the following:

"(i) The results of an inquiry by an environmental professional.

"(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for contamination at the facility and on the real property on which the facility is located.

"(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

"(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

"(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility and on the real property on which the facility is located.

"(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

"(vii) Specialized knowledge or experience on the part of the responsible party.

"(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the facility or the real property was not contaminated.

"(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

"(x) The degree of obviousness of the presence or likely presence of contamination at the facility and on the real property on which the facility is located, and the ability to detect contamination by appropriate investigation.

"(D) Interim standards and practices.—

"(i) Real property purchased before May 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

"(I) any specialized knowledge or experience on the part of the responsible party;

"(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the facility or the real property was not contaminated;

"(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

"(IV) the obviousness of the presence or likely presence of contamination at the facility and on the real property on which the facility is located; and

"(V) the ability of the responsible party to detect contamination by appropriate inspection.

"(ii) Real property purchased on or after May 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process', shall satisfy the requirements in subparagraph (A).

"(E) Site inspection and title search.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

"(5) Previous owner or operator.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

"(6) Limitation on defense.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.".

SEC. 704. OIL SPILL RECOVERY INSTITUTE.

(a) Termination of Funding for Institute.—Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking "September 30, 2012" and inserting "one-year after the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in Alaska have ceased".

(b) Use of Funding for Section 1012 of OPA.—Subsection (c) of section 5006 of the Oil Pollution Act of 1990, as added by section 1102(b)(4) of Public Law 104–324 (110 Stat. 3965; 33 U.S.C. 2736(c)), is amended by striking "with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996," and inserting "one year after the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of the Interior, determines that oil and gas exploration, development, and production in Alaska have ceased,".

SEC. 705. ALTERNATIVES.

Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended to read as follows:

"(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2003, the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled 'Environmental Performance of Tanker Design in Collision and Grounding' and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and groundings for double hull tank vessels and alternative hull designs.".

At the end of title VI (page 43, after line 2) insert the following:

SEC. 6 . PRIORITY FOR PUBLIC TRANSPORTATION SYSTEMS IN MAKING GRANTS FOR IMPLEMENTATION OF SECURITY PLANS.

Section 70107(e) of title 46, United State Code, is amended by adding at the end the following:

"(5) Priority for public transportation systems.—

"(A) Priority.—In making grants under subsection (a) the Secretary of Transportation shall give priority to otherwise eligible projects concerning implementation of security plans with respect to public transportation systems.

"(B) Regulations.—The Secretary shall issue regulations establishing procedures and requirements for awarding grants pursuant to the priority required by this paragraph.".

Mr. LoBIONDO (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. LoBIONDO. Madam Chairman, I rise to offer an amendment which has been worked out with the minority to make changes from the reported bill.

In addition to reaching an agreement with the full committee ranking Democratic member, the gentleman from Minnesota (Mr. OBERSTAR), the amendment includes provisions that have been proposed by the gentleman from North Carolina (Mr. JONES), the gentleman from New York (Mr. ENGEL), the gentleman from Michigan (Mr. STUPAK), the gentlewoman from California (Ms. MILLENDER-McDONALD), the gentleman from Indiana (Mr. HOSTETTLER), the gentleman from Virginia (Mr. SCHROCK), the gentleman from Louisiana (Mr. VITTER), the gentleman from Maryland (Mr. GILCHREST), the gentleman from Oregon (Mr. BLUMENAUER), the gentleman from Colorado (Mr. McINNIS), the gentlewoman from California (Ms. HARMAN), the gentleman from South Carolina (Mr. SPRATT), the gentleman from Michigan (Mr. UPTON), and the gentleman from Washington (Mr. INSLEE). I appreciate the interest of all of these Members in this bill, and I look forward to their support today.

The amendment restructures the authorization to match the format used in the appropriation measure which funds the Coast Guard. It also makes changes to laws governing management of the Coast Guard. The amendment protects the Coast Guardsmen while they are forced to use disabling fire. It also authorizes a Coast Guard ROTC pilot program, allows the Coast Guard yard to work with private firms on government ship repair jobs, and allows the commandant to make recommendations directly to Congress.

The amendment also makes changes to shipping laws. It sets standards for vessel classification societies operating in the United States, and specifies membership in maritime security advisory committees.

Finally, the amendment contains other numerous issues of interest to members. It allows the Coast Guard to convey certain property it no longer uses, requires long-overdue regulations to be published by February 1, 2004, mandates a National Academy of Science study of future polar icebreaking needs, establishes a pilot project for improving the technology related to issuing merchant mariners' documents. It also authorizes funds to implement an intelligence-based vessel profiling system and a long-rang automated vessel tracking system for vessels operating in U.S. waters, and expresses the sense of Congress that Coast Guard should address safety risks posed by elevated levels of carbon monoxide in recreational vessels.

Again, this amendment has been worked out on a bipartisan basis. It incorporates numerous provisions sought by Members of both parties. It also makes improvements to U.S. maritime policy and Coast Guard management. I urge Members to vote in favor of this amendment.

Madam Chairman, I yield the balance of my time to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Madam Chairman, I think the gentleman made a very good point about the bipartisan bill. As the gentleman read Members' names off of amendments that were worked out, it shows we can work together and that there is a good relationship between the majority and the minority. In fact, some of those amendments, if there was any hostility, I would not have accepted by some of the Members; but because we tried to work out the differences, I believe we have come out with a very good bill.

Again, I want to thank the subcommittee chairman and the ranking member for their work on this legislation, understanding there will be some discussion on other amendments. Overall, we have settled every difficult amendment prior to coming to the floor. That is one thing I pride this committee on, is working behind the scenes, in front of the scenes, and making sure the scene is finally done. And this bill does it, and I compliment the gentlemen. I also thank the staff who worked very hard on this legislation over the past 6 to 8 months. We have come out with a very good product.

Mr. OBERSTAR. Madam Chairman, I rise in support of the amendment.

The amendment addresses a number of issues. It is always a puzzle to people, if we bring a bill to the floor, why do we have a manager's amendment? Well, because from the time the bill leaves the committee and gets to the floor, there are issues that either were fermenting and developing or that arose from the time the committee reports a bill, and that is the case here.

We first have the Reserve Officer Training Program for Coast Guard officers that is established in the context of this manager's amendment, requiring all of the classification societies, including foreign classification societies, that want to do business in the United States, directly or indirectly through agents, to be licensed by the Coast Guard. We clarify that foreign flag vessels have to have security plans submitted to the Coast Guard in writing and may not operate after July 1, 2004, unless those plans have been reviewed and approved by the Coast Guard. A provision from the gentlewoman from California (Ms. MILLENDER-MCDONALD) to transfer responsibility for port security grants from DOT to Coast Guard in the Department of Homeland Security, that is a procedural matter; and the matter raised by the gentleman from New York (Mr. ENGEL), which he adequately discussed just a moment ago on the Indian Point nuclear energy facility.

Finally, we will not have to deal with the issue of the authority in the basic bill for the Coast Guard to suspend or revoke a license if the mariner has been found to have operated a vessel in a negligent manner, or to have interfered with the safe operation of a vessel, endangering life or property. That has been discussed.

I think this manager's amendment does all of the right things and does what a manager's amendment is supposed to do. I appreciate the work of the gentleman from New Jersey (Mr. LOBIONDO). And as he and the gentleman from Alaska (Mr. YOUNG) have noted, we have had full participation and discussion between the majority and the minority on this matter in the historic tradition of our committee.

Mrs. LOWEY. Madam Chairman, I rise in support of a provision authored by my colleague and good friend from New York, ELIOT ENGEL, and included in the Manager's amendment. The provision would close a critical security loophole by requiring the Coast Guard to conduct a vulnerability assessment of the Indian Point Energy Center in Buchanan, NY.

Since September 11, 2001, intelligence officials have amassed a critical body of evidence suggesting terrorist intentions to strike our nuclear infrastructure. Plans of U.S. nuclear facilities were discovered in Al Qaeda caves during U.S. military operations in Afghanistan. Most recently, reports of a terrorist plan to sabotage the Palo Verde nuclear power plants in Arizona were sufficiently serious that the National Guard was immediately deployed to secure the plant.

The public health and economic consequences of an attack on a nuclear power plant are almost too chilling to contemplate. Congressman ENGEL and I, whose districts abut Indian Point on the eastern banks of the Hudson River in Buchanan, have been briefed in detail on these scenarios. In 1982, the NRC commissioned a study which found that a meltdown at Indian Point—which lies within 50 miles of 21 million people—could lead to 123,000 short- and long-term deaths, over 300,000 injuries, and property damages conservatively estimated at over $1 trillion. Factoring the fourfold increase in property values in the New York metropolitan area since the study, the damages for our region could reach $2.3 trillion.

These devastating impacts justify the strongest possible security posture. While the NRC has required power plants to erect road barriers, increase the distance between security check points and the plants, and add perimeter fencing, the Commission has neglected the possibility of a waterborne attack. Cooperation and coordination between the Coast Guard and private security teams at the plant is lacking. Indeed, in July, 2003, the NRC aborted a force-on-force test at the plants when Coast Guard personnel, who had not been previously informed of the drill, threatened to use their live ammo against the mock attackers.

In October, 2002, Riverkeeper, a local nuclear watchdog group, approached Indian Point in a small boat. A Naval Militia cutter, manned by two officers, stopped them well outside of the security buoys. During the encounter, terrorists could have easily snuck behind the distracted militia boat and struck the unprotected plants. Moreover, neither of the militia officers carried weapons—only radios. Needless to say, their poorly maintained boat, which actually broke down as they returned to shore, would have been quickly overwhelmed by a well-armed attacking force.

The Indian Point episode vividly illustrates the need for a thorough assessment by the Coast Guard of the plant's security plans.

The NRC's casual dismissal of waterborne threats constitutes, in my estimation, a glaring oversight. We underestimate terrorists' capabilities at our own peril. In a recent article, maritime security expert Vijay Sakhuja notes that Al Qaeda and other international terrorist organizations possess "substantial maritime capabilities" and have developed the "capacity to disrupt and even destroy regional maritime infrastructure." The article discusses in detail Al Qaeda's perfection of "kamikaze" tactics.

We can no longer afford to leave water approaches to nuclear reactors unprotected. The Coast Guard must carefully review Indian Point's security plans now to prevent a future terrorist attack.

I want to again thank my good friend ELIOT ENGEL for his leadership on this issue, and urge my colleagues to support the amendment.

The CHAIRMAN pro tempore. Is there any further debate on the amendment?

The question is on the amendment offered by the gentleman from New Jersey (Mr. LOBIONDO).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DEFAZIO:

Page 21, line 9, strike the close quotation marks and the following period.

Page 21, after line 9, insert the following:

"(e) RESTRICTION ON LOCATION.—The museum established under this section may not be located on any property that is condemned or taken after December 31, 1999, by eminent domain by the Federal Government, by a State or local government, or by any other person acting under a delegation of authority from a State or local government.".

Mr. DEFAZIO. Madam Chairman, as was discussed earlier, there were issues that arose. At least in my case I was contacted by an attorney representing a number of homeowners, Mr. Scott Bullock of the Institute for Justice, after the committee mark. I have discussed this with a number of members of the committee.

This is a simple amendment, and there seems to be some consensus on the objective. The problem is that the bill has no statement regarding the issue of eminent domain. It is silent on that issue. In fact, that was confirmed in a letter that I received today from the Chamber of Commerce of Eastern Connecticut, which says the bill does not address the issue of eminent domain and we believe it should be left to the local judicial process.

Certainly condemnation of property in New London, Connecticut, should be left to the local judicial process; but the issue of whether or not a Federal facility, the Coast Guard Museum, might be sited on property taken by eminent domain is the business of this Congress and this committee.

I feel strongly about this issue. We have families that have lived for generations on this site. I have letters from five people who are affected homeowners, but this is from the son of one: "My great-grandmother's family moved to this neighborhood from northern Italy in the 1890s. My mother was born in her house at 87 Wabach Street in 1918, never lived anywhere else. She married my father, a merchant marine in World War II in 1945. They have lived in the house for 56 years. She has seen three of her four children die in this property, including her first. These houses are not simply buildings on a plot of land, but home for her with a lifetime of memories. I live with my wife, son, and niece in a home right next door." The letter has other sections that are pertinent.

I will just read one other letter: "I hope all Members of Congress will recognize that if the Coast Guard Museum is ultimately built on property that has been taken through eminent domain, it will be forever tainted. There is no honor in kicking my mother, an 85-year-old woman, or my father, who fought for this country in World War II, out of the only home she has ever known to make room for a museum that celebrates the past, present, and future of the Coast Guard, a service whose history is steeped in honor and integrity."

That is the issue before this body. It is quite simple. The bill is silent on this issue. A proceeding has begun locally, and that is up to the local jurisdiction to take this property by eminent domain with the idea that the museum would be sited there. The commandant of the Coast Guard, I have been told, says they do not want to take property by eminent domain. I would hope it would also mean that they do not want the museum to ever be sited on property that was taken by eminent domain with the intent of them moving there, and this would just make that clear.

This amendment would say any property condemned or taken after December 31, 1999, by eminent domain by the Federal Government, State or local government, or any other person acting under a delegation of authority. And that is what has happened in Connecticut; the local government has delegated to a development group the authority to take this property by eminent domain. It is pending in the courts of Connecticut.

If we do not adopt this amendment, the museum could end up on property that was taken from families who have lived there for generations by a local corporation, if it is upheld by the State courts to site the museum. There seems to be broad consensus on the objective. I offered to the gentleman whose project this is, and it is a meritorious project, and I congratulate him on that, to make this a friendly amendment since he agrees he does not want eminent domain used. I said I would be happy if we could do it as a friendly amendment. The gentleman does not want to do that. I hope the gentleman will explain why, and if he wants to contest that the bill somehow restricts eminent domain, I hope he cites from a specific section of the bill because I have read the only section that pertains to this. There is no mention of restriction on siting this museum on property taken by eminent domain, and it seems to me there is no good reason why we should not adopt this amendment. I would hope the committee would move forward and look at it as a friendly amendment and adopt it.

Mr. SIMMONS. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I thank my colleagues for working with me to establish a national Coast Guard Museum. This issue of eminent domain came up at a business meeting of the subcommittee on June 12, 2003, when I offered legislation to create a national Coast Guard Museum that was designed to extend the curriculum of the cadets at the academy and also for the leadership courses which take place in New London, which is the location of the academy.

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Currently there is a one-room museum on academy grounds that is used for this purpose. It is inadequate for this purpose, and for years we have wanted to expand that facility into what we call the National Coast Guard Museum. The distinguished ranking member of the committee raised an objection at the time and stated that while he felt the language was well-intentioned and a good idea, a number of problems were brought to his attention by a homeowners association raising concerns. This was the issue of the displacement of people under eminent domain authority, an issue that I share his concern about.

In the context of the subcommittee meeting, I was asked by the distinguished chairman of the subcommittee, the gentleman from New Jersey, if I would be willing to withdraw my amendment and work with the distinguished ranking member on language which addressed this issue. In the intervening weeks, we did just that. On Wednesday, June 25, alternative language was introduced which is now in the bill, which I believed and I think others believed address the issue. When it was passed unanimously by the committee, I thanked the ranking member, I thanked the chairman of the committee and the subcommittee for their cooperation on this matter. It has only been in the last week that I have discovered that another Member had concerns about this language.

It is true that the bill is silent on the issue of eminent domain. That was the intent. Because issues of eminent domain, especially issues that are in litigation, should not be affected one way or another by legislative action. But what the language of subsection (d) does which is so important and it does it in what I consider to be a very elegant way, and I thank the ranking member and his staff for coming up with this formulation. It says, before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the committee, shall, he has no choice. He must do it. He must provide to the Committee on Transportation and Infrastructure a plan for operating and maintaining such a museum which gives us as members of the committee the opportunity to say yes or to say no. That is where the discussion of eminent domain from our standpoint should take place, from my point of view, not legislating language that would interfere with ongoing litigation involving the State, the municipality and other instruments. I believe firmly that this is the solution that we were looking for. This is the solution that very elegantly threads the needle on this difficult issue. I was grateful to the ranking member and to the other members of the committee for this assistance in coming up with this language.

We all know that the Coast Guard has assumed new duties and a new role since September 11. We all know that the Coast Guard is the only uniformed service that currently does not have a national-level museum. The Army, and I was proud to serve in the Army for 37 years, has 46 museums. The Marine Corps has six. The Navy has 11, and so on and so on and so forth.

But let us take the discussion of eminent domain just one step further. Following the action of the full committee on June 25, the New London Day published an article the following day which says, Museum Proposal Makes Progress. Congressional Panel Approves, et cetera, et cetera.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The time of the gentleman from Connecticut (Mr. SIMMONS) has expired.

Mr. SIMMONS. Madam Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. DEFAZIO. Reserving the right to object, Madam Chairman, if the gentleman will give me the courtesy of an additional 2 minutes to respond, I would be happy not to object.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIMMONS. Madam Chairman, it states, very briefly, the oversight provision, this is subsection (d), will enable Members of Congress to continue to raise questions as the project proceeds and should make it harder for backers of the museum to pursue the Fort Trumbull site, according to Scott Bullock, attorney for the Institute for Justice. Then it goes on to make several other statements in that line.

I think it is apparent, based on the reading of the RECORD and based on the reading of that public news story, that in crafting the oversight language, we met the objectives of dealing with the issue of eminent domain without interfering with litigation that may be taking place at a municipal or a State level. In that way, we have fulfilled our obligations and any further amendments to this effect are not helpful.

[From the New London Day, June 26, 2003]

Museum Proposal Makes Progress—Congressional Panel Approves NL as Host for Coast Guard Plan

(By Judy Benson)

A Congressional subcommittee approved a measure Wednesday that authorizes the establishment of a Coast Guard museum in New London.

In addition, the measure, an amendment to a larger Coast Guard authorization bill, gives Congress continued oversight of the museum project, an addition that addresses concerns about using property taken by eminent domain.

The original measure was introduced by U.S. Rep. Rob Simmons, D–2nd District, with the oversight language added by other members of the panel concerned that property in the Fort Trumbull neighborhood in New London taken by eminent domain would be used.

The oversight provision will enable members of Congress to continue to raise questions as the project proceeds and should make it harder for backers of the Coast Guard museum to pursue the Fort Trumbull site, according to Scott Bullock, attorney for the Institute for Justice, The institute is representing property owners in the Fort Trumbull neighborhood in a lawsuit to block the city and the New London Development Corp. from taking the land by eminent domain as part of a redevelopment project.

Simmons said the action Wednesday is an important step toward the creation of the museum in New London, the home of the Coast Guard Academy. Earlier this month, Simmons proposed a similar amendment that he later withdrew when a ranking committee member brought up the eminent domain issue.

"Today's action in the House Transportation and Infrastructure Committee was a bipartisan stamp of approval to move forward and designate a national museum for the U.S. Coast Guard," Simmons said. "Every other military service has at least six museums to commemorate their histories and service men and women. The Coast Guard deserves to have one.

"As the Coast Guard increases its responsibilities in a post-September 11 world," he continued, "now is the time to honor the service and history of the many men and women in the Coast Guard with a national museum."

The bill containing the amendment next goes to the full transportation committee for a vote and then to the full House. Funds to build the museum are to come from private groups.

Bullock said he considers Wednesday's action significant because it enables the museum project to move forward, but with the restriction of Congressional oversight even though federal funds have not been allocated for the museum.

"This demonstrates the very real concern in Congress about what is happening in New London and how eminent domain would be used," Bullock said.

He noted that the amendment said that the preferred site would be "at or near the Coast Guard Academy," leaving the door open for a location in New London other than Fort Trumbull.

"There are ways to establish the museum in New London and make all parties happy," he said.

Coast Guard leaders remain committed to locating the museum near the academy, and are considering all options in New London, according to Jolie Shifflet, spokeswomen for the Coast Guard.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. SIMMONS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Is this museum going to be in the gentleman's district?

Mr. SIMMONS. The Coast Guard Academy is in my district.

Mr. YOUNG of Alaska. That is where the museum will be?

Mr. SIMMONS. That is where we hope the museum will be.

Mr. YOUNG of Alaska. This will not be built on Federal land?

Mr. SIMMONS. This will be built by an entity that was created to build the museum without the expenditure of Federal funds.

Mr. YOUNG of Alaska. There will be no Federal funds and not on Federal lands. It is not on Federal property as was just mentioned? I think the point here, and I have, as the gentleman from Oregon knows, some great interest in condemnation proceedings, which I do not approve of, but I do think it is wrong, though, for this body to get involved in a local government and in a State process in a condemnation deciding which side it should be on. It should be left up to the local governments to do this because there are no Federal lands involved and no Federal funds. I think gentleman's presentation is correct. Although, I do not like condemnation proceedings, I do think we have to look at the local government's position as well as the State, and we should butt out, frankly.

Mr. SIMMONS. I thank the chairman for those comments.

Mr. DEFAZIO. Madam Chairman, I ask unanimous consent to strike the last word.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Madam Chairman, the point here is that this says that a private entity will build this museum and then gift it to the Federal Government for operation. This is ultimately going to be an official museum of the United States Coast Guard, a Federal museum. This amendment does not interfere in the litigation for a taking. If this local development corporation indeed has the right under Connecticut law and the United States Constitution to take the land and throw these people off their property, they will have that right as determined by the courts. All this amendment says is that this Coast Guard museum, which is going to be a Coast Guard facility in the future after it is built and gifted to the Federal Government and the Coast Guard, will not be built on land that was condemned for that purpose, throwing families out of their homes. It is very simple. That is the issue before this Congress.

Mr. OBERSTAR. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the subject at hand here is a matter that the gentleman from Connecticut and I did indeed discuss in the course of the markup on the Coast Guard authorization bill. I raised two questions. One was with respect to the funding the gentleman has discussed and language that he has read accurately from the committee bill. The second was the eminent domain issue. I recall how very poignantly the gentleman, in fact, we met in the Democratic sitting room, off the committee floor, off the committee dias, told me how very poignantly his family had been displaced by an eminent domain proceeding and that he did not want to see anybody displaced by eminent domain. I read to him the language that the gentleman from Oregon has just a moment ago referred to from the Hartford newspaper. I was very distressed by this. People had written to me about it, especially that 87-year-old Italian immigrant woman. Half Italian myself, I deeply sympathized with it.

But in further reviewing the matter since the issue was before the State supreme court, I said, I will desist from the eminent domain issue. Let us watch and see whether the court can resolve this matter. If not, we can revisit it again. So we bifurcated the issue and dealt with the Federal funding issue.

Now, comes the gentleman from Oregon who has been approached by the locals who very much are upset about this matter, and I understand his concern. Representing a western State, the gentleman from Oregon as the chairman of the full committee, frequently is crosscut by eminent domain issues and has confronted this matter time and again in the Committee on Resources. That is why, out of very deep personal conviction, he brings this issue to the floor. I say that for the RECORD. I want the RECORD to be clear. If the gentleman has any concern or question, I will be glad to give him a moment.

Mr. DEFAZIO. Madam Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I guess maybe we could establish at least one point here.

I would ask the gentleman from Connecticut if he would agree that the museum should not be placed on property that is condemned for that purpose.

Mr. OBERSTAR. I yield to the gentleman from Connecticut (Mr. SIMMONS) to respond.

Mr. SIMMONS. Madam Chairman, I thank the gentleman for his comments and his recollections. I refer to a letter from the Coast Guard in June of this year saying, the Coast Guard is not directly involved in the acquisition process. The issue of eminent domain is not for the Coast Guard to decide. We look forward to a resolution of these issues by the community.

If I could further add to the RECORD, the amendment, as drafted, would prevent any property that has been taken by eminent domain from being used for this purpose. If the Coast Guard, for example, was to decide to take the existing 3,500-square-foot facility and add a second and a third floor to it and call it the national museum, they could not because that property was taken by eminent domain back in the thirties.

DEPARTMENT OF HOMELAND SECURITY, U.S. COAST GUARD,
Washington, DC, June 18, 2003.

Hon. ROBERT SIMMONS,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE SIMMONS: I am writing to you concerning the establishment and siting of the National Coast Guard Museum. The American public deserves a National Coast Guard Museum to preserve the heroic and important heritage of the Service.

For over 90 years, the Coast Guard has enjoyed a close, warm, and productive relationship with the people of New London and Connecticut. New London is already the home of the Coast Guard Academy, our Leadership Development Center, America's tall ship EAGLE, Coast Guard Station New London, and Coast Guard Cutter CHINOOK. New London is also a city where our roots are established and a center of maritime and nautical tradition. Therefore, New London is the focus of current efforts to acquire a suitable property.

We realize there is an energetic local dialogue and debate over the merits of possible sites and methods of acquiring property suitable for a National Coast Guard Museum. The Coast Guard is not, however, directly involved in the acquisition process. The issue of eminent domain is not for the Coast Guard to decide. We look forward to a resolution of these issues by the community.

We have recognized, and have signed an agreement that establishes, the Coast Guard National Museum Association (CGNMA) as the sole organization working to acquire land, raise funds for the construction of a museum, and donate the museum and land to the Coast Guard. We have no formal relationship with New London Development Corporation (NLDC) beyond informing them on the progress of the museum project. I refer you to the President of the National Coast Guard Museum Association to discuss the specifics about any agreements between them and the NLDC.

Although there is an initial conceptual design, the final design of the building will depend on the site chosen and the finalization of plans for the museum style, exhibits, and functions. It will be integrated into the overall plans for development of the selected site through coordination with appropriate local officials, agencies, and affected parties.

The Coast Guard has been part of the New London community for over 90 years and has great ties with, and great feelings for the people of New London. My House Liaison Office at (202) 225–4775 would be pleased to respond to any further questions you or your staff may have.

Sincerely,

T.J. BARRETT,
Vice Admiral, U.S. Coast Guard,
Acting Commandant.

Mr. OBERSTAR. The gentleman's language limits to 1999. So it cannot go back as far as the gentleman is suggesting.

I regret that this matter could not have been resolved at the committee level. It is an issue raised out of deep conviction by the gentleman from Oregon. I support his concern.

Mr. BAIRD. Madam Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Madam Chairman, in the previous exchange, I did not get a definitive answer. He read from something from the Coast Guard that says they are neutral on this. If someone else condemns the land and the museum is built there, they will accept it. That is what that letter says. That is the bottom line here. We are not protecting these families who have lived on that land for nearly a century and do not want to give it up. An 87-year-old woman and her husband, a merchant mariner from World War II. I would just like a simple answer. I know the gentleman does not generally support eminent domain, he added something with his own family, but the question is simple. Would the gentleman agree, will he stand up and say "yes" in response to the question, will the gentleman say that this museum should not be built on property taken from these families in New London, Connecticut, by eminent domain, yes or no. It is a simple question.

Mr. BAIRD. I yield to the gentleman from Connecticut.

Mr. SIMMONS. Madam Chairman, unfortunately, it is not as simple as that. Unfortunately, 90 acres of land that was disposed of by the Navy as part of the BRAC process is now the focus of this development activity in a distressed city in the State of Connecticut and nobody can tell me with any assurance that this language that has been offered will not make it impossible for the Coast Guard to accept any of that Navy property, Customs property or even preexisting Coast Guard property.

If I could just make one other point. The language addresses the Coast Guard museum and places a burden on the Coast Guard, whether it be looking at property in Connecticut or New York or New Jersey, but nothing in the language prevents the New London Development Corporation from proceeding with its condemnation activities which are currently in the courts. Nothing in this amendment protects those families.

Mr. BAIRD. I appreciate the gentleman's clarification of that.

Mr. DEFAZIO. There we have it. As the gentleman said earlier in the debate, it does not interfere in the legal proceedings, and certainly we cannot do that. But what this amendment does, and this has nothing to do with the BRAC process or Federal excess property, a museum established under this section may not be located on any property that is condemned or taken after December 31, 1999. The land that was formerly a military base BRAC process does not meet that definition. By eminent domain. That is the key here. There is a group of people who are targeted. They are targeted. Families are targeted, living on this property. They do not want to give up their homes. An elderly couple. Their son and daughter-in-law and others who live on this property and have lived there for years, they do not want to give it up. This is simple. The Coast Guard has many options on where to put this museum and many adjacent and in the city of New London. It does not have to be on property that was condemned for that purpose.

I thank the gentleman for yielding.

□ 1645

The CHAIRMAN pro tempore (Mrs. BIGGERT). The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. DEFAZIO. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT NO. 2 OFFERED BY MR. MANZULLO

Mr. MANZULLO. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. MANZULLO:

Insert at the end of title VI the following new section:

SEC. 6___. LIMITATION ON BRIDGE ALTERATION PROJECTS.

The Coast Guard may conduct bridge alteration projects using amounts authorized under section 101(1)(B)(iv) of this Act only to the extent that the steel, iron, and manufactured products used in such projects are produced in the United States, unless the Commandant of the Coast Guard determines such action to be inconsistent with the public interest or the cost unreasonable.

Mr. MANZULLO. Madam Chairman, I rise to introduce this amendment to close a loophole that is allowing Federal funding under this bill to purchase foreign-made steel for bridge construction.

In 1940 Congress established the Alteration of Bridges program that enabled the Coast Guard to ensure open navigation of waterways. Under this program the Coast Guard can require bridge owners to alter bridges that pose an unreasonable obstruction to navigation. The Coast Guard contributes a portion of the bridge alteration costs based on modifications or replacement related to ensuring improved navigation. I cite two recent examples:

Even though 80 to 90 percent of the construction funds to alter a railroad bridge over the Mississippi River in Burlington, Iowa, came from the Coast Guard, the Coast Guard argued that the Buy American Act did not apply because the bridge was owned by a non-Federal entity. This project used 3,400 tons of steel.

The agency made the same argument for a $44 million railroad bridge replacement project in the Port of New Orleans. The Coast Guard's share of the project's cost came to 94 percent; yet they still determined the Buy American Act did not apply.

The Buy American Act was intended to ensure that when the taxpayers' money was spent on Federal projects that the materials and goods used came from American production, to stimulate our production in the jobs-producing aspect of the project. The Coast Guard's refusal to follow the intention of the act because of its legalistic determination circumvents the act's intent.

Let me illustrate the economic impact of this. It takes an average of 25 man-hours of labor to fabricate a ton of steel. The 3,400 tons required for the Burlington bridge equals about 85,000 hours. That is over 40 full-time jobs for 1 year. And these are exactly the kind of high-wage jobs, averaging $17 an hour plus benefits that pay enough for people to buy a home and support a decent standard of living.

The steel bridge industry fabricates on average about 500,000 tons of steel a year. That is over 12 million man-hours of labor. Now we are talking about 6,000 jobs. With an average price of steel at about $2,000 a ton, this means a billion-dollar manufacturing industry. These are the jobs directly related to fabricating the beams and girders.

When the Coast Guard circumvents the Buy American Act, it uses taxpayer dollars to pay the steelworkers of Japan and Korea. The problem here today is not with the Buy American Act, but with the multiple efforts being used to get around it. This amendment closes one of the loopholes and makes it clear that federally funded public works will be expected to adhere to the intent of the act as Congress envisioned.

The Coast Guard is our first line of defense in homeland security, guarding our shores and waterways. We should not allow the Coast Guard to undermine our economic security, the very jobs of our citizens that pay the taxes that allow us to have a Coast Guard in the first place. A similar amendment was adopted by the other body to the appropriations for the Department of Homeland Security and passed into law.

I urge the adoption of the amendment to make this permanent law.

Mr. LOBIONDO. Madam Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. LOBIONDO. Madam Chairman, I thank the gentleman for his amendment. We have looked it over, and we think it is a good amendment; and we are prepared to accept it.

Mr. BAIRD. Madam Chairman, I move to strike the last word.

I appreciate the comments from my colleagues, and I thank the chairman of the committee for his willingness to accept this.

I just want to briefly add my support for this. This is about jobs. It is about national security, and it is about efficient transportation. It is about jobs because we need to preserve the fundamental principles of the Buy American Act. Steel fabricators, steel producers in this country produce a high-quality product. They employ thousands of Americans with family-wage jobs, and the Buy American Act assures that they will continue to do so. It is about national security because we must sustain the domestic steel fabrication and manufacturing industry both for defense purposes and for transportation purposes. And, finally, it is about transportation efficiency. An efficient, quality, modern and economically sound steel fabrication industry is absolutely essential to the viability of our transportation system. I applaud the gentleman for his leadership, and I thank the Chair for his willingness to support this.

Mr. OBERSTAR. Madam Chairman, I move to strike the requisite number of words.

I appreciate the amendment offered by the gentleman from Illinois (Mr. MANZULLO). It fits in with the long-standing position of our Committee on Transportation and Infrastructure on Buy America on steel in our Federal aid highway and transit and Corps of Engineers programs. It is only recently the committee has had jurisdiction over the Coast Guard, and there too we need this vigilance over the Truman-Hobbs Act.

I authored in 1982 in the Surface Transportation Assistance Act of that year a provision that requires American steel to be used in all Federal-aid highway projects. The amendment accepted in committee and approved in the House required 100 percent American steel on all Federal-aid highway programs; and when we got to conference with the Senate, we had a little dispute.

They wanted to be more supportive of international trade, and we worked out language that I had a fallback position on, and it has worked out well. It requires all steel in the Federal-aid highway program to be American steel. What we see is every bridge, every girder, every rebar, every guardrail, every fence post is American steel. When I chaired the Subcommittee on Investigations and Oversight in the mid-1980s, my good friend Bill Clinger, who was ranking Republican on the subcommittee at the time, and I conducted extensive inquiry into the application of the Buy American Act, and we found that the Federal Highway Administration was administering that program rigorously. Two million tons of steel a year that go into the Federal-aid highway program is American steel.

It was not quite so good in the Federal Transit Administration. The Corps of Engineers was not doing a very good job at all. When they put in the caissons for the footings for bridges that the Corps of Engineers built, they used foreign steel. They built the bridge with American steel. I said wait a minute, how can they do this? Well, this is a temporary structure. But I found that the corps leaves that steel covering for the caisson in place afterward to help against scouring at the time of flood. I said, so that is a permanent structure. So we changed the law to toughen it up so the corps could not circumvent the Buy America provision.

Now we come to the Coast Guard and the Truman-Hobbs bridge alteration program. The language that the gentleman offers restates a provision that is already in the Homeland Security Appropriations Act that requires American steel to be used in these projects, but we ought to put it in here. We ought to reinforce an already-established strongly held principle. These are American dollars, taxpayer dollars. In the Federal Highway Program, that is our highway trust fund dollars that are to be used to buy American steel and put it in those facilities.

What stimulated events in 1982 was we were building a bridge between Duluth and Superior. The State of Wisconsin had a responsibility for that bridge construction. They let a contract to Japanese steel, 10,000 tons of Japanese steel to build a center-arch span in that bridge. I vowed that never again would we have this happen. That iron ore from the Minnesota Iron Range would have to go under a bridge built with Japanese steel? They have got to be kidding. Out of that came the Buy American provisions.

By heavens, I am not going to let that slip away. We lost 890,000 jobs in the steel industry in the last 20 years to foreign steel, subsidized overseas, dumped in America, driving American jobs out.

The gentleman offers a very fine amendment. We ought to toughen it, but we ought to take an overview in our committee, I say to the chairman of the subcommittee. We ought to have an in-depth review of the Buy America provision as it applies not just to the Coast Guard, and I say this to the chairman of the full committee, but as it applies to all the issues under the jurisdiction of our committee. We provide funding which averages about $80 billion a year for infrastructure programs, and we ought to make sure that everything we are buying is American steel, and American goods in other arenas as well. Cement that goes into the concrete, asphalt, they all ought to be American product. So I support the gentleman's amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. MANZULLO).

The amendment was agreed to.

AMENDMENT NO. 13 OFFERED BY MS. BALDWIN

Ms. BALDWIN. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Ms. BALDWIN:

At the end of title VI (page 43, after line 2), add the following:

SEC. . LIMITATION ON USE OF FUNDS TO ACQUIRE ENGINES FOR INTEGRATED DEEP WATER SYSTEM.

None of the funds authorized in this Act may be used to acquire any main propulsion diesel engine for the Coast Guard's Integrated Deep Water System unless the engine is manufactured in the United States.

Ms. BALDWIN. Madam Chairman, I offer this bipartisan amendment on behalf of myself and the gentleman from Wisconsin (Mr. RYAN). Our amendment is simple. It would prohibit funds authorized in this bill from being used to acquire the main propulsion diesel engines for the Coast Guard's new fleet of ships in the Integrated Deep Water System, unless the engines are manufactured in the United States of America.

Earlier this year I offered a similar amendment to the Department of Homeland Security Appropriations bill. At that time my amendment was not in order; so it did not come up for a vote. But during consideration of my prior amendment to the homeland security bill, a lively debate ensued; and I believe that there was some confusion at that time, and I wanted to take a moment right now to address those misimpressions.

A colleague opposed my amendment, arguing that the diesel engines for the new Coast Guard ships were being made in America and that my amendment was not necessary. The gentleman was incorrect. While it is true that there is a Michigan company that was selected to be the vendor for the propulsion system, I have a letter received from the Coast Guard 2 days after the conclusion of that debate that states clearly that the diesel engines are foreign made. The Coast Guard letter states that the components of the propulsion system "include MTU Diesels of German design and manufacture." So while Detroit Diesel may be the vendor for the whole system, the diesel propulsion engines are designed and made in Germany by German workers, not Michigan or other American workers as the gentleman had claimed.

As we all know, Congress has made a commitment to overhaul the Coast Guard's fleet, phasing out older and obsolete ships and building new ones. It is a large taxpayer investment, one that I am proud to support. But for goodness sake, let us build those ships and all of their components in America.

Our amendment would require that the main propulsion diesel engines, a critical component of this new fleet of large ships, are made in the United States. There are several good U.S. firms with U.S. plants that are ready, willing, and able to provide the diesel engines for the Coast Guard at or below total operation cost of the German-made engines. And in the interest of full disclosure, one of those companies is in Wisconsin. But I also note that the Michigan vendor that I referred to earlier would also qualify for the engine contract under this amendment if it were to pass, if the engines were to be made in Michigan or in other U.S. locations and not in Germany.

□ 1700

Madam Chairman, we are bleeding well-paying, family-supporting manufacturing jobs in this country. Since 2000, we have lost over 2.7 million manufacturing jobs. When manufacturing jobs go away, economic history shows us that it is hard to get them back.

Let me remind Members that these are United States taxpayer dollars. They should be supporting U.S. workers, and not just U.S. CEO's who are contracting out with foreign sister corporations to take these good jobs overseas. Our amendment would help keep some of those jobs here at home, making vital products for vital parts of the defense of our Nation.

Keep in mind, the Coast Guard is part of our homeland defense. Do we want to be reliant on overseas suppliers for essential parts and services for our defense infrastructure, or do we want to produce these important components here at home? I urge Members to support this amendment.

Mr. KNOLLENBERG. Madam Chairman, I rise to oppose this amendment.

I want to keep my remarks brief, because we have been down this road before, but there is really no rational reason to support this amendment. The competition to supply the main propulsion diesel engines for the Coast Guard's Integrated Deepwater System is over. It was a fair and open competition that was won by Detroit Diesel of Michigan. It is history. Unfortunately, and we should name the other competitor that the author of the amendment brings up, it is Fairbanks Morse of Wisconsin, it is a good company, but they simply have not accepted the results of that competition.

For the second time in a few months, I have come to the floor to oppose an amendment, this particular amendment or one designed very similarly. It does nothing more than reverse the outcome of the competition and give Fairbanks Morse an unfair competitive advantage.

Now, these are both very good American companies that employ thousands of Americans, thousands of Americans, both of them. However, in this case, the proposal offered by Detroit Diesel was selected because the company offered a low-cost, high-performance, low-risk solution that was technically superior. The Coast Guard did not make this decision lightly, and it is my understanding that they oppose the amendment as well. It is time to accept the results of that competition.

This is not about protecting American manufacturers, this is about doing an end run around the procurement process. I encourage all my colleagues to oppose this amendment, to ensure that open and fair competition for government contracts are respected and maintained.

Mr. TOM DAVIS of Virginia. Madam Chairman, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from Virginia.

Mr. TOM DAVIS of Virginia. Madam Chairman, I join my friend from Michigan in opposition to this amendment, which would apply a radical domestic source restriction to the acquisition of main propulsion diesel engines for use in Coast Guard vessels. This could have a devastating effect on the Coast Guard's ability to buy the best propulsion engines at reasonable costs to support its critical anti-terror missions.

We talk about taxpayers. We are asking taxpayers to pay more money to subsidize a private company. Despite the high sounding "Buy America" language, this is basically an earmark for a company. This goes against everything we stand for.

What about the American companies that sell abroad? This invites retaliation, so American companies selling abroad today would be retaliated against and could lose those contracts. One has to remember that 95 percent of the world's consumers live outside of the United States.

Restrictive provisions such as these run counter to our efforts to create an open, flexible, responsive and impartial competitive acquisition system that will enable all government agencies, including the Coast Guard, to acquire from the world markets, the best products available at fair and reasonable prices for American taxpayers.

At the end of the day, this is about American taxpayers and getting them the best deal. As the gentleman said, they went through a lengthy procurement process where this was all analyzed, and the taxpayers won out in this contract. It is trying to be reversed here on the House floor.

I hope my colleagues with will join the gentleman from Michigan and myself in opposing this amendment.

Mr. KNOLLENBERG. Madam Chairman, reclaiming my time, I thank the gentleman for making those comments.

Mr. RYAN of Wisconsin. Mr. Chairman, I rise in support of this amendment offered by my colleague from Wisconsin and would like to comment on a few of the comments my colleague from Michigan said. He basically said the procurement process is done. This is an end run around the system.

It is very important that we note we have had Buy American provisions in many, many Defense Department contracts. On issues of national security and on issues of homeland security, this Congress has, time over time over time, stipulated that we need to keep our U.S. manufacturing base intact so that when it comes to these matters of national and homeland security, we have the infrastructure and economy in this country to produce these goods that we need.

This is simply being consistent with our Buy American language that we have had in other bills. We have had provisions for these kinds of purchases of these kinds of engines in the Defense Department appropriations bill. So it is very consistent that this language be included in this particular authorization bill, because this exact language has been included in other bills, namely Defense appropriations.

We are not asking for something that is new and novel and different. The one thing we are asking for is we think it is important that this Congress does make a statement, and that statement is that, especially in areas of homeland and national security, we work to make sure we still have a manufacturing base in this country that can produce the kinds of goods and services we need to keep our country secure, to keep our borders secure.

These engines that are going into these ships to protect our homeland, it is very important that we keep this industry alive in this country, because who knows what could happen down the road when we have to rely on other countries to help us protect our own country? They may not be there in the future. That is why this is important.

It is also important because we are losing manufacturing jobs in this economy. Many areas of this economy are growing very well. We had 7.2 percent economic growth in the last quarter. That is the fastest in 19 years. But, and the big "but" is, we are still losing manufacturing jobs. This provision would keep and maintain manufacturing jobs in America, not in Germany.

We are not against manufacturing jobs in Germany, we are just more for manufacturing jobs in America, especially in matters of homeland and national security.

I urge adoption of this amendment. It is consistent with many other policies this Congress has passed in the very recent past, and, because of that, I urge its passage.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the exchange that we have just had between the Michigan delegation, or its voice, and the Wisconsin delegation and the previous amendment offered by the gentleman from Illinois, point up a problem that we have to face and to which I alluded in my previous remarks, and that is the Buy America provisions that affect activities under the jurisdiction of our Committee on Transportation and Infrastructure need to be revisited and thought through and refined.

We have two very differing views of the application of the Buy American Act to the procurement at hand that the Coast Guard is involved with. The Coast Guard is opposed to the amendment. They say the Deepwater Program will comply with the Buy American Act. The Coast Guard and the prime contractor on this procurement, Lockheed Martin, have not, to the best of my knowledge, yet selected the engine to be used, although it is widely known and supposed that it will be the Detroit Diesel engine, with major parts made in Germany, assembled in the United States.

That is where the refinements come in; products, parts of which are made overseas, assembled in the United States. We have lost the whole subway, locomotive and passenger car business to overseas producers. We have lost virtually all light rail and heavy rail production to overseas. Only just recently, Colorado Railcar has come in to produce a very high quality commuter rail vehicle. We need to recapture all of that back to the United States.

In the Transit Program, we have spent $36 billion over the last 6 years on buses and heavy rail, commuter rail, light rail, intercity passenger rail, and a good deal of that is being produced overseas with subassemblies brought back to the United States, largely because our industry abandoned that field because we were not buying much of it, because we were building a lot of highways.

Now, a lot more money is going into the transit system. We are handling 1 million new transit riders a day in America. There is a new market, so we are starting to recreate that market. Yet, big pieces of it being be produced overseas.

Well, we need to recapture that business. We need to stimulate American manufacturers. The Manzullo amendment deals with steel in bridges under the Truman-Hobbs Act. The provision offered by the gentlewoman from Wisconsin deals with equipment, vessels. There will be others when we get into the Transit program that will deal with railcars and locomotives and so on. We need a comprehensive approach to this issue. We need to further refine how the Buy American Act applies.

While I sympathize fully and totally with the advocacy by the gentlewoman and the gentleman from Wisconsin, I think we are in an inadequate position right now, and I do not think that this language adequately addresses the problem at hand.

So, I urge the chairman of the subcommittee, and I will yield to the gentleman, to schedule hearings on this subject. Let us take a closer in-depth look as we prepare for the next authorization for the Coast Guard in the next session of this Congress.

Mr. LoBIONDO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from New Jersey.

Mr. LoBIONDO. Mr. Chairman, I thank the gentleman for raising some very good points. We will certainly take a close look at this. It is an issue that I think most Members in this body can agree that we want to put a focus of attention on.

I strongly agree with the gentleman that, while I understand the amendment offered by the gentlewoman from Wisconsin, that this is not the right amendment, that this is the wrong time.

Mr. OBERSTAR. Mr. Chairman, reclaiming my time, I appreciate the gentleman's response. I would say to the gentleman from Wisconsin, I will insist, and I know we will have the cooperation at the full committee level and subcommittee level, that we explore these matters in the depth and detail to which they are entitled and which you and your colleague from Wisconsin are entitled.

Mr. LoBIONDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as Chair of the Subcommittee for Coast Guard and Maritime Transportation, I rise in very strong opposition to this amendment, and I join with the gentleman from Alaska (Chairman YOUNG), the chairman of the full committee, in saying that, first and foremost, this is a matter of national security.

This Deepwater Program that we are finally under way with and finally gaining some momentum with is replacing the aged assets of the Coast Guard that are desperately needed. Prior to September 11, it was an issue that just related to Coast Guard traditional missions. Since September 11, with the role that the Coast Guard has taken for homeland and port security, it is essential that we replace these assets as quickly as possible.

If in fact this amendment were to pass, the Coast Guard's National Security Cutter would be delayed by 18 months. That is totally unacceptable. The proposed amendment would also force the layoff of a number of U.S. workers; not workers in Germany, not workers somewhere else, workers right here in the United States of America. That is unacceptable.

This proposal actually is an attempt to rewrite and to go beyond the Buy America provisions that currently apply to the Coast Guard's Deepwater Program and would cancel, I repeat, cancel the current task force order that was awarded to another American company.

In addition to this, for those of my colleagues who are fiscally minded, this amendment, if enacted, would cost the American taxpayers in excess of $160 million. Unacceptable. Unacceptable on all fronts.

This was a bidding process that we entered into that we went through. I understand that there is a regional dispute about how one company was affected. But it was done fairly, it was done properly.

□ 1715

For the sake of the Coast Guard, and I will say that the Coast Guard has not taken a formal position because they have not had the opportunity to see this amendment in writing and to respond, but I feel very confident in saying that the Coast Guard would strongly oppose this if they had the opportunity to respond in writing for all of the reasons outlined above.

So I would urge my colleagues as strongly as I can to understand the implications of the Deep Water program moving forward, not being delayed, to understand the implications of national security, to understand the implications of taxpayer dollars being spent wisely, and vote against this amendment.

The CHAIRMAN pro tempore (Mr. SIMPSON). The question is on the amendment offered by the gentlewoman from Wisconsin (Ms. BALDWIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. BELL

Mr. BELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BELL:

At the end of title VI (page 43, after line 2) add the following:

SEC. . AREA MARITIME TRANSPORTATION SECURITY PLAN FOR PORT OF HOUSTON AND HOUSTON SHIP CHANNEL.

Section 70103(b) of title 46, United States Code, is amended by adding at the end the following:

"(5) Any Area Maritime Transportation Security Plan for the Port of Houston or the Houston Ship Channel shall include the information required by this subsection for each petrochemical facility located within 5 miles of navigable waters with respect to which the plan applies.".

Mr. BELL. Mr. Chairman, I rise today to offer this amendment to the Coast Guard and Maritime Transportation Act. This amendment is vital to the continued security of my hometown, Houston, Texas.

The amendment calls on the Coast Guard to include petrochemical plants within 5 miles of the Port of Houston and the Houston Ship Channel in their area maritime security plans.

The Maritime Transportation and Security Act requires the Coast Guard to develop both an area maritime security plan and a vessel and facilities plan.

There has been some reluctance by the Coast Guard to include things like power plants in their plans because they do not consider power plants to be transportation related. However, Mr. Chairman, Houston, Texas, is the heart of America's energy industry and our coastline in Texas, and particularly in the Houston area, is dotted with refineries and petrochemical plants that are no doubt attractive targets to would-be terrorists. In fact, in my district alone, we have over 100 refineries responsible for close to 40 percent of the entire country's petroleum and petrochemical products, which are adjacent to the navigable waterways of the Port of Houston and the Houston Ship Channel. Some of these facilities are located right on the waterway and some are a bit inland. But because of the chemicals they deal with, a terrorist incident at an inland facility could produce a chain reaction affecting plants located much further away from the port itself. A terrorist incident at one of these plants could also cost thousands of lives and could have a devastating impact on the Houston metropolitan area, the fourth largest city in America.

We have a responsibility to look at this situation holistically, Mr. Chairman. My amendment allows the Coast Guard to address the global security concerns that impact this vital transportation corridor and one of the biggest population centers in America. This amendment provides for a creative security solution that will actually make Houston, Texas, America's energy capital, much more secure.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. BELL. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I appreciate very much the concern of the gentleman. He presents a unique circumstance and that is that while the Coast Guard has authority for anything on the water or immediately adjacent to the water, the facilities the gentleman refers to are inland, several miles inland. We need a little time to think this through and to see whether the Coast Guard is the truly appropriate entity to have this responsibility and, if so, how we can provide it.

I will assure the gentleman that, as the bill moves forward and as we get into conference with the other body, there is always an opportunity to make some adjustments, and I think we should respond, hopefully in that context, but if not, certainly by the time the committee researches the next Coast Guard reauthorization, which will be sometime next spring. We should revisit this matter. I share the gentleman's concern. Our Port Security Act does not deal with a matter of this kind, and we ought to think of a way in which we can provide the protection the gentleman legitimately has concerns about.

Mr. Chairman, I thank the gentleman for yielding.

Mr. BELL. Mr. Chairman, reclaiming my time, with that assurance, and I very much appreciate the ranking member's commitment to this very important issue that affects the Houston area, and with the assurance that it can either be addressed in conference or at some point in the near future, at this point.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. DEFAZIO

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Oregon (Mr. DeFazio) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 221, not voting 14, as follows:

[Roll No. 604]

AYES—199

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Ballance
Barrett (SC)
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Clay
Clyburn
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
DeLauro
Deutsch
Dingell
Doggett
Dooley (CA)
Doyle
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Flake
Ford
Frank (MA)
Frost
Garrett (NJ)
Gonzalez
Goode
Gordon
Green (TX)
Grijalva
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hastings (WA)
Hayworth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (VA)
Myrick
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Peterson (MN)
Pombo
Price (NC)
Rahall
Ramstad
Rangel
Renzi
Rohrabacher
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Spratt
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Toomey
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Allen
Bachus
Baker
Ballenger
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Culberson
Cunningham
Davis, Tom
Deal (GA)
Delahunt
DeLay
DeMint
Diaz-Balart, L.
Díaz-Balart, M.
Dicks
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Hall
Harris
Hart
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Latham
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy
Murtha
Musgrave
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Regula
Rehberg
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schakowsky
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Stenholm
Sullivan
Sweeney
Tanner
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Tierney
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Boehlert
Conyers
Cubin
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Sanders
Stearns
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. Simpson) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1744

Messrs. DEMINT, TIERNEY, SMITH of Texas, Mrs. EMERSON, and Mrs. MUSGRAVE changed their vote from "aye" to "no."

Messrs. NADLER, JONES of North Carolina, ROHRABACHER, RAMSTAD, McINNIS, and Mrs. JO ANN DAVIS of Virginia changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. STEARNS. Mr. Chairman, on rollcall No. 604 I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN pro tempore. Are there other amendments?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Thornberry) having assumed the chair, Mr. Simpson, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2443) to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes, pursuant to H. Res. 416, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

☐ 1745

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2443, COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2003

Mr. LoBIONDO. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2443, the Clerk be authorized to correct section numbers, punctuation and cross references, and to make such other necessary technical and conforming changes as may be necessary to reflect the actions of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. LoBIONDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2443.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on the questions previously postponed.

Votes will be taken in the following order:

H.J. Res. 76, by the yeas and nays;

Conference report to accompany H.R. 2559, by the yeas and nays;

H.R. 3214, by the yeas and nays;

Concur in Senate amendments to H.R. 3365, by the yeas and nays;

Conference report to accompany H.R. 2559, by the yeas and nays; and

H.R. 2620, debated Tuesday, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2004

The SPEAKER pro tempore. The pending business is the vote on passage of the joint resolution, H.J. Res. 76, on which the yeas and nays were ordered.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the joint resolution.

The vote was taken by electronic device, and there were—yeas 418, nays 5, not voting 11, as follows:

[Roll No. 605]

YEAS—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

DeFazio
Hefley
McDermott
Paul
Stark

NOT VOTING—11

Boehlert
Conyers
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1803

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Remaining votes will be taken in the following order:

Conference report to accompany H.R. 2559, H.R. 2620, H.R. 3214, H.R. 3365.

All remaining votes will be by the yeas and nays, and all will be 5-minute votes.

CONFERENCE REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 2559, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 417, nays 5, not voting 12, as follows:

[Roll No. 606]

YEAS—417

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—5

Conyers
Lewis (GA)
Paul
Slaughter
Waters

NOT VOTING—12

Boehlert
Fattah
Fletcher
Gephardt
Hart
Jackson-Lee (TX)
Johnson (CT)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1811

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. HART. Mr. Speaker, on rollcall No. 606 I was unavoidably detained. Had I been present, I would have voted "yes."

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2620, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 2620, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 1, not voting 11, as follows:

[Roll No. 607]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof

Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—11

Boehlert
Cummings
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1818

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ADVANCING JUSTICE THROUGH DNA TECHNOLOGY ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3214, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3214, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 357, nays 67, not voting 10, as follows:

[Roll No. 608]

YEAS—357

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehner
Bonilla
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burr
Buyer
Calvert
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Farr
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Gordon
Goss
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kleczka
Kline
Knollenberg
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Ney
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—67

Aderholt
Akin
Bachus
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bishop (UT)
Blackburn
Blunt
Bonner
Brady (TX)
Burgess
Burns
Burton (IN)
Camp
Cannon
Carter
Collins
Cubin
Culberson
Deal (GA)
DeMint
Duncan
Ehlers
Everett
Flake
Franks (AZ)
Garrett (NJ)
Gingrey
Goode
Granger
Gutknecht
Hayes
Hayworth
Hefley
Hensarling
Herger
Hulshof
Isakson
Johnson, Sam
Jones (NC)
Kingston
Kolbe
Linder
McInnis
McKeon
Miller (FL)
Miller, Gary
Musgrave
Neugebauer
Norwood
Nussle
Otter
Paul
Peterson (MN)
Peterson (PA)
Pitts
Renzi
Ryun (KS)
Schrock
Shadegg
Shaw
Simpson
Taylor (MS)
Thornberry
Wamp
Wilson (SC)

NOT VOTING—10

Boehlert
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kucinich
LaTourette
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1826

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY FAMILY TAX RELIEF ACT OF 2003

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendments to the bill, H.R. 3365.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 3365, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 14, as follows:

[Roll No. 609]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (QR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Boehlert
Fattah
Fletcher
Gephardt
Jackson-Lee (TX)
Kaptur
Kucinich
LaTourette
Lewis (KY)
Murtha
Portman
Reyes
Taylor (NC)
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1832

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendments were concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monohan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2622. An act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2622) "An Act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHELBY, Mr. BENNETT, Mr. ALLARD, Mr. ENZI, Mr. SARBANES, Mr. DODD, and Mr. JOHNSON, to be the conferees on the part of the Senate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3308

Mr. DOOLEY of California. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. RODRIGUEZ) be removed as a cosponsor from my bill, H.R. 3308. The gentleman from Texas had asked me to be a cosponsor of H.R. 3242, which I introduced, and was mistakenly added as a cosponsor of H.R. 3308.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2366

Mr. DOOLEY of California. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2366.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BELL. Pursuant to clause 7(c) of House rule XXII, I hereby notify the House of my intention tomorrow to offer the following motion to instruct House conferees on H.R. 2660, the fiscal year 2004 Labor, Health and Human Services, Education and Related Agencies Appropriations Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for the National Institutes of Health.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. FILNER. Mr. Speaker, pursuant to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct conferees on H.R. 6, the Energy Policy Act.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 6, be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. CARDOZA. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003.

The form of the motion is as follows:

I move that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

(1) To reject the provisions of subtitle C of title II of the House bill;

(2) To reject the provisions of section 231 of the Senate amendment

(3) Within the scope of conference, to increase payments under the medicaid program for inpatient hospital services furnished by disproportionate share hospitals by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions

(4) To insist upon section 1001 of the House bill and section 602 of the Senate bill.

RECOGNIZING CONTINUED IMPORTANCE OF TRANSATLANTIC RELATIONSHIP AND PROMOTING STRONGER RELATIONS WITH EUROPE

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the resolution (H. Res. 390) recognizing the continued importance of the transatlantic relationship and promoting stronger relations with Europe by reaffirming the need for a continued and meaningful dialogue between the United States and Europe, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

Mr. WEXLER. Mr. Speaker, reserving the right to object, I yield to the gentleman from Nebraska for purposes of a description of the resolution.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Speaker, I offer this resolution in that it recognizes the continued importance of transatlantic relations and the need for a continued and meaningful dialogue between the United States and Europe.

Mr. Speaker, in the wake of the difficult debate over Iraq, the Subcommittee on Europe held two hearings in June on the future of transatlantic relations. At these hearings, experts from both Europe and the United States presented their views on what went wrong. More important, however, was the consensus view of all of the witnesses who testified at these hearings that the time was right to put the debate over the Iraq war behind us and to begin to energetically consider how to reenergize the transatlantic relationship in a positive manner which is forward looking and which focuses on developing common strategies to address common challenges.

H. Res. 390 urges a renewed effort to develop stronger relations with our friends and allies in Europe through enhanced dialogue and communications between this Nation and Europe, especially through such mechanisms as the various formal and informal interparliamentary organizations which we have here in the Congress.

Mr. Speaker, as the Iraq debate has shown, both sides need to communicate more. It is neither in the interest of the United States to ignore Europe nor to try to work with a weak or divided Europe. Europeans, on the other hand, need to attempt to better understand U.S. policies and objectives and its responsibilities as a global power.

The good news is there is dialogue, but that dialogue must be enhanced, and it must be predicated on the conviction that the United States and Europe cannot meet the global challenges which confront us both unless we strengthen our partnership and address these challenges together.

Mr. WEXLER. Further reserving the right to object, Mr. Speaker, I would like to congratulate and thank the gentleman from Nebraska, the chairman, for his leadership in introducing this resolution which recognizes the importance of America's transatlantic relationship. It is an undeniable fact that the present and future of America and Europe are interwoven and cannot be separated without grave consequence to either side. If the transatlantic relationship is to move forward, it is critical that Europe accept the realities of a post-Saddam Iraq and the potential for transformation in the greater Middle East. At the same time, the Bush administration, which has deftly managed to turn most of Europe against America, must understand that military power alone is not a panacea to guaranteeing our security, fighting terror or halting the proliferation of weapons of mass destruction. Ultimately, these goals cannot be achieved without the assistance of our allies in Europe and throughout the world. It is this message of friendship, understanding and cooperation that I hope will lay the future of transatlantic ties.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The Clerk read the resolution, as follows:

H. Res. 390

Whereas for more than a half century transatlantic policy cooperation and coordination have been essential for the preservation of peace and freedom in Europe, have enabled the development of free and prosperous economies, and helped restore stability and unity in the Euro-Atlantic area;

Whereas a central goal of United States policy toward Europe remains that the development of a Europe united, free, strong, and at peace is in the best interests of the United States and Europe so long as the United States and Europe continue to work as partners, not rivals or counterweights;

Whereas the central pillar of the United States partnership with Europe remains a strong and cohesive Atlantic Alliance;

Whereas the United States and the European community are aware of their shared responsibility, not only to further transatlantic security, but to address other common interests such as environmental protection, poverty reduction, combatting international crime and promoting human rights, and to work together to meet those transnational challenges which affect the well-being of all;

Whereas in recognition of the threats posed by global terrorism, terrorist states, the proliferation of weapons of mass destruction, and the nexus of the three, the partnership should be expanded progressively from a transatlantic community of values to an effective transatlantic community of action by developing a collaborative strategy and action plan for dealing with those challenges of mutual interest and concern;

Whereas no policy disagreement, such as the dispute with respect to Iraq, should be allowed to significantly disrupt transatlantic relations nor cause any member of the Euro-Atlantic community to choose between partners;

Whereas a renewed commitment to strengthen the partnership through increased cooperation, communication, consultation and information-exchange is required to achieve our common goals, which will continue to ensure peace and prosperity between the United States and Europe;

Whereas Congress has played a constructive role in this cooperative approach to partnership with Europe through mechanisms such as the North Atlantic Treaty Organization (NATO) Parliamentary Assembly, the Transatlantic Legislators' Dialogue, and the Organization for Security and Cooperation in Europe (OSCE) Parliamentary Assembly which have for years brought together legislators of both the United States and Europe for discussions of issues of common interest in order to further transatlantic understanding and partnership at the parliamentary level; and

Whereas the House of Representatives welcomes and congratulates the newest member nations invited to join NATO and the European Union and looks forward to broader dialogue through their participation in these transatlantic parliamentary organizations: Now, therefore, be it

Resolved, That the House of Representatives—

(1) affirms the conviction of the United States that, despite the occasional differences and difficulties, the underlying ties which have historically bound the people of the United States and of Europe remain strong;

(2) accepts the indivisibility of transatlantic security which provides an indispensable link between North America and Europe;

(3) recognizes that both the United States and Europe face new challenges at home and abroad and must strengthen and adapt the transatlantic partnership to effectively meet these challenges;

(4) acknowledges that in order to strengthen the transatlantic partnership there must be a renewed commitment to regular and intensive consultation, information exchange and dialogue between the United States Government and the governments of Europe and the European Union; and

(5) commits on its part to continue to improve the transatlantic partnership by enhancing the communication between the United States Congress and the legislatures of Europe through the formal frameworks of the NATO Parliamentary Assembly, the Transatlantic Legislators' Dialogue, the OSCE Parliamentary Assembly, and various other formal and informal inter-parliamentary organizations.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Ms. DELAURO. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Ms. DELAURO moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the Senate level for part B of the Individuals with Disabilities Education Act.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentlewoman from Connecticut (Ms. DELAURO) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to offer the motion to instruct that I presented yesterday. This motion will instruct House conferees for the fiscal year 2004 Labor, Health and Human Services and Education appropriations bill to insist on the Senate funding level for part B of the special education funding, the Individuals With Disabilities Education Act, or IDEA. IDEA part B is the main vehicle with which the Federal Government provides its contribution to States toward educating children with disabilities.

Twenty-eight years ago, Congress made a promise to students, families and communities around this country, a promise that said that the Federal Government would do its part to ensure that the more than 6.5 million children with disabilities and special needs in this country would have the same educational opportunities as every other child. It is a promise that this body has never lived up to, a promise quite honestly that this body has never even attempted to live up to.

This shortfall creates a huge burden on local communities and denies full opportunity to all students, with or without disabilities. And today in a time of unprecedented deficits at the State and Federal level alike, special education becomes just another in a long line of unfunded mandates that the Federal Government has passed on to the States. But we have an obligation to fund special education for children who have special needs. It is a moral obligation.

With the passage of the Individuals with Disabilities Education Act of 1975, Congress agreed that it would pay 40 percent of that bill. Only, it never has. What that has meant for the last 28 years is that the burden of meeting the mandates of special education has been placed largely on the shoulders of local communities. As the cost of educating students with disabilities continues to rapidly increase, there is little doubt that these increased costs are being paid for at the expense of other student services and programs. Moreover, this Republican majority cannot even keep the commitments they made earlier this year, both in the budget resolution and during the vote on the reauthorization of IDEA in April to provide a $2.2 billion increase for special education over fiscal year 2003. Sadly, the House Labor-HHS bill only provides a $1 billion increase which is demonstrated on this chart, promises made and promises broken.

In my State of Connecticut, which faces a billion-dollar budget deficit, school districts are paying $409 million more for special education than they did 10 years ago, a 76 percent cost increase. During the 2000–2001 school year, nearly 19 percent of the total education expenditures in the State were directed to special education students with some individual districts exceeding 25 percent, meaning one out of every four education dollars was going to special education.

This is a situation not unique to my district or my State. Right now, 47 States are experiencing budget deficits. If you ask virtually any municipality in the Nation what their number one budgetary concern is, they will tell you, without hesitation, special education. They simply cannot bear the strain the Federal Government is putting on them year after year. The strain will continue should Congress adopt the special education funding levels included in the House Labor, Health and Human Services, Education appropriations bill for fiscal year 2004. That bill fell $1.2 billion below what is needed to even put IDEA on the path to full funding by 2010. In my opinion, an abdication of our responsibility to our States and our children alike and a situation in which no one wins.

What is needed here is leadership. Our States are crying out for it. Parents are crying out for it. I wish we could call on the President to intervene on behalf of children with special needs. But President Bush's special education request would have amounted to the smallest increase for special education in 5 years.

□ 1845

So the responsibility falls to us to rise to the occasion, match what the other body has done by meeting our commitment once and for all to our children and our States and provide that extra $1.2 billion. The time for using the issue of special education as a political football is over. As I said before, it is a game in which no one wins. And as representatives for 50 States and the more than 6½ million children who need our help, the Congress is obliged, obliged to provide this $1.2 billion in funding in this bill and obliged to promote the capacity of our country to act together on what are indisputably shared values.

Mr. Speaker, the Congress reneged on its commitment to children with special needs in 1975. We cannot allow it to renege on that commitment again. We must meet our obligations. That is what this motion to instruct is about. And I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very interesting point. Promises made, 1975, the Democrats were in control. They made promises. Here is the performance. Look at that, barely increased over 19 years. Barely increased over 19 years. Republicans take over, and we kept the promises. Here it goes, up, up, up, up, up. We can see the difference. This clearly shows us the difference between the Democrat Party, make the promises, do nothing. Republicans deliver.

On top of that, just recently the Members of the Democrat Party voted against a bill to increase special education by $1 billion. And I think it is interesting that my colleagues on the other side of the aisle are seeking to instruct conferees to adopt the Senate funding levels for IDEA when just 3 months ago they voted against a $1 billion increase. They did not seem to want that. We strongly support funding for special education and the hope it gives millions of families every day.

In fact, since fiscal year 1996, the first year Republicans controlled the House, funding for special education has tripled; and under Republican control the percentage of per-pupil expenditures that the Federal Government contributes toward special education has increased to nearly 20 percent. By way of contrast, when the Democrats were in charge from 1975 until 1995, 20 years, the percentage of per-pupil expenditures was never more than 9 percent.

There are the facts; and I say to those who are looking at this situation, do not go on what I say. Go on what the chart shows happened when the Republicans took control. They made the promises; we delivered.

Mr. Speaker, the Republican commitment to funding special education cannot be questioned. The bill passed by this House in July continued the investment in IDEA by increasing the program by another $1 billion, representing the largest dollar increase in the entire Labor, Health and Human Services Education appropriations bill ever.

As most of my colleagues know, the original bill reported by the Committee on Appropriations in the other body provided a slightly smaller increase for this program. That is the bill that they reported out of committee. It was less than we have done. On the floor the other body adopted an amendment that would have added $1.2 billion to the program.

One little problem, however. This amendment was offset by the use of a customs user fee. Basically, this is a tax, and as we all know, increasing taxes is something that is not within the jurisdiction of the Committee on Appropriations to decide. And tax policy is also something which the United States Constitution says must, and I emphasize must, originate in the House, not in the Senate. Therefore, this provision must be dropped by the other body in order for us to complete our conference on this bill. So we are talking about an instruction that cannot happen under the Constitution.

If we accept the gentlewoman's motion, it will have the effect of cutting $1.2 billion out of every other program in this bill. It will mean we will have to make cuts in funding for biomedical research that is seeking cures for cancer or diabetes or Parkinson's disease. Or perhaps the gentlewoman would suggest we take the funding out of programs under No Child Left Behind, such as programs to teach children to read or improve teacher quality. Or should we take the funding out of that provided for colleges and universities, or funding to produce textbooks for blind students? Or should we reduce the Pell grants? That is the effect of this motion.

We are not going to disagree with it because we are for IDEA. Here is the evidence: it says clearly which party cares about these children; and, therefore, we want the conference committee to do as much as possible. We did it on the bill that passed here in July. We raised IDEA by $1 billion, and the Democrats for whatever reason chose to oppose this.

Mr. Speaker, this motion is nothing more than a vain attempt to divert the public's attention from the fact that my colleagues on the other side of this aisle voted against the $1 billion increase for children with special needs earlier this year.

The bill passed by this House was a balanced approach to addressing the needs of all of our citizens, including those with special needs. It gives hope to children and families across this Nation. And I say once again here are the facts, just look at the chart. It tells us the story eloquently. They make the promises; the Republicans deliver.

Mr. Speaker, I reserve the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield myself 1½ minutes.

Let me be very quick, and there are others who will respond to what my colleague has said, and I appreciate his comments. I said in my remarks that the commitment to children with special needs was reneged on in 1975. We cannot let that happen again. In this current year, the Republican majority committed to $2.2 billion. They have reneged on that promise. No, in fact, we should not cut back on Pell grants, on No Child Left Behind, not any of the other education programs.

What, in fact, we ought to cut back on is that $93,000 a year that we are giving in a tax cut to the 184,000 millionaires in this country. That is why we are short on this effort. That is why we are short-changing children with special needs. The fact of the matter is that the Republicans would have cut IDEA in 1996 by $88 million; 1997 by $279 million; in 2003, $500 million below the President's budget. They have every single year worked at cutting the amount of money for children with special needs.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of the DeLauro motion to instruct conferees on H.R. 2660 to fully fund the Federal commitment to the Individuals with Disabilities Education Act, IDEA. What an idea, taking the funding out of the tax cuts for the wealthiest 1 percent of Americans, not funding this program from other deserving programs.

Whenever I talk to educators or school administrators in my district, the very first thing they bring up is IDEA, special education. The first thing they say about IDEA is that we need to have it funded. The Federal Government must meet its commitment for 40 percent of the cost. In fact, if the Federal Government fully funded its share of IDEA, schools in Sonoma County, in my congressional district, would have received almost $20 million to help educate students with disabilities, students with special education needs. Instead, Sonoma County schools received just under $6 million, or about 15 percent of their costs.

Every Member here could tell the same story about their school districts. If the Federal Government fully funded its share of IDEA, schools nationwide would receive almost $20 billion to help pay for the cost of educating students with special needs. H.R. 2660 falls far short of this needed funding; and when we do not fully fund IDEA, we do not just take needed resources from students with disabilities. We shortchange all students.

If school districts had their full share of IDEA funds, they would be able to use their own funds for improvements that benefit all students such as increasing teachers' salaries, reducing class size, building new schools, renovating old schools. When we underfund IDEA, we pit children with disabilities against other children, schools against parents, parents against parents. We must fully fund the Federal share of IDEA. Vote for the DeLauro motion to instruct conferees to include full funding in the Labor-HHS-Education appropriations bill to cover the Federal share of IDEA.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from Connecticut for yielding me this time.

Mr. Speaker, the original IDEA bill authorized this Congress to give up the 40 percent of the additional cost of educating a child with special needs so that communities would have some help with that burden even though it was their constitutional obligation to educate every child to 100 percent of that. For years Congress did not fulfill that commitment. They were at 9, 10, 11, or 12 percent. What were those years? Those years were the Reagan-Bush years. We were running deficits of incredible amounts, building up on our debt in this Nation; $295 billion of deficit in 1992 accumulated since 1980 to a point where we had a debt of almost $5 trillion. Congress could not do more. They were busy trying to pay off those bills.

From 1993 to 2000 with a Democrat in the White House, Congress started to pay down those deficits, started to pay those bills; and around 1997 where the yellow number is upticking on that chart that the gentleman from Ohio was showing, that was when we finally got a grip on the deficit, and we finally were able to start putting some money towards the obligations of IDEA. In fact, we did it almost every year over the objections of the Republican majority and had to fight every year. This is the type of issue the Republican majority almost brought the House to a standstill on. But we managed to tick it up. We managed to bring those numbers up, with the objections of the Republicans in many instances, and started to do better.

Now we have an opportunity in 2000, with a $5.6 trillion surplus projected over 10 years, to really reach that 40 percent level; and instead the Republican majority and the White House decided that is not where they want to spend the money. Despite the fact that the Republican "Contract on America" in the mid-1990s promised this was one of their 10 items, they have never come close; and we have had resolutions in this House where every single Democrat voted to fund IDEA and not a single Republican voted to do it. And when we had the chance with a $5.6 trillion surplus projected over 10 years, the majority in this House, the Republican majority, and the White House walked away from it and did not do it.

And why does the gentlewoman from Connecticut come up with the number of $2.2 billion? Because it is the amount that Republicans promised. They put it in their budget very disingenuously as if they were going to do it. They put it in their authorization bill as if they might do it. And when Democrats on the Committee on Education and the Workforce tried to make that mandatory so they would have to do $2.2 billion, the Republicans would not vote for it. And now we know why they would not. They had no intention of doing it. 2.2 billion was the number they held publicly out in both the budget and their authorization; $1 billion is the amount they finally come in with in the end. And they claim it might be more than last year. Yes, a paltry amount more than last year. And again we are back to pushing, pushing, pushing, trying to make them meet their obligation.

Why can we not do it? It is not because we would have to cut from every other part of the budget. It is because there is not much in every other part of the budget because the Republicans decided to give $1.3 trillion away in three rounds of tax cuts.

□ 1900

The choices that were made, the Republican majority and the President and the White House decided money is not going to go to special education. They decided money is not going to go to No Child Left Behind. They decided no money is going to go to fix our roads and bridges, nor for the myriad of obligations the Federal Government has made to cities and states and towns. It is going to go, instead, to the wealthiest people in this country.

That, my friends, is what is happening here. It is a canard to say we do not have the money. It was an intentional misappropriation. We need to do better in this Congress.

Mr. REGULA. Mr Speaker, I reserve the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I rise in support of the motion to instruct conferees, insisting on increasing funding for the Individuals with Disabilities Education Act, or IDEA.

Full funding of IDEA has been one of my priorities since I have been in Congress. When Congress first addressed this issue in 1975, we made a commitment that we would provide children with disabilities access to a quality education, but not once in the past 28 years has Congress lived up to its obligation to fund the services it requires States and school districts to provide, despite a commitment that we would do so.

My home State of Oregon, like so many States across this country, is suffering from tremendous budget shortfalls. When the Federal Government does not pay its share, the remaining costs just do not go away. The States and school districts are forced to pick up the additional costs, putting additional strain on our education funding.

In 2003, we appropriated $8.9 billion for Part B of IDEA. While this is a small increase over past years, it is still leaving States and local school districts with an unfunded Federal mandate of over $10 billion. That is $10 billion that our States and school districts could be spending to alleviate State budget crises, reduce class sizes and build and modernize our schools.

Funding IDEA is not just about educating disabled students, it is about relieving the school funding crises that States across this Nation are facing.

It is high time we renew our commitment to all of our Nation's children and pay our fair share of the cost of IDEA. I urge my colleagues to support funding for IDEA and support the DeLauro motion to instruct conferees. This is a promise the Federal Government made. This is a promise, for the sake of our children, we need to keep.

Mr. REGULA. Mr. Speaker, I reserve the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of the DeLauro motion to instruct conferees, and I commend the gentlewoman from Connecticut for introducing it.

H.R. 2660, the appropriations bill for the Department of Labor, Health and Human Services and Education, is underfunding our Nation's education system. Although this Congress made the promise to increase funding for education by $2.2 billion in the FY 2004 budget resolution, and then again in H.R. 1350, the Individuals with Disabilities Education Act, these promises do not appear in the appropriations bill. Instead, special education falls $1.2 billion short of the budget promise.

Due to the insufficiency of funding for local education, our local communities will need to absorb more of the costs for providing special education to 6.7 million school children. Ultimately, schools will be forced to cut essential programs or raise local taxes. That is why I voted against the appropriation resolution and why I voted against the IDEA reauthorization.

During discussion in the Committee on Education and the Workforce, I spoke to the need to fully fund IDEA, and even voted in favor of an amendment which did in fact fail. Now I am asking my colleagues in the House to follow suit with our Senate colleagues and fulfill the promise from the budget resolution and the Senate-passed bill, which included the bipartisan amendment to increase IDEA funding by $2.2 billion.

I believe that we have no greater responsibility as legislators than to fully fund education; to make sure that we have adequate buildings, schools, teachers, textbooks; and to help those children who have the greatest amount of need. No children have greater needs than those with disabilities. I ask that we support the DeLauro motion and support our children who need help the most.

Mr. REGULA. Mr. Speaker, I reserve my time.

Ms. DELAURO. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I rise to support the DeLauro amendment.

Many decades ago, our country did a great and noble thing. We made a commitment as American people that every child in this country, regardless of his or her disability, would get a good education. At that time, the Federal Government promised that it would pick up 40 percent of the costs of providing that education to youngsters with disabilities. But as we are gathered here today, the Federal Government is only paying 19 percent, and the result of that is not only that children with disabilities are not getting the Federal resources that are required for education, but also children without disabilities are suffering, as we are pitting one against the other.

Now, we can talk about decades of who is to blame or who promised what, but let us just look at this year. This year we already have a story of sordid, broken promises.

I serve on the Committee on Education and the Workforce. This year the chairman of the committee came forward with an authorization bill that would increase the authorization from last year's levels originally by $1.4 billion, to $10.3 billion. Then we in the Committee on Education and the Workforce had a discussion where we, Republicans and Democrats alike, agreed that in order to meet our commitment, we had to increase that authorization.

So the chairman of the committee went back to the Committee on the Budget and, very proudly, as he should, came back to the Committee on Education and the Workforce and said, "Look, I have talked to my colleagues, and they have agreed we are not going to increase it by just $1.3 billion; we are going to increase it by $2.2 billion." That is what the chairman of the Committee on Education and the Workforce announced.

Many of us were skeptical about whether that would be delivered on. We said, "Let's make that mandatory." We had a vote in committee. The chairman of the committee said to The Members, "Let's not take a vote to make it mandatory, because I have talked to my colleagues on the Republican side on the Committee on the Budget and we have a commitment here. Let us not make this binding."

We had a vote. It was 10 to 9. Democrats voted in favor in the subcommittee of making it binding, Republicans did not. The same story in the full committee.

Well, look where we are today. It turns out that we should have had a binding vote. That would have been the only way to hold the Committee on the Budget and the Republican leadership to its word on this issue. The chairman of the committee said, "Don't worry about it. Trust us." Well, look where that has gotten us.

The fact of the matter is, we have let down the American people. We do not need to go back with broken promises for decades. We have multiple broken promises just this year, promises broken to American children.

Let me just end by talking about priorities, because what we are seeing here is the budget that was passed at the beginning of the year, that set the road map. Everything after that was on automatic pilot. That budget was premised on huge tax cuts for the very wealthiest Americans.

Now, I do not have any problem if people want to say "I am for tax cuts," and it is okay that for some economic theory that they should go to the wealthiest Americans. But do not say you are for that, and, at the same time, go back to your districts and say, "We are for full funding for special education," as Republicans and Democrats alike do. They all go out and say they are in favor of it. Because you cannot do everything. You cannot have big tax cuts for the wealthiest and come back to this body and fully fund special education.

We have to make choices. That is what leadership is all about. If you want to choose higher tax cuts for the wealthy, that is a fine choice. Stand up for it. But do not at the same time come and say we really wanted to do this, but we just could not do it, because we can do it if we make the right choices. We should make the right choices for the America's children. That is why we have got to support this motion.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. SHERWOOD), a very valued member of our subcommittee.

Mr. SHERWOOD. Mr. Speaker, I rise in opposition to this motion to instruct, and I do it with a lot of history.

For many of the years, about 15 of the years that the Democrats controlled this House, I was a school board member in Tunkhannock, Pennsylvania, and I know what it means to not have enough IDEA funding. We worked very hard to make the choices to balance our budget, to do what the Federal law required with the amount of money that was given to us.

At that time, the highest that we ever got was 9.9 percent. When the Democrats controlled this House, the most money we ever got was 9.9 percent. This year, we are giving the schools 20 percent. That is double what we ever got when the Democrats were in control.

Now, what is this disingenuous discussion about? We do have choices to make. We made choices to give more funding this year than we have done in the past. There is an extra $1 billion in this bill, and we are halfway to full funding the 40 percent of IDEA. That is much more than we have done in the past, and it will go a long way toward helping school districts with these major challenges.

I want to thank the gentleman from Ohio (Chairman REGULA) for his leadership on this bill. He always gives us fair and balanced leadership, and this is a fair and balanced bill that lives within realistic priorities and shows that the majority is trying very hard to leave no child behind, to do the right thing for American education.

Ms. DELAURO. Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. PETERSON), also a very valued member of our subcommittee.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I would like to compliment the chairman on this bill. The bill that we presented increased special education funding by over $1 billion, and I believe those who are offering this motion to instruct tonight all voted against it.

Now, you cannot have it both ways. When you look at the chart that we had up here a little bit ago, the big chart, in 9 years under Republican leadership we went from a little over $2 billion to almost $10 billion. That is just under $8 billion.

Now, the 9 years preceding that, under Democrat leadership, you increased funding $1 billion in 9 years. We increased it $1 billion this year. We increased it almost $8 billion in the 9 years that we have been in control. Just count them, 9 years. Come back here 9, just a little bit over $2 billion. $1 billion in 9 years.

Now, the interesting part is it is easy to say they want to fully fund it. The other body put in a tax provision to fund it that cannot stay there. It is illegal. It cannot be there. So if you are really serious about this, your motion to instruct will say we are going to take it from Pell Grants, or we are going to take it from basic education, or we are going to take it from higher education, because that is how you have to do it.

You are making no choices. When we look at the record, the choices you made for 9 years previous to the 9 years that we have been in power were not for special education. In 9 years, a $1 billion increase.

□ 1915

Just a few days ago, we passed this bill with $1 billion of additional money in it, and they vote "no." I think the American public understands showmanship. I think the American public understands a sham motion, because that is what this one is.

Now, I do not think there is anybody here that does not think we should not fully fund special education, and we are on track today to do it. We have the record. There has been a game plan of when we are going to reach it. Now, that is reasonable, because we will be taking new money and new dollars. But if you are serious, tell us where it comes from, because the other body's tax provision cannot remain to fund it. If you are serious, show us where the cuts are. Is it Pell grants? Is it higher education? Is it No Child Left Behind? Because it has got to come from one of them.

Mr. Speaker, I am proud of the record, and I am proud of our chairman's leadership on this issue, and his predecessor, John Porter's leadership on this issue. Because this is their record: getting us to where we ought to be as fast as we can.

Ms. DELAURO. Mr. Speaker, I yield myself such time as I may consume.

Let me just make one or two comments about what my colleagues have said.

First of all, and this is not my commentary, but CRS's commentary, that if we continue to go in the direction that we are going in with $1 billion, we are never going to get to full funding. I commend the CRS data and material to my colleagues.

Secondly, the fact of the matter is, as my colleagues have said before, the issue is about choices. It is not only about choices, but it is about priorities; and those priorities in terms of our budget are fundamentally determined by where our values are on these issues.

Mr. Speaker, I submit to my colleagues that when the choice, the most important and fundamental choice was made in this body about trillions of dollars of tax cuts, $93,000 a year to the 184,000 millionaires in this country, that was a choice. It is the choice, the fundamental choice which is starving the Federal Government of the resources that it needs to meet its public commitments; not willy-nilly commitments, but commitments where we have said we are going to put up so much money for special education, and, you, State of Connecticut, Minnesota, Ohio, Pennsylvania, you put up so much money.

We are reneging on those commitments because of the fundamental choice that was made by the Republican President of the United States, by the Republican House majority, by the Senate House majority to fund the tax cuts. That is the priority, not special education, not Pell grants, not let no child be left behind, not any of the education programs that we view as critical to the opportunities that young people have in this country.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to point out the facts: promises made by the Democrats, very little increase; promises delivered by the Republicans. The chart tells more eloquently than words what it is all about. I simply say that we believe in special education, and we have put the money there to back up our beliefs.

This motion to instruct is a sham because the Senate money is not there. They did something proposed, and I would again emphasize that the bill that came out of the Senate committee had less, less in IDEA than the House bill. They had a floor amendment that said we are going to raise taxes to pay for it. Unconstitutional. So let us get on with it.

I would point out one other fact, and that is that the Democrats voted against $1 billion for IDEA in the July bill for labor, health and human services.

So I submit to my colleagues that the record is clear. Republicans deliver; the Democrats promise.

Mr. Speaker, I yield back the balance of my time.

Ms. DELAURO. Mr. Speaker, I yield myself the remaining time.

There is no doubt in my mind that tonight what we were going to hear from the other side of the aisle is about how much funding for special education has been increased in the past years. But there is no denying the fact that the Republicans broke their promises to the Nation's 6.7 million special needs children this year when they denied the promised $2.2 billion increase in the Republican fiscal year 2004 Labor-HHS bill.

Let me just say that it is true that promises for IDEA part B State grants, the main Federal program for which the Federal Government finances special education, have increased from $2.3 billion in fiscal year 1996 to $8.9 billion today, an increase of $6.6 billion. But it is equally true, equally true, and understand this, that if the Labor-HHS bills put forth by House Republicans over that period of time would have been enacted into law, the $6.6 billion increase actually provided for IDEA would have been cut nearly in half, because if House Republicans had had their way, they would have spent $2.8 billion less on special education between fiscal years 1996 and 2003.

I am going to briefly, briefly read my colleagues the facts in these years and the Republican activity on these issues.

In 2003, the majority failed to pass a Labor-HHS bill because they wanted to avoid voting on the Bush education cuts. However, the HHS bill, H.R. 246, was introduced by the very fine chairman of the Subcommittee on Labor, Health and Human Services, Education and Related Agencies. The chairman offered the bill, and it was the House position for the purpose of the conference negotiations. That bill included $8 billion for IDEA part B State grants, $500 million less than the Bush IDEA request and $846 million less than the amount ultimately that was enacted into law.

In 2002, we had a bipartisan year. Democrats and Republicans supported a healthy increase for special education: $186 million over the final conference level of $7.5 billion.

In 2001, the House Republican Labor-HHS bill was a shocking $850 million below what was the $6.3 billion included in the grants and in the conference agreement.

In 2000, the House Republican bill was $179 million below the final conference level of $5 billion for special education.

In 1999, the House bill provided the same amount, $4.3 billion, which was ultimately enacted into law.

In 1998, another bipartisan year, House Republicans initially proposed $3.4 billion for IDEA grants, $375 million below the final amount secured by the Democrats in the Labor-HHS conference agreement, which provided a total of $3.8 billion.

In 1997, the House Republican bill would have frozen IDEA at $2.3 billion, $279 million below the request, and a whopping $784 million below the final conference agreement.

In fiscal year 1996, House Republicans proposed to freeze the special education grant at $2.3 billion. That was the amount ultimately enacted into law, a cut of $88 million below the Clinton request.

In summary, Mr. Speaker, a careful examination of the Republican record on IDEA funding paints a less rosy picture than my colleagues would like to portray. In 5 of the last 8 years, the House Republicans have provided less than the amount actually enacted into law for IDEA part B State grants.

Democrats insisted that we provide those increases. Democrats want to fulfill our commitments to the 6.7 million special needs children before we begin to provide super-sized tax cuts to the Nation's well-off and wealthiest citizens.

Under a funding scenario of $1 billion per year, as is in the Republican Labor-HHS bill, we will never, never meet the goal of fully funding for IDEA. It was the majority party, once again, that promised a $2.2 billion increase this year for IDEA. 216 Republicans voted for the increase in the 2004 budget resolution; 217 Republicans voted again for the increase in the IDEA reauthorization bill.

Democrats say this evening, on the issue of special education for our youngsters, a moral obligation which we have committed to, which we have committed our States to, what Democrats say this evening is keep your promises to those 6.7 million children who, without the proper funding, will not ever realize their dreams, their aspirations for opportunity for their future and a way in which they can hold on to the American Dream of education.

Mr. Speaker, I urge my colleagues to vote for this motion to instruct.

Mr. CASTLE. Mr. Speaker, it would be disingenuous, and plain false, for anyone to suggest that this Congress has not been dedicated to the needs of our nation's special education students. In the past year we have recognized the importance reform has on the program when we reauthorized IDEA. Rather than to throw money at IDEA this body passed a reauthorization bill that will enhance efficiencies ultimately resulting in increased services for special education students. In the past year we have also voted to increase funding for IDEA, at a record level. There should be no doubt that this Congress is consistently focused on the needs of these students.

In the past eight years we have more than tripled funding for special education. In 1975 the Congress said it would pay 40 percent of the per pupil cost to educate special education students. We are making great strides toward meeting the 40-percent goal. Since 1996 we have increased this contribution from 7.3 percent to almost 20 percent this year. We all deserve to be proud of this and we all should be dedicated to continuing this progress.

Having said that, we must not forget that we have also seen historic increases in funding for all of our education programs. Last week we passed a motion to support funding increases for programs under the No Child Left Behind Act and today we could potentially be taking those away. Look at the big picture. For fiscal year 2004, with the guidance of Chairman REGULA, this House is continuing our efforts in providing unprecedented increases for No Child Left Behind, Head Start, Higher Education and especially IDEA. This year's $1 billion increase for IDEA represents the single largest dollar increases in the bill and one of the largest funding increases for IDEA ever. This Congress and this Administration are without a doubt dedicated to all students.

I have always prioritized adequate funding for education programs as well as fiscal conservatism. Given other expenses we have across the country and the world, I believe the House Labor, Health and Human Services and Education Appropriations Act represents a delicate balance between increased funding for federal education programs and fiscal restraint. I encourage Members, on both sides of the aisle, to take an unbiased and honest look at what we are doing for students, and particularly our special education students.

Ms. DELAURO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEARCE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Connecticut (Ms. DELAURO).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. DELAURO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

Mr. BECERRA. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BECERRA moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to H.R. 1308 be instructed as follows:

1. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides immediate payments to taxpayers receiving an additional credit by reason of the bill in the same manner as other taxpayers were entitled to immediate payments under the Jobs and Growth Tax Relief Reconciliation Act of 2003.

2. The House conferees shall be instructed to include in the conference report the provision of the Senate amendment (not included in the House amendment) that provides families of military personnel serving in Iraq, Afghanistan, and other combat zones a child credit based on the earnings of the individuals serving in the combat zone.

3. The House conferees shall be instructed to include in the conference report all of the other provisions of the Senate amendment and shall not report back a conference report that includes additional tax benefits not offset by other provisions.

4. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to include in the conference report other tax benefits for military personnel and the families of the astronauts who died in the Columbia disaster.

5. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report consistent with the preceding provisions of this instruction, not later than the second legislative day after adoption of this motion.

Mr. BECERRA (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mr. BECERRA) and the gentleman from Wisconsin (Mr. RYAN) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me give my colleagues a few numbers and see if we can find the connection in these numbers: 25, 161, 6.5 million, zero, and 93,500. If it does not seem readily apparent, let me connect the dots for my colleagues.

Twenty-five represents the number of times that this motion that we are about to debate has come before this House of Representatives in an effort to try to do what the Senate did months ago, which is to try to do what the President said he supported, which was to try to give a number of working, tax-paying families, many of them military families, the same type of child tax benefit that we gave to many other American families, those families having already received checks in the mail for that child tax credit. Twenty-five times. This is the twenty-fifth time we are trying to get the House to do what the Senate did on a vote of 98 to 2.

The number 161, that is how many days we have left out all of these American families with children from being able to benefit from the child tax credit that other American families, neighbors, in fact, of many of them, many of them right now, fathers and mothers in our military in Afghanistan and Iraq, 161 days they have gone without the benefit through the law that was passed 161 days ago, that many of their fellow Americans received in the mail.

□ 1930

Mr. Speaker, 6,500,000? That is the number of families in America that have been excluded. 6½ million. Among those 6½ million families you have 12 million children. So we are not talking about trying to help one or two of America's families because they were left out. When Congress passed and the President signed a tax cut bill that cost $350 billion, that excluded the 6½ million families and their 12 million children.

We are talking about quite a few American families throughout this country. Among those families, more than 262,000 of the people that I am talking about are children of our military personnel who were left out. And I should mention of our 200,000 or so men and women in uniform who are in Afghanistan and Iraq and throughout this world in combat zones, the result of not having extended the child tax credit expansion to them means that many of these men and women in uniform with kids are actually going to see a tax increase as a result of the action taken by this House in not moving forward to match the Senate on a 98 to 2 vote to provide the expanded child tax credit to these 6½ million families.

The number zero? I have already mentioned it. That is how much money the 6½ million families are getting at the same time that their neighbors and friends were receiving an average of about $600, $615 in a child tax credit. Zero.

The final number I mentioned, $93,500, that is the amount that this year many of America's millionaires will receive in reduced taxes as a result of the tax cut bill that passed in late May, 161 days ago, in tax breaks. Zero for 6½ million working families. And, by the way, these working families are not rich working families. We are talking about families that have incomes somewhere between $10,500, let me say that again, $10,500 annual salary to about $26,625 annual salary. We are not talking about wealthy families, but we are talking about working and tax paying and military families that are among those who earn between $10,500 and $26,625. 6½ million families. 12 million children within those 6½ million families.

The tax bill did give to millionaires in America an average tax cut this year of $93,500. In this child tax credit expansion provision, it gave zero to those 6½ million families.

What many of us have been trying to say in the 24 other times, including this, the 25th time we put this motion before the House is let us do what the President said we should, let us do what the Senate already did, in voting 98 to 2, and let us do what most American families thought we had done, until they realized that they did not get a check in the mail as well, including our military families.

Mr. Speaker, let us be just. They work, they pay taxes, and certainly for the several hundred thousand of our men and women in uniform who have kids, it is the right thing to do.

Now, it would not be so difficult to talk about this if it were not for the fact that within that tax cut bill and within additional legislation that has come before this House there have been measures to actually expand the scope of the child tax credit to more families. In fact, in this House my friends in the majority were willing to expand the number of families who could qualify for the tax credit by increasing the income limits, so that families with well over $150,000 could qualify for the child tax credit. Yet, in the same legislation, we cannot see how we can just do what we need to do for those families that are making somewhere between $10,500 and $26,500. It goes on and on and on in terms of the irony that we see here.

I look back at some of the Tax Code and I think to myself are we doing something that is unfair, something that these folks do not deserve? Some will say, well, they do not pay that much in income taxes. They are getting off and we should not give them money. Well, they pay taxes. They do not pay that much income taxes probably due to the fact that they do not earn very much income, but they pay payroll taxes, they pay sales taxes, they pay property taxes, they pay excise taxes. You name it, they pay it.

And, fortunately, we have a progressive tax structure that says in terms of income taxes if you are making $10,500 in a year, in a year, not in a month, because some of my colleagues may have misunderstood me, in a year, then, by God, I hope we are doing something to make sure that the $10,500 does not go to just pay taxes.

But to deny them, then, the expansion of the child tax credit simply because they do not pay enough of a certain type of tax I think is un-American. But that is where we are. Then I thought to myself, well, do we do some things that give others some kind of tax break? Then I realized, wait a minute, my father worked for about 40 years in road construction, he worked canning tomatoes at Campbells Soups, he worked cleaning the hulls of ships, and every day he worked, he ate lunch when he had time. As far as I know, he ate lunch with his colleagues, his coworkers.

Well, today if there is someone out in America in the business world who decides to go have lunch, and then follow that up with a nice dinner, and take out a business associate, and really try to cater to that business associate to try to, perhaps, gain some new business, and chauffeurs that business associate around in a limousine, and has a martini, then takes the associate to a nightclub to enjoy the evening and says, you know, we had a really rough night, maybe we should just stay at this hotel, all of that can be deducted to the tune of 50 percent. But somehow we could not find it in our powers within a $350 billion tax cut bill to give 6½ million Americans who work and earn about $10,500 to $26,500 a tax credit for their kids. The cost of doing that? $3½ billion. $350 billion tax cuts that went mostly to wealthy folks. $3½ billion, 1/100th of the cost of that tax bill would have corrected this problem for those 6½ million families. Could not do it.

We still can. We have not finished the section. That is why we are here today. I am hoping the 25th time is the charm and we will get to it.

Mr. Speaker, I reserve the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I reserve the balance of my time.

Mr. BECERRA. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. SANDLIN).

Mr. SANDLIN. Mr. Speaker, I thank my colleague from California (Mr. BECERRA) for bringing this to our attention.

Mr. Speaker, this is merely an issue of priorities. If we want to stand for our military, if we want to stand for our working families, if in this House we want to stand up for the children of America, if that is our priority, then we need to thank the gentleman from California (Mr. BECERRA) for advancing this motion, and we need to support and vote for the Becerra motion to instruct.

Let us accept the bipartisan, the bipartisan Senate-passed child tax credit bill, and let us just get this bill done once and for all. Let us tell America what is important to the U.S. House of Representatives and that is our working families and that is the children of those working families.

As Members know, Mr. Speaker, right now American working families are facing many challenges. We have record job losses in the country, and the current administration will be only the second administration in the history of this country to show a net loss of jobs during the administration. The other administration being the Herbert Hoover administration, which certainly is not very comfortable company.

And those people in America that are lucky enough to have a job face challenges of their own. No health insurance, no prescription drugs, increasing education costs.

Now, Mr. Speaker, on the other hand if an American working family, if you can call them that, is comprised of millionaires, the current tax scheme of the Republican majority may be a benefit to them. But heaven help the American worker, Mr. Speaker, if he or she earns between $10,500 and $26,625. Because, Mr. Speaker, if you earn over a million a year, you will save $93,500 in taxes in 2003 alone, nearly 100 grand. But, if you earn between $10,500 and $26,625, you are the target, as my colleagues know, Mr. Speaker, of the Republican scheme because you were deliberately and purposely excluded from the $350 billion tax law of the Republicans. There is no child tax credit for you. That is the message.

Now, who does this affect? The Republicans, under their plan, say no child tax credit, no relief, no tax relief to the fighting men and women in Iraq, no relief for you, no relief to school teachers, no relief to policemen, no relief to firefighters, no relief to first responders, no relief to anyone making $10,500 to $26,625 a year. And, Mr. Speaker, that is a lot of people in this country. That is probably most of the people in my congressional district.

And it is funny, Mr. Speaker, in these times of challenge, fiscal challenges, we have plenty of money for millionaires but none for the clerk down at the drugstore. We can give $93,500 for 1 year to the millionaire but nothing to the man fighting in Iraq or the woman fighting in Iraq.

And what is funny, in a way, Mr. Speaker, is the administration has admitted this. You know Ari Fleischer, if you remember him, he was the White House Press Secretary when this went to conference initially, this is what he had to say: "Everybody was aware in the conference of what was in and what was out. So that was all very well known to the conferees and the White House."

Now, Mr. Speaker, Mr. Fleischer told the truth. No wonder he is out of the White House. They could not stand that candor anymore. Now, the chairman of the Committee on Ways and Means summarized the Republican attitude best when he said in response to a question regarding this matter, he said, quote, "There are worse things than it not happening." Now, that charming statement was echoed by the majority leader when he stated bluntly in regard to the passage of the Senate child tax credit, "Ain't gonna happen." Now, this was entirely consistent with his previous opinions, of course. Earlier he said there is a lot of things more important than that. There are a lot of things more important than that? Like what? I mean, like what, Mr. Leader?

Mr. Speaker, under the Republican plan, as you know, over 12 million children are left with no benefits, none; 178,000 of those kids are children in farming families; 567,000 are children of nurses and orderlies; 337,000 are children of school teachers charged with educating our kids.

And, Mr. Speaker, embarrassingly, the Republican plan hits minority children in particular by leaving out 2.4 million African American children and 4.1 million Hispanic children. Leaves them out.

So, Mr. Speaker, we need to get our priorities straight and decide who we are standing for. If we can help out millionaires, and that is not always a bad thing, but if we can help out millionaires and we have the $93,000 to give to a millionaire in 2003 alone, then we have enough money for a child tax credit to working men and women in this country, especially to our military.

Mr. Speaker, I urge my colleagues to vote for the Becerra motion to instruct.

Mr. BECERRA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from California (Mr. BECERRA). And I just listened to the gentleman from Texas (Mr. SANDLIN) and the gentleman from California (Mr. BECERRA), and the gentleman from Wisconsin (Mr. RYAN) is going to speak later.

I was reminded, as I see what this House has continued to do, to deny the child tax credit to the working families, to the families who have children, but families who are working families, I thought a lot about a meeting I had about a month ago in Akron in my district, where I met with 25 families who had loved ones, sons, daughters, husbands, wives, nieces, nephews, whatever in Iraq. We talked a lot about shared sacrifice.

□ 1945

And I heard a lot from the President about sacrifice and shared sacrifices in this country. When you look at it with this war in Iraq tied to what the gentleman from California (Mr. BECERRA) is trying to do tonight, to help those children in working families who are not making a lot of money, but in working families get some piece of the pie, you realize that this shared sacrifice that the President is asking about is a very limited shared sacrifice. The sacrifice in this country, it is not in the "leave no millionaires behind" program. They are getting $93,000 back in their taxes.

The people making sacrifices in this country are the service men and women in Iraq; the families of the service men and women in Iraq; the veterans who are getting their veterans benefits, education and health care benefits cut because of the leave no millionaires behind program that George Bush has implemented; the students who are not getting the education funding; the seniors who are not getting the prescription drug benefit they should have; and now, ultimately, children in working-class families whose families are making 10 or 15 or $20,000. Those are the people who, unfortunately, are sacrificing in this shared sacrifice program of the President.

So we are subscribing to the leave no millionaire behind program where the average millionaire gets about $93,000 back in their taxes. Half of my constituents, half of Ohioans get zero back in their taxes. These children of working families who are not making a lot of money get zero. So when I hear the President talk about sacrifice, the men and women in Iraq, the families of the men and women in Iraq who are dealing with the anguish and their anxiety of having their loved ones in Iraq and are dealing with budget and financial problems as a result, and especially those children that President Bush just has somehow lost his focus on, makes this motion to instruct from the gentleman from California (Mr. BECERRA) so very, very important.

I ask my colleagues to support the Becerra motion to instruct.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Let me take a few moments to comment on the past speakers. First, I would like to fill in the gaps in the history that was rendered earlier here.

My information says that this is the 17th motion to instruct, not the 25th. We will see. We will have to look into the CONGRESSIONAL RECORD to find that out. Nevertheless, I get a great sense of déja vu right now. But all joking aside, Mr. Speaker, one thing that the speakers who just spoke failed to mention was that on June 12 of this year, the House did pass legislation making the child tax credit immediately refundable going back this year for these families in question.

So one gets the impression from having listened to these speakers that we did not do anything, that we did not pass anything. That is not true.

What this motion to instruct is encouraging is passage of an inferior tax bill from the Senate. What do I mean when I say inferior, Mr. Speaker? They want the child tax credit to go up to $1,000 for these families and then they want to take it away after the next election. It will go up for this year. It will go up for next year, and then the bill that they are advocating to take it away after the next election.

The bill we passed on this floor not only gives these families the full $1,000-per-child tax credit this year, next year but also for the rest of the decade. On top of that, Mr. Speaker, we also do away with the marriage tax penalty, which the bill they are advocating does not address. So I just want to fill in the full story as to what is occurring here.

Now, the other issue that we are hearing about is that we are not doing anything for the military, the kids whose parent are in the military. Now, the most recent history on this issue goes back to about 1 hour ago when we just passed a bill unanimously off the floor of this House to give $1.2 billion in tax cuts to our men and women in uniform who are serving and fighting for us overseas. We just passed the Military Tax Fairness Act probably not even an hour ago off of this floor, and it is now going to the President's desk to be signed into law. So to suggest that the men and women in the military are all of the sudden being left out of tax relief is just not true, it is not accurate; and an hour ago we just fixed those problems. So that is an issue I just also thought would be important to fill in the gaps of the historical rendition that we have been hearing today.

Now, as to the issue of, and this is an accuracy that I think needs to be pointed out, as to the issue of whether or not these families are paying the taxes and they deserve the tax credit or not, these families, mind you, Mr. Speaker, do not pay Federal taxes. Their FICA taxes are offset by the earned income credit. They do not pay income taxes. Nevertheless, Mr. Speaker, the bill the House passed on June 12 did give these families, regardless of the fact that they do not pay FICA taxes which are offset by the EIC or income taxes, a cash benefit or bonus in the form of a refundable tax credit to the tune of $1,000. Again, not this year and next year, but for the rest of the decade.

Now, the other issues that have been brought to the floor were more general issues about the tax bills. You have heard the things about tax cuts for the wealthy and that tax cuts hurt the economy. Let us go back into the revision of history that we just heard about the tax law that passed earlier this summer.

Now, it is important to note that two-thirds of the top income tax bracket, the people who filed those taxes are not millionaires sitting on their yachts sipping champagne. Two-thirds of the top income tax bracket are small businesses who are the driving force of job creation in this economy. Seventy percent of the jobs we get out of this economy come from small businesses. Two-thirds of that tax bracket are small businesses. We were taxing small businesses at a tax rate higher than what we taxed large corporations in America. So before the last tax bill went into place on July 1, we taxed small businesses at a rate of about 40 percent, when we taxed IBM and General Motors and Chrysler and all these other companies at 35 percent. That was ridiculous.

Why should we be taxing small businesses in this country who are the engine of economic growth and jobs in this country at a higher tax rate than we are taxing the largest corporations in America? That is why we cut the tax across the board on individual income taxes. That was good. That is a good thing to do. It is not a tax cut for people who own yachts. It is a tax cut for people who have jobs and provide jobs in this economy.

Now, what has happened since that tax bill passed? Many of the speakers have been saying it is driving a hole in the deficit; it is actually hurting the economy. That tax bill passed on July 1. The third quarter of this economy started on July 1 and ended on September 30. What happened immediately after that tax bill passed? The economy grew at 7.2 percent. I repeat: during that period, the third quarter, the economy grew at 7.2 percent. That is the fastest economic growth quarter in this country in 19 years, in 19 years, Mr. Speaker.

Our economy grew right after this tax cut passed into law in the fastest quarterly growth in 19 years. That creates jobs. What happened to the deficit at that period, Mr. Speaker? The deficit went down by $80 billion. So what we see when that happened was when we cut taxes, not only did the economy grow, not only did a lot of wealth that was lost in the stock market come back because the stock market grew, but because the economy grew because people are going back to work because 72,000 people got jobs last month, people are paying taxes. The economy is growing and more remedies are coming into the Federal Government and the deficit is going down.

So just look at the facts and you can tell that tax relief works, that tax relief across the board, especially on small businesses, works; and the proof is in the statistics. The economy is growing. It is growing very fast. Jobs are being created. Jobs are coming back, and people are paying taxes who otherwise were not paying taxes and the deficit is going down.

Now, we have got to keep that going. And the last thing we want to do is roll back these tax cuts. What this motion to recommit is suggesting to do is pass these tax cuts and then yank them out from under the taxpayers after the election. The last thing we want to do in this economy is in the year 2005 raise taxes on people. Take the child tax credit down by $500 and stop that tax payment to all of these families.

Mr. Speaker, I think this is the 17th time we have had this motion. Whether it is the 17th time or the 25th time, what we are trying to accomplish is tax relief. We passed the bill. It is a better bill. That is the bill we are trying to get into law. I hope the gentleman who is a good guy, who is my friend on the Committee on Ways and Means, would join us. If we linked arms, we could get all of these things done and make a difference, and these families could have this tax cut for the rest of the decade, not just until the next election.

Mr. Speaker, I yield back the balance of my time.

Mr. BECERRA. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. PEARCE). The gentleman has 13 minutes remaining.

Mr. BECERRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is a lot of what the gentleman from Wisconsin (Mr. RYAN) just said that I agree with, and I just say that he is one of those Members that I think does a very good job of crystallizing many of the issues. But I have to say we part company in a couple of areas.

First, there was a bill that was proposed in this House by the Republican majority to address the $3.5 billion exclusion of those 6½ million families that earn between $10,500 and $26,625. That is very true. But to get that $3.5 billion fix, what my friend from Wisconsin forgot to mention is we had to swallow an additional $79 billion in tax cuts that went unpaid for, that went principally to wealthy individuals. That I think is what makes it tough.

Mr. RYAN of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. BECERRA. I yield to the gentleman from Wisconsin.

Mr. RYAN of Wisconsin. Just a point of clarification. The reason that costs much more money is because we make those tax cuts permanent throughout the decade, and we do not yank them back at the end of the election. We actually put these tax cuts, like repealing the marriage penalty and the child tax credit, in place for 10 years. That is why the bill costs so much more money.

Mr. BECERRA. Reclaiming my time, I thank the gentleman for that point of clarification; but again, there was more to the bill than just that. It was not just an expansion of the types of tax cuts that would sound very appealing to America. There were tax cuts, again, unpaid for that went to folks that would benefit to the exclusion of the vast majority of Americans because they went principally to wealthy folks or to large corporations or to businesses that were not necessarily American-owned businesses.

As a result, it was very difficult for many Members, including Republicans, to swallow a tax cut of $82 billion unpaid for to try to correct the problem of $3.5 billion. At the time we were being told that the budget deficit might reach more than $400 billion. That is why the Senate did not take up the House version that would cost $82 billion and instead did the right thing, did what the President asked, passed a bill that provided tax relief to the folks, the 6½ million families that were excluded in the May tax bill, $350 billion tax bill that passed.

So do not put apples with oranges. It does not take $82 billion to correct the injustice, the injustice to the 6½ million families that were excluded from the expanded child tax credit. It takes only $3.5 billion, which is quite a bit of money when you are running deficits.

It is true, there is better news. The budget deficit is $80 billion less than we expected a few months back. So today we are being told the budget deficit for fiscal year 2002 was only $370 billion, the largest deficit this country has ever had. And that is good because we were lucky. It was supposed to be $450 billion. Next year we are told it is going to be about 500 billion.

Whoopee, we should be really happy, I guess, that it is not $450 billion. So on top of the $350 billion that we have confirmed, that we have in budget deficit for the fiscal year, we should add another $82 billion to correct a $3.5 billion problem for folks that make $10,500 to $26,500, giving most of the benefits of the $82 billion in tax cuts to not those 6½ million families, because it only costs $3.5 billion to fix it for these 6½ million families.

That is not the kind of math that my 8-year-old is learning, and I hope she never learns that kind of math.

Now, the sunsetting of the $1,000 tax credit that my friend from Wisconsin mentioned, that is true. Our bill did sunset it because it was your bill that sunset it first. In fact, it was the Republican bill that became law that sunsets the child tax credit at $1,000 after 2 years.

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That was not our doing. That was what the Republican majority chose to do. It was the decision of the majority to make it sunset, to close out, to be yanked away as the gentleman said after 2 years.

If we could find a way to pay for it, we are willing to extend it, but we are not going to continue to give someone today a child tax credit of $1,000 who makes over $150,000 and then put the burden of the deficit in the budget over the years and years to come on the shoulders of the people who did not get anything who are earning $20,000. That is unfair. It is, again, giving to Peter the rich at the expense of Paul of the modest income. That is not fair.

Military family tax relief, just about every one of us today, just as the gentleman mentioned, voted for that tax relief bill for our military families, but why did it not include this provision that we are debating right now on the child tax credit? It did a lot of good things. That is why a lot of us voted for it, and we have been waiting for months for that to get through because the military families have been waiting for some of those benefits that are in that bill that passed, but why did it exclude this provision which could have put money in the pockets of the spouses who are today waiting for their spouses to come back from combat in Iraq or Afghanistan? Probably no more than $600, $500 for families making $20,000 or less. Why could we not have put that in the bill? That again was excluded not by our choice.

I agree, small businessmen and -women do not typically go out on a yacht and sip champagne, and I would be willing to join with my colleague right now and say that all of those small businessmen and -women who do not have yachts and sip champagne on those yachts deserve to get some tax relief, absolutely, but that is not who we are talking about, because the tax relief that was given in the $350 billion tax bill of May of this year gives some of those millionaires enough to put a good down payment on a yacht. When a person gets $93,500 in tax cuts that is enough to put probably, I do not know, I am not sure how much a yacht costs, but it is probably enough for a sizeable down payment on a yacht.

Job numbers. Great to see that the economy may be getting better, may be getting better, but I hope this is not one of those economic recoveries without jobs. A jobless recovery will not do anyone any good. We have lost more than 3 million jobs in the last 3 years, and we have seen too many American workers lose all of their money through Enron-type scandals with their pension funds, and it is time for us to do something differently.

Mr. Speaker, with more than 146,000 jobs in the last quarter gone in our payrolls, it is hard for anyone to believe that America is today now turning the corner, and when we look at our States, whether it is my State of California, which has 880,000 families who were excluded from the child tax credit relief by this legislation, by the acts of the House majority leadership, or whether it was Wisconsin, which has 74,000 families that were excluded from relief, among those 143,000 Wisconsin children, about 11 percent of the families with children under 17 in Wisconsin excluded from child tax credit relief as a result of the inaction in the House to match the Senate.

We are seeing families continue to suffer. When we talk about 3 million people who have already lost their job in the last 3 years, and here we have 6½ million families that are willing to work rather than give it up, and say I am going to go on welfare, I can probably make just as much on welfare than the $10,500 I make on a yearly basis at this job, instead of trying to give them a reward, an incentive to continue that, we are saying no to them. Yes, to the guys that make over $150,000 to get a child tax credit expansion. Yes, to millionaires who get more than $93,500 in tax relief out of the $350 billion tax cut bill that went mostly to the wealthy, but no, to these 6½ million families. It just does not make sense.

Mr. Speaker, I could give my colleagues numbers for every one of the 50 States in America that has several hundreds of thousands of families who will not benefit, who did not benefit from the passage of the tax bill that excluded relief in the expansion of the child tax credit, for these working, tax paying and, in many cases, military families, but I would be repeating what has been said at least 24 other times.

I believe it is time, Mr. Speaker, that we move and match the Senate, and by the same numbers that the Senate did it, by a 98 percent margin vote in favor of giving a child tax credit to those 6½ million families, so those 12 million children know they are as wanted in America as the other children in America who did qualify for the child tax credit expansion, and we can do it without breaking the budget and do it in a way that relieves this economy of its doldrums and gets us back to work.

With that, Mr. Speaker, I would hope that we could reach across the aisle, work together, pass a bill that would cost only $3.5 billion, not $80 billion, match the Senate, get it passed, let the President sign what he said he wanted to sign, and then give those families what they deserve for a long time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEARCE). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. BECERRA).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BECERRA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mrs. CAPPS. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mrs. CAPPS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 1, be instructed as follows:

1. To reject the provisions of Subtitle C of title II of the House bill.
2. To reject the provisions of section 231 of the Senate amendment.
3. Within the scope of the conference, to increase payments for physician services by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions.
4. To insist upon section 601 of the House bill.

Mrs. CAPPS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XX, the gentlewoman from California (Mrs. CAPPS) and the gentleman from Florida (Mr. BILIRAKIS) each will control 30 minutes.

The Chair recognizes the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my motion would do three things. It would instruct conferees to drop privatization language from both the Senate and the House bills. It would direct any savings derived from dropping these provisions to pay for increased physician fees, and finally, the conferees on the Medicare bill would be instructed to protect the language in the House bill that provides for a small increase in Medicare payments to doctors for the next 2 years.

Essentially, this motion would tell the conferees to reject an untried proposal that would jeopardize Medicare and, instead, spend our precious resources to make sure that our doctors will be able to see their patients.

Mr. Speaker, in 1965, we established Medicare because the private insurance industry demonstrated that it could not provide affordable access to needed health care for seniors. I recognize the power of the market, but in trying to provide for the health care to senior citizens, this market falls short.

Our recent experience with Medicare+Choice just shows how true that is. Just 2 weeks ago in Ventura County, California, two private plans serving seniors pulled out, leaving these seniors with no more HMO service. Covering Medicare beneficiaries is too expensive for private plans to justify to their investors, and this is especially true in rural areas where the low population and the short number of providers has proved too high a hurdle for private plans, but in spite of this experience, proven now over many years, the House bill would turn Medicare into such a voucher program.

The Senate bill would simply pay HMOs more per beneficiary than traditional fee-for-service Medicare costs. Basically, it would bribe them to take care of these patients, but if these plans cannot provide the same care as Medicare for less, why would we want to pay them more? Why not just stick with traditional Medicare? This idea is a waste of money, and both approaches would drive premiums for Medicare beneficiaries way up.

The chief actuary of Medicare estimates that under the House bill, premiums would rise by 25 percent under this provision. This would force many beneficiaries to join HMOs and other plans since they could not afford to stay in traditional Medicare any longer, and so these provisions would end the Medicare program that has worked now for nearly 40 years, the Medicare program in which our seniors have such great faith.

Medicare under this plan will be replaced with the program where the health insurance industry itself decides how much a senior will pay and what kind of care they will get, and a senior's cost-sharing and premiums would no doubt change from one area to the next and perhaps from 1 year to the next.

Seniors have paid their payroll taxes all their lives. They were promised that Medicare would provide them with health care no matter where they lived, and now, they see that some in this place are trying to change the rules of the game on them.

AARP is strongly opposed to these kinds of changes, and so is the National Committee to Preserve Social Security and Medicare. These organizations are devoted to protecting America's seniors, and they believe that this is a mistake. They think these resources should be put to better use, and so do I.

I think instead of finding new and faster ways to funnel money to private health insurance plans, we should be shoring up the providers who actually treat and provide health care to our constituents, our physicians. In my District and all across this country, doctors were stunned to see a 4 percent cut announced for next year. This latest cut comes on top of the 5.4 percent cut in 2002. The net result of these cuts would put doctors' reimbursements at 8 percent below their 2001 levels, and it would represent the fifth reduction since 1991.

Payments between 1991 and 2004 will have fallen 19 percent behind inflation in practice costs even using Medicare's own conservative estimates.

These cuts are indefensible.

We are already having a hard time keeping enough doctors and other health care providers to care for the public in many areas of the country.

A number of surveys have indicated physicians increasingly are limiting how many Medicare patients they see and that more will be forced to do so if payments are cut again.

Medicare cuts have ripple effects into non-Medicare health care, because it makes it harder for health care institutions and for rural areas to attract and keep their doctors.

We simply cannot afford another round of cuts.

So this motion would also instruct the conferees to protect the language in the House bill that would give doctors a 1.5 increase in payments for the next 2 years. Though this is a small increase, it is much better than the cut physicians were facing.

The motion would also direct conferees to take the money that would have been spent on privatization to be spent on increasing these physician fees.

This motion is a very simple choice. Do we want to pay the HMOs more money so they may or may not cover our constituents, or would we rather put that money to use ensuring that there are enough doctors, the true professionals, who treat America's seniors and those with disabilities?

I urge my colleagues to choose our doctors and their patients over the insurance industry. I urge them to support this motion and make clear where they stand.

Finally, Mr. Speaker, I just want to note how unfair this entire conference process has been. The ranking members of the committees of jurisdiction, members of the conference and Representatives of hundreds of thousands of Americans are not even allowed in the room to be heard on this bill. The voice of the minority is a very important part of our public debate.

This exclusionary, undemocratic process that disenfranchises more than 100 million Americans is all too common up here.

Comprehensive and controversial changes like this bill cannot be sustained without the broad bipartisan support that this bill lacks.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I appear to be the only speaker on this side. I do not know how many speakers the gentlewoman has.

Mrs. CAPPS. Is the gentleman reserving the balance of his time at the moment?

Mr. BILIRAKIS. Mr. Speaker, what I would like to do is reserve the balance of our time and be the last speaker, just before the gentlewoman's closing.

Mrs. CAPPS. That is very fine.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BROWN), the ranking member of the Subcommittee on Health on the Committee on Energy and Commerce.

Mr. BROWN of Ohio. Mr. Speaker, I appreciate the work that my friend from California (Mrs. CAPPS) does on all kinds of Medicare issues, from what she has done today with the nursing shortage to intercity hospitals and everything in between.

I also support and appreciate the good work that the gentleman from Florida (Mr. BILIRAKIS) has done on a whole host of Medicare issues, and I know from working with the gentleman from Florida (Mr. BILIRAKIS) of his personal support for Medicare, his belief in Medicare. Unfortunately, though, the beliefs of my friend on the other side of the aisle does not always play out in support for Medicare by some other members of the Republican conference.

I remember hearing the gentleman from California (Mr. THOMAS), the chairman of Ways and Means, the principal player on this conference committee that the gentlewoman from California (Mrs. CAPPS) talked about, more than 50 percent of American people, Senate and House, are simply not allowed in the House. More than 50 percent of the Senate, 48 percent of the people represented by House Members, but the gentleman from California (Mr. THOMAS) has said he wants to end Medicare as we know it.

All we have got to do really is look back on the history of this program, and while the gentleman from Florida (Mr. BILIRAKIS) does indeed care about Medicare, wants to continue to make it work, wants to preserve it, so many of his fellow Members, including people in the White House, simply do not.

The President, some months ago, said that he wants to do a prescription drug benefit, but he said if you want a prescription drug benefit, you have got to get out of Medicare, and you have got to let the insurance industry do it.

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That has really been the thrust from President Bush to the gentleman from California (Mr. THOMAS) to Speaker Gingrich a few years ago, to back in 1965, Republicans really wanted this system turned over to the insurance companies. Privatize Medicare and give it to the insurance industry. Go back to 1965, out of roughly 200 Republican Members of the House and Senate, only 23 voted for the creation of Medicare. Gerald Ford in 1965, a future President, voted against it. Congressman Dole, future Senator Dole, Republican Presidential candidate, voted against it. Senator Strom Thurmond voted against the creation of Medicare. Congressman Donald Rumsfeld in 1965, later Secretary of Defense and the architect of this plan, I put in quotation marks, of the rebuilding of Iraq, voted against this creation of Medicare.

Then in 1995, the first time Republicans had an opportunity to do something about Medicare, the Republicans under Speaker Gingrich tried to cut it by $270 billion in order to give a tax cut to the most privileged Americans, the same old story. Speaker Gingrich said in October 1995 that he hoped Medicare would wither on the vine.

Senator Dole in October 1995 said, that I was in there fighting against the creation of Medicare because we did not believe in it. The next year he was a Republican candidate for President.

Dick Armey, sometime later, said about Medicare, in a free capitalist country, we would not have a socialist program like Medicare. And a Republican Congressman from Georgia recently said, I heard in the Committee on Rules, said that Medicare is a Soviet-style program.

They are free to think what they want about Medicare, and the more power to them. If they do not like Medicare, that is their business, but do not come on the floor like so many Republicans have, and I accept the gentleman from Florida (Mr. BILIRAKIS) because he believes in this program, but so many Republicans come to the floor and say I believe in Medicare. I have a mother and father, and I care about them, and I care about Medicare. Sure, they care about their mother and father, but they simply do not much like Medicare. They want to privatize it and end it as we know it. They want to turn it over to the insurance companies.

Mr. Speaker, that is why the motion to instruct by the gentlewoman from California (Mrs. CAPPS) is so important to send a message to the conference committee and to send a message to the American people that Medicare works and we do not want it turned over to the private insurance industry.

Mrs. CAPPS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I rise in support of this motion by the gentlewoman from California (Mrs. CAPPS), who has done fantastic work in this area.

This motion instructs the Medicare conference committee to reject the controversial and risky privatization scheme of premium support and reallocate that money to increase the payment to physicians who care for Medicare beneficiaries.

Let me first discuss the issue of premium support and why I am concerned that this scheme could potentially dismantle the program of Medicare. I am concerned about subjecting a proven health care delivery system like Medicare to the uncertainty of the private market. I am especially hesitant about the system that relies on HMOs to provide this service to our seniors.

In my home area of Merced County, there is not one Medicare+Choice plan that my constituents can participate in. HMOs have made it abundantly clear that serving the rural areas and serving rural America is not profitable; and, therefore, they have pulled out of those regions in a mass exodus. Now the House bill relies on these private plans to provide services for Medicare beneficiaries. It just does not make sense.

Additionally, since its inception, Medicare has been a defined benefit system for which seniors pay a guaranteed premium each month and receive a guaranteed benefit.

In the House Medicare proposal, seniors' health care costs would be subsidized in the form of a voucher which they could then use to buy coverage in the private market. Their benefits can vary widely. Their choice of doctors can be restricted. Some services may not be covered, and so and so forth.

In theory, this system is supposed to cut costs by introducing competition into a Federal entitlement program. Unfortunately, all this plan really does is pass the costs of health care on to our constituents.

The basic foundation of Medicare is that we are all in this together and that everyone shares the risk. With premium support, the risk stays in the Medicare pool while healthy beneficiaries are picked off by private insurance companies in order to make a profit.

Seniors do not want this. They do want their choice of doctor, they do want a choice of hospital, and most importantly, they want to be able to afford their health care. So let us not take a gamble with our seniors. Let us use the money that we will save by striking this provision and put it toward something more tangible. If we increase payments to doctors who see Medicare patients, we will ensure that they continue to offer the highest quality care and not be forced to drop Medicare patients because the system cannot cover the basic cost of their treatment.

Mr. Speaker, physicians are being forced out of providing services to Medicare patients at an alarming rate. In fact, CMS just announced they would be imposing a 4.5 percent reduction in physicians' Medicare reimbursements effective January 2004. This is a disservice to our Nation's doctors and to our seniors. I urge a "yes" vote on this motion.

Mrs. CAPPS. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. DEFAZIO), whose rural district has faced the experience of having insurance companies up and leave.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman for her leadership on this issue.

It is a funny thing here, we are being told that the Republicans want to inject competition into the insurance market. Well, if they really want to do that, why do they not support my bill to lift the antitrust exemption from the insurance industry? The only industries in America exempt from antitrust law who can and do get together in private resorts on an annual basis to collude, to fix prices and red line out a whole bunch of potential clients is the insurance industry and, of course, professional sports. These are the only industries in America in a country of capitalism and competition who are exempt from any restriction on collusion.

Now we are going to throw our seniors onto the tender mercies of this collusive, anticompetitive industry. Oh, that is great. My seniors already had this experience. We had Medicare+Choice, HMOs. Oh, this is going to be great. You are going to get more benefits than under fee-for-service. Well, the companies were not able to collude and set the prices quite high enough to satisfy their profits, so they up and left with very little notice. My seniors were left in the cold.

Now what we are going to do is not only recreate that structure which has already failed the seniors of America once, to throw them on the mercies of an anticompetitive and collusive industry that does not give a darn about them, but now we are going to jigger it even a little more so it can destroy the Medicare fee-for-service plan, to which my seniors returned when they were screwed by the insurance industry. That is right; they were screwed. Suddenly you do not have an HMO plan any more, tough luck, we do not care. They could at least go back to Medicare fee-for-service.

But under this plan, it is beautiful. They are not going to have that option anymore because it is going to undermine the fee-for-service plans. It is a little thing called adverse selection. We are going to let the private, anticompetitive, collusive insurance industry cherry-pick the people they want to cover for as long as they might want to cover them. You can get a policy for a year; but if you get sick, next year we are not going to renew your policy. That is the way this industry works.

Mr. Speaker, Members need to talk to their constituents. It is happening to people who are young, people with small businesses. Someone gets sick, we cannot renew your policy. Or we can renew your policy, only there is a 400 percent increase in premiums. That is what they are going to do to seniors because this thing is even more dastardly because it is going to destroy the core problem because we will leave the oldest, the sickest, and the ones that the collusive insurance industry does not want to cover over here in the Medicare fee-for-service, and make them pay more for it. We are going to make them pay more for it.

So this is a great option for seniors. Either the collusive industry that does not want to cover people who are sick or incurring costs will offer you a deal, or you can go back over here to Medicare which we have undermined and jacked the premiums up dramatically. That is the so-called choice in competition that the Republicans are offering the seniors of America.

Mr. Speaker, this is just an incredible travesty for this House and for the people's Representatives to even pretend that this somehow is going to improve coverage for our seniors.

Mr. BILIRAKIS. Mr. Speaker, I reserve the balance of my time.

Mrs. CAPPS. Mr. Speaker, I yield 3 minutes to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I come here tonight in order to urge the House to support the gentlewoman's motion. It is absolutely clear that the Republican bills, both in the House and the Senate, do encourage people to move away from traditional fee-for-service Medicare. As the gentleman from Ohio (Mr. BROWN) said earlier, when asked on a television program about the damage that these proposals might do to traditional Medicare, the gentleman from California (Mr. THOMAS), the Chair of the Committee on Ways and Means said, "I certainly hope so" when asked if it would destroy Medicare as we know it.

But let us look back at what is happening in the State of Maine. In Maine today there is no private sector health insurance for people on Medicare. It is all Medicare fee-for-service. So when people in Washington say we are going to change your health care system, we are going to move people out of traditional fee-for-service into insurance company coverage, well, they are going to have trouble persuading people from Maine that makes any sense.

I speak from personal experience. Both of my parents passed away in the last couple of years. But before they did, in their mid-to-late eighties, they spent 1 year on a plan called Golden Care, a wraparound private insurance plan that included Medicare. It was not golden; it was a nightmare because the insurance company did what insurance companies do: deny coverage. My mother would go to the doctor. She thought she had authorization, and it would come back and the claim would be denied. That is what insurance companies do. We cannot let that happen to seniors on Medicare.

My chief of staff has a father who spent most of the last 10 days in the hospital. He had a very serious heart problem. He was in for one test after another test. He was in overnight. His situation on more than one night was extremely grave. At one point, finally, after a week in the hospital with round-the-clock care, he looked up at his wife and he said, thank God for Medicare. Thank God for Medicare.

What the Republican bills are doing is making sure that Medicare as we know it gradually withers on the vine and that it is replaced by your friendly insurance company.

I do not have a single constituent in Maine who has ever come to me and said I am ready to give up the choice of doctors and hospitals under Medicare, but what I really want is a choice of insurance plans. Send me those brochures, those insurance plans, that is what seniors want at 85 years old. I do not think so. Save Medicare, support the motion.

□ 2030

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Ohio, particularly for his kind remarks. I rise in opposition to the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS). This is just the latest, I think, in a long line of motions to instruct that hurt our ability to finish our Medicare bill and provide prescription drugs to seniors. I am going to focus my remarks principally on the comments made of saving money from taking money away from the H.R. 1 program, if you will, and putting it into providers.

I have been a tireless advocate of fixing the formula that the Centers for Medicare and Medicaid Services uses to annually update Medicare payments to physicians. In fact, I introduced a bill in late 2001 that would have prevented that 5.4 percent cut in physician reimbursements under Medicare that went into effect in 2002. I believe the gentlewoman was supportive as were others. Physicians were slated to receive another cut, this time of 4.4 percent, were it not for congressional action that corrected flawed data in the update formula and provided physicians with a 1.6 percent update for 2003.

However, persistent flaws in the update formula mean that physicians are looking at negative updates next year and through 2007, and this motion to instruct does not fix that. It makes no sense, and the others have said it, it makes no sense that we would be cutting payments to our Nation's doctors at the same time that their costs are rising.

That is why the House bill contains provisions, and if this bill goes down, those provisions will not be applicable and the increases that we are all talking about would not take place.

That is why the House bill contains provisions that will ensure that physicians will see their reimbursements under Medicare, rather than cut by 4.4 percent, would be increased by 1.5 percent in fiscal years 2004 and 2005. This will provide Congress with the time that it needs to make long-term reforms to the Medicare physician payment update formula so that physicians can count on predictable, rational payments from Medicare. It will also avoid a major physician access problem for Medicare beneficiaries.

I would note, Mr. Speaker, that a number of organizations representing America's physicians, including the American Medical Association, the American Osteopathic Association and the Alliance of Specialty Medicine all strongly support the House bill. I would quote from an October 30, 2003, letter from the American Medical Association. I believe the minority is aware of this. The last few lines basically say:

> Pending Medicare payment cuts must be addressed now, not in 2010, which is basically what the instructions go to, and the flawed payment formula must be addressed through replacement of the formula. Simply attempting to transfer dollars from patients to physicians through some ambiguous, unspecified mechanism, as is intended under the Capps motion to instruct, would not change the flawed Medicare payment formula, and thus would not ensure long-term access for Medicare patients.

I received another letter dated the same date, October 30, from the American Osteopathic Association. It starts out:

> On behalf of the 52,000 osteopathic physicians represented by the American Osteopathic Association, I write to thank you for your efforts to reform and improve the Medicare program. The AOA applauds the consistent effort by the committee and their staffs to finalize a legislative compromise that will improve the health care of millions of Medicare beneficiaries. We encourage the committee to complete work on the pending conference report, enabling both Chambers to approve the legislation before the end of the year.

In the next paragraph it finishes up by saying:

> Additionally, section 601 of the bill includes reforms that reduce the future economic volatility of the physician

payment formula. These provisions have strong bipartisan, bicameral support. We urge their inclusion in the final conference report.

It goes on the next page:

Given budget constraints, the AOA understands that a long-term solution for the physician payment issue could not be included in this legislation, and I add to that my own comment, unfortunately. However, we believe strongly that section 601 provides short-term relief that will allow physicians to continue participating in the Medicare program, preventing an increase in access problems for Medicare beneficiaries. Furthermore it provides Congress ample time to develop and implement long-term reforms of the Medicare physician payment. I would add parenthetically, in my own words, that I would hope we could work together with the minority to fix that terrible, terrible, unfair formula.

We received another letter from the Alliance of Specialty Medicine basically saying the same sort of thing in a different way. It is signed by the American Academy of Dermatology Association, American Association of Neurological Surgeons/Congress of Neurological Surgeons, American Association of Orthopedic Surgeons, American College of Cardiology, American College of Emergency Physicians, American College of Radiology Association, American Gastroenterological Association, American Society for Clinical Pathology, American Society for Therapeutic Radiology and Oncology. American Society for Cataract and Refractive Surgery, American Urological Association, National Association of Spine Specialists, Society of Thoracic Surgeons.

Mr. Speaker, I would also note, and I hate to put it this way, but if my friends really would like to help America's physicians and, yes, I appreciate the fact that they are on our side in terms of trying to have an increase rather than that great, terrible decrease, then I would recommend that they support, or at least favorably, objectively, open-mindedly look at the balanced liability reform like H.R. 5, which is the HEALTH Act. The gentlewoman from California voted against this legislation. I do not question that she wants to help the providers. I certainly do not. But those people who voted against this legislation, I would like to think they basically did so with a closed mind which America's doctors so desperately, desperately need.

I have heard a number of charges that Congress is considering handing Medicare over to the HMOs. That is not what the House did at all in the Medicare reform bill that we passed.

What the House did do was to improve the Medicare+Choice program and set up a new system. It has been said that people have been dealt unfairly by virtue of losing their HMO because they moved out. That has happened in my district in Florida, too. I have reprimanded and I have admonished as far as that is concerned but, my gosh, if that is the case, then those programs apparently were liked. They were liked by the particular patients. They are distressed because they have been taken away. Their Representatives are standing on the floor of the House here and complaining that they have been taken away. So there must be some good to them. I am not sure that I would have recommended any of them to my parents, but that is my personal choice.

What the House did do was to improve the Medicare+Choice program and set up a new system that will encourage regional plans to offer seniors another choice besides traditional Medicare. It is my hope that this will extend new choices to folks in rural areas who have not had a choice in Medicare before.

I talked to the gentlewoman from Florida (Ms. CORRINE BROWN) on the floor of the House during our last series of votes. We talked about this. I said, what we're basically saying is let's be open-minded. Let's be objective. Let's take a look at new ideas. They may not be any good. There may be some good to them, there may be some bad to them, but let's be open-minded. That is basically what I was pleading. That is what we are trying to do in the conference. We are going back and forth. It is a bipartisan thing.

I remember one of the most important gentlemen, the longest in seniority in the House basically calling a particular piece of legislation he introduced bipartisan when there was one Republican who cosponsored that legislation. So he called it bipartisan. We have two Senators in these gatherings. That is pretty darn bipartisan, I would say even more so bipartisan. But what the House did not do, and I would never support, and I very much appreciate the gentleman from Ohio making those comments, is force seniors to leave traditional Medicare. I feel very strongly about that. There are a lot of lengthy, sometimes heated discussions taking place regarding that. Any statements that characterize the House bill in any other way are, I say without any hesitation, 100 percent false.

I would have voted, Mr. Speaker, in the mid-sixties, I like to think I would have if I had been in the House at that time, to establish the concept of Medicare. My parents, along with so many others, took advantage of it. They are both gone now. I certainly look forward to retiring one of these days and taking advantage of it. I am concerned that it be a viable system, it is a system that is hurting right now, but be a viable system.

The reality that we are all facing and that many folks here in Congress seem to not want to address is that reforms must be made to ensure that Medicare continues to exist. It is a great program. There is no question about it. In my opinion it is. I say that. I do not hesitate. There are faults in it. It has got to be reformed. Anything that has been in effect for something like 40 years has got to be looked at again and possibly some changes made. We have got to ensure that Medicare continues to exist for future generations. As we add a $400 billion benefit, a $400 billion drug benefit to a program that already has, we forget this, do we not, $13 trillion in unfunded liabilities, we have got to take a serious look at how we can place the program on a sound financial footing for the future.

The House and the Senate did take different approaches in trying to meet this goal. We are currently working through those differences, but I want to emphasize and what I do want to emphasize, and really emphasize, is that none of those options involve forcing any senior to ever leave traditional Medicare.

Conferees are working around the clock, almost literally around the clock. We meet again tomorrow. We will meet Monday and Tuesday, on Veterans Day. My veterans back home will not be happy to hear that, but we will be up here meeting Monday, and we will be meeting on Tuesday and there is a possibility, a very strong probability, we may not have any votes in the House next week, but the conferees will be here as we were during the last few days when we did not have any votes for 3 days during the particular week.

We are trying to reach a compromise on this issue. I am hopeful that we will emerge with a conference report that will add a new prescription drug benefit that will be available to all Medicare beneficiaries but be voluntary, provide seniors with new choices under Medicare and reimburse our health care providers, including physicians, fairly, so that beneficiaries will continue to have access to high quality care.

Mr. Speaker, the gentlewoman means well, and we have worked well together in the past, but I submit that this motion to instruct will not help us to meet that goal. I urge my colleagues to oppose it.

Mr. Speaker, I yield back the balance of my time.

Mrs. CAPPS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank my colleague from Florida. I do appreciate his discussion about the importance of supporting our physicians and our Medicare providers. I have noticed his leadership in the past of restoring the cuts that have been coming with a steady drumbeat since 1997, really, and have gone to the bone in terms of their ability to stay, delivering Medicare to our seniors and our citizens with disabilities. I support his efforts to do that as well.

That is what this motion to instruct conferees is all about. It is about the ability to keep that 1.5 percent that is already in the underlying bill and to perfect the bill, to make it something that we can support in a bipartisan fashion, by taking the funding that would be used for the privatization that would be used to subsidize the insurance companies to deliver Medicare services, amounting to $6 billion, and put that funding right away instead to the providers who need this kind of support.

Mr. BILIRAKIS. Mr. Speaker, will the gentlewoman yield?

Mrs. CAPPS. I yield to the gentleman from Florida.

Mr. BILIRAKIS. That $6 billion, as I understand it, is in the Senate version. There is no money contemplated in terms of a cost in the House version. But in any case I do not disagree with her on this $6 billion.

Mrs. CAPPS. We are assuming the Senate bill will have some play in the discussion that is perhaps going on in the conference committee at the moment, and that is where we would urge the attention of the conferees to be put, that there is funding that has been set aside in the Senate bill that would make quite a difference in Medicare providers being able to stay, particularly in rural areas to continue to deliver the service.

I have seen the statement of the AMA and the osteopaths on this motion to instruct, and I need to say clearly for the RECORD that these letters do not describe correctly my motion to instruct. My motion to instruct supports the AMA position on physician fees. This motion explicitly supports the provision in the House bill that provides immediate assistance to doctors. In no way does it delay or support a delay in fixing the physician fee problem. Despite what the AMA and other groups have said, this motion does not delay permanent actions on fixing the sustainable growth rate. This motion does not address a long-term fix, but neither does the House bill.

The reason the House bill does not have a long-term fix is because it is very expensive. My motion would prevent the conference from spending money on risky privatization schemes when that money should be used to help finance a long-term solution to the physician fee problem. I believe the AMA must have been reading a different motion. Their statement says we are taking money from patients to give it to physicians. It could not be further from the truth.

□ 2045

Section 231 of the Senate bill has the Federal Government paying private plans, not patients. I frankly think that patients would be better served if that money went to their own doctor than to bribe some private plan to pay for their services or to play in the field.

I am disappointed that the AMA has so inaccurately described my motion, and I hope this is an inadvertent mistake. I have work very closely with the AMA and other professional groups on the problem of physician fees; and recently I brought Tom Scully, the administrator of Medicare, to a meeting of doctors in my district. The motion I am offering today is designed to respond to the concerns that they raised in that meeting with Administrator Scully. The AMA is wrong about what my motion does, and their position does not reflect the position of doctors in my district.

In addition, I wanted to address the gentleman's comments about leaving traditional Medicare in place. This House bill, which we have dealt with in the House before, will lead to rising Medicare part B costs because it would leave the sicker patients in traditional Medicare, while healthier seniors will go to HMOs. We have seen this in the Medicare+Choice plans, and we will certainly see it in a plan such as is proposed in this underlying bill. This is going to lead to much higher premiums for those who remain in Medicare. Seniors who do not want to join an HMO will be forced to because their premiums will be to expensive.

Mr. Speaker, this is a clear and very simple choice. On the one hand, we have HMOs and the insurance industry. On the other hand, we have the doctors who administer care, who know how to do this every day under Medicare, and their patients. The House and Senate bills seek to impose an untried and unnecessary privatization scheme onto Medicare. They will overpay HMOs in a bribe to get them to cover beneficiaries. These provisions would force seniors into private plans and drive up the premiums on those who stay in traditional Medicare. It would mean that seniors in different parts of the country would be paying different amounts for the same care. Instead of jeopardizing the Medicare system in this way, we could be ensuring that Medicare beneficiaries could see their doctors by making sure that they are reimbursed appropriately.

Support this motion to instruct to be sure that conferees support doctors over HMOs and protect our constituents from ill conceived changes.

So that is the motion to instruct conferees that we have proposed and that we hope will be passed in this House of Representatives so that the conferees will take seriously these recommendations to improve the underlying Medicare bill and make it something that could receive bipartisan support in the House of Representatives.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PEARCE). Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. CAPPS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE WAR IN IRAQ AND SUPPORTING OUR TROOPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, since July I have come to the floor of this House night after night sharing letters from constituents and raising concerns about our policy in Iraq, raising concerns about the administration's failure to supply and to protect the troops, raising concerns about the $1 billion a week, now an increase to $87 billion a year for this Iraq reconstruction effort, raising concerns about the fact that there is no plan from the administration on how to deal with the problems for our troops and how to deal with an exit strategy in Iraq, letters expressing concern about the corruption in our government in Iraq where we are spending $1 billion a week and 30 percent of that $1 billion is going to private contractors, most of them friends of the President, Bechtel, Halliburton, other large corporations, most of them contributors to the President to the tune of hundreds of thousands of dollars, and one of them, Halliburton, particular concerns have been raised about from my constituents. Halliburton, the company that the vice President, when he was a private citizen, was CEO of, that company still pays Vice President CHENEY $13,000 a month.

Tonight, rather than reading letters from constituents, I thought I would read something else that I think is equally interesting. It was from a book that George Bush, Sr., the first President Bush, wrote with Brent Scowcroft in 1998. The name of the book was "A World Transformed." On Page 489, the first President Bush tells us his views about Iraq and what he thought. This is President Bush the first speaking:

"Trying to eliminate Saddam" Hussein, "extending the ground war into an occupation of Iraq, would have violated our guideline about not changing objectives in midstream, engaging in 'mission creep,' and would have incurred incalculable human and political costs." This is President Bush, Sr. writing in 1998: "Apprehending him," Saddam Hussein, "was probably impossible. We had been unable to find Noriega in Panama, which we knew intimately. We would have been forced to occupy Baghdad and, in effect, rule Iraq. The coalition," President Bush wrote in 1998, "would instantly have collapsed, the Arabs deserting it in anger and other allies pulling out as well. Under those circumstances there was no viable 'exit strategy' we could see, violating another of our principles. Furthermore, we had been self-consciously trying to set a pattern for handling aggression in the post-Cold War world. Going in and occupying Iraq, thus unilaterally exceeding the United Nations' mandate, would have destroyed the precedent of international response to aggression that we hoped to establish," President Bush the first wrote in 1998.

"Had we gone the invasion route, the United States would conceivably still be an occupying power in a bitterly hostile land. It would have been a dramatically different, and perhaps barren, outcome." Those are the words that President Bush, Sr. wrote only 5 years ago, 4 years before his son led an attack on Iraq.

Mr. Speaker, those letters from constituents that I have discussed night after night here were particularly compelling, especially some letters I got from the families of men and women who are serving in Iraq. And a couple of weeks ago I met in Akron, the largest city in my district, with 25 families who have loved ones in Iraq; and they talked about our failure, the Bush administration's failure, to support the troops, to supply the troops, to protect the troops: not enough safe drinking water, either bottled water or purification facilities, not enough antibiotics. Soldiers and sailors had to pay for their trips home, pay for their airfare. Some soldiers were actually charged by the hospital, had to pay the hospital for their food when they were recovering. And some soldiers, about one fourth of them, we are told, do not have the body armor which will protect their lives.

So on the one hand, these families said to me, our letters from constituents said to me, we have $300 million a week going to private contractors to do work that is not really very well accounted for. On the other hand, we have our soldiers simply not being protected, not enough safe drinking water, not enough body armor, not enough antibiotics. And I would hope that President Bush would have listened to his father, which he clearly did not, from his father's words, but would begin to listen to some of my constituents and other constituents who beg him to focus on protecting and supplying the troops with a little less focus on all these unbid contracts and the corruption that this has brought and the waste of hundreds of millions of taxpayer dollars that we are seeing literally every week in Iraq.

SUPPORTING THE VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, next week is November 11. And often, I believe, in this Chamber we pay lip service to our veterans; and we fail to deliver on solid votes and programs that would better demonstrate our recognition of their sacrifice and service. And this year, unfortunately with the budget and the appropriations passed, is no exception.

I was astonished earlier today when a colleague from the Republican majority stood up to pretend to document how great things are for our veterans, all these new services and things we are providing. I am hearing a very different assessment from my veterans and their dependents. And facts are stubborn things.

Here are some real facts, unlike what we heard earlier today: 150,000 veterans are waiting 6 months or longer for appointments; 14,000 veterans have been waiting 15 months or longer for their "expedited" disability claims; 560,000 disabled veterans are subject to the disabled veterans tax, something we have tried to rectify.

We have 373 cosponsors. There are only 435 people here. If 373 people want something, we should be able to do it, should we not? That is a super, super, super majority. But guess what. The Republican leadership, under urging from the President and Secretary Rumsfeld and threats of veto from the President, are refusing to bring up a repeal of the disabled veterans tax.

We can have tax breaks for people who do not work for a living, the investor class. We can have tax breaks for whole hosts of people and things. But we cannot have tax relief for disabled veterans. Is that not extraordinary? President Bush refused to spend $275 million in emergency money for veterans health care provided by Congress in the fiscal year 2002 supplemental appropriations bill. But of course he wants to do everything he can to recognize the service of our veterans and our young men and women.

January 8 of this year, the Bush administration cut off VA health care for 164,000 veterans. They put them in a new category called Category 8. They are wealthy veterans just like the wealthy people they are giving tax breaks to. Well, not quite. The wealthy people the Bush administration is raining tax breaks on earn over $311,000 a year. But these vets are wealthy. They do not deserve that veterans health care, according to the Bush administration. They earn $25,000 a year. They should pay for their own health care.

The President's budget also proposed doubling the prescription drug copayment from $7 to $15 for veterans, the ones who are still able to qualify, and a $250 enrollment fee on another category, Category 7 and 8. These could be people with low incomes, distinguished service, but under the Bush administration, we just cannot quite afford to give them the service we promised when they enlisted.

Now we either believe in the all-volunteer military or we do not. And we are either going to recognize the sacrifice and service of veterans or we will not. And if we do not, probably the next generation is not going to want to enlist for what is a very tough and today very bloody and dangerous job because they are not quite sure of the promise that we will take care of them and we will take care of their families and their dependents.

A few other problems. Rather than funding the VA, the Bush administration sent a memo to regional VA facilities that forbid Veterans Administration employees from proactively informing veterans about the services available to them in order to reduce the number of veterans using VA facilities.

□ 2100

That is supportive. Is that not great?

In March, House Republicans voted in favor of their budget resolution that cut $14 billion, "B" billion dollars, from mandatory veterans benefits over 10 years, including veterans pensions, education and other benefits. That was an hour after we voted to support the troops in Iraq.

Maybe it would have been a better message if we just had not bothered with the words, but had duly voted for the money. But, no, the Republican majority, pushed by President Bush, could not vote for that money, and that budget passed by one vote.

The House Republican budget resolution also cut $14 billion from veterans health care and other discretionary veterans programs. The Republican budget also included the President's proposal to impose a $250 enrollment fee on our veterans for the free health care that they were promised.

The Republican budget also included the President's proposal to double the prescription drug copayment from $7 to $15. The President had already raised it from $2 to $7, but, hey, we need money. We have got to send a lot of money over to Iraq, and we cannot ask them to pay any of it back, so we have to double the prescription drug benefit fee for our veterans.

Now, the House VA-HUD appropriations bill funded VA at the level requested by the President, which was $1.8 billion below the House Republicans' own budget, and it was $3.3 billion below the level requested by national veterans organizations in their independent budget proposal.

Let us really celebrate Veterans' Day, and give them the services they earned and need, and pay for them.

IN HONOR OF SERGEANT SEAN DRISCOLL, 101ST AIRBORNE DIVISION, UNITED STATES ARMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to share with the Members of the House and the American people my experiences visiting Walter Reed Army Medical Center yesterday. I had the pleasure and the honor of visiting some true American patriots who were severely injured in Operation Iraqi Freedom and are currently recuperating at Walter Reed. I was especially pleased to meet with Sergeant Terry Jones, a reservist, from Columbus, Georgia, Fort Benning, who served bravely in Operation Iraqi Freedom.

Mr. Speaker, my visit to Walter Reed was one of the most moving things I have done since coming to Congress in January. I felt it was important to let these heroes of Operation Iraqi Freedom know how much we in Congress appreciate their sacrifices. I wanted to relay to them my belief that through their heroic deeds, they have made the United States a safer place for all Americans and brought precious freedom and democracy to the people of Iraq.

Mr. Speaker, yesterday I also had the pleasure to meet with Sergeant Sean Driscoll of Clarksville, Tennessee, and his wife Georgette. Sergeant Driscoll was recently wounded in Iraq as part of his operations serving in the Army's 101 Airborne Division.

Mr. Speaker, I could talk at great length about Sergeant Driscoll's dedication and sacrifice to his Nation during a 15-year career in the Army, as well as about my immense gratitude for all that he has done to advance freedom across the world. But I think that his 18-year-old daughter, Antoinette, has paid tribute to her father much better than my words could.

Therefore, Mr. Speaker, I would like to read the following testimonial written by Antoinette Driscoll about her father, Sergeant Sean Driscoll, so that it can be placed into the CONGRESSIONAL RECORD.

It is titled "Hero."

"Words cannot express how proud I am to be able to say that my Dad is a HERO. There are people who have parents that are doctors that save and rehabilitate people everyday, but my Dad is far greater. Some parents save others from fiery buildings or patrol the streets at night, but my Dad is far more dignified. Those people may be heroes in their own way, but my Dad is far more superior than they. For my Dad is a soldier, defending our wonderful nation, putting in countless hours of sweat, tears, and selfless sacrifice and service for those who live in the United States.

"My Dad is the one who fights and risks his own life for us privileged Americans. He makes sure that doctors have a place to educate themselves and practice. He makes sure that everyone has the opportunity to find a job, and has a home and an education, and makes sure everyone can sleep safely at night. I can't think of any other who is greater than he. I am proud and honored to be able to love someone like this.

"I can only hope that I will one day follow in his footsteps and defend my country. He has taught me a couple of things which I feel every American should know. One, freedom is not free, and there is no greater Nation than the United States of America. He has served many years and has shed blood for my freedom. I could never thank him enough for all that he has done. Not just for me, but for my family, friends, and people who he doesn't even know. I hope that one day I'll be able to fight for him, so he can live safely and rest when he comes home. I love him for these reasons and many more."

Mr. Speaker, I think this statement from Antoinette Driscoll poignantly demonstrates her love and admiration for her father. It is also important to note that Antoinette will soon enter the United States Air Force herself, and her younger 16-year-old brother will join the service in a few years as well.

The Driscoll family has demonstrated to me great resolve in the face of difficult circumstances. Even though Sergeant Sean Driscoll was severely wounded in Operation Iraqi Freedom and he has spent many months away from home, his family remains undaunted in its commitment to serving our Nation. They can teach all of us a valuable lesson in sacrifice and dedication to the American ideal.

TAX CUTS BRING ABOUT ECONOMIC RECOVERY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MARIO DIAZ-BALART) is recognized for 60 minutes as the designee of the majority leader.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I am here today to speak about an issue that is a huge priority for the Republican majority in this House, and also, Mr. Speaker, a huge priority for the President of the United States, and that is the United States of America's economy and where we are with our economy right now.

Ever since I got elected, which, as you know, Mr. Speaker, has not been a long time, time and time again I have heard from our dear friends in the Democratic Party how the tax cuts that the President of the United States was pushing for and that this Congress approved were not working, and they were not going to work, Mr. Speaker. They were impossibilities. They could never work. They were not based on any sound policy. And the quotes go on and on and on, how again there is just no way that it was going to work, because it was irresponsible, because it was ludicrous, because it did not make sense, because, I even heard some people say, because you hurt government when you take government's money away.

Think about that. I actually heard that. I am paraphrasing it, but I heard a statement just like that on the floor of the House. It is going to hurt government to take that money, government's money, away, by giving it in tax cuts, by giving away government's money in tax cuts, Mr. Speaker.

We clearly have some serious differences with our friends in the other party. One of the main differences, Mr. Speaker, is a pretty basic realization, and that is this, that every single dollar that we are dealing with here, every single dollar that we debate on this floor, every single dollar that this government spends, Mr. Speaker, is not the government's money; it is money that the government takes from the hard-working American taxpayer. It is their money. It is their money that we are spending. It is not the government's money.

Yet, when the President and this Congress said we have to incentivize this economy, because the President was not happy with how the economy is going, he felt and we felt, the majority, that we had to do better, we had to do a better job to make sure that more Americans had jobs, Mr. Speaker, that every American that wants a job should be able to find one, so this President had a very ambitious program to incentivize the economy, I repeat, we heard every single possible statement that you could possibly hear as to how it was not going to work.

Let me read a couple of quotes. I am not going to bore you with all the quotes, you have heard them before.

For example, the gentleman from Hawaii (Mr. CASE) said, "This is not reasonable. This is haphazard and this is reckless."

I love this one. The gentleman from Maryland (Mr. WYNN) stated, "The tax cut program did not work."

Mr. Speaker, let me just see if I understood this. He said that the tax cut program, i.e., taking less money from the taxpayer, the government taking a little bit less of the taxpayer's hard-earned money, he said would not work and did not work to incentivize this economy.

But you know what happened, Mr. Speaker. After all the rhetoric was stated on the floor of this House and in committee and in the Committee on the Budget and many other committees, after all that rhetoric, something very interesting happened, Mr. Speaker. The economic numbers came in, and what did those economic numbers show? Did they show that the tax cuts that the President proposed and that the majority of this Congress worked so hard to pass, did those economic numbers show that the tax cuts did not work?

Oh, no, Mr. Speaker. Let me say, and I know the American people have heard a lot about this recently, because even some friends in the press have had to admit now that it is working, that the tax cuts are working, that taking less money from the hard-working American taxpayer is doing what the President said it was going to do, and it was going to incentivize the economy.

Let me just read you some numbers. Gross domestic product, the GDP, increased from an annual rate of 3.3 percent in the second quarter due to the tax cuts to a rate of 7.2 percent in the third quarter, the highest rate of growth in almost two decades.

There has been, Mr. Speaker, and I do not know if you have heard it, a lot of chewing, a lot of good friends on the Democratic side chewing their words, eating their words, because the facts are here. It is working.

Let me give you a couple other statistics. Spending on big ticket items like cars and the such increased by an unbelievable 26.9 percent in the third quarter; 26.9 percent in the third quarter. If you listen carefully, you will hear it; more chewing, more chewing of their words, because, remember, these were the tax cuts that were not going to work. These were the tax cuts that were not going to incentivize the economy. 26.9 percent on big ticket items in this quarter.

Consumer spending, Mr. Speaker, on nondurables, like food and clothing, increased by 7.9 percent, the best since 1976. And the chewing continues. The chewing by the Members of that side of the aisle continues, eating those words when they said no, taking more money from the people is what we need to do; raising taxes is what we need to do to incentivize the economy, and, again, doing what this President said we needed to do and what the majority of this Congress wanted to do and got passed was not going to work. But the numbers, Mr. Speaker, do not lie. Here they are.

Mr. Speaker, business spending on equipment and software increased by 15.4 percent, the largest increase since the first quarter of the Year 2000. Listen to the chewing. Listen to the chewing, more words on that side of the aisle being eaten, because they said it was not going to work. Again, I repeat, what they said we had to do was increase taxes on the American people. As a matter of fact, the members of the Democratic Party proposed 25 increases in taxes this year alone.

□ 2115

Between this Chamber and the other Chamber, 25 times they proposed increasing the American taxpayers' burden. They proposed raising the taxes on the hard-working Americans, to send it up to D.C., because tax cuts were not going to work, were not going to incentivize the economy.

Mr. Speaker, homeownership rates, which is something that I think is so crucial, was up to 68.4 percent in the third quarter, the largest ever, the largest homeownership rate ever. And the initial weekly jobless claims data continues to improve, Mr. Speaker. Look, one does not have to be a rocket scientist to understand that one needs to have a better economy to get more jobs. If we do not have a better economy, we are not going to get more jobs. So it is not rocket science that we are starting to see that the weekly jobless claim data continues to improve. For the past 4 weeks, jobless claims have been below 400,000. Still too many, but again, because of this President's leadership, because of the leadership of the majority of this House, Mr. Speaker, because this House, along with the President, decided to take less money from the hard-working American taxpayers, the economy is starting to rebound, and it is doing so in a way that many people said was impossible. Many people, Mr. Speaker, I repeat, who are now, I can hear it, I can almost hear in the background, eating their words.

Consumer confidence is up 4.1 points from previous months. Again, Mr. Speaker, this is the issue; and the crux of the issue is twofold. Number one, it is not the government's money; it is the people's money. When we let the people keep a little bit more of their money, Mr. Speaker, that is not a gift. Government is not giving those people anything, Mr. Speaker; government is taking a little bit less of the people's money so that they can spend it on their children, on their kids' education, on savings, on whatever they want, because it is their money. It is their money to start with. And on top of that, what happens is that the economy begins to grow and the GDP begins to grow.

So, Mr. Speaker, I have a number of dear friends and colleagues who are joining me here today, and if I could, I would like to yield to the gentleman from Texas (Mr. HENSARLING). He has done an incredible job in the time that he has been elected as one of the founding members of the Washington Waste Watchers, a man who has shown incredible leadership fighting waste, fraud, and abuse.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding, and I especially thank the gentleman for his part in helping bring about this great economic growth plan of President Bush, and especially for his leadership in helping fight waste, fraud, and abuse within the Federal Government that is so hurting our family budget.

Mr. Speaker, thanks to President Bush, we have had some of the best economic news that we have heard since the recession occurred in March of 2001. As my colleagues heard earlier, the economy grew at a whopping 7.2 percent, the best in almost 20 years. Again, let me repeat that. The economy has grown at 7.2 percent, the best in 20 years.

Now, while economic cycles, with their peaks and valleys, have occurred over the history of America, the events of the past 3 years have been especially challenging to our economy and our financial markets. The burst of the high-tech bubble; 9–11, which cost the economy close to $2 trillion, along with the corporate scandals that we saw with Enron and WorldCom, all of these were significant factors in contributing to a downward economy. But thanks to President Bush and the Republican leadership in Congress, we have had an extremely shallow recession, and we have moved from negative economic growth to positive economic growth, and we have moved to it in a most dramatic way.

Now, earlier this year, the President offered his progrowth positive economic growth plan that I was happy to cosponsor. It included tax relief for families and tax relief for small businesses. It was designed to spur economic growth by allowing Americans to keep more of what they earn, giving them more money to spend and save and invest in our economy. The fact is, Mr. Speaker, that plan is working.

The growth of America's gross domestic product is the strongest it has been in 20 years. The third quarter economic growth of 7.2 percent is the best since 1984. The third quarter spending on big-ticket items like cars have increased by an astounding 26.9 percent. Consumer spending on nondurables like food and clothes increased by 7.9 percent in the third quarter. This is the best in almost a quarter of a century. This is good economic news.

Consumer confidence is up. Business spending on equipment and software increased by 15.4 percent, the largest increase since the first quarter of 2000. Productivity has increased 3.9 percent during the first 2½ years of this administration. This is the fastest start, the fastest pace of any Presidency since JFK. Productivity is what makes us competitive, more good economic news resulting from President Bush's progrowth economic plan.

Exports rose for the first time in four quarters to over $1 trillion. Inflation, once the scourge of the elderly and those on fixed incomes, continues to be almost nonexistent. And this is an important one, Mr. Speaker: shareholder wealth is up $2.9 trillion, trillion with a T, an increase of 22 percent since October of 2002.

Now, 50 percent of this increase in the stock market wealth has occurred since the economic growth agreement was reached in May. This is so important because half of all American families own stock, most of which or much of which is in 401(k) retirement plans; and half of those stock-owning families, Mr. Speaker, make less than $50,000 a year. These shareholders are families investing in their future. They are parents saving for their children's education. They are seniors who are dependent upon investment income for retirement. They are Americans making $50,000 a year.

The President's progrowth economic plan is helping Americans rebuild their nest egg. This is great news.

But, Mr. Speaker, there is even more great news, and that is that homeownership in the third quarter was 68.4 percent, the highest level ever in the history of America. Let me repeat that, the highest level of homeownership in the history of America, thanks to President Bush and the Republicans in Congress passing this economic growth package.

Now, homeownership has been a time-honored American tradition and a central part of the American Dream since the founding of our Nation. And because of the President's leadership, because of the tax relief that we fought so hard for for the American people, more young couples, more families are realizing that dream of homeownership. This is indeed great news.

Now, just a few months ago, as my colleague said, Democrats were saying that the economic growth tax relief program did not work. They called it unreasonable, haphazard, reckless, and fiscally irresponsible. I am not sure what is unreasonable about having the highest rate of homeownership in the history of America. I do not know what is haphazard about the stock market going up 22 percent and helping American families build a nest egg. I am not sure what is reckless about productivity gains. But they called President Bush's blueprint for the economy a failed policy that would hurt long-term economic growth.

But, Mr. Speaker, as usual, their rhetoric was wrong, their reasoning was wrong, their economics were wrong, their predictions were wrong. In the end, they were just flat wrong.

The success of the Bush jobs and growth plan and the positive economic news that we have heard comes as no surprise to economists. The chairman of the Federal Reserve back in June, Alan Greenspan, stated, "Fortuitously, this particular cut in taxes is happening at the right time." He said that the fiscal boost created by President Bush's tax relief plan would "create a fairly marked increase in after-tax income in the third quarter," and that is what we have seen.

Now, although we have had some great economic news, Mr. Speaker, we still have much work to do. Unemployment is still too high; but the good news is, it is improving. In the month of September alone, the U.S. economy created 57,000 net new jobs, the first time in 9 months that we have added jobs to our economy. Since the 2003 economic growth plan, initial claims for unemployment insurance have declined by more than 10 percent. And if history is our guide, historically, employment is the last economic indicator to come in line.

Now, Democrats continue to criticize our President for 6 percent unemployment. Frankly, compared to the unemployment rates of much of the Western world, many still envy us. European nations such as France and Germany report unemployment rates of almost 10 percent. Spain's unemployment rate is almost double that of ours at 11.4 percent. Frankly, inheriting a recession, coupled with 9–11, corporate scandals, fighting the war on terror, I believe this President deserves credit for keeping 94 percent of the American workforce employed. Without his plan, let there be no doubt: we would still be in recession and millions more would be unemployed, but we will not rest until every American that wants a job has a job.

Our economic growth plan is working, but the Democrats want to roll it back. Today's Wall Street Journal included a column on "Demo-nomics," explaining how all nine of the Democrat candidates for President are proposing to raise taxes. Now, I am not sure what is news about that, but it further explained how the gentleman from Missouri (Mr. GEPHARDT) and Howard Dean are proposing to repeal every single dime of the President's progrowth tax relief, regardless of income.

Mr. Speaker, permit me to quote from the Wall Street Journal: "Dr. Dean then goes further and proposes lifting the income cap on payroll taxes, a huge marginal rate increase on anyone making more than $87,000 a year. All of this plays well with liberal primary voters who loathe all things Bush, but it would amount to the largest tax increase in history if they prevail."

Once again, the leaders of the Democrat Party are proposing the single largest tax increase in the history of America.

Mr. Speaker, I do not know, do Democrats have a problem with families who make $50,000 a year getting a better return on their investments? Do Democrats have a problem with more homeownership? Do Democrats have a problem with economic growth? Do Democrats have a problem with productivity gains? Do Democrats have a problem with 401(k) gains?

The Democrats have fought us on tax relief; they have fought us on lawsuit reform. Most recently they have even fought us on trying to get rid of only 1 percent, 1 percent of the waste, fraud, and abuse that is so rampant within our Federal budget.

Mr. Speaker, the simple truth is that the Democrats' vision is about growing government. The Republican vision is about growing the economy. We want to grow the family budget. They want to grow the Federal budget. And the plan the House Democrats put forward would have raised taxes yet again and increased government spending by almost $1 trillion for new programs. That is their plan for America's future.

Mr. Speaker, the latest economic news proves, once again, that the Democrats are wrong. The answer to promoting more economic growth is not to raise taxes; it is not to take more money away from hardworking American families. The answer is to continue to promote small business; to promote entrepreneurship, to promote more freedom, to make the Bush tax relief permanent, to let more Americans keep more of what they earn. Because, Mr. Speaker, if we will only preserve freedom and all of its essentials, there is no limit to what we, the people, can achieve.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, the gentleman brought up really, really good points. One of the things that he mentioned, and I think it is true, and I think when we think about it, it is amazing. The gentleman mentioned how some of these very high-profile Democratic leaders want to repeal all of the tax cuts, the Bush tax cuts; and then they call it all sorts of different things. We have seen it: they say, cutting taxes on the rich.

But let me read what some of those tax cuts they want to repeal are, because one of the things that some of our colleagues hate is when we speak with the facts in hand.

Some of those are, if they were to be successful, that means that we would reinstate 9 million low-income Americans back on the tax rolls. These are Americans, low-income Americans that are now not paying Federal income tax because of the Bush tax plan. And what the Democrats are saying, if they were to succeed on that, that those high-profile leaders the gentleman mentioned, that those 9 million low-income Americans would get back on the tax rolls and would have to start paying taxes, low-income Americans. Are those the rich who they say that we should not cut their taxes?

□ 2130

It would reinstate the marriage penalty, the marriage penalty. Is that for the rich? Do only rich people get married in this country? I mean, I do not know. Maybe I am learning something. No. No. It would reinstate the marriage penalty. It would cut in half the $1,000 per child tax credit. Do only rich people have children in this country?

So they would then cut in half that tax cut, $1,000 tax cut. And do they insinuate? No. They say that the tax cuts, the Bush tax cuts are tax cuts on the wealthy. Excuse me? Cut in half the $1,000 per child tax credit? Maybe it is news to the Democrats, but not only rich people have children.

It would raise taxes on education savings by 75 percent; by 75 percent. Dealing with rich people here? No. It would eliminate the income tax deduction for paying for college tuition. I know that it sounds hard to believe, but it would eliminate the income tax deduction for paying for college tuition. That is what they want to eliminate.

Those are the tax cuts that they say are for the rich? No. No. No. Get real. They would increase a double tax on dividends by as much as 62 percent. They would reinstate the death tax. I do not know. Maybe only the rich die. Maybe they think that only the rich die. No. They would reinstate the death tax.

They would eliminate the emergency tax relief to areas affected by the attacks of September 11, 2001. They would also do that. They can claim, they can say, they can state whatever they want to.

These are the facts. The facts are that the President's tax cut proposal is working, that this Congress's leadership, making sure that that passed, has made, has created serious economic growth. And the reality is when they talk about eliminating all of Bush's tax cuts, they are not talking about eliminating tax cuts for the rich, they are talking about these tax cuts. And the hardworking Americans paid a lot of money. They sent a lot of money up to Washington. It is their money.

My colleagues know what the President believes and what we believe, Mr. Speaker, that if you allow the American people to keep some of their money, good things happen. He was right. He was proven right. The leadership in this House was proven right.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. KLINE), who not only is a Congressman, but I think we also have to thank him for his previous service to this country. As Members know he was a colonel in the United States Marines. He makes us proud. I think all of us feel proud to have him as a colleague here in Congress.

Mr. KLINE. Mr. Speaker, I thank the gentleman from Florida (Mr. MARIO DIAZ-BALART), my distinguished colleague, for yielding, and more importantly, most importantly, for his leadership on this issue and so many issues. It is such a pleasure to serve with such a fine gentleman.

Mr. Speaker, I rise today, of course, to join he and my other colleagues in sharing the really great news what we are seeing in the United States economy. As you heard from the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the gentleman from Texas (Mr. HENSARLING), the United States economy grew at the astonishing rate of 7.2 percent in the third quarter. The highest rate since 1984. That warrants the repetition that we are giving it this evening.

It is a sign that the President's Jobs and Growth Package is doing exactly what it was supposed to do. And I am so pleased to have been a part of this Congress to help make this a reality. That package that we passed this year helped to generate our growth spurt by bringing economic activity to a higher level. That was exactly the purpose. This, in turn, increased the incomes and the living standards, the living standards for American workers. Not just the living standards for the rich, the living standards for American workers. And, in addition to this incredible, astonishing growth, we have seen other important indicators of a reviving, in fact, a rapidly growing economy.

My colleague, the gentleman from Texas (Mr. HENSARLING), mentioned that home ownership has reached the highest level ever, the highest level ever. And since the beginning of this year, the value of the United States stock markets has increased $2 trillion. Two trillion dollars. That is money in retirement accounts and 401(k)s and IRAs and mutual funds. That is real wealth to Americans. Disposable income is up 5.8 percent.

And, just as predicted, when you let the American workers, businesses, and families and individuals keep more of their own money, when you tax it less, and disposable income goes up, other good things happen. Manufacturing goods are up. Shipments of durable goods are up. Consumer confidence is, you guessed it, up. Things are looking up and there is more to come.

Mr. Speaker, the point has been raised that jobs are not as high as we would like them to be, but I am here to tell you that they are on their way. This economic indicator always lags, and we are already starting to see signs that the labor market is beginning to improve. Claims for unemployment insurance are down.

My colleague from Texas mentioned that 57,000 new jobs are were created in September. Progress is evident. We have more work to do. And the good news is that the President and the leadership in this house never planned to rest on its laurels.

The President, the administration, the House, has a plan to further strengthen the economy and create more jobs. Six easy points that the President has articulated, and it bears repeating tonight for our discussion. We want to ensure an affordable and reliable energy supply, and we are working on passing an energy bill; we want to reduce the burden of frivolous lawsuits on our economy; streamline regulations and reporting requirements; make health care costs more affordable and more predictable; open new markets for American products; enable families and businesses to plan for the future with confidence by bringing consistency and predictability to the system.

Mr. Speaker, this Congress and this President recognized a need and responded. We are already seeing signs of success and more to come. I am so pleased to be here with you tonight and to be part of this Congress and this team working for a better, stronger America.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, you know the numbers do not lie. Here they are. My colleague mentioned them, the gentleman from Texas (Mr. HENSARLING) mentioned them, 7.2 GDP increase, the highest rate of growth in 19 years. By the way, I never heard our good friends from the other side of the aisle say we were wrong, we were wrong in suggesting and proposing tax increases as a solution, we were wrong in proposing legislation that would have increased the deficit by almost $1 trillion. And yet they say that they are concerned about the deficit. All of us are concerned about the deficit. And we believe that one of the ways to lower the deficit, clearly, is to create economic growth and to incentivize the private sector to create economic growth.

Our good friends on the other side, the Democrats, let me quote the gentleman from Hawaii (Mr. CASE), he said, quote, "I see public debt climbing through the roof," end of quote. The gentleman from New Jersey (Mr. PALLONE) said, quote, "The Bush economic blueprint, the House GOP plan is also fiscally irresponsible," we have talked about that a little while ago, "because the debt it would create, saddling our children with debt and hurting long-term economic growth." And, yet, that party proposed increasing the debt that they are saying is high.

We would all agree that we want to control that debt, the deficit, but they say that this, what the leadership of that party proposes, this year alone increases to the deficit of almost $1 trillion. You know, they may get upset at me because I am bringing up some of these facts, but I think one cannot deny the facts. One cannot deny that the President's tax cut proposal package, that this House, because of the leadership of this House, the majority leadership, is working. And they cannot deny that they propose amendments to increase the deficit by almost $1 trillion.

Mr. HENSARLING. Mr. Speaker, would the gentleman yield?

Mr. Speaker, he brings up an excellent point about the Federal budget deficit. And what many people may not realize is that, and he and I serve on the Committee on the Budget, so we know this, but the pro-growth economic tax relief that President Bush proposed was $350 billion over a 10-year period contrasted to $28.3 trillion, trillion with a "T", worth of spending over that same time period. So if you do the math, what you discover is that the pro-growth tax relief was 1.2 percent of the spending. And so as those on the other side of the aisle continue to attack us for a Federal budget deficit, one, tax relief is part of the solution, not part of the problem. That is how we have the highest rate of home ownership in the history of America. That is how we have the productivity gains. That is how we have an increase of 22 percent in the stock market, helping Americans go back and rebuild those nest eggs.

Tax relief is part of the solution, not part of the problem. That is how we have economic growth. That is how we have the most, the greatest increase in economic growth in 20 years.

If you care about the deficit, do not look to 1.2 percent of tax relief, look to the 98.8 percent of the spending which, as we well know, Democrats refuse to do. When we proposed finding 1 percent, a mere 1 percent of waste, fraud, and abuse that is so widespread in this Federal budget, the Democrats fought us every step of the way.

And as my esteemed colleague has pointed out, on top of the Democrats fighting the tax relief, not focusing on the spending, they actually proposed almost $1 trillion more spending over and above the budget we passed. That is their vision for America, and their vision fails.

Mr. MARIO DIAZ-BALART of Florida. Well, I think the facts bear that out. That is why, again, if you listen carefully you might even hear, you might hear that crunching of people's mouths because they are eating their words. They are chewing those words.

And one person who has been a leader and an inspiration to a lot of us here, trying to bring fiscal sanity to this, and obviously the President has been leading that charge, and the leadership here, but one of the Members in this freshman class that has done an incredible job is the gentleman from New Mexico (Mr. PEARCE), the person who understands the importance of controlling spending, who understands the importance of controlling the size of the deficit, and who understands that the way to increase the economy, to make this economy grow, is not by taking more and more money from the American taxpayer. And I thank him for joining us here. I would yield to the gentleman now.

Mr. PEARCE. Madam Speaker, I thank the gentleman from Florida (Mr. MARIO DIAZ-BALART) for leading this important discussion.

Madam Speaker, I began these economic discussions in my district early in my term. About February or March we began to talk about the potential tax cut. And good, well-meaning people ask why would we give a tax cut in the face of deficits. And it is a fair question. It is one that I addressed at the time, and it is one that is worth revisiting the answers.

First of all, to know why we would approach a deficit situation offering a tax cut, one needs to understand the problem with our economy. Our economy first received its first shock back in March of 2000 when the dot-com collapse occurred. Everyone will recall that those dot-com stocks had escalated from no value to some selling at $200 and $300 per share. They had no revenue. They had no product. They had no sales. They just had optimism and euphoria about the potential.

It was right and necessary that the price of those stocks collapsed down because it was unwarranted to have such a high price. But while the prices were up, people were cashing in their stock and the capital gains created the illusion of an economy that had grown and had improved.

Now, what that did is it caused us all in the Federal Government and in almost every State government to reorient our spending for those perceived surpluses. Now, when the dot-com collapse occurred, it took us back to about the 3 percent growth rate which we had experienced.

□ 2145

So the economy was basically at the same point before and after the dot-com ramp up, but we had reoriented our spending patterns at both State and national levels. State began to have difficulties balancing their budgets. The Federal Government began to run in a deficit situation. We were just about to come out from underneath that problem when 9–11 hit. That was a $2 trillion problem, $2 trillion taken out of the lives of people, the actual loss of lives, also the economic impact that it had on the lives of people.

After 9–11 we were still just about to come out of the recession when the companies that under President Clinton's term had cooked the books and no one had called the bluff, WorldCom, Global Crossing, Enron, those stocks began to collapse under this President. Someone was willing to take those problems into account. And at that time, then, the consumers lost confidence in the stock market and began to pull their money out. That is where our problem arrived at this year.

So when I looked at the potential, we had one of two choices, one to cut spending like the gentleman from Texas (Mr. HENSARLING) said, a notion that was rejected outright by the Democrats; the other choice that we had was to reinvest.

My wife and I have owned a business for the last 14 years. We hate debt. Almost always we are out of debt. We operate simply on cash; but occasionally when it is time to expand, we will take on additional debt. We create an expansion. We grow the size of the company. We pay the debt off and we are back on solid ground. That is the way the tax cut was.

We are taking some of the money back, putting it into the pockets of the people, offering incentives to businesses in order that they might grow.

People ask, exactly how does it work? I will tell you, in my district, in my hometown there is a small manufacturer. They make oil field equipment that sells for about $750,000 per unit. Before the tax cut, they were completely out of back orders. They were just at the point of laying off people. They were producing their last piece of equipment that had been ordered.

The day the President signed the bill, they got more back orders in one day than they had gotten the previous entire life of their company. They went to 2 years' worth of back orders. They brought on new people. For each new unit that was produced, they hired four people and sometimes five.

Mr. MARIO DIAZ-BALART of Florida. Let me, if I may, the gentleman is reminding us and me of what the situation was. It was absolutely right. That is why it is even more remarkable what the President and the majority in this Congress were able to do. More remarkable because we are dealing with the effects of 9–11, the effects of 9–11 when we all know what a travesty and a tragedy that was.

We are dealing with the dot-com crash, as the gentleman mentioned. We are dealing with the scandals in Wall Street. And yet, despite all those things, because the President had a plan, a fiscally responsible plan, the economy is picking up. Despite all of these things, despite the fact that we are at war, and I know that some people do not believe we are at war. The esteemed Democratic leader whom I respect and I am going to paraphrase it, I do not have the quote with me on the floor, she said something to the effect of, I do not feel that we are at war.

She has the right to not feel that we are at war, but the reality is that we are at war, that we were attacked. And despite the fact that we are at war, because of the efforts of the President, because of his sound leadership, because of his truly sound leadership, because the leadership in this House and the majority party of this House and the majority of the Members, this House voted for that stimulus package that, again, our good friend on the Democratic side said, it is not going to work.

I think maybe thinking the economy has taken such a huge hit because of 9–11, because of the crash of dot-coms that no way, nothing can work. This President had a sound policy. It was approved by this House, by this Congress; and it is working. And without that tax relief, without those tax relief packages of 2001 and 2003, 1.5 million Americans would be out of work right now. Right now. Those are people that would not be working. Was it worthwhile taking all the heat, taking all the political heat to make sure that we produced, that the economy grew to produce those 1.5 million jobs? Ask those 1.5 million Americans if it was worthwhile.

The tax relief package of 2001 contributed nearly $400 billion in growth in 2002, again, despite our dear friends on the Democratic side claiming that the tax program did not work, quote/unquote as the gentleman from Maryland (Mr. WYNN) said. And again, since 2003 the tax relief plan, initial claims for employment insurance have declined by more than 10 percent since then.

It is real. It works. We knew it was going to work; and we also knew, we clearly also knew that the Democrats' answer to the problem, which was massive tax increases and massive additions to the deficit, would have been a total disaster. And so I for one am not apologetic. I for one am not apologetic when I say I am proud that I was part of a small part of making sure that the Federal Government took just a little bit less of the American hardearned taxpayers' dollars.

Mr. KLINE. I just want to follow up on the comments that the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the distinguished gentleman from New Mexico (Mr. PEARCE) were making about the resilience of our economy and the power that you get when you let the American people keep their own hardearned money.

We have talked about the dot-com bubble, well-described, the terrible corporate scandals that would have rocked any economy to its heels, the horrific attacks on 9–11. We are conducting major military actions in Afghanistan and Iraq. We are conducting a global war on terrorism. We have had the largest reconstruction, reconfiguration of the Federal Government since 1947. And still the American economy grew. And as we have talked about this evening, because of the leadership and the trust of the President and the leadership in this Congress and letting the American people and letting American businesses spend their money in the way they saw fit, we have seen the largest growth in gross domestic product in 19 years.

I just think it says remarkable things not only about the President and about the leadership in this House, but about the wonderful American people and the strength of our economy.

I thank the gentleman for yielding to me.

Mr. MARIO DIAZ-BALART of Florida. When the gentleman was speaking right now, one thing that hit me and it hits me every time I listen to the gentleman and other colleagues on the Republican side, and I listen to our colleagues on the Democratic side, the gentleman just said that it is the people's money. And yet when we listen to the Democrats, they say we are giving, that the government is giving to the people. A gift. We are giving tax cuts. We are giving away this money.

In other words, government, we, being government, is giving away this money. Wait a second. Since when did government create it? Did government produce it? Where does that money come from?

The gentleman from Texas (Mr. HENSARLING) and I have had those conversations time and time again. We share a frustration when we hear those debates. That may be one of the reasons that when we are sitting on the Committee on the Budget and the gentleman from Iowa (Chairman NUSSLE) had a proposal to cut just 1 percent in waste, fraud and abuse, we can recall that not one single Democrat, not one, could even make the mistake of voting to cut 1 percent of waste, fraud and abuse. Of course not. Because it is not the people's money in their eyes. It is government's money. So if we waste it, if we throw it away on credit cards, whatever we do, it does not matter. There is more where that comes from.

That is why they proposed between the House and the other Chamber, 25 times they proposed increasing taxes. Why? Because it is the government's money. The people are here, it seems they believe, to serve government. The people are like a cow that we milk, that government milks. That is the only purpose. And that is a frustrating thing I hear all the time. And that is why I love to hear what I just heard from the three gentlemen that no, it is not. It is not government's money. It is the people's money. And that is why I am not ashamed, I am not embarrassed when we support initiatives to allow the people to keep a little bit more of their money.

The gentleman from Texas (Mr. HENSARLING) mentioned that it is a tiny percent of the budget that we are dealing with, but that tiny percent allows the American people to creat economic growth in a way that we have not seen in many, many years. And I do not know if the gentleman share those frustrations that I do.

Mr. HENSARLING. I obviously do share those frustrations, and I think they are basic tenets of economics that people on the other sides on the aisle forget. It has been a number of years, but I actually have a degree in economics from Texas A&M University.

I can state that, number one, government is not in the business of creating wealth. Government is in the business of redistributing wealth. People, hardworking American people who go out and save and risk and take chances and work hard and build businesses, those are the people who create wealth in our society. Those are the people who create jobs in our society.

Once again, it has been a few years since I have been in college, but I actually took a course in world economic history and in American economic history. I am unaware of any society that has ever taxed itself into prosperity. So apparently folks from the other side of the aisle must be reading different economic history text than I am. You cannot tax yourself into prosperity. And I might add for the benefit of those on the other side of the aisle, you cannot sue your way into prosperity either. That is their plan for America. It is a failed plan. It does not work.

Mr. PEARCE. The idea that you must know what you are trying to achieve from any set of taxes that you take is really obvious here. We were taking somewhat of a chance to go out and do the tax decreases, but it is working out the way that economists have said it would work out.

Our State, New Mexico, is leading the Nation, number two in job growth because our State legislature this year gave a tax cut, the Democrat Governor said we all know it, tax cuts cause jobs, tax cuts cause economic growth. But it also has taken some discipline. I do not know how many people are aware of it, but as we look at the corporate scandals, the President and the Justice Department have taken a leadership role. There are seven executives currently awaiting trial. There are four more who are already spending time in jail, including the ex-treasurer from Enron. The founder of ImClone is spending 7 years in jail, and 12 former executives from HealthSouth. The American people respond when government acts properly, when they request and require accountability on the part of not only their elected officials but also those people in business leadership positions.

So I salute the President in his plan for the economic recovery for this country. I salute the President in his willingness to ensure discipline in our corporate executives. I salute the gentleman from Florida (Mr. MARIO DIAZ-BALART) for hosting this discussion tonight.

Mr. MARIO DIAZ-BALART of Florida. I thank the gentleman from New Mexico (Mr. PEARCE) for again his leadership. I think it is worth restating. We hear it time and time again all the rhetoric that, I hear it every day, Republicans are cutting taxes on the rich.

I think it is worth restating and the gentleman from Texas (Mr. HENSARLING) mentioned that some of the high-profile Democratic leaders around this country, some of them said they want to get rid of all the tax cuts they propose. I want to talk about what those were, what those are, what are some of those so-called rich people that the Democrats want to raise taxes on. And, again, if that were to happen, if they were to succeed, it would reinstate nine million low-income Americans back on the tax rolls. Those are low-income Americans that are now not paying Federal income taxes at all because of the previous tax cuts. It would reinstate the marriage penalty.

Again, I repeat, I guess they think only rich people get married. It is a wakeup call. Not only rich people get married.

□ 2200

It would cut in half the $1,000 per child tax credit. I am not going to comment on that.

It would raise taxes on education savings by 75 percent. It would eliminate the income tax deduction for paying for college tuition.

It would increase a double tax of dividends by as much as 62 percent. It would eliminate the small, I emphasize it would eliminate the small business expense again for small businesses.

It would reinstate the death tax, and it would eliminate the emergency tax relief to areas affected by the attacks of September 11, 2001.

That is what is at stake here. That is what we are talking about. Those are the tax cuts that before I got elected a majority of this Congress, Republicans, fought for, the President fought for and successfully got. That is why we have seen the economic growth. Those are the tax cuts that we better believe that I think the American people deserve, again, because I believe it is their money. It is their money. They have the right to keep a little bit more of their money, and if somebody thinks that those 9 million low income Americans who are now not paying Federal income tax are rich, they have the right to think so.

Like I repeat, the gentlewoman from California (Ms. PELOSI), who I respect, has the right to feel that we are not at war. I just respectfully say that they are wrong.

We do not have a lot of time, but I know that the gentleman from Texas (Mr. HENSARLING) wants to leave us with some last remarks.

Mr. HENSARLING. Madam Speaker, I thank the gentleman for yielding, but I think it is again important for the American people to know that President Bush's pro-growth economic policies are working. It is absolutely incredible to think that we have just had the greatest economic growth, the greatest quarterly economic growth in almost 20 years, to think that productivity has increased precipitously, to think that consumer spending on nondurables is up 7.9 percent, the best in a quarter century, that, as I said, productivity increased almost 4 percent during the first two-and-a-half years of this administration, the fastest pace of any presidency since JFK.

It is important that the American people know that shareholder wealth is up almost $3 trillion, an increase of 22 percent since October 2, where we are helping to rebuild nest eggs. There is so much great economic news that is out there, totally in contrast to what we heard from people on the other side of the aisle, who said that these were failed economic policies.

We need to do more work to create jobs, but the question is where do we go from here? I often feel as my colleagues follow the debate and I follow the debate, that Democrats seem to love jobs. They just hate the people who create them. They want to tax job creators. They want to regulate job creators. They want to sue job creators, and then they wonder where are all the jobs, and then they continue to want to engage in this class warfare which I just believe is so uncharacteristic of the American people.

I have held a lot of jobs in my life. I used to clean out chicken houses for a living. I used to bus tables for a living. I used to tote luggage at a hotel. I worked as an officer in a small business before. I have run my own company. Actually, for a short period, I actually practiced law, though I am trying to live that one down, but my point is, in all the jobs I have ever had, no poor person ever hired me. It was somebody who might have been poor once, but they went out and they worked hard, and they were allowed to accumulate capital. They were allowed to keep their earnings, and so they went out and they took a risk and they put a hamburger stand over here or a transmission shop over there or a new software company over here. That is the way that we grow the economy. That is the way that we are going to create jobs.

I am a former small businessman, and I know that one of the great challenges we face as small businesspeople is how do we acquire capital. We do not acquire capital from the Federal Government. When they take our money, we do not have capital to go out and create new businesses.

Another great challenge small business faces is in health care costs, and yet as we work to try to improve the quality of health care and bring the cost of health care down, the folks on the other side of the aisle have fought us every step of the way, particularly in reforming medical liability insurance. Lawsuit abuse is adding 15 percent to the cost of welfare, and we care about doctors and patients, and they care about trial lawyers, but every single step of the way, trying to create an energy practice to bring down the cost of energy, to help the economy move further and create more jobs, they have fought us every step of the way.

So I appreciate what the gentleman has done tonight to bring the facts to this great body and to the American people, and I thank my colleague for the opportunity to be a part of that.

Mr. MARIO DIAZ-BALART of Florida. Madam Speaker, I thank the gentleman. Again, he is absolutely right. The bottom line, the tax cuts are working. It is doing what our esteemed colleagues on the Democratic side said time and time again it would not happen, it would not work. It is working. Those tax cuts are working.

We mentioned who are receiving those tax cuts that so many want to repeal, and I also want to mention one last time their alternatives. Their alternative to the tax cut, their alternative to letting the American people keep a little more money that is working, their alternatives are what they propose, as I mentioned it before, to raise taxes 25 times. If we combine this chamber and the other chamber, 25 times to raise taxes. That is their alternative, and they also proposed alternatives to major legislation this year alone that would have added $890 billion to the deficit.

The good thing is, thank God in a democracy we have alternatives, and the majority of this House went along with the President's alternative. Cut taxes on the American people, cut taxes on small business, cut taxes on the hardworking taxpayer of the country. The results, alas, no big surprise, economy is rebounding. It is rebounding strongly.

So I am very grateful for the President's leadership.

INADEQUATE TREATMENT OUR TROOPS AND VETERANS ARE RECEIVING FROM THE ADMINISTRATION

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentlewoman from California (Ms. WATERS) is recognized for 60 minutes as the designee of the minority leader.

Ms. WATERS. Mr. Speaker, I rise tonight to highlight the inadequate treatment our troops and our veterans are receiving from this administration.

In all there are 1.4 million men and women serving in the United States Armed Forces. Tens of thousands of these soldiers are serving overseas, 130,000 troops in Iraq, 8,500 troops in Afghanistan, 37,000 in South Korea and the list goes on and on.

Throughout their deployment, the men and women who serve in the United States Armed Forces have done so with honor and distinction. However, the Republican Congress and this administration often have not lived up to their part of the bargain.

While the Congress has approved massive increases in funding for the Department of Defense, our soldiers are deployed to Iraq without life-saving protective body armor, and many humvees were also poorly equipped, leaving our soldiers vulnerable to rocket-propelled grenades and other explosive devices. It was not until our soldiers began writing home asking their families to send them ceramic tiles so that they could make their own protective armor that the Pentagon finally woke up and said they would provide each soldier with Kevlar bulletproof vests.

It should never have come to this. If we are going to send our troops into battle, we must ensure that they have all the equipment they need. Unfortunately, the Republicans' record is grossly inadequate when it comes to helping our soldiers when they return from the battlefield.

While they have taken the long overdue step of providing funding in the emergency supplemental appropriations bill to cover the costs our soldiers have traveling home on rest and recuperation, they still leave many military families vulnerable by only extending the higher rates of imminent danger pay and family separation allowance for 1 year, no matter how long they serve. While the Republicans heeded the demands of Democrats and ended the shameful practice of requiring wounded soldiers to pay subsistence charges for each day they were in the hospital recovering from a combat injury, they continued to refuse to provide other essential relief to our veterans.

The Republicans still refuse to end the disabled veterans tax which prevents thousands of disabled veterans from receiving full retirement and disabled benefits.

In short, the Republicans believe that by waving the United States flag and making a few cosmetic changes, they can dress up a second rate record on issues that are important to our veterans and our troops.

Mr. Speaker, we have to acknowledge the existence of a problem before we can fix it. One news organization reported earlier this week that soldiers are being housed in outdated barracks, some even without indoor toilets, and forced to wait days, weeks or even months for treatment of medical problems, including injuries suffered in Iraq. Yet this administration seems unable to acknowledge the existence of the problem.

Mr. Speaker, the clearest illustration of the Republicans' poor record on veterans issue is when we examine the inadequate funding the Republicans have provided for the Department of Veterans Affairs. Every veteran has earned the health care, educational, disability and other benefits he or she was promised when they signed up for military service. However, they are rarely receiving these benefits in a timely manner.

The statistics are dreadful. There are approximately 60,000 veterans waiting 6 months or more to see a doctor. Some veterans die from their conditions before they are able to see a doctor, and for the past 2 years, an average of 14,000 disabled veterans have been waiting more than 15 months for their so-called expedited disability claims to be finalized.

This log jam will only get worse as those troops currently serving overseas return home. Yet instead of providing the necessary funding to alleviate these backlogs and help those who need it most, the Republicans are passing massive tax cuts to benefit those who need it least.

Mr. Speaker, the Republican record on veterans issues is not one that I would be happy to call my own. I am certainly grateful that I do not have to defend it.

During the fiscal year 2004 budget debate, the Republicans attempted to cut funding over the next 10 years for medical care and other appropriated veterans programs by $14.2 billion below current service levels and cut funding for mandatory veterans programs by $14.2 billion over 10 years. Later, despite publicity promising to include $3.2 billion for veterans health care, Republicans have only appropriated $1.4 billion for veterans health care, leaving a shortfall of $1.8 billion and thousands of veterans without necessary health care.

The Republicans have prevented Members from voting their conscience on the disabled veterans tax which unfairly taxes disabled veterans, $1 in retirement benefits for every $1 they receive in disability benefits. The Republicans even propose to increase prescription drug copayments and impose enrollment fees on veterans seeking to access health care, and despite there being an estimated 299,321 veterans who are homeless on any given night, funding which helps provide housing and job training for veterans is woefully short.

This record is in no way to repay the sacrifice our veterans have made on behalf of us.

Mr. Speaker, the Democrats have another way. We have crafted a bill that will not only honor the men and women serving in the Armed Forces today but also provide the benefits that veterans have earned and deserve.

H.R. 2569, the Democratic bill, would increase funding for VA health care by $10 billion over the next 10 years, expand access to health care for the National Guard and Reserves. It would completely and immediately end the disabled veterans tax. It would pay our veterans $500 a month when his or her disability claim has been left pending for longer than 6 months. For our troops currently fighting in Iraq and Afghanistan, our bill would give a $1,000 bonus for those soldiers returning home from Iraq and Afghanistan. Lastly, the Democrats would extend the child tax credit to the hundreds of thousands of military families left behind by the Bush tax cut.

Mr. Speaker, H.R. 2569 is a comprehensive bill that not only acknowledges the sacrifice our men and women in uniform make but also ensures that they are properly taken care of after they stop wearing the uniform.

□ 2215

This recognition is long overdue. Democrats are committed to doing all that we can to pass H.R. 2569. We will continue to put a spotlight on the enormous gap between Republican words and deeds on veterans and troop-support issues. Our troops and our veterans deserve no less.

Mr. Speaker, I know that it is not popular with this administration to talk about these issues. As a matter of fact, I am fully aware that the President of the United States basically tried to intimidate the news media by saying to them you are not reporting enough good news. And to prove that he was prepared to deal with them if they do not do it his way, he started to exclude the national media and go around them and deal with the regional media in order to teach them a lesson.

Well, Mr. Speaker, this President and this administration may not like the fact that some of us talk about what is really happening in Iraq and Afghanistan. He may not like the fact that the news media is reporting the deaths of our soldiers, not only those deaths that are taking place in Iraq, but those deaths that are taking place in Afghanistan. And while there are those who do not want to have us talk about the fact that 15 of our soldiers were killed this past weekend, and in excess of 20 of them were wounded, and each day we continue to lose soldiers, one, two, three a day, they are being attacked and they are being picked off. Of course we are raising a lot of questions about the postwar planning, or lack thereof. We are asking this administration what were you thinking about.

Our soldiers are now in a situation that they have not been trained for. They do not know anything about Shiites and Sunnis. They do not understand the ethnic warfare between Shiites, Sunnis, and Kurds. They do not know the language; they do not understand the cultures. They were not trained to be involved in guerrilla warfare. We have to continue to talk about this because we have to force the protection that is needed.

I am not going to talk about Afghanistan; they just killed two of our CIA agents there. The poppy fields are flowing; the warlords are in control. Mr. Karzai, who we hand picked and sat down in Kabul, is not running anything. It is a joke, and we are paying a terrible price for the way we have not done our homework and done our planning in these two places alone.

Hopefully, even those wounded will return home. Hopefully, this administration will get its act together and they will provide the protection and do the strategic planning; they will do what they did not do, even when the President posted the sign "Mission Accomplished."

It is time for the untruths and the distortions to stop. I was shocked when the President, whom we saw under the banner of mission impossible when asked by the press denied that the White House had anything to do with it. Certainly the White House planned the entire event, but that is typical of the kind of untruths and misinformation coming out of this administration.

What is going to happen to those soldiers returning home, those soldiers who are wounded, those soldiers who have been separated from their families, those soldiers and reservists who will return without employment? Some will not even have homes to live in. We are talking about not only what is going on in Afghanistan and Iraq at this time, but we want to let you know, and hopefully they will be veterans returning to their respective towns and their cities, what will be there for them? Will they, too, have to wait in long lines to get the health care that they need? Many of them will need follow-up health care as a result of the wounds that they are receiving now in Iraq. What is going to happen to them when they discover that they will not get the retirement benefits they thought were coming to them because of the way this administration refused to fund it?

Well, we raise these questions no matter how unpopular they are. It is our duty and our responsibility as representatives elected to represent all of the people to be in the forefront of the issues for our veterans. If we cannot stand up for our veterans, we cannot stand up for anybody or anything.

Mr. Speaker, I yield to the gentlewoman from Georgia (Ms. MAJETTE) as she continues our discussion in support of our veterans.

Ms. MAJETTE. Mr. Speaker, I thank the gentlewoman for yielding.

As we approach Veterans' Day, we pause to recall the noble service and the high sacrifices of those who have worn the uniform of our Nation. On this day of remembrance, we will rededicate ourselves to those who have dedicated themselves to us. I thank each and every man and woman who has served in every branch of our military. I thank you soldiers for your courage, your character, your strength, and the enduring power of your example.

Threatened by terrorists who seek to destroy our way of life, Americans are appreciating anew the blessings of liberty we cherish as well as the heroes who fight, and often die, so we can live in freedom.

None have paid a higher price and sacrifice more for our freedom than have our veterans. It is time for us in Congress to learn from them. We must now stand in solidarity like our brave protectors and act to end the lamentable neglect that is our crisis in veterans health care. Every American owes them a debt of gratitude that words cannot repay. And yet our veterans have received more good words than good deeds from this administration.

In January, our President stated that the medical care received by our troops is comforting to him. He stated that our troops deserve only the best care, and yet that same day the administration announced that it was cutting off health care access for approximately 164,000 veterans.

The President has said that he wants only the best housing for our military families, yet this administration's 2004 budget proposes a $1.5 billion reduction in funds for military housing, a 14 percent cut that affects family housing, barracks, child care centers, schools, hangars, and office buildings.

The President vowed to pass fair, balanced historic tax relief for the American people. Instead, the administration's tax cut denies child tax credits for 1 million children in military and veteran families. According to the Children's Defense Fund, more than 260,000 of these children have parents on active military duty.

House Republicans promised increased veterans funding for 2004. We have now passed all 13 appropriations bills in the House, and the actual funding provided for veterans programs in the House-passed appropriations bills is $28.1 billion, the same level contained in the President's budget. So far the House Republicans have not delivered one dime of the $1.8 billion increase above the President's budget that they called for in their budget resolution.

In a time of war, as we take care of those who defend our country today, we must fulfill our debt to those who have defended us in the past. In my State of Georgia alone, we have over 752,000 veterans who have sacrificed for our State and country. I refuse to merely say I appreciate their sacrifice. Congress must back up our words with deeds. It is our obligation.

The politicians will be eager on Veterans' Day to stand on podiums with decorated soldiers, veterans who have given of themselves for our Nation, and they will give honor to those soldiers. These public figures will declare solidarity with them and speak of the great appreciation for their willingness to sacrifice for the freedom of others. But on those other days, on those days that are not Veterans' Day, what will happen then?

As a Nation, we have a sacred pact with all of those who served in uniform. Veterans and their families have taken care of us. In return, we must take care of them.

They understand that freedom is not free. And so, Mr. Speaker, must we.

Ms. WATERS. Mr. Speaker, I thank the gentlewoman for taking time from her schedule and being here at this hour to talk about her commitment for our veterans and the way that all Americans should feel about our veterans. Certainly the manner in which she has spoken really should give those on the opposite side of the aisle cause to revisit the way in which they can represent our veterans.

I would like to take a moment and reiterate, H.R. 2569, the Democratic bill, would increase funding for VA health care by $10 billion over the next 10 years, expand access to health care for the National Guard and Reserves. It would completely and immediately end the disabled veterans tax; it would pay a veteran $500 a month when his or her disability claim has been left pending for longer than 6 months. For our troops currently fighting in Iraq and Afghanistan, our bill would give a $1,000 bonus for those soldiers returning home from Iraq and Afghanistan. Lastly, the Democrats would extend the child tax credit to the hundreds of thousands of military families left behind by the Bush tax cut. I repeat that because I think it is important for the American people to know there is an alternative. No one can say that they did not have something that they could vote for to correct the inadequacies of the funding for our veterans.

Mr. Speaker, this past weekend when 15 soldiers were killed and over 20 were wounded, I watched as Mr. Rumsfeld and others attempted to respond to the press's questions about what had happened and what did they plan to do. I sat in horror as I watched Mr. Rumsfeld say, I am sorry about what happened; I think this is a critical time for our American families who have soldiers who have been killed, but this is war and we should expect that people are going to lose their lives in war. We are going to be in Iraq for a long time, and I am paraphrasing what he said, and we are not going to cut and run. These are the words that Mr. Rumsfeld and the President of the United States were using: we are not going to cut and run.

Mr. Speaker, it is easy to talk about making sacrifices when it is somebody else's child. I guess it is pretty easy to talk about we should expect that people are going to die. I am never comfortable with that kind of talk. I am never comfortable with the fact that any leader would try and sanitize the trauma of the death of our soldiers and speak about it in such a way.

Mr. Speaker, we are aware that we do not see our soldiers' bodies being brought home. There are those who are saying that we do not see the bodies coming in because there is a plot and a plan by this administration to keep it out of public view, to not have the body bags returning in a way that Americans will focus on it.

□ 2230

Mr. Speaker, I am here to say that this administration can attempt to hide or to deny, to not allow the ceremonies to take place in honor of our soldiers as we have done in the past, but that is only going to anger the American public. Americans will not take kindly to dismissing the deaths of our soldiers. They will not take kindly to any attempts to change the protocol that we had gotten used to when we could, for a moment, stop and focus on the fact that lives had been lost and provide a ceremony in honor of them for all of the American public to see.

Mr. Speaker, while I am here talking about veterans, and I am trying to make the connection between how we can do better by those in Iraq than we are doing by those who have already served long before them, whether it was in the Vietnam War, whether it was in Desert Storm, whether it was in World War II, I am anxious to send a message this evening, and that message is that the people of this country want to see this administration and the Members of this Congress do better by our soldiers and our veterans. I am hopeful that we will not have to see our American people become so angry that they embarrass this administration and this President by demanding that we get the truth, that we understand exactly what is happening, that our soldiers are taken care of, that they are brought back in the traditional ceremonies that we have gotten used to. I want Mr. Rumsfeld and the President of the United States to look the press in the eye and show that they are truly sorry for the deaths that are being caused. I do not wish our leaders, whether it is the President or Mr. Rumsfeld, to just say in so many words: Get used to it. The sacrifices have to be made, that this is what war is all about and this is what we are going to be experiencing for some time to come.

Again, these are not the kind of words that people want to hear. This is not the kind of truth that the administration would like to confront. But as a Member of Congress, elected by the people to represent, I take this time leading up to Veterans Day to not only talk about our soldiers in Iraq but to say over and over again, we can do better by our veterans. We must do better by our veterans. Again, as it was said by the gentlewoman from Georgia, on Veterans Day, Members of Congress and leaders all across this country will be going to ceremonies. They will be at the veterans hospitals. They will be at the various VFW posts. They will be in places where veterans are. And they will talk about how they honor the sacrifices that our veterans have made. But what they will not talk about is what are we going to do to get the homeless veterans off the street? What are we going to do to create more cemetery space for our veterans? What are we going to do to reduce the long waiting times and the long waiting periods that our veterans are experiencing at our VA hospitals?

But, Mr. Speaker, I am hopeful because of the Democrats, because of our bill, because we are saying what is possible, and we have laid it out in a very clear and concise way, that the veterans themselves in the middle of these ceremonies will look the Members of Congress and others in the eye and instead of allowing them to get away with the ceremonial side of this, will ask about the substantive side of the public policy issues and say: What are you doing to protect us or to provide services for us, to make sure that you respect the investments that we have made.

Mr. BISHOP of Georgia. Mr. Speaker, when the Nation observes Veterans' Day, our collective purpose is to thank the men and women who have faithfully worn the uniform of the country's armed services for the service and sacrifice that has kept us strong and free.

But I think we should thank veterans for something else, as well.

In addition to their service in the military, we should also express the Nation's gratitude for the unshakeable foundation of patriotic citizenship that veterans have always provided in civilian life—and that the country cannot do without, especially during times of peril such as these.

Veterans never stop fighting for a free and secure country.

They have fought for a strong defense and strong foreign policy. They have fought for integrity and responsibility in government. They have fought to protect the U.S. flag and all it represents, including the respect we owe to those who have paid the price for freedom. They have fought for the benefits veterans have earned and deserve, including disability benefits for those who have suffered permanent injuries in military service. They have fought for the American ideal of freedom and justice for all.

Those of us who serve in Congress should thank veterans not only by making speeches, but also by rolling up our sleeves and addressing the critical unmet needs of our veterans' population.

We need to act on long-pending "concurrent receipt" legislation so that we no longer deny disability payments to military retirees. Last year, Congress provided some new benefits to disabled retirees in lieu of concurrent receipt. But many disabled veterans still do not believe equity has been achieved. There is nothing that justifies a denial of these benefits to any eligible veteran, and Congress should correct this wrong right now.

We need to improve the veterans' health care system so that we no longer have a backlog of more than 100,000 veterans who are waiting six months or more to receive the care they need. Some veterans are waiting up to a year or more. This means many are getting sicker while they wait, and I fear some are not making it. This is intolerable.

We need the most cost-effective system possible, and I have no quarrel with the concept of the Veterans' Administration's Capital Asset Realignment for Enhanced Services program. But we need to make sure that any reorganization does not end up downsizing or eliminating facilities that veterans need, thereby reducing access even more.

We need a VA budget that meets the needs—not one that falls below the new fiscal year's authorization by $1.8 billion and barely keeps pace with inflation. I believe we need to cut taxes to stimulate the economy and provide relief to middle and lower income working Americans, but we do not need to provide an average tax cut of $88,326 to Americans earnings more than $1 million a year when we could trim that amount by just a few thousand dollars and save enough revenue to take care of some of our critical needs.

We need to fulfill the country's promise to our fellow Americans who have devoted a substantial part of their lives in defense of the country, many putting their lives on the line.

We live in difficult and dangerous times.

But we should be confident about the country'a ability to meet the grave challenges we face.

As long as we have people in our country who stand ready to make whatever effort and sacrifice is necessary, we should be confident that our Nation has what it takes to defeat the forces that would do us harm and that we will succeed in advancing the cause of freedom for our generation and for generations to come.

As our veterans demonstrate every day, patriotism is alive and well.

And that should give us all hope for the future.

As we celebrate Veterans' Day, 2003, let us say to all of the Nation's 25.1 million veterans: "We thank you, we support you, we need you, and may God bless you for keeping the country free and strong."

GENERAL LEAVE

Ms. WATERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore (Mr. PEARCE). Is there objection to the request of the gentlewoman from California?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FATTAH (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. REYES (at the request of Ms. PELOSI) for today and the balance of the week on account of official business in the district.

Mr. TURNER of Texas (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. BOEHLERT (at the request of Mr. DELAY) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. EDWARDS, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

(The following Members (at the request of Mr. MARIO DIAZ-BALART of Florida) to revise and extend their remarks and include extraneous material:)

Mr. MURPHY, for 5 minutes, today.

Mr. GINGREY, for 5 minutes, today.

Mr. BEREUTER, for 5 minutes, today.

Mr. MILLER of Florida, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. GUTKNECHT, for 5 minutes, November 6.

Mr. MCCOTTER, for 5 minutes, November 6.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1132. An act to amend title 38, United States Code, to improve and enhance certain benefits for survivors of veterans, and for other purposes; to the Committee on Veterans' Affairs; in addition to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 1720. An act to provide for Federal court proceedings in Plano, Texas; to the Committee on the Judiciary.

ADJOURNMENT

Ms. WATERS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, November 6, 2003, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5061. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF6-6 Series Turbofan Engines [Docket No. 2002-NE-24-AD; Amendment 39-13144; AD 2003-10-01] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5062. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter France Model AS 350B3, SA-365N, N1, AS-365N3, and EC 155B Helicopters [Docket No. 2002-SW-17-AD; Amendment 39-13330; AD 2003-20-12] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5063. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Beatrice, NE [Docket No. FAA-2003-15461; Airspace Docket No. 03-ACE-59] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5064. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wayne, NE [Docket No. FAA-2003-15718; Airspace Docket No. 03-ACE-60] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5065. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135P1, P2, T1, and T2 Helicopters [Docket No. 2003-SW-08-AD; Amendment 39-13329; AD 2003-20-11] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5066. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lee's Summit, MO [Docket No. FAA-2003-15722; Airspace Docket No. 03-ACE-64] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5067. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes Equipped With Certain Pratt & Whitney PW306B Engines Nacelles [Docket No. 2001-NM-319-AD; Amendment 39-13320; AD 2003-20-02] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5068. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Aurora, MO [Docket No. FAA-2003-15460; Airspace Docket No. 03-ACE-58] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5069. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company CF34-3A1, -3B, and -3B1 Turbofan Engines [Docket No. 2001-NE-21-AD; Amendment 39-13337; AD 2003-05-10R1] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5070. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Meade, KS [Docket No. FAA-2003-15723; Airspace Docket No. 03-ACE-65] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5071. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Sullivan, MO [Docket No. FAA-2003-15721; Airspace Docket No. 03-ACE-63] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5072. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; PILATUS Aircraft Ltd. Model PC-7 Airplanes [Docket No. 2003-CE-29-AD; Amendment 39-13323; AD 2003-20-05] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5073. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Centerville, IA [Docket No. FAA-2003-15724; Airspace Docket No. 03-ACE-66] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5074. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney Canada Models PW118, PW120, PW120A, and PW121 Turboprop Engines [Docket No. 2003-NE-11-AD; Amendment 39-13338; AD 2003-21-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5075. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 and -145 Series Airplanes [Docket No. 2003-NM-64-AD; Amendment 39-13132; AD 2003-09-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5076. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Univair Aircraft Corporation Models Alon A-2 and A2-A; ERCO 415-C, 415-CD, 415-D, 415-E, and 415-G; Forney F-1 and F-1A; and Mooney M10 Airplanes [Docket No. 2002-CE-58-AD; Amendment 39-13335; AD 2003-21-01] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5077. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Raytheon Aircraft Company 90, 100, and 200 Series Airplanes [Docket No. 2002-CE-45-AD; Amendment 39-13218; AD 2003-13-16] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5078. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30379; Amdt. No. 3068] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5079. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30378; Amdt. No. 3067] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5080. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombadier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-143AD; Amendment 39-13321; AD 2003-20-03] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5081. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes [Docket No. 2001-NM-372-AD; Amendment 39-13322; AD 2003-20-04] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5082. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 737-400, -500, -600, -700, and -800 Series Airplanes [Docket No. 2001-NM-326-AD; Amendment 39-13331; AD 2003-20-13] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5083. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747SP, 747SR, 747-100, 747-200, and 747-300 Series Airplanes; Equipped with Pratt & Whitney Model JT9D-3, -7, and -7Q Series Engines and Model JT9D-7R4G2 Engines [Docket No. 99-NM-67-AD; Amendment 39-13334; AD 2003-20-16] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5084. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Igiugig, AK [Docket No. FAA-2003-14856; Airspace Docket No. 03-AAL-06] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5085. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Nelson Lagoon, AK [Docket No. FAA-2003-14854; Airspace Docket No. 03-AAL-05] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5086. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Pilot Point, AK [Docket No. FAA-2003-14855; Airspace Docket No. 03-AAL-04] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5087. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Seward, NE [Docket No. FAA-2003-15719; Airspace Docket No. 03-ACE-61] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5088. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Jet Routes; Baton Rouge, LA [Docket No. FAA-2003-14368; Airspace Docket No. ASD-02-ASW-4] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5089. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Minor Revision of the Legal Description of VOR Federal Airway V-167 in the Vicinity of Hyannis, MA [Docket No. FAA-2003-15492; Airspace Docket No. 03-ANE-102] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5090. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; Model DC-8-50 Series Airplanes; Model DC-8F-54 and DC-8F-55 Airplanes; Model DC-8-60 Series Airplanes; Model DC-8-70 Series Airplanes; and Model DC-8-70F Series Airplanes [Docket No. 2001-NM-184-AD; Amendment 39-13336; AD 2003-21-02] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5091. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2003-15074; Airspace Docket No. 03-ACE-42] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5092. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Revision of VOR Federal Airways in the Vicinity of Tuscaloosa, AL [Docket No. FAA-2002-13849; Airspace Docket No. 02-ASO-24] (RIN: 2120-AA66) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5093. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Pratt & Whitney PW4000 Series Turbofan Engines; Correction [Docket No. 2000-NE-47-AD; Amendment 39-13318; AD 2003-19-15] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5094. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airspace Designations; Incorporation By Reference [Docket No. 29334; Amendment No. 71-35] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5095. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727-200 Series Airplanes [Docket No. 2003-NM-48-AD; Amendment 39-13332; AD 2003-20-14] (RIN: 2120-AA64) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5096. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30367; Amdt. No. 3057] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5097. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30368; Amdt. No. 3058] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5098. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30386; Amdt. No. 3074] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5099. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2003-15074; Airspace Docket No. 03-ACE-42] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5100. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Fort Leonard Wood, MO [Docket No. FAA-2003-14658; Airspace Docket No. 03-ACE-27] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JOHN:

H.R. 3440. A bill to prohibit the Secretary of Veterans Affairs from taking any action to implement any recommendation of the Department of Veterans Affairs Capital Asset Realignment for Enhanced Services (CARES) Commission during the one-year period beginning on the date of the submission of the commission's recommendations to the Secretary; to the Committee on Veterans' Affairs.

By Mr. SHAYS (for himself and Mrs. EMERSON):

H.R. 3441. A bill to amend the Richard B. Russell National School Lunch Act to phase out reduced price lunches and breakfasts by phasing in an increase in the income eligibility guidelines for free lunches and breakfasts; to the Committee on Education and the Workforce.

By Mrs. NAPOLITANO (for herself and Mr. MURPHY):

H.R. 3442. A bill to amend title 38, United States Code, to enhance the rehabilitative services provided by the Department of Veterans Affairs to veterans with mental illnesses and other veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. DELAHUNT:

H.R. 3443. A bill to amend the Adams National Historical Park Act of 1998 to include the Quincy Homestead within the boundary of the Adams National Historical Park, and for other purposes; to the Committee on Resources.

By Ms. DELAURO (for herself, Mr. WAXMAN, Mr. BROWN of Ohio, Ms. ESHOO, Mr. EMANUEL, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, and Mr. OWENS):

H.R. 3444. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure that consumers receive information about the nutritional content of restaurant foods; to the Committee on Energy and Commerce.

By Mr. GIBBONS:

H.R. 3445. A bill to direct the Secretary of the Interior to convey certain land in Washoe County, Nevada, to the Board of Regents of the University and Community College System of Nevada; to the Committee on Resources.

By Mr. HINCHEY (for himself and Mr. BASS):

H.R. 3446. A bill to provide for the protection of the last remaining herd of wild and genetically pure American buffalo; to the Committee on Resources.

By Mr. MENENDEZ (for himself, Mr. BALLENGER, Mr. DELAHUNT, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. WELLER, Mr. ACKERMAN, Ms. HARRIS, Mr. FALEOMAVAEGA, Mr. PAYNE, Mr. CROWLEY, Mrs. NAPOLITANO, Mr. RODRIGUEZ, Mr. REYES, Mr. GUTIERREZ, Mr. ORTIZ, Ms. ROYBAL-ALLARD, Mr. GONZALEZ, Ms. SOLIS, Mr. ACEVEDO-VILÁ, Mr. BERMAN, and Mr. HASTINGS of Florida):

H.R. 3447. A bill to authorize the establishment of a Social Investment and Economic Development Fund for the Americas to provide assistance to reduce poverty and foster increased economic opportunity in the countries of the Western Hemisphere, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICHAUD:

H.R. 3448. A bill to modify the boundaries for a certain empowerment zone designation; to the Committee on Ways and Means.

By Ms. NORTON:

H.R. 3449. A bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods; to the Committee on the Judiciary.

By Mr. WU (for himself, Ms. LINDA T. SÁNCHEZ of California, Mr. MCDERMOTT, Mr. GREEN of Texas, Mr. PASTOR, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Mr. ETHERIDGE, Mr. WAXMAN, Mr. FALEOMAVAEGA, Mr. FROST, Mr. WEXLER, Ms. MCCOLLUM, Ms. NORTON, Mr. SERRANO, Mr. BROWN of Ohio, Mr. STARK, Mr. PAYNE, Mr. MEEKS of New York, Mr. OWENS, and Mr. KUCINICH):

H.R. 3450. A bill to amend the Elementary and Secondary Education Act of 1965 to reduce class size through the use of fully qualified teachers, and for other purposes; to the Committee on Education and the Workforce.

By Ms. WATERS (for herself, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. RANGEL, Mrs. CHRISTENSEN, Mr. ACEVEDO-VILÁ, Mr. TOWNS, Ms. CORRINE BROWN of Florida, Mr. MCNULTY, Mr. ABERCROMBIE, Mr. DEUTSCH, Mr. FROST, Mr. PAYNE, Ms. NORTON, Mrs. JONES of Ohio, Mr. CLYBURN, Mr. LEWIS of Georgia, Mr. GREEN of Texas, Mr. OWENS, and Mr. BERMAN):

H.R. 3451. A bill to amend the Public Health Service Act to authorize grants for treatment and support services for Alzheimer's patients and their families; to the Committee on Energy and Commerce.

By Mr. SERRANO (for himself, Mr. GUTIERREZ, Ms. VELÁZQUEZ, and Mr. ACEVEDO-VILÁ):

H. Res. 433. A resolution honoring the life and legacy of Luis A. Ferre; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 207: Mr. HEFLEY.

H.R. 303: Ms. HARMAN.

H.R. 333: Mr. FRANK of Massachusetts.

H.R. 348: Mr. BALLANCE.

H.R. 486: Mr. CANTOR, Mrs. MYRICK, Mr. FERGUSON, and Mr. BARRETT of South Carolina.

H.R. 627: Mr. BALLANCE.

H.R. 713: Mr. UDALL of Colorado.

H.R. 737: Mr. PETERSON of Minnesota.

H.R. 742: Ms. SLAUGHTER.

H.R. 785: Mr. WAMP and Ms. MILLENDER-MCDONALD.

H.R. 792: Mrs. LOWEY.

H.R. 819: Mr. PAYNE.

H.R. 834: Mr. CRAMER and Mr. BERRY.

H.R. 852: Mr. JACKSON of Illinois and Ms. MCCOLLUM.

H.R. 876: Mr. SMITH of Michigan, Mr. SIMMONS, Mr. TERRY, Mr. HOEKSTRA, and Mr. STRICKLAND.

H.R. 882: Mr. PAYNE and Mr. SHUSTER.

H.R. 927: Mr. KING of Iowa.

H.R. 936: Mr. RODRIGUEZ.

H.R. 970: Mr. FRANK of Massachusetts.

H.R. 977: Mr. KIND.

H.R. 992: Mr. WELDON of Florida.

H.R. 993: Mr. WELDON of Florida.

H.R. 994: Mr. WELDON of Florida.

H.R. 998: Ms. WATERS.

H.R. 1031: Ms. HARRIS and Mr. JEFFERSON.

H.R. 1083: Mr. KIND.

H.R. 1117: Mr. ISTOOK, Mr. BURGESS, Mr. BOOZMAN, and Mr. DUNCAN.

H.R. 1125: Mr. BISHOP of Georgia and Mr. MEEK of Florida.

H.R. 1155: Mr. MCINNIS and Mr. COSTELLO.

H.R. 1212: Mr. PETERSON of Minnesota.

H.R. 1229: Mr. BRADY of Texas.

H.R. 1267: Mrs. TAUSCHER.

H.R. 1279: Mr. KING of Iowa.

H.R. 1322: Mr. LAMPSON, Mrs. NAPOLITANO, and Ms. PELOSI.

H.R. 1374: Mr. PETERSON of Minnesota.

H.R. 1434: Mrs. JONES of Ohio, Mr. GRIJALVA, Ms. NORTON, Mr. ACEVEDO-VILÁ, Mr. DAVIS of Illinois, Mr. PAYNE, Mrs. CHRISTENSEN, Mr. MCNULTY, Mr. FRANK of Massachusetts, Mr. CUMMINGS, Ms. WATSON, Mr. CAPUANO, Mr. DAVIS of Alabama, Mr. KUCINICH, Mr. GONZALEZ, and Mr. FILNER.

H.R. 1532: Mr. FRANKS of Arizona, Mr. HASTINGS of Florida, Mrs. DAVIS of California, and Mr. PALLONE.

H.R. 1534: Mr. SERRANO and Mr. SANDERS.

H.R. 1634: Mr. DICKS.

H.R. 1653: Mr. WELDON of Florida.

H.R. 1676: Mrs. BIGGERT.

H.R. 1700: Mr. CAPUANO and Ms. MILLENDER-MCDONALD.

H.R. 1708: Mr. VITTER and Mr. PETERSON of Minnesota.

H.R. 1713: Mr. PETERSON of Minnesota.

H.R. 1746: Mr. BISHOP of Georgia.

H.R. 1824: Mr. HOEKSTRA, Mr. HYDE, and Mr. FOLEY.

H.R. 1910: Ms. WATSON.

H.R. 1914: Mr. BURR, Mr. COBLE, Ms. DUNN, Mr. GIBBONS, Ms. GRANGER, Mr. HOUGHTON, Mr. LEACH, and Mr. SMITH of New Jersey.

H.R. 1919: Mr. GUTIERREZ and Ms. WATERS.

H.R. 1958: Mr. WU.

H.R. 2068: Mr. STRICKLAND, Mr. JACKSON of Illinois, Mr. GORDON, and Mr. TOWNS.

H.R. 2069: Ms. HOOLEY of Oregon, Mr. JACKSON of Illinois, Mr. GORDON, and Mr. TOWNS.

H.R. 2154: Mr. DEFAZIO.

H.R. 2239: Mr. LARSEN of Washington, Mr. BOUCHER, Mr. STARK, and Mr. JEFFERSON.

H.R. 2262: Mr. BRADY of Pennsylvania, Mr. SERRANO, and Mr. EMANUEL.

H.R. 2347: Mr. EHLERS.

H.R. 2365: Mr. STUPAK.

H.R. 2490: Mrs. TAUSCHER.

H.R. 2491: Mr. SMITH of Michigan.

H.R. 2527: Mr. ANDREWS.

H.R. 2635: Mr. BAKER.

H.R. 2674: Mr. LANTOS.

H.R. 2702: Mr. DEFAZIO.

H.R. 2704: Mr. FOSSELLA.

H.R. 2707: Mrs. CUBIN.

H.R. 2711: Mr. HEFLEY and Mr. EMANUEL.

H.R. 2719: Mr. KUCINICH, Mr. BOEHLERT, Mr. LUCAS of Kentucky, and Mr. MURPHY.

H.R. 2720: Mr. CAMP, Mr. ACKERMAN, Mr. MEEKS of New York, Mr. HILL, and Mr. HINCHEY.

H.R. 2727: Ms. ROYBAL-ALLARD, Mrs. DAVIS of California, Mr. KENNEDY of Rhode Island, Mr. SERRANO, Mr. ALLEN, Mr. MENENDEZ, Mr. EMANUEL, Mr. UDALL of Colorado, Mrs. MCCARTHY of New York, Mr. RUSH, Mr. CLAY, Mr. EVANS, Ms. BERKLEY, and Ms. CARSON of Indiana.

H.R. 2787: Ms. SLAUGHTER.

H.R. 2807: Mr. RODRIGUEZ.

H.R. 2823: Mrs. JOHNSON of Connecticut.

H.R. 2824: Mr. GERLACH.

H.R. 2833: Mr. JACKSON of Illinois, Mr. DUNCAN, Mr. WATT, Mr. SCOTT of Georgia, Ms. BORDALLO, Ms. MCCOLLUM, Ms. ROYBAL-ALLARD, and Ms. DELAURO.

H.R. 2839: Ms. ROS-LEHTINEN and Mr. BOEHLERT.

H.R. 2849: Mr. DEFAZIO.

H.R. 2853: Mr. KUCINICH.

H.R. 2864: Mrs. MUSGRAVE and Mr. CULBERSON.

H.R. 2890: Mr. NETHERCUTT.

H.R. 2924: Mr. REHBERG.

H.R. 2932: Mr. RYAN of Ohio.

H.R. 2945: Mr. NEAL of Massachusetts.

H.R. 2949: Mr. WOLF, Mr. TOWNS, Mr. PITTS, and Mr. WEXLER.

H.R. 2957: Mr. WALDEN of Oregon.

H.R. 3003: Mr. KING of New York.

H.R. 3057: Mr. OWENS.

H.R. 3058: Mr. QUINN.

H.R. 3063: Mr. RYAN of Ohio.

H.R. 3079: Mr. GREEN of Wisconsin and Mr. GOSS.

H.R. 3109: Mr. SHAW, Mr. GUTIERREZ, Ms. DUNN, Ms. HARRIS, Mr. MCINNIS, and Mr. TOWNS.

H.R. 3119: Mrs. BLACKBURN, Ms. BERKLEY, Mr. LIPINSKI, Mr. GILCHREST, and Mr. KING of Iowa.

H.R. 3122: Mr. SHIMKUS.

H.R. 3123: Mr. KUCINICH and Mr. GUTIERREZ.

H.R. 3125: Mr. SANDLIN.

H.R. 3127: Mr. MCNULTY, Mr. HOBSON, Mrs. JOHNSON of Connecticut, Ms. ROS-LEHTINEN, and Mr. SCHIFF.

H.R. 3178: Mr. FORBES, Mr. SHAW, Mr. KUCINICH, Mr. UDALL of Colorado, Mr. BARTON of Texas, Mr. OLVER, Mr. MCINTYRE, Mr. TURNER of Texas, and Mr. JACKSON of Illinois.

H.R. 3184: Mr. PUTNAM.

H.R. 3204: Mr. KUCINICH, Mr. MARKEY, Mr. MURPHY, and Mr. PETERSON of Pennsylvania.

H.R. 3225: Mr. LUCAS of Kentucky.

H.R. 3226: Mr. KUCINICH.

H.R. 3242: Ms. WOOLSEY, Mr. LEWIS of Kentucky, Ms. MCCOLLUM, Mrs. MUSGRAVE, Mr. BEAUPREZ, and Mr. UDALL of Colorado.

H.R. 3244: Mrs. LOWEY and Mr. BALLANCE.

H.R. 3251: Mr. KUCINICH.

H.R. 3257: Mrs. JONES of Ohio, Ms. KAPTUR, Mr. KUCINICH, and Mr. GILLMOR.

H.R. 3266: Mr. BRADY of Texas.

H.R. 3271: Mr. OWENS.

H.R. 3276: Mr. OWENS.

H.R. 3277: Mr. HAYWORTH, Mr. STARK, Ms. ROS-LEHTINEN, Mr. JEFFERSON, and Mr. RODRIGUEZ.

H.R. 3281: Mr. KUCINICH, Mr. VAN HOLLEN, and Ms. WOOLSEY.

H.R. 3292: Ms. HARRIS, Mr. WAXMAN, and Mr. SHIMKUS.

H.R. 3318: Mr. NEUGEBAUER.

H.R. 3323: Ms. ESHOO.

H.R. 3344: Mr. GUTIERREZ, Mr. HOLDEN, Mr. GREEN of Wisconsin, Mrs. JONES of Ohio, Mr. KIND, and Ms. JACKSON-LEE of Texas.

H.R. 3352: Ms. WOOLSEY, Mr. TIERNEY, and Ms. HOOLEY of Oregon.

H.R. 3369: Mr. REHBERG.

H.R. 3371: Mr. GRIJALVA and Mr. KUCINICH.

H.R. 3385: Mr. GARRETT of New Jersey, Mr. FEENEY, Ms. ROS-LEHTINEN, Mr. JENKINS, and Ms. GINNY BROWN-WAITE of Florida.

H.R. 3386: Mr. CLYBURN, Ms. WATERS, Mr. KUCINICH, Mr. SERRANO, and Mr. MEEK of Florida.

H.R. 3403: Mr. MORAN of Kansas and Mr. BILIRAKIS.

H.R. 3416: Ms. NORTON.

H.R. 3422: Mr. CLYBURN, Mr. KUCINICH, Ms. WATERS, and Mr. MATSUI.

H.J. Res. 22: Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 83: Mr. LANTOS.

H. Con. Res. 247: Ms. WOOLSEY.

H. Con. Res. 285: Mr. SCHIFF.

H. Con. Res. 298: Mr. SCOTT of Georgia, Mr. COLE, and Mr. MARSHALL.

H. Con. Res. 299: Mr. DREIER, Mr. HONDA, Mr. FROST, Mr. HASTINGS of Florida, Mr. RUPPERSBERGER, Mr. CARDIN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of California, Mr. LEWIS of California, Mr. MCDERMOTT, Mr. KENNEDY of Rhode Island, Mr. BERMAN, Mr. SCHIFF, Mr. UPTON, Mr. MCNULTY, Mr. CALVERT, Mr. TOWNS, Mrs. MALONEY, Mr. VAN HOLLEN, Mr. CUMMINGS, Mr. MCGOVERN, Ms. NORTON, Mrs. CHRISTENSEN, Mr. WYNN, Mr. BISHOP of New York, Mr. MARKEY, Mr. BISHOP of Georgia, Ms. WATSON, Mr. WAXMAN, Mr. GREENWOOD, Mr. KOLBE, Ms. DUNN, Mr. EHLERS, Ms. PELOSI, Mr. CASTLE, Mr. LINDER, Ms. LEE, Mr. SOUDER, Mr. GEORGE MILLER of California, and Mr. EMANUEL.

H. Con. Res. 307: Mr. SCHROCK, Mr. SCHIFF, Mr. LAHOOD, and Mr. NUNES.

H. Con. Res. 310: Mr. ROGERS of Alabama and Mr. BONNER.

H. Con. Res. 311: Mr. WILSON of South Carolina and Mr. BERMAN.

H. Con. Res. 312: Mr. FILNER, Mr. MCHUGH,, and Mr. FROST.

H. Con. Res. 315: Ms. KAPTUR and Mr. ENGEL.

H. Res. 261: Mrs. CHRISTENSEN.

H. Res. 268: Mr. ROHRABACHER, Mr. RANGEL, Mr. BERMAN, and Ms. BORDALLO.

H. Res. 313: Mr. RANGEL.

H. Res. 320: Mr. SCHIFF.

H. Res. 371: Mr. PITTS, Ms. MCCOLLUM, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 389: Mrs. MCCARTHY of New York, Mr. MOORE, Ms. LEE, Ms. CARSON of Indiana, Mr. MCDERMOTT, Mr. SHIMKUS, Mr. FROST, Mr. BAIRD, Mr. CUMMINGS, Mr. RANGEL, Ms. NORTON, Mr. WYNN, Mr. BISHOP of Georgia, Ms. KILPATRICK, Mr. TOWNS, Mr. MEEKS of New York, Ms. MILLENDER-MCDONALD, Ms. CORRINE BROWN of Florida, Mr. MEEK of Florida, Mr. THOMPSON of Mississippi, Mr. CLAY, Mrs. JONES of Ohio, Mrs. CHRISTENSEN, Mr. PAYNE, Ms. WATERS, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Ms. KAPTUR, Mr. CRAMER, Mr. BONNER, Mr. LEWIS of Georgia, Mr. FRANK of Massachusetts, Mr. BALLANCE, Mr. UPTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. CLYBURN, Ms. JACKSON-LEE of Texas, Mr. CONYERS, Mr. RUSH, Ms. MAJETTE, Mr. FORD, Ms. WATSON, Ms. SLAUGHTER, Mr. ROGERS of Alabama, Mr. WATT, and Mr. DAVIS of Illinois.

H. Res. 390: Mr. REYNOLDS, Mr. GALLEGLY, and Ms. LEE.

H. Res. 410: Mr. PAYNE.

H. Res. 420: Mr. HASTINGS of Florida, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Ms. CARSON of Indiana, Mr. MEEKS of New York, Mr. MORAN of Virginia, Mr. SERRANO, Mr. OBERSTAR, and Mr. GRIJALVA.

H. Res. 423: Mr. GOODLATTE, Mr. SNYDER, Mr. TAYLOR of North Carolina, Mr. HOSTETTLER, Mr. GALLEGLY, Mr. FORBES, Mr. GARRETT of New Jersey, Mr. ETHERIDGE, and Mr. BARRETT of South Carolina.

H. Res. 425: Mr. GIBBONS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under Clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2366: Mr. DOOLEY of California.

H.R. 3308: Mr. RODRIGUEZ.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1829

OFFERED BY: MR. GREEN OF WISCONSIN

AMENDMENT NO. 7: Page 21, strike line 21 and all that follows through page 22, line 3, and insert the following:

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made, and such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1).

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed, if not later than 60 days before the first day of such following fiscal year the Attorney General makes a determination under paragraph (2)—

(A) that such limitation is not likely to result in a substantial reduction in inmate industrial employment; or

(B) that any such reduction will not present a significant risk of adverse effects on safe prison operation or public safety.

H.R. 1829

OFFERED BY: MR. GREEN OF WISCONSIN

AMENDMENT NO. 8: Strike all after the enacting clause and insert the following:

SECTION 1. GENERAL ACCOUNTING OFFICE STUDY ON FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of the effects of eliminating the mandatory source requirements for Federal Prison Industries (as specified in section 4124 of title 18, United States Code). The study shall consider the effects on prison operations, public safety, inmate employment, public and private sector employment, and any other matters the Comptroller General considers relevant.

(b) REPORT.—Not later than April 30, 2004, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study required by subsection (a).

EXTENSIONS OF REMARKS

JAMES CHARLES REITER

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. McCOLLUM. Mr. Speaker, I rise today to honor the memory of James Charles Reiter.

The city of St. Paul, Minnesota lost a dear friend on October 7, 2003.

Jim Reiter was elected in 1998 to represent Ward 5 on St. Paul's City Council, but he always saw himself as just an "Average Joe." In my eyes, he was much more than average.

Council Member Reiter's service to St. Paul's North End went well beyond his career as an elected official. He worked hard to help provide for his family. Throughout his life, he was committed to his city and to improving the quality of life for his neighbors, friends and family. He brought dignity, hard work and humor to everything he did.

Jim Reiter went to great lengths to protect and serve his community to the best of his ability. Perhaps the best example was his insistence on patrolling North End neighborhoods in a surplus St. Paul Police car. While some joked about his actions, Reiter truly believed in strong community partnerships with the police.

Above all else, Jim Reiter was a committed husband and father. He worked tirelessly, sometimes two jobs at a time, to send his children to school. His family will miss a wonderful, loving family man.

Council Member Reiter's friends and neighbors in St. Paul will miss his leadership and charisma.

Mr. Speaker, please join me in remembering James Charles Reiter, a devoted public servant.

My thoughts and prayers are with Darlene, his loving wife of 46 years; their five children: Deborah, Linda, Jean, James Jr., and Kristine; as well as four grandchildren: Michelle, Danielle, Michael and Kristine.

RECOGNIZING KANAWHA SCALES & SYSTEMS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Kanawha Scales & Systems in Poca, West Virginia to recognize their receiving the 2003 Governor's Award for Excellence in Exporting, and for the tremendous impact they have had on West Virginia's economy.

Over the years Kanawha Scales & Systems has steadily evolved from a weighing equipment service company into a fully integrated corporation, providing engineering solutions for a wide variety of systems. Kanawha Scales and Systems has grown to over 200 employees with branch offices and subsidiary companies in twelve different cities throughout the United States.

As the company has grown and prospered, a focus on exporting has developed. The company's growth has extended to include custom solutions on an international basis with successful installations in Canada, South America, The People's Republic of China and Australia. Because of the emphasis on exporting and the benefits this brings to West Virginia, Kanawha Scales & Systems has been selected to receive the 2003 Governor's Award for Excellence in Exporting.

The awards were established in 1983 and are presented by the Governor and the Export Council of West Virginia to honor companies and business professionals for their leadership and success in the state's exporting efforts.

I commend Kanawha Scales & Systems for their commitment to economic growth for West Virginia.

Mr. Speaker, I urge my colleagues to join me in recognition of Kanawha Scales & Systems.

RECOGNIZING THE NATIONAL STONE, SAND, AND GRAVEL ASSOCIATION

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. GARY G. MILLER of California. Mr. Speaker, I rise in strong support of H. Con. Res. 280, "Recognizing the National Stone, Sand and Gravel Association for 100 years of service." I was pleased to cosponsor this resolution because over the past 100 years the National Stone, Sand and Gravel Association (NSSGA) has made valuable and lasting contributions to our nation's infrastructure and economy, and improved the quality of life for all of our citizens.

As a developer and member of the House Transportation and Infrastructure Committee, I know first-hand how important this industry is to the continued growth of our nation. Aggregates are an integral building material used in a variety of construction projects from roads, airport runways, railroad beds, and sidewalks to homes and skyscrapers. It is one of the oldest and most versatile building materials on earth and its numerous benefits include high energy efficiency and durability against natural disasters such as floods, earthquakes, and extreme winds.

In addition to its contributions to quality growth, the aggregates industry has helped to enhance our nation's economy through the creation of jobs and wealth. For every new dollar of output in the aggregates industry, an additional $1.58 is generated in the U.S. economy. The industry contributes $37.6 billion to America's Gross Domestic Product and supports 284,090 jobs in all sectors of the economy with personal earnings totaling $10.74 billion. In 2001 alone, over three billion tons of aggregates were produced at a value of over $14.5 billion—a significant contribution by all accounts.

Companies responsible for the production of aggregates also make important contributions to the communities in which they operate. Currently, there is a quarry or sand and gravel pit in almost every county in the United States. Their proximity near a community significantly reduces costs for residential, commercial and industrial buildings and street, road and highway construction projects. When the mines and quarries have utilized the resources available to them, the operation sites can easily be reclaimed by the local community and converted into residential, commercial or industrial properties, parks, recreation areas, storm water management facilities or farmland.

Aggregates could not have become the nation's construction material of choice without the significant contributions of NSSGA. NSSGA is depended upon by many organizations, including agencies of the federal government, for crucial work in standards development for aggregate design, construction, and repair. Without all NSSGA has achieved over the past century, our nation would surely be disadvantaged structurally and economically.

I appreciate the continued commitment and service NSSGA has contributed to our nation over the past 100 years and look forward to working with them further as we seek to build a better America in the 21st century.

HONORING BROTHER ANSELM ALLEN FOR A LIFETIME OF SERVICE

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROSS. Mr. Speaker, I rise today to congratulate Brother Anselm Allen, of Subiaco, AR, for his exceptional volunteer service and lifetime of dedication as a weather observer. The National Weather Service is presenting Brother Allen with the esteemed John Campanius Holm Award.

Since 1965, Brother Anselm has been collecting weather observations at the New Subiaco Abbey as the official Cooperative Weather Observer at Subiaco, AR. Established in 1897, the New Subiaco Abbey has provided weather data for well over 100 years, and received an award in 1997 for 100 years of service. Boasting the longest tenure of any observer at the New Subiaco Abbey, Brother

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Anselm was awarded the 40 Year Length of Service Award in August of 2001 by the National Weather Service.

No stranger to awards, Brother Anselm is being presented with the John Campanius Holm Award. This award aims to single out terrific volunteer service as a weather observer and honor extraordinary dedication to the National Weather Service. In total, there are 11,000 weather observers in the United States, and only 25 people per year receive this high honor.

Brother Anselm's daily weather reports are known for their precision and timeliness and are very much appreciated. Data collected by Brother Anselm is sent on a monthly basis to the National Climatic Data Center in Ashville, NC. The information is then published in NOAA's Climatological Data, where it becomes a permanent record of the world's weather.

Additionally, Brother Anselm uses his amateur radio skills to deliver information to the National Weather Service when severe weather threatens the area.

I am so pleased to have the opportunity to properly recognize Brother Anselm Allen before the United States Congress for his outstanding example of dedication and volunteer efforts to the National Weather Service. Please join me in congratulating Brother Anselm on his receipt of the John Campanius Holm Award.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROGERS of Kentucky. Mr. Speaker, on Tuesday, November 4, I was in Kentucky, tending to official business, and was not present for rollcall votes No. 602 and 603. The votes were on House Concurrent Resolutions 176 and 94, respectively. Had I been present, I would have voted "yea" on both measures.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. OXLEY. Mr. Speaker, I was absent from the House floor during today's rollcall votes on H. Con. Res. 176, supporting the goals and ideals of Financial Planning Week, and H. Con. Res. 94, the Direct Support Professional Recognition Resolution. Had I been present, I would have voted "aye" on both resolutions.

CONFERENCE REPORT ON H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Mr. POMEROY. Mr. Speaker, I rise today to say that I will be voting for H.R. 2691, the fiscal year 2003 Interior Appropriations Conference Report, but doing so with some reluctance. This report includes a provision that keeps the Department of Interior from performing its legal responsibility to conduct a complete accounting of the individual Indian trust. I voted to strike a similar provision in the FY 2003 Interior Appropriations bill, which was stripped from the House-passed bill, and I am disappointed that it has reemerged in the conference report.

I understand the Committee's concern for the Cobell v. Norton class action lawsuit, which has been stalled for years with no satisfactory end in sight. We should certainly take aggressive steps to ensure that this case moves forward. However, I do not believe that Congress should circumvent due process by attaching this rider to the Interior Appropriations bill.

Ultimately, Mr. Speaker, I am concerned that this provision sends a terrible message to Indian country that the Federal Government is not committed to working in close consultation with the tribes on issues such as trust reform, or for that matter, ensuring that they have their day in court.

PERSONAL EXPLANATION

HON. VITO FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. FOSSELLA. Mr. Speaker, I am not recorded on rollcall numbers 602 and 603. I was unavoidably detained and was not present to vote. Had I been present, I would have voted "yea" on rollcall numbers 602 and 603.

TRIBUTE TO PFC JAMES AARON BOOZER

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BAKER. Mr. Speaker, I rise today to honor Private First Class James Aaron Boozer of Denham Springs, Louisiana. PFC Boozer serves in the 82nd Airborne, 173 Brigade. While serving in Iraq, PFC Boozer suffered grave injuries, and is under the care of the staff at Walter Reed Army Hospital in Washington, DC.

It is because of people such as PFC Boozer that we continue to live safe and secure. America's men and women who answer the call of service and wear our Nation's uniform deserve respect and recognition for the enormous burden that they willingly bear. Because of these folks, our Nation remains free and strong in the face of danger.

On behalf of the people of Louisiana, I would like to thank PFC Boozer for his service to our country and I wish him a full and speedy recovery.

PERSONAL EXPLANATION

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. McCOLLUM. Mr. Speaker, due to an unexpected illness, I was unable to vote on rollcall votes 590 to 599. Had I been present, I would have voted the following:

On rollcall vote 590, agreeing to the journal, I would have voted "aye."

On rollcall vote 591, the motion to recommit the conference report on H.R. 2115, the FAA Reauthorization Act, I would have voted "aye."

On rollcall vote 592, agreeing to the conference report on H.R. 2115, the FAA Reauthorization Act, I would have voted "no."

On rollcall vote 593, H. Res. 409, repudiating anti-Semitic remarks expressed by Dr. Mahathir Mohamad, I would have voted "aye."

On rollcall vote 594, the motion to recommit the conference report on H.R. 2691, the Interior Appropriations Act, I would have voted "aye."

On rollcall vote 595, agreeing to the conference report on H.R. 2691, the Interior Appropriations Act, I would have voted "no."

On rollcall vote 596, H. Con. Res. 302, expressing the sense of Congress in welcoming President Chen Shui-bian of Taiwan to the United States, I would have voted "aye."

On rollcall vote 597, H. Res. 421, the martial law rule for same day consideration of the conference report of H.R. 3289, the Supplemental Appropriations Act of FY2004, I would have voted "no."

On rollcall vote 598, the Johnson motion to instruct conferees on the conference report of H.R. 6, the Energy and Water Appropriations Act, I would have voted "aye."

On rollcall vote 599, the Davis motion to instruct conferees on the conference report of H.R. 1, the Medicare Prescription Drug Act, I would have voted "aye."

I ask for unanimous consent that this be inserted into the RECORD.

HONORING SPENCER VENEER LLC

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Spencer Veneer LLC of Spencer, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Spencer Veneer LLC has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

Mr. Speaker, I urge my colleagues to join me in recognition of Spencer Veneer LLC.

GOVERNOR SID McMATH, A MAN OF HONOR

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ROSS. Mr. Speaker, today, I would like to acknowledge the life and legacy of former Arkansas Governor Sid McMath, a statesman, a leader, a veteran, and a true gentleman who passed away recently in Arkansas at the age of 91. I was honored to have known Governor McMath—a man who, in deed and action, distinguished himself as someone who changed Arkansas for the better.

Governor McMath was a man dedicated to public service. Born in 1912, just outside of Magnolia, Arkansas, in Columbia County, Governor McMath knew he wanted to do great things from an early age. His life of service began in school with student council positions, which led him to be an organizer and the second president of Young Democrats of Arkansas from 1946 to 1947. In 1947, Governor McMath was elected as prosecuting attorney for Garland and Montgomery counties.

Elected as our State's 34th Governor, Governor McMath worked from 1949 to 1953 to improve Arkansas. His leadership left us with an enhanced public education system, a new teaching hospital, improved welfare-assistance programs for elderly Arkansans, dams, and new highways and roads. During a time when African Americans struggled for civil rights, Governor McMath ensured equal facilities and educational opportunities for African Americans in Arkansas. He provided Arkansas' only historically black college, AM & N, now the University of Arkansas at Pine Bluff, with sufficient resources to become accredited by the North Central Association of Colleges and Schools.

After serving two terms as Governor, Governor McMath built an impressive law practice as one of the State's leading attorneys. For more than five decades, Governor McMath became known as the "people's lawyer," continuing to fight for the causes so important to him and to the people of our great state.

His service went far beyond civilian life, Governor McMath also served in the United States Marine Corps in World War II. He served our Nation eagerly and rose to the rank of Major General before he retired.

Arkansas will be forever grateful that such a visionary leader came along, at the time he did, to lead us into a new era. Those who had the honor to know Governor McMath would describe him as a great orator and one of the most intelligent and genuine people they had ever met; he was truly an asset to our State.

While Governor Sid McMath may no longer be with us, his spirit and his legacy live on by the way he improved the quality of life for all Arkansans. I extend my deepest sympathies to his wife, Betty Dorth Russell McMath, sons Phillip, Sandy and Bruce; and daughters Patricia and Melissa, and all of his family and friends.

RECOGNIZING THE AMERICAN CONCRETE INSTITUTE

SPEECH OF

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. GARY G. MILLER of California. Mr. Speaker, I rise in strong support of H. Res. 394, "Recognizing the American Concrete Institute for 100 years of service." I was pleased to author this resolution because over the past 100 years the American Concrete Institute (ACI) has made valuable and lasting contributions to our nation's infrastructure and economy, and improved the quality of life for all of our citizens.

As a former developer and a member of the House Transportation and Infrastructure Committee, I know first-hand the vital role concrete plays in the construction of our country. Everything from the roads we drive on to the very foundation of the homes we live in are dependent on this industry.

Concrete is an integral building material used in a variety of construction projects from roads, bridges, parking lots, and sidewalks to homes and skyscrapers. It is one of the oldest and most versatile building materials on earth and its numerous benefits include high energy efficiency and durability against natural disasters such as floods, earthquakes, and extreme winds. The entire family of concrete products, such as ready mixed concrete, concrete block and cast-in-place, are used in all of our nation's communities. Major concrete operations continually function in every congressional district, creating well-paying jobs and boosting local economies. Overall, the concrete industry has an impact on the Gross Domestic Product of more than $200 million annually—a significant contribution by all accounts.

Concrete could not have become the nation's construction material of choice without the significant contributions of ACI. ACI, a premiere technical society of the concrete industry, is depended upon by many organizations, including agencies of the federal government, for crucial work in standards development for concrete design, construction, and repair. ACI's resources include an 18,000-member network of public and private sector volunteers committed to advancing the technology of concrete for educational and scientific purposes, increasing the knowledge and understanding of concrete materials, and supporting programs that improve concrete design and construction. Without all ACI has achieved over the past century, our nation would surely be significantly disadvantaged structurally and economically.

I appreciate the commitment and service ACI has contributed to our nation over the past 100 years and look forward to working with them further as we seek to build a better America in the 21st century.

PERSONAL EXPLANATION

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. HOEFFEL. Mr. Speaker, I was absent for votes on Tuesday, November 4, 2003. Had I been present, I would have cast my votes as follows:

Rollcall No. 602 (H. Con. Res. 176): "aye."

Rollcall No. 603 (H. Con. Res. 94): "aye."

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SHAYS. Mr. Speaker, on November 4, 2003, I was in Connecticut participating in our local elections and, therefore, missed two recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted yes on recorded vote 602 and yes on recorded vote 603.

CELEBRATING THE 30TH ANNIVERSARY OF THE KOREAN CENTRAL PRESBYTERIAN CHURCH

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to honor the 30th Anniversary of the Korean Central Presbyterian Church.

On November 4, 2003, Rev. Yoon and several initiate members founded the Korean Central Presbyterian Church (KCPC). Since then, the congregation steadily has increased from a dedicated few to 4,666 registered households. To meet the needs of this growing congregation, the KCPC, having previously shared a facility with the Lewinsville United Presbyterian Church, moved into its own church in Vienna, Virginia.

Over the years, the KCPC has had many successes, including the establishment of the Central Missionary Foundation, a Children's Ministry, an Educational Building, a Senior Center, a D.C. Community Center, and the Culpepper Prayer House. The church has been well served by three pastors: founder Rev. Yoon, and senior pastors Rev. Won Sang Lee, and Rev. Chang Soo Ro.

Members of the KCPC congregation also have made significant accomplishments. Many have been ordained as deacons and elders. Twelve members of the KCPC have become missionaries, dedicating their lives to serving their community and God.

For the past thirty years, the founders, leaders, and congregation of the KCPC have demonstrated great commitment to their church and community. This dedication has enabled the church to emerge from humble beginnings to become the thriving religious, learning, and service center it is today.

Mr. Speaker, in closing, I extend my warmest congratulations to the Korean Central Presbyterian Church on this special occasion. I commend them on 30 years of success and wish them continued success in the future. I call upon my colleagues to applaud their achievement.

BURMA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KING of New York. Mr Speaker, earlier this year, I cosponsored the Burmese Freedom and Democracy Act of 2003 with my good friend, Congressman TOM LANTOS, ranking member of the International Relations Committee. That legislation passed the House by a vote of 418–2, providing a strong mandate for the U.S. State Department to rally international support for Burma's struggle for freedom. I am proud of the support the House of Representatives has given to the 1991 Nobel Peace Prize recipient, Aung San Suu Kyi, and her struggle for freedom in Burma.

Over the past 2 weeks, Burma's military regime has again launched a brutal crackdown against dissent. When 900 Buddhist monks marched on the streets of Mandalay, the country's second largest city, the regime reacted violently, opening fire on the crowd and killing at least one monk and placing several more in intensive care.

At the same time, this regime instigated violence against the country's Muslim population, resulting in the torching of several homes and the murder of innocent civilians.

I am concerned that the international community has remained too silent. We need to take a serious look at the efforts of the United Nations Secretary General's special envoy to Burma, Razali Ismael. Are his efforts hampering or helping the struggle for freedom in Burma? Burma's exports of narcotics and refugees, ongoing human rights abuses present a serious threat to regional security yet this has never been addressed by the United Nations Security Council. Maybe it is time that a new envoy and a new approach by the United Nations will breathe new life into a failed process.

RECOGNIZING THOMAS J. SCHWARZ ON HIS INAUGURATION AS PRESIDENT OF PURCHASE COLLEGE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. LOWEY. Mr. Speaker, I rise today to recognize and congratulate Thomas J. Schwarz, who will be sworn in on November 12 as the fifth President of Purchase College State University of New York.

Founded in 1967, Purchase College combines professional conservatory programs in the performing and visual arts with rigorous studies in liberal arts and science. Its 4,100 students are drawn from 47 States and 67 countries.

Graduates of Purchase College have excelled in the arts. Alumni include winners of the Oscar, Emmy, and Tony Awards, as well as the Pulitzer Prize, just to name a few.

Purchase College graduates have also contributed a great deal to a variety of academic fields. According to a recent National Science Survey, Purchase College ranks second in the nation in the production of Ph.Ds as a percentage of all students.

From its founding, Purchase College has opened its campus to the community. The Performing Arts Center, one of the finest of its kind on the East Coast, presents more than 100 performances, and hundreds of other public events, annually.

Prior to coming to Purchase, Thomas Schwarz had a distinguished career as a partner at the law firm of Skadden, Arps, Slate, Meagher & Flom, where he was the founding partner of the firm's Committee on Diversity.

He also worked in public service, as mayor of Ocean Beach, NY, and as Special Counsel to the New York State Commission on Government Integrity, among other positions.

As a member of the American Bar Association, Mr. Schwarz served on the Election Law Committee and was a special advisor on election reform. In addition, the Legal Aid Society presented him with its Pro Bono Award in 1998.

Mr. Schwarz has also served on the Board of Trustees of his alma mater, Hamilton College. As chairman of the Hamilton Planning Committee, he oversaw the completion of the first long-term plan in the college's 200-year history. This record of accomplishment paved his way to becoming Acting President of Hamilton in 1999.

Since coming to Purchase College as interim President in January of 2002, Mr. Schwarz has worked tirelessly to increase the academic excellence and selectivity of the school, as well as to improve administrative leadership and attract new resources to the institution.

I am confident that Mr. Schwarz will continue to excel in his new role, adding to the proud tradition of higher learning and academic achievement at Purchase.

IN RECOGNITION OF RUDY VARGAS, TALENTED ARTIST

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. NUNES. Mr. Speaker and fellow colleagues, I rise today to recognize the contributions of a local artist, Rudy Vargas, to the community of the great Central Valley of California.

Mr. Vargas was born in 1959 to Rudy and Mary Vargas and was raised on the south side of Hanford, California. His talent as an artist was recognized at a very early age by his second grade teacher, Mrs. Gump.

Through his school years, he was encouraged by many to enter various art competitions. Twice his artwork even made it to the state capitol to be displayed for a length of time.

Mr. Vargas graduated from high school at the age of 17. He then enlisted in the U.S. Marine Corps. In just 2 short years he was promoted to the rank of sergeant. While in the military, he continued to paint in his spare time.

When his tour with the Corps was over, he moved back home and began taking art and history classes at College of the Sequoias in Visalia, California. There, he met his wife, Diana.

In 1984, because of Mr. Vargas' training in the military, he decided to pursue a career with the police department. He promised his wife that at the age of 40, he'd turn in his badge and begin painting again, his real passion in life.

Staying true to his promise, in 1999 he quit working as a police officer for the Visalia Police Department. After 15½ years of being a cop, he went back to art.

His artwork is displayed all over the United States in many military, police, and fire department offices and buildings.

Today, I am paying tribute to Rudy Vargas for his many years of beautiful artwork. On this Veterans' Day in 2003, we are honoring Mr. Vargas for his beautiful mural that he painted in Visalia, California.

Please join me in extending congratulations to Mr. Vargas.

HONORING BAKER, MANOCK & JENSEN FOR 100TH ANNIVERSARY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Baker, Manock & Jensen for a century of practicing law. The celebration of this event took place on October 23, 2003, in Fresno, California.

In 1903, Henry E. Barbour and William A. Sutherland established two separate law practices in Fresno, starting a 100–year tradition. The two practices formed into a partnership in 1906 and split off seven years later into two branches: the Barbour branch and the Sutherland branch. Mr. Barbour served seven terms as Congressman for the 7th District of California while he maintained his practice. He passed away in 1945 from illness but the Barbour branch sustained with partners William C. Meux and John J. Gallagher. The Sutherland branch remained active until 1920 when Mr. Sutherland entered the banking business. His break from law didn't last long since he resumed his practice with a new partner, Milton M. Dearing, in 1926. Four years later, the firm added another name to its title when Gilbert H. Jertberg joined. Mr. Sutherland died in 1935, but the branch continued and eventually became Jertberg & Avery.

The firm's continuity, despite changes in partnership, was unshakable. In 1955, Mr. Jertberg started a 20-year career in the federal courts. He was nominated to the United States Court of Appeals for the Ninth District in 1958. After Mr. Dearing went into semiretirement, Mr. Avery, of the Sutherland branch, invited Meux & Gallagher—the Barbour branch—to partner with him on the sixth floor of the Security Bank Building. The Sutherland and Barbour lines were brought together again. In the mid 1970s, John H. Baker, Kendall L. Manock, and Douglas B. Jensen were partnered. The three names have comprised the firm's title since. The strength of the firm can be attributed to the many influential lawyers, as well as former and current shareholders that have been dedicated to the adherence to our laws.

Today, the firm is one of the largest law firms in Central California and utilizes 38 full-time lawyers and 10 paralegals to meet the needs of its clients. Until the 1960s, lawyers usually practiced general law, but now they have become much more specialized. Baker, Manock & Jensen has attorneys recognized for their expertise in areas such as reclamation law, environmental law, employment law, and medical malpractice defense.

Mr. Speaker, I rise today to congratulate Baker, Manock & Jensen for 100 years of law practice. Recognizing the importance and uniqueness of our constitution and court system, I invite my colleagues to join me in commending Baker, Manock & Jensen for its dedication to its clientele and the law.

TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003

SPEECH OF

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. BURTON of Indiana. Mr. Speaker, I rise to express my strong support for H.R. 2620, the Trafficking Victims Protection Reauthorization Act of 2003, which would authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000.

In these modern times, it is hard for Americans to believe that the problem of human slavery still exists. Not only do these crimes against humanity still occur, they are increasing in frequency all across the globe.

To further investigate the topic of human slavery and trafficking in persons, I held a hearing before the House Government Reform Subcommittee on Human Rights & Wellness on October 29, 2003, entitled, "The Ongoing Tragedy of International Slavery and Human Trafficking: An Overview," to examine the worldwide effects of these illicit practices, and to discuss how United States policies and programs are beginning to have a positive effect in combating these crimes against humanity.

Our investigation found that over 27,000,000 people are currently enslaved in some form around the world, and it is estimated that up to 4,000,000 men, women, and children are forced or coerced into slavery every year, which represents the highest concentration of slaves alive at one time ever in world history.

Thankfully, the U.S. Government has been working tirelessly to eliminate the practices of slavery and trafficking in persons around the globe. This is mainly due to the passage of the Trafficking Victims Protection Act of 2000, authored by my dear friend and our esteemed colleague, Representative CHRIS SMITH. This law has assisted victims by authorizing grants to shelters and rehabilitation programs to help victims of trafficking, and by establishing programs to prevent trafficking through the enhancement of economic opportunities for potential victims. The Trafficking Victims Protection Act promotes public awareness of the dangers of human slavery, and provides stringent penalties for persons who facilitate these crimes.

H.R. 2620 not only reauthorizes, but builds upon the successes of the Trafficking Victims Protection Act of 2000 by (1) requiring that U.S. Government contracts relating to international affairs contain clauses authorizing termination by the United States if the contractor engages in human trafficking, or procures commercial sexual services while the contract is in force; (2) promoting innovative trafficking prevention initiatives, such as border interdiction programs; and (3) requiring airlines to inform passengers about U.S. laws against sex tourism, among other enhanced protections for current victims of trafficking.

Before the passage of the Trafficking Victims Protection Act of 2000, victims had no hope that they would be rescued from the horrid conditions into which they had been forced to live. The enactment of this law has not only put forth initiatives to prevent further human abuses, but has also given victims of slavery a real chance for liberty, and we as Members of Congress should do all that we can to promote their freedom.

Mr. Speaker, reauthorizing H.R. 2620 will continue to protect and liberate people who are currently enslaved against their will in these modern times, and I strongly urge my colleagues to continue to support this most important legislation.

HONORING WALKER MACHINERY

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Walker Machinery of Belle, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Walker Machinery has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Walker Machinery has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud Walker Machinery for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Walker Machinery, and I offer them as an example to small and medium sized enterprises everywhere.

PERSONAL EXPLANATION

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. POMBO. Mr. Speaker, I rise today to state for the record how I would have voted on the Veterans Health Care Facilities Capital Improvement Act, H.R. 1720. Regretfully, I was unavoidably detained and absent from the House floor on October 29, 2003.

I take great pride in representing our military personnel and the veterans of our great nation. Theodore Roosevelt once said, "A man who is good enough to shed his blood for his country is good enough to be given a square deal afterwards." The United States owes our veterans a debt which can never be fully repaid.

For these reasons, had I been present for rollcall No. 576, I would have voted "aye" for H.R. 1720.

THE KAY REPORT: RECOGNIZING AN EVER-PRESENT THREAT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BEREUTER. Mr. Speaker, in recent days, Dr. David Kay, head of the Iraq Survey Group, has visited Washington to provide an interim report detailing what he has thus far uncovered regarding Iraqi weapons of mass destruction. Dr. Kay's initial findings make it clear that Saddam Hussein maintained a large, undeclared WMD infrastructure, much of which has escaped the attention of UN arms inspectors. So far, Dr. Kay's teams have uncovered dozens of WMD-related activity programs, a series of clandestine chemical/biological weapons labs, huge amounts of laboratory equipment suitable for WMD research and productions, and secret UAV production lines tailored for WMD delivery. As a recent editorial in the Omaha World-Herald correctly noted, "the larger picture of these findings shows that Saddam Hussein was a threat to his neighbors, to his own people (just ask the Kurds) and potentially to anyone else on the planet whom he viewed as his enemies."

Mr. Speaker, this Member would ask to place into the RECORD an editorial entitled "An ever-present threat" from the October 11, 2003, edition of the Omaha World-Herald. This Member commends these insightful remarks to his colleagues.

[From the Omaha World-Herald, Oct. 11, 2003]

AN EVER-PRESENT THREAT

WITH OR WITHOUT WMD, IRAQ UNDER SADDAM WAS VIOLATING U.N. SANCTIONS LEFT AND RIGHT

Much attention in recent days has been given—appropriately—to the fact that arms inspector David Kay and his Iraq Survey Group thus far have uncovered no weapons of mass destruction in that country. But that finding shouldn't be allowed to obscure the fact that the team found abundant evidence of obfuscation, concealment and destruction of evidence.

The Kay report (which, it should be remembered, is an interim document) strongly suggests a scenario that transcends the question of present-day existence of the weapons. Perhaps the Saddam Hussein regime didn't have WMD by the time liberation forces fought their way into the country. But there's ample evidence that it was poised and eager to buy or make such weapons, as soon as it felt the international spotlight had turned away.

Finding WMD, if they existed, was by no means the Kay team's sole mission.

It was equally tasked with determining whether the Saddam regime was in violation of U.N. limitations imposed after the Persian Gulf War and more particularly in violation of U.N. Resolution 1441, passed last November. (That was Saddam's supposed last chance to comply with inspection demands.)

Here, the answer is an emphatic "yes."

The report unambiguously shows that Iraq was trying to extend the range of its ballistic missiles beyond limits set by the United Nations; was trying to hide evidence of past and potential weapons programs (burned files, destroyed computer disk drives, meticulously scrubbed lab equipment); had organisms hidden in a scientist's home. And more: Kay's congressional statement about the report may be found on the Internet at www.cia.gov/.

In short, Saddam Hussein was preserving his options. And it makes no sense to believe that his intentions were any less malevolent than they had been throughout his sordid history.

Perhaps inspection teams will not find weapons of mass destruction in Iraq. First, as we have noted before, it's a big and complex place. Second, perhaps there really was nothing there to find. If that's the case, clearly there was an intelligence debacle—so big that President Bush ought to get to the bottom of it and act to forestall a recurrence.

But even in that case, the larger picture of these findings shows that Saddam Hussein was a threat to his neighbors, to his own people (just ask the Kurds) and potentially to anyone on the planet whom he viewed as his enemies. He was a human time bomb, always poised to start ticking again when he believed the time was right.

Even if the effort to rebuild and stabilize Iraq is not proceeding as tidily as had been hoped, the United States and its allies removed a clear and terrible danger from the world scene. About that, the world should have no second thoughts.

MS. SHARON SCHUCHERT

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CARDOZA. Mr. Speaker, I rise today to honor Ms. Sharon Schuchert of Stanislaus County who is being awarded the Department of Heath and Human Services Adoption Excellence Award. It is truly an honor to recognize all of her achievements as a dedicated social worker in our community.

Ms. Schuchert is the recipient of the 2003 award of Adoption Excellence Award, for her outstanding accomplishments in achieving permanency for America's children waiting in foster care.

In 1969, Ms. Schuchert began her public service career as a social worker for Stanislaus County Community Services Agency and in 2001, in collaboration with other community leaders, she founded Camp A Life With Adoption Yields Success (A.L.W.A.Y.S.). Camp A.L.W.A.Y.S. mission statement is to provide every member of an adoptive family with a supportive environment. At Camp A.L.W.A.Y.S. adoptive families spend time in Pine Crest, California learning about the unique challenges facing adoptive families in a positive family oriented setting. For many families who attend Camp A.L.W.A.Y.S. this is one of the few times they are surrounded by others with similar family structures.

Ms. Schuchert's award is especially relevant as November is National Adoption Month. There are roughly 130,000 children ranging toddlers to teenagers who are currently in foster care waiting to be placed in a safe, permanent home. Recognizing their plight on a national level is an important first step to permanency. By providing children in need with the opportunity to grow and succeed through adoption, we can help them on their journey to becoming confident and successful members of society.

Mr. Speaker, the county of Stanislaus, and the 18th Congressional District of California have been greatly strengthened by the efforts of Ms. Schuchert and Camp A.L.W.A.Y.S. America's children must not be forgotten and through the leadership of individuals like Ms. Schuchert we can continue to fight on their behalf.

I ask my colleagues to help honor Ms. Sharon Schuchert today for her service to this great nation.

COMMENDING JOHN WILLIAMS

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BUYER. Mr. Speaker, I rise today to commend and thank John Williams, Mayor of Bedford, Indiana, for completing 24 years of service to the great people of Indiana. I wish John, Jean and their family well in his retirement.

Public service often brings great satisfaction in the ability to help people. During the last three decades, John has worked hard to better the lives of those in southern Indiana. At the same time, those who serve cannot do so alone. John's wife, Jean, too, has been a valuable member of the community in public service and, has given her support, even as she had her own personal health battles.

Mr. Speaker, Indiana has benefitted from the service of these two fine Hoosiers and I am proud to call both John and Jean Williams my friend.

Tonight, I rise to recognize a unique man who has left a positive mark. By my count, Mayor Williams will have served some 8,760 days in office spanning 24 years. During his unprecedented tenure, the city's landscape has undergone a remarkable change for the better as vacant stores acquired tenants and empty lots sprouted new homes and businesses. City pride has swelled and Bedford's reputation of sound government and livability has spread throughout the State of Indiana.

When Mayor Williams entered office he inherited a city with a decaying downtown business district and an outdated and malfunctioning infrastructure. To be successful, he realized that community action and involvement were needed. He established a citizens' committee to lead efforts to rejuvenate downtown and at the same time worked with state officials to improve transportation and utility services.

Mr. Speaker, today that same "citizens" committee" still operates and has evolved into the present-day Bedford Revitalization, Inc. As with many smaller communities, the courthouse square, once a bastion of activity had slowed. In recent years, the community behind the leadership of Mayor Williams, focused upon the development of the Courthouse Square business district and they succeeded in redeveloping it into the center of the community as it once stood. Moreover, they have succeeded in having the district included in the National Register of Historic Places.

Bedford, Indiana, located approximately 76 miles south of Indianapolis, had many of the same challenges regarding transportation and infrastructure of other cities its size. In the early 1980s, Mayor Williams used his creativity to solve the transportation problem for local residents. He worked with state and federal agencies and created the Transit Authority of the Stone City (TASC). In the 1990s, he built upon that effort and initiated a point-to-point, or door-to-door, pickup service that streamlined the operation. This success prompted state transportation officials to cite TASC as a model program for other small to medium-sized Hoosier cities to emulate. Today, the buses record about 80,000 passenger trips a year, providing mobility and independence for many of our citizens.

Mayor Williams' transportation successes, and his efforts to expand and develop opportunities for local businesses and individuals to compete in the marketplace, resulted in a four-lane east-west street connecting Indiana State Road 37 and Lincoln Avenue that is now named after the Mayor. Doing so, opened hundreds of acres for industrial and business development. The process took ten years from inception to completion, but, today, John A. Williams Boulevard is a main artery in the city.

Mr. Speaker, furthering recreation has been a continuing program in Mayor Williams' administration. Today, Bedford has seven city parks and an 18-hole golf course, which has been called one of the best municipal courses in Indiana.

Mayor Williams may be retiring but he still has a lot to give to Indiana and Indiana owes a lot to him. I am pleased to join with the citizens of Bedford and salute my friend, Mayor

John Williams, on a lifetime of public service and a job well done. God speed!

PATENT AMENDMENT

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. WELDON of Florida. Mr. Speaker, this summer I introduced an amendment that provides congressional support for the current federal policy against patenting humans. It was approved by the House of Representatives without objection on July 22, 2003 as Sec. 801 of the Commerce/Justice/State appropriations bill.

Since that time, the Biotechnology Industry Organization (BIO) has launched a lobbying campaign against the amendment, and has now enlisted the political aid of the broader "Coalition for the Advancement of Medical Research" (CAMR), an umbrella organization of groups supporting human cloning for research purposes.

BIO and CAMR claim to support the current policy of the U.S. Patent and Trademark Office (USPTO) against patenting human beings. However, they oppose this amendment, saying it would have a far broader scope—potentially prohibiting patents on stem cell lines, procedures for creating human embryos, prosthetic devices, and in short almost any drug or product that might be used in or for human beings.

The absurdity of these claims is apparent when one compares the language of the amendment with the language of the current USPTO policy that these groups claim to support.

The House-approved amendment reads:

"None of the funds appropriated or otherwise made available under this Act may be used to issue patents on claims directed to or encompassing a human organism."

The current USPTO policy is set forth in two internal documents:

U.S. Patent and Trademark Office, "Notice: Animals—Patentability," 1077 Official Gazette U.S. Pat. and Trademark Off. 8 (April 21, 1987):

"The Patent and Trademark Office now considers non-naturally occurring non-human multicellular living organisms, including animals, to be patentable subject matter within the scope of 35 U.S.C. 101. . . . A claim directed to or including within its scope a human being will not be considered patentable subject matter under 35 U.S.C. 101. The grant of a limited, but exclusive property right in a human being is prohibited by the Constitution. Accordingly, it is suggested that any claim directed to a non-plant multicellular organism which would include a human being within its scope include the limitation 'non-human' to avoid this ground of rejection."

(This notice responded to the Supreme Court's 1980 decision in Chakrabarty concluding that a modified "microorganism," a bacterium, could be patented, and a subsequent decision by the USPTO's own Board of Appeals in Ex parte Allen that a multicellular organism such as a modified oyster is therefore patentable as well. The USPTO sought to ensure that these policy conclusions would not be misconstrued as allowing a patent on a human organism.)

U.S. Patent and Trademark Office, Manual of Patent Examining Procedure (Revised February 2003), Sec. 2105: "Patentable Subject Matter—Living Subject Matter":

"If the broadest reasonable interpretation of the claimed invention as a whole encompasses a human being, then a rejection under 35 U.S.C. 101 must be made indicating that the claimed invention is directed to nonstatutory subject matter."

In other words, the USPTO clearly distinguishes between organisms that are nonhuman and therefore are patentable and those organisms that are human and therefore not patentable subject matter.

As a USPTO official testified recently to the President's Council on Bioethics:

"When a patent claim includes or covers a human being, the USPTO rejects the claim on the grounds that it is directed to non-statutory subject matter. When examining a patent application, a patent examiner must construe the claim presented as broadly as is reasonable in light of the application's specification. If the examiner determines that a claim is directed to a human being at any stage of development as a product, the examiner rejects the claims on the grounds that it includes non-statutory subject matter and provides the applicant with an explanation. The examiner will typically advise the applicant that a claim amendment adding the qualifier, non-human, is needed, pursuant to the instructions of MPEP 2105. The MPEP does not expressly address claims directed to a human embryo. In practice, examiners treat such claims as directed to a human being and reject the claims as directed to non-statutory subject matter." (Testimony of Karen Hauda on behalf of USPTO to the President's Council on Bioethics, June 20, 2002, http://bioethicsprint.bioethics.gov/transcripts/jun02/june21 session5.html)

Current USTPO policy, then, is that any claim that can reasonably be interpreted as "directed to" or "encompassing" a human being, and any claim reaching beyond "nonhuman" organisms to cover human organisms (including human embryos), must be rejected. My amendment simply restates this policy, providing congressional support so that federal courts will not invalidate the USPTO policy as going beyond the policy of Congress (as they invalidated the earlier USPTO policy against patenting living organisms in general).

Literally the only difference between my amendment and some of these USPTO documents is that the amendment uses the term "human organism," while the USPTO usually speaks of the non-patentability of (anything that can be broadly construed as) a "human being." But "human organism" is more politically neutral and more precise, having a long history of clear interpretation in federal law.

Since 1996, Congress has annually approved a rider to the Labor/HHS appropriations bill that prohibits federal funding of research in which human embryos are created or destroyed—and this rider defines a human embryo as a "human organism" not already protected by older federal regulations on fetal research. In December 1998 testimony before the Senate Appropriations Subcommittee on Labor/HHS/Education, a wide array of expert witnesses—including NIH Director Harold Varmus and the head of a leading company in BIO—testified that this rider does not forbid funding research on embryonic stem cells, because a human embryo is an "organism" but a stem cell clearly is not (see S. Hrg. 105–939, December 2, 1998). That same conclusion was later reached by HHS general counsel Harriet Rabb, in arguing that the Clinton administration's guidelines on stem cell research were in accord with statutory law; this same legal opinion was accepted by the Bush administration when it issued its more limited guidelines for funding stem cell research (Legal memorandum of HHS general counsel Harriet S. Rabb, "Federal Funding for Research Involving Human Pluripotent Stem Cells," January 15, 1999). To argue now that a ban on patenting "human organisms" somehow bans patenting of stem cells or stem cell lines would run counter to five years of legal history, and would undermine the legal validity of any federal funding for embryonic stem cell research.

BIO also claims that the amendment raises new and difficult questions about "mixing" animal and human species. What about an animal that is modified to include a few human genes so it can produce a human protein or antibody? What about a human/animal "chimera" (an embryo that is half human, half animal)? The fact is, these questions are not new. The USPTO has already granted patents on the former (see U.S. patent nos. 5,625,126 and 5,602,306). It has also thus far rejected patents on the latter, the half-human embryo (see Biotechnology Law Report, July-August 1998, p. 256), because the latter can broadly but reasonably be construed as a human organism. The Weldon amendment does nothing to change this, but leaves the USPTO free to address new or borderline issues on the same case-by-case basis as it already does.

In short, my amendment has exactly the same scope as the current USPTO policy, and cannot be charged with the radical expansions of policy that BIO and its allies claim. In reality, BIO opposes this amendment because it opposes the current USPTO policy as well, and has a better chance of nullifying this policy in court (or having courts reinterpret it into uselessness) if it lacks explicit support in statutory law.

This goal is apparent from BIO's own "fact sheet" opposing the amendment (see www.bio.org/ip/cloningfactsheet.asp). There BIO argues that human beings should be patentable, if they arise from anything other than "conventional reproduction" or have any "physical characteristics resulting from human intervention." In other words, humans should be seen as "inventions" and thus be patentable on exactly the same grounds as animals are now.

The logic of this argument reaches beyond the human embryo, because an embryo who resulted from reproductive technology or received any physical or genetic modification presumably remains just as invented throughout his or her existence, no matter what stage of development he or she reaches.

BIO's stated support for reducing members of the human species to patentable commodities makes the passage of my amendment more urgently necessary than ever.

CONGRATULATIONS TO CHARLES E. KRUSE, DISTINGUISHED EAGLE SCOUT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SKELTON. Mr. Speaker, it has come to my attention that my good friend, Charles E. (Charlie) Kruse, President of the Missouri Farm Bureau Federation, has been named as the next recipient of the Distinguished Eagle Scout Award. As an Eagle Scout myself, let me take this means to pay tribute to Charlie for reaching this important milestone.

The Distinguished Eagle Scout Award (DESA) was established in 1969. It is granted to Eagle Scouts who received the Eagle Scout rank 25 or more years ago and who have distinguished themselves in their professional life and in their communities on a voluntary basis. The award is granted by the National Eagle Scout Association upon nomination by a local council and selection by a committee of nationally prominent DESA recipients.

In his personal and professional life, Charlie Kruse has established himself as a true role model for patriotic Americans. His life work has far exceeded the guidelines established for receiving this respected award. He has served the American people and the residents of Missouri in the military, as a member of the Governor's cabinet, on the Missouri University Board of Curators, and on many national commissions and boards. He has also worked to enhance the prosperity of his community through church and volunteer activities.

Charlie currently serves as President of the Missouri Farm Bureau Federation. In his role, he represents over 100,000 Missourians and provides Members of Congress from the Show-Me State with useful information about what farmers and ranchers are saying about U.S. agricultural policy. Farm Bureau's advice is critical to shaping a national agricultural agenda in a way that benefits Missourians, and I appreciate hearing from Charlie and all Farm Bureau members.

Mr. Speaker, I know that all my House colleagues will join me in paying tribute to Charlie Kruse as he receives the Distinguished Eagle Scout Award. He truly deserves this recognition.

COMMENDING CAPTAIN FRANCIS EDWARD SABLAN, JR., ON THE OCCASION OF HIS RETIREMENT FROM THE UNITED STATES NAVY

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. BORDALLO. Mr. Speaker, I rise today to commend Captain Francis Edward Sablan, Jr., for nearly 25 years of service to his country in the United States Navy. Our Nation appreciates his courage and commitment to ensuring our security, and I want to express my personal gratitude to Captain Sablan as family and friends gather to honor his achievements on the occasion of his retirement.

Born in Hagåtña, Captain Sablan has proudly followed in the footsteps of his father in serving in the United States Navy. His father, Francis Edward Sablan of Yigo served as a Chief Warrant Officer in the U.S. Navy. Captain Sablan credits his father with encouraging him to pursue a career in the military. His mother, Maria San Nicolas Sablan, of Sinajana also provided many years of valuable support services to our Nation's men and women in uniform while working for the Department of the Navy, Naval Air Station Agana.

Captain Sablan was commissioned as an Ensign on May 30, 1979, at the U.S. Naval Academy in Annapolis, Maryland. He, along with fellow classmates and graduates Benny Fergurgur, Pedro Leon Guerrero, Frank Leon Guerrero and Francis Cruz, proudly represented Guam together at the U.S. Naval Academy. Their hard work and dedication has exemplified the patriotism and leadership qualities of the citizens of Guam and helped pave the way for future generations of talented young Chamorros to study at Annapolis.

Congratulations Captain Sablan on reaching this tremendous milestone. You have served your Nation and the people of Guam with dignity and courage. As you make the transition from active duty to civilian life, know that your contributions and legacy in the U.S. Navy will not be forgotten.

THE "DEBT TAX" THREATENS AMERICA'S ECONOMIC FUTURE

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MOORE. Mr. Speaker, as a member of the House Budget Committee and as a member of the Blue Dog Coalition, I have grown increasingly concerned over the impact that rapidly increasing federal government payments on our national debt have had upon our country's economy and upon the economic condition of individual citizens. A recent column in the Boston Globe discusses these concerns in a thoughtful and focused way; I commend to you and to my colleagues the analysis of Byron Auguste, a partner at a global management consulting firm, and Mark Strama, a technology executive and the former director of programs at Rock the Vote. They are directors of the Hope Street Group, a nonprofit organization of young business professionals.

[From the Boston Globe, Nov. 3, 2003]

THE BIGGEST "TAX" IS DEBT

(By Byron Auguste and Mark Strama)

In recent years, much has been made over the repeal of the estate tax—or "death tax." Much less attention has been paid to a far more pernicious tax—the "debt tax"—which is bigger than the estate tax, capital gains tax, and so-called "marriage tax" combined.

When the Democratic presidential candidates convene here on Tuesday to engage a skeptical generation of younger voters at the Rock the Vote debate, we ask them to address the debt tax as the most important issue affecting young Americans today. American taxpayers paid $332.5 billion in interest last year on the national debt. This huge payment, equal to 11 percent of the total federal budget, does not improve education, enhance homeland security, or rebuild Iraq. It merely services the $6.6 trillion (and growing) national debt. These interest payments are a "debt tax"—a tax that drains income without producing any material benefits for taxpayers.

Today's average American household pays an astounding $3,153 in taxes annually just to service the debt—about enough to lease a car for a year. These debt tax payments are required because of the fiscal irresponsibility of previous federal budgets.

A government running a large national debt is like an individual running a big balance on a credit card. Most American households use credit cards, and more than half of cardholders carry over credit card debt from one month to the next. But few would go as far as the federal government currently does; today's national debt is the equivalent of a whopping $62,000 on each family's credit card. And each month, the debt is rolled over, with no plans to pay down the principal.

The debt tax is likely to grow in the coming years, placing an enormous burden on tomorrow's taxpayers. Even if the national debt does not increase, projected increases in interest rates will increase the cost of borrowing money—increasing the debt tax.

But the national debt is increasing, because the government is spending beyond its means. In the past three years, federal spending has increased by 13.5 percent. Only half of this increase is attributable to the war on terrorism. And this figure does not even include the $87 billion recently requested for our efforts in Iraq and Afghanistan.

Meanwhile, the tax cuts of 2001 and 2003 are projected to reduce revenues by $1.35 trillion. Even if interest rates remain constant, this year's budget alone will add approximately $22 billion to annual interest payments—$22 billion in debt taxes. "Tax relief" for today's taxpayers is, plain and simple, a tax increase for tomorrow's taxpayers.

As a result these factors—rising interest rates, growing spending, and massive tax cuts—the debt tax burden will continue to mushroom. The administration's own projections show the debt growing by half through 2008. This means that in five years, the average family could be paying between $4,500 and $6,000 or more each year in debt tax alone.

The problem is compounded by the impending retirement of the baby boomers, whose tax contributions will decline at precisely the same time entitlement spending to support them will explode. For younger voters, this is like watching a train wreck in slow motion. We see the impact that is about to occur, and we are the ones who are going to get crushed.

It's not too late to avoid disaster, but doing so will require sustained, rigorous focus by our leaders. While many Democrats and Republicans have criticized current fiscal policies, none has introduced a plan that will solve the debt tax. The time has come for our leaders to step up to the plate.

Americans understand this problem and are willing to help solve it. A recent Gallup poll revealed that by a 53 to 41 percent margin, Americans say they would rather hold down the federal deficit than lower their taxes.

Each generation of Americans has had the opportunity to determine our nation's priorities. In the middle of the 20th century, our grandparents expanded higher education and homeownership. Over the past 35 years, our parents invested in fighting communism abroad and poverty at home. Will our generation have similar opportunities, or will our only choice be to service the debts of our predecessors?

The debt tax is a problem with grave consequences for our future. It is a problem that won't be solved until we start talking about it. For the sake of our generation of voters, we hope the presidential candidates will start the discussion this week.

STOP TREATING VETERANS LIKE A LINE IN THE BUDGET

HON. RODNEY ALEXANDER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ALEXANDER. Mr. Speaker, I rise tonight to remind my colleagues that our nation made a solemn pledge to our veterans that needs to be fulfilled.

Since the birth of our nation, patriots—citizen soldiers—have risked their lives to defend our freedom. They committed their lives to our defense and in exchange for that service we, the United States of America, committed to care for them and their families.

Our veterans have kept their promise. For over two centuries the men and women in our military have served us well. They've carried a heavy burden and sacrificed selflessly to ensure that our country remains a stronghold for liberty and freedom for all.

Unfortunately, we haven't done so well by them. While we have praised our troops in times of danger, we all too quickly turn our backs when we are safe. Using justifications like a tight economy or higher priorities, veterans programs have repeatedly been shortchanged and neglected. For over a century disabled veterans have been subjected to unfair taxation and worst of all, America has come to regard our veterans as just another number in the federal budget.

In these days of bottom lines and more-bang-for-the-buck we seem to have forgotten the truth behind those numbers. Every single veteran is a man or woman who has served our country and earned their benefits. I represent over fifty thousand veterans; that's not a number; that's fifty thousand individual patriots who have sacrificed for us and who are now due what we promised them.

Mr. Speaker, it's time for the United States to stop treating our veterans like a line in the budget. We must pay what we owe those brave men and women for the service they've given. It's a small price to pay for the freedom we enjoy.

CPL CHARLES W. LINDBERG

HON. MARK R. KENNEDY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KENNEDY of Minnesota. Mr. Speaker, I rise today to pay tribute to a true American hero, Cpl Charles W. Lindberg. Like so many of our veterans, he put his life on the line so that we might live in peace, free from tyranny and oppression. On the morning of February 23, 1945, six brave young Marines—Jim Michels, Hank Hansen, Louis Charlo, Boots Thomas, Harold Schrier, and Charles Lindberg—trudged up the steep slopes of Mt. Suribachi on Iwo Jima, dodging grenades and machine gun fire, to destroy an enemy outpost. There they planted the first American flag on Iwo Jima, marking the first plot of native Japanese soil captured by Americans in World War II. This historic event paved the way for the raising of the second American flag, immortalized in Joe Rosenthal's Pulitzer Prize winning photograph as one of our greatest symbols of freedom, triumph and courage. Sadly, Cpl Charles W. Lindberg is the sole remaining survivor of this fearless group. However, Cpl Lindberg's selfless devotion to his country did not end on the battlefield. Cpl Lindberg worked hard to improve our country and the lives of our soldiers. Today, he continues to devote himself to veterans, veterans organizations, and his community. I salute Cpl Charles W. Lindberg for his ever-lasting spirit of patriotism, bravery, dedication, and service to his community and country.

LT COL ROBERT HAGEN

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to pay tribute to a great American, Lt. Col. Robert Hagen.

Col. Hagen is a career Army officer with 24 years of service. He has served in the Guard, Reserves and Active Duty—and he is currently a Reservist on his 16th tour in 7 years.

Col. Hagen was in Saudi Arabia for a temporary tour of duty during the September 11 attacks on the base just outside of Riyadh and he was responsible for keeping the soldiers on the base informed. I'm sure all Americans abroad at that time—particularly those in uniform—would have preferred being closer to home and protecting those on the home front in harm's way. This was especially true for soldiers like Col. Hagen who knew many working at the Pentagon and lost six friends that fateful day. But through that terrible time in our Nation's history, so many like Col. Hagen remained abroad, steadfast in protecting American democratic principles throughout the world.

Col. Hagen returned to Washington in December 2001 on assignment to the Pentagon as deputy chief of Army Communications in the office of the chief of Public Affairs. In this position, Col. Hagen oversaw the public affairs duties at Baltimore-Washington International Airport for troops returning from Iraq and Afghanistan on the Rest & Recuperation program. It was in this capacity that I had the great fortune to first meet the Colonel.

Always calm and assured speaking simultaneously into a cell phone, making decisions, answering questions and enthusiastically welcoming troops home as they disembark from planes, Col. Hagen has been an incredible force at BWI during this historic R&R program that brought troops stateside for the first time in DoD history. Always committed to doing what is best for the soldiers, I am grateful to Col. Hagen for his work and his efforts each day.

I am also grateful for his support for Operation Hero Miles, a program coordinated through my office to correct a great injustice. For soldiers coming home on R&R and facing the incredibly unfair financial burden of paying for last minute flights home from BWI, Operation Hero Miles collects frequent flier miles to give soldiers in need free tickets home. Col. Hagen was on board with this program from the start and helped us to understand what was needed to make it work. Again, this is just another example of his commitment to do what is best for the soldiers.

Col. Hagen's last day on this Washington assignment is November 14, 2003 and then he will begin home for his 29th cross-country drive back to the west coast. As he does so, I wish to thank him for his dedication to this Nation and to the service men and women who so bravely protect it. I thank his wife Sharon Hagen for her support when Col. Hagen's work took him so far away from home so often.

Mr. Speaker, I ask my colleagues to join me in thanking Col. Hagen for his service and for his work on behalf of America's service men and women and our Nation.

PERSONAL EXPLANATION

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CASE. Mr. Speaker, I rise today to address the 26 votes I missed during the period October 29th through October 31st due to my participation in an official Congressional delegation to Iraq approved by you. Although I regret these missed votes, there is no question that that trip was indispensable to a more complete understanding of our intervention in Iraq.

I wish to state for the RECORD how I would have voted on these 26 votes.

On rollcall votes 580, 584, 585, 588, 589, and 590, motions to adjourn, I would have voted "no."

On rollcall vote 581, approval of the journal, I would have voted "aye."

On rollcall vote 576, passage of H.R. 1720, the Veterans Health Care Facilities Capital Improvement Act, I would have voted "aye."

On rollcall vote 577, passage of H.R. 1516, the National Cemetery Expansion Act of 2003, I would have voted "aye."

On rollcall vote 578, passage of H.R. 3365, the Fallen Patriots Tax Relief Act, I would have voted "aye."

On rollcall vote 579, passage of H. Res. 414, to encourage the People's Republic of China to fulfill its commitments under international trade agreements, support the United States manufacturing sector, and establish monetary and financial market reforms, I would have voted "aye."

On rollcall vote 582, passage of H. Con. Res. 291, expressing deep gratitude for the valor and commitment of the members of the United States Armed Forces who were deployed in Operation Restore Hope to provide humanitarian assistance to the people of Somalia in 1993, I would have voted "aye."

On rollcall vote 583, passage of H.J. Res. 75, making further continuing appropriations for the fiscal year 2004, I would have voted "aye."

On rollcall 584, on ordering the previous question on H. Res. 422, providing for consideration of the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted "no."

On rollcall vote 587, on passage of H. Res. 422, providing for consideration of the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted "no."

On rollcall vote 591, motion to recommit the conference report to accompany H.R. 2115, FAA Reauthorization Act, I would have voted "aye."

On rollcall vote 592, passage of H.R. 2115, FAA Reauthorization Act, I would have voted "no."

On rollcall 593, passage of H. Res. 409, repudiating anti-Semitic remarks expressed by Dr. Mahathir Mohamad, I would have voted "aye."

On rollcall vote 594, motion to recommit the conference report to accompany H.R. 2691, the FY2004 Department of Interior Appropriations Act, I would have voted "aye."

On rollcall vote 595, passage of the conference report to accompany H.R. 2691, the FY2004 Department of Interior Appropriations Act, I would have voted "no."

On rollcall 596, passage of H. Con. Res 302, expressing a sense of Congress welcoming President Chen Shui-bian of Taiwan to the United States on October 31, 2003, I would have voted "aye."

On rollcall vote 597, on agreeing to H. Res. 421, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (martial law for consideration of H.R. 3289, Emergency Supplemental Appropriations), I would have voted "no."

On rollcall vote 598, the Johnson motion to instruct conferees on H.R. 6, the Energy Policy Act of 2003, I would have voted "aye."

On rollcall vote 599, the Davis motion to instruct conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act, I would have voted "aye."

On rollcall vote 600, motion to recommit with instructions H.R. 3289, the Emergency Supplemental Appropriations for Defense and for the Reconstruction of Iraq and Afghanistan for FY2004, I would have voted "no."

On rollcall vote 601, agreeing to the conference report to accompany H.R. 3289, the Emergency Supplemental Appropriations for Defense and Reconstruction of Iraq and Afghanistan, I would have voted "aye."

Mr. Speaker, thank you for the opportunity to confirm my position on these important votes during my necessary absence.

RECOGNIZING CHRISTOPHER DODSON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Christopher Dodson, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and in earning the most prestigious award of Eagle Scout.

Chris has been very active with his troop, participating in many scout activities. Over the years Chris has been involved with scouting, he has held numerous leadership positions, serving as Chaplain's Aide, Librarian, Patrol Leader, and Senior Patrol Leader. Chris is also a Brotherhood Member in the Order of the Arrow and a Tom-tom Beater in the Tribe of Mic-O-Say. Chris served on staff at H. Roe Bartle Scout Reservation during the summer of 2003, and has earned a total of 33 merit badges.

For his Eagle Scout project, Chris lead a group of Boy Scouts on a work project at the New Hope Retreat Center in Holt, Missouri. For the project, they built two fences around dumpsters, cleared land around the entrance to the camp, leveled out the area, and replanted flowers and shrubs.

Mr. Speaker, I proudly ask you to join me in commending Christopher Dodson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

UNWELCOME TRUTHS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. WOLF. Mr. Speaker, I am very concerned about the current human rights situation in North Korea and that nation's pursuit of a nuclear weapons program. The leadership of the North Korean government has proven to be volatile and unpredictable with a tight rein on a very closed, repressed society.

Thousands of American soldiers are stationed in South Korea to ease the tensions between North and South Korea.

The North Korean government is one of the worst abusers of human rights in the world, and 1.5 million North Koreans have already died of starvation. The international community must pressure North Korea to reach an agreement to end its quest for nuclear weapons. A country that suppresses its people and poses a threat to its neighbors cannot be allowed to possess nuclear weapons.

I submit for the RECORD a recent Wall Street Journal article detailing a proposal from Hwang Jang Yop, North Korea's highest-ranking defector. Hwang's proposal for peace and security focuses on regime change and a larger international focus on the human rights situation.

[From the Wall Street Journal, Oct. 28, 2003]

UNWELCOME TRUTHS

(By Melanie Kirkpatrick)

SEOUL—North Korea's highest-ranking defector arrived safely in Washington yesterday despite North Korea's threat to "shoot his plane out of the sky" if he dared to visit the U.S.

This is the first trip to the U.S. for Hwang Jang Yop, the former head of North Korea's Workers Party and president of Kim Il Sung University who defected to the South in 1997. He brings with him a two-prong proposal for what he calls the peaceful reunification of the Korean Peninsula: regime change and greater international focus on the human-rights abuses of the North. In an interview here on the eve of his departure, Mr. Hwang said: "I want to emphasize the importance of eliminating the Kim Jong Il regime." How to do that? "The U.S. should put the issue of human rights at the top of its agenda in its dialogue" with North Korea.

Mr. Hwang is an unlikely champion of human rights in North Korea. Now 80 years old, he spent his career in the service of the brutal regime he now denounces. He was the North's ideologue-in-chief—founder and leading proponent of the "juche" ideology of self-reliance that Kim Il Sung, father of current leader Kim Jong Il, used to justify his totalitarian rule. The old Stalinist now says both Kims distorted his philosophy, which is really about "democracy."

One would think that the one place in the world where the campaign to free the North Korean people would be taken most seriously would be South Korea, where Mr. Hwang lived under virtual house arrest until recently. Think again.

Most Koreans are well informed about the brutal realities of life in the North but prefer to look the other way. It's much pleasanter to contemplate reunification fantasies such as the one portrayed in a recent hit movie about a cross-border romance between a South Korean woman and a North Korean soldier. Last week's chilling report on the North Korean gulags made it into some South Korean papers but wasn't front-page news. Students demonstrated against Mr. Hwang's U.S. visit last week, protesting his anti-North Korea message.

. If the South Korean people seem indifferent to the plight of their brothers and sisters in the North, it's in large part because their political leaders remain silent. President Roh Moo Hyun was a human-rights lawyer before taking office earlier this year but human rights north of the DMZ is way down on his priority list. To his credit, Mr. Roh is allowing Mr. Hwang to visit the U.S.—something his predecessor, Kim Dae Jung (another human-rights activist who lost his voice when it came to the human-rights horrors in the North) refused to permit for fear of angering Kim Jong Il.

The official refusal to speak out about the human-rights abuses of Kim Jong Il's regime was on full display last week during an interview with the South's minister of unification, whom I met on the day the gulag report was released. For North Koreans, Minister Jeong Se Hyun said, "political freedom is a luxury, like pearls for a pig. The improvement of economic conditions for the North Korean people is the most important issue right now."

"Once the economic situation is improved," he said, then North Korea can focus on human rights. As for linking any deal with the North to progress on human rights: "I don't think it would be wise or effective if we try to negotiate the human rights condition or to pursue our policies with human rights as a condition," Mr. Jeong said. In other words: Whatever you do, don't annoy Kim Jong Il.

South Korea's constitution requires it to welcome any North Korean who wants to come to the South. Yet in the 50 years since the end of the Korean War, the South has accepted fewer than 3,000 refugees. Most have come in the past two years, thanks in large part to the efforts of several private groups dedicated to helping North Koreans find refuge in the South.

The rescuers, many of whom are Christian, differ among themselves over how best to help. One faction prefers to work out of the public eye. Another faction pursues high-profile tactics such as helping asylum-seekers flood embassies in China. Its aim is to draw international attention to the plight of the quarter-million or more North Korean refugees hiding in China.

There's another aspect too—money. "I don't mean to sound mercenary," says Tim Peters, an American missionary here. "But in some respects running into a consulate in China is cost effective." Smuggling a refugee out through Mongolia or Vietnam costs $1,000 to $3,000 per person, he says. Mr. Peters adds that money also talks in North Korea's gulags. "It's easier to spring someone from a North Korean prison than from a Chinese prison," he says.

The high-profile tactics are taking their toll on rescuers' ability to help the North Korean refugees in China. Police security around embassies and consulates is tighter than ever. In the past five or six months, the highly effective Chinese intelligence service appears to have replaced provincial police in tracking down refugees. This is one reason, rescuers believe, for the failure of a plan earlier this year to smuggle out two boatloads of refugees from a northern Chinese port.

It is also becoming more treacherous along China's border with North Korea, where two million ethnic Koreans have long helped feed, house and hide those fleeing North Korea. Last month China sent 150,000 soldiers to replace the border guards, a measure viewed in the rescuer community as a crackdown on border crossings.

The four or five South Koreans in jail in China for helping refugees have received little help from their government. In contrast, Japan aggressively sought—and got—the release of two of its citizens arrested in China for helping refugees. It's a powerful deterrent for South Koreans who want to help to realize that their government won't come to their aid if they are arrested.

In Seoul, a few opposition politicians are finally beginning to turn their attention to human rights in the North. Park Jin, spokesman of the Grand National Party, which holds a majority in the National Assembly, faults the Roh government for "avoiding the issue." His party urges the government to do two things: press China to let the United Nations have access to the refugees and prepare South Korea for a possible flood of refugees. "We have an obligation to help," he says.

Another eloquent voice is Kim Suk Woo, former vice minister of unification and now in the powerful post of chief of staff to the speaker of the National Assembly. "As Koreans, we have a duty to support the refugees. As human beings we have a duty to support them," says Mr. Kim. "This kind of exodus could be a catalyst for the collapse of Kim Jong Il's regime."

The Roh administration "is careful not to provoke North Korea," he says. He is particularly scornful of Seoul's refusal last April to support a U.N. resolution condemning the North's human-rights abuses. And he criticizes the decision by the government of Kim Dae Jung—continued by the Roh government—to halt the South's air drops of radios into the North. All radios in North Korea must be registered with the authorities and permanently tuned to government stations. A South Korean radio is a listening post on freedom.

There's a debate in Seoul over Mr. Hwang's motives in calling attention to the North's human-rights abuses. Some believe him to be sincere; others say he is looking for publicity. But still others suggest the defector could be driven by guilt over what happened after he left Pyongyang. Information doesn't readily make its way out of North Korea. But when it's useful to his purposes, Kim Jong Il makes sure certain news is delivered.

And so the word has filtered back to Mr. Hwang in Seoul about the fate of the family he had left behind. His wife committed suicide. So too, the reports say, did one of his daughters. She is said to have jumped off a bridge to her death while being taken to a prison camp. Two other daughters and a son are lost in the gulag.

This is the reality of life in North Korea—and the truth that Mr. Hwang will be telling in Washington this week.

BURMA

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. SOUDER. Mr. Speaker, I rise today to highlight the continuing and deeply troubling situation in Burma. Last week over 900 Buddhist monks marched through the streets of Mandalay. The military thugs ruling Burma responded by shooting, beating, and smoke bombing the demonstrators.

Unfortunately, news of this latest affront to peace and democracy has not reached a wide audience. With limited exception, the plight of the people of Burma and its duly elected leader Aung San Suu Kyi are never reported in the press.

There is no doubt as to the ruthlessness and brutality of the State Peace and Development Council (SPDC). The evil dictators continue to rape, enslave, imprison, and murder innocent civilians from every ethnic group. Despite talk about democracy and road maps toward peace and civilian rule, we have seen no tangible and positive steps in that direction. Their actions betray their real motives and goals.

For the past few years, the United Nations has undertaken a process of trying to convince Burma's military regime to engage in a dialogue with the legitimate leaders of Burma. We must recognize that the United Nations process, as it has played out, has failed. The efforts at gently persuading the Burmese regime to move in a positive direction while simultaneously warding off international pressure have been fruitless.

The United Nations must re-evaluate its policies and Burmese strategy. U.N. pronouncements on Burma have not told the world of the full situation in Burma. They have not condemned the military for its actions. We need to find a new U.N. envoy to Burma and give this person the authority to rally international pressure against Burma's military regime.

Although the United States and a number of other nations have increased the pressure on the SPDC, we must encourage other nations, particularly Burma's neighbors, to end their support of the current regime.

India must be made aware that $57 million lines of credit to the regime and doubling Indo-Burmese trade do not help promote democracy and human rights in Burma.

Thailand must be told that increasing cross border contacts with the Burmese government will not bring democracy to Burma, stem the flow of refugees across the border, nor end the trade in illegal narcotics currently being supported by the Burmese military.

Freedom will come to Burma. The United States must assist the Burmese forces for freedom and democracy. We must do so sooner, not later.

FINANCIAL PLANNING WEEK RESOLUTION

HON. TODD RUSSELL PLATTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PLATTS. Mr. Speaker, I introduced House Concurrent Resolution 176 to reaffirm the value of sound financial planning in achieving life's goals and to recognize the dedication of American families and financial planning professionals for their adherence to the financial planning process.

Across our Nation, financial planning helps American families manage higher education costs, purchase homes for the first time, and achieve short and long-term financial objectives. Sound financial planning empowers American workers and their families to successfully overcome unexpected financial challenges, preserve personal wealth, and to improve their overall quality of life. As my colleagues and I debate national economic policy in the United States Congress, it is equally important to emphasize the benefits of sound financial planning to the American family.

I would like to commend the Financial Planning Association and its members in South Central Pennsylvania and across our Nation for their work in increasing public awareness about the importance of sound financial planning.

Mr. Speaker, I urge all Members to join me in supporting the financial planning profession and all American families striving to realize the American dream by passing this important resolution and promoting the week of October 6, 2003 as Financial Planning Week.

PERSONAL EXPLANATION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BONNER. Mr. Speaker, on November 4, I was not able to vote on rollcall votes Nos. 602 and 603. I was unavoidably detained in my district. Had I been present, I would have voted "aye" on rollcall 602 and "aye" on rollcall 603.

PAYING TRIBUTE TO ETHEL RICE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an outstanding citizen from my district. Ethel Rice of Gunnison, Colorado has provided years of selfless and committed service to Western State College. For her dedication and tremendous generosity, I am honored to pay tribute to Ethel's accomplishments here today.

Ethel served as Western State's librarian for thirty-six years, and helped to ensure that the library ran smoothly. She aided the students, faculty, and guests of Western State in getting the information they needed. In addition to being a librarian, Ethel is a self-made millionaire and philanthropist who has invested her money for years to accumulate a sizable savings. Several years ago, an anonymous donor gave $1 million to the college. Ethel only recently, and reluctantly, announced that she was the one responsible for this extremely charitable donation. Ethel's tremendous generosity has created two scholarships and helped many Western State students with their education. Her altruistic spirit has even inspired others to make similar donations to the college.

Mr. Speaker, Ethel Rice's generosity and commitment to her community are an inspiration to us all. She has given more than money; she has given hope for generations to come. While Ethel has retired from her position at Western State College, she remains active in the community, and her influence is sure to be felt for many years to come. I am honored to join with my colleagues in recognizing the generosity of Ethel Rice here today.

RECOGNIZING NATIONAL PARKS AMERICA TOUR VOLUNTEER DAY

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to salute the volunteers and organizers of the National Park America Tour. This outstanding event is bringing together community leaders and volunteers to clean and improve our Nation's parks and natural treasures. In my own community, the National Parks America Tour will work to improve Lake Mead on November 8, 2003. Lake Mead is one of the foremost recreational sites in our country, as well as the primary source of water and power for Southern Nevada and much of the Southwestern United States. I am proud to represent Lake Mead and bring attention to its unique value and needs. I salute all of the participants in the National Parks America Tour and its sponsors, Wal-Mart and Unilever. Working together, we can preserve and enhance Lake Mead for the community, tourists, and for future generations.

PERSONAL EXPLANATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ENGLISH. Mr. Speaker, I was unable to be present for rollcall votes 602 and 603 on November 4, 2003. Had I been present, I would have voted in the following manner:

"Yea" on H. Con. Res. 176—Supporting Financial Planning Week.

"Yea" on H. Con. Res. 94—Direct Support Professional Recognition.

PAYING TRIBUTE TO REGIONAL TRANSPORTATION DISTRICT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to a fine organization, the Regional Transportation District (RTD) which provides public transportation in the Denver metropolitan area. RTD provides a reliable and efficient service to the citizens of Colorado, and was recently recognized with the American Public Transportation Association's Outstanding Public Transportation System Award. For its years of excellence and reliability, and its ongoing efforts to improve its service, I am honored to pay tribute to RTD and its employees here today.

Over the years, RTD has worked hard to serve the citizens of Denver, and continues to expand throughout the metropolitan area, serving more and more people each day. Even more impressive than its growth is RTD's commitment to safety and dependability. The administration has pursued an aggressive campaign to improve the safety of the public transportation system with stellar success: the accident rate has been cut in half and is at an all-time low. RTD is also dedicated to making public transportation available to all citizens, installing wheelchair lifts on their whole fleet and providing curb-to-curb service to people unable to use lift-equipped buses.

Mr. Speaker, the Regional Transportation District is committed to providing the people of Denver with safe and reliable public transportation. The employees of RTD continue to work hard to improve the system and to meet the needs of the Denver community. I am honored to join my colleagues here today in recognizing these worthy accomplishments.

BURMA

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. CROWLEY. Mr. Speaker, I stand today to express my frustration with the ongoing situation in Burma. For the past three years, the United Nations, with the full support of the United States, has attempted to spur talks between 1991 Nobel Peace Prize recipient Aung San Suu Kyi's political party the National League for Democracy, Burma's ruling military regime, and the country's ethnic groups.

Let me be blunt—that effort and the effort of the U.N. envoy designated to carry it out has failed. It has failed mainly because the regime refuses to participate in the talks. While the regime promises, as it has for the past fifteen years, to make a transition to democracy, there is absolutely zero evidence to suggest that this is true.

To make matters worse, the regime has been attacking and killing the very people they are supposed to be talking to. In May of this year, the regime attacked and killed scores of Aung San Suu Kyi's supporters. Just last month, the regime attacked and killed members of the Karen ethnic group. And, just a few days ago, the regime opened fire on a demonstration of Buddhist monks, killing one and injuring many more.

We need to breathe new life into this United Nations process, and that will require a serious diplomatic effort. To start with, we need a new United Nations special envoy for Burma—the present envoy's efforts have failed and he as of late has done nothing more than provide political cover for the regime. Second, we need the United Nations Security Council to pass a resolution condemning Burma. Third, the State Department must unequivocally reject "roadmaps" that have been promised by the Burmese regime and their Thai counterparts.

I believe that democracy is possible in Burma, and we agree with Secretary Powell when he said that we need to rally international support to stand up to Burma's "thugs". We need to move quickly to ensure that these words are acted upon.

PERSONAL EXPLANATION

HON. FRANK W. BALLANCE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BALLANCE. Mr. Speaker, due to a district commitment, I was not present for rollcall votes Nos. 597 through 601. Had I been present, I would have voted "no"; on rollcall vote no. 598, I would have voted "yes"; on rollcall vote no. 599, I would have voted "yes"; on rollcall vote no. 600, I would have voted "yes"; on rollcall vote no. 601, I would have voted "yes."

PAYING TRIBUTE TO SHINICHI KOBAYASHI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress to pay tribute to an extraordinary man. Earlier this year Shinichi Kobayashi traveled from his native Japan to Montrose, Colorado. He did this for one reason: to promote friendship and understanding between the children of our two nations.

A veteran educator, Shinichi has taught junior high school in Tokyo for fifteen years. He comes to the United States as part of the International Internship Program, which attempts to organize cultural exchanges in order to promote international understanding. Currently, Mr. Kobayashi is sharing the Japanese culture with students from Cottonwood Elementary School. In addition to teaching, Mr. Kobayashi has become involved in after-school activities in his local community as well. In exchange, the children have taught Shinichi about American culture and the English language, lessons Shinichi will take back with him to Tokyo.

Mr. Speaker, Shinichi Kobayashi has dedicated his time and effort to promoting mutual understanding and goodwill between Japan and the United States. As the result of this dedication, many of Colorado's young people have had the opportunity to experience Japanese culture firsthand. For his efforts to advance understanding and promote international cooperation, I am honored to join with my colleagues in recognizing Shinichi Kobayashi here today.

HONORING THE EFFORTS OF MR. JOSEPH SHEPP

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to pay tribute to Mr. Joseph Shepp, who has been awarded the AARP Andrus Award for Community Service in the State of Nevada for 2003. The Andrus Award honors the outstanding volunteering efforts of AARP volunteers and members in every state.

Mr. Shepp provides yet another example of service and volunteerism to the Southern Nevada community. He has demonstrated his service to the community through his service and commitment to organizations like Seniors and Law Enforcement Together and the Senior Assisted Living Project. We in Southern Nevada are fortunate to find yet another role model in Mr. Shepp. I wish him all the best in his future endeavors and congratulate him on this well-deserved award.

PERSONAL EXPLANATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. LOWEY. Mr. Speaker, during an absence yesterday, I regrettably missed rollcall votes 602 and 603. Had I been present, I would have voted in the following manner: Rollcall No. 602: "yea" and rollcall No. 603: "yea."

TRIBUTE TO FRANKLIN AUBREY "FRANK" SPOONER, JR.

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. BISHOP of Georgia. Mr. Speaker, on Tuesday, September 27, the Second Congressional District of Georgia and the entire U.S. House suffered an irreparable loss with the passing of Franklin Aubrey "Frank" Spooner, Jr., who served as a case worker in our Albany, Georgia office for the past six years.

Many people have served in this institution longer but no one could have possibly served with greater courage, commitment, or concern and compassion for the people we strive to help. Although he suffered from a life-threatening health condition when he joined our staff, and was eventually given a terminal diagnosis, Frank worked as often and as hard as he could to the end. Even when death was near, he focused more on the needs of others than on his own, remaining the same soft spoken, good humored, down-to-earth, hard-working, bright and decent guy we had always known.

Frank was born in Macon, Georgia and raised in Fort Gaines, Georgia. He attended Mercer University in Macon. He was a newspaper reporter; managed retail businesses; operated his own small business when he turned his baseball card hobby into a profession; and served as a social worker and finally a Congressional case worker. He often said he was doing exactly what he wanted to do. For him, there was no higher calling than helping others, and he did it extraordinarily well.

At an early age, he was diagnosed with a congenital kidney problem that eventually led to a transplant at the age of 23. When the transplant failed some years later, he was sustained with regular kidney dialysis. Several years ago, he was found to have cancer. Eventually, his condition proved to be untreatable. He died at the age of 49 at the Phoebe Putney Memorial Hospital in Albany.

He is survived by his mother, Mrs. Della Spooner Bell of Albany; a brother, Robert A. McKay (Juline) of Bushnell, Florida; an uncle, R.S. Spooner of Donalsonville, Georgia, and a number of nieces, nephews and cousins. Our prayers go out to his family.

The Frank Spooner I have known would likely be embarrassed by all of the praise that has come his way in recent days from the many people who loved him, worked with him, and were helped by him. He would say he was not doing anything special—just doing his job as best he could.

Frank did his best—and left the world a better place because of it.

PAYING TRIBUTE TO FRANCES GRAY "PEGGY" RICHARDS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, it is with a heavy heart that I rise before this body of Congress and this nation today to pay tribute to the life and memory of an outstanding citizen from my district. Frances Gray "Peggy" Richards of Durango, Colorado recently passed away at the age of eighty-three. Peggy was very active in her community and cared deeply for her fellow Coloradans. As her family and friends mourn her passing, I am honored to pay tribute to Peggy here today.

Peggy was a powerhouse of community service, beginning in the mid-1950s when she served as the Pagosa Springs Town Clerk and Justice of the Peace. During the 1960s, she served simultaneously as an Archuleta County Judge and the Chief Judge of the Jicarilla Apache Tribal Council, while remaining active in numerous community groups. Over the years, Peggy worked as Executive Director of the Southern Ute Community Action Programs and Director of Program Operations for Upland, Inc., promoting rural development in eleven Colorado counties and three American Indian reservations. In addition, Peggy was the Director of Economic Development for the Southern Ute Tribe, where she wrote the Tribal Comprehensive Plan and generated $15 million in much needed funds through grants and loans.

Mr. Speaker, Peggy Richards dedicated her life to her community, and many of the successful development projects in southern Colorado can be traced back to Peggy's hard work. She was truly one in a million, and while Peggy has passed, her legacy is sure to live on. I am honored to join with my colleagues in paying tribute to the life and memory of Frances Gray "Peggy" Richards. My thoughts are with her family during this difficult time.

PIONEER OF THE YEAR

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. BONO. Mr. Speaker, I and Ms. ROYBAL-ALLARD, Mr. BECERRA, Mr. McKEON, Mr. BERMAN, Mr. WAXMAN, Mr. MATSUI, Mr. GALLEGLY, Mr. SCHIFF, Ms. WATSON, and Mr. SHERMAN, all from California, rise today to pay tribute to a good friend and an outstanding citizen, Michael Eisner, who will be receiving the prestigious "Pioneer of the Year" award from the Will Rogers Motion Picture Pioneers Foundation on December 4. As Chairman and Chief Executive Officer of The Walt Disney Company, Michael is exceptionally deserving of this recognition. His wise stewardship of this multi-national company has led to a prodigious enhancement of its influence, reputation and scope.

Born in Mt. Kisco, New York to Lester and Margaret E. Eisner, Michael was raised in a caring environment with two successful parents as role models. His father was a famous litigator and public servant who at one time administered the Department of Housing and Urban Development. His mother was co-founder of the American Safety Razor Company and president of a medical research institute. His parents required two hours of reading for every hour of television and strictly rationed their children's consumption of sitcoms and movies.

Michael enrolled in Denison University, initially as a pre-med student. He soon changed his major, however, to reflect his interest in English literature and the theater. A summer job as a page at NBC studios in New York gave him his first taste of the entertainment industry.

Michael's meteoric rise to prominence in the entertainment industry began at ABC, where he made his mark, initially as Director of Program Development for the East Coast, then as Vice President for Daytime Programming and by 1976, as Senior Vice President for Prime Time Production and Development. Under his guidance, the network rose from third to first place among the networks.

In 1977, he took the post of President and Chief Operating Officer of Paramount Pictures, where his leadership brought the studio to become number one in box office and profitability.

Michael cemented his status as a leader in the entertainment industry in September, 1984, when he left Paramount to become Chairman and Chief Executive Officer of The Walt Disney Company, the position he holds to this day. His business acumen and strong work ethic helped him lead Disney through diversification and aggressive, but intelligent management. Under Michael's guidance, Disney grew from $1.7 billion in assets in 1984 to over $10 billion just ten years later.

Eisner has strongly encouraged Disney and its employees to support local communities and in 1997, he committed to one million hours of community service, helping rebuild the burned First AME Zion church in South-Central Los Angeles, and establishing GOALS—a free youth hockey program for underprivileged youngsters in Orange County, Calif. Under his leadership, Disney has developed two major television events recognizing educators and students: Disney's American Teacher Awards brings together and recognizes 35 of the nation's finest teachers annually and Disney's Young Musicians Symphony Orchestra each year assembles young musicians from North America and Europe for a two-week music camp and an opportunity to perform at a major venue.

Not content to be a master of diversification in the corporate entertainment world, Michael also serves on a number of boards of charitable and civic organizations. He is a trustee of the California Institute of the Arts (CalArts), the American Film Institute and Denison University, his alma mater. He is a Founding Member of the Points of Light Foundation. His success in the entertainment industry has earned him high acclaim and his work has been recognized with many awards and honors, including the International Radio and Television Society Gold Medal Award (1992) and his induction into the Academy of Achievement's Hall of Business (1994).

Michael and his wife Jane are the extremely proud parents of three sons, Breck, Eric and Anders. The family resides in Los Angeles where they are well known for their generous philanthropy. The Eisner Foundation, which they founded in 1996 with an initial $89 million grant, funds children's organizations, public schools, medical and dental-care programs with a special emphasis on helping Southern Californians. The Eisner Foundation is headed by Jane Eisner.

We feel extremely fortunate to have a person like Michael Eisner in our community. Southern California is a better place because of his willingness to give back to his community.

Mr. Speaker, we invite our colleagues to join us in saluting Michael for his myriad accomplishments, and in congratulating him on being named the "Pioneer of the Year" by the Will Rogers Motion Picture Pioneers Foundation. We wish him continued success in all his future endeavors.

PAYING TRIBUTE TO HELENE MONBERG

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I rise before this body of Congress to honor the memory of a great citizen. Helene Monberg recently passed away at the age of eighty-four. Helene was the respected and well-liked former Washington Correspondent for The Pueblo Chieftain and Star-Journal. As Colorado and the larger community mourn her passing, I would like to pay tribute to her memory here today.

Helene began her career as a reporter for the Leadville Record and, in 1942, took the pioneering step of being the first full-time female employee of the Washington Bureau of United Press International. Helene began reporting for the Chieftain in 1947, and extensively covered water and land issues in the West, as well as the education issues she cared for deeply in her heart. In 1965, she started Western Resources Wrap-Up, a newsletter designed to update people on issues related to natural resources. Helene also founded the Achievement Scholarship Program in 1973, and has donated to other scholarships to ensure underprivileged children can attend college.

Mr. Speaker, Helene Monberg was a woman of honesty and compassion. Through the years, she proved herself a dedicated journalist and a committed philanthropist. Helene was a great American, a great journalist, and most importantly, a great person. I join with my colleagues today in honoring her memory and her life here today. My thoughts and prayers go out to her family during this difficult time.

PERSONAL EXPLANATION

HON. PHIL ENGLISH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. ENGLISH. Mr. Speaker, I was unable to vote for rollcall vote No. 591 on October 30. Had I been able, I would have voted "nay."

PAYING TRIBUTE TO RUSSELL TAYLOR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. McINNIS. Mr. Speaker, I rise before this body of Congress and this nation today to pay tribute to an inventor and entrepreneur from my district. Russell Taylor of Grand Junction, Colorado saw a need in the community for cellular phones that everyone could afford, and created a phone to fit that need. For his innovation and ingenuity, I am honored to pay tribute to Russell here today.

Russell recently invented a disposable cellular phone, a phone that does not cost a fortune or require the user to sign a lengthy contract. He believes that many people shy away from cell phones because of the high costs, and intimidating contracts. Russell also feels that people who deny themselves a cell phone, may be denying themselves an essential tool in an emergency situation. His concern for his fellow citizens prompted him to create this disposable phone. Russell's invention provides security and peace-of-mind to many Coloradans, allowing them to stay in contact while driving through Colorado's mountains, and call for help if necessary. Russell's phone is becoming a popular commodity in the Grand Junction region, and many of his fellow Coloradans thank him for the convenience his creation has afforded them.

Mr. Speaker, Russell Taylor is an example of American ingenuity. He saw a need and turned his attention to solving it. Because of Russell's hard work and determination, countless people will now have access to cell phones, a necessity in today's society. For his creativity and inventiveness, I am honored to join with my colleagues in paying tribute to Russell Taylor here today.

HONORING WAYNE TANAKA ON HIS APPOINTMENT AS HONORARY CONSUL GENERAL OF JAPAN

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Wayne Tanaka on his appointment as the Honorary Consul General of Japan in Las Vegas, Nevada. Wayne has been a dedicated public servant throughout his career. I am proud that Wayne has been given this high honor by the Japanese government.

Wayne Tanaka started his career as an educator in the Clark County School District in 1972. He spent 28 years teaching in the fastest growing school district in the country, never losing his commitment to excellence or his desire to give every child an education that would give them the knowledge and character they need in later life. Wayne completed his career as principal of Clark High School in 2001.

Wayne is now serving as principal of the Andre Agassi Preparatory Academy, a charter school dedicated to giving inner-city children the resources and education they need to succeed in life. Wayne's own personal commitment to these goals have made the Academy a success, and an example to schools throughout the country.

As the new Honorary Consul for Japan, Wayne will be able to give his students, not only firsthand knowledge of Japan and the strong friendship and economic relationship between it and the United States, but also a visible sign of the rewards of leadership, dignity, and community commitment. I am proud to call Wayne Tanaka my friend and urge the House to join me in honoring him today.

PAYING TRIBUTE TO JACQUELYN SCHICK

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable woman from my district. Jacquelyn Schick spent the last forty years acting for the betterment of the people of Pagosa Springs, Colorado. Recently, Jackie announced her retirement from her position as the Pagosa Springs Town Clerk. When news of the retirement reached the citizens of Pagosa Springs, there was an outpouring of gratitude for Jackie's years of service. Because of her selfless and caring nature, Jackie is truly a beloved member of her community, and it is my honor to call her contributions to the attention of this body of Congress and this nation.

Jackie and her husband Gene moved to Pagosa Springs in 1955. After she volunteered in the Town Clerk's Office for two years, the Town Board asked Jackie to hold the Clerk position permanently. As Town Clerk, Jackie was compassionate, caring and dedicated. She always approached her job with the best interests of the citizens of Pagosa Springs in mind, and did a fine job in serving them.

Mr. Speaker, it is truly a privilege today to pay tribute to a woman who has spent her life serving her fellow Coloradans. Although the citizens of Pagosa Springs will miss having Jackie as their Town Clerk, she remains a tremendous asset to the Pagosa Springs community. Today I join the people of Pagosa Springs in thanking Jackie for her service.

REVEREND DR. AVERY ALDRIDGE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. KILDEE. Mr. Speaker, I rise before you today to pay homage to a very dear friend of mine, Reverend Dr. Avery Aldridge. Reverend Aldridge passed away in his sleep at his residence in Flint, Michigan on Saturday, November 1, 2003 at the age of 78. I am deeply saddened by this great loss, for Reverend Aldridge was an inspiring and positive force for Genesee County, the State and Nation. He was a true friend and advisor. I will miss him greatly.

Dr. Avery Aldridge was born on February 9, 1925 in Widener, Arkansas. He organized The Foss Avenue Baptist Church, located at 1159 E. Foss Avenue, Flint, Michigan on December 2, 1956. Under his leadership Foss Avenue Baptist Church has organized 50 auxiliaries and committees to carry out the work of the Lord. Dr. Aldridge also founded several enterprises to serve the membership and community. Those enterprises are the Foss Avenue Dairy Queen, Foss Avenue Free Clothing Center, Foss Avenue Federal Credit Union, Avery Aldridge Family Life Center, which was the first of its kind to be opened in Flint, and the Foss Avenue Christian School of Elementary and Secondary Education. The Church's current facilities and enterprises are valued at over $3 million. Through Dr. Aldridge's leadership, Foss Avenue Baptist Church has grown to be a tremendously influential Church in Genesee County. One of the greatest blessings of being a father is to know that your children turn out well. Dr. Aldridge has that blessing. On February 10, 2002, Dr. Aldridge installed his son, Reverend Derek Aldridge, as the new Pastor of Foss Avenue Baptist Church.

Dr. Aldridge made his mark in history when he became involved in the civil rights movement of the 1960's. His no nonsense and nonviolent approach helped to calm the tension in the City of Flint, after the 1967 rioting in Detroit. Dr. Aldridge was the voice of the community. He fought for better education and work opportunities, not only for the African Americans, but also for all people. Dr. Aldridge from that moment forward was revered as the Civil Rights Leader for Genesee County. In 1969, he founded the Concerned Pastors for Social Action (CPSA) to rid the community of local institutional racism, and to improve the relationship between the community and the police. The CPSA has worked hard to ensure that the voice of the people is heard loud and clear among those wanting to hold public office. Because of the work of the CPSA, political candidates and elected officials have become more sensitive to the needs of the people. During the early 1980's, Dr. Aldridge led the petition to have Detroit Street, located in the inner city of Flint, renamed to Reverend Martin Luther King Jr. Blvd. Dr. Aldridge stated that the renamed Street would serve as "a role model for youngsters in the inner city." The change was approved by City Council in 1987. Dr. Aldridge remained President of the CPSA until 1999, when he had to resign due to illness.

Dr. Aldridge during his life held several leadership roles within the Church community. He served as President of the Wolverine State Congress of Christian Education and Convention Coordinator for the National Baptist Convention for 25 years. He was Vice President and Director General of the National Baptist Congress for 4 years, and he also served on the Board of Directors for the National Baptist Convention, USA, Inc., and the Sunday School Publishing Board, Nashville, Tennessee. He was also a member of the Todd Philips Children's Home Board of Directors—Detroit, Mott Children's Health Center, Michigan National Bank, Flint Housing Commission Board of Directors, Advisory Board of the Flint Goodwill Industries, Professional Advisory Board Metropolitan Chamber of Commerce, Board of Directors Girl Scout Council and of the Boy Scouts of America, and as a Commissioner on the National Holiday for Dr. Martin Luther King, Jr. Board. Dr. Aldridge also held the position of Instructor and Member of the Baptist Ministers Alliance.

Mr. Speaker, Dr. Aldridge leaves to cherish and carry on his legacy his beautiful and devoted wife of 54 years, Dr. Mildred Aldridge, his son, Reverend Derek Aldridge, his daughter, Karen Aldridge-Eason, and nine grandchildren.

Mr. Speaker, I ask the House of Representatives to join me in offering condolences to the family of Dr. Avery Aldridge, and in thanking them for sharing Dr. Aldridge with our community.

Mr. Speaker, my message to his congregation and all of our community is as follows.

> "Take my yoke upon you and learn from me, for I am meek and humble in heart." [Matthew 11:29]
>
> It takes a strong person to be meek, a strong person to be in charge of his passions and emotions.
>
> Reverend Avery Aldridge was such a person.
>
> He was strong in his love of God.
>
> He was strong in his love of the Church.
>
> He was strong in his love of family.
>
> He was strong in his pursuit of justice.
>
> He was strong in his effort to eliminate injustice.
>
> And all this deep strength, he exercised humbly, as an instrument of God's Holy Will.
>
> Because of Dr. Aldridge's strength, anchored in humility and meekness, this community is a better community.
>
> This Church is a stronger representation of the Mystical Body of Christ.
>
> All of us here in this Church are better people because of that strength of faith and action of Doctor Avery Aldridge.
>
> The greatest tribute we can render to Dr. Avery Aldridge is to emulate
>
> his love,
>
> his dedication,
>
> his humility, and
>
> his Christ centered strength.
>
> Dr. Aldridge, as a triumphant member of the Communion of Saints, please ask Almighty God to shower His Blessings upon us that we might use our strength to carry out God's Holy Will.

WARREN HEYER: PROFESSOR, COMMUNITY ACTIVIST, AND PUBLIC ADVOCATE

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. FILNER. Mr. Speaker, I rise today to honor Warren Heyer, one of my district's most persistent and effective community advocates.

As a young man, Heyer served in World War II, where he saw combat in General George S. Patton's 3rd Army and took part in the liberation of a Nazi concentration camp. After witnessing the horror of war and genocide, he became an ardent anti-war activist. And in the mid-1960s, his activism focused on his community.

After Heyer graduated from San Diego State College in 1950, he taught in a local elementary school—where he met his first wife, Roberta Calvert, who passed away in 1996. He continued his education, receiving a Master's degree in librarianship, and worked as a librarian at both San Diego High School and San Diego City College. In 1964, he was a founding faculty member of Mesa College, where he was instrumental in developing numerous important school policies. He was the elected chairman of the Library Department, a position he held until 1979, when he retired. Retirement did not stop his service to the college: he continued to serve as an adjunct librarian, training and assisting new employees and students.

He was also a central figure in the efforts to re-zone his community of Encanto. If it were not for Warren Heyer, the quiet and inviting character of Encanto would have been lost. He served as vice-chairman of the Southeast San Diego Development Committee and went door-to-door to gain support for his efforts, without which, I am convinced, the planning measure would not have passed.

Heyer suffered a stroke in Chichicastenango, Guatemala, where he was building a church on behalf of a humanitarian organization. He died as he lived: putting others before himself and working for the betterment of society.

My deepest condolences go to Heyer's family; his wife Patricia and his three children: Kathryn, Robin, and Andrew.

William Heyer was a model constituent and his legacy will continue to benefit my district for years and years to come.

PAYING TRIBUTE TO TRAVIS THOMPSON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, I would like to take a moment to recognize the extraordinary talents of a dedicated young mandolin player from Pueblo, Colorado. Travis Thompson is the national champion of the prestigious Walnut Valley Festival. He provides enjoyment and inspiration to all who are fortunate enough to hear him play.

Travis is only the fifth Coloradan to receive this prestigious title since the addition of the mandolin competition to the festival in 1976. He began playing the instrument at age 11 after meeting his idol, Chris Thile of Nickel Creek, at a music festival. Several years later, Travis made his first of three attempts to reach the finals of the contest. His diligence and persistence have placed Travis on the path to eventually joining the ranks of bluegrass icons such as Alison Krause.

Travis hails from a family of musicians. His father, sister, and mother play the guitar, fiddle, and bass respectively in the performance group Second Wind. Not only does this young man pursue excellence in the entertainment field, but he also runs track and maintains a 3.6 grade-point average at Rye High School.

Mr. Speaker, Travis Thompson's gift motivates other citizens to follow their dreams. His devotion and enthusiasm certainly deserve the recognition of this body of Congress. It is my privilege to pay tribute to Travis for his contributions to the Colorado community.

THINNING ALONE IS NOT ENOUGH TO PROTECT HOMES FROM FOREST FIRES

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. UDALL of Colorado. Mr. Speaker, the Senate recently passed a revised version of H.R. 1904, the "Healthy Forests" bill and the administration has made plain its desire that action on this legislation be completed soon.

The bill deals with several other matters, but most attention has been focused on Title I, which deals with forest-thinning projects on federal lands.

I support well-designed thinning projects that are focused where they will do the most good—but I do not think such projects, alone, will be enough.

To illustrate what I have in mind, I want to bring to the attention of our colleagues a story from the Boulder, Colorado Daily Camera.

The story focuses on the efforts of homeowners in Boulder County to protect their homes and the way that their efforts paid off during wildfires. Such "defensible space" measures, based on common sense can be readily adopted by homeowners, and there are many available sources of assistance. For example, in our state the Colorado State Forest Service has a program to help private property owners assess their property for fire and develop a plan to help reduce risks. These and other programs—such as actions by local government to require the use of fire-resistant materials and other steps to reduce fire risks—can go a long way to help prevent and reduce the losses from wildfires. It would also be desirable for the nation's insurance industry to lend its assistance to encourage people whose insured property is in forested areas to take some responsible steps to make their homes more defensible from fire.

We cannot stop all fires—nor should we, because fire is a natural part of many forested ecosystems. But we can work together to reduce the risks to lives and property. We need to look beyond jurisdictional boundaries and help encourage all techniques—such as defensible space—that will make homes, communities and watersheds more resistant to the more catastrophic and damaging effects from fire when it inevitably does come.

[From the Daily Camera, Nov. 4, 2003]

FIRE PRECAUTIONS SAVE HOMES

FIRE-RESISTANT MATERIALS, THINNED TREES CREDITED

(By Mary Butler)

All his neighbors told David Mitchell that they thought his house had burned in last week's Overland Fire outside of Jamestown.

"But when I drove up to the place the next morning," he said, "about a 2-foot ring around the house wasn't burnt."

The 2,800-square-foot home on County Road 87, where several other homes burned to the ground, was unscathed.

Mitchell credits efforts made to create "defensible space," such as thinning trees, how his home was positioned and his driveway's alignment, for helping to spare the house from the fast-moving fire's path Wednesday.

Even if flames came close enough to lick the home's exterior, he said, fire-resistant materials such as Rastra concrete, Styrofoam blocks and steel roofing used to build the house would have delayed its ignition.

"The fire was so hot, if we had made the building from wood, it would have caught fire anyway," he said.

Since the early 1990s, Boulder County has required new homes and large additions to homes in unincorporated mountain communities to be built with wildfires in mind.

"When you build a new house, you're required to have a fire mitigation plan," said Eric Philips, county wildfire mitigation coordinator.

For instance, cedar shake shingles are banned from use on mountain homes. In some areas, "noncombustible" materials such as stucco, stone and cement siding are required. Tree thinning is also a must.

A site-by-site evaluation is made to determine what mitigation efforts ought to be made, Philips said.

Taking such precautions is thought to have saved at least one neighborhood in Southern California, where wildfires ravaged thousands of homes in recent weeks.

The New York Times on Sunday dedicated a front-page story to the Stevenson Ranch neighborhood. The story described the neighborhood's streets as wide, the homes' roofs as fire retardant, the landscaping as moist and the surrounding hillsides as irrigated and cleared of brush.

Some of the homes' features include double-glazed window panes that resist heat and breakage, stucco-sealed eaves to keep sparks from getting into attics and oversized address numbers for easy identification. Even some of the swimming pools are equipped with valves that allow firefighters to draw the water, the article said.

Whether homeowners' fire-prevention measures made a difference in the Overland Fire, Philips said, has yet to be assessed.

But many Lefthand Canyon-area homeowners, including Mitchell, say they did.

"Thinning trees gives us a fighting chance," said Nolan Farmer, whose Overland Road home was within 40 yards of the 3,500-acre blaze.

He credits tree thinning a team of Boulder County inmates did on his property seven years ago for saving his property. The work was well worth the $50 he paid then, Farmer said.

Farmer also built his house with a metal roof, sealed redwood siding and without decks in the event that flames might come up against his home of 12 years.

John and Susan Bernart's Overland Road home, which overlooks the hillside blackened in the blaze, wasn't directly threatened by the fire.

But John Bernart says he had peace of mind knowing that its straw-bale and stucco construction could hold its own against wildfire. Besides being energy efficient, the insulating materials are also extremely fire resistant.

"There are straw-bale houses that are 500 years old in Europe," Bernart said. Still, he said, "We're hopeful we won't have to face this kind of threat again. Our strike of lightning has come and gone."

PAYING TRIBUTE TO BILL PORTER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Recently, the Colorado Trappers Association recognized Bill Porter as "Trapper of the Year." Not only is Bill a talented and dedicated trapper, he is also an outstanding steward of wildlife, and I believe that it is important to pay tribute to his contributions here today.

Bill began trapping at the age of eleven in order to supplement his family's income. Over the last 25 years, he has refined his skills to become one of the best trappers in Colorado. Bill approaches trapping with the importance of preserving wildlife in mind. He focuses exclusively on capturing destructive and threatening animals.

Bill is good-natured and has a great sense of humor. He often uses these positive character traits when teaching students and young trappers the importance of legal and ethical trapping. Aside from technical knowledge and ethics, Bill also stresses the importance of working closely with the Division of Wildlife in a combined effort to assure the conservation of animals and their habitats

Mr. Speaker, I am proud to call to the attention of this body of Congress and this nation the accomplishments of Bill Porter. Bill is a man who has spent his life in harmony with nature. His dedication to his trade, and willingness to pass along his knowledge and morals to the next generation, is truly admirable. Congratulations, Bill.

CURRENT STATE OF AFFAIRS IN BURMA

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. EVANS. Mr. Speaker, today I would like to address the current state of affairs in Burma. For years, Burma's military rulers have retained control through the use of rape, murder, torture, and imprisonment. Many of my colleagues and I co-sponsored the Burmese Freedom and Democracy Act of 2003, H.R. 2330, in an effort to sanction this regime for its egregious human rights violations and to shed light on the atrocities being committed.

Another action taken to help bring about change in Burma was the assignment of a United Nations envoy to this chaotic region. Unfortunately, many of my colleagues and I now feel that the United Nations process put in place to help bring about change in Burma is seriously flawed. The UN envoy to Burma has done more to diffuse international pressure on the junta than he has to improve human rights conditions there.

Conditions are not improving, they are worsening. Aung San Suu Kyi, 1991 Nobel Peace Prize winner and leader of the country's true government, remains under house arrest while the people of Burma are being slaughtered. Just a few days ago, members of Burma's military regime shot at a crowd of demonstrating monks, killing at least one and injuring many more.

In addition, Thailand, Burma's neighbor, has become increasingly friendly with the SPDC, the regime responsible for this bloodshed. Thai authorities deport Burmese migrant workers and other refugees with little concern for their welfare, turning a blind eye to the oppression that awaits them and in violation of international law. The UN has done little to change the relationship between these two nations.

As we approach the next meeting of the United Nations General Assembly, we must be cognizant that the process has failed. We need to strengthen the authority of the UN envoy and replace him with someone capable of rallying international support for change. The present system is not working—let's fix it.

IN RECOGNITION OF ROBERT EUGENE RUARK'S RETIREMENT FROM SOLANO COUNTY HEALTH AND SOCIAL SERVICES DEPARTMENT, SPECIAL INVESTIGATIONS BUREAU

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. TAUSCHER. Mr. Speaker, I rise to pay tribute to Robert Ruark, whose retirement from his position as Chief Criminal Investigator of the Solano County Health and Social Services, Special Investigations Bureau will commence on Thursday, November 6, 2003. During his fourteen year career with the county, Chief Ruark has established himself as an extraordinary leader in law enforcement. At his retirement, his many accomplishments and hard work will be recognized within the community of his colleagues and friends.

Robert Eugene Ruark was born in Turlock, California on November 4, 1946. After graduating from Turlock High School in 1964, Robert went on to attend Modesto Community College where he earned an Associate of Arts degree in Criminal Justice. He then attended Chapman University in 1968 where he obtained a Bachelor of Arts Degree in Social Sciences. Desiring to put his education to work, Mr. Ruark entered the U.S. Army as a Military Policeman and then served in the Republic of Vietnam as a Military Police Investigator. In 1969, Mr. Ruark graduated from the U.S. Army Criminal Investigation Course which allowed him to serve as a CID Special Agent until his retirement as a Chief Warrant Officer Four (CW4) in 1989.

In April that same year, he received his appointment as the Criminal Investigator II for the Special Investigations Bureau, Solano Health and Social Services Department and became a member of the California Welfare Fraud Investigators Association. In four short years he was promoted to the position of Supervising Criminal Investigator. His current rank as Chief Criminal Investigator was received in August of 2000.

Robert's dedication to the community is not limited to his work in law enforcement. His desire to serve the community as a positive influence motivated his ordainment to the priesthood of the Orthodox Christian Church in 1996. Upon his retirement from law enforcement, he will continue to serve the community as the pastor of St. Timothy Antiochian Orthodox Christian Church, as he has done since January of 1997. Through his work as pastor he cooperates with a local area food bank to distribute food to many of the areas homeless and those living at or below the poverty level.

However, of all his accomplishments he is probably most proud of his successful 32 year relationship with his wife, Alida, and his two wonderful children: William and Stephanie. Stephanie's daughters, Mikayla and Brianna, have further enriched his personal life.

His fellow employees of the Solano County Health and Social Services, Special Investigation Bureau will forever remember Chief Ruark's extraordinary leadership and contributions to the community.

PAYING TRIBUTE TO JOHN CENTA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a man from my district with a genuine zest for life. John Centa of Pueblo, Colorado recently turned one hundred years old. Throughout his century of life, John has spread joy to countless people whom he has met along the way. I am proud to call the attention of this body of Congress and this nation to the contributions that John has made to the Pueblo community.

As a child, John helped his father on his family's farm in Kansas. He then moved to Pueblo, where he was employed with Nuckolls Packing Company for twenty years. Next, John went to work with CF&I in Pueblo. Prior to retirement, John and his friend Don English went into business together as the co-owners of Pueblo's Hurricane Car Wash, which they successfully operated for more than two decades.

Each morning, John shares his boundless energy and ceaseless positive attitude in daily interactions with his many friends throughout Pueblo. One of John's favorite places to share his love of life is on the dance floor. A long time member of the Southern Colorado Family Polka Club, John is an immensely popular dance partner. Those who know him well attribute John's health to his great sense of humor, positive attitude, and ability to find joy in the simple things in life.

Mr. Speaker, John Centa has an uncanny ability to draw others into his daily celebration of life. All of those lucky enough to cross his path are better off for having met him. I am honored to pay tribute to him here today. Thanks, John, and happy birthday.

RECOGNIZING THE NATIONAL STONE, SAND & GRAVEL ASSOCIATION

SPEECH OF

HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. MICHAUD. Mr. Speaker, I rise today as a proud cosponsor of H. Con. Res. 280, which recognizes the 100th anniversary of the National Stone, Sand & Gravel Association.

As a member of the House Committee on Transportation and Infrastructure, and the Subcommittee on Highways, Transit, and Pipelines, I believe it is important that we understand and appreciate the efforts of the Association to improve our Nation's quality of life, and the impact that their products make on our nation's infrastructure and economy.

The National Stone, Sand & Gravel Association is the largest mining trade association in the world.

Its members work tirelessly to provide our Nation with a strong and durable infrastructure. The association encourages and helps aggregate producers to meet and improve upon environmental, health, and safety standards.

We should not forget the importance of aggregates in our daily life: approximately 400 tons of aggregate is used on one home; it makes up 80% of concrete and 94% of asphalt.

We should not forget the importance of aggregates to our economy: every $1 billion in additional investment in highways creates 47,500 additional jobs.

As we build new homes for American families, new roads and bridges to carry us across this great land, and new schools and hospitals to provide our towns with the best services available, we should remember that the National Stone, Sand & Gravel association and its members provide the foundation for our Nation's infrastructure.

For this, I am honored to join with my colleagues to show my appreciation for this great organization.

PROVIDING RELIABLE OFFICERS, TECHNOLOGY, EDUCATION, COMMUNITY PROSECUTORS, AND TRAINING IN OUR NEIGHBORHOODS ACT OF 2003

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. NORTON. Mr. Speaker, I am pleased to introduce a public safety bill for the second week in a row. My current bill would reauthorize the successful Community Oriented Policing Services (COPS) program that has used federal funds to help put more cops on the streets and to fund community policing. Like a similar Senate bill sponsored by Sen. JOSEPH BIDEN, Jr. (D–DE) and almost 50 other Senators, my bill seeks to head off the shut down of the COPS program, as forecast by the President's 2004 fiscal year budget, which severely cut COPS and critical community policing projects. Last week, I introduced the Crime Victims Assistance Act of 2003 to provide enhanced rights and protections for victims of federal crimes. This bill also has been introduced in the Senate.

As a member of the Select Committee on Homeland Security, I have watched police departments here and across the country pressed increasingly into protecting the homeland from potential terrorism. Our police need funding and support from the federal government now more than ever if they also are to continue to focus on the indispensable everyday duties of protecting their communities from street violence and other crime. My bill would provide funding to help police departments put more officers on the beat, purchase high-tech crime fighting tools and technology such as patrol car cameras, pay overtime devoted to community policing and homeland security, and reimburse officers for college or graduate school. Also, my bill would help the U.S. Attorney's office hire more community prosecutors who interact closely with the people they serve. The District of Columbia has been a pioneer in community prosecution, which links prosecutors to specific police districts and neighborhoods.

Recent studies show that COPS grants played a critical role in the crime drop of the nineties. Now with cities like the District experiencing alarming criminal activity, police departments need all the help they can get to find real solutions for handling the heavy double burden of balancing the securing of citizens from terrorism along with protecting them from violence and other crime in their neighborhoods.

Since it was created in the 1994 Crime bill, COPS has awarded more than $8 billion to police departments to hire or re-deploy almost 120,000 community police officers across the country. In FY 2003, the COPS office awarded $635 million in grants nationwide, and almost $7.5 million to the District, $3 million for Metropolitan Police Department homeland security overtime. In September, I announced a $750,000 grant for the Washington Metropolitan Area Transit Authority (WMATA) to hire 10 new Metro officers who will perform community policing and homeland security functions. Many other jurisdictions received similar grants.

My bill will fund the COPS program through 2009. A key change would authorize a new, permanent COPS Overtime Program.

I urge my colleagues to continue to reauthorize the COPS program.

HONORING RICHARD RODRIGUEZ

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. SOLIS. Mr. Speaker, I rise to pay tribute to a long time member of the United Farm Workers, Richard Rodriguez. Richard passed away this past Sunday, November 2, 2003.

Born on February 3, 1930, Richard was a life long resident of Los Angeles, California. He married his sweetheart, Esther Aguilar, on June 30, 1950. Together, they raised five children, nine grandchildren, and twelve great grandchildren.

A loyal supporter of the labor movement, Richard retired from Teamsters Local 357 in 1996. However, his commitment to improving the lives of working families did not cease. With his wife Esther at his side, Richard continued to actively participate as a proud member of the United Farm Workers (UFW), participating in rallies in Watsonville, Sacramento, and Yuma, California. During pilgrimages, he took it upon himself to provide meals, motivation and leadership. Richard also displayed great talent in creating many banners and flags to spread Cesar Chavez's message of workers' rights. His public service went beyond the labor movement. He was a long time community activist who provided gift baskets each Christmas to the less fortunate of Monterey Park and other surrounding communities.

Throughout his life, Richard wore his Teamsters jacket and carried his red UFW banner with enormous pride. He represented the very best that the labor movement and our community has to offer. We will forever remember his dedication to others. His death is a great loss, but we were so fortunate to have known this great citizen.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 6, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 7

9:30 a.m.

Joint Economic Committee

To hold joint hearings to examine the current employment situation.

SD–628

NOVEMBER 12

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine state use of tobacco settlement funds.

SR–253

Environment and Public Works

Business meeting to consider S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs.

SD–406

Governmental Affairs

To hold hearings to examine the threat of agroterrorism.

SD–342

10 a.m.

Energy and Natural Resources

To hold oversight hearings to examine the implementation of the Energy Employees Occupational Illness Compensation Program.

SD–366

2 p.m.

Governmental Affairs

To hold hearings to examine the nomination of Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel; to be immediately followed by a hearing on S. 1358, to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel.

SD–342

Judiciary

Administrative Oversight and the Courts Subcommittee

To hold oversight hearings to examine activities of the United States Sentencing Commission.

SD–226

Banking, Housing, and Urban Affairs

Securities and Investment Subcommittee

To hold hearings to examine the Financial Accounting Standards Board and small business growth.

SD–538

NOVEMBER 13

9:30 a.m.

Armed Services

To hold hearings to examine current Army issues.

SH–216

Commerce, Science, and Transportation

To hold hearings to examine GAO's report on cable rate increases.

SR–253

2 p.m.

Judiciary

Immigration, Border Security and Citizenship Subcommittee

To hold hearings to examine state and local authority to enforce immigration law relating to terrorism.

SD–226

2:30 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, S. 1211, to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, S. 1727, to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978, and S. 1791, to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund.

SD–366

HOUSE OF REPRESENTATIVES—*Thursday, November 6, 2003*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God, by reflecting on our faith story in the past both as individuals and as a Nation, You help us in our discernment of present issues.

By coming to understand who we truly are in relationship to You, Almighty God, and how we are drawn together as a people, You enable us to accept the light and the darkness within ourselves, the strong and the weak, the godly and the sinful, the wounded and the healthy.

In taking possession of ourselves in the mirror of Your own word, we see Your mighty hand guiding our history.

And Your dealings with us in the past help Congress today to lead us on the path to freedom.

Our true freedom is the ability to truly become the people You have destined us to be, to determine the shape of things to come and find direction for our life now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Oregon (Ms. HOOLEY) come forward and lead the House in the Pledge of Allegiance.

Ms. HOOLEY of Oregon led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1442. An act to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 589. An act to strengthen and improve the management of national security, encourage Government service in areas of critical national security, and to assist government agencies in addressing deficiencies in personnel possessing specialized skills important to national security and incorporating the goals and strategies for recruitment and retention for such skilled personnel into the strategic and performance management systems of Federal agencies.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 10 one-minute requests on each side.

REEXAMINING A STREAMLINED PROCESS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, our companies that develop drugs that treat life-threatening illnesses must go through a rigorous process to ensure the safety and effectiveness of their drugs. Only after these FDA requirements are met, can the drug be put on the market. Under rare circumstances, medications can be approved through an accelerated process known as Subpart H which was adopted to streamline the approval of desperately needed drugs intended to treat serious and life-threatening illnesses.

RU–486, an abortion drug, was approved under this streamlined process.

Several weeks ago, Holly Patterson, a California teenager, died from an infection caused by fragments of her baby's corpse left in her uterus after she took RU–486 at a Planned Parenthood facility.

Mr. Speaker, the Food and Drug Administration should not have authorized this dangerous drug. Legislation is being introduced today that takes RU–486 off the market and demands to review the process by which this drug was approved. I hope the House will soon consider it.

TRULY HONOR OUR VETERANS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, Veterans Day, November 11, 150,000 veterans will have waited 6 months or longer for appointments for medical care; 14,000 veterans have been waiting 15 months or longer for expedited disability claims; 560,000 disabled veterans will be forced to pay the disabled veterans tax. It does not have to be this way. But we are confronted with the most anti-veteran, anti-veteran administration in Congress in history.

The President refused to spend $275 million in emergency money. He cut off veterans' health care for 160,000 Category 8 veterans. Although there are 373 cosponsors to do away with the disability tax, the President has threatened to veto the bill if we do away with the veterans' disability tax, and Republican leaders refuse to bring up that bill here in the House.

It would be better to celebrate Veterans Day with actions that delivered on our promises to veterans than laudatory words; but I fear that we will just hear words and not see actions from this Congress and this administration.

INTELLIGENCE COMMITTEES ARE A CAMPAIGN-FREE ZONE

(Mr. GREEN of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Wisconsin. Mr. Speaker, not so long ago, Democratic leaders said before the cameras, actually yelled before the cameras, that this war should not be politicized.

This week we learned just how empty and how hypocritical those words were. Among other things, we learned of a Democratic staff memo from a Senate Permanent Select Committee on Intelligence describing a plan to use intelligence information about the war for political points during a Presidential campaign.

Mr. Speaker, we have men and women in uniform in harm's way. We have families back here who desperately miss them and fear for their safety and now we have this memo.

Not everything is a political game. Not everything should be campaign fodder. Of all our committees, our intelligence committees should be campaign-free zones. I believe the American people deserve better, and I know our troops deserve better.

ACKNOWLEDGING AMERICA'S PAIN

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, I want to complement the President for traveling to southern California to comfort the families and the communities of the San Diego area.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

While Americans in southern California suffer great losses and begin the struggle to rebuild, it is essential that our President which he did demonstrate the commitment of his administration and the entire Nation to helping them legal.

An article in the Chicago Tribune discusses today, families across the country are working to rebuild their lives after burying a son or daughter who died in combat. The President rightly goes to California to comfort a family that has lost a home. Why is he not coming to Illinois to comfort a family who has lost a son?

The President in San Diego lifted the spirits of an entire community as they reassembled their lives. That same compassion needs to be shared with the parents who are burying their children. They deserve to know that the growing criticism of the situation in Iraq will not keep the President from acknowledging their individual losses.

This is all the more important on today when the President signs the $87 billion to help Iraq rebuild their nation. We cannot pass by the families who have lost and have personal pain. They are all part of America's family.

CELEBRATING AMERICAN VETERANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Tuesday, November 11, America will celebrate the 50th anniversary of Veterans Day, a day to honor our men and women who have fought to preserve freedom and liberty for generations to come.

Veterans Day was formerly known as Armistice Day in recognition of the end of World War I, until President Dwight D. Eisenhower changed the name of the holiday to include all veterans in 1954. This year, we will honor the 25 million living veterans who have fought and the more than 1 million men and women who have died to ensure freedom and bring about peace in conflicts, including World War II, the Korean War, Vietnam, the Gulf War and today's war on terrorism. This will be an especially solemn occasion as our current military are engaged in a fight for democracy in Iraq, a critical battle in the war on terrorism that we will win, to protect the American people from terrorists.

Since America was attacked on September 11, America has been awakened to a greater understanding and appreciation for the freedoms we enjoy here in our great Nation. This Veterans Day is an opportunity to thank those who are responsible for protecting our way of life and have joined in struggles around the world in defense of liberty. In conclusion, God bless our troops.

HONORING ARMY MASTER SERGEANT TONY PRYOR

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to recognize the valiant efforts of Army Master Sergeant Tony Pryor, who recently received the Silver Star, the Nation's third highest military decoration, for his heroism which saved the lives of his fellow Special Forces team members.

The son of a logger from Toledo, Oregon, Tony Pryor has often been described as a fierce competitor and the epitome of a warrior. He put these skills to work last year when he single-handedly neutralized four al Qaeda soldiers while raiding a compound in Afghanistan. In doing so, he undoubtedly saved the lives of his fellow team members involved in the mission.

In his 14 years of service with the Special Forces, Master Sergeant Pryor has been on missions in Haiti, Somalia, Kuwait, and Iraq among other places.

I want to thank Master Sergeant Pryor for his heroic efforts and congratulate him on his award. He makes all of us proud. I feel safe at night knowing that he and others like him are defending this great Nation.

TRANSPORTATION WASTE WATCHER

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this morning I wanted to stand and call for increased efficiency in our Federal Government. Our obligation here in the House is to protect precious dollars taken from the taxpayer by streamlining and improving our Federal Government. Specifically, I believe there is need for increased efficiency in the U.S. Department of Transportation.

Savings in programs such as Federal Transit Administration programs will mean more money to invest for our country's transportation infrastructure.

This past March, I met with Transportation Inspector General Kenneth Mead to discuss business practices of the agency and how Congress can better facilitate saving money in relation to transportation spending. In July, the committee held a hearing and identified several ways to enhance efficiency.

One way to trim excess and expedite construction on transportation projects is by granting more authority to State Departments of Transportation to deliver transportation and deliver those corridors faster.

On July 24, I introduced H.R. 2864, the Reforming, Accelerating and Protecting Interstate Design Act, otherwise known as the RAPID Act. This bill would allow large transportation systems to be built in less time and to save transportation funds by allowing roads to be built in commonsense increments as they are needed.

CONGRATULATING THE ST. JOSEPH BALLET COMPANY

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to offer my congratulations to the St. Joseph Ballet Company from Santa Ana, California, which was honored last night for being one of 18 organizations across the United States and Mexico to receive the 2003 Coming Up Taller Award.

This award recognizes outstanding community arts and humanities programs for their work with the underserved youth and for providing them with learning opportunities and a way to serve our communities.

□ 1015

I am very proud that one of the recipients of this prestigious award comes from my district, because St. Joseph is more than just a dance program. They have been teaching children about dance, self-discipline, and the importance of academic excellence for over 20 years. They give children a sense of accomplishment. They help motivate them in all aspects of life, and they seek to provide children with an education that goes beyond the standard core curriculum. I am very pleased that because of their hard work they have been nationally recognized with this wonderful award.

SAVING ENERGY AND TAXPAYER MONEY

(Mr. MURPHY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, as the cold of winter approaches also comes homeowners' concern for rising heating costs. It is important that the Federal Government take some leads in helping to deal with the supply and demand issues.

The Federal Government is the largest single user of energy in the world, spending $10 billion per year for its buildings. Despite past efforts, however, energy consumption is still too high, using old, inefficient technology. Only nine agencies since 1929 have reported energy savings in trying to save costs. The Alliance to Save Energy estimates at least 1 billion in taxpayer dollars is still being wasted. Some estimates are higher. For example, military bases can save millions in energy costs by replacing old, failing boilers and heating systems with energy-efficient models.

The energy bill that will soon be taken up by the House will take an important step to increase energy efficiency by requiring a 20 percent energy consumption reduction in the next decade. This is a vital provision, one that will save mass amounts of taxpayer money, conserve energy, help save energy costs for our Nation.

Let us stop the waste and start conserving for our future.

WHAT IS THE PLAN TO GET OUT OF IRAQ?

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, yesterday I came to the floor and told my colleagues about a young man from my district who was killed in Iraq and the conversation I had with his mother. Since then, two more Americans have died in Iraq. Yesterday, I asked Members to be silent and contemplate our lost men and women.

Today, Mr. Speaker, I ask my colleagues to ask the President for a plan for how we are going to get out of Iraq. Whatever threat Mr. Bush may have perceived from Saddam Hussein, whatever warehouses of weapons Mr. Bush believed were waiting to harm the United States, it is over now. We should plan to get out.

We should not spend the lives of young men and young women to privatize Iraq's economy. We should plan to get out. We should not spend the lives of young Americans to build sewers in Iraq. We should not spend the lives of young Americans to make Iraq into our vision of a model state. We should plan to leave. We are symbols. We are targets. We are sitting ducks. Send in the U.N. or some of the Arab states or NATO or whoever wants to go. Pay for it with American taxpayers' money as you sign it today, but stop paying for it with American lives. Plan, Mr. President, to get out.

HONORING AND THANKING THE VETERANS OF 7TH CONGRESSIONAL DISTRICT OF TENNESSEE

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, we are coming up on Veterans' Day, and I rise today to honor and say thank you to the over 65,000 men and women who are veterans and constituents of Tennessee's Seventh Congressional District. I thank them one and all for their service, for their sacrifice, their valor and for their commitment to duty, which has been to stand vigilant, strong and to protect our freedom that we enjoy.

I also want to say thank you to our troops and to their families. Our Seventh Congressional District is home to many of the families from Fort Campbell, who are part of the 101st Airborne and the Special Operations Forces, and we are also home to many of the National Guardsmen and the Reservists and their families who are deployed and who are now defending freedom in Afghanistan and Iraq.

We appreciate their sacrifice. We thank them for the job that they are doing so very well.

LOOTING OF MUTUAL FUNDS

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, 95 million investors have deposited $7 trillion in mutual funds, the largest deposit of retirement savings in this country. They have deposited that money there in hopes of a bright retirement, building a nest egg that can support their family and their standard of living when they cease to work. These are hardearned dollars of American workers in every industry at every level. They were told to invest for the long term, $7 trillion.

Now every morning the American worker wakes up to a new headline, where the powerful, the insiders, the elite, the criminals are looting those mutual funds, are skimming profits off of those trust funds to the detriment of the average investor, the average worker.

Mr. Strong, who runs the Strong Mutual Funds, who is worth $800 million, set up an account for his daughter, for his wife and for himself and secretly looted the savings of American workers. Mr. Strong should go to jail.

DYNCORP CONTRACT TO TRAIN POLICE IN IRAQ

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, liberals who gave us Big Government should love the DynCorp contract to train police in Iraq. Almost all Federal contracts are sweetheart deals that hire former high-level Federal employees or retired military officers, but this police training contract just about takes the cake.

NBC News reported the night before last that we have already spent $30 million on this deal and will in short order be spending $800 million more. We will be spending, according to NBC, $400,000 per trainer, counting salaries, benefits and expenses. No policeman in this country makes anywhere near this much.

DynCorp was so embarrassed they refused to comment because they knew there was no way they could justify the obscene profits and ripoff of the U.S. taxpayers in this sweetheart deal, $850 million, $400,000 per trainer. DynCorp should be ashamed, but I suppose they are laughing all the way to the bank.

PRESIDENT BUSH SIGNS PARTIAL BIRTH ABORTION BAN ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, yesterday I had the privilege of sitting just a few feet away as President George W. Bush signed the Partial Birth Abortion Ban Act of 2003. In both deed and in word, President George W. Bush did much for the cause for life yesterday, ending a period of time in our history when a terrible form of violence directed against children inches from birth was allowed under the law.

But in addition to his signature, the President also expressed clear moral leadership, saying, "America stands for liberty . . . and the unalienable right of life." The President went on to say, "Every person, however frail or vulnerable, has a place and a purpose in this world" because "the right to life cannot be granted or denied by government, because it does not come from government." The President said, "It comes from the Creator of life."

The President not only lent his signature to an important legislative initiative, but in the very best example of American leadership, he provided a clear moral vision, leading us away from the nightmare of abortion in America.

Righteousness exalts a Nation and did so yesterday.

A VOTE FOR LIGHT RAIL

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is not often that we come to the floor to discuss a myriad of local official issues, but this one is worth announcing. The voters of Harris County and Houston and the metroplex have spoken in Houston, Texas. We have voted overwhelmingly to improve the quality of life, to enhance regional mobility and to say to the world that we do believe that the environment is premised on more and more of us being concerned about the idea of not polluting our air quality. We have voted for light rail.

For 30 years, it may sound humorous to some, but we have argued and debated this question in Houston, Texas, and through large opposition, moneyed opponents, misleading statements the people saw the truth and have voted to provide for light rail for their students, for their businesses, for their communities, for their tourism, and for the enhancement of economic development.

With that vote, we now come to this House to ask for our fair share, our fair share of rail and transportation dollars, $2.4 billion. Congratulations to the metro for voting for light rail and the people of Harris County.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LaHood). The Chair would ask Members to heed the gavel.

BENEFITS FOR THE TOP ONE PERCENT

(Mr. RYAN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN of Ohio. Mr. Speaker, the tax cut that went to the top 1 percent, we withstood that. The trade deals that send our jobs to Mexico, the loss of manufacturing jobs, we have talked about that. The vetoing or threatening of vetoing the Buy American legislation for the defense appropriations bill, we have thought that took the cake, but now the administration took out the antiprofiteering provision for the $87 billion supplemental. Give me a break.

It is obvious now to the American people that this administration and this Congress is bought and paid for by the top 1 percent of the people in this country. They get all the money they want for the deals in Iraq. They get their tax breaks back. They donate it to the President and they get the legislation they want.

It is time for the American people to stand up and pay attention to what is going on and take the country back.

TAX CUTS WORK

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, do the tax breaks work? Well, not according to Howard Dean and Al Sharpton and Wesley Clark and all the other liberal left running for President. But a funny thing happened in the economy. Last month, the numbers came out. The gross domestic product increased 7.2 percent. The economic growth rate, one of the highest since 1984 when Ronald Reagan was President, right after he had cut taxes. The jobless claims have decreased. More people are working and there has been a surge in productivity.

Do tax cuts work? Well, the economy and the economic numbers that are just out say, yes, they do. People are working. Revenues are up. Why do they work? Because if a worker has more money in his pocket then he is going to go out and spend more. Small businesses will respond by increasing their inventory. When they do that and demand goes up, they hire more people. When more people are hired, more people are paying taxes and fewer people are on welfare depending on government checks. Tax breaks work.

ELECTION OF AFRICAN AMERICAN WOMEN TO MUNICIPAL COURT

(Mrs. JONES of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, on election day Tuesday in the city of Cleveland, Ohio, the voters of the city of Cleveland elected four smart, intelligent, good-looking African American women to the municipal court: Emanuella Groves, reelected; Lauren Moore, elected for the first time; Anita Lassiter May, elected for the first time; and Pauline Tarver, elected for the first time.

We are so excited about the opportunity for these young women to serve and provide justice to the people of the city of Cleveland. I join with the voters of the city of Cleveland in congratulating these fine young women who will serve well as Cleveland municipal court judges.

□ 1030

APPOINTMENT OF CONFEREES ON H.R. 1904, HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. GOODLATTE. Mr. Speaker, pursuant to clause 1 of rule XXII, and by direction of the Committee on Agriculture, I move to take from the Speaker's table the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on the National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. LaHood). The gentleman from Virginia (Mr. Goodlatte) is recognized for 1 hour on his motion.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Nation is well aware of the problem we have with our national forests. The wildfires in California for the past 2 weeks have made it all too painfully clear that we need to take measures to protect our forests. The legislation that is before the House, H.R. 1904, that the House passed with strong bipartisan support, accomplishes that goal. The Senate has also passed legislation to address this matter. There are substantial differences between the House and the Senate on this matter, and it is vitally important that we address this as quickly as we possibly can.

There is a lot of work that needs to be done. We will be entering another fire season starting next spring. We can see from the California fires that these fires can occur any time of year in different parts of the country, and so it is vitally important that we get this matter resolved as quickly as possible. Because there are substantial differences between the House and the Senate and because there is substantial agreement here on the House side that some of the measures in the Senate legislation do not adequately address the concerns that we have raised, we need to have a conference on this, and we are prepared to do that and act very, very quickly.

It is my hope that the House will pass this motion and will move to appoint conferees, and then we will turn to the Senate and ask that they take the same steps over there. There has been some slowness in the movement in the other body on this, and we hope that will be rectified by the action taken here on the House side today.

It is our hope that legislation that was included in an appropriations bill a few years ago to address this problem in the State of South Dakota, which has far more leniency in terms of the flexibility given to the Forest Service to address the measure, address the concerns in the State of South Dakota, should be extended to other States around the country. Neither the House bill nor the Senate bill has language that goes as far in giving that authority as already exists in the State of South Dakota, but we would certainly like to have the opportunity to pass a measure worked out between the House and the Senate to give our national forests and other national lands the same type of management tools to expedite what is necessary to protect our national forests from wildfire, from disease and insect infestation, and we can accomplish that and accomplish it expeditiously if we move forward to appoint conferees and the Senate does the same thing.

Mr. Speaker, I urge my colleagues to support our efforts to move forward.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE).

The motion was agreed to.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. STENHOLM moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the bill, H.R. 1904, shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees and the House conferees shall file a conference report not later than Thursday, November 13, 2003.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Virginia (Mr. GOODLATTE) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this motion is really very simple. It is basically intending to return this body to regular process. I know this is a novel idea around here lately, but it requires the managers of the House to meet in open session with the Senate conferees, House and Senate, Democrats and Republicans, as soon as practicable after the adoption of this motion.

In addition, it requires the conferees to file a conference report no later than Thursday, November 13. The November 13 deadline is meant to highlight the imperative nature of the Healthy Forests legislation. However, we all recognize the time-consuming nature of conferences and the short time frame this will provide, but let me remind Members, we have been talking about this issue for years. I remember when it was chairman Bob Smith of the Committee on Agriculture, and the tremendous work he did all over this country in trying to reach out and find a compromise. It was turned down.

If we are going to deal with problems as severe as what we have now witnessed in California, it means some strongly-held beliefs are going to have to be compromised in order to do things that some folks do not want to see done; but most people believe and will agree that they must be done if we are going to accomplish what is needed for our national forests. The important part of my motion is the requirement that the conferees meet and deliberate on the merits of the Senate and House proposals.

We will hear that the Senate has a finely tuned deal if it breaks up, everything breaks up. I hope that is not going to be the argument. I hope that we can have a meaningful conference.

The House Committee on Agriculture has a reputation, a long-held reputation, of working in a bipartisan way and that is why we accomplish as much good for our Nation as we do. No Speaker, no majority leader, would ever dare rewrite a farm bill in the Committee on Rules or in the leadership office. It has been tried, but it has never worked.

I am personally very disturbed by what I have seen going on in the energy conference. I am very interested in energy legislation, and I am very disturbed when the leadership of this body suggests that they are the only ones that can write this legislation. This body does not work well when we do some of the things that we have been doing in this body over the last several years.

On the Committee on Agriculture, we have a history of bipartisan cooperation. Many of my colleagues have suggested that we simply take the Senate bill, pass it and send it to the President. I am not supportive of that procedure. We need to reach a consensus on the issue surrounding the Healthy Forests legislation. I know many on the far left and many on the far right will say that is impossible, but both sides of the aisle have a responsibility to come to the table with a willingness to compromise. This is an issue that demands just that kind of process if we are going to deal with disasters like we have just seen in California, disasters like we have seen all over Colorado, and all over areas of this country that are witnessing what happens when we do what we have done over the last several decades in the handling of our national forests. The record is there.

I think the House bill is a good bill. It was put together with bipartisan support, not unanimity of opinion. There were differences held, and we will never get 100 percent to agree because politically that is impossible. But I think if we do our job in this conference, as this simple motion, as I said in the beginning, a novel idea that we actually allow this House of Representatives to function as was intended by our forefathers who wrote the Constitution, gave us the responsibility to deliberate and set forth under the rules of order of this body how we should go about it.

Yes, we can do it in a very short period of time if we are willing to. So I hope and fully expect, since I cannot imagine any controversy over this motion today, that it will pass. That is not what I am most interested in, though. I am very interested in seeing the process work. I think this body will be better off if at least one committee, and there are a few others that still function in a bipartisan way, but very few. The energy bill is a prime example of how not to run this House. The Medicare pharmaceutical bill is an example of how not to run this House. Maybe we need a good example.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to say to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture, that the gentleman is correct, this is an unusual motion to instruct. It is also a very welcomed motion to instruct.

This is exactly the approach that we need to take in resolving a very, very important piece of legislation and the differences that exist between the House and the Senate on this legislation. We can do it exactly because, as the gentleman notes, the House Committee on Agriculture, the committee of primary jurisdiction over this legislation, has a long history of working together across the aisle between the parties, Member to Member, on all kinds of important and complex legislation.

The farm bills that we pass are obviously the greatest example of that. Farm bills bring together every region of the country, every political ideological difference, every type of farm commodity, and we have to agree upon one piece of legislation to send to the President for signature so American agriculture can plan ahead for 5, 6, 7 years. That requires intense cooperation.

We have the same problems with our Nation's forests and our forest policy. It is in disrepair. It is not working. The forest fires that we are seeing in California now that we have seen all across the country, the infestation of our forests in the east and south from disease and insects require proper management and proper management policy. We do not have an effective working policy today that allows us to promptly address these major problems that in California have taken more than 3,500 homes, taken the lives of 20 people, have scorched the earth. These are not natural fires that occur that thin out our forests, these fires take the entire forests. In some places, the heat is so intense it turns the ground to glass. Water cannot permeate the soil. The devastation lasts for decades. Proper management of these forest will yield the correct result.

So I agree fully with the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM) because it calls on the conferees to be appointed here, led by the Committee on Agriculture, to do what we have always done. And we will work with the Committee on Resources and the Committee on the Judiciary to make sure that we have an effective conference, and we look forward to working with the Senate.

They have put forward a work product that we are interested in. We think there are many things in the House bill not included in the Senate bill, and some things in the Senate bill that are not included in the House bill that are problematic.

But we are confident, given our history of working together, that this will be a conference that includes, as the gentleman requires in his motion to instruct, meeting in open session with fair discussion. How do we know that will take place, because it has always taken place with the Committee on Agriculture. It took place in the farm bill just last year, and it will again. We have a good working relationship, and we intend that that carries over into the passage of this legislation.

The proof of it is how we worked this bill through the committee. It passed the committee by overwhelming support. On the floor of the House, I believe of the 24 Democrats on the committee, I think 19 of them voted for the legislation on the floor. There was very strong, overwhelming bipartisan support for the legislation that the House passed.

□ 1045

That calls for us to have a conference with the Senate, to not simply accept the premise that somehow the Senate should dictate to the House as they so often try to do time and time again. This matter is too important; this House is too important to accept that premise. It is time that we go to conference. We should go quickly. This instructs us to act quickly, to report back a conference report within a week. We are very prepared to undertake that ambitious agenda and to work it through with the Senate, with Members of the House on our committee, with Members of the House not on our committee, and work this out as quickly as possible. This is important legislation that we should send to the President for his signature. He is anxious to sign it.

I look forward to working with my colleagues on both sides of the aisle to accomplish a very fine healthy forests final product that is worked out fairly between the House and the Senate for the President's signature.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, I want to thank the gentleman from Texas for offering this motion to instruct and appreciate his remarks and the remarks of the gentleman from Virginia, the chairman of the committee. The reason this motion is offered is because there has been concern about the deterioration of the conference process between the House and the Senate. As the gentleman from Texas pointed out, the process that we are now witnessing with the energy bill and with the prescription drug bill is a disaster in terms of public participation, public understanding of what is taking place, and the protection of Members of this body as they represent their constituencies.

I am delighted that the Committee on Agriculture has a long tradition of open conference committees. I believe that the Committee on Resources has that same long tradition of ironing these kinds of legislative conflicts out. I think it is also important that this motion to instruct have the date due to try to encourage the conference to get this done.

We do this in the aftermath of the California fire disasters, but the California fire disasters did not happen in a vacuum. It is not that this Congress was not working on this problem; it was that this Congress could not reach agreement. Over 2 years ago, the gentleman from Colorado (Mr. McINNIS), the gentleman from Oregon (Mr. WALDEN), the gentleman from Arizona (Mr. SHADEGG), the gentleman from New York (Mr. BOEHLERT), the gentleman from Oregon (Mr. DEFAZIO), and others tried to work on a provision. We ended up reporting from the committee a bipartisan agreement. Unfortunately, at the end of the session, it was not taken up by the Congress of the United States. But it did, in fact, focus the resources on the thinning around communities where we know these catastrophic fires can occur in terms of the loss of life and the loss of property. It expedited the consideration by the Forest Service and the Bureau of Land Management to make sure that decisions could be made on a timely basis so we could treat this threat when it was necessary, and it provided for robust public participation and critical environmental protections.

But that bill is in the past. That was not accepted. In our committee we had open debate. People offered amendments. The gentleman from Colorado (Mr. McINNIS) went on a different tack this time. I did not agree with that. But it was done openly and it was done with the amendment process. But I have concerns with that legislation now, and I am worried that there are some huge differences between the Senate bill, which I think directs more of the resources toward the so-called urban interface where these catastrophic fires can happen. I want to make sure that we do that. I want to make sure, as the Senate did, that we authorize the money to be spent. I think the House bill is built on a bit of a fallacy and that is somehow that the timber value of the trees that are removed and thinned is going to pay for the fire treatment that is necessary. If you really believe that and if that is the basis on which you are going to operate, as does the House bill, then you would never get around to treating the lands in Southern California because they are not timberlands. There is no value to be extracted.

We were saying earlier, I think, in Texas, you hook up an anchor chain between two Caterpillar tractors and you drag it across the land when you want to get rid of this kind of scrub. That is essentially what you are going to have to do here. There is no value. This is going to cost Federal dollars. Like the Senate bill, we have got to authorize those moneys to be spent.

We also have got to recognize, as we see in Southern California, that this is a patchwork of public and private lands, that we have got to be able to go in and treat those public lands. I think we have got to figure out some cost-sharing with those private landowners, but we cannot let their neglect start fires on public lands or fires that get out of control. In the House bill, we do not address that. We must address that in the conference report.

I think that we have got to understand that time is working against us. They say that we are going to be out of here on November 21. We cannot go into another fire year with Congress failing to address this issue. It takes time to lay out these treatment plans. It takes time to marshal the resources. Unfortunately, historically what we have seen is the money that is supposed to be used for treatment, the money that is supposed to be used for prevention is not put there because those accounts are raided to fight the fires that result because we do not treat them. We saw this unfortunate situation where California's Governor made application for money to treat the southern lands, many of the lands that burned, joined in bipartisan support from our delegation asking that this money be used, made the application many, many months ago, unfortunately turned down, and then we had the fires. Could we have been able to treat that? Some of it. Not all of it. Not by any means. But it takes time to move into these areas. It is going to take real resources. You simply are not going to be able to take enough timber off these lands if you do it properly and pay for the kind of treatment.

So Congress has got to understand after the disasters of California that I think most of the people in the United States would believe that this is an area of priority where America's government ought to spend money to protect America's forests, to protect the timber crops, to protect the recreational values, and to protect those communities that are now located in that catastrophic zone where fires can get out of control and we have no way to prevent the loss of life and of property.

I want to thank the gentleman from Virginia for his comments and for his understanding of what we are trying to accomplish with this motion in terms of an open and public conference committee, and I want to thank the gentleman from Texas for offering this. I also want to thank my chairman of the Committee on Resources, the gentleman from California (Mr. POMBO), for the manner in which we were allowed to debate this measure in the House. I would hope that this would not get sucked into this whirlpool of partisanship and the shutting down of conference committees, because this is a matter that is desperately important to so many of our communities in the timberlands and the wildlands of the United States.

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from California (Mr. POMBO), the chairman of the Committee on Resources who has worked so closely with us and has provided so much leadership. Being from the State of California, he knows full well the nature of the problem out there and knows this is a problem that exists across the country.

Mr. POMBO. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this motion to instruct. I would like to start off by saying I agree with much of what my colleague from California (Mr. GEORGE MILLER) had to say. This is an extremely important piece of legislation, not only to the State of California because of our recent problems that we have had with wildfires in Southern California but we have also had wildfires in Northern California and throughout much of the West and quite frankly into the South as well in recent years. The reason that we have had those fires to a large degree has been because of mismanagement on the part of the Federal Government. It has been something that has drug on for and built up over the last 100 years, the management of our national forests, of our BLM lands. The decisions that were made in this body and by numerous administrations over the years led us to this point where we have an intolerable level of fuels throughout our public lands which has caused these fires not to be a natural fire but to be a catastrophic fire that goes in and burns areas.

I agree with my colleague from California that we cannot allow this to drift into some partisan whirlpool, I think was his comment. When I hear people in the other body saying that they are going to refuse to go to conference on this bill, that is intolerable. This is something that we should have acted on many years ago. I hear some of those in the other body saying that this is a carefully crafted bill that they spent weeks putting together. Well, this body has spent years putting this bill together, in doing the research and putting this bill together. The first bill, the healthy forest bill that was introduced in the House, was introduced in 1995. This has been something that we have been working on for a number of years.

A couple of years ago, the gentleman from Colorado (Mr. MCINNIS), the gentleman from Oregon (Mr. WALDEN), and others sat down and tried to craft a compromise that we could bring to the House floor. As we worked through that compromise, we were not able to get the other body to move along with us. We put together a bill and spent months and hours in working through and crafting a bipartisan bill.

As my colleagues on the House Committee on Agriculture have said, this was something that was passed bipartisan. I serve on the Committee on Agriculture. Yes, it was a bipartisan bill coming out of the Committee on Agriculture. It was a bipartisan bill coming out of the Committee on Resources. It was a bipartisan bill coming off the House floor. It was something that we worked extremely hard on to put together and craft a balanced bill. That is what we are going to conference with. All I ask is that those in the other body come to that conference with that same dedication, to craft a bipartisan bill, a bicameral bill that we can put on the President's desk. If we can do that, we can deliver something that will help the American people and help to better manage our national lands.

Mr. STENHOLM. Mr. Speaker, I yield 7 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. I thank the gentleman for yielding me this time.

Mr. Speaker, inaction is not an option for this Congress. We must have this legislation as well as some other essential legislation before we leave town. I feel strongly about that. I felt more strongly, or as strongly, a year ago when what was previously the largest fire in recent Western history burned between my district and the district of the gentleman from Oregon (Mr. WALDEN), the Biscuit Fire. We entered into discussions last fall and came very close to bringing a bill forward into the House. Unfortunately, the clock ran out because of the elections. This year we are not operating under the imperative of pending elections. We can stay here as long as we need, and we should, to get this legislation done.

The Senate bill is not a perfect bill. It is not the bill that I would have written, but it is, in my opinion, in a number of areas, which I will touch on briefly, far superior to the House bill; and it does have a statement of support from the administration. So we know that if we were to just take up that bill and pass it from the desk, which is no longer an option having gone to conference, that we could enact it into law. So hopefully there lie the seeds of an agreement here.

Why do I feel that the Senate bill is superior? What I say briefly, and it is hard to quantify things around here a lot, but the Senate bill is 760 million times better than the House bill. Someone may say, how did you come up with that number? The Senate bill included a $760 million annual authorization to do the fuels treatment. Why is that important? This is something that cannot be done for nothing. The House bill omitted any new funding for fuels treatment. The national fire plan, which is supposed to deal with these fuels issues, is chronically underfunded as the gentleman from California mentioned previously. So is firefighting. So every year the Forest Service is confronted with major fires; they then freeze and begin to borrow from other accounts and almost every year they borrow from the national fire plan fuel treatment accounts.

So instead of acting to prevent future fires, we borrow the money to pay for current firefighting because we always start the year underfunded on firefighting. This year was no exception. And despite the actions last week on other legislation, the Forest Service is still going to have to eat $300 million of those fire costs out of its budget, which means reductions in recreation and in fuel reduction and other programs that are already underfunded. So we need a substantial sum of dedicated funds to deal with this problem.

The only good study out there was done at the Northwest Research Station in Oregon. They said, looking at the Klamath forest, which is fairly typical of a lot of the intermountain forests, dry, not a lot of commercial value in there but a tremendous amount of fuel accumulation, that after backing out the commercial value of anything removed, it would still cost $1,684 an acre to do the work.

□ 1100

If they say there is 20 million acres that are critical and need work, that would be $34 billion. So the Senate bill, at $760 million a year, does not get all the way there, but it gets us down the road. It would provide for a big boost in rural communities for jobs to get people out there and do the work, because it would not pretend that we can do this for nothing.

Further, even more instructive, the President was to go to the Metolius basin to hold a press conference regarding the fuel reduction legislation this year. He could not because of a fire. But that Metolius thinning project was to be conducted of large trees of substantial commercial value in an area that is already eroded and virtually flat. But even given all that and given the fact there was going to be 20 million board feet of high-value commercial timber taken out of that fuel reduction, it was still going to cost a net of $400 an acre for the Forest Service.

So that just underlines the point that even in the areas where there is viable commercial timber to be removed, unless they remove it all, which would not make a lot of sense in terms of protecting the values of the forest and the old fire-resistant trees, they are not going to be able to do it without paying for the work. That would cost $400 an acre. So inclusion for an authorization for funding hopefully at the Senate level, maybe even higher, would be absolutely essential to pass a bill that is going to get the job done.

Two other issues. I do not totally trust the government to always do what is right, no matter who is sitting in the White House. I did not trust the Clinton Administration to always do what was right. I do not trust this administration to always do what is right. And removing any right of meaningful appeal or judicial review is not an option, as far as I am concerned, in actions that affect public resources and the public generally, and the Senate bill does a much better job of preserving people's right to appeal and to go to court, but limits it so that there will not be frivolous appeals. It requires meaningful participation. And I believe if we adopted something like the Senate bill that there would be few, if any, appeals. And very few, if this is done right, successful appeals that would delay projects.

So the bottom line here is we do have the possibility of getting a bill done this year, and I believe we must get a bill done this year. It must include robust funding. That will not only begin to move us forward in dealing with this huge backlog of fuels accumulation and doing it the right way, leaving the large, old fire-resistant trees, returning the forests to more of a presettlement condition, a natural condition, but it will also put rural communities to work, and it will avoid sometime down the road, and unfortunately not immediately, some of these absolutely massive fires and massive costs that are incurred with the fires because after these forests are treated, fires can become more of a natural regime, and we will not have to fight them as aggressively. They will not present the threats to life and property that they do today.

So I am supporting this resolution with the hope that before this Congress leaves that we will have a viable bill that can be passed by both Houses by a large bipartisan majority and signed by the President of the United States, so we can begin this absolutely vital work before the next fire season.

I thank the gentleman for yielding me this time and for his indulgence.

Mr. GOODLATTE. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WALDEN), who has been a leader on this issue as well.

Mr. WALDEN of Oregon. Mr. Speaker, I would just like to commend my colleague from Texas for offering this motion to instruct. I think it is a valid one. I think it is an important one. I concur with his comments about the need to conduct this discussion in open and in a conference. It is probably misplaced in that where it really needs to be put is to our fellows and ladies on the other side of the Chamber in the sense that we need them to come to the conference. I think we have a reputation in the Committee on Agriculture and the Committee on Resources, as we have heard, about in the importance of working together, debating these issues, coming to closure in a fair and aboveboard and open way.

I want to point out too that when it comes to the issue of hazardous fuels reduction, we have heard a lot about how the Senate bill provides a $750 million a year authorization, and, indeed, we know that authorization is important. What we never hear is the fact that in the underlying law, the law already on the books that provides for the national fire plan, there is already an authorization that provides for such sums as may be necessary to be spent for hazardous fuels work.

So in other words, the Department of Forestry and the Department of Interior both have the authority already under existing law to spend whatever sums are necessary that can be appropriated by this Congress to do the kind of work that we are talking about needs to be done. And in fact, in the last 5 years we have quadrupled in the Congress the spending on hazardous fuels work, recognizing the importance of doing this work. But so much more has to be done out there if we are going to prevent the kinds of catastrophic fires we saw in California this year, that we have seen in Oregon year after year, and to get in and clean up these forests, to get the brush out, to get the ladder fuels out, so that we can have healthy forests, green forests, not black ones, so people are not forced to evacuate and lose everything that they have spent a lifetime trying to create around their homes, so that we can protect communities.

There are some issues in the Senate bill I have some disagreements with. They tripled the size of the bill, first of all, from 51 pages to 153 pages. Now, there are some editorial writers supporting the Senate bill, telling us in the House we had to adopt it before the Senate even finished amending it, which is kind of ironic. They have added protection for ginseng and Green Mountain National Forest Boundary and a prohibition on cock fighting, and Karst conservation in Puerto Rico, some things that are not normally considered prime topics when it comes to hazardous fuels reductions in Federal forests. I mean, I do not know what ginseng labeling has to do with hazardous forests, but we are dealing with the other body here, and we will accommodate them to the best of our ability. But our focus has to be on making sure we solve the procedural problems. In some of the hazardous fuels reductions projects the Members have heard about in my State today from my colleague, what was not mentioned was the fact that some of those very projects were appealed by groups while those places were burning this summer. The audacity. These groups are actually appealing a hazardous fuels project on the same day part of that proposed hazardous fuels project was burning. This is how out of control the appeals process is. This is why this legislation is so critical, and why we need to go to conference and act swiftly to pass it.

I thank the chairman for yielding me this time.

Mr. GOODLATTE. Mr. Speaker, I yield 6 minutes to the gentleman from Colorado (Mr. McINNIS), the original chief sponsor of this legislation. We thank him for his efforts.

Mr. McINNIS. Mr. Speaker, first of all, I would like to compliment the chairmen of the various committees. The gentleman from Virginia (Mr. GOODLATTE), in his committee he expedited this bill. He understood very clearly what the threats were out there not only just in the West but obviously threats in the East as well.

And this bill addresses not just fire hazards. Do not forget we have a very evil beetle out there, and these beetles go out there, and they are like a cancer on a tree. It is like once that beetle lands on that tree, that tree is dead, and that tree only has commercial viability for about 2 years. So if they cannot get that tree out of the forest within a 2-year period of time, two things happen. One, they are going to have to pay somebody to take it out of there because it has no commercial viability for others to pay them to take it out of there; and, two, it is a cancer that is sitting there spreading not just to other dead trees, but to live trees. This beetle is wrecking havoc on our forests, and the chairman saw this. The chairman knows first hand, and I appreciate that.

The gentleman from California (Mr. POMBO), the chairman of the full committee, the Committee on Resources, of course, he comes from the State of California, which has just suffered devastating losses in the last 3 weeks. Myself, I come from the State of Colorado. The mountain I grew up on, the base, Storm King Mountain, several years ago we lost firefighters, 15 firefighters on that mountain. These fires are deadly things, and we must deal with them.

Fortunately, we have had great cooperation. I appreciate the gentleman from Texas's (Mr. STENHOLM) motion today to instruct the conferees. Although it is not binding on the Senate, perhaps it will give the Senate a little more incentive, as if the last couple of weeks the disasters in California were not enough incentive of its own.

And I must say that the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), I can tell the Members if they set my voting record next to that of the gentleman from California (Mr. GEORGE MILLER) or, in fact, the gentleman from Oregon (Mr. DEFAZIO), outside of procedural votes, we probably disagree 95 percent of the time. These two gentlemen, along with the able leadership of the gentleman from Oregon (Mr. WALDEN), came to the table last year, and we had some of the best good-faith negotiations that I have seen in my elected history, and I have been in elected office for 21 years. The gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO) stood up, and they stood up to the radical environmental community, which is the only thing that is going to kill this bill.

Two years ago, as soon as the National Sierra Club and the Greenpeace and the Earth First! Organizations found out that the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Oregon (Mr. DEFAZIO), the most ardent environmental supporters in the U.S. Congress, as soon as they found out that they were sitting down with the gentleman from Oregon (Mr. WALDEN) and with me and with the various chairmen, they said they had just joined the "chain saw caucus." If the Members want to know what is going to beat this bill, it is the persuasion that some of these organizations like the National Sierra Club are having on some of our colleagues in both of these Chambers.

It is imperative. We are very close to a compromise. We are very close for the first time in several years of being able to go in and manage our forests. What has happened is we have taken the management away from the green hats. What are the green hats? I say that in a complimentary fashion. Those are the Forest Service people. Take a look at the U.S. Forest Service, stop any ranger anywhere in the country. Do the Members know what they are going to find out about their background? They are going to find out that ever since they were little they dreamed of being a ranger in the Forest Service. They went to college. They got a degree in forest management. They are in that forest every day of the week. They do not work for money. We do not pay them a lot of money. They work because they love the forest. They love that job.

Who do the Members think ought to be managing those forests? The National Sierra Club, which tries any obstacle they throw up? Do the Members think the United States Congress ought to be managing those forests? The people that ought to be managing those forests are the experts, the U.S. Forest Service.

We will continue to suffer massive losses as a result of fire and beetle kill if we do not let the Forest Service do what the Forest Service is best at doing, and that is in managing the forests. And that is what this bill does. But we do have a roadblock facing us out there. Our roadblock is the National Sierra Club, which has put everything into overdrive to try to stop this bill. They are saying to the general public they are going to cut down old growth. They are saying they are going to clear-cut, as if we are going into the Sequoia National Park and cut down those great big trees. They are saying this is all about lumber companies. Thank goodness, we have got somebody who will take that wood.

And by the way, there is not one person in this Chamber, there is not one member of the National Sierra Club, there is not one member of Earth First!, there is not one member of Greenpeace that does not use wood products. They sit at wood tables, by the way, to write us nasty letters. They live in a house that has got wood throughout the house.

The key here is do not let Greenpeace, do not let the National Sierra Club, do not let Earth First! block what is the most significant piece of forest legislation we have had in 2 decades. We have got very ardent support from very capable people from the environmental side of the U.S. House, the gentleman from California (Mr. GEORGE MILLER), the gentleman from Oregon (Mr. DEFAZIO), two very capable, strongly environmentally-oriented people. We have the gentleman from Virginia (Mr. GOODLATTE), the chairman of our committee, and the gentleman from California (Mr. POMBO), both, very strongly committed to the environment but with the understanding that we have to use common sense in the management of our forests. That is what this bill is about. That is why this bill should be approved. That is why the gentleman from Texas's (Mr. STENHOLM) motion to instruct and get this done now while we have got a deal in line, that is why we ought to support this. So I stand strongly in support of that. I commend Members on both sides of the aisle. This bill has bipartisan support. It ought to pass, and we need to get into those forests and let our green hats do their job.

Mr. STENHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

□ 1115

Mr. INSLEE. Mr. Speaker, we are looking forward to a healthy, open conference. We hope this conference will set a new high standard in openness and bipartisanship in the House. But there are a couple things I think we need to talk about that are challenging us in bringing this bill to completion, and that is, first, a recognition that we have a severe resource limitation that is the real limitation as to what real treatment we can do on our forests, and that no matter what we do in this bill, the amount that has been appropriated to date still will only treat about maybe 2 percent of the acreage of the hundreds of thousands of acres that need treatment in our national forests.

That is an important point, because if we only have enough to do 2 percent of the acreage that really could potentially use thinning or other treatment in our forests, we have to really prioritize where we are going to do this work.

One of the elements we hope to talk about in our conference is how to prioritize this work where it is going to be most effective. That is why many of us have been talking about prioritizing our work to be in the areas where it will have the greatest benefit to save human life and human property, and that is in the wild-line urban interface and the areas closest to our towns, suburbs, and homes.

We will be talking in the conference about a way to focus our energies on those highest priority areas, because, if we do not, we risk really squandering some of it out in sort of the Timbuktu areas while we are losing homes in fires, as we have in California most recently. So that will be an element we hope to discuss in the conference.

Second, we hope to have a product that can be embraced by all points of the ideological compass. One of the things we hope to be able to accomplish is a description of the thinning that will assure that we are really doing thinning, rather than disguised commercial harvest. We think we can accomplish that in some fashion of taking off-limits the old-growth timber that gets us into political battles, rather than really furthering the effort to carve out or to thin out some of the litter brush on the forest floor.

Frankly, one of the problems we have of winning public trust for this program is the fear that this will be used as a guise to cut down 5-foot-in-diameter trees in some of our old-growth forests to finance this program. We hope we will come out with a final conference bill that will not be using old-growth timber to finance this program.

There are a lot of ways, probably 1,000 different ways, to describe old-growth timber. We need to find some. We need to assure the American public we really do have a healthy forest initiative, not a clear-cut initiative, and not a "let's get the old growth timber because that is where the most commercially valuable trees are." That should be doable. I look forward to working on a bipartisan basis to accomplish that.

Mr. GOODLATTE. Mr. Speaker, I yield myself 30 seconds just to say to the gentleman from Washington, I appreciate his comments; but I would point out that with regard to the old-growth forests and the 5-foot-diameter trees that the gentleman referred to, nothing in the legislation that the House passed, much less anything in the Senate bill, would override the Northwest Forest Plan that protects every old-growth tree in the entire Northwest. It does not override any forest plan anywhere in the country. So the gentleman should rest assured that this legislation is not going to affect the type of tree that he described to us a few minutes ago.

Mr. Speaker, I am happy to yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, since there still is embolded in large cast letters above your chair the words "In God We Trust," maybe it would be appropriate for me to note for the Sierra Club or Earth First! and Greenpeace that if they will go and read the Biblical account of creation, they will find that when the Lord placed Adam and Eve in the garden, he charged them to dress and keep the garden. The point is that even in a perfect world, the Lord recognized there was a need for man to intervene in the process of nature.

So I hope these groups will take that into account and note that that is exactly what this bill does, and it is all that this bill does, is to appropriately intervene in the process of nature to benefit the forest.

The other body has passed a similar bill, of course, with a lot of extraneous material, most of which costs money. I know you are going to want to prune a lot of that out. I hope there is one little piece of that extraneous material that survives the pruner's knife, and this is a little piece of legislation that has to do with animal rights. It simply enhances the penalties for interstate commerce in cockfighting and dog fighting. It costs zero dollars; and it will do a lot of good, because now these crimes will be prosecuted.

So my congratulations for a really good bill. I hope that this little animal rights addition in the Senate survives the pruner's knife.

Mr. GOODLATTE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will just say very briefly that this motion to instruct conferees offered by the gentleman from Texas is very welcome. It is exactly what we need. We hope the message is received, not only here on the House side, but also on the Senate side, that we will work together in an open conference, across party lines, and we will work together with the Senate to accomplish that. But it is absolutely essential that the Senate take the same step that we are taking here today and do it as quickly as possible so we can meet the timetable put forward by the gentleman from Texas.

Secondly, it is absolutely important that the message go out that this Congress on this issue has worked together, and worked together very well. The place where we find the extremism that some have expressed concern about has been on the outside, the organizations like Greenpeace and the Sierra Club and Earth First!, extremists who send the mail to so many people.

We have all seen it. It is designed to raise money for these organizations. If they said that the gentleman from California (Mr. GEORGE MILLER) was meeting with the gentleman from Colorado (Mr. MCINNIS), who has very different points of view, to work out their differences, do you think that would generate a lot of revenue for these organizations? I think not.

What they do is try to portray this legislation and this Congress as being extremist. That is wrong, and that is where the problem lies. We need to reject that. We need to reject the falsehoods that are being portrayed about the legislation on the outside, to work together in the interests of the American people, work together in the interests of our national forests here on the inside to produce a final product that will really address a severe crisis that we have.

It is time to stop that kind of game playing, and it is time to get serious about addressing this problem. We are so close to something that we have sought for so long that we should not allow that outside rhetoric, that outside pressure, to deter us from what needs to be done.

What needs to be done is exactly what the gentleman from Texas has described in his motion to instruct. We need to meet, we need to meet openly, we need to meet now, and we need to produce a product that works out the differences between the House and the Senate by next Thursday.

Mr. Speaker, I urge my colleagues to endorse and support this motion to instruct conferees.

Mr. Speaker, I yield back the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I would just say I appreciate the tenor of this discussion and debate today, because that is exactly what we intended from this motion. It is the history of the Committee on Agriculture, working with other committees, to let the process of the House of Representatives work its will and come together in compromise.

Compromise has never been a four letter word to me or to anyone else in this body. It means that some have to give on some very strongly held beliefs. Sometimes it means to have to say no to some of the organizations who take a great deal of interest in this process.

My friend from California mentioned a moment ago that down in my district, when we clear out the underbrush, we take two Caterpillars and a string of chain between them and drag it across it. I want to go a little further with that. We do that for a different reason; we do that to preserve moisture.

In fact, we have a couple of bills pending right now, working with my colleague, the gentleman from New Mexico (Mr. PEARCE), on salt cedar. In areas of arid Texas and New Mexico and Colorado and other areas, more New Mexico and Texas in this instance, we have a need of controlling brush to preserve water so that our people will have something to drink.

But here a little novel idea just popped into my mind, because when we clear brush in Texas, many times the landowners pay for all of it themselves, if they can, and many of them can and do. They expect no one to come in and help them clear out the trash on their own land.

In many cases though we have cost-share. We have programs that are set up that are designed to provide cost-sharing. We have got an excellent one going in Texas, in which the State of Texas puts up a share of money, the local landowner puts up a share of money, in some cases the local county puts up a share, and the property owner is expected to put up their share of the money. The Federal Government then puts up its share.

This is an idea that I think we ought to pursue as we go into a conference on this, because the gentleman from California is exactly right, we are not talking about forest lands in the area many a time that have been burning recently in California. We are talking about a different kind of problem that needs to be solved, and can be solved, if we would just put our shoulder to the wheel and solve it.

Resource limitations are very real, that is true; but also doing nothing is not an option. Even though in my district we do not have any forests, I recognize the importance of the work of the gentleman from Virginia (Mr. GOODLATTE), the gentleman from California (Mr. POMBO), the gentleman from Oregon (Mr. WALDEN), the gentleman from Oregon (Mr. DEFAZIO), the gentleman from Washington (Mr. INSLEE), all of my colleagues that have spoken today.

Everyone now recognizes that this debate has gone on longer than it should. We are that close. We have two bills. It is not impossible. In fact, it is more than possible that we can achieve what we are saying with this motion to instruct today. It will just take the sincere dedication that we know we have on the House Committee on Agriculture, working with the Committee on Resources. And I know it exists with the Senate. We have always had, when it comes to agriculture, an excellent working relationship to go to conference, to work it out. That is exactly what this motion does. I hope the House will accept it.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, when I was talking about dragging the chains across the desert, I did not mean that to be derogatory. That is a practice that works. In California, we cannot criticize that, because then we take the mesquite and turn it into mesquite charcoal for those oven-roasted, free-range chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, I took it exactly like the gentleman meant it. It was a compliment. I appreciate the support in this, because in many cases some of the folks do not agree with us on doing that either.

Mr. GOODLATTE. Mr. Speaker, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Speaker, if the gentleman will provide the mesquite, we will provide the chickens.

Mr. STENHOLM. Mr. Speaker, reclaiming my time, one of the requirements that I have had all along in this is do not muck around with my mesquite trees, whatever you do. But now we are talking about a very good, constructive use of mesquite trees. We have now got delineated, outlined clearly, how we can provide more of it, and we have a market for it, so I already see some benefits to this bill that are going to accrue to the 17th Congressional District of Texas in the new market for mesquite trees.

But here let us get back to seriousness. I hope we can do what this motion does.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Agriculture, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, JENKINS, GUTKNECHT, HAYES, STENHOLM, PETERSON of Minnesota and DOOLEY of California.

From the Committee on Resources, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Messrs. POMBO, MCINNIS, WALDEN of Oregon, RENZI, GEORGE MILLER of California and INSLEE.

From the Committee on the Judiciary, for consideration of sections 106 and 107 of the House bill, and sections 105, 106, 1115, and 1116 of the Senate amendment and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and Mr. CONYERS.

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 1829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2003

The SPEAKER pro tempore. Pursuant to House Resolution 428 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1829.

□ 1130

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a 5-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, with Mr. SHAW in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Federal Prison Industries, or FPI for short, was first authorized in the 1930s to require Federal agencies to buy goods made by inmates in Federal prisons. The purpose of FPI was to ensure work and training for prison inmates by guaranteeing a market for prison-made goods. Although Federal Prison Industries may have started with good intentions, it has been surrounded by controversy since its inception.

FPI enjoys a mandatory market for its goods, a government facility to produce them in, and pays its workers less than the minimum wage to manufacture them. A guaranteed market for its products and reduced costs for labor and capital clearly amounts to an unfair advantage when put in direct competition with private industries. As Members of Congress, I believe it is our duty to protect the pocketbooks of taxpayers by ensuring that the Federal Government is not misusing taxpayer dollars. I believe it is also our duty to protect American business and workers from unfair competition by the Federal Government.

FPI is a large, government-owned corporation. It currently operates 111 factories at 71 of its correctional institutions where it produces goods in over 150 product lines under the trade name UNICOR. It offers approximately 150 broad classes of products and services through eight business groups. And there is no question FPI hurts private industry. For example, in fiscal year 2002, the FPI sold over $210 million in office furniture, representing a 17.2 share of the office furniture market nationwide.

Since I was first elected to Congress, I have been working to correct the situation with FPI and level the playing field for private industry. I became interested in this issue out of concern for small businesses in my district in Wisconsin. Two businesses in my district were shut down as a direct result of competition from FPI. Other businesses sought my help when FPI threatened to come in and begin manufacturing small engines. Over the years, I have received dozens of letters complaining about FPI and asking Congress to eliminate mandatory source in favor of a more competitive market for Federal agency business. Because of these concerns, it is not surprising that industry and labor have joined Members of this body in seeking reform of Federal Prison Industries.

Mr. Chairman, H.R. 1829, the Federal Prison Industries Competition and Contracting Act of 2003, is a bipartisan solution to reform prison industries. This legislation would alter the way FPI does business by requiring that FPI compete for its business opportunities. Currently, all Federal agencies must purchase products offered by FPI, which is commonly referred to as FPI's "mandatory source" status. FPI, rather than the buying industry, currently determines if FPI's offered product and delivery schedule meet the needs of the buying agencies.

Now, just stop and think about that. There we have the manufacturer rather than the customer deciding whether or not the product and the delivery schedule meet the needs of the agency that is supposed to buy the product. That does not happen anyplace else in our economy. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

Now, think about that again. There we have the seller saying this is the price you have to pay and the buyer has no choice but to pay that price. This is not the way the Federal Government should do business. And, it increases our Federal budget deficit.

This bill would gradually phase out the exclusive right of FPI to sell goods to Federal agencies by October 1, 2008. The bill also changes the manner in which FPI sells its products and services through the various Federal departments and agencies. During the phaseout period, FPI would be required to provide the agency with the product that meets its needs at a "fair and reasonable price" and in a timely manner.

H.R. 1829 would establish new competitive procedures for government procurement of products and services that are offered for sale by FPI. It would require that FPI sales to Federal agency customers be made through contracts won on a competitive basis for both products and services. Like other suppliers to the Federal Government, FPI would be required to fulfill its contractual obligations in a timely manner.

In order to ensure that inmates are not idle, there are provisions in the bill that provide funds for inmate rehabilitation and training. To address any concerns regarding prison safety and the safety of correctional officers, there are provisions in this legislation which allow the Attorney General to authorize mandatory source contracts for prisons where a safety risk exists.

These common sense approaches to reforming prison industries will allow FPI to continue operations, but will not allow it to continue to overcharge Federal agencies and American taxpayers, and it will not allow it to continue to have an unfair advantage over small business with a guaranteed contract, an unfair advantage that throws law-abiding, tax-paying citizens out of work. FPI will be able to compete with the private sector because it will still be able to pay subminimum wages and will not be required to provide health insurance or retirement benefits for its workers.

It is time to create a more balanced playing field for business and industry when it comes to government procurement and, at the same time, give our Federal agencies the ability to use taxpayer dollars in the most efficient manner possible.

The barriers to entry that mandatory source creates prevent the establishment of new businesses and new jobs. Reforming this program and eliminating mandatory source will help create jobs for law-abiding, tax-paying citizens.

Mr. Chairman, I urge my colleagues to join me in supporting this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Federal Prison Industries program, or FPI, has been around since the 1930s. Under the law, Federal agencies are required to buy needed products from FPI if FPI can meet their order. The purpose of the program is to teach prisoners real work skills so that when they are released from prison, as they ultimately will be, they will be able to find and hold a job, they will be able to support themselves and their families, and they will be less likely to commit additional crimes.

It is clear that the program works to do just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in prison industries are 14 percent more likely to be employed and 24 percent less likely to commit crimes than others who did not participate in the program. While this certainly benefits offenders and their families, there is a more important public policy perspective, and that is that the real benefit for all of us is that as a result of the program, they will be less likely to commit crimes. We are prepared to spend billions of dollars in prison construction and prisoner upkeep in our efforts to reduce crime. This is a program that reduces crime while it pays for itself.

Now, H.R. 1829 will result in fewer inmate jobs with increased taxpayer costs and an increase in crime. The CBO estimates that it will cost over a half a billion dollars with at least $177 million of that in additional security costs to guard the inmates who are made idle by this bill. The other part of the half billion dollars is attributable to the cost of vocational education and other alternatives to replace FPI when those jobs are lost. However, nothing guarantees that the half billion dollars will actually be funded, other than the phantom promise of an authorization in the bill.

In addition to the half billion dollars of taxpayer funds for a program that now costs taxpayers nothing, there are other big losers in the bill. About 75 percent of the roughly $600 million that FPI takes in goes back into the purchase of raw materials, equipment, and services from the private sector businesses in order to purchase supplies for FPI products. There are thousands of these businesses and they hire thousands of workers. Over 60 percent of them are small, minority- and women-owned, disadvantaged businesses. For many of them, FPI is their only client. So a high number of these private sector jobs held by law-abiding citizens will be gone immediately with the elimination of mandatory source of FPI, since there will be no reliable FPI revenues or orders.

And when these jobs are lost, they will not be made up by the business leaving FPI and going into other private businesses. The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing, about the same as it was in 1935. With the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over all of the private sector businesses is not likely to create any jobs. It will simply be absorbed in the existing workforce with little effect on work levels. Less than 25 percent of Federal agency purchases go to small businesses, so the bulk of the business taken away from FPI will go to big business, be absorbed, and not create any businesses to offset those that are lost.

Now, critics say that FPI has resulted in substantial job losses for law-abiding citizens. The furniture and apparel industries are two of the industries most often cited. But when asked, representatives of these industries conceded that FPI sales represent an insignificant or negligible portion of their industries, and if such industries are having problems, it is not due to the impact of FPI. I have been told that 600,000 jobs were lost over the last 10 years in the textile industry. There are roughly 7,000 prisoners working in textiles in FPI, and certainly we cannot blame a few thousand prisoners for the loss of 600,000 jobs.

All able-bodied inmates in the Federal system are required by law to work. Few offenders enter prison with marketable work skills. The vast majority do not have credible work habits such as showing up for a job and working cooperatively and productively with others. Such habits are required to maintain an FPI job. These are the same requirements and same habits required to be productive in desirable workers anywhere, and that is why inmates with FPI experience have been found to be significantly more employable than those who do not.

With the elimination of parole, with the elimination of good conduct credits, Pell grants, and the elimination of other incentives, the Federal Prison System has little to offer to a prisoner for self-development. One shining exception is FPI. Non-FPI inmate jobs pay about 12 cents an hour to about 30 cents an hour, while FPI jobs pay up to $1.25 an hour and are not paid for with any taxpayer money. To hold down an FPI job, an inmate must have completed high school or be making steady progress toward obtaining a GED, and maintain a record of good behavior. This is true not only for those already in an FPI job, but also for those on the waiting list, as well as those who are trying to establish eligibility to be placed on the waiting list.

Some have suggested that vocational education is a good substitute for FPI work experience. While the vocational experience is important and ought to be available to all inmates who can benefit, not all inmates can benefit, and the timing is important for those who can. The average sentence for prisoners in the Federal system is 8 years. The average length of a vocational education program is about 2 years or less and is generally thought to be better delivered towards the end of the sentence, right before release. In any case, the question becomes what to do with the other 6 years of the sentence prior to or after completion of vocational education. And the next question, of course, is who is going to pay for the vocational education. The FPI program pays for itself.

I am the first to concede that there are problems with FPI which should be fixed. When a small business making a single product already has a government contract and depends on the continuation of that contract for its viability, the FPI should not be able to take that business away through the use of mandatory source.

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But this bill should be fixing the problem, not gutting it by taking away all of FPI's primary business sources all at once. While the bill suggests that lack of competition is the problem, it takes away FPI's ability to provide services, even though services have to be provided on a competitive basis. There is no mandatory source provision for services; there is just for products. The bill prohibits FPI from providing services to businesses even when there is no business or labor in the United States interested in providing the service.

We are already seeing the effects of the Department of Defense restrictions on FPI procurement that we passed last Congress. Information from the program indicates that it has already had to close 13 factories and eliminate over 1,700 inmate jobs. They expect to eliminate 500 additional jobs before the end of the year.

Now, we should fix the problems, but we should do so in a way that assures the viability of a vital crime-reducing program. The GAO has been asked to study the impact of inmate employment, prison security, private and public employment, and public safety. The information will be available in April. With these issues at stake, we should not demolish a program with a record of contributing significantly to prison security, inmate and private job generation and public safety without first assessing the study information.

Congress has the oversight responsibility for the safe and efficient operation of our prisons and for the protection of the public from crime. Real work opportunities in prison have been shown not only to provide for safer, more manageable prisons, but also for substantially less recidivism upon release among those inmates who participate in FPI.

It costs the taxpayers nothing. If we are going to eliminate the program, we should put viable options in its place and wait for the results of the pending GAO study to determine what those options are. This program was created in the midst of the Great Depression when jobs were at their lowest point. We should not toss it aside just because it has a few problems. We should fix the problems.

Now, we can do better than this bill, Mr. Chairman, and we certainly should.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS.)

Mr. EHLERS. Mr. Chairman, I rise in strong support of H.R. 1829, legislation that has been a very long time in coming. I want to thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, and the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary, for moving this bill forward; and I particularly want to thank the gentleman from Michigan (Mr. HOEKSTRA), my colleague and friend, for his steadfast work on this issue.

This bill will provide much-needed relief for manufacturers in my district and across the country that have faced the anticompetitive and unfair practices of Federal Prison Industries for too long. By eliminating FPI's current status as a mandatory source to various Federal agencies and requiring FPI to compete for its contracts, H.R. 1829 will ensure that all private sector businesses can bid on Federal contract opportunities that are funded with their tax dollars, not just those companies who first enter into contractual relationships with FPI.

For those who argue that this legislation is inappropriate or that Congress should delay action and rely on administrative reforms, let me describe one recent incident involving FPI and a business in my district that illustrates why we must pass this legislation.

The fundamental flaws in this mandatory source rule were clearly evident during a procurement for office furnishings associated with the renovation of the new headquarters of the Federal Aviation Administration. Through the GSA, the FAA conducted a fair and open competitive bidding process to identify the supplier whose entire proposal represented the best value for the FAA. The GSA then selected the winning private sector contractor based on the FAA's specific needs relating to both types of products and installation schedules.

As required by FPI procedures, the complete proposal for the winning contractor was then sent to FPI for review. FPI took the contract by simply matching the price of the winning bid to the penny. The FAA and GSA were left with little recourse and, for all practical matters, had to accept FPI's decision, despite the fact that they thought the private sector bid would better fit the FAA's needs and would be a better value than FPI-supplied furniture. Furthermore, FPI planned to subcontract much of the work to furniture companies whose products did not match the design and quality of the winning bid.

This contravention of the fair and open competitive bidding process was eventually resolved through vigorous congressional intervention, and the private sector contractor was awarded the FAA contract. But this situation serves as an example of how FPI's unjust procedures completely undermine fair and competitive bidding and eliminate a purchasing agency's prerogative.

The reforms in H.R. 1829 are absolutely vital for ending this type of abuse and restoring integrity to the bidding system.

I understand and fully support the need to provide prisoners with meaningful work that can help the rehabilitation process. But it should not be done in a procedurally flawed manner, and FPI should not unfairly compete with private sector bidders.

It is important to note that FPI is only one of several programs within the Bureau of Prisons that provides meaningful work and skill-developing opportunities to prisoners. The difference is that FPI does so at the expense of the jobs of hard-working, law-abiding citizens. Finally, I am pleased to note that this bill contains several provisions to help inmates transition back into society, including enhanced access to vocational training and employment assistance programs.

The FPI program is unfair, wasteful and desperately needs reforming. I urge my colleagues to vote in favor of this critical legislation.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, as we look at this bill, it certainly appears to respond to an issue that I have great concern with and that is, of course, the idea of the promotion and elevation of small businesses. I think my record is fairly clear in this House, Mr. Chairman, that I support that. But I am concerned as well about the substance and purpose of the Federal Prison Bureau Industries.

Just a couple of months ago I took the opportunity, Mr. Chairman, to visit one of our Federal detention centers, prison centers, maximum, minimum, and medium security, walked through the hallways and looked at their facilities. There was not a prisoner there that did not talk to me about the value of prison industries, the ability to do something with your hands, your mind.

I looked at the less-than-sufficient computer stations, if you will, and, of course, somebody will say this is not a vacation home, and I realize that. But we realize that prisoners are family members. They are Americans. And they will be let out.

There is a distinction, of course, between those who perpetrated heinous and horrific crimes. We know that there are some serving lifetime sentences. But it is documented, Mr. Chairman, that the prison industry is a valuable component to rehabilitation but also a valuable component to providing services in the community.

We also know that the Federal Prison Bureau contract out responsibilities to local businesses. So it is a partnership. And what I am concerned about is that this particular legislation will find a way to undermine that relationship and that infrastructure and further deny those who seek to rehabilitate the opportunity to rehabilitate.

Let me say this, that I appreciate, however, the consensus effort that has been made by the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the committee, and the ranking member, the gentleman from Michigan (Mr. CONYERS), and the chairman of the subcommittee and the ranking member of the subcommittee. There has been good work on this bill.

I am grateful to note that there is a provision that asks for a study regarding this issue of good time for nonviolent prisoners. Individuals whose hands I shook when I went in, parents who asked me about their young people who were in simply for drug possession long years because they were simply standing on a street corner, not using, but possessing. And so there are some elements that I think we can work on.

But let me remind my colleagues that it is clearly a challenge to balance the necessity of over half a million inmates. Rehabilitation, education, are key components of them being able to integrate into society. You have never seen anything worse than to go into those systems, as I did, and walk the hallways and walk the courtyards and see large segments of men, mostly standing idly by doing nothing, and having them beg you, can we find something to do. They took away the exercising equipment in some instances, televisions are coveted. So give them something to do.

And Federal Prison Industries is a very successful entity. It provides job training opportunities, and it is valuable.

Mr. Chairman, let me just say this: I wish we could compromise more. I hope we can work through this legislation to balance the needs of all who are in need of training and opportunities.

Mr. Speaker, I rise in opposition to this bill, H.R. 1829, the "Federal Prison Industries Competition in Contracting Act of 2003." In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's elimination of the "mandatory source preference" and inmate "good time" for the nature of offense and good behavior, and those amendments have been incorporated into Sections 15 and 16 of the current bill text respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

To illustrate the impact that this bill will potentially have on Texas, the Federal prison population for the years 2000, 2001, and 2002 reached 39,679, 36,138, and 36,635 persons respectively; the State prison population for the same years reached 20,200, 20,898, and 23,561 persons. These numbers have grown since 2002, so the impact is indeed significant and the State of Texas is an important stakeholder.

In 1934, Congress established Federal Prison Industries (FPI). FPI is a government corporation that employs offenders incarcerated in Federal prisons. FPI provides job-training opportunities to Federal inmates in the form of goods production and services for Federal agencies. Currently, the State of Texas alone employs 7,700 inmates in prison industries. Nationally, 25 percent of those held in Federal prisons are employed by FPI. Items produced by inmates include furniture, metal products, textile items, optical and plastic hardware, and electronic cable assemblies. Inmates are also able to use automated systems to prepare data and information aids.

By statute, FPI products and services must be purchased by Federal agencies (a requirement referred to as a "mandatory source" or "sole source") and not available for sale in interstate commerce or to non-Federal entities. Federal agencies can obtain products from the private sector through a waiver issued by FPI if the corporation is unable to make the needed product or provide the required service.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over $566 million in revenue, $418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. Although current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to "avoid capturing more than a reasonable share of the market" among Federal agencies, departments, and institutions for any specific product, determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customers authority to first solicit on a noncompetitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the States, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

OPPOSING VIEWS TO FPI AND RESPONSES

Some who support H.R. 1829 would argue that eliminating the FPI mandatory source preference will help small business. However, H.r. 1829 will have an adverse impact on the many small businesses that provide raw materials, equipment, and other services to FPI factories. Must of the adverse impact of H.R. 1829 will fall on private sector small businesses. FPI would not exist, and certainly could not offer quality products and services, without the direct support of private sector companies that provide raw materials, equipment, and services that FPI needs to produce its products. Each of these private sector companies responded to solicitations issued by FPI and were awarded the contracts through competitive procedures.

During FY 2002, FPI spent 74 percent of its $680 million in sales revenues (that is, $503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, $311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small business. From 1997–2001, FPI has awarded $851 million in contracts to small business, which is a yearly average of 57 percent.

Those who support this bill from the office furniture and apparel industries argue that FPI controls too much of the Federal procurement market and is taking away significant levels of Federal government business from those two industries. However, FPI is neither a procurement giant nor is it taking away significant levels of Federal business from the office furniture and apparel industries. FPI's total sales revenues ($680 million in FY 2002) represent only a very small percentage of the total Federal procurement dollars. FPI revenues represent one quarter of 1 percent of total Federal agency procurement dollars and only 4.5 percent of the overall Federal market in the 250 products it produces within the Federal supply—a very small fraction. The office furniture and apparel industries are the two industries in which FPI produces the highest volume of work. In the Dissenting Views section contained in H. Rept. 108–286, the House Judiciary Committee report concerning this bill (H. Rept. 108–286), we see that "when asked, representatives of these industries conceded that FPI sales represent an 'insignificant' and 'negligible' portion of their industries, respectively."

Supporters of H.R. 1829 from private sector labor unions argue that the elimination of the FPI mandatory source preference authority will help labor union workers get back jobs that have been lost over the past decade. However, H.R. 1829 will adversely affect both Federal and private sector labor union workers, and it will not get back the jobs that have been lost. H.R. 1829's elimination of the FPI mandatory source preference will adversely affect the 33,000 Federal corrections officers and other Federal employees who work at the 101 prison facilities in the Federal Bureau of Prisons system. These 33,000 Federal employees, who are represented by the American Federation of Government Employees, AFL–CIO, know that eliminating the FPI mandatory source preference authority will undermine the FPI prison inmate work programs—and thereby create substantial problems for the safe and secure operation of Federal prisons. This bill's elimination of the FPI mandatory source preference also will adversely affect the approximately 5,000 U.S. workers—many of whom are represented by labor unions—who are employed by those private sector companies that provide FPI with raw materials, equipment, and other services. It is indisputable that certain U.S. industries have lost a great many jobs over the past decade. But these industries have lost jobs not because of FPI. For example, 600,000 textile jobs have been lost over the past 10 years. There are only about 7,000 prison inmates working in FPI textile factories. Clearly, the blame for the loss of 600,000 jobs cannot be placed on a few thousand Federal prison inmates. The same is true in the office furniture business. The real blame should be placed on the adverse impacts of globalization and unfair trade, not on FPI.

While there are other initiatives which may accomplish the goal of eliminating the mandatory source preference more quickly, I believe we can work together to reach a compromise that is both timely and also enhances opportunities for U.S. workers. We may not all agree on the specific phase-in period but let us try to find a workable solution on this critical issue.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. WOLF.)

Mr. WOLF. Mr. Chairman, I rise in opposition to the bill. Before I make some comments, let me say I have great respect for the gentleman from Michigan (Mr. HOEKSTRA). He is a good person. So we just have differences. I think this is not the way to go.

Secondly, I think the administration and the Justice Department, their failure to take a position on this bill is morally reprehensible. When they have a fiduciary relationship in running these prisons and not to say anything, what can I say.

Winston Churchill said one of the best tests of whether we are truly a civilized people is the temper, the mood of the public in regard to the treatment of crime and criminals.

As somebody who is proud to be a conservative, and a compassionate conservative, and somebody who has worked in prisons—before I got elected I was involved in a program at Lorton Prison called Man to Man where we would go down and counsel people—knowing what this bill could do, I think this bill should be defeated.

You cannot put a man in prison for years and expect him to be rehabilitated without work. The Bible says, "Remember the prisoner as though in prison with them."

This bill would make it difficult to operate a prison. Inmates without work who are idle are prisoners that are going to later come back and commit a crime. This bill also has major budget impacts. To those on my side of the aisle who talk about balancing the budget, the cost of this bill over 5 years will be $500 million.

Rehabilitation. Inmates who participate in prison work are less likely to repeat and less prone to violence.

Also, at election time everyone wants to be with the Fraternal Order of Police. It is sort of amusing. My dad was a policeman in the city of Philadelphia, very active in the Fraternal Order of Police. Politicians always like to get the FOP's endorsement. The FOP says, "The FPI is the most important correctional rehabilitation program of the Bureau of Prisons. Not only does it provide Federal inmates with marketable skills," then it goes on to say it opposes this bill.

Lastly, Chuck Colson who runs Prison Fellowship, who I admire, who frankly has forgotten more about prisons than anybody in this institution on either side knows, sent a letter about this bill where he said the following: "We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However," and they underline, "your bill does not set up an alternative system."

That is the key. There is no alternative system "for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill."

He goes on to say, "Prison work programs are an essential part of changing prisoners' lives." We cannot put a man or woman in prison for all of these years and then expect them to come out with a changed life. They end by saying, "We advocate work programs because they are beneficial to society." How we treat them in prison will determine what type of neighbors they will be.

Mr. Chairman, I will submit these letters for inclusion in the RECORD.

If this bill is not amended, I believe, and I may be wrong, that this bill, as surely as the night follows the day, will make it very difficult to operate prisons and will result in men not having the rehabilitation and the dignity, which I predict will lead to more crime in these United States.

This bill raises the issue of job loss, but the enemy is China, and yet this bill does not deal with China. The enemy here is China. The jobs are leaving and going to China. The furniture business took a gun and fired it at the FPI when China is really to blame.

The letters previously referred to follow:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
Washington, DC, November 4, 2003.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In light of this week's scheduled vote on H.R. 1829, the "Federal Prison Industries Competition in Contracting Act," I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our position regarding efforts to reform this vital Federal program. While the F.O.P. has in the past supported legislation providing for appropriate reform of the statutes and authorities governing Federal Prison Industries (FPI), we cannot support H.R. 1829 in its current form.

The F.O.P. believes that FPI is the most important correctional rehabilitation program of the Bureau of Prisons (BOP). Not only does it provide Federal inmates with marketable job skills, it also assists with the efficient operation of correctional facilities. But most importantly, FPI promotes a safer environment for the thousands of correctional officers who work in BOP facilities.

Thus, for our organization, any reform proposal must first be viewed from the perspective of its potential impact on both the safety of Federal correctional officers, and the safety of the public from recidivist offenders.

In addition, any reform proposal approved by Congress should provide for the complete reform of the FPI program—addressing the current law's "mandatory source" provisions and increasing opportunities for inmates to gain meaningful employment through the prison industries—while guarding against changes which would negatively impact the program's value. For example, in the 107th Congress legislation was enacted which placed certain restrictions on the Defense Department's procurement from Federal Prison Industries. According to the views of some members of the House Judiciary Committee contained in the report on H.R. 1829, " information obtained from the program indicates that it has had to close 13 factories and eliminate over 1,700 inmate jobs and expects to eliminate 500 additional inmate jobs before the end of this year," as a result of this particular reform effort. Clearly, this raises important concerns about the safety of correctional officers and staff in the facilities which have experienced these losses.

Finally, in order to ensure the continued success of Federal Prison Industries following any major changes to the current program, any reform measure should also contain a provision that provides for the ongoing review of the health of the program. Such a provision should authorize the revival of current law if, after a given number of years following enactment, less than twenty-five percent of eligible inmates are employed by Federal Prison Industries.

On behalf of the more than 310,000 members of the Fraternal Order of Police, thank you in advance for your attention to our concerns on this important issue. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if we can provide you with any additional information.

Sincerely,

CHUCK CANTERBURY,
National President.

PRISON FELLOWSHIP MINISTRIES,
Reston, VA, November 3, 2003.

Congressman PETER HOEKSTRA

DEAR CONGRESSMAN HOEKSTRA: We regret that we must oppose your prison work legislation. We applaud you for working to reform Federal Prison Industries, and your bill makes many good and important reforms. In fact, we did not oppose bringing your bill to the floor because we think this important issue needs to be debated. However, your bill does not set up an alternative system for replacing the jobs that will be lost when your reforms are implemented. That would be tragic, and it is for this reason that we must oppose your bill.

Prison work programs are an essential part of changing prisoners' lives so that they leave prison better than they enter. Meaningful jobs teach inmates productive skills that will help them make the transition to leading productive lives in the free world, and the wages they receive allow them to pay restitution to the victims they have harmed, support their families, pay some of the costs of their incarceration and save a small amount toward their "gate money".

We advocate work programs because they are a benefit to society. Over 95 percent of the inmates who are currently incarcerated will be released back to our communities. Do we want them unskilled and angry after years of forced idleness? Or do we want them capable of contributing to society with skills they have learned during their confinement. How we treat them in prison will determine what type neighbors they will be.

Idleness is destructive, and any reform of the current system must also expand the work opportunities for inmates. We suggest that you amend your bill to adopt the thoughtful reforms proposed by the Progressive Policy Institute. If adopted those reforms would result in many more inmates working at productive jobs without unfairly competing with private industry. Without such amendments we must oppose your bill.

We appreciate the cooperation we have received from you personally as well as from your staff as we have sought middle ground on this very important issue.

Sincerely,

CHARLES W. COLSON,
Chairman of the Board, Prison Fellowship.
PAT NOLAN,
President, Justice Fellowship.

□ 1200

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, yes, the enemy is China but we have no moral high ground to complain about China flooding the American market with goods made from slave labor in China if we do not reform Prison Industries because they are doing the same thing here.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, it is quite unfortunate that we have a bill before us that pits the small business community or the business community against work opportunities in our prisons. It just should not have reached the floor this way.

It is absolutely obvious that prisoners need to have opportunities for work and rehabilitation while they are in prison. And every Member of the Congress of the United States has stated or demonstrated one way or the other that we support business, we support small business, and we have the office of SBA and a lot of other opportunities to show our support for small business. So we should not have this kind of tension. It really should be worked out.

I do not know where this bill is going, and whether or not it is going to receive the support of the Members of this House; but I know one thing, if we are to release prisoners into our community we should be releasing them with some kind of work experience. And I am sick and tired of prisoners being released with no money, no home, no rental opportunities, no health care, no anything. When they hit the street, if they do not have money for food, if they do not have money to pay rent, if they do not have a reasonable opportunity to have some time to find a job, you are going to continue to experience this recidivism that we are experiencing. And so my remarks today are a prelude to what I am going to do in an amendment.

My amendment is going to say that prisoners should be released with more money; that they should work with whatever the wages are under this system that we have; but for the last 2 years of their work, they should receive at least $2.50 an hour to be retained in a fund so that when they are released they can go and rent a place and have food and not be in the position of being tempted to commit crimes in our communities, in our neighborhoods, because we let them out of prison without anything.

So if I had my druthers, I would remove this bill from the floor. It has no business here creating this tension between business and prison opportunities for work, but I do not have my druthers on this, and so the bill is going to come up for a vote. And I will have an amendment that will deal with the last 2 years of a prisoners' time so that they could have a little bit more money to hit the street with the opportunity for rent, to pay the rent and to buy food.

Again, I know that it is important for prisoners to have the ability to work, and I would not want to eliminate that. I would want to make sure that whatever we do there are some opportunities for prisoners to be able to do this work.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, Terrorism and Homeland Security.

Mr. COBLE. Mr. Chairman, I thank the gentleman for yielding me time.

While I support our efforts to train inmates to become productive citizens of society, I believe such effort should take great care not to threaten the job of hardworking taxpayers. This issue is especially important to the Sixth Congressional District of North Carolina, home to more than 40,000 textile and furniture workers, since two major classes of items produced by FPI are textile and furniture.

FPI's mandatory source status gives it an unfair advantage, it seems to me, over private manufacturers contending for Federal contracts. Therefore, many of my constituents are deprived of employment opportunities in order to give work to Federal inmates.

The furniture and textile industries in North Carolina are already competing with an increasing number of imports arriving in the United States from countries such as China as has been previously mentioned. From January 2001 to May of 2003, 100,000 furniture and related products jobs in the U.S. were lost. In addition, the North Carolina textile industry has suffered over 10,000 job losses in the past year. For these reasons, I am concerned about FPI's proposal to begin selling inmate furniture services in the commercial market.

It is my belief that the FPI is in need of reform before it is allowed to expand. I am a strong proponent of H.R. 1829 because it does just that, eliminates the FPI's mandatory source advantage. It also limits FPI's ability to enter the commercial market, which I believe may have an adverse effect on private companies not able to compete with low wages and cost benefits enjoyed by FPI. Further, the bill incorporates vocational and educational programs to teach inmates job hunting and professional skills and coordinates funding to help inmates transition back into society. So this bill does not turn a deaf ear to inmate training.

In my opinion, these are real and necessary reforms that will preserve FPI's goal of providing inmates with essential skills while allowing for better marketplace for competition.

Hardworking taxpayers in the Sixth District of North Carolina and other districts who are employed in the furniture and textile industries can compete with anyone in the world. They should not have to compete with their own government which is using their tax dollars to train inmates how to become textile and furniture workers.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise to voice my support for the Federal Prison Industries Competition in Contracting Act of which I am a lead sponsor with my colleagues, the gentleman from Michigan (Mr. HOEKSTRA), the gentleman from Massachusetts (Mr. FRANK), the gentleman from Georgia (Mr. COLLINS), the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS).

We are living in difficult times, in a tough job market. The Federal Government should not be taking actions that put American working men and women out of work. But that is exactly what the Federal Prison Industries does.

Federal Prison Industries has established eight business groups including the garment industry that use Federal prisoners to manufacture goods at cut rate prices. With its predatory practices, FPI has contributed to the closure of private companies and the loss of tens of thousands of jobs throughout the Nation.

One of my constituents, Glamour Glove Company confronted FPI directly in 1997. FPI sought to simply take Glamour Glove's competitively won Defense Department contracts to make gloves for the military. If FPI had succeeded, Glamour Glove would have been out of business. And its workers, members of UNITE would have been out of work.

I led a fight to save those jobs in my district and had strong support of my colleagues in this Congress. In the forefront was my friend, the gentleman from Michigan (Mr. HOEKSTRA). We won that battle, but I recognize that FPI had to be fundamentally changed. It is examples like Glamour Glove that have brought us to where we are today.

This bill will require FPI to compete for contracts while continuing to offer rehabilitative work opportunities to Federal prisoners. Federal prisoners will be allowed to compete, but it will not allow FPI to come in, arbitrarily, and close plants down across this country. This legislation will ensure that contracts are awarded to the company that will provide the best products, delivered on time, and at the best prices:

Virtually all segments of business community led by the United States Chamber of Commerce, organized labor led by the AFL/CIO, and Federal managers represented by the Federal Managers Association enthusiastically support this bill. Passage of this legislation will not mean that inmates will sit idle in prison.

This bill provides alternative rehabilitative opportunities including work in support of nonprofit public service organizations to better prepare inmates for a successful return to society. This bill authorizes $75 million dollars a year for vocational, education and work programs for Federal inmates. I urge my colleagues to put an end to this unfair government-sponsored monopoly.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I have enormous respect for the author of this bill and, of course, I do for the chairman of this bill, but I must oppose this legislation. I oppose it on prison safety grounds, I oppose it on fiscal grounds, and I oppose it because I believe it will increase recidivism and crime.

FPI in my view is a critical tool in our justice system. It helps us manage prison safety at a time when everyone here knows that prison populations are exploding. It helps us increase the chances for prisoners to become law-abiding successful citizens upon their release, and it does all of this without costing the taxpayers one dime.

Now, FPI, Federal Prison Industries, has not been a perfect program. That is why it is being reformed and improved, and I agree that more work should be done. But this bill, the bill before us today would essentially destroy FPI and all of the benefits that it provides.

As a result of recent changes, FPI has already had to lay off over 1,700 inmates. H.R. 1829 will greatly exacerbate those numbers and create a volatile, dangerous situation in our prison system.

Now, as I said earlier, I oppose this bill also on fiscal grounds. According to the Congressional Budget Office, this bill will cost taxpayers nearly $590 million over the next 5 years. On the other hand, FPI costs taxpayers not a dime. Seventy-three percent of the earnings from FPI goes to purchases from the private sector for raw materials, parts, and services. These contracts are with businesses all across the country, and nearly two-thirds of those are with small, female, minority, and disadvantaged businesses. These private contracts keep an estimated 5,000 private sector workers employed. Twenty percent of FPI's earnings are paid to staff.

According to the Congressional Budget Office, H.R. 1829, on the other hand, would cost an additional $177 million over 5 years. That is nearly $35.4 million a year just for the extra security that will be necessary to supervise prisoners who are no longer working due to the elimination of FPI.

Mr. Chairman, this bill will harm prison safety. It will cost us over $100 million a year. It will cost us 5,000 private sector jobs. We should be supporting programs that will prevent recidivism. We should be supporting programs that will help secure prison and public safety. We should be supporting programs that work with small local businesses all across the country. FPI does that; H.R. 1829 does not. That is why the bill is opposed by Prison Fellowship, by the American Federation of Government Employees, and as we heard just a few moments ago, by the Fraternal Order of Police.

Mr. Chairman, these are days in which we have to be looking for ways to break the cycle of crime and violence. We know what works. The work ethic works. Teaching the work ethic, reinforcing the work ethic, that is how we maximize the chances of success for prisoners upon release. We have seen it day in and day out. We know that it works.

I think it is extraordinarily sad that we take up legislation today that would destroy that. That would undo the one thing that we know works.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I thank the gentleman for yielding me time.

My Fifth Congressional District in Florida is home to one of the southeast's largest prison complexes, and that is the prison complex in Coleman, Florida. It is a very small rural county.

At Coleman, working for Federal Prison Industry is a heavily sought after benefit that the inmates want. If an inmate misbehaves, he cannot work for FPI and they have lost that privilege.

Inmates who work are proven to be less violent and more able to be reintegrated into society.

We have to remember that these Federal inmates have broken the laws governing our land. In turn, we house them, we feed them, we provide them with some of the best medical care which our taxpayers very often resent. When I say we, I mean the American taxpayer.

□ 1215

We also offer, but not mandate, the opportunity for these inmates to gain some work skills.

The Federal Government owes it to the taxpayers to utilize Federal Prison Industries for efficient and inexpensive government production. I regularly hear from the Coleman employees and members of their families. They all feel that knowing that an employee is working for FPI is a greater safety factor.

My mama always used to say that an idle mind is the devil's workshop, especially in prison; and keeping the prisoners busy to me is a safety issue for the prison guards.

Given the current fiscal crunch that we are having and the estimates that we need to fund the ongoing war against terrorism, we should not pass a measure that will cost the taxpayers $589 million.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. QUINN).

Mr. QUINN. Mr. Chairman, I rise today in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

As a Member from the northeastern part of our country and a district with a large labor union constituency, I can tell my colleagues that it is not too often that the business community and the union community come together and work on an issue. Mr. Chairman, the business and labor communities have been working on this issue now for over 8 years to try to reform the program.

H.R. 1829 balances the need to rehabilitate inmates while at the same time protecting our workers and our jobs. Opponents of the bill will tell us that the intent of business and labor is to put FPI out of business. This is not the case at all, and this legislation does not attempt to do that.

I would ask my colleagues on both sides of the aisle to join me in opposing any amendments that allow FPI to expand its competitive advantage over businesses and unions by giving them unfettered access to the commercial marketplace.

Let me just close by saying, Mr. Chairman, this is a broad-based and bipartisan bill. This type of agreement shows that it is the right approach and that we should act today, not delay any longer. If the business community and the union community can work together so closely on this issue brought before us today, we should be able to do the same thing as Members of the House.

I say support 1829, support it now. Delay no longer. We should act today.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentlewoman from Georgia (Ms. MAJETTE).

Ms. MAJETTE. Mr. Chairman, I thank the gentleman for yielding me the time.

Today, I rise in support of H.R. 1829. This bill addresses two important issues, rehabilitation of prisoners and leveling the playing field for small businesses. Rehabilitation and fair competition, that is what this bill does.

For prisoners returning to society, this legislation provides more vocational and remedial education. It trains them and helps them to find jobs. I am a former State court judge, and I presided over hundreds of criminal trials. I know firsthand that people who receive education and job training are less likely to return to courtrooms and return to prisons.

Federal Prison Industries has a good track record for success, but vocational education is shown to be even more effective than FPI. Inmates who have vocational education are 33 percent less likely to return to prison after their release. They have a viable alternative to criminal activity.

This bill also levels the playing field for small businesses. Currently, FPI has a competitive advantage over small businesses. FPI is the Federal Government's mandatory source for over 200 products, and that effectively shuts out small businesses that make the same products.

Last month, Angie McClure, vice president of a Georgia metal manufacturer, testified that in Georgia alone there are more than 600 manufacturers competing with FPI. Some of these manufacturers are unable to compete because FPI is the mandatory source for those products. These Georgia manufacturers represent more than 31,000 jobs.

We need to eliminate FPI's mandatory source status and require FPI to compete for Federal contracts just like every other business.

I support H.R. 1829 because it meets both goals, fair competition and rehabilitation. I urge my colleagues to support the bill as well.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the author of this bill.

Mr. HOEKSTRA. Mr. Chairman, I thank the chairman of the Committee on the Judiciary for yielding me the time.

I really want to thank my colleagues who have worked with me I think over the last 8 years, the chairman 7 years; my colleague, the gentleman from Massachusetts (Mr. FRANK), on the other side of the aisle; the gentlewoman from New York (Mrs. MALONEY); the gentleman from Georgia (Mr. COLLINS). It was 7 years ago that common interest brought us together, and since that time we have been able to expand this coalition to bring about real reform, bringing about real reform that the business community endorses, that the labor unions endorse and I think really moves us into the right step.

I want to just address some of the concerns that my colleague, the gentleman from Virginia (Mr. WOLF), brought up; and I think we do share the same vision, the same objective in the legislation, because it is part of a test of civilized people as to how we are in regard to the treatment of crime and criminals. That is why we have put a number of different factors into H.R. 1829.

The first thing is we do not take a meat axe to this. What we do is we say over a period of 5 years we phase out mandatory sourcing. We still allow Federal Prison Industries to compete for the business, but we put it on a level playing field for manufacturing organizations in America so that taxpayers at least have the opportunity to compete for this business. So it is a phase-out of mandatory sourcing over a period of 5 years.

We open up the opportunity, too, for nonprofits. In the State of Michigan, our prisoners, they work with organizations like Habitat for Humanity. They build the frames of homes. The National Guard delivers these frames to the building sites. The prisoners learn the trade skills. The National Guard is involved and families receive homes.

We are going to be working with the gentleman from Virginia (Mr. SCOTT) today to expand the opportunity for prisoners to work for not-for-profit organizations. So we are looking to fill that void, if there is a void.

For years, we have heard that Federal Prison Industries produces a quality product at a competitive price, at a good delivery schedule. If that is true, there will be no change in the amount of prison work that is performed because all we do is we eliminate the mandatory sourcing. We force them to compete.

Then, finally, we have put in a significant amount of money for vocational training. We recognize that when these folks leave prison that they need skills to make them competitive and to make them employable in the workplace. The one thing we know that does not work is to have Federal Prison Industries growing by 20 to 30 percent per year and industries that are declining by 20 to 30 percent per year.

That just does not work. How can we say we are preparing people for work in factories and in industries when those industries are declining? That is exactly what is happening. The two largest elements of prison work, textiles and office furniture, both industries in decline in America during the last number of years.

Support H.R. 1829. It is a balanced and a reasonable approach to this problem.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois (Mr. EMANUEL).

Mr. Chairman, before the gentleman speaks, could the Chair advise us how much time we have left?

The CHAIRMAN pro tempore (Mr. SIMPSON). The gentleman from Virginia (Mr. SCOTT) has 8 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 5½ minutes remaining.

Mr. EMANUEL. Mr. Chairman, today I rise in support of H.R. 1829.

Last weekend, my good friend and distinguished colleague from Illinois (Mr. HYDE) wrote a piece which appeared in the Chicago Tribune. In the article, he argued that the supporters of this bill would have criminals just break rocks rather than have a real job through Federal Prison Industries. I support this bill, not because I want criminals to break rocks, but because it is our job to ensure that hard-working, law-abiding citizens do have jobs.

I understand that prisoners need something to do. Idle hands will lead to trouble. The recidivism rate in this country is out of control, and the best way to attack the recidivism rate is in this legislation dealing with education and vocational training.

I support educational opportunities for prisoners. If we look at the history and we look at the record, it is the lack of education, whether it is high school or college or junior college education, that is one of the things that is most dominant and common throughout the prison population. This is what we need to prepare prisoners, not have them compete against law-abiding citizens who do work.

In fact, the gentleman from Massachusetts (Mr. FRANK), my friend and colleague, said we would outlaw this act in China. We do not support what goes on in China, that is, prison population slave wages labor. Now, this product may be the best option, but we do not know because there is no real competition. Our job is to ensure that the taxpayers' money is being spent wisely.

I support H.R. 1829 because it will ensure that the Federal Government purchases the best product at the best price and that law-abiding citizens have the opportunity to compete for manufacturing jobs.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Chairman, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and congratulate him for bringing this bill to the floor, and especially to my friend, the gentleman from Michigan (Mr. HOEKSTRA), who has labored long in the vineyards to try to get the bill before us so we could debate it.

Mr. Chairman, as a cosponsor of the Federal Prison Industries Competition in Contracting Act, I rise in strong, strong support of this legislation. I could take this time perhaps to tell my colleagues about all the merits of the legislation, but the Chairman basically has done that and the author of the bill. I could also list for my colleagues a long list of groups supporting this bill, but that will be in the RECORD, too.

I would like to tell my colleagues just about the manufacturers in the State of Georgia alone that could benefit from this legislation. Manufacturers and workers have been hit hard in tough times in our economy and because of some of our trade policies. Yes, that is another fight for another day, but H.R. 1829 could help now.

Would my colleagues believe that there are 625 companies with over 30,000 employees in Georgia alone who need this bill? There are 80 of these companies in my district alone. One of these is Habersham Metal Products in Cornelia, Georgia. Ironically enough, they make prison cell doors.

In August, I toured this plant; and a few weeks ago, we were lucky enough to have Ms. Angie McClure, who is a vice president, testify before the Committee on Small Business in strong support of this bill. She told us how Habersham Metal worked on a design build project for several months in Pollock, Louisiana. This project would have meant work for the employees of Habersham Metal Products for 3 months. However, when the specification and request for pricing hit the streets, the FPI had taken all the prime doors and frames and left them with very little to do. This reduced the possibility of Habersham Metal employees working for 3 months down to 3 weeks.

This is not an isolated incident. It has happened in this company alone many other times. But beyond the money and the employment concerns, where in the world is the logic for allowing inmates to build their own prison doors? It makes no sense.

I have heard on this floor people say, well, if we leave everything just like it is, it does not affect the taxpayer. Well, I will tell my colleagues, ask the taxpayer who does not have a job and is not paying taxes anymore if it affects them because the government factory has a monopoly. I have heard people on this floor saying that, well, prisoners will not be trained, prisoners should not work. There is not a Member here who does not believe they should not be worked and should not be trained, and there is not a word in this bill that says they cannot work. In fact, there are provisions in this bill to improve training for the inmates. It is not work that we are after. It is what the work is that they do.

I ask all of my colleagues, please support this bill. This is legislation that is way overdue.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, often in institutions unwritten rules get more obedience than written rules. One of the unwritten rules that is quite generally followed around here is that when one Member begins a set of remarks by speaking highly of another Member, the first Member is about to disagree with the second Member. So let me adhere to that rule.

□ 1230

I have enormous respect for the work done by the gentleman from Virginia who is leading the opposition to this bill. He is in many ways, particularly in criminal justice, the conscience of this House. And so I feel it is particularly important to explain why we disagree, and I appreciate the comments made by the gentleman from Georgia. This is not a debate about whether or not prisoners ought to be given work to do which will be socially productive and rehabilitative. The question is how will we pay for that work. That is the issue.

The current system in effect pays for prison rehabilitation by putting hard-working, low-wage citizens at a disadvantage and exacerbates their problem. What we now have is a subsidized form of competition between the prisoners and garment workers, textile workers and furniture workers. That is why the AFL–CIO so strongly supports our bill. That is why unions, the UAW, UNITE, unions which have been in the forefront of the battle for social justice support this bill, because it is not a case of saying prisoners should not be given useful, rehabilitative work. It is an effort to change the way it is financed.

Right now a vulnerable section of our population, people who work in the textile industry, people who work in the garment industry, people who work in the furniture industry, they are the ones who have to bear the brunt of financing prison rehabilitation.

We believe through this bill, that like any other important public purpose, we should fund it in a general way with everybody who will benefit participating, and that we do not single out not just a segment but an economically vulnerable segment, people who are already hurt disproportionately by trade policies, people who are already in difficulty because of a variety of other factors.

This bill includes provisions to say that the prisoners can do work, make products, but simply not compete commercially. There are plenty of these institutions in this society, Habitat for Humanity was mentioned, homeless shelters, day-care centers, there are plenty of places that have a need for clothing and furniture, draperies, they can be given this.

What is at issue is not whether or not prisoners do work, but what is the socially fair and responsible way to pay for it. It is true there will be a difference. If we go the way those of us who support this bill want, Prison Industries will not be doing much marketing, but I would hope marketing is not one of the things that we are not getting the prisoners into right away. They do the physical work, they learn the vocational skills. The marketing is not something that we ought to be introducing them to. This bill is a way to continue rehabilitative work for the prisoners in a socially fair manner.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1½ minutes to the gentleman from Georgia (Mr. COLLINS).

Mr. COLLINS. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in support of this legislation, and I rise in support of it because I think it is long overdue that we address this problem. Approximately 8 years ago, a young man came to my office in Jonesboro, Georgia, to tell me about a situation that his small business was in. He was being denied a contract with the Air Force for building missile containers which he had been doing for several years. He fought it in court and won. He spent all of his cash doing so, only to see FPI come back again, this time successfully, leading to the demise of his business and the loss of about 150 jobs, people working to provide for their families, to pay their taxes, and they are playing by the rules.

They had an unfair competition, a position of having a mandatory source that this small business did not have and could not overcome. It has been said that China is the enemy, not these inmates. I do not consider either an enemy. I consider the inmates having an unfair position toward competition with the mandatory source which has been long overdue to be changed. I do not see China as an enemy, I see them as competition and meeting competition with us with some advantages. There are a couple of things where they do not play by the rules as far as trade. They do not value their currency as they should, and they have tax provisions of tax laws which are much different from ours which make our workforce noncompetitive with their workforce. Here we are talking about law-abiding citizens competing with inmates. It is time to pass this legislation, do a 5-year phaseout of the program and get away from the mandatory source and the competition of contracting and bidding.

Mr. SCOTT of Virginia. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I have listened intently to this debate, and it is clear to me that there are a lot of people here who do not know much about what goes on in prison, and do not know much about what happens to people when they get out of prison. Most of the individuals who are incarcerated have no skills. As a matter of fact, most of them do not have a high school diploma. They are dropouts. Many of them have personal emotional problems and difficulties.

My mother always told us that an idle mind was a devil's workshop. I can tell Members if we do not provide an opportunity for individuals to learn and develop a skill, to come out so they are able to go in the marketplace and get a job, half of them will end up right back in the same prison. We will be paying for them and paying for them and taking care of them for the rest of their lives. If that is not utilization of tax money, then I do not know what is.

I agree with my esteemed colleague from Illinois (Mr. HYDE) when he wrote the op-ed opinion. It may not be the intent to have them breaking rocks, but the results will be that there will be nothing for them to do except break rocks. I have heard people talk about the training, all of the things that they are going to get. I do not know which prisoners these are, and I do not know which prisons these individuals come from. They sure do not come from the ones that I meet and know and see.

This legislation is not good even for small businesses. It is not good for the businesses that we intend to protect because any money that they can make they are going to have to plow it right back into taking care of the inmates who now cannot take care of themselves. I would urge that we vote this legislation down. It is not good for America.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, if this bill passes, we will very seriously jeopardize the viability of the Prison Industry programs that will reduce the number of prison jobs. It will actually reduce the number of business opportunities because right now we are only talking about one-fourth of 1 percent of the Federal procurement. In addition to all of the private procurement going on, obviously eliminating the prison work and one-fourth of 1 percent of just the Federal part of the entire market share will make no difference to anyone. If they cannot get a contract now, they certainly will not be able to get a contract if this bill passes. We do know, however, that crime will go up if this bill passes. It does not cost the taxpayer any money. It works. I would hope that we will defeat the bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, listening to the opponents of this bill, one would be led to believe if this bill passes, prisoners are not going to have anything to do and there will be nothing but prison riots. And when they get out of prison, they will go back to a life of crime because they do not have the skills. That is not true.

This bill authorizes $75 million a year for rehabilitation and training, vocational training so when they get out of the prisons, they will be equipped to compete in the job market.

The gentleman from Massachusetts (Mr. FRANK) said it correctly, the question is here who pays for the rehabilitation of prisoners, and who pays for giving them vocational training. Vote this bill down, and it is on the back of the small business owners and the people who work and pay taxes to try to compete in Federal Government procurement. Pass this bill, and the taxpayers will pay for it, which they ought to.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to discuss H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003, and to discuss a section I added, section 16, which should be left intact. In a markup of the full Committee on the Judiciary in July of this year, my colleagues on that Committee voted to accept two of my amendments that speak to the issues of the bill's elimination of the "mandatory source preference" and inmate "good time" for the nature of offense and good behavior that have been incorporated in the bill as sections 15 and 16, respectively. Prison reform is an important matter that deserves serious attention by the House before it considers passing this important legislation.

Section 16 reads:

> It is the sense of Congress that it is important to study the concept of implementing a "good time" release program for non-violent criminals in the Federal prison system.

This provision is extremely important to the rebuilding and strengthening of our society with contributors to the economy. Furthermore, it helps to alleviate our ever-increasing problem of prison overcrowding. In addition, section 16 rewards those inmates who have behaved well during their incarceration period, thereby giving proof that the criminal justice system does work on occasion.

It is very important that we respect the lives of those who are incarcerated and allow those who do not belong there to exit. Ex-inmates find it hard to re-adjust to the free community as it is. If they have spent any length of time behind bars, they have come to see the rules of the free world etiquette as upside-down. They have learned in prison, for example, that a smile when greeting someone means you are looking for trouble. Being nice or kind to anyone is a sign of weakness, and ex-inmates typically overreact to anything that threatens to put them down or make them feel hopeless. The most common reason for not being able to adjust back into society is an inability to handle all the strange, angry emotions and hassles that come up in almost every social or interpersonal encounter with people in the free community.

The rights of inmates are restricted, the theory being that they do not have the required honesty and proper values to participate in some of the things that free people enjoy. These restrictions vary by jurisdiction, and some places are slowly lifting them but nevertheless remain very behind. I mention this situation to show how those inmates who have fully rehabilitated only get harmed by prolonged time in prison. This provision respects what the criminal justice system was built to do. The criminal justice system was not created to simply house the undesirables of the world or to keep them away from civilization. It was created to punish, rehabilitate, and to reinstate into active society.

Over 2 million offenders are incarcerated in the Nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. A great number of these inmates have fully rehabilitated and have earned the right to exit on "good time."

According to a 1995 Federal Bureau of Prisons study of more than 7,000 inmates, 72 percent of those who participated in a prison work, vocational training or apprenticeship program, or a combination of these programs, had found and kept jobs by the end of their first year out of prison. Sixty-three percent of those who had not participated in these programs were able to find and keep jobs in the same time period. Allowing these individuals to exit on "good time" only gives our economy a much-needed wave of fresh contributors.

Work programs are an important component of rehabilitation. Most prisoners have poor literacy skills and few job skills, and therefore a history of unemployment and crime. Programs that reduce illiteracy, allow prisoners to earn a high school diploma, and provide vocational training and work skills are beneficial to a prisoner's rehabilitation and have been shown to be very effective in decreasing recidivism. A program that provides real work experience can teach useful job skills and good work habits which will be vital to the ex-offender's reintegration into the community. With the benefits conferred by section 16 of this bill, the prison system will actually serve as an institution in which we can have pride.

FPI runs effective and valuable rehabilitative programs. These programs help prisoners gain important life skills, thereby decreasing recidivism, and gives prisoners income which they can use to pay restitution to victims, fines to the government and money to their families. Eliminating the mandatory sourcing program, as mandated by H.R. 1829, would severely limit, if not completely destroy, FPI and these programs. Currently, 22,560 prisoners are employed in the FPI. This accounts for 18 percent of the total Bureau of Prison inmate population.

The Bureau of Prisons of the U.S. Department of Justice administers the Federal prison system. Clearly, the Bureau is expanding the capacity of the Federal system in anticipation of accommodating an inmate population exceeding 178,000 by the year 2006. Clearly, the overcrowding of prisons is a serious matter.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to the FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic. This is certainly important.

On the other hand, there are some groups that represent working Americans that suggest that job opportunities, particularly jobs needed by low-income families, are lost because FPI receives Federal contracts. However, current law prohibits FPI from dominating the Federal market, and there are currently congressional mandates placed on FPI to "avoid capturing more than a reasonable share of the market" among Federal agencies, departments, and institutions for any specific product; determining the appropriate share of the Federal market remains contentious. Nevertheless, we must endeavor to take into account the concerns by working Americans across the Nation so that we can pass a bill that simultaneously protects jobs and keeps inmates productive.

The most important positive skill taught by FPI is a work ethic. The FPI has had a very positive impact on inmates. A major longitudinal research study conducted by the Bureau of Prisons concluded that inmates who worked in FPI while in custody were substantially more likely upon release to be employed and earning higher wages and were 24 percent less likely to be engaged in criminal behavior. Reductions in recidivism can have enormous impact on public safety, criminal justice costs, reimbursement to victims and strengthened family ties. Hand in hand with this reduction in recidivism is the benefit to be seen from giving inmates of non-violent crimes early exist from prison based on "good time." The success stories that we see in our respective States all show that such early release does cut down on recidivism and helps the economy.

Instead of cutting back on prison industry, we must pass legislation to provide greater opportunities for prison employment and legislation that will improve the safety of those who must live and work in the prisons.

Mr. DINGELL. Mr. Chairman, I rise in strong support of H.R. 1829, the Federal Prison Industries Act. I am a proud cosponsor of this sensible legislation, and believe that private businesses from my State and others can now compete for government contracts that they were barred from in the past. The exemption of Federal Prison Industries (FPI), Inc. has allowed for higher prices, and fewer choices for Federal agencies. With enactment of this bill, Federal agencies will now be able to choose the products and services offered by FPI rather than the other way around. It is a good bill, a sensible bill that helps businesses and workers in my district.

In these tough economic times, when well paying manufacturing jobs are leaving the great State of Michigan, this is an opportunity to help unemployed workers get back to work. H.R. 1829 opens to competition Federal contracting opportunities reserved for FPI. Private sector firms, and their non-inmate workers, will, for the first time, be able to bid on these Federal business opportunities.

Mr. Chairman, this is a bipartisan bill that has the overwhelming support of business and many labor unions. I am proud to support this bill, and call on my fellow Members to do the same.

Mr. PETRI. Mr. Chairman, I rise today to voice my opposition to H.R. 1829, the Federal Prison Industries Competition in Contracting Act of 2003.

In my home State of Wisconsin there are many small businesses that provide parts for FPI products. These are vital businesses that will be hurt if the contracting procedures of FPI are changed. Additional job losses would be devastating to an area that has already lost many manufacturing jobs.

The supporters of this bill say that small businesses would be helped by its passage. That simply isn't true for the Sixth District of Wisconsin, and we will find that it won't be true in many other communities.

There are currently over 145,000 federally incarcerated inmates. It is our responsibility to provide meaningful work and job-training opportunities for these inmates while balancing the needs of the business communities. I have visited the Oxford Prison in my district, one of the institutions where FPI contracts are filled. The inmates there put together a good product, learn a skill, and importantly, must take responsibility and initiative, all of which will serve them well upon their release. H.R. 1829 would tie the hands of the Bureau of Prisons, preventing them carrying out these goals. Supporters of this bill seem to think that this isn't true.

Passage of this bill would be detrimental to businesses throughout the Nation, not to mention the thousands of inmates who benefit form the opportunities that FPI provides.

I urge my colleagues to oppose H.R. 1829.

Ms. MAJETTE. Mr. Chairman, I rise in support of H.R. 1829 Federal Prison Industries Competition in Contracting Act of 2003. Rehabilitation of prisoners is vitally important to society. However, when a government corporation becomes a profit center that is removing work from small businesses, the process needs to be reviewed and changed. That is what this legislature does.

Today, FPI is the Federal Government's mandatory source for almost 200 products. That is almost 200 items that small businesses cannot make for the Federal Government. FPI has a distinct advantage over small businesses. FPI is able to pay much lower wages—$.25–$1.25 per hour, which is four to five dollars less than our current minimum wage. FPI is exempt from the often overwhelming requirements of OSHA compliance. FPI also has the advantage of borrowing funds from the U.S. Treasury to purchase equipment, pay wages and invest in expansion of facilities. Small businesses do not have that advantage—they have to go to banks to borrow money.

For those prisoners who expect to return to society, rehabilitation is important and this legislation makes sure that vocational education for inmates is increased, as well as remedial education. It increases inmate access to programs that teach job-seeking skills and also gives them access to pre-release job fairs.

I am a former State Court judge and I have presided over hundreds of criminal trials. I know that we, as a society, have failed some of the individuals who appeared before me and my judicial colleagues. Many criminal defendants are people for whom the educational system has failed. We have failed to provide early intervention and Head Start for many of these individuals. We have failed to help them graduate from high school. We have failed to help these individuals develop the job skills necessary to be productive members of society and to stay on the right side of the law. If we had just made the proper investment in education and job training at the beginning, some of these individuals would not be in courtrooms and prisons across the country now.

Now that these individuals are in prison, it is vitally important to give them the training they need to be successful once they are released from prison, we must do our best to ensure they do not return.

Federal Prison Industries has certainly given skills and purpose to inmates and has a good track record for success. About 24 percent of prisoners who take part in FPI do not return to prison.

However, as I know from my years as a lawyer and judge, there is no one program that works for every individual. In fact, vocational education is shown to be even more effective than FPI. Those inmates who have vocational education are 33 percent less likely to return to prison after release.

This legislation increases funds available for vocational education for inmates, including remedial education. But we cannot stop there—we need to appropriate those funds as well. Saying we don't have the money next year is no excuse, because as a society we will pay.

We can decrease the likelihood that those individuals will return to prison. This is not a handout to prisoners, this is an investment in the future of our society. Education, job skills and training are investments that we should have made long before these individuals ended up on the wrong side of the law. The cost of this bill is a small price to pay for returning people to society with the skills they need to be productive and increasing the odds of their success.

But that success cannot come at the expense of law abiding citizens who are running small businesses. Small businesses are really the backbone of our economy. They give us three of every four jobs created. We must not take additional opportunities away from our entrepreneurs.

Last month a metal products manufacturer from Georgia testified that in Georgia alone there are more than 600 manufacturers that compete with FPI, or who are unable to compete for Federal contracts because FPI has become the mandatory source for those products. These companies represent more than 31,000 jobs.

We need to eliminate FPI's "mandatory source" status and require FPI to compete for Federal contracts just like every other business. Our small businesses need a level playing field on which to compete for Federal contracts while we continue to rehabilitate inmates. I support H.R. 1829 because it meets both goals—fair competition and rehabilitation. I urge my colleagues to do the same.

Mrs. BLACKBURN. Mr. Chairman, I rise in support of H.R. 1829, the Federal Prison Industries Competition in Contracting Act. This legislation is needed to help reform the Federal Prison Industries because right now FPI unfairly competes with small businesses. FPI is a government-owned corporation that employs over 20,000 inmates. FPI has been producing approximately 150 types of goods and services that government agencies are forced to accept without competition. FPI was created in 1934 in order to manage, train, and rehabilitate inmates; unfortunately, FPI does not fulfill its mission and many inmates are unprepared to enter the workforce when they are released from prison.

In fact, there has been no evidence any inmates have gained meaningful employment upon release when assembly is the primary skill required. FPI pays inmates a paltry $.23 to $1.15 per hour, does not provide employee benefits, and is exempt from excise taxes. Small businesses absolutely cannot compete with this unfair system. Furniture manufacturers have had to lay off 30,000 employees nationwide, while 40 percent of FPI sales in FY 99 came at the expense of the office furniture industry. Law-abiding citizens are looking for work; nevertheless the FPI is shielded from competition, overcharges for its products and services, and is less efficient than many small businesses. The bill we are discussing today changes that by allowing small businesses to competitively bid on services provided by FPI to the government.

We update FPI in order to improve job-hunting skills and better address rehabilitation for inmates. In addition, reform will provide opportunities for law-abiding citizens and small businesses. This legislation updates and improves this depression-era agency by properly training inmates with hands-on vocation combined with remedial education.

I urge my colleagues to support this fair legislation that will help level the playing field between this government agency and our small businesses.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today to offer my strong support for the Federal Prison Industries Competition in Contracting Act. But before I begin I would be remiss if I did not thank my good friend and colleague Representative PETE HOEKSTRA for introducing and working so hard to pass this important measure.

Mr. Chairman, H.R. 1829 levels the playing field and lets private sector businesses compete for Federal Government contracts. Specifically it eliminates the mandatory contracting requirement that Federal agencies are subject to when it comes to products made by the Federal Prison Industries (FPI).

In a misguided policy, Federal agencies are currently required to buy only from FPI. This requirement has transformed FPI from a small program focused on rehabilitation into a virtual monopoly power in the Federal marketplace. Providing over 300 products and services and generating $678 million in sales last year.

We in Michigan have a keen appreciation of the impact of FPI because nearly 35 percent of these sales represent office furniture products that are competing directly with the many furniture makers in my home State of Michigan. In fact, approximately 5,000 inmates in 17 factories within the Federal Prison System are building furniture today. Without this bill, FPI will be able to continue its mission creep into new marketplaces directly competing with struggling private manufacturers.

Mr. Chairman, the private marketplace has consistently shown that they can provide higher quality products quicker and cheaper than the FPI. I urge my colleagues to support this important bill and support American manufactures.

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 1829. Let me congratulate my colleague from Michigan for his hard work in bringing this bill to the floor of the House today.

This bill is about fundamental fairness. We are not voting today to eliminate the Federal Prison Industries. Rather, we seek to open up the federal procurement process to manufacturers who are capable of supplying quality products at reasonable prices, but who are by law prevented from doing so.

We have heard a great deal in recent months about the state of manufacturing in this country, and, it's true, our manufacturers are under severe pressure. As legislators, we should be looking for ways to open up markets for our small businessmen and women to sell their products, so that factories stay open and jobs stay here.

The fact of the matter is that the federal government is a market unto itself. But for the more than 300 products that the FPI is the only entity allowed to sell to the federal government, it is a market that is closed to our blue collar workers. This is simply not right.

It's time to end this unfair monopoly. Let's level the playing field for government contracts for our manufactures here at home. We'll save the government money, save some jobs, and restore some sanity to this part of the federal procurement process.

The FPI shouldn't be afraid of a little competition. Our manufacturers are not.

I encourage all my colleagues to support H.R. 1829.

The CHAIRMAN pro tempore (Mr. SIMPSON). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered by sections as an original bill for the purpose of amendment, and each section is considered read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Prison Industries Competition in Contracting Act of 2003".

(b) *TABLE OF CONTENTS.—The table of contents for this Act is as follows:*

Sec. 1. Short title; table of contents.
Sec. 2. Governmentwide procurement policy relating to purchases from Federal Prison Industries.
Sec. 3. Public participation regarding expansion proposals by Federal Prison Industries.
Sec. 4. Transitional mandatory source authority.
Sec. 5. Authority to perform as a Federal subcontractor.
Sec. 6. Inmate wages and deductions.
Sec. 7. Clarifying amendment relating to services.
Sec. 8. Conforming amendment.
Sec. 9. Rules of construction relating to chapter 307.
Sec. 10. Providing additional rehabilitative opportunities for inmates.
Sec. 11. Restructuring the Board of Directors.
Sec. 12. Providing additional management flexibility to Federal Prison Industries operations.
Sec. 13. Transitional personnel management authority.
Sec. 14. Federal Prison Industries report to Congress.
Sec. 15. Independent study to determine the effects of eliminating the Federal Prison Industries mandatory source authority.
Sec. 16. Sense of Congress.
Sec. 17. Definitions.
Sec. 18. Implementing regulations and procedures.
Sec. 19. Rule of construction.
Sec. 20. Effective date and applicability.
Sec. 21. Clerical amendments.

The CHAIRMAN pro tempore. Are there any amendments to section 1?

AMENDMENT NO. 8 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment No. 8 in the nature of a substitute offered by Mr. GREEN of Wisconsin:

Strike all after the enacting clause and insert the following:

SECTION 1. GENERAL ACCOUNTING OFFICE STUDY ON FEDERAL PRISON INDUSTRIES.

(a) REQUIREMENT.—The Comptroller General shall conduct a study of the effects of eliminating the mandatory source requirements for Federal Prison Industries (as specified in section 4124 of title 18, United States Code). The study shall consider the effects on prison operations, public safety, inmate employment, public and private sector employment, and any other matters the Comptroller General considers relevant.

(b) REPORT.—Not later than April 30, 2004, the Comptroller General shall submit to the Committees on the Judiciary of the House of Representatives and the Senate a report on the results of the study required by subsection (a).

Mr. GREEN of Wisconsin. Mr. Chairman, a few moments ago my friend, the author of this bill, claimed that this bill would not hurt FPI. He said it would help Federal Prison Industries. It would strengthen it.

Well, the truth of the matter is although he may believe that, he cannot say that for certain. We simply do not know. The amendment that I offer today would help us to find out. This simple amendment is grounded in common sense. It simply permits the GAO to study the effects of eliminating mandatory source requirements for Federal Prison Industries. The proscribed study will consider the effects on prison operations, public safety, inmate employment, and public and private sector employment.

A similar study is already underway at the GAO, and we have been told that this study will be ready by April 2004, in 6 months. In only 6 months, we would have all of the information we need, impartial evidence, the evidence that we need to know what the effect this legislation would have on our public safety, on our prison safety, on recidivism, on prison operations, and local business. It seems to me 6 months is not too long to wait. This study will provide us with the data to determine the actual effects of eliminating the FPI mandatory source authority as this bill would do. The study is critical in my view to the proper development of any comprehensive legislative solution to the real problems that exist with FPI.

Currently, FPI has a positive impact upon a number of important concerns in the justice system, concerns like prison security and correctional worker safety and victim restitution, dependent support, recidivism, hundreds of small and minority-owned businesses, not to mention the thousands of workers that partner with FPI. And last, but not least, public safety. The GAO report will assess the impact of the bill on these important areas.

I believe the consideration of this legislation is premature without this analysis and review. There could be many unforeseen and unmeasured impacts as a result of this bill. The problem is no one knows for sure.

It is this type of uncertainty that has caused Chuck Colson's Prison Fellowship to oppose this legislation.

My amendment asks for the study to be forwarded to the House and Senate Judiciary Committees for review. Once we have this information, then we can act in ways that will truly reform and improve Prison Industries. There would be more than enough time in this session to take action, action that would strengthen FPI, action that would take care of abuses in FPI.

Mr. Chairman, we should act on the basis of facts. We should wait a short 6 months before proceeding with legislation that could harm so many people and do so very much damage. I ask Members to vote yes for this amendment and vote yes for getting the real facts.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let us be clear about this. This is an amendment in the nature of a substitute. If it is adopted, there will be no more amendments in order and the bill will come up for a vote on final passage right away. All of the work that has been done relative to reforming Prison Industries will be tossed in the waste basket, and we will get another study and the Committee on the Judiciary is going to have to start over from scratch in terms of putting together legislation to reform Federal Prison Industries.

The Committee on the Judiciary has held hearings on the problems relating to Prison Industries. We have had a markup on this bill where all views were considered. In the last Congress we did the same. To say that all of this work should be tossed in the waste basket and we have to start over from scratch is nothing but a means of saying let us keep the present system as it is.

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It is a stalling technique, and it really should not be seriously considered in the House.

Let us look at what is in the 48 pages of H.R. 1829. It makes reform of the government-wide procurement policy with respect to purchases from FPI. It has public participation regarding expansion proposals by FPI. It has a transitional mandatory source authority. It gives FPI the authority to perform as a Federal subcontractor. It deals with inmate wages and deductions. It has additional rehabilitative opportunities for inmates, and provides an authorization for it. It restructures the board of directors of FPI, which I think is vitally necessary because it is the board that determines what Federal Government agencies have to buy and what goods they have to buy. It provides additional management flexibility for FPI. It requires a report by FPI to Congress. It has an independent study to determine the effects of eliminating the Federal Prison Industries' mandatory source authority.

All that is completely obliterated by the amendment that my colleague from Wisconsin has offered. He can be against the bill. If he is against the bill, he ought to vote against it. But to stop FPI reform in its tracks and force everybody to go back to square one is not warranted given all of the work that has been put into this. I would urge that this amendment be overwhelmingly rejected.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a couple of comments on remarks made earlier by the gentleman from Massachusetts. The unions do not speak with one voice on this issue. We have received correspondence from the AFL–CIO locals that represent the correctional officers in the prisons who are very much against this bill. The prisoners do not have any lobbyists on Capitol Hill, and perhaps for purposes of this debate I can appoint myself as their lobbyist because I do have a perspective on the prison and prisoners and what their future and what their present could be.

One of the most memorable events in my life was attending a graduation ceremony of prisoners in the Cook County jail where these young men marched to the tune of "The Impossible Dream" in their secondhand graduation robes where they were getting an eighth grade diploma. Some of them had been taught how to read, something that their education had missed. The room was filled with employers who were going to see that these people, who tried to put their time in jail to use, were going to have some hope instead of despair when they left the prison.

Yes, this is a Federal subsidy of prison industries, but we rush to subsidize the farmer, or we rush to subsidize research at universities and education. Subsidies are not alien to this body. But the social good that comes from prison industries, it seems to me, outweighs any distaste for a Federal subsidy.

One of the great unmet needs of our country is prison reform. Currently there are 145,000 federally incarcerated prisoners. I ask whether or not we have a duty towards them. I think one of the purposes of imprisonment is rehabilitation and one very effective way to rehabilitate, especially someone who has never had an education, as many of these have not, is to provide work opportunities and training. This is a government program that works and that does not cost a dime.

Since 1934, thousands of prisoners have changed their lives, have been better when they left the prison than when they came in. What is the result of a functional Federal prisoners program? Restitution to the victims, support their families, pay some of the costs of incarceration, and some gate money for when they leave. These are all highly useful social consequences and ought to be considered. Work is constructive. Idleness is destructive. These programs provide incentives for good behavior.

To work in the Federal Prison Industries, you need a general education diploma or be working towards it. That is important. The other is a record of good behavior. Close them down, curtail them, limit them and you only ask for trouble in prison. Small business is supported by FPI because over $502 million worth of raw materials and other goods were purchased by FPI from private business. Sixty-two percent was from small business. Less work and more idleness combined with inmate overcrowding and staff shortages is a formula for disaster. We should be building, not tearing down. I think we encourage hope, we encourage opportunity, not despair, by strengthening and reinforcing Federal Prison Industries, not weakening them, as this bill unintentionally will do.

I hope this bill is not supported and we go ahead and get the report that the gentleman from Wisconsin (Mr. GREEN) has asked for so we are not legislating in the dark.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak against the amendment. I am always a little puzzled when we get amendments that would substitute a study for the bill. It seems to me it would ease the strain on the GAO if we just killed the bill. Since the purpose of this study is to stop the bill from going forward, why drag the poor GAO into it? Why do we not let them go about their business and not have them do a study when the only purpose of the study is to kill the bill? I say that because I do not remember any call for a GAO study before we came forward with this bill.

On the merits, I want to express my disagreement with the former chairman of this committee. I appreciate very much his concern for prison reform, and there are a number of things I think we ought to be doing to reform the prisons. For one thing, we ought to be dealing with overcrowding by not locking up as many wholly nonviolent prisoners as we do for things that in some cases ought not to be offenses. But I have to disagree with him when he says this does not cost anything. It extracts a cost, and it extracts it in an unfair way. Obviously, somebody has to pay for this. It is now paid for not by the tax system in general but by those people who work in a couple of industries, industries that are already under economic attack. This takes the cost and takes it out of the hides of workers in the garment and textile industries. That is why UNITE!, the union of garment and textile workers, is so strongly for this bill. It takes it away from small businesspeople who would be getting the work otherwise.

I want to say particularly to many of my friends on the liberal side who have a concern for the welfare of prisoners not based on any kind of view that the prisoners are such wonderful people who happened to fall into prison by accident, but on the perfectly sensible notion that most prisoners will someday be out of prison and back in society and it is in society's self-interest to help them become the kind of people who will not do bad things when they come out.

But here is what you have to look at this Federal Prison Industries system as. It is a way for the prison system of the United States Government to escape public judgments and public supervision. It is self-financing. Why should it be? What other aspects of the prison system do we want to exempt from the appropriations process, do we want to exempt from Congress being in control? What this does is to say to the prisons, the Bureau of Prisons in our government, you get this source of income over which we have no control, and I must say I think we have a problem with not just prison overcrowding but what is the cause of prison overcrowding. In my view, too many people are in prison who should not be there. People who are violent towards other people or people who steal from other people ought to be in prison. But we have got people who are there for nonviolent drug possession offenses and others whom I think should not be in prison.

I do not understand why some of my liberal friends think we ought to be subsidizing prison expansion. That is what you are doing here. When you leave this in place, Federal Prison Industries, as this self-financing entity, you are giving the people in the Bureau of Prisons a source of income so that they can do something that everybody agrees is important. No one is for having the prisoners be without this kind of rehabilitative work. The question is, how do you finance it? I am not for allowing that to be self-financed in a way that deprives us of the right as elected officials to make choices about what the resources ought to be. That is particularly the case because, as I said, it is not cost-free.

We are losing jobs in the garment and textile area. Obviously when we subsidize prisoners to produce jeans, to produce clothing, to produce draperies, jobs are lost by people in the private sector who would be doing that. It is simply inappropriate to say to hard-working, low-wage people, you know what, you are going to lose your job because there are prisoners we want to rehabilitate. I want to rehabilitate the prisoners, but not by taking jobs away from people who have stayed out of prison. On the whole, they are better at what they are doing. That is the nub of this.

We have a very large budget. I think that the gentleman from Illinois is right about what we ought to be doing. The question is not what we should be doing with regard to prisoners but how do you pay for it, how do you finance it. Do you do it by taking work away from people in the private sector? They are not taking away high-level jobs. They are not taking away those jobs where America is expanding. They are not doing things that take away from the strengths in the American economy. They exacerbate the problem we already have in industries that are already under pressure, and that is wholly inappropriate.

I believe that there are in this society day care centers, homeless shelters, and other institutions with a great need for these products. Let us in an intelligent and humane way have the prisoners produce for that sector and pay for it in a legitimate way, not by taking it out of the hides of the weakest and most vulnerable people in the private sector.

Mr. STRICKLAND. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Green amendment.

Mr. Chairman, I agree with nearly everything my friend from Massachusetts has said, but I rise today in support of the Green amendment because I think that would give Congress important information about the potential effects of H.R. 1829 by requiring the GAO to submit to this Congress a study of the effects of eliminating Federal Prison Industries' mandatory source requirements. This amendment would require that this study be completed within a compressed period of time, by April 2004.

Mr. Chairman, I may be the only Member of this House who has actually worked in a prison, in a maximum security prison, as a matter of fact. Based on my experience, I believe there are good arguments both in support of and in opposition to H.R. 1829, and I feel conflicted today. I am inclined to support the underlying bill because I do want to put FPI on a more level playing field with other industries that employ Americans. I am very sympathetic with the concerns of correctional officers, however, who oppose the bill because FPI has been proven a successful tool in creating safe prison environments for both staff persons, correctional officers, and inmates. I am sympathetic with those who believe that FPI provides essential work experience and rehabilitation for inmates who will eventually use these skills when they are released from prison.

I strongly believe that the Green amendment gives us an opportunity to craft a thoughtful, successful public policy for all involved. The Green amendment would simply give Congress more information. The amendment gives the GAO a compressed time frame to study the effects of the bill on prisons, on public safety, inmates, public and private sector employment. I know that I have a lot of questions about the effects this bill will have, and it seems to me that we should at least have a chance to have all of our questions answered before we make this decision. This program has been around nearly 70 years.

In closing, I want to point out that this is not an issue that we should take lightly. Its effects have the potential to reach the core of our communities. Yes, correctional officers and inmates, small business owners and American workers care about this bill for very obvious reasons. But we should not forget that all those who are worried about criminal recidivism and the safety of our communities also care about this bill. About 98 percent of prisoners currently serving time will eventually return to society, and H.R. 1829 will potentially have a dramatic effect on our prisons' ability to ensure that those prisoners are ready to make the transition. I think we should do this right. I would hope we would pass this amendment so that when we do make the final decision, we can do it being better-informed Representatives and consequently arrive at a more justifiable public policy.

Mrs. MILLER of Michigan. Mr. Chairman, I move to strike the requisite number of words. I rise today to support H.R. 1829.

□ 1300

I think most Americans would be surprised, and I dare say appalled, to know that the Federal Government has been using their tax dollars to engage in business which literally takes jobs away from hardworking men and women, away from law-abiding citizens who obey the laws of our Nation, who pay their taxes, try to raise their families, and the Federal Government takes their jobs away to give those jobs to convicted felons. Yes, that is the brutal reality of this. The Federal Government taking away jobs from taxpayers and giving those jobs to prisoners who are housed and fed by those same taxpayers.

It sounds too ridiculous to be true, but believe it. Because some think we need to put prisoners' rights ahead of the rights of tax-paying American citizens, and they say that these poor prisoners are doing hard time and they need to be taught a skill. Let me say that hard time is a time that one is unemployed while they helplessly watch goods that they once proudly made now being made by prisoners who can produce the same product at a lower price because their overhead is being paid for by the Federal Government.

And some would say what is the harm? Why not keep prisoners busy? That is an important thing for us to do, who cares? Well, go to west Michigan and talk to the thousands of unemployed workers who have lost their jobs because their own government has conspired against them and ask them if they mind. A once vital industry in Michigan has been decimated, the furniture industry. Not because the workers did not have a high degree of productivity, not because the quality of their products was inferior, not because their company wanted to ship those jobs to China or to Mexico. It has been devastated because the Federal Government has totally forgotten what the purpose of government is and, in fact, has actually, in the very height of arrogance, declared an unfair trade war against its own citizens.

These companies are not even allowed to competitively compete for those contracts. Rather, they are given to criminals because of some misguided notion of rehabilitation.

I am not a corrections expert. I admit that. But I do know that I could think of plenty of other rehabilitation outlets rather than assisting felons from, one more time, taking advantage of law-abiding citizens.

I urge my colleagues to do the right thing, to do the decent thing, to change a law that is un-American, and vote for H.R. 1829.

Mr. WATT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in opposition to the gentleman from Wisconsin's (Mr. GREEN) amendment and in support of the underlying bill, and it may come as a surprise to some people because I cannot think of a more difficult position to be in than to be opposing my friend from Virginia. My friend from Virginia and I have been debating this issue about what the appropriate role of the Federal Prison Industries should be for a number of years now, which brings me to the first point I wanted to make. When I was in the State legislature, the way they would kill a bill would be to send it to a study commission, and they would study that bill to death until it went away, and that is really what the purpose of this amendment is that the gentleman from Wisconsin (Mr. GREEN) has offered. He wants to send this back for further study as if we have not been studying this for a long, long time. That is the first point I want to make.

The second point I want to make is if they find an issue where the gentleman from Virginia (Mr. SCOTT) is on one side and the gentleman from North Carolina (Mr. WATT) is on the opposite side, one can almost be guaranteed that that is a very difficult issue and that it is not an issue of the good guys against the bad guys. This is not a good guy/bad guy issue. It is an issue of how we try to define the appropriate role that the Federal Prison Industries ought to be playing in the overall context of what we are doing here. Federal Prison Industries serves a very important role, and I am not adverse to the Federal Prison Industries, but it has to have some balances to it, and it should not be used solely as a baby-sitting or a prisoner-sitting mechanism. It ought to be used for its original purpose, which was to train people and get them prepared for reentry into society and prepared to accept jobs when they come out of the prison system. And I think the system is out of balance now because we have set up a system where we basically guarantee contracts to the Prison Industries program rather than putting them in a position where they are obligated to compete, and they are going to have a competitive advantage just in terms of the lower wages that they are paying in the system. But we cannot give such an advantage to the Prison Industries that we start to disadvantage and be unfair to businesses that are outside the prison system because ultimately if we do that, we will do damage to private businesses. They will then lay off or terminate people who are employed by them, and that will run the risk of cycling them into a life of crime because they will have to depend on that as a means of survival.

So this is a very delicate and difficult issue, and the Committee on the Judiciary has been working the issue, debating the issue, trying to find the right balance, and I think we have found a reasonable balance on this issue. That is why we see Democrats and Republicans on both sides of this issue, liberals and conservatives on both sides of this issue. It is not a philosophical issue. It is not a bad guy versus good guy. It is what is the appropriate balance? And I think this bill strikes an appropriate balance, and I would encourage my colleagues to defeat the amendment, which would study it to death forever, and to support the bill so that we can get on with making the reforms that are needed.

Mr. DAVIS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that what we are debating is corrections policy. The United States of America, our country, has become the most imprisoned Nation on the face of the earth. Right now, we have more than 2 million people in jails and prisons. We have more than 630,000 people who return home to neighborhoods and communities each and every year. Some communities are impacted a great deal. Other communities are impacted not as much.

If one lives in inner city America where there is the greatest amount of impact, there are some neighborhoods where they will go into and find that almost a third of the men have some kind of prison record, have some kind of association with the criminal justice system. That sounds theoretical to people who do not experience it, but if one lives in one of those neighborhoods, then they have a large number of individuals who cannot get a job, who cannot be employed.

For example, in my State of Illinois, there are 57 job titles by license that a person coming out of prison with a felony cannot hold. As a matter of fact, they cannot be a barber. They cannot cut hair without a waiver. They cannot be a beautician. They cannot be a nail technician. They cannot work in any hospital or health care facility. They cannot wash dishes at a nursing home. They cannot work around a school. They cannot cut the grass. They cannot mow the lawn. They cannot wash the windows. They cannot be a butcher. And, of course, the professions, they cannot enter into those.

So these individuals then come back, and they cannot find anything to do. They do not have any resources. And before we know it, most of them are back on the streets hollering crack and blow, pills and thrills, whatever it was that got them there. As a matter of fact, 67 percent of them are more than likely to be rearrested within a 3-year period of time, 67 percent. Almost half of them will be back in jail or the penitentiary within a 3-year period, almost half, 45, 46 percent.

So any opportunity that exists for them to get trained is good, even if it is only the little bit that they get. As a matter of fact, we talk about the impact, and we do need a GAO study, because in one sense we are really talking about one-quarter of 1 percent of the procurement that we are talking about. That does impact some businesses.

I consider myself a serious proponent of small businesses. I am an advocate for small businesses, and I recognize that they need opportunities and agree that they should have them, but the Prison Industries really did not send the jobs to Mexico. They did not create NAFTA. They did not create GATT. They did not create free trade. They did not create any monopolistic trade. All these individuals are, are some individuals that have gone afoul of the law and are hoping that they would have some opportunity to reclaim themselves rather than be in and out of the penitentiary, the penitentiary that we pay for, $35,000 a year in many instances. If we can get an individual to get an individual to become self-sufficient, that is $35,000 that we could use for something else. Support the Green amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would first like to start off with an agreement with my friend from North Carolina, who indicated when he was in the State Senate, as I was in the State Senate in Virginia, often bills would go to a study and that would defeat the bill. That is true because after they studied an issue, they would find that the bill had no merit. It also helped bills because after they studied a bill, they would find that it had more merit than they thought. So there is nothing inherently wrong with sending it to a study to get the facts. The study is already underway. The information will be to us by April, and there are a lot of statements that have been made on this floor as to whether this bill will hurt or help small business.

□ 1315

We know right now that FPI spends 75 percent of all of its revenue on purchasing supplies from outside of the prison system. Small businesses, 62 percent of the 75 percent is spent with small, disadvantaged or women-owned businesses. Only 23 percent of Federal purchases generally are spent this way. So there is a question of whether small businesses will be better or worse off if this bill passes. But let us get a study. Let us study the effect.

Last year we passed amendments similar to the provisions in this bill that affected the Department of Defense. What happened as a result of those provisions? Thirteen factories have closed, 1,700 jobs have been eliminated, 500 more jobs are expected to be eliminated in the near future. There has been a temporary upward blip in jobs in Federal Prison Industries because of the war in Iraq, but we need to study to see what the long-term effect will be.

Finally, we need to know whether or not we are going to actually appropriate the money for on-the-job training programs and the other programs in the bill. FPI pays for itself. Are we going to actually appropriate the money, or will we just let the crime rate go up? Because if we eliminate the jobs without any replacement, crime will go up.

These are the kinds of things we will learn from a study, and that is why I am delighted to stand up and support the pending amendment, and I hope it is in fact adopted.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment that is before us talking about another study, I would like to just hold up the studies that have been done on Federal Prison Industries. These are the studies that have been done over the last number of years. These are the hearings that have taken place: Committee on Small Business, Committee on the Judiciary, Committee on Education and the Workforce.

There are plenty of studies that have been completed on this issue. The time now is to move forward. If the gentleman proposing the amendment is against the bill, he should vote against the bill, but not delay it for another 6 months.

We have seen the impact, we have seen the circumstances of what Federal Prison Industries has done. We have a modest proposal for reform. We are not putting prisoners out of work. What we are doing is providing a 5-year phase-out of the concept called mandatory sourcing. We are putting significant amounts of money into vocational training. We are going to continue to work with our colleague on the other side of the aisle, the gentleman from Virginia (Mr. SCOTT), on the issue of repatriation. On one part of that, I think we are going to have an amendment that we are going to offer together that will expand work opportunities for prisoners to do work for not-for-profit organizations and these types of things.

So I think we have much of the framework in place to move forward.

We share the same vision. We want folks who are in prison to gather the skills and the capabilities that they need so that when they leave, they will be successful in society. So we share the same vision.

We share much of the same vision for how we are going to implement that, the strategies and the tactics. We have got one major issue there, and that is, is there enough work in this bill or is there not, and we are committed to working with the gentleman from Virginia (Mr. SCOTT) on other work opportunities to make sure that there is not idleness in the prisons, that the people learn the skills and have the work; and we are committed to working together. But the one thing we do not need, we do not need another study.

I urge my colleagues to vote "no" on this amendment, vote "yes" on the bill, and enable us to go forward.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I find it a bit inconsistent. This is the same body that voted for NAFTA, that sent tens of thousands of American jobs to Mexico, the same body that voted for permanent normal trade relations with the Communist Chinese.

In the case of NAFTA, we have gone from a trade surplus to a trade deficit. We have sent jobs that used to be in Mississippi to Mexico. In the case of normal trade relations with China, we have taken it a step worse. We have taken jobs that used to be done in Waynesboro, Mississippi, that are now done by political prisoners in China.

To make matters worse, you can trace Chinese defense spending, and their weapons modernization has increased on a dollar-for-dollar basis with their trade surplus with the United States. So we have not only sent them our jobs; we are sending them the money they will eventually use to shoot at Americans.

My colleagues, in the response to the loss of these jobs, say it is the prisoners' fault. No, guys, it is NAFTA's fault. It is permanent trade relations with China's fault.

I can tell you one thing that my constituents want, is they want prisoners to work. They do not want them sitting on their duffs watching television. They want them to work. They want them to do something for society, to pay their debt to society. If you are going to tell them they cannot make this or that, what can they do? Because there is not enough trash on the highways to be picked up. And, by the way, no one is hiring people to pick up trash on the highways when they get out of prison.

If you are really serious about the loss of American manufacturing jobs, repeal NAFTA. If you really care about the future of this country, repeal permanent normal trade relations with the last communist superpower that is using that money to buy weapons that will eventually be used against our country. But, for gosh sakes, do not take two mistakes and compound it with a third mistake of saying prisoners cannot work and continue to do something to pay their debt to society.

I urge Members to vote against this bill.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened to the gentleman from Mississippi. I was walking back to my office. He really made a lot of good points. I was going to make them, and I had 4 minutes.

Let me just say, he is right. You are shooting at American prisoners who are trying to be rehabilitated, when China has taken more jobs from this country. But somebody said China is not the enemy.

China has about 11 Catholic bishops in jail today according to the Cardinal Kung Foundation, if anybody read, I did a Special Order on it—11 Catholic bishops. They have 250 evangelical house church leaders in jail today. They have plundered Tibet. Tibet is a wreck. I have been to Lhasa. Lhasa is a dirty Chinese city. Lhasa is no longer the Tibetan capital. The Muslims. China is pounding the Muslims in the northwest portion of the country.

Spying. The gentleman from Mississippi is right. The FBI comes before my appropriations subcommittee. They gave me a classified briefing. I can tell you that the Chinese are spying against us more so than the Russians were doing it. Yet what does this body do with regard to China? Zero. Zip. Not a thing.

The gentleman is right. I was opposed to granting normal trade to China. I am a free-trader. A lot of you rushed down here to give MFN to the Chinese. They are spying against us; they sold weapons to Saddam Hussein. Remember watching that show one day? The shopping center hit in Kuwait was from a Chinese missile, sold by China to Iraq.

I know some members are frustrated because you are losing some jobs, and I want to do something to help keep jobs here. Yet you do not deal with those who are persecuting fundamentalists, who are persecuting Christians, persecuting Catholics and Protestants. I never hear anybody here speak about it. I never hear this House speak about that issue.

Tibet. Many came to see the Dalai Lama, but nobody talks about the persecution of the Buddhists. Muslims. Many of you represent large Muslim areas. Why do you not speak out when China is persecuting the Muslim faith? Spying against us. Why do you not speak out? The gentleman from Mississippi (Mr. TAYLOR) is right, China is spying against us.

China is taking high-tech jobs from us. We lost 600,000 jobs. Maybe some changes ought to be made in the FPI. The gentleman from Michigan (Mr. HOEKSTRA) is a good guy, and it pains me to be on the opposite side. Hopefully, something can be done.

There is an amendment that the gentleman from Virginia (Mr. SCOTT) has about repatriation, but we are fundamentally not dealing with a major issue here.

The gentleman from Mississippi (Mr. TAYLOR) was right. Generally he makes a lot of sense, a lot of times. I know I am using this opportunity on a bill dealing with FPI, but we are ignoring—this side and that side—are ignoring the persecution of people of faith in China.

Do you know if you need a new kidney, for $50,000 you can get it in China? Do you want to see it? Come by my office. They are shooting people in the back of the neck. They put the bayonet up high so the body goes rigid, they shoot them, they throw the body in a canvas bag, they put it in an ambulance, and in a half hour they are doing a transplant.

When does this Congress ever speak out? When does the Congress speak out on that issue? The Congress does not. There are more slave labor camps in China today than there were in Russia when Solzhenitzyn wrote the book "Gulag Archipelago." Does this Congress ever speak out about it?

About the FPI, I know members are frustrated, and want to do something. You want to deal with this issue. But we're talking about a handful of jobs that are helping to train people so when they get out of prison they have some rehabilitation and some dignity. The gentleman from Mississippi is exactly right.

Mr. WOLF. Mr. Chairman, what is America if not a Nation that stands up for basic decency and human rights? What is America if it is not a people that speaks out for those who cannot speak out for themselves? And what will America become if we fail to speak out against dictators and despots who oppress and brutalize their own people?

China has for too long been at liberty to detain and torture and intimidate and oppress good men and women for their religious beliefs. As the world's greatest democracy and the symbol of hope for millions, America has a duty and an obligation to speak out for the oppressed people of the world. We fail in our duty if we do nothing.

It was the British philosopher and statesman Edmund Burke who said that Representatives owe you not just their industry but also their judgment. As Representatives and beholders of American ideals, we should speak out on the issue of the persecution of those of faith in China.

The litany of abuses committed by the Government of China toward its own people is long and senseless. I recently held a meeting with a number of groups who have spent years in documenting the numerous abuses committed by the Chinese Government upon the Chinese people. In the coming days, I will be highlighting the plight of different groups of long-suffering Chinese people so that colleagues can better understand the depth of this problem in China. The material I will be submitting today was prepared by the International Religious Freedom Commission, and I hope Members will read it.

As I close, 10 Catholic bishops are in China today under house arrest, and this government, our government, our Congress and the administration, does not act. The Protestant Church is being abused and beaten in China and we have refused to speak out. The Chinese have plundered Tibet, and yet the West is quiet. Muslims are being persecuted in the northwest portion of China, and yet the West speaks out not at all. The Falun Gong are being persecuted almost on a daily basis.

I think this is an opportunity to hear, in their own words, what all of these groups have to tell us in the Congress and us in the United States and us in the West about what is taking place, so that we know we should speak out on their behalf, particularly next year when the Geneva resolution with regard to condemning China on human rights comes up.

Depending on the religious organization in question, the Chinese government provided various justifications to defend its policy of repression. Its action to restrict religious belief and practice, however, go far beyond what is necessary to protect legitimate state interests.

Since 2001, the Communist government has engaged in a persistent campaign of banning some religious groups while insisting on registration for others. Many groups, particularly Christian house churches, have refused, understandably fearful that providing membership rosters would lead to regular surveillance by party and government agencies.

The government's policy of designating religious or spiritual organizations as "cults" has led to tragic outcomes for millions of religious believers. All too often victims are sentenced to "re-education through labor camps," administered by the notorious Ministry of Public Security, which appears to perpetrate human rights abuses with absolute impunity. Persons adhering to "unacceptable" faiths have been given prison sentences of up to three years without a right to a hearing, without counsel and without judicial determination of their cases.

There are at least 30 million Protestant Christians in China. Mostly, believers belong to independent house churches. Purely on account of their faith, properties belonging to or used by such groups have been confiscated, closed, or destroyed and members have been detained, tortured, and subjected to other forms of government harassment.

In June 2003, 12 members of a house church in Guna Village in Yunnan province were arrested after they sought registration with the local government. On June 6, in response to the government's "invitation" to complete the registration process, the 12 church leaders were arrested for engaging in "feudalistic superstition." Eight of the 12 were immediately sentenced to three years in "re-education through labor" camps, while the other four were indicted and are being held for trial.

In late August 2003, local officials arrested 170 house church Christians in Nanyang county, Henan province after local police reportedly raided the meeting place where the worship service was being conducted. The report indicates that the 14 leaders of the group are currently being held in detention, possibly facing serious charges, while the other members were released after having been fined, fingerprinted, and warned against continuing their activities.

The Chinese Communist state has, since the 1950s, banned the Roman Catholic Church, replacing it with the state-approved Catholic Patriotic Association. Through this state organization, the Communist government has claimed the exclusive right to appoint Chinese bishops. Most Chinese clerics, however, have refused to accept the legitimacy of government appointees. As a result, many Roman Catholic bishops and priests have been harassed, detained, or imprisoned.

According to the Cardinal Kung Foundation, a number of Catholic bishops and priests who refuse to submit to government tutelage remain in prison or in detention and the status of other priests and lay persons remains unknown. As of August 2003, at least 10 Catholic bishops, including Bishop Su Zhimin, whose whereabouts are unknown, are imprisoned, in detention, under house arrest, or under surveillance.

In Tibet, Buddhist monks and nuns serve lengthy sentences for voicing their allegiance to the Dalai Lama. In point of fact, the great majority of Tibetan political prisoners are monks and nuns.

The longest-serving Tibetan political prisoner, Tagna Jigme Zangpo, was granted a medical parole to come to the United States in summer 2002 when he was in the middle of a 28-year sentence before his "early" release. Ngawang Sandrol, a member of the famous Tibetan "Singing Nuns" who was released last year, had served over 10 years in the infamous Drapchi Prison before her release. According to the Tibet Information Network, the State Department, and the testimony of former Tibetan nuns like Ngawang Sandrol, many of these prisoners have been severely beaten and subjected to other extreme forms of punishment. Some have died in prison.

The Chinese government has denied repeated requests, including from the U.N. High Commissioner for Human Rights, for access to the 12-year-old boy whom the Dalai Lama recognizes as the 11th Panchen Lama. Government officials have stated that he is being "held for his own safety," while at the same time insisting that another boy is the true Panchen Lama.

The Chinese government's official ban on the Falun Gong movement, in 1999, has meant heightened government repression for all religious organizations designated by the government as "cults." According to Falun Gong practitioners, as many as 100,000 of their members have been sent to labor camps without trial. They claim that as many as 700 may have died as a result of police brutality either while in prison or after their release.

In largely Muslim Xinjiang, religious freedom is severely curtailed by the government, which indiscriminately links Muslim religious expression with "separatist" or "terrorist" acts. The indiscriminate repression of the Uighur people is best exemplified by the arrest and imprisonment of Rebiya Kadeer, a prominent Uighur businesswoman and activist, who was arrested in 1999 after she met with a visiting U.S. congressional delegation. Close supervision of all mosques in the region by local Communist Party officials is now commonplace.

China repeatedly engages in severe—systematic, egregious—violations of religious freedom. If our ideals and what America stands for—both at home and abroad—are to mean anything, then we must not shrink from this issue. We must not allow human considerations to come secondary to the pursuit of trade.

We must dare to speak out for those who have no voice.

Mr. WOLF. Mr. Chairman, over the last two weeks I have submitted testimony from various groups that I have been meeting with regarding China's continual abuse of human rights. Whether it be restrictions on religious freedom; the persecution and arrest of Catholics and Protestants; the use of barbaric labor camps; the continual victimization of members of the Falun Gong; or the abhorrent and coercive One-Child policy, China's government continues to show nothing but contempt for its citizens and the opinions of the rest of the world.

These offenses alone should be enough to condemn the government of China. However, on top of these crimes the People's Republic of China poses a great and serious counterintelligence threat to America, the extent of which will, I have no doubt, concern our colleagues greatly.

AN UNCLASSIFIED REPORT FROM THE FBI ON THE PEOPLE'S REPUBLIC OF CHINA INTELLIGENCE COLLECTION EFFORTS

The People's Republic of China (PRC) poses a significant counterintelligence threat to the United States (U.S.) via its cadre of professional intelligence officers who collect political, military and economic intelligence, and its network of non-professional individuals and organizations that collect science and technology, high-tech and proprietary information completely outside the direction and control of the PRC Intelligence Services.

The PRC's professional military intelligence organization, the Military Intelligence Department of the People's Liberation Army (MID/PLA), also known as the Second Department of the PLA (2PLA), relies mainly on intelligence collection through its military attaches. The PRC's military seeks military, science and technology, and some political information through its contacts and agents. In 1987, PRC military attache Hou Desheng was interdicted by FBI Special Agents in Washington, D.C. while receiving and paying for classified U.S. Government information.

The PRC's professional civilian intelligence, the Ministry of State Security, targets U.S. political and policy information, runs influence operations against Taiwan and other political targets, attempts to penetrate the U.S. Government, and directs a growing number of covert science and technology collection operations. Collection operations from this civilian segment of the PRC Intelligence Services are difficult to counter because the Chinese typically insist that the physical transfer of documents or items take place in the PRC. PRC civilian intelligence officers in the U.S. direct part of their efforts toward developing as many

Americans of Chinese ancestry into what the PRC terms "patriotic Overseas Chinese."

An example of the Ministry of State Security's success in penetrating the U.S. Government was the Larry Wu-tai Chin case. Chin, a U.S. Government employee of 30 years, was an actual agent of the Ministry of State Security. While residing in the U.S. and during his employment with the government, Chin provided information to the Ministry of State Security for over 40 years. Chin was arrested for espionage activities in 1985 and was subsequently convicted of those charges in 1986. Chin committed suicide prior to being sentenced.

Like most countries operating intelligence services within the U.S., the PRC employs a number of commonly-used collection techniques. Their intelligence services attempt to gain access to sensitive foreign facilities, try to meet individuals with access to classified information, and attempt to photograph military installations and equipment. However, the PRC employs several non-traditional methods and unlike most other countries, the PRC makes extensive use of non-intelligence personnel.

Consumers of intelligence such as China's production facilities, laboratories and research institutes often bypass professional intelligence services in favor of direct intelligence collection efforts. Opportunities to accomplish direct collection within the U.S. are facilitated through the very large number of temporary visitors in private companies, academic institutions, and U.S. Government facilities. A significant number of these delegation members are science and technology experts, often characterized by their American hosts as aggressive and extremely knowledgeable in their professional fields. In many cases, Chinese-Americans employed by these entities and institutions are sought out by members of the PRC delegations as persons who might be willing to assist them.

In 1997, Peter Lee pleaded guilty to transmitting U.S. national defense information to the PRC. The consumer of Lee's information was a PRC institute, not a traditional PRC intelligence service. In 2002, a PRC national was arrested for attempting to steal proprietary seismic-imaging software from a Silicon Valley company. This was the second unsuccessful attempt by an employee of a PRC based company to obtain this proprietary software within a span of five years. Later in 2002, two PRC nationals were indicted for economic espionage related to their attempted theft of trade secrets from several Silicon Valley companies. These two individuals were subsequently linked to a PRC based high-technology research and development program.

As the PRC's varied presence in the U.S. continues to grow, more PRC nationals find themselves in positions of direct or indirect access to items of intelligence interest to China. If they can find the right consumer, PRC nationals involved in intelligence collection may be in a position to profit from their services. These individuals do not operate under the direction or control of either the military or civilian PRC intelligence services.

In 1994, two PRC nationals were indicted on computer fraud and fraud by wire in connection with the theft of $950,000 of proprietary computer source code developed by a U.S. firm. The end-user of the code was a Chinese machinery import and export company. Evidence collected in the investigation indicated that the two perpetrators had shopped the computer source code around for the best price.

Whether directed by one of its intelligence services, manufacturing sectors or research institutes, the PRC threat to U.S. policy, intelligence, military, national security and proprietary/economic information is growing. In response to this expanding PRC threat, the FBI, in conjunction with the U.S. Intelligence Community, continues to pursue an aggressive and focused counterintelligence program.

Mr. HOEKSTRA. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Michigan.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Chairman, as the gentleman is worried about China and as the gentleman is also worried about FPI, I think it is fair to note that a number of us have been with him on the issue of China. I voted against PNTR, both again for the jobs and because of the persecution that is going on there and because of their military intervention.

I believe that we need to protect American jobs here, both from the Chinese; and we need to allow those folks at least to have the opportunity to try to keep their jobs if they are competing against Federal Prison Industries. We are going to make sure that there is plenty of work and rehabilitative services for those in our prisons.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I came to this floor earlier, and my opening remarks in this debate were to acknowledge the hard work that had taken place in the Committee on the Judiciary and our other committees on this particular legislation. In fact, I had complemented the chairman and ranking member of the full committee and the chairman and ranking member of the subcommittee dealing with the Committee on the Judiciary. I know other committees had jurisdiction as well, and I see a lot of my good friends from the Committee on Small Business, so I know this is a very sensitive and emotional issue. I applaud the work and compromise that has already taken place.

But I would like to have taken away the suggestion that any of us are trying to gut this bill, or to make frivolous the issues that are seen in this bill. In fact, my good friend from Michigan, I almost wish I could carve out for him a separate response to some of the very vital concerns that he has mentioned. But I want to cite just an example, because I have heard a line of reasoning dealing with this whole question of trade agreements, that we are mired down in trade agreements, and that may be another issue.

But I do want to cite a figure, and I am saddened by this number. We have lost 600,000 textile jobs over the last 10 years; but as we stand here today, only 7,000 inmates are doing anything dealing with the issue of the loss of textile jobs. Only 7,000 of them are doing textile work, but we have lost 600,000 jobs.

I raise this point to suggest that the amendment offered by the gentleman from Wisconsin (Mr. GREEN) makes sense because what it is saying is it is not trying to be another study. The Green amendment specifically directs itself to the language of this bill, asking for the study on the impact of this legislation.

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What will happen as we drastically modify prison industries? So we cannot compare apples and oranges. Frankly, we have the data that suggests that this Nation has lost 600,000 textile jobs. My friends in the South have told me that this is an anguish with them. But of those 600,000, even if it is included, we know that there are 7,000 inmates doing something with textiles. This amendment asks to look at these issues along with safety and management and other issues.

But, Mr. Chairman, I want to get to the heart of the matter, and that is who is in these prisons. When I walked through the Federal prison in Beaumont just a few months ago, recognizing many of my constituents, seeing people who were both remorseful but, as well, certainly had a number of other bases for their presence there, many nonviolent offenders, all of them desiring another life, all of them desiring to get out to be with their families and to be a provider. In this instance, all of them were men. And the idleness, Mr. Chairman, was tragic. It was absolutely tragic. They were begging for things to do. They were standing in line to do kitchen duty. There were not enough hours for them to do this kind of work. And if my colleagues have not visited, I would ask my colleagues to take some time to realize that lives may have gone awry and astray but, frankly, these are Americans who want to have their lives rehabilitated.

The real tragedy of those incarcerated, and in this instance I speak to those having perpetrated nonviolent crimes, and there are many who are looking for a better life who, unfortunately, perpetrated a violent crime, is their family members. Those dollars that they gain, Mr. Chairman, from being in a prison industry go home to support those children, that elderly parent, or maybe even that spouse. And if anyone wants to tell a tale of woe that we document in our high schools today, in our schools today, the child who is performing poorly, the child who seems to always get in trouble, the child who seems distressed and disturbed, one can be assured that, in many instances, it is the child of an incarcerated parent.

Mr. Chairman, it is time now that we support an initiative that will allow us to study the overall impact, negative impact of this legislation. I support the

Green amendment, and I ask that my colleagues support it.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. GREEN).

The amendment in the nature of a substitute was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended to read as follows:

"§4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries

"(a) IN GENERAL.—Purchases from Federal Prison Industries, Incorporated, a wholly owned Government corporation, as referred to in section 9101(3)(E) of title 31, may be made by a Federal department or agency only in accordance with this section.

"(b) SOLICITATION AND EVALUATION OF OFFERS AND CONTRACT AWARDS.—(1) If a procurement activity of a Federal department or agency has a requirement for a specific product or service that is authorized to be offered for sale by Federal Prison Industries, in accordance with section 4122 of this title, and is listed in the catalog referred to in subsection (g), the procurement activity shall solicit an offer from Federal Prison Industries, if the purchase is expected to be in excess of the micro-purchase threshold (as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))).

"(2) A contract award for such product or service shall be made using competitive procedures in accordance with the applicable evaluation factors, unless a determination is made by the Attorney General pursuant to paragraph (3) or an award using other than competitive procedures is authorized pursuant to paragraph (7).

"(3) The procurement activity shall negotiate with Federal Prison Industries on a noncompetitive basis for the award of a contract if the Attorney General determines that—

"(A) Federal Prison Industries cannot reasonably expect fair consideration to receive the contract award on a competitive basis; and

"(B) the contract award is necessary to maintain work opportunities otherwise unavailable at the penal or correctional facility at which the contract is to be performed to prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

"(4) Except in the case of an award to be made pursuant to paragraph (3), a contract award shall be made with Federal Prison Industries only if the contracting officer for the procurement activity determines that—

"(A) the specific product or service to be furnished will meet the requirements of the procurement activity (including any applicable prequalification requirements and all specified commercial or governmental standards pertaining to quality, testing, safety, serviceability, and warranties);

"(B) timely performance of the contract can be reasonably expected; and

"(C) the contract price does not exceed a current market price.

"(5) A determination by the Attorney General pursuant to paragraph (3) shall be—

"(A) supported by specific findings by the warden of the penal or correctional institution at which a Federal Prison Industries workshop is scheduled to perform the contract;

"(B) supported by specific findings by Federal Prison Industries regarding why it does not expect to win the contract on a competitive basis; and

"(C) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

"(6) If the Attorney General has not made the determination described in paragraph (3) within 30 days after Federal Prison Industries has been informed of a contracting opportunity by a procurement activity, the procurement activity may proceed to conduct a procurement for the product or service in accordance with the procedures generally applicable to such procurements by the procurement activity.

"(7) A contract award may be made to Federal Prison Industries using other than competitive procedures if such product or service is only available from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10 or section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(1)), as may be applicable, and pursuant to the justification and approval requirements relating to such noncompetitive procurements specified by law and the Governmentwide Federal Acquisition Regulation.

"(c) OFFERS FROM FEDERAL PRISON INDUSTRIES.—A timely offer received from Federal Prison Industries to furnish a product or service to a Federal department or agency shall be considered for award without limitation as to the dollar value of the proposed purchase.

"(d) PERFORMANCE BY FEDERAL PRISON INDUSTRIES.—Federal Prison Industries shall perform its contractual obligations under a contract awarded by a Federal department or agency to the same extent as any other contractor.

"(e) FINALITY OF CONTRACTING OFFICER'S DECISION.—(1) A decision by a contracting officer regarding the award of a contract to Federal Prison Industries or relating to the performance of such contract shall be final, unless reversed on appeal pursuant to paragraph (2) or (3).

"(2) The Chief Executive Officer of Federal Prison Industries may appeal to the head of a Federal department or agency a decision by a contracting officer not to award a contract to Federal Prison Industries pursuant to subsection (b)(4). The decision of the head of a Federal department or agency on appeal shall be final.

"(3) A dispute between Federal Prison Industries and a procurement activity regarding performance of a contract shall be subject to—

"(A) alternative means of dispute resolution pursuant to subchapter IV of chapter 5 of title 5; or

"(B) final resolution by the board of contract appeals having jurisdiction over the procurement activity's contract performance disputes pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

"(f) REPORTING OF PURCHASES.—Each Federal department or agency shall report purchases from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))) in the same manner as it reports to such System any acquisition in an amount in excess of the simplified acquisition threshold (as defined by section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

"(g) CATALOG OF PRODUCTS.—Federal Prison Industries shall publish and maintain a catalog of all specific products and services that it is authorized to offer for sale. Such catalog shall be periodically revised as products and services are added or deleted by its board of directors (in accordance with section 4122(b) of this title).

"(h) COMPLIANCE WITH STANDARDS.—Federal Prison Industries shall comply with Federal occupational, health, and safety standards with respect to the operation of its industrial operations.".

AMENDMENT NO. 1 OFFERED BY MR. TOOMEY

Mr. TOOMEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. TOOMEY:

Page 7, line 17, strike the period and insert the following: ", unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.".

Mr. TOOMEY. Mr. Chairman, it seems to me we have had considerable debate about the substance of this bill today, and there is substantial evidence that the mandatory source status that is enjoyed by FPI is a policy that is harmful to a variety of American industries and workers, including the furniture manufacturers and the garment-makers in my district. The core objective of this bill is to eliminate the status, the FPI status as a mandatory source supplier and, thereby, require the FPI to compete for Federal contracts rather than have the opportunity to simply claim them. I am a cosponsor of this bill, and I applaud this effort and I support the bill.

What my amendment would do would further define the FPI's role in competing with private sector small businesses. Specifically, my amendment would prohibit the FPI from bidding on any contracts that are intended to be exclusively set aside for small business concerns.

This Congress and many Congresses before us have established, for a variety of reasons, that a certain percentage of Federal Government procurements should be made through small businesses, and we call those small businesses set-asides. The whole idea has always been to ensure that small businesses, mom-and-pops, local people struggling, in all of our districts and in all of our communities, to get a business off the ground and to employ some people, that they get a shot at some of the business that their tax dollars pay for.

It seems abundantly obvious to me that the Federal Prison Industry does not in any way qualify as a small business nor fit the descriptions that most of us have in mind when we think about small businesses. With $500 billion in annual sales, with 20,000 employees, with this network within the Federal penitentiaries in America, that is not what we mean when we talk about small business. It was never the intent of Congress that the Federal

Prison Industry should be able to compete for the contracts that are intended to be set aside for small businesses.

Yet, last year, when we repealed the mandatory source status for the FPI with respect to DOD procurements, unfortunately, regulations were promulgated that specifically allowed the Federal Prison Industry to compete for small business set-asides within DOD. My amendment would correct this error with respect to DOD, but it also would apply to the other Federal agencies, and it is based on a simple premise: that small business set-asides should in fact be for small businesses, not for the FPI. It is tough enough for small businesses to compete against large businesses. I do not think they should have to compete against the Federal Prison Industry. This is a good bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. TOOMEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding. This is a good bill and this is also a good amendment, and I am pleased to support it.

Mr. TOOMEY. Mr. Chairman, reclaiming my time, I appreciate the support of the Chairman. I appreciate the support of the author of the bill. I urge my colleagues to support the amendment and the underlying bill.

Mr. MCCOTTER. Mr. Chairman, I move to strike the last word.

I too agree that the Toomey amendment is a good addition to this bill. Business spends what it makes, government spends what it takes, and government should not take taxpayers' money and go into business against them and put these hardworking, taxpaying Americans out of business. The Toomey amendment will help curb this repugnant practice of harming our small businesses.

Of course, rehabilitation of prisoners is a worthy goal, but rehabilitation is not the exclusive aim of incarceration. After all, Dostoevsky did not write Crime and Rehabilitation. Thus, we must now write and pass a law to stop government from rehabilitating prisoners by punishing productive Americans. So I urge support of the Toomey amendment.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Toomey amendment. The amendment offered by my good friend and Committee on Small Business subcommittee chairman makes perfect sense. The amount of competition that the FPI would bring against small business in set-aside procurements goes against the very intention of having a small business set-aside in the first place. Common sense tells us that the small businesses will have to unfairly lower their prices to match the levels that the FPI can offer.

Also, knowing how Federal procurement works, I can predict that contracting officers will tailor their acquisitions in such a way as to guarantee that FPI will win when that is the outcome the contracting office wants, even though they may still carry it out under a small business set-aside.

With specifications written for products the FPI has experience and economy of scale in making, of course, they will undercut the small businesses and win such an unfair competition. A small business cannot survive by buying in on a contract at a loss, but the FPI could do business indefinitely by using such a strategy.

The final irony of all this is that the administration is valiantly trying to increase opportunities for small businesses by unbundling large procurements and giving them a chance to win a contract of a size they can handle. Turning around and letting the FPI get into the small business-sized contracts would negate whatever progress we would be making on that front, and we would end up right where we started. I would remind my colleagues that the government has not obtained its 23 percent goal for contracting with small businesses for several years.

With a workforce of over 20,000, FPI is a large business, and FPI should be competing with other large contractors. Let us keep them out of the sort of procurements we set aside for mom-and-pop small businesses.

I do not want to be holding hearings investigating why the FPI is winning one small business set-aside after the other. Let us solve this problem once and for all and support the Toomey amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. TOOMEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan:

Page 7, after line 12, insert the following:

(8) A contract award may be made to Federal Prison Industries using other than competitive procedures by the Federal Bureau of Prisons.

Mr. SMITH of Michigan. Mr. Chairman, part of our goal is to keep prisoners working, especially if they are working to take care of themselves. This amendment simply provides that the law would stay as it is now for the Federal Bureau of Prisons. The Federal Prison System, should have prisoners in prison industries produce the products they need.

I chaired the Department of Corrections budget in the State of Michigan for years, and in terms of the gentleman from Michigan's (Mr. HOEKSTRA) idea that we should have competitive bids, that is what we have done in Michigan. I mean the prison industry competes with the private sector. If they cannot beat the bid, or the quality of the product, they do not get the bid.

But what is happening in the State of Michigan is that our prison industries is still making a great deal of money. The incentive has been there to be productive; and, in terms of recidivism, there has been a greater interest by these workers to do a better job. That means they are more likely to get a job on the outside. We instigated provisions in Michigan that prisoners have to pass drug tests before they are even allowed to work. So working has become a privilege. It gives them an advantage over other prisoners. That is what we should seek to do in our federal system.

In fact, when I first went into the Michigan legislature, the prisoners produced farm products. They produced the fruits and the vegetables and the milk and the butter and they did maintenance as well as prison industries sales. It reduced the cost to State government of taking care of those prisoners, and that is the way it should be at the federal level.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding.

Let me just make it clear that what the gentleman is proposing is that Federal Prison Industries can have a mandatory source contract for procurement by the Bureau of Prisons. In other words, what is used in the prisons can be made by FPI on a mandatory source contract. Am I correct in that impression?

Mr. SMITH of Michigan. Mr. Chairman, the gentleman is correct on that. Actually, "may" is the exact language of the amendment. So it is a decision of the Federal Prison System whether they do the sole source contracting for their own use. So it still leaves flexibility, but it allows the prison system to require prisoners to make more of the things that are going to be required by the Bureau of Prisons.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, with that understanding, I am happy to support the amendment. I believe it makes a significant improvement to the bill.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman for supporting the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. SMITH).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. PUBLIC PARTICIPATION REGARDING EXPANSION PROPOSALS BY FEDERAL PRISON INDUSTRIES.

Section 4122(b) of title 18, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (12); and

(2) by striking paragraphs (4) and (5) and inserting the following new paragraphs:

"(4) A decision to authorize Federal Prison Industries to offer a new specific product or specific service or to expand the production of an existing product or service shall be made by its board of directors in conformance with the requirements of subsections (b), (c), (d), and (e) of section 553 of title 5, and this chapter.

"(5)(A) Whenever Federal Prison Industries proposes to offer for sale a new specific product or specific service or to expand production of a currently authorized product or service, the Chief Operating Officer of Federal Prison Industries shall submit an appropriate proposal to the board of directors and obtain the board's approval before initiating any such expansion. The proposal submitted to the board shall include a detailed analysis of the probable impact of the proposed expansion of sales within the Federal market by Federal Prison Industries on private sector firms and their non-inmate workers.

"(B)(i) The analysis required by subparagraph (A) shall be performed by an interagency team on a reimbursable basis or by a private contractor paid by Federal Prison Industries.

"(ii) If the analysis is to be performed by an interagency team, such team shall be led by the Administrator of the Small Business Administration or the designee of such officer with representatives of the Department of Labor, the Department of Commerce, and the Federal Procurement Data Center.

"(iii) If the analysis is to be performed by a private contractor, the selection of the contractor and the administration of the contract shall be conducted by one of the entities referenced in clause (ii) as an independent executive agent for the board of directors. Maximum consideration shall be given to any proposed statement of work furnished by the Chief Operating Officer of Federal Prison Industries.

"(C) The analysis required by subparagraph (A) shall identify and consider—

"(i) the number of vendors that currently meet the requirements of the Federal Government for the specific product or specific service;

"(ii) the proportion of the Federal Government market for the specific product or specific service currently furnished by small businesses during the previous 3 fiscal years;

"(iii) the share of the Federal market for the specific product or specific service projected for Federal Prison Industries for the fiscal year in which production or performance will commence or expand and the subsequent 4 fiscal years;

"(iv) whether the industry producing the specific product or specific service in the private sector—

"(I) has an unemployment rate higher than the national average; or

"(II) has a rate of unemployment for workers that has consistently shown an increase during the previous 5 years;

"(v) whether the specific product is an import-sensitive product;

"(vi) the requirements of the Federal Government and the demands of entities other than the Federal Government for the specific product or service during the previous 3 fiscal years;

"(vii) the projected growth or decline in the demand of the Federal Government for the specific product or specific service;

"(viii) the capability of the projected demand of the Federal Government for the specific product or service to sustain both Federal Prison Industries and private vendors; and

"(ix) whether authorizing the production of the new product or performance of a new service will provide inmates with the maximum opportunity to acquire knowledge and skill in trades and occupations that will provide them with a means of earning a livelihood upon release.

"(D)(i) The board of directors may not approve a proposal to authorize the production and sale of a new specific product or continued sale of a previously authorized product unless—

"(I) the product to be furnished is a prison-made product; or

"(II) the service to be furnished is to be performed by inmate workers.

"(ii) The board of directors may not approve a proposal to authorize the production and sale of a new prison-made product or to expand production of a currently authorized product if the product is—

"(I) produced in the private sector by an industry which has reflected during the previous year an unemployment rate above the national average; or

"(II) an import-sensitive product.

"(iii) The board of directors may not approve a proposal for inmates to provide a service in which an inmate worker has access to—

"(I) personal or financial information about individual private citizens, including information relating to such person's real property, however described, without giving prior notice to such persons or class of persons to the greatest extent practicable;

"(II) geographic data regarding the location of surface and subsurface infrastructure providing communications, water and electrical power distribution, pipelines for the distribution of natural gas, bulk petroleum products and other commodities, and other utilities; or

"(III) data that is classified.

"(iv)(I) Federal Prison Industries is prohibited from furnishing through inmate labor construction services, unless to be performed within a Federal correctional institution pursuant to the participation of an inmate in an apprenticeship or other vocational education program teaching the skills of the various building trades.

"(II) For purposes of this clause, the term 'construction' has the meaning given such term by section 2.101 of the Federal Acquisition Regulation (48 C.F.R. part 2.101), as in effect on June 1, 2002, including the repair, alteration, or maintenance of real property in being.

"(6) To provide further opportunities for participation by interested parties, the board of directors shall—

"(A) give additional notice of a proposal to authorize the production and sale of a new product or service, or expand the production of a currently authorized product or service, in a publication designed to most effectively provide notice to private vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal, which notice shall offer to furnish copies of the analysis required by paragraph (5) and shall solicit comment on the analysis;

"(B) solicit comments on the analysis required by paragraph (5) from trade associations representing vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal to authorize the production and sale of a new product or service (or expand the production of a currently authorized product or service); and

"(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other private sector representatives to present comments on the proposal directly to the board of directors.

"(7) The board of directors shall be provided copies of all comments received on the expansion proposal.

"(8) Based on the comments received on the initial expansion proposal, the Chief Operating Officer of Federal Prison Industries may provide the board of directors a revised expansion proposal. If such revised proposal provides for expansion of inmate work opportunities in an industry different from that initially proposed, such revised proposal shall reflect the analysis required by paragraph (5)(C) and be subject to the public comment requirements of paragraph (6).

"(9) The board of directors shall consider a proposal to authorize the sale of a new specific product or specific service (or to expand the volume of sales for a currently authorized product or service) and take any action with respect to such proposal, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

"(10) In conformity with the requirements of paragraphs (5) through (9) of this subsection, the board of directors may—

"(A) authorize the donation of products produced or services furnished by Federal industries and available for sale;

"(B) authorize the production of a new specific product or the furnishing of a new specific service for donation; or

"(C) authorize a proposal to expand production of a currently authorized specific product or specific service in an amount in excess of a reasonable share of the market for such product or service, if—

"(i) a Federal agency or department, purchasing such product or service, has requested that Federal Prison Industries be authorized to furnish such product or service in amounts that are needed by such agency or department; or

"(ii) the proposal is justified for other good cause and supported by at least eight members of the board.".

The CHAIRMAN pro tempore. Are there any amendments to section 3?

If not, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. TRANSITIONAL MANDATORY SOURCE AUTHORITY.

(a) IN GENERAL.—Notwithstanding the requirements of section 4124 of title 18, United States Code (as amended by section 2 of this Act), a Federal department or agency having a requirement for a product that is authorized for sale by Federal Prison Industries and is listed in its catalog (referred to in section 4124(g) of title 18, United States Code) shall first solicit an offer from Federal Prison Industries and make purchases on a noncompetitive basis in accordance with this section.

(b) PREFERENTIAL SOURCE STATUS.—Subject to the limitations of subsection (d), a contract award shall be made on a noncompetitive basis to Federal Prison Industries if the contracting officer for the procurement activity determines that—

(1) the product offered by Federal Prison Industries will meet the requirements of the procurement activity (including commercial or governmental standards or specifications pertaining to design, performance, testing, safety, serviceability, and warranties as may be imposed upon a private sector supplier of the type being offered by Federal Prison Industries);

(2) timely performance of the contract by Federal Prison Industries can be reasonably expected; and

(3) the negotiated price does not exceed a fair and reasonable price.

(c) CONTRACTUAL TERMS.—The terms and conditions of the contract and the price to be paid to Federal Prison Industries shall be determined by negotiation between Federal Prison Industries and the Federal agency making the purchase. The negotiated price shall not exceed a fair and reasonable price determined in accordance with the procedures of the Federal Acquisition Regulation.

(d) PERFORMANCE OF CONTRACTUAL OBLIGATIONS.—

(1) IN GENERAL.—Federal Prison Industries shall perform the obligations of the contract negotiated pursuant to subsection (c).

(2) PERFORMANCE DISPUTES.—If the head of the contracting activity and the Chief Operating Officer of Federal Prison Industries are unable to resolve a contract performance dispute to their mutual satisfaction, such dispute shall be resolved pursuant to section 4124(e)(3) of title 18, United States Code (as added by section 2 of this Act).

(e) LIMITATIONS ON USE OF AUTHORITY.—

(1) IN GENERAL.—As a percentage of the sales made by Federal Prison Industries during the base period, the total dollar value of sales to the Government made pursuant to subsection (b) and subsection (c) of this section shall not exceed—

(A) 90 percent in fiscal year 2005;
(B) 85 percent in fiscal year 2006;
(C) 70 percent in fiscal year 2007;
(D) 55 percent in fiscal year 2008; and
(E) 40 percent in fiscal year 2009.

(2) SALES WITHIN VARIOUS BUSINESS SECTORS.—Use of the authority provided by subsections (b) and (c) shall not result in sales by Federal Prison Industries to the Government that are in excess of its total sales during the base year for each business sector.

(3) LIMITATIONS RELATING TO SPECIFIC PRODUCTS.—Use of the authorities provided by subsections (b) and (c) shall not result in contract awards to Federal Prison Industries that are in excess of its total sales during the base period for such product.

(4) CHANGES IN DESIGN SPECIFICATIONS.—The limitations on sales specified in paragraphs (2) and (3) shall not be affected by any increases in the unit cost of production of a specific product arising from changes in the design specification of such product directed by the buying agency.

(f) DURATION OF AUTHORITY.—The preferential contracting authorities authorized by subsection (b) may not be used on or after October 1, 2009, and become effective on the effective date of the final regulations issued pursuant to section 18.

(g) DEFINITIONS.—For the purposes of this section—

(1) the term "base period" means the total sales of Federal Prison Industries during the period October 1, 2001, and September 30, 2002 (Fiscal Year 2002);

(2) the term "business sectors" means the eight product/service business groups identified in the 2002 Federal Prison Industries annual report as the Clothing and Textiles Business Group, the Electronics Business Group, the Fleet Management and Vehicular Components Business Group, the Graphics Business Group, the Industrial Products Business Group, the Office Furniture Business Group, the Recycling Activities Business Group, and the Services Business Group; and

(3) the term "fair and reasonable price" shall be given the same meaning as, and be determined pursuant to, part 15.8 of the Federal Acquisition Regulation (48 C.F.R. 15.8).

(h) FINDING BY ATTORNEY GENERAL WITH RESPECT TO PUBLIC SAFETY.—(1) Not later than 60 days prior to the end of each fiscal year specified in subsection (e)(1), the Attorney General shall make a finding regarding the effects of the percentage limitation imposed by such subsection for such fiscal year and the likely effects of the limitation imposed by such subsection for the following fiscal year.

(2) The Attorney General's finding shall include a determination whether such limitation has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress.

(4) In advising the Congress pursuant to paragraph (3), the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing, as may be appropriate.

AMENDMENT NO. 4 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. SCOTT of Virginia:

Page 17, strike line 16 and all that follows through page 18, line 19.

Page 18, line 20, strike "(2)" and insert "(b)" (and align the margin with subsection (a) and redesignate subsequent subsections accordingly).

Page 19, lines 7 and 8, strike "subsection (b) and subsection (c) of".

Page 19, lines 15 and 16, and lines 21 and 22, strike "subsections (b) and (c)" and insert "this section".

Page 20, line 7, strike "preferential".

Page 20, line 8, strike "subsection (b)" and insert "this section".

Mr. SCOTT of Virginia. Mr. Chairman, this is a "truth-in-legislating" amendment. We have been told that the underlying bill phases out mandatory source. This amendment would actually provide for a 5-year phaseout of the mandatory source law, which is what the proponents say the bill does. Unfortunately, the bill, in fact, immediately eliminates the mandatory source program and replaces it with an agency preference program where an agency may be required to make a purchase or may not, and there is no way to know whether it will actually replace the number of jobs without significant erosion of the program. After the 5 years, agencies under the bill do not even have to go through a preference process, and if one reads the language left after my amendment strikes out the agency preference program, we still have the bill, but with a 5-year phaseout of the mandatory source rule now in effect.

Now, if anybody believes that there is a 5-year phaseout of the current mandatory source rule under the bill, rather than an immediate elimination, just read the bill. Page 4 of the bill, starting on line 20, says "agencies shall solicit an offer" from FPI. Nothing wrong with that.

☐ 1345

But note that the words no longer require a purchase, which is the current mandatory source law.

Proponents of the bill would have you believe that the public wants agency bureaucrats to have the option of buying furniture or office supplies with all the bells and whistles and all the colors, shapes, and sizes that the private sector can muster, rather than having them promoting the proven public policy of promoting meaningful work experience for inmates, most of whom would not be imprisoned in the first place if they had the work place skills and knew how to hold down a job.

Now, FPI was created in 1934. And the point of the 1934 law was, as a matter of sound public policy, that we should carve out a little minuscule portion of Federal agency purchases to provide marketable work skills and productivity to prisoners so that they will be productively occupied while in prison and be able to get a job when they get out. Now, this program has been shown that it works. Not only has it shown that inmates who participate in FPI are significantly more likely to find productive employment, but they have shown that they are 24 percent less likely to commit a new crime upon release. That means 24 percent fewer victims.

The program and developers are aware that inmates constitute the least educated, least disciplined, least trained, least skilled, and least productive workforce around. The program requires an emphasis on manual work to employ as many people as possible. And as a result of all of those factors, the FPI estimates that it takes four inmates to do the work of one properly trained private sector employee.

That is clearly not the intent of the developers of the program to have inmates compete with the private sector, or that inmates be prevented from doing any work that could be done by the private sector. In 1934, any FPI work could have been done by the private sector, and that is still the case today.

The whole of the FPI revenues constitute less than one-quarter of 1 percent of Federal agency purchasing. And with the entire private sector market and 99.75 percent of the Federal market, spreading the remaining one-quarter of 1 percent of the Federal market over the entire private business sector is not likely to create any new jobs. So it would simply be absorbed in the existing workforce.

On the other hand, almost 80 percent of the revenues that FPI takes in goes back to purchase raw materials through the Federal procurement process and a subcontractor with private sector businesses producing FPI products for agencies. Now there are hundreds of these businesses. They hire thousands of workers. Over 60 percent of them are small, minority, women-owned or disadvantaged businesses, and for many of them FPI is their only client. A high number of these private sector jobs are held by law-abiding citizens, and they will be immediately gone with the elimination of the mandatory source of FPI since there will be no reliable orders or revenues.

When we put restrictions on the mandatory source program in the Department of Defense last year, we saw a significant erosion of inmate jobs without any indication that industry jobs in the private sector would increase as a result.

We should not be gutting this proven crime-reduction program that does not require taxpayer funding, suddenly, without knowing the consequences and without giving the prison system a realistic period to try to develop something to replace it. We should certainly not be doing this to give agency bureaucrats just a few more choices in furniture purchases.

Several of us have asked the GAO to study the impact on the prison system, FPI, the businesses, and the public from eliminating the FPI mandatory source provision. This will provide a meaningful transition. And I would hope that we would adopt the amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment puts the fox back to guarding the chicken coop, at least during the phase-out period in this legislation, and it is another attempt to buy time. The way it does it is to eliminate the competitive procedures that are in section 4 of the bill, which is the transitional mandatory source authority.

Now, what section 4 of the bill does, what the amendment of the gentleman from Virginia (Mr. SCOTT) tries to eliminate is to phase out FPI's dependence upon the narcotic of mandatory source procurement. And it eliminates the requirements that, during the phase-out of mandatory source for all products still being provided under this authority, that FPI provides a product that meets the agency's specific needs in a timely manner and at a fair price.

So the adoption of the Scott amendment would mean that FPI decides what the agencies need, not the agencies themselves; and the FPI decides when the agencies need the goods, not the agencies themselves; and FPI decides that the price is fair, not the agencies themselves. And there is not any competition at all when FPI makes all of these decisions. This basically is another stall that rolls back the changes in the bill and leaves the decision on whether to grant a waiver and allow competitive sourcing to the FPI rather than the buying agency.

It is time we get the fox away from this chicken coop because the taxpayers are going to end up much further ahead and the agencies are going to get better goods in a more timely manner without the amendment and with the bill as written.

Mr. Chairman, I urge that the amendment be voted down.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I respect the principled opposition of the gentleman from Virginia (Mr. SCOTT) to this bill. It is in this context we should see his amendment. He argues that he has a better transition, but it is a transition to a goal which he opposes.

So I would ask Members to consider if you are trying to find a path to a certain destination, whose guidance will you select: the people who are trying to get to the destination or the people who think that destination would be a terrible thing?

The gentleman from Wisconsin (Mr. SENSENBRENNER) has said this accurately, that this is a second chance to vote "yes" or "no" on the bill. I want to reiterate I will be strongly supportive of efforts to continue giving prisoners the work. There are specific sections in this bill that we are bringing forward that talk about donation programs, that say that we want the inmates to be making things for daycare centers, for homeless shelters, for drug rehab clinics. All of us know in every one of our districts there are very worthy facilities that provide services to people in great need, and they do not have enough of a budget to buy what they need. Let us give them the furniture. Let us give them the clothing. Let us give them the drapery. Let us give them the other things that can be made.

The issue is not whether or not the prisoners should be engaged in rehabilitative work; it is whether rehabilitative work should be financed by the whole society or whether it should be financed by competing with the most economically vulnerable sectors of our society. The bill says the former; the opposition to the bill and the amendment essentially say the latter.

The amendment says a while longer, a vote against the bill says never, but they came to the same result.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. MALONEY

Mrs. MALONEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MALONEY:

Page 22, insert after line 3 the following:

(i) PROCEDURAL REQUIREMENTS FOR CIVILIAN AGENCIES RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 318. PRODUCTS OF FEDERAL PRISON INDUSTRIES: PROCEDURAL REQUIREMENTS.

"(a) MARKET RESEARCH.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, United States Code, the head of an executive agency shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery.

"(b) COMPETITION REQUIREMENT.—If the head of the executive agency determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the executive agency's needs in terms of price, quality, and time of delivery, the agency head shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the agency head shall consider a timely offer from Federal Prison Industries.

"(c) IMPLEMENTATION BY HEAD OF EXECUTIVE AGENCY.—The head of an executive agency shall ensure that—

"(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the agency determines that the product or service is comparable to products or services available from the private sector that best meet the agency's needs in terms of price, quality, and time of delivery; and

"(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the executive agency.

"(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet an executive agency's needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

"(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the executive agency by any means, including means such as—

"(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

"(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

"(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

"(2) In this subsection, the term "contractor", with respect to a contract, includes a subcontractor at any tier under the contract.

"(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

"(1) any data that is classified;

"(2) any geographic data regarding the location of—

"(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

"(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

"(C) other utilities; or

"(3) any personal or financial information about any individual private citizen, including information relating to such person's real property however described, without the prior consent of the individual.

"(g) DEFINITIONS.—In this section:

"(1) The term 'competitive procedures' has the meaning given such term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)).

"(2) The term 'market research' means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

"(A) contacting knowledgeable individuals in government and industry;

"(B) interactive communication among industry, acquisition personnel, and customers; and

"(C) interchange meetings or pre-solicitation conferences with potential offerors.".

Page 17, line 15, strike the period and insert the following: "or in accordance with section 2410n of title 10, United States Code, or section 318 of title III of the Federal Property and Administrative Services Act of 1949 (as added by subsection (i)).".

Mrs. MALONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

PARLIAMENTARY INQUIRY

Mr. SCOTT of Virginia. Mr. Chairman, reserving the right to object, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SCOTT of Virginia. Mr. Chairman, I am not sure which section this amendment is in. I would hope that it would not prejudice amendments in previous sections.

The CHAIRMAN pro tempore. Section 4 will remain open to further amendment after the consideration of this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. MALONEY. Mr. Chairman, the amendment extends to the new contracting officer of the various civilian agencies, including the new Department of Homeland Security, the same powers available to contracting officers of the Department of Defense in their dealings with the Federal Prison Industries. It will better enable them to get the best value for the taxpaying dollars being expended with FPI.

Under FPI's 1934 authorizing statute, FPI is a mandatory source to all Federal agencies. Federal contracting officers must purchase products offered by FPI unless FPI authorizes, through the granting of a so-called waiver, the solicitation of competitive offers for the private sector.

In making the unilateral determination to grant a waiver, FPI, rather than the buying agency, determines whether FPI's offered product and delivery schedule meet the mission's needs of the buying agency. FPI, rather than the buying agency, determines the reasonableness of FPI's offered price.

While comprehensive FPI reform was being advanced in both Chambers, several Members of the other body devised a means to provide some modest interim relief to DOD's procurement professionals by including interim relief in the National Defense Authorization Act for fiscal year 2002. That provision added a new section 2410(n) to title 10 of the U.S. Code which governs DOD.

My amendment adds a new section to title III of the Federal Property and Administrative Services Act of 1949, which governs procurement by the civilian agencies. This new provision mirrors exactly the test of section 2410(n) in title 10.

Specifically, my amendment will make explicit that a contracting officer is fully empowered to determine if a product offered by FPI is comparable to products available from the private sector that best meet the Department's needs in terms of price, quality, and time of delivery; provide a contracting officer access to the full range of market research tools to make the required determination and full discretion on how to use such tools; empower contracting officers to ensure that FPI performs its contractual obligations to the same extent as any other contractor; and prohibit inmate workers from having access to classified data, critical infrastructure data, and personal or financial data under any service contract.

The text of the amendment being offered today was offered by the gentleman from Indiana (Mr. SOUDER) and accepted by the Committee on Government Reform during its consideration of H.R. 1837, the Services Acquisition Reform Act, earlier this year.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, let me say that I support her amendment because what her amendment does is it applies the DOD contracting rights that were passed in last year's defense authorization bill to procurement by the other Federal agencies that would be covered by this bill. So there is a uniform standard of agency contracting rights. And we would not have one set of rules for the Defense Department and another set of rules for the rest of the government agencies.

I believe that this amendment is a constructive addition, and I am pleased to support it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Massachusetts, the distinguished ranking member.

Mr. FRANK of Massachusetts. Mr. Chairman, we do not have the usual situation here where there are Democratic and Republican managers who might come to an agreement on this one. I would say, though, that as one of the Democrats who has been supportive of this bill, I certainly would concur with what the gentleman from Wisconsin (Mr. SENSENBRENNER) has said and would also urge its acceptance.

Mrs. MALONEY. Mr. Chairman, I would like to add that the U.S. Chamber of Commerce and the AFL/CIO join my distinguished colleagues on both sides of the aisle in support of this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. MALONEY).

The amendment was agreed to.

□ 1400

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

Mr. GREEN of Wisconsin. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GREEN of Wisconsin:

Page 21, strike line 21 and all that follows through page 22, line 3, and insert the following:

(3) If the Attorney General finds a significant risk of adverse effects on safe prison management, prison rehabilitation opportunities, or public or prison safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made, and such finding shall serve to postpone for one year any further percentage limitation under subsection (e)(1).

(4) Any percentage limitation postponed under paragraph (3) shall take effect in the fiscal year immediately following the fiscal year for which it is postponed, if not later than 60 days before the first day of such following fiscal year the Attorney General makes a determination under paragraph (2)—

(A) that such limitation is not likely to result in a substantial reduction in inmate industrial employment; or

(B) that any such reduction will not present a significant risk of adverse effects on safe prison operation or public safety.

Mr. GREEN from Wisconsin (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GREEN of Wisconsin. Mr. Chairman, the proponents of this legislation, H.R. 1829, said earlier that they share our vision, they share the concerns that many of us have. The proponents of this bill have claimed that this legislation, H.R. 1829 will actually strengthen FPI, Federal Prison Industries. Unfortunately, close observers of the system, like the American Federation of Government Employees and the Fraternal Order of Police, disagree. Who shall we believe?

This amendment that I offer right now offers us a safe way for us to provide and to find out the answer and determine who it is that we should believe.

Now, earlier it was said that my study amendment was an amendment to kill, an amendment to delay. Well, this legislation is very different. It allows us to proceed while also creating a mechanism to make sure that we do not do the damage that some have said, some fear will be done. It provides a safety valve in case this bill does not work out as its proponents claim.

It would require the Attorney General to make a determination each year about whether phasing out of fiscal procurement preference has resulted in a reduction of the number of inmates who are provided employment. If the numbers are substantially lower, if the numbers are substantially lower, then the Attorney General will be required to determine whether or not this reduction poses a significant threat to prison operations or general public safety. If the Attorney General determines that this has occurred, if there is a threat to public safety, then he may postpone the phasing out for a year. It could begin again once the Attorney General has determined that it is safe to proceed. The current bill provides no mechanism for reviewing the effect of the preference phaseout.

Let us understand the effect of this amendment very carefully and why it is so important. If proponents of the bill are correct in assuming that their reforms will, in fact, make FPI more competitive rather than putting it out of business as I would suggest, then the safety valve provisions in this amendment will never come into play. It will be as though this amendment was never adopted, never considered. But if the proponents are wrong, and they just might be wrong, and if our highest law enforcement official determines, as I believe, that this would present a significant risk to prison safety or public safety, then this safety valve will be critically needed. It will be terribly important. It will save lives. It will save the working conditions in prisons. It will make prison operations safer.

Now, again, in the past with my previous amendment, the study amendment, it was argued that I was trying to kill H.R. 1829, to kill this legislation. I would argue that those who oppose this amendment, given that this amendment does not delay the phaseout of the mandatory preference, I would argue that any who oppose this amendment really do want to kill FPI.

Again, if their claims are accurate, if their assumptions are correct, then this amendment will have no effect. But if they are wrong, as many of us fear, we will at least have some mechanism, some small way to stop this damage from occurring. I ask support for this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Unfortunately, Mr. Chairman, my colleague from Wisconsin wants to stall FPI facing the music in being reformed by this amendment. And he cloaks his argument by saying there has to be a safety valve in case the reduction in work that FPI may or may not get as a result of having to compete, ends up causing a problem in prison safety.

The provision of the bill that the gentleman from Wisconsin proposes to strike does provide a safety valve, but it provides a safety valve where the ultimate determination is made by the Congress. In other words, we have to make a decision on whether the determination is a correct one or an incorrect one.

Let me outline what this amendment proposes to strike. It says, a finding by the Attorney General with respect to public safety within 60 days after the end of every fiscal year, which means by December 1, the Attorney General shall make a finding with respect to public safety and whether the reduction in the percentage of mandatory sourcing will have a likely effect on public safety during the next fiscal year.

The Attorney General's findings shall include a determination on whether such determination has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

If he finds that, he shall advise the Congress. And if he advises the Congress pursuant to this section, the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing as may be appropriate.

Now, what this means is that the Attorney General gets $75 million authorized every year to provide for additional rehabilitation and industrial employment within the prison. If the $75 million dollars is not enough or is not used effectively enough, then the AG has got to come back to Congress and say, okay, I either need more money, I need a change in the law, or I need more people to provide for more prison guards. And then the Congress can make this determination as a part of the ordinary authorization appropriations process.

The gentleman from Wisconsin's (Mr. GREEN) amendment is kind of a guillotine, the death penalty, if you will, because it says that if the AG finds a significant risk of adverse effects on either safer prison management or public safety, he shall so advise the Congress before the end of the fiscal year in which the finding is made and such finding shall, shall, not may, postpone for 1 year any further percentage limitation under the subsection e(1) and the transitional title which is under debate now.

Now, there are over 70 prisons that have got Federal prison industries programs. And the way the gentleman from Wisconsin's (Mr. GREEN) amendment is drafted is that if the Attorney General finds that there is a public safety problem in just one of those prisons, then FPI is able to continue doing business as usual for another year.

That is a stall. That is why this amendment should be rejected, and I hope it is rejected overwhelmingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I was listening to my good friend, the gentleman from Wisconsin (Mr. SENSENBRENNER) and looking to the section in which he was referring and as well to which this amendment is referring. I join the gentleman from Wisconsin (Mr. GREEN) as a cosponsor of this amendment, and I do so because I think that what we are doing today is a work in progress and that we are responding to a ground yet explored.

None of us will and can determine two things, Mr. Chairman. We can not determine that if this bill is passed whether we will soon open up the windows of Heaven, and I do not make light, in helping small businesses. And that is our intent, of course. We want to be generous and recognize that small businesses should not be disadvantaged as competitors because I believe that small businesses are the backbone of America and they create jobs.

At the same time, we do not want to deconstruct or undermine our prison structure and the goals of prisons, which are to punish and, I believe, to rehabilitate. And this amendment that we are offering together is a triggering amendment. It allows the Attorney

General to proceed with a study that deals with the issues of public rehabilitation, management, that is key, Mr. Chairman, public or prison safety.

We know that there are documented studies of years past that suggest that we have problems when there is an idleness in our prisons. We have gone past that to a certain extent. We went through a crisis where no one wanted television sets or they did not want physical fitness rooms, and we have gone through that, and we do not have much of that.

So what do we have for the inmates? We have work. We try to have study, and we try to have factors that will rehabilitate their lives. This amendment speaks to a delaying process, not a process that eliminates, and it gives us a sense of information that will be instructive.

One of the more, I think, enlightened aspects of the amendment is that if a limitation is proposed under paragraph 3, and it takes effect in the fiscal year immediately following the fiscal year for which it is postponed, is not less than 60 days before the before the first day of such following fiscal year, the Attorney General makes a determination. And so it gives another action item, that such limitation is not likely to result in a substantial reduction of inmate industrial employment, or that any such reduction would not present a significant risk of adverse effect on safe prison operation or public safety, we go forward.

So it gives limitations. It is not an elimination. It is a limitation.

I would like to pose a question to the gentleman from Wisconsin (Mr. GREEN) because my understanding of what we intended, and as the gentleman offered the amendment and as I am very pleased to join the gentleman, what the gentleman intended, the gentleman intended to be thoughtful, to give a moment of study, to then allow to come back again and to state that there is no injury; and if there is no injury, we can go forward.

Am I understanding what our thought processes were?

Mr. GREEN of Wisconsin. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. GREEN of Wisconsin. Yes, the reason this amendment is drafted as it is, is we are, I think as the gentlewoman said very eloquently, treading into new territory here.

What I want to do is make sure that we have an opportunity, if just by that small chance the proponents are wrong, as you and I believe that they may well be, that we have a mechanism to stop irreparable harm from being done.

Ms. JACKSON-LEE of Texas. Well, I thank the gentleman for his thoughtfulness. I might just ask one quick question. Does the gentleman think we are in a crisis point where thoughtfulness and study is not appropriate? When I say crisis, we are all supporters of small businesses, but we are working with a collective body of opportunity for small businesses which we both support. Are we at a crisis where we just absolutely are collapsing and we can not study this thoughtfully?

Mr. GREEN of Wisconsin. I think there is no reason why we cannot study this thoughtfully. We can look at ways of reforming the FBI to make sure it works better to protect all of the interest. I want to make sure, as the gentlewoman does, that we have that time.

Ms. JACKSON-LEE of Texas. Let me just say, Mr. Chairman, I believe that we are working to be, if you will, constructive. And this is only an amendment that provides guidance, that allows us to be thoughtful. And if there is a problem, if this is devastating to the prison industries, we are allowed to cease and desist temporarily. If we find that we have overcome the problems, the Attorney General could move forward. I would ask my colleagues to move forward on this very constructive amendment.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. What this amendment does is it seeks to reverse an action that was taken by the committee during its markup of the bill in the 107th Congress, and that was on a Roll Call vote this amendment was defeated 18 to 9.

The bill already requires the Attorney General to closely monitor the effects of the 5-year transition period in which FPI adapts to selling Federal agencies on a competitive basis rather than the noncompetitive process that it currently has under mandatory source.

Annually, during the 5-year transition period, the Attorney General is required to determine whether there has been a reduction in inmate industrial employment; and if such reduction presents "a significant risk of adverse effects on safe prison operation or public safety," report to the committee any "adverse effects on either safe prison management or public safety," and to make recommendations for corrective action.

Under the bill the committee and the Congress would determine the appropriate remedial actions to be taken, if any. Remember, this is a 5-year gradual phaseout.

Under the Green amendment, the Attorney General would be unilaterally empowered to suspend FPI's statutorily specified transition to competition simply on the basis of his own findings.

As was reflected in the debate during the 107th Congress, the committee is fully capable of evaluating the Attorney General's findings and recommendations and of taking appropriate remedial action as needed.

□ 1415

Modification of statutorily specified timetables lies with the legislative branch and should not be subject to unilateral change by an individual officer of the executive branch.

In keeping with the provision's intent for the Attorney General to make and report to the Congress findings that are very broadly drafted, "has resulted or is likely to result, substantial reduction in inmate industrial employment and significant risk of adverse effects."

They are insufficiently clear bases on which to authorize the Attorney General to unilaterally suspend the implementation of this statute. I ask my colleagues to oppose this amendment.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. It allows the Attorney General to protect public safety. If the Attorney General concludes that, in order to protect public safety, he needs the continuation of the prison industries program, he ought to be able to respond to that crisis in a way that responds to the crisis and not just send a letter to Congress to hope something might get done while the crisis is going on.

The warden apparently can do this now in the bill, but that is fairly unrealistic because the warden would have to report to the Attorney General that he cannot do his job in order to trigger that element of the bill. That is obviously not a realistic thing to think that a warden would volunteer to the fact that he cannot do his job as a condition to protect public safety.

I would hope that this safety valve amendment would be adopted so that our public safety can, in fact, be protected.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentleman from Wisconsin (Mr. GREEN).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. GREEN of Wisconsin. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) will be postponed.

Are there further amendments to section 4?

If not, the Clerk will designate section 5.

The text of section 5 is as follows:

SEC. 5. AUTHORITY TO PERFORM AS A FEDERAL SUBCONTRACTOR.

(a) IN GENERAL.—Federal Prison Industries is authorized to enter into a contract with a Federal contractor (or a subcontractor of such contractor at any tier) to produce products as a

subcontractor or supplier in the performance of a Federal procurement contract. The use of Federal Prison Industries as a subcontractor or supplier shall be a wholly voluntary business decision by the Federal prime contractor or subcontractor, subject to any prior approval of subcontractors or suppliers by the contracting officer which may be imposed by the Federal Acquisition Regulation or by the contract.

(b) COMMERCIAL SALES PROHIBITED.—The authority provided by subsection (a) shall not result, either directly or indirectly, in the sale in the commercial market of a product or service resulting from the labor of Federal inmate workers in violation of section 1761(a) of title 18, United States Code. A Federal contractor (or subcontractor at any tier) using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a Federal contract shall implement appropriate management procedures to prevent introducing an inmate-produced product into the commercial market.

(c) PROHIBITIONS ON MANDATING SUBCONTRACTING WITH FEDERAL PRISON INDUSTRIES.—Except as authorized under the Federal Acquisition Regulation, the use of Federal Prison Industries as a subcontractor or supplier of products or provider of services shall not be imposed upon prospective or actual Federal prime contractors or a subcontractors at any tier by means of—

(1) a contract solicitation provision requiring a contractor to offer to make use of Federal Prison Industries, its products or services;

(2) specifications requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract;

(3) any contract modification directing the use of Federal Prison Industries, its products or services; or

(4) any other means.

The CHAIRMAN pro tempore. Are there any amendments to section 5?

If not, the Clerk will designate section 6.

The text of section 6 is as follows:

SEC. 6. INMATE WAGES AND DEDUCTIONS.

Section 4122(b) of title 18, United States Code (as amended by section 3 of this Act), is further amended by adding after paragraph (10) a new paragraph (11) as follows:

"(11)(A) The Board of Directors of Federal Prison Industries shall prescribe the rates of hourly wages to be paid inmates performing work for or through Federal Prison Industries. The Director of the Federal Bureau of Prisons shall prescribe the rates of hourly wages for other work assignments within the various Federal correctional institutions.

"(B) The various inmate wage rates shall be reviewed and considered for increase on not less than a biannual basis.

"(C) Wages earned by an inmate worker shall be paid in the name of the inmate. Deductions, aggregating to not more than 80 percent of gross wages, shall be taken from the wages due for—

"(i) applicable taxes (Federal, State, and local);

"(ii) payment of fines and restitution pursuant to court order;

"(iii) payment of additional restitution for victims of the inmate's crimes (at a rate not less than 10 percent of gross wages);

"(iv) allocations for support of the inmate's family pursuant to statute, court order, or agreement with the inmate;

"(v) allocations to a fund in the inmate's name to facilitate such inmate's assimilation back into society, payable at the conclusion of incarceration; and

"(vi) such other deductions as may be specified by the Director of the Bureau of Prisons.

"(D) Each inmate worker working for Federal Prison Industries shall indicate in writing that such person—

"(i) is participating voluntarily; and

"(ii) understands and agrees to the wages to be paid and deductions to be taken from such wages.".

The CHAIRMAN pro tempore. Are there any amendments to section 6?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

Page 24, line 7, insert after the period the following: "In the case of an inmate whose term of imprisonment is to expire in not more than 2 years, wages shall be earned at an hourly rate of not less than $2.50, but paid at the same rate and in the same manner as to any other inmate, and any amount earned but not paid shall be held in trust and paid only upon the actual expiration of the term of imprisonment.".

Page 24, after line 10, insert the following new subparagraph (and redesignate succeeding subparagraphs accordingly):

"(C) The Board of Directors of Federal Prison Industries shall—

"(i) not later than September 30, 2004, increase the maximum wage rate for inmates performing work for or through Federal Prison Industries to an amount equal to 50 percent of the minimum wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

"(ii) not later than September 30, 2009, increase such maximum wage rate to an amount equal to such minimum wage; and

"(iii) request the Secretary of Labor to establish, not later than October 1, 2004, an 'inmate training wage' pursuant to that Act.

Mr. SENSENBRENNER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Ms. WATERS. Mr. Chairman, I have sat here and listened to this debate today on this very important legislation, H.R. 1829, and it is clear to me listening to the very thoughtful debate that has been held on this floor today that people care an awful lot, both about small business and about opportunities for inmates in our prison system to be able to work and earn money that can be helpful to them upon their release.

It is also clear to me that people are torn about the way that this bill has been presented. They want to make sure that they protect small businesses and not have them disadvantaged because we have our Federal Prison Industries able to produce goods without having to compete in the open market, and we really do not know how to fix this. We really do not have all of the answers.

We have people that are attempting all kinds of amendments. Some of the amendments are to study this, to slow it down and perhaps give us another opportunity to take a look at it. Some of the other amendments are a bit clearer than that, simply trying to make sure that we do not expand the opportunity for the Federal Prison Industries to expand and to continue to operate perhaps in the way that it is doing.

We heard some very interesting debate about NAFTA and about the exportation of jobs to Third World countries for cheap labor and some pointed references to China; and I was struck by the references that were made to labor that has been done in China by prisoners in China, and could not help but think if, in fact, we limit the opportunities for Federal Prison Industries to operate as it is doing, whether or not we are going to find small businesses who would get this work and then export it to Third World countries for cheap labor, and we find that prisoners in other countries are doing the kind of work that we are prohibiting our prisoners in this country from doing.

All of these questions certainly, I think, are on our minds. However, this is what I have attempted to do. I have attempted to find a way to recognize that prisoners are being released and that when they are released, if they have no money, if they have no resources, they are more likely to find their way back into the system. Recidivism is a real problem.

I would like to see those prisoners that are being released have at least enough money to rent a place to live, to have some food, maybe to have some transportation, to be able to be supported by their earnings until they can find a job. I do this by allowing the last 2 years of their wages to be increased to $2.50 per hour and then to be held in a special fund; and while they are working, they get no more than any other prisoner would get working in this industry, but the additional dollars would be available to them, held in this fund so that when they are released, they will have an opportunity to have money to do those things that I have alluded to.

I think my chairman, the gentleman from Wisconsin (Chairman SENSENBRENNER), thought there may be some conflict between my amendment and the amendment by my colleague from California. I do not think so, but this amendment now incorporates my thought about the $2.50 and the thoughts of my colleague from the State of California about giving the authority to the board of directors to increase the wages if they desire to do so. I suppose before they can do it they at least need to be told that if they desire to increase wages up to the minimum they can do that. So that is included in this bill, and I am sure that she will better explain that and that authority that has been given to them.

So these two ideas are combined here, and the idea simply is $2.50, an opportunity to have a special fund, inmates able to make more money so that when they are released, they can have money for food, clothing, job, transportation, and of course, the other idea of authorization to the board of directors so that they could, over a period of time, increase the pay up to the minimum wage if they so desire.

That is the essence of my amendment. I would ask an "aye" vote on the Waters amendment number 62.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think that this amendment is a good one for a number of reasons, but I just would like to make it very clear what the amendment does.

First, it requires that during the last 2 years of incarceration the inmate would be paid not less than $2.50 an hour; and, secondly, it would have a cap on how much inmates could be paid regardless of whether they were within 2 years of release or not within 2 years of release to 50 percent of the minimum wage by September of 2004 and the minimum wage by September 2009.

Additionally, the amendment would save the funds for a prisoner in trust which would be paid to them upon their release, which would mean that when the prisoners are released, they would have some gate money in their pocket to be able to begin their lives anew and hopefully lead a crime-free rest of their lives.

Now, with these two provisions this amendment is a very good one because it addresses two things. First of all, it helps level the playing field in terms of wages paid to FPI employees who are inmates with those of private sector employees who are making goods that are competing with the Federal Prison Industries. Secondly, it does give the prisoners an amount of money that has been held in trust for them so that they do not walk out of the prison with very little money in their pocket and perhaps are given a greater temptation to commit a crime in order to be able to put more money in their pocket to live.

So I think that this is really a win-win situation. I would hope that the committee would approve this amendment because I do believe it deals with some of the concerns in this bill that are legitimate and which have been expressed by people who have some doubts over how this bill has been put together.

Ms. MILLENDER-McDONALD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to offer an amendment that will join with the congresswoman from California, along with the gentleman from Illinois (Mr. DAVIS) and the gentleman from Michigan (Mr. HOEKSTRA), and offering this amendment would direct the board of directors of Federal Prison Industries to increase its maximum rate of pay to inmates participating in its programs.

Specifically, our amendment would require the FPI board to increase the maximum wage that an inmate participating in its programs could receive, half the current Federal minimum wage by September 30, 2004. Our amendment also requires that the FPI board would increase the maximum wage rate for inmates in the program to a full Federal minimum wage by September 30, 2009.

Mr. Chairman, this amendment was offered for two very important reasons. First and foremost, individuals who are working in any type of environment deserve a fair and decent wage. Currently, inmates participating in the Federal Prison Industries program earn anywhere from 25 cents per hour to just over $1 per hour. So, Mr. Chairman, I believe it is unfair to ask any person, including those who are incarcerated, to work for wages that are abysmally low. Raising inmate wages, I believe, will give these individuals a desperately needed boost to their self-esteem and confidence as they seek to rehabilitate themselves while they finish their sentences and return to society as contributing members.

Raising the hourly wages of these inmates has additional benefits. As an inmate earns more, increased deductions from their wages can be used to pay applicable State, local and Federal taxes, fines and restitution pursuant to court costs, and contribute to a fund in the inmate's name to help them assimilate back into society once the inmate is released.

Secondly, the Committee on Small Business, Subcommittee on Tax, Finance and Exports and the Subcommittee on Workforce, Empowerment, and Government Programs held a joint hearing October 1, 2003, to hear firsthand how FPI maintains a competitive advantage in the Federal contracting market and how FPI and small businesses can compete on an even playing field.

I do feel that these amendments joined together will be a win-win for those who we are trying to help in rehabilitation and to go back into society ready for work and for assimilating into that society.

Mr. Chairman, I ask that all Members support the amendment.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

I thank my colleagues for working on this amendment and allowing me to be a cosponsor. They did all the work. They worked out the differences to put their two amendments together in a single amendment; and, again, I think it is an amendment that improves the overall quality of the final bill.

So I rise in support of the amendment. I thank my colleagues for the spirit in which we have worked together to put this amendment together and to put the whole bill together.

□ 1430

The CHAIRMAN pro tempore (Mr. SHIMKUS). The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The agreement was agreed to.

Are there further amendments to section 6?

If not, the Clerk will designate section 7.

The text of section 7 is as follows:

SEC. 7. CLARIFYING AMENDMENT RELATING TO SERVICES.

(a) IN GENERAL.—Section 1761 of title 18, United States Code, is amended in subsection (a), by striking "any goods, wares, or merchandise manufactured, produced, or mined" and inserting "products manufactured, services furnished, or minerals mined".

(b) COMPLETION OF EXISTING AGREEMENTS.—Any prisoner work program operated by a prison or jail of a State or local jurisdiction of a State which is providing services for the commercial market through inmate labor on October 1, 2002, may continue to provide such commercial services until—

(1) the expiration date specified in the contract or other agreement with a commercial partner on October 1, 2002, or

(2) until September 30, 2005, if the prison work program is directly furnishing the services to the commercial market.

(c) APPROVAL REQUIRED FOR LONG-TERM OPERATION.—A prison work program operated by a correctional institution operated by a State or local jurisdiction of a State may continue to provide inmate labor to furnish services for sale in the commercial market after the dates specified in subsection (b) if such program has been certified pursuant to section 1761(c)(1) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

AMENDMENT NO. 5 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SCOTT of Virginia:

Page 25, strike section 7 (line 11 and all that follows through page 26, line 12).

Mr. SCOTT of Virginia. Mr. Chairman, section 7 limits the ability of FPI and State Prison Industries programs to do services and reflects the reality that promoting competition is not what proponents of FPI want. Presently, there is no mandatory source on services as opposed to products, and so straight competition is the only way that FPI can get a service contract. The bill will limit the ability of FPI to get service contracts and actually eliminate the ability of State prison service programs in State prisons.

The mandatory source in products is being eliminated in the bill. Restricting FPI's ability to continue to perform service contracts as it does now with no particular replacement will only serve to further replace inmate work opportunities. There appears to be no justification for prohibiting States from continuing their service contracts in a bill designed to reform the Federal Prison Industry program.

I am told by Delco Remy, an international company which contracts with State and Federal inmates to break down auto parts for reusable materials to produce new auto parts, I have been told by that company that 600 law-abiding Virginians, along with 300 State and Federal inmates, will lose their jobs as a direct result of this bill, and about the same number of law-abiding citizens and State and Federal inmates in South Carolina will lose their jobs. Ironically, the likelihood is that the jobs will not go to other law-abiding citizens in the United States, but will go to Delco Remy plants outside of the United States.

Other States have service contract programs as well, so it is likely that thousands of law-abiding citizens, as well as inmates, will lose their jobs as a result of this gratuitous, unrelated provision attacking State programs in a bill designed to restructure the Federal Prison Industry programs.

One of the major problems of the bill is we are taking actions without full knowledge of the consequences. That is why several of us have requested a GAO study of the potential impact of this bill, including the impact of the provision outlawing service contracts. The information will be available in April, and that is why we should wait for that information and in the meantime adopt this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the Scott amendment.

Mr. Chairman, in order to put this amendment in context, it is important that we have a history lesson. When the Federal Prison Industries law was created in 1934, there was a compromise that was struck by President Roosevelt between the advocates and business and labor who objected to Federal Prison Industries that the results of inmate labor, whether it was Federal, State or local, would be prohibited from interstate commerce which meant the commercial market. This statutory prohibition is now codified in 18 United States Code 1761(a). Fifty-five years went by, and the statute was always interpreted to prohibit the commercial sale of the results of inmate labor products as well as services, even though the statute that was passed in 1934 did not explicitly mention services.

In 1998, Federal Prison Industries got a legal interpretation that did not come from the DOJ Office of Legal Counsel as most opinions come from, but in a legal memorandum from a special counsel in the Office of Enforcement Operations in the criminal division of the Department of Justice which supervises both FPI and the Bureau of Prisons. The new interpretation provided that FPI and the prison industries of the States and their local governments could sell inmate-furnished services, either directly or in partnership with the private sector, without restrictions; and those restrictions included restrictions against the displacement of noninmate workers or the payment of wages comparable to wages being paid outside the prison to noninmate workers of private firms that provide the same type of services.

With this new interpretation that came about as a result of a Department of Justice learned legal opinion in 1998, subminimum-wage prison inmates could compete directly in the services market, but not in the goods market, against people on the outside who have to receive minimum wage and also have to pay taxes on their wages.

The business community raised very strong objections in 1998 to this legal interpretation, and the Subcommittee on Oversight and Investigation of the Committee on Education and the Workforce held a hearing on this issue on September 20, 2000. What section 7 does is to make it explicit that the prohibitions that have been in the law since 1934 against goods entering the commercial market also covers services.

This, I guess, brings the law up-to-date as our economy has gradually evolved from a manufacturing and goods-oriented economy to a service-oriented economy.

The amendment of the gentleman from Virginia strikes section 7, and if his amendment is adopted, that means that Federal Prison Industries, as well as State and local prison industries organizations, can directly compete in the commercial market in the services sector of the economy.

When the compromise was struck during the Roosevelt administration, that door was supposedly slammed shut. This will make sure that the door is slammed shut so that the playing field is equal and FPI and State and local inmates cannot compete in the services market for subminimum wage. I hope that the amendment is defeated.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to section 7?

If not, the Clerk will designate section 8.

The text of section 8 is as follows:

SEC. 8. CONFORMING AMENDMENT.

Section 4122(a) of title 18, United States Code, is amended by striking "production of commodities" and inserting "production of products or furnishing of services".

The CHAIRMAN pro tempore. Are there any amendments to section 8?

If not, the Clerk will designate section 9.

The text of section 9 is as follows:

SEC. 9. RULES OF CONSTRUCTION RELATING TO CHAPTER 307.

Chapter 307 of title 18, United States Code, is further amended by adding the following:

"§4130. Construction of provisions

"Nothing in this chapter shall be construed—

"(1) to establish an entitlement of any inmate to—

"(A) employment in a Federal Prison Industries facility; or

"(B) any particular wage, compensation, or benefit on demand, except as otherwise specifically provided by law or regulation;

"(2) to establish that inmates are employees for the purposes of any law or program; or

"(3) to establish any cause of action by or on behalf of any inmate against the United States or any officer, employee, or contractor thereof.".

The CHAIRMAN pro tempore. Are there any amendments to section 9?

If not, the Clerk will designate section 10.

The text of section 10 is as follows:

SEC. 10. PROVIDING ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) ADDITIONAL EDUCATIONAL, TRAINING, AND RELEASE-PREPARATION OPPORTUNITIES.—

(1) PROGRAM ESTABLISHED.—There is hereby established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

(2) COMPREHENSIVE PROGRAM.—In addition to such other components as the Director of the Bureau of Prisons deems appropriate to reduce inmate idleness and better prepare inmates for a successful reentry into the community upon release, the program shall provide—

(A) in-prison assessments of inmates' needs and aptitudes;

(B) a full range of educational opportunities;

(C) vocational training and apprenticeships; and

(D) comprehensive release-readiness preparation.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the program established by paragraph (1), $75,000,000 is authorized for each fiscal year after fiscal year 2003, to remain available until expended. Funds shall be allocated from the gross profits within the Federal Prison Industries Fund, and, to the extent such amounts are inadequate, from the General Treasury.

(4) SCHEDULE FOR IMPLEMENTATION.—All components of the program shall be established—

(A) in at least 25 percent of all Federal prisons not later than 2 years after the date of the enactment of this Act;

(B) in at least 50 percent of all Federal prisons not later than 4 years after such date of enactment;

(C) in at least 75 percent of all Federal prisons not later than 6 years after such date of enactment; and

(D) in all Federal prisons not later than 8 years after such date of enactment.

(b) INMATE WORK OPPORTUNITIES IN SUPPORT OF NOT-FOR-PROFIT ENTITIES.—

(1) PROPOSALS FOR DONATION PROGRAMS.—The Chief Operating Officer of Federal Prison Industries shall develop and present to the Board of Directors of Federal Prison Industries proposals to have Federal Prison Industries donate products and services to eligible entities that provide goods or services to low-income individuals who would likely otherwise have difficulty purchasing such products or services in the commercial market.

(2) SCHEDULE FOR SUBMISSION AND CONSIDERATION OF DONATION PROGRAMS.—

(A) INITIAL PROPOSALS.—The Chief Operating Officer shall submit the initial group of proposals for programs of the type described in

paragraph (1) within 180 days after the date of the enactment of this Act. The Board of Directors of Federal Prison Industries shall consider such proposals from the Chief Operating Officer not later than the date that is 270 days after the date of the enactment of this Act.

(B) ANNUAL OPERATING PLAN.—The Board of Directors of Federal Prison Industries shall consider proposals by the Chief Operating Officer for programs of the type described in paragraph (1) as part of the annual operating plan for Federal Prison Industries.

(C) OTHER PROPOSALS.—In addition to proposals submitted by the Chief Operating Officer, the Board of Directors may, from time to time, consider proposals presented by prospective eligible entities.

(3) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this subsection, the term "eligible entity" means an entity—

(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in a proposal of the type described in paragraph (1), or

(B) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $7,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise carrying out programs of the type described in paragraph (1).

(c) MAXIMIZING INMATE REHABILITATIVE OPPORTUNITIES THROUGH COGNITIVE ABILITIES ASSESSMENTS.—

(1) DEMONSTRATION PROGRAM AUTHORIZED.—

(A) IN GENERAL.—There is hereby established within the Federal Bureau of Prisons a program to be known as the "Cognitive Abilities Assessment Demonstration Program". The purpose of the demonstration program is to determine the effectiveness of a program that assesses the cognitive abilities and perceptual skills of Federal inmates to maximize the benefits of various rehabilitative opportunities designed to prepare each inmate for a successful return to society and reduce recidivism. The demonstration program shall be undertaken by a contractor with a demonstrated record of enabling the behavioral and academic improvement of adults through the use of research-based systems that maximize the development of both the cognitive and perceptual capabilities of a participating individual, including adults in a correctional setting.

(B) SCOPE OF DEMONSTRATION PROGRAM.—The demonstration program shall to the maximum extent practicable, be—

(i) conducted during a period of three consecutive fiscal years, commencing during fiscal year 2004;

(ii) conducted at 12 Federal correctional institutions; and

(iii) offered to 6,000 inmates, who are categorized as minimum security or less, and are within five years of release.

(C) REPORT ON RESULTS OF PROGRAM.—Not later than 60 days after completion of the demonstration program, the Director shall submit to Congress a report on the results of the program. At a minimum, the report shall include an analysis of employment stability, stability of residence, and rates of recidivism among inmates who participated in the program after 18 months of release.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $3,000,000 in each of the three fiscal years after fiscal year 2003, to remain available until expended, for the purposes of conducting the demonstration program authorized by subsection (a).

(d) PRERELEASE EMPLOYMENT ASSISTANCE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons shall, to the maximum extent practicable, afford to inmates opportunities to participate in programs and activities designed to help prepare such inmates to obtain employment upon release.

(2) PRERELEASE EMPLOYMENT PLACEMENT ASSISTANCE.—Such prerelease employment placement assistance required by subsection (a) shall include—

(A) training in the preparation of resumes and job applications;

(B) training in interviewing skills;

(C) training and assistance in job search techniques;

(D) conduct of job fairs; and

(E) such other methods deemed appropriate by the Director.

(3) PRIORITY PARTICIPATION.—Priority in program participation shall be accorded to inmates who are participating in work opportunities afforded by Federal Prison Industries and are within 24 months of release from incarceration.

The CHAIRMAN pro tempore. Are there any amendments to section 10?

AMENDMENT NO. 6 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. SCOTT of Virginia:

Page 29, insert after line 5 the following new subsection (and redesignate subsequent subsections accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

"§ 4124a. Additional inmate work opportunities through public service activities

"(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

"(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term 'eligible entity' means an entity—

"(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

"(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

"(3) that is a unit of local government, a school district, or another special purpose district.

"(c) INMATE WORK TRAINING ADMINISTRATOR.—

"(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

"(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

"(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

"(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

"(A) maintaining appropriate institutional and inmate security; and

"(B) matters relating to the selection and payment of participating inmates.

"(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

"(1) types of work to be performed;

"(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

"(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

"(4) the wage rates proposed to be paid to various classes of inmate workers; and

"(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

"(e) REPRESENTATIONS.—

"(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed -agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

"(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

"(B) the work would not be performed but for the —availability of the inmate workers;

"(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

"(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

"(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

"(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

"(f) APPROVAL BY BOARD OF DIRECTORS.—

"(1) IN GENERAL.—Each such proposed agreement shall be -presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

"(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

“(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

“(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

“(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Attorney General (pursuant to subsection (i)); and

“(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

“(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

“(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

“(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

“(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

“(A) is participating voluntarily; and

“(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

“(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

“(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

“(1) CONSULTATION WITH SECRETARY OF LABOR.—The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

“(2) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Attorney General may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

“(3) DURING PERFORMANCE.—

“(A) IN GENERAL.—Whenever the Attorney General deems appropriate, upon request or otherwise, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

“(B) SANCTIONS.—Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Attorney General may—

“(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

“(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.”.

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

“4124a. Additional inmate work opportunities through public service activities.”.

Page 36, insert after line 5 the following (and redesignate subsequent subsections and clerical amendments accordingly):

SEC. 11. ADDITIONAL PILOT AUTHORITIES FOR INMATE WORK OPPORTUNITIES.

(a) IN GENERAL.—Chapter 307 of title 18, United States Code, as amended by section 9, is further amended by adding at the end the following new section:

“§4131. Additional pilot authorities for inmate work opportunities

“(a) PILOT AUTHORITIES.—Federal Prison Industries may contract with private or public sector entities for Federal inmates to produce products or perform services for those entities. Under these pilot authorities, and pursuant to the terms and conditions specified in section 4122, Federal inmates may, under the direct supervision of Federal Prison Industries staff—

“(1) produce products or perform services for commercial companies which have been otherwise produced or performed for the companies by foreign labor outside the United States for at least 3 years before the proposed effective date of the business agreement;

“(2) produce products or perform services for commercial companies which would otherwise be performed for the companies by domestic labor, if available; or

“(3) produce products or perform services for not-for-profit agencies in support of the charitable activities of those agencies.

“(b) LIMITATIONS ON USE OF AUTHORITIES.—(1) Federal Prison Industries is prohibited from directly offering for commercial sale products produced or services furnished by Federal inmates, including through any form of electronic commerce.

“(2) The number of Federal inmates working under the pilot authority provided in subsection (a)(1) shall not exceed—

“(A) 4,000 during fiscal year 2005;

“(B) 8,000 during fiscal year 2006;

“(C) 12,000 during fiscal year 2007;

“(D) 16,000 during fiscal year 2008;

“(E) 20,000 during fiscal year 2009; or

“(F) 25 percent of the work-eligible Federal inmate population in any fiscal year beginning after September 30, 2008.

“(3) The number of Federal inmates working under the pilot authority provided in subsection (a)(3) shall not exceed—

“(A) 2,000 during fiscal year 2005;

“(B) 4,000 during fiscal year 2006;

“(C) 6,000 during fiscal year 2007;

“(D) 8,000 during fiscal year 2008;

“(E) 10,000 during fiscal year 2009; or

“(F) 10 percent of the work eligible Federal inmate population in any fiscal year beginning after September 30, 2009.

“(c) INMATE WAGES.—

“(1) IN GENERAL.—Each Federal inmate worker participating in industrial operations authorized by the Corporation shall be paid at a wage rate prescribed by the Board of Directors. The Director of the Federal Bureau of Prisons shall prescribe the wage rates for other Federal inmate work assignments within the various Federal correctional institutions. The Board shall give priority to approving Federal inmate work opportunities which maximize inmate earnings. Inmate wage rates shall be reviewed by the Board at least biannually.

“(2) WORK PURSUANT TO SUBSECTION (a)(1).—For Federal inmate work performed for commercial companies pursuant to subsection (a)(1), the wage rate paid to Federal inmates must be the Federal Prison Industries wage rate in effect on the date of the enactment of this section or twice the rate paid for work of a similar nature in the foreign locality in which the work would otherwise be performed, whichever is higher.

“(3) WORK PURSUANT TO SUBSECTION (a)(2).—For work performed by Federal inmates pursuant to subsection (a)(2), the wage rate paid to inmates shall be not less than the rate paid for work of a similar nature in the locality in which the work is to be performed, but in no event less than the minimum wage required pursuant to the Fair Labor Standards Act (29 U.S.C. 201 et seq). The determination of this wage rate shall be approved by the Secretary of Labor or by the State or local government entity with authority to approve such determinations.

“(d) DEDUCTIONS FROM INMATE WAGES.—Inmate wages paid by commercial companies shall be paid to the Corporation in the name and for the benefit of the Federal inmate. Except as specified in subsection (e), the Corporation may deduct, withhold, and disburse from the gross wages paid to inmates, aggregate amounts of not less than 50 percent and not more than 80 percent of gross wages for—

“(1) applicable taxes (Federal, State, and local);

“(2) payment of fines, special assessments, and any other restitution owed by the inmate worker pursuant to court order;

“(3) payment of additional restitution for victims of the inmate's crimes (at a rate not less than 10 percent of gross wages);

“(4) allocations for support of the inmate's family pursuant to statute, court order, or agreement with the inmate;

“(5) allocations to a fund in the inmate's name to facilitate such inmate's assimilation back into society, payable at the conclusion of incarceration;

“(6) such other deductions as may be specified by the Board of Directors.

“(e) EXCEPTION FOR HIGHER DEDUCTIONS.—The aggregate deduction authorized in subsection (d) may, with the written consent of an inmate, exceed the maximum limitation, if the amounts in excess of such limitation are for the purposes described in paragraphs (4) or (5) of that subsection.

“(f) CONVERSIONS.—Commercial market services authorized by the Federal Prison Industries Board of Directors and being provided by Federal Prison Industries on the date of enactment of this section may be continued until converted to a private sector contract pursuant to the authority in this Act. The Board of Directors of Federal Prison Industries shall ensure these conversions occur at the earliest practicable date.

"(g) PROPOSALS FROM PRIVATE COMPANIES.—Federal Prison Industries may solicit, receive and approve proposals from private companies for Federal inmate work opportunities. Federal Prison Industries shall establish and publish for comment criteria to be used in evaluating and approving such proposals. In developing criteria, priority shall be given to those proposals which offer Federal inmates the highest wages, the most marketable skills, and the greatest prospects for post-release reintegration.

"(h) APPROVAL OF PROPOSALS.—The Board must approve all proposals in advance of their implementation.

"(i) CONTENT OF PROPOSALS.—Any business or eligible not-for-profit entity seeking to contract with Federal Prison Industries for Federal inmate workforce participation shall submit a detailed proposal to the Chief Operating Officer of Federal Prison Industries. Each such proposal shall specify—

"(1) the product or service to be produced or furnished;

"(2) the proposed duration of the business agreement, specified in terms of a base period and number of option period;

"(3) the number of Federal inmate workers expected to be employed during the various phases of the agreement;

"(4) the number of foreign workers, if any, outside the United States currently performing for the proposing entity the work proposed for performance by Federal inmate workers, and the wage rates paid to those workers;

"(5) the wage rates proposed to be paid to various classes of Federal inmate workers, at not less than the rates required by subsection (c); and

"(6) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by the Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement for such facilities, services, and personnel, if any.

"(j) WRITTEN CERTIFICATION FOR PROPOSED COMMERCIAL BUSINESS AGREEMENT.—Each proposed commercial business agreement shall be accompanied by a written certification by the chief executive officer of the business entity proposing the agreement that—

"(1) no noninmate employee of the business (or any affiliate) working within the United States will have their job abolished or their work hours reduced as a direct result of the agreement;

"(2) inmate workers will be paid wages at rates in accordance with subsection (c); and

"(3) any domestic workforce reductions carried out by the business entity affecting employees performing work comparable to the work being performed by inmates pursuant to the agreement shall first apply to inmate workers employed pursuant to the agreement.

"(k) WRITTEN CERTIFICATION FOR PROPOSED AGREEMENT WITH NOT-FOR-PROFIT ENTITY.—Each proposed agreement with an eligible not-for-profit entity shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

"(1) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity;

"(2) the work would not be performed on a compensated basis but for the availability of the inmate workers;

"(3) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a product or the furnishing of a service that is to be offered for commercial sale by the eligible entity or any affiliate of such entity;

"(4) no noninmate employees of the eligible entity (or any affiliate of the entity) will have their job abolished or their work hours reduced as a result of the entity entering into an agreement to utilize inmate workers; and

"(5) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

"(l) PUBLIC NOTICE AND COMMENT.—

"(1) IN GENERAL.—The Board shall make reasonable attempts to provide opportunities for notice and comment to the widest audience of potentially interested parties as practicable. At a minimum, the Board shall—

"(A) give notice of a proposed business agreement on the Corporation's web site and in a publication designed to most effectively provide notice to private businesses and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposed agreement, which notice shall offer to furnish copies of the proposal (excluding any proprietary information) and chief executive certifications and shall solicit comments on same;

"(B) solicit comments on the business proposal from trade associations representing businesses and labor unions representing workers who could reasonably be expected to be affected by approval of the proposal; and

"(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other representatives of private industry to present comments on the proposal directly to the Board of Directors.

"(2) COPIES.—The Board of Directors shall be provided copies of all comments received on the proposal.

"(3) REVISED PROPOSAL.—Based on the comments received on the initial business proposal, the business or nonprofit entity or Federal Prison Industries Chief Operating Officer may provide the Board of Directors a revised proposal. If the revised proposal presents new issues or potential effects on the private sector which were not addressed in the original proposal and comments received thereon, the Board shall provide another public notice and comment opportunity pursuant to paragraph (1).

"(4) OPEN MEETING.—The Board of Directors shall consider all inmate work opportunity proposals submitted and take any action with respect to such proposals, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

"(m) BOARD APPROVAL.—(1) In determining whether to approve a proposed business agreement for Federal inmate work opportunities, the Board shall—

"(A) not approve any agreement that would result in the displacement of noninmate workers contrary to the certifications required in subsections (j) and(k) or pay less than the wages required by subsection (c).

"(B) not approve an agreement which the Board determines contains terms and conditions which would subject domestic noninmate workers to unfair competition;

"(C) request a determination from the International Trade Commission, the Department of Commerce or such other Executive Branch entities as may be appropriate, whenever the Board questions the representations by a commercial company or a not-for-profit entity regarding whether a particular product or service has been produced by foreign labor outside the United States for the commercial company or not-for profit entity for at least 3 years before the proposed effective date of the business agreement;

"(D) not approve an agreement which would cause Federal Prison Industries sales revenue derived from any specific industry to exceed 50 percent of Federal Prison Industries total revenue.

"(E) not approve any agreement which provides for direct supervision of Federal inmate workers by non-Federal Prison Industries employees; and

"(H) not approve any agreement which would provide for products or services produced by Federal inmates to be sold to agencies of State government without the written consent of the Governor or designee.

"(n) REVIEW AND ENFORCEMENT.—(1) The Attorney General shall carry out this subsection in consultation with the Secretary of Labor.

"(2) Upon request of any interested person, the Attorney General may promptly verify a certification pursuant to subsection (j)(1) with respect to the displacement of noninmate workers or a certification with respect to the wages proposed to be paid Federal inmate workers pursuant to subsection (j)(2) so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Attorney General and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

"(3) Whenever the Attorney General deems appropriate, the Attorney General may verify whether the actual performance of the agreement is resulting in the displacement of noninmate workers and whether the wages being paid the Federal inmate workers meet the standards of subsection (c).

"(4) Whenever the Attorney General determines that performance of the agreement has resulted in the displacement of noninmate workers or the payment of Federal inmate workers at less than the required wage rates, the Attorney General may—

"(A) direct the Chief Operating Officer of the Corporation to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default;

"(B) direct that the Federal inmate workers be retroactively paid the wages that were due; and

"(C) initiate proceedings to impose upon the person furnishing the certifications made pursuant to subsection (j), any administrative, civil, and criminal sanctions as may be available.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4131. Additional pilot authorities for inmate work opportunities.".

Mr. SCOTT of Virginia. Mr. Chairman, the first item of this amendment was developed and agreed to recently with the proponents of the bill. It is a proposal to authorize FPI to develop a specific program for inmates to produce goods and provide services for charitable organizations. Although I fear that the funds authorized to develop the project may not be ever appropriated, if the funds are appropriated, I see it as a way of providing, for some of the inmates, work opportunities to compensate for the jobs lost by the passage of this bill.

So I have included that provision along with other pilot projects that I believe should be examined for their potential to make up for the job loss as well.

Mr. Chairman, the other parts of the amendment are as follows. There is an offshore repatriation, there is a Federal Prison Industry enhancement, and a not-for-profit provision. These provisions are not new to the proponents of the bill. In the last Congress, the supporters of the bill and the opponents of the bill, along with their staffs and along with the staff of FPI, worked to develop a compromise proposal on various parts of the bill restructuring FPI to present to the rest of us.

A compromise proposal was developed and many of the elements agreed to are reflected in the bill before us. These pilot authorities would complete the rest of the compromise proposal that we appeared to agree on last year.

Specifically, on the offshore repatriation provision, FPI would be authorized to produce commercial market items for private companies to sell and distribute which have been produced offshore for at least 3 years, provided inmates are paid at least twice the foreign market wage for producing the product. This is to ensure that the lower wage is not the focus of the pilot, and also provides for protections for any businesses or workers engaged in the production of these products in the United States, including a challenging procedure which would halt production if any product that a business or worker could show is actually being produced, or has been produced in the United States in the past 3 years.

The other provision is Federal PIE. FPI would be authorized to produce items for the domestic commercial market provided inmates are paid prevailing domestic market wages. This would allow FPI to pilot a program similar to the Federal Prison Industries Enhancement programs, or PIE, already in operation under Federal law for State Prison Industries programs but not for the Federal Prison Industry program. Under this program, FPI would be allowed to pilot the production of products or services for which there is not a domestic labor force available. There are also strong protections against American worker displacements in this pilot. And again, the language is the language developed by representatives of three Members working with FPI staff.

There is a not-for-profit provision. This involves producing goods or services for not-for-profits at a negotiated rate that would not otherwise be paid for by nonprofits or done by noninmate workers for pay.

During the pilot programs this amendment would authorize, there would be extensive input from the International Trade Commission and the Department of Labor. Any activity under them would be reported to the public and any potential affected parties for comment. All actions taken by FPI relative to the projects would be done in public meetings.

We are talking about pilot programs for proposals. If the pilots do not work or create programs, as some have expressed, then we could simply put a stop to them. But if we are going to take away jobs, if we are going to take away the only reliable basis the prison system has had to ensure real work opportunities for prisoners because one-fourth of 1 percent of the Federal procurement expenditures are deemed too much of a market share for a program which has been proven to reduce crime, it would be irresponsible for us to not at least test other ways to give the program some actual continued reliability. I would hope that my colleagues would support the amendment.

Mr. WOLF. Mr. Chairman, I rise in strong support of the Scott amendment.

Mr. Chairman, it could really make all of the difference in the world with regard to this bill. So Members understand what it is, basically these are goods that are no longer made in the United States. For instance, television sets. There are no television sets made in the U.S., or the automatic car locker that we have. Most of them, I have been told, are made in China.

This would say only goods that are made outside of the United States would be repatriated back and could be made in prisons. This would create additional jobs and competition with foreign companies, and also create jobs for Americans, such as the truck drivers who bring the supplies to the prison, the people who supply the plastics and the wire, whatever the case may be.

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This would create jobs, and it would be almost like the reintroduction of these companies and these industries that have long ago left the United States, to bring them back in. This could be a very, very powerful amendment that would help our economy create jobs, rehabilitate prisons, but create jobs by the people who make the supplies and make whatever. There are none. If you go out today and search, you cannot find a television set that is made in the United States. Maybe the prisoners could make television sets not in competition with any American company, which would really make a tremendous difference.

I strongly urge the support of the Scott amendment which would really make a big difference in rehabilitation, both with regard to our economy and also helping prisoners and helping create jobs here in the United States.

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Reluctantly I rise in opposition to the amendment. This is something that my colleagues and I have been working on for a long period of time. The chairman and I were talking as the debate was going on. We do believe that there is some way to work through this process. The amendment as it is structured right now we are not comfortable with, but we want to work with the gentleman from Virginia (Mr. SCOTT), and we want to work with the gentleman from Virginia (Mr. WOLF) on fully exploring this. We believe that there is a reasonable expectation that as this bill moves through the Senate, whatever, we are going to be able to reach some kind of an accommodation that we can all feel good about. Because, again, as the gentleman from Virginia (Mr. SCOTT) and I and the gentleman from Virginia (Mr. WOLF) and I have talked, I really appreciate the tone and the tenor of the debate today, because we do share the same vision, we do share a lot of the same strategies for where we want to go. We do have a lot of things in common in this bill. You can see that by the different people that have been working together and have been participating in the debate.

As the gentleman from Virginia (Mr. WOLF) said, reaching an agreement on this really would make a world of difference if we can reach an accommodation. We would not have some of the disagreements we are having today. I am committed to working with these gentlemen on getting a resolution to this.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. I thank the gentleman for yielding.

Mr. Chairman, my goal is to make sure that we have the provision of significant job opportunities for prisoners that will reduce crime. FPI does it with no cost. The gentleman from Michigan has suggested by his assurances that we might be able to come up with alternatives that will actually provide jobs another way and reduce costs. It might cost something. But I think the main focus ought to be the provision of jobs so we can reduce crime. It has been proven that these programs reduce crime.

With the gentleman's assurance that we can work together and possibly come up with some accommodation to replace the jobs that may be lost in the underlying bill, I will ask to withdraw the amendment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. HOEKSTRA

Mr. HOEKSTRA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOEKSTRA:

Page 29, after line 5, insert the following new subsection (and redesignate subsequent subsections in section 10 accordingly):

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

"§ 4124a. Additional inmate work opportunities through public service activities

"(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

"(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term 'eligible entity' means an entity—

"(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

"(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

"(3) that is a unit of local government, a school district, or another special purpose district.

"(c) INMATE WORK TRAINING ADMINISTRATOR.—

"(1) The Federal Prison Industries Board of Directors shall designate an entity as the Inmate Work Training Administrator to administer the work-based training program authorized by this section.

"(2) In selecting the Inmate Work Training Administrator, the Board of Directors shall select an entity—

"(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

"(B) that has demonstrated, for a period of not less than 5 years, expertise in the theory and practice of fostering inmate rehabilitation through work-based programs in cooperation with private sector firms.

"(3) With respect to the formation and performance of an agreement authorized by this section, the Director of the Bureau of Prisons and the Chief Operating Officer of Federal Prison Industries shall be responsible only for—

"(A) maintaining appropriate institutional and inmate security; and

"(B) matters relating to the selection and payment of participating inmates.

"(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

"(1) types of work to be performed;

"(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

"(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

"(4) the wage rates proposed to be paid to various classes of inmate workers; and

"(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

"(e) REPRESENTATIONS.—

"(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

"(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

"(B) the work would not be performed but for the availability of the inmate workers;

"(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

"(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

"(A) no non-inmate employee or volunteer of the eligible entity (or any affiliate of the entity) will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

"(B) the work to be performed by the inmate workers will not supplant work currently being performed by a contractor of the eligible entity.

"(f) APPROVAL BY BOARD OF DIRECTORS.—

"(1) IN GENERAL.—Each such proposed agreement shall be presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (6) and (7) of section 4122(b).

"(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

"(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

"(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

"(C) not approve an agreement that will result in the displacement of non-inmate workers or volunteers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Secretary of Labor (pursuant to subsection (i)); and

"(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale or donation.

"(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

"(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

"(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(11)(C).

"(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

"(A) is participating voluntarily; and

"(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

"(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

"(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

"(1) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Secretary of Labor may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Secretary and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

"(2) DURING PERFORMANCE.—

"(A) IN GENERAL.—Whenever the Secretary deems appropriate, upon request or otherwise, the Secretary may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

"(B) SANCTIONS.—Whenever the Secretary determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Secretary may—

"(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

"(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.".

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 2004 through 2008 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) CLERICAL AMENDMENT.—The table of sections for chapter 307 of title 18, United States Code, is amended by inserting after the item relating to section 4124 the following new item:

"4124a. Additional inmate work opportunities through public service activities.".

Mr. HOEKSTRA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. HOEKSTRA. Mr. Chairman, this amendment again addresses the issue that we have been working with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF) and others on to ensure that workers are engaged in productive and constructive work activities. What this amendment does is it further expands the inmate work opportunities in conjunction with not-for-profit organizations. As I explained earlier today, the bill allows for some partnering, but what this does now is it expands the partnership capabilities and also provides funding for those activities to take place.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am pleased to support this amendment. There has been a program that has been operational in the State of Ohio that has worked out very well, and I think we ought to expand that success to the Federal prison system. This amendment makes a constructive addition to the bill.

Mr. HOEKSTRA. I thank the chairman for that endorsement.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I indicated in my remarks, this would be part of the amendment that I just withdrew. This would actually provide meaningful job opportunities for inmates. It would therefore reduce crime. It has the added advantage, it would help nonprofit charitable organizations get goods and services they may not be able to get. It does not have the advantage that it is paid for by itself. We would have to appropriate funds. But because it accomplishes all of the goals that we all have stated as goals for the prison industries program, I would hope that we would adopt this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. HOEKSTRA).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 10?

If not, the Clerk will designate section 11.

The text of section 11 is as follows:

SEC. 11. RESTRUCTURING THE BOARD OF DIRECTORS.

Section 4121 of title 18, United States Code, is amended to read as follows:

"§4121. Federal Prison Industries; Board of Directors: executive management

"(a) Federal Prison Industries is a government corporation of the District of Columbia organized to carry on such industrial operations in Federal correctional institutions as authorized by its Board of Directors. The manner and extent to which such industrial operations are carried on in the various Federal correctional institutions shall be determined by the Attorney General.

"(b)(1) The corporation shall be governed by a board of 11 directors appointed by the President.

"(2) In making appointments to the Board, the President shall assure that 3 members represent the business community, 3 members represent organized labor, 1 member shall have special expertise in inmate rehabilitation techniques, 1 member represents victims of crime, 1 member represents the interests of Federal inmate workers, and 2 additional members whose background and expertise the President deems appropriate. The members of the Board representing the business community shall include, to the maximum extent practicable, representation of firms furnishing services as well as firms producing products, especially from those industry categories from which Federal Prison Industries derives substantial sales. The members of the Board representing organized labor shall, to the maximum practicable, include representation from labor unions whose members are likely to be most affected by the sales of Federal Prison Industries.

"(3) Each member shall be appointed for a term of 5 years, except that of members first appointed—

"(A) 2 members representing the business community shall be appointed for a term of 3 years;

"(B) 2 members representing labor shall be appointed for a term of 3 years;

"(C) 2 members whose background and expertise the President deems appropriate for a term of 3 years;

"(D) 1 member representing victims of crime shall be appointed for a term of 3 years;

"(E) 1 member representing the interests of Federal inmate workers shall be appointed for a term of 3 years;

"(F) 1 member representing the business community shall be appointed for a term of 4 years;

"(G) 1 member representing the business community shall be appointed for a term of 4 years; and

"(H) the members having special expertise in inmate rehabilitation techniques shall be appointed for a term of 5 years.

"(4) The President shall designate 1 member of the Board as Chairperson. The Chairperson may designate a Vice Chairperson.

"(5) Members of the Board may be reappointed.

"(6) Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

"(7) The members of the Board shall serve without compensation. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Board and, with the advance approval of the Chairperson of the Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Board.

"(8)(A) The Chairperson of the Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

"(B) Upon request of the Chairperson of the Board, a Federal agency may detail a Federal Government employee to the Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

"(9) The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(c) The Director of the Bureau of Prisons shall serve as Chief Executive Officer of the Corporation. The Director shall designate a person to serve as Chief Operating Officer of the Corporation.".

The CHAIRMAN pro tempore. Are there any amendments to section 11?

If not, the Clerk will designate section 12.

The text of section 12 is as follows:

SEC. 12. PROVIDING ADDITIONAL MANAGEMENT FLEXIBILITY TO FEDERAL PRISON INDUSTRIES OPERATIONS.

Section 4122(b)(3) of title 18, United States Code, is amended—

(1) by striking "(3)" and inserting "(3)(A)"; and

(2) by adding at the end the following new paragraphs:

"(B) Federal Prison Industries may locate more than one workshop at a Federal correctional facility.

"(C) Federal Prison Industries may operate a workshop outside of a correctional facility if all of the inmates working in such workshop are classified as minimum security inmates.".

The CHAIRMAN pro tempore. Are there any amendments to section 12?

If not, the Clerk will designate section 13.

The text of section 13 is as follows:

SEC. 13. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with nonappropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries during any fiscal year specified in section 4(e)(1) shall be—

(1) eligible for appointment (or reappointment) in the competitive service pursuant to title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

The CHAIRMAN pro tempore. Are there any amendments to section 13?

If not, the Clerk will designate section 14.

The text of section 14 is as follows:

SEC. 14. FEDERAL PRISON INDUSTRIES REPORT TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

"§4127. Federal Prison Industries report to Congress

"(a) IN GENERAL.—Pursuant to chapter 91 of title 31, the board of directors of Federal Prison Industries shall submit an annual report to Congress on the conduct of the business of the corporation during each fiscal year and the condition of its funds during the fiscal year.

"(b) CONTENTS OF REPORT.—In addition to the matters required by section 9106 of title 31, and such other matters as the board considers appropriate, a report under subsection (a) shall include—

"(1) a statement of the amount of obligations issued under section 4129(a)(1) of this title during the fiscal year;

"(2) an estimate of the amount of obligations that will be issued in the following fiscal year;

"(3) an analysis of—

"(A) the corporation's total sales for each specific product and type of service sold to the Federal agencies and the commercial market;

"(B) the total purchases by each Federal agency of each specific product and type of service;

"(C) the corporation's share of such total Federal Government purchases by specific product and type of service; and

"(D) the number and disposition of disputes submitted to the heads of the Federal departments and agencies pursuant to section 4124(e) of this title;

"(4) an analysis of the inmate workforce that includes—

"(A) the number of inmates employed;

"(B) the number of inmates utilized to produce products or furnish services sold in the commercial market;

"(C) the number and percentage of employed inmates by the term of their incarceration; and

"(D) the various hourly wages paid to inmates employed with respect to the production of the various specific products and types of services authorized for production and sale to Federal agencies and in the commercial market; and

"(5) data concerning employment obtained by former inmates upon release to determine whether the employment provided by Federal Prison Industries during incarceration provided such inmates with knowledge and skill in a trade or occupation that enabled such former inmate to earn a livelihood upon release.

"(c) Public Availability.—Copies of an annual report under subsection (a) shall be made available to the public at a price not exceeding the cost of printing the report.".

The CHAIRMAN pro tempore. Are there any amendments to section 14?

If not, the Clerk will designate section 15.

The text of section 15 is as follows:

SEC. 15. INDEPENDENT STUDY TO DETERMINE THE EFFECTS OF ELIMINATING THE FEDERAL PRISON INDUSTRIES MANDATORY SOURCE AUTHORITY.

(a) Study Required.—The Comptroller General shall undertake to have an independent study conducted on the effects of eliminating the Federal Prison Industries mandatory source authority.

(b) Solicitation of Views.—The Comptroller General shall ensure that in developing the statement of work and the methodology for the study, the views and input of private industry, organized labor groups, Members and staff of the relevant Congressional committees, officials of the executive branch, and the public are solicited.

(c) Submission.—Not later than June 30, 2004, the Comptroller General shall submit the results of the study to Congress, including any recommendations for legislation.

The CHAIRMAN pro tempore. Are there any amendments to section 15?

If not, the Clerk will designate section 16.

The text of section 16 is as follows:

SEC. 16. SENSE OF CONGRESS.

It is the sense of Congress that it is important to study the concept of implementing a "good time" release program for non-violent criminals in the Federal prison system.

The CHAIRMAN pro tempore. Are there any amendments to section 16?

If not, the Clerk will designate section 17.

The text of section 17 is as follows:

SEC. 17. DEFINITIONS.

Chapter 307 of title 18, United States Code, is amended by adding at the end the following new section:

"§4131. Definitions

"As used in this chapter—

"(1) the term 'assembly' means the process of uniting or combining articles or components (including ancillary finished components or assemblies) so as to produce a significant change in form or utility, without necessarily changing or altering the component parts;

"(2) the term 'current market price' means, with respect to a specific product, the fair market price of the product within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is to be awarded, verified through appropriate price analysis or cost analysis, including any costs relating to transportation or the furnishing of any ancillary services;

"(3) the term 'import-sensitive product' means a product which, according to Department of Commerce data, has experienced competition from imports at an import to domestic production ratio of 25 percent or greater;

"(4) the term 'labor-intensive manufacture' means a manufacturing activity in which the value of inmate labor constitutes at least 10 percent of the estimate unit cost to produce the item by Federal Prison Industries;

"(5) the term 'manufacture' means the process of fabricating from raw or prepared materials, so as to impart to those materials new forms, qualities, properties, and combinations;

"(6) the term 'reasonable share of the market' means a share of the total purchases by the Federal departments and agencies, as reported to the Federal Procurement Data System for—

"(A) any specific product during the 3 preceding fiscal years, that does not exceed 20 percent of the Federal market for the specific product; and

"(B) any specific service during the 3 preceding fiscal years, that does not exceed 5 percent of the Federal market for the specific service; and

"(7) the term 'services' has the meaning given the term 'service contract' by section 37.101 of the Federal Acquisition Regulation (48 C.F.R. 36.102), as in effect on July 1, 2002.".

The CHAIRMAN pro tempore. Are there any amendments to section 17?

If not, the Clerk will designate section 18.

The text of section 18 is as follows:

SEC. 18. IMPLEMENTING REGULATIONS AND PROCEDURES.

(a) Federal Acquisition Regulation.—

(1) Proposed revisions.—Proposed revisions to the Governmentwide Federal Acquisition Regulation to implement the amendments made by this Act shall be published not later than 60 days after the date of the enactment of this Act and provide not less than 60 days for public comment.

(2) Final regulations.—Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(3) Public participation.—The proposed regulations required by subsection (a) and the final regulations required by subsection (b) shall afford an opportunity for public participation in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(b) Board of Directors.—

(1) In general.—The Board of Directors of Federal Prison Industries shall issue regulations defining the terms specified in paragraph (2).

(2) Terms to be defined.—The Board of Directors shall issue regulations for the following terms:

(A) Prison-made product.

(B) Prison-furnished service.

(C) Specific product.

(D) Specific service.

(3) Schedule for regulatory definitions.—

(A) Proposed regulations relating to the matter described in subsection (b)(2) shall be published not later than 60 days after the date of enactment of this Act and provide not less than 60 days for public comment.

(B) Final regulations relating to the matters described in subsection (b)(2) shall be published not less than 180 days after the date of enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(4) Enhanced opportunities for public participation and scrutiny.—

(A) Administrative procedure act.—Regulations issued by the Board of Directors shall be subject to notice and comment rulemaking pursuant to section 553 of title 5, United States Code. Unless determined wholly impracticable or unnecessary by the Board of Directors, the public shall be afforded 60 days for comment on proposed regulations.

(B) Enhanced outreach.—The Board of Directors shall use means designed to most effectively solicit public comment on proposed regulations, procedures, and policies and to inform the affected public of final regulations, procedures, and policies.

(C) Open meeting processes.—The Board of Directors shall take all actions relating to the adoption of regulations, operating procedures, guidelines, and any other matter relating to the governance and operation of Federal Prison Industries based on deliberations and a recorded vote conducted during a meeting open to the public, unless closed pursuant to section 552(b) of title 5, United States Code.

The CHAIRMAN pro tempore. Are there any amendments to section 18?

If not, the Clerk will designate section 19.

The text of section 19 is as follows:

SEC. 19. RULES OF CONSTRUCTION.

(a) Agency Bid Protests.—Subsection (e) of section 4124 of title 18, United States Code, as amended by section 2, is not intended to alter any rights of any offeror other than Federal Prison Industries to file a bid protest in accordance with other law or regulation in effect on the date of the enactment of this Act.

(b) Javits-Wagner-O'Day Act.—Nothing in this Act is intended to modify the Javits-Wagner-O'Day Act (41 U.S.C. 46, et seq.).

The CHAIRMAN pro tempore. Are there any amendments to section 19?

If not, the Clerk will designate section 20.

The text of section 20 is as follows:

SEC. 20. EFFECTIVE DATE AND APPLICABILITY.

(a) Effective Date.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Applicability.—Section 4124 of title 18, United States Code, as amended by section 2, shall apply to any requirement for a product or service offered by Federal Prison Industries needed by a Federal department or agency after the effective date of the final regulations issued pursuant to section 18(a)(2), or after September 30, 2004, whichever is earlier.

The CHAIRMAN pro tempore. Are there any amendments to section 20?

If not, the Clerk will designate section 21.

The text of section 21 is as follows:

SEC. 21. CLERICAL AMENDMENTS.

The table of sections for chapter 307 of title 18, United States Code, is amended—

(1) by amending the item relating to section 4121 to read as follows:

"4121. Federal Prison Industries; Board of Directors: executive management.";

(2) by amending the item relating to section 4124 to read as follows:

"4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries.";

(3) by amending the item relating to section 4127 to read as follows:

"4127. Federal Prison Industries report to Congress.";

and

(4) by adding at the end the following new items:

"4130. Construction of provisions.
"4131. Definitions.".

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

At the end of the bill, add the following new section:

SEC. 22. SUNSET.

If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have repeatedly said in my debate and discourse on this bill that many of us have worked to put together aspects of this legislation that will respond to a number of concerns. I do not have an attitude, Mr. Chairman, that this bill is totally without merit, and I respect the gentleman from Michigan's issues as relates to certain areas of this Nation that have been impacted as many of my friends have come to the floor on a trade policy that some would call in disarray. We have lost jobs in America. We have lost 3 million manufacturing jobs. We have small businesses that are clamoring to find ways to provide health care for their employees.

I would be the first to say that the role of this Congress is to be a problem solver. I have stood with my colleagues as relates to job creation and to emphasize the importance of providing tax incentives to small businesses and also ways to assist them in securing good health insurance.

Frankly, I believe several amendments that have passed today are good amendments. The Waters/Millender-McDonald amendment I support provides for increasing the minimum wage to help those inmates who are incarcerated have, in essence, a trust fund when they leave the Bureau of Prisons from their incarcerations to make a difference. But I think this bill is all about the competition, the loss of jobs.

I want to cite a number of figures that might speak to that issue. It relates to the number of prisoners that we have in the Federal prison population for years 2000, 2001 and 2002: 39,679, 36,000, and 36,000 persons respectively would lose opportunities to work. The State prison population for the same years is 20,200, 20,898, and 23,561. I believe that the crux of the issue is whether or not this bill will answer the concerns and how long it should be implemented. The bill has in it a 5-year phase-out of the prison industries' effort.

What my amendment will simply do, Mr. Chairman, is put our money and our mouth and our concerns right where they should be. If the Attorney General determines that we will impact prison management, safety, the rehabilitation of prisoners, control, if that is impacted, then this will be sunsetted in 3 years. That is the crux of what this particular amendment will attempt to do.

It does not attempt to do it in a vacuum. It does not attempt to do it because there is dispute over which direction we should take. It asks the Attorney General to have a large role. Mr. Chairman, we are talking about an Attorney General that the majority knows, because this is in the context of 3 years, and right now we are suggesting that if this legislation undermines the running of our prisons, with a large number of inmates, where they do not have the opportunity to work and if we find that that opportunity supersedes the good intentions of this bill, which is to bring relief to some areas where large prisons are that are run by the Federal Government that use and have resources and that it is impacting in the area small businesses, then the Attorney General will not act. But he or she will act if he finds in good faith that public or prison safety, prison management, prison rehabilitation opportunities will be impacted negatively by this particular legislation.

This is a thoughtful amendment in that it is an amendment that is used in many of our legislative initiatives and, that is, to sunset, to bring an end to it until we can assess where we are. I simply say to my colleagues that we cannot have it all, that is, incarcerate individuals who perpetrated offenses, expect for them to be contributing members of our society, and do nothing to help that occur. If you live in communities where I live, if you live in poor rural areas, you will find many of these young men returning home to empty opportunities. Every job application, Mr. Chairman, requires an incarcerated person to note whether they have been convicted or incarcerated. Many of them are paying because they are not allowed to vote. They are not allowed to mainstream into our communities.

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And so we are looking for a chance in this legislation and we do not give them a chance if we allow the crux of their survival to be taken away from them, Mr. Chairman. Sunset this bill on the basis of the Attorney General's recommendation and do what is right not only for small businesses, but for inmates who are trying to rehabilitate.

Mr. Chairman, I rise to offer an amendment to H.R. 1829, the "Federal Prison Industries Competition in Contracting Act of 2003." The specific language of JACKSO.166 reads:

> If the Attorney General makes a written determination before the end of the 3-year period beginning on the date of the enactment of this Act that the implementation of this Act creates a significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities, then this Act, and the amendments made by this Act, shall not be in effect on and after the date occurring 3 years after such date of enactment (and the law shall read as if this Act were not enacted).

This amendment offers a safety net for an otherwise certain end to the Federal Prison Industries program, which has clearly demonstrated itself to be a positive thing for our federal inmate population. Sunsetting H.R. 1829 will give the expansion of competition in the federal prison procurement industry a fair chance to operate. Opponents of FPI who argue that it kills small businesses will have an opportunity to demonstrate whether or not FPI does impact their ability to compete. However, the important thing about this amendment is that it ensures that there is protection of the inmate population in case these opponents are wrong.

When FPI allows federal inmates to earn money to send to their wives, elderly parents, and small children, we see that the negative impact that H.R. 1829 will have is local and hard-hitting. The amendment that was offered by my colleague Ms. MILLENDER-MCDONALD would have enhanced this ability to give family support by creating a trust fund mechanism for these inmates. The conclusiveness of this bill as drafted threatens the lives and livelihood of many American families. My amendment ensures that these families won't have the doors of justice slam in their faces. If the FPI program's elimination is shown to have a negative impact on these families, we will see an immediate return to the plan that has demonstrated its viability. This is a true case of "if it isn't broken, don't fix it." I would ask that my colleagues at least follow a middle ground by voting to accept my amendment, which would change that saying to "if it isn't broken after trying something else, let's not allow it to break."

Furthermore, this bill threatens the safe environment of the federal prisons and the fight against recidivism. With the elimination of mandatory source preferences for FPI, we will take activities away from a large number of former prison employees. What will these individuals do once their jobs have been taken away from them? For many of them, the jobs were a very important diversion from anger, hate, and violence. The jobs that will be taken away from them will invite violence in the prisons as well as in the workplace for the Federal Bureau of Prisons. Moreover, the job training that will be lost will create a situation ripe for recidivism. The Jackson Lee Amendment will ensure that we can correct this situation after we have educated ourselves on the alternatives offered by the removal of mandatory source preferences.

Over 2 million offenders are incarcerated in the nation's prisons and jails. At midyear 2002, 665,475 inmates were held in the Nation's local jails, up from 631,240 at midyear 2001. Projections indicate that the inmate population will unfortunately continue to rise over the years to come. Without the protection that is offered by my amendment, these numbers can represent cultures of violence, cultures of recidivism, and cultures of liabilities to our society rather than positive contributors.

FPI is a self-supporting government operation. Revenue generated by the corporation is used to purchase equipment and raw materials, pay wages to inmates and staff, and expand facilities. Last year, FPI generated over $566 million in revenue, $418 million of which went to purchasing goods and services from the private sector, 74 percent of which went to small and minority owned businesses in local communities across this country.

The Bureau of Prisons clearly appreciates the advantage the program can have on inmates and society at large. First, there is some security benefit to FPI system because inmates are productively occupied. Second, FPI programs are said to provide inmates with training and experience that develop job skills and a strong work ethic.

The bill before us today provides for a five-year phase-out of mandatory source preference by granting to FPI's Federal agency customer's authority to first solicit on a non-competitive basis. However, at the end of the phase-out period there is no existing substitute for the services and program. Looking to the states, there simply is not enough program participation to accommodate the 25 percent that is currently accommodated under FPI.

During FY 2002, FPI spent 74 percent of its $680 million in sales revenues (that is, $503 million) on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases (that is, $311 million) were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses. From 1997–2001, FPI has awarded $851 million in contracts to small businesses, which is a yearly average of 57 percent.

Clearly, the existing FPI program has positive effects on the economic viability of the prison inmate community by way of jobs and job training, the small, minority-, and women-owned business communities by way of offering equal access to federal procurement contracts, and to the community by way of reducing incidence of recidivism. H.R. 1829 will phase these benefits out potentially, unless my amendment is included that will provide a necessary protection mechanism.

I urge my colleagues to vote for the Jackson-Lee Amendment.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, not only does this amendment have the potential of tossing into the wastebasket many years of work by the Congress and by those who were contracted to do work on this issue by the Congress, but it also sets the unprecedented provision that allows an officer of the executive branch, the Attorney General, to wipe a law off the books. Article 1 of the Constitution gives the exclusive legislative authority in this country to the elected Congress of the United States, and Congress makes the laws; Congress amends the laws; and Congress repeals the laws. And no officer of the executive branch should have the authority to make a determination that wipes the a law off the books. And that is what this amendment does. It gives the Attorney General of the United States, whether it be Mr. Ashcroft or one of his successors, the authority to actually change the statutes that have been passed by Congress. And for that reason alone, this amendment should be rejected.

But I would like to talk about the work that has been done on Prison Industries over the years. In public law 101–515, the Commerce, Justice, State Appropriations Act for fiscal year 1991, there was a 16-month review done under contract by Deloitte & Touche, 500 pages of reporting to Congress on study findings and recommendation and appendices. No action. Then there was a 2-year Federal Prison Industries summit process, from 1991 to 1993, that was led by the Brookings Institution and brought together all of the stakeholders to develop practical implementation strategies for the recommendations of the Market Survey just referred to. Nothing happened.

And then this has been studied and studied and studied. I have three recent General Accounting Office reports from 1998. Federal Prison Industries Limited Data Available on Customer Satisfaction, ignored because we did nothing. Federal Prison Industries Information on Product Pricing, ignored because we did nothing. Federal Prison Industries Delivery Performance is Improving but Problems Remain, ignored because we did nothing. And look at all the hearings that have been held in various committees of the Congress to reform Federal Prison Industries. Literally here almost ten inches of hearing transcripts that have been held before the Committee on the Judiciary, the Committee on Small Business, the Committee on Education and the Workforce. And if we do not do anything to reform Prison Industries, all of the testimony that was given on the fact that this system is broken will be ignored.

The time has come for Congress to take some action, and this bill has been the result of infinite negotiations and compromises that have been made, improvements that have been made to the legislation, including amendments adopted here on the floor today. And for the gentlewoman from Texas to propose an amendment that says that all of this work can be abolished at the stroke of the pen of the Attorney General in 3 years really does no business to our doctrine of separation of powers, as well as to all of the work that the legislative branch has either done or sponsored. For this reason, this amendment should be overwhelmingly defeated.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the work that my colleague from Texas does on this and other issues, but in this case we disagree. I think it would be a grave error to sunset.

Sunset is a legitimate tool, but when we adopt a sunset, I think we need to calculate what incentive we are setting in motion. For example, the gentleman from Wisconsin played a very useful role here. We in the House Committee on the Judiciary, on which I then served, insisted on a sunset to the Patriot Act because a lot of new powers were being granted affirmatively, and we felt that it was important that, as we started these brand new powers, the people exercising the powers should know that they would have to come and get them renewed. There was an incentive in that sunset to the people given the grant of new authority to exercise it in a reasonable way.

Here, though, a sunset would create, I believe, perverse incentives. We know on good faith people in the Bureau of Prisons do not like this bill. The people in the Federal Prison Industries do not like the bill. The people who are now working to provide rehabilitative employment efforts to inmates, which all of us support, like the current system and do not want to have to go to a new system. For the new system to work well, we have provisions in this bill that say there will be additional training for the inmates, there will be donation programs, and that is being strengthened, there will not programs whereby we in this bill mandate the people who run the Federal prisons to find alternatives to the sale of these products. We want them to continue working, but we want a variety of things to be done so that there can be donations to charitable groups, et cetera. It is going to be more work for the people who now run the prisons. It will be the course of least resistance for them to go with the status quo. That is why, I think, a sunset creates a perverse incentive, because the people who do not want this program to work are the people who are in charge of making it work, and if they know that if we have not been able to find other work, if they can simply sit and let some of these provisions for alternative sources of employment go unused, they will make their case for getting rid of this.

So it is one thing if we give a grant of power to people and tell them, look, go use these powers wisely because they have to come back to us. It is another thing to say to a group of people who do not like what we are doing, if, in fact, the efforts to make work what they do not want to work are not very effective, then they will have achieved their goal.

So I really believe that a sunset goes in the wrong direction here. I think we need to give the Federal Prison Industries every incentive to make this work. I do not want them to have the benefit of saying we cannot find 100 day-care centers and shelters; if we cannot set up these alternatives, if we cannot do all these new jobs that have been put on us, then we will have a good argument to the Attorney General to abolish it.

I also agree with the argument made by the chairman, who is a very strong and thoughtful defender of the role of elected Representatives in our democracy. He is quite right to object to this on separation of powers grounds. This is far too great a delegation of power to the Attorney General. But there is also, I think, what I believe to be a perverse incentive. So for both reasons, because I believe we should go to a new system in which the inmates are given work but we finance that work differently, and that is going to be a complicated task to put on people in the prisons. I do not want the bureaucrats, the administrators of this, to have any incentive not to do their very best.

Mr. SCOTT of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the reasons I have already articulated, I think this would be a good amendment, and I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the very distinguished gentleman from Virginia for yielding and for his leadership on this bill.

Mr. Chairman, the debate today shows that good friends can agree to disagree on policy, and I rise to offer some commentary and support of my amendment to sunset and to suggest that I in no way have disagreement or would want to override the distinctiveness between the three branches of government. I am a zealot, if you will, as it relates to the responsibility of Congress to be both in the position of oversight, giving oversight to the executive, and as well to be independent. There are three independent branches of government.

But I want to speak particularly to this bill and all of the pages of research and hearings again to emphasize to my colleagues that there is no crisis here, and even though we may have worked on this for years and years, there is no crisis. My recollection is that in the course of many legislative initiatives that we have had, such as the Voter Rights Act of 1965 and the Civil Rights Act of 1964, those were hundreds of years in the making. That is a crisis. This is not.

And let me share with my colleagues these numbers. Seventy-four percent of the Federal Prison Industries, $680 million in sale revenues, that is $503 million they spend on purchases of raw materials, equipment, and services from private sector companies. Some 62 percent of these purchases, that is, $311 million, were from small businesses, including businesses owned by women, minorities, and those who are disadvantaged. FPI, the Federal Prison Industries, has consistently received the U.S. Attorney General's Small Business Award for its concerted efforts to contract with the small business community, far exceeding the 23 percent government-wide requirement for contracts with small businesses from 1997 to 2001. FPI has awarded $851 million in contracts to small businesses, which is a yearly average of 57 percent.

I would have wanted to offer an amendment that would give us precise information continuously about the procurement process and how we can encourage more small businesses to be engaged. I will not offer that amendment. On the other hand, I think this has to do with the safety, the management, the rehabilitation aspects, and the control of our Federal prisons. With over 2 million Americans and others in the United States jails and prisons, I cannot be told that the Attorney General's involvement in determining whether this legislation in its enactment will undermine the management and control and the survival and existence and the sanctity of these prisons, with this huge number of inmates, so that he or she can determine that we should sunset this bill because it does generate a crisis of control. Then I would ask my colleagues what then is our role? Our role is to be thoughtful and it is to be instructive and it is to ensure the safety of the American people and our communities, and a disruptive prison system because we do not have order, because we have people who are without resources, without work, without ability to contribute into their trust funds to provide for their families, I think that is disruptive.

So I would say to my colleagues that this is a concertedly thoughtful amendment that deals with trying to solve the problem. It does not tell the Attorney General to do so. It gives he or she criteria, and those are: A significant risk or adverse effect on public or prison safety, prison management, or prison rehabilitation opportunities. Then this Act, and the amendments made by this Act, shall not be in effect after 3 years.

This is giving discretion. This is reasonable. This is thoughtful because we are concerned about the balance of our small businesses and the order of our prison system. And I believe when we are on the floor of the House, Mr. Chairman, that is the task of all of us, to be able to work in a thoughtful process because legislation leaving this body becomes final. It goes to the Senate and ultimately to the President's desk. Where then should we do our work to provide a reasonable response to what may be a crisis? And I do not know if anyone can manage two million of those in our prisons and jails when they do not have the opportunity to have a future and to look forward to being trained and to be able to get out and be deemed a responsible and contributing adult to this society.

I ask my colleagues to consider this amendment and to vote for the Jackson-Lee amendment that is a thoughtful way of handling this challenge that we have but not yet a crisis.

□ 1515

Mr. HOEKSTRA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. This bill, I am sometimes a little surprised by how it is described. Sunsetting the bill after 3 years, it is a 5-year phase-out of mandatory sourcing, so, as we are implementing the bill, midway through the process the Attorney General arbitrarily could declare the bill null and void and go back to the legislation that we have today.

The bill allows for the Attorney General under certain circumstances, if there are concerns about prison safety or the performance of the prisons, to take action in regard to mandatory sourcing and sole-source suppliers to make sure that we do not have unsafe conditions in the prisons.

It is interesting that the Attorney General is offering awards for "small business companies of the year" and identifying Federal Prison Industries as one of those. If you go to government procurement managers, government procurement managers are in favor of H.R. 1829 because they have clearly through their experience not had that kind of outstanding service by Federal Prison Industries. What they want is the ability to get the best product. We ask them to do more for less.

Business and labor support this. It is not a crisis to us perhaps, and it is perhaps not a crisis to the AFL–CIO in its entirety, or to the Chamber of Commerce or to NFIB or to the Teamsters. But what each of these organizations has experienced is that certain of their members, certain of the companies that they represent, have experienced the crisis, because the crisis has been their businesses have closed and their employees have lost jobs because they have been unable to compete for Federal contracts.

We have the protections in place. This amendment is not necessary. Give H.R. 1829 the opportunity to be implemented, to be monitored; and if there are changes that need to be made after it is implemented and after it is working, it is the responsibility of Congress to make those changes, to fine-tune it, not the responsibility of the Attorney General to deep-six the whole program.

The CHAIRMAN pro tempore (Mr. BONILLA). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

AMENDMENT OFFERED BY MR. STRICKLAND

Mr. STRICKLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRICKLAND:

Add at the end of the bill the following new section:

SEC. 22. PROCUREMENT OF GOODS AND SERVICES MANUFACTURED IN THE UNITED STATES.

In any case in which a procurement activity proceeds to conduct a procurement for a product or service as described in paragraph (6) of section 4124(b) of title 18, United States Code, as added by section 2, the procurement must be of goods or services manufactured in the United States.

Mr. STRICKLAND. Mr. Chairman, I want to say a word about this debate today. In my judgment, it has been one of the most thoughtful, substantive debates that I have witnessed in this Chamber, and I think the reason for it is it is not based upon being a liberal or conservative or Republican or Democrat; but it is an attempt to deal with a serious matter, and I think there are people of differing opinions who want to do the right thing and are trying to do the right thing.

I intend to vote for this bill. But one of the concerns that I have had and one of the concerns that has been expressed here today is that we simply do not want to deprive work from being undertaken in our prisons and then allow that work to be performed outside of our country.

This amendment is very simple. It just simply says under those circumstances where the Federal Bureau of Prisons is permitted to bid on a procurement activity, those competing private bidders must provide whatever goods and services they are seeking to provide which are manufactured within the United States of America. I think that will solve a lot of concerns that many of us have.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. STRICKLAND. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman from Ohio for yielding. I am happy to accept the amendment, and I hope it is adopted.

Mr. STRICKLAND. Mr. Chairman, reclaiming my time, I thank my friend.

Mr. HOEKSTRA. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I thank my colleague for working with us in structuring this amendment in a way that, again, improves the bill.

I just want to take a moment to thank a number of my colleagues, as we are coming to the conclusion of this debate. We have been down a long road to get here, but the gentleman from Massachusetts (Mr. FRANK), the gentlewoman from New York (Mrs. MALONEY), and the gentleman from Michigan (Mr. CONYERS) have been great partners on the other side of the aisle. We have been working at this effort for almost 7 years.

On this side of the aisle, the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Georgia (Mr. COLLINS), and I have worked with these and other Members to craft this legislation.

As we found out today, we still have some disagreements, but we are intent on continuing to work with the gentleman from Virginia (Mr. SCOTT), the gentleman from Virginia (Mr. WOLF), and a few others to take this bill and, hopefully, put the final pieces together. But it has been a very constructive process to get where we are today.

As the gentleman from Ohio (Mr. STRICKLAND) said, we had a great debate and great discussion. Part of it is because we have had different folks coming together from different ways, but also we worked together for 7 years in bringing this bill together. As we have gone through that process, we recognized the need for compromise, we recognized that in certain areas we have not reached there; but at all times, we have never let our disagreements impact the personal relationships and the trust we have built over the last 7 years.

So I would like to thank my colleagues for the work that we have had, for the tone and the tenor of the debate today, which has really, I think, brought credit to the House.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. STRICKLAND).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to section 21?

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: An amendment offered by Mr. GREEN of Wisconsin and an amendment offered by Ms. JACKSON-LEE of Texas.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT OFFERED BY MR. GREEN OF WISCONSIN

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Wisconsin (Mr. GREEN) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 91, noes 325, not voting 18, as follows:

[Roll No. 610]

AYES—91

Baca
Berry
Blumenauer
Blunt
Brown-Waite, Ginny
Capps
Capuano
Cardoza
Carson (IN)
Case
Chabot
Davis (CA)
Davis (IL)
Davis, Tom
Delahunt
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Farr
Fattah
Frost
Gilchrest
Goodlatte
Green (WI)
Hall
Harman
Harris
Hayworth
Hefley
Hensarling
Hinchey
Holden
Holt
Honda
Hunter
Hyde
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (NC)
Kennedy (MN)
Kline
Lampson
Larson (CT)
Lofgren
Lowey
Lucas (OK)
Lynch
Marshall
McHugh
McNulty
Millender-McDonald
Miller (NC)
Mollohan
Payne
Peterson (PA)
Petri
Pitts
Rahall
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Rush
Ryan (OH)
Sandlin
Saxton
Scott (GA)
Scott (VA)
Serrano
Sherwood
Skelton
Smith (NJ)
Stenholm
Strickland
Stupak
Tancredo
Taylor (MS)
Terry
Thomas
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Wamp
Waters
Weller
Wicker
Wolf
Woolsey

NOES—325

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)

Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Carter
Castle
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hart
Hastings (WA)
Hayes
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McIntyre
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Upton
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Wexler
Whitfield
Wilson (NM)
Wilson (SC)
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—18

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
Neal (MA)
Paul
Quinn
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1547

Ms. LINDA T. SÁNCHEZ of California, and Messrs. BARTLETT of Maryland, TURNER of Ohio, OTTER, LEVIN, SMITH of Washington, HOEFFEL, TOOMEY, Ms. ESHOO, Ms. HOOLEY of Oregon, Mr. WEXLER, Mr. OWENS, Ms. SLAUGHTER, Mr. GORDON, and Mrs. NORTHUP changed their vote from "aye" to "no."

Mr. HAYWORTH, Mr. DELAHUNT, Ms. HARRIS, and Messrs. ROSS, PAYNE, TOM DAVIS of Virginia, and RUSH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BONILLA). Pursuant to clause 6 of rule XVIII the next vote will be conducted as a 5-minute vote.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 100, noes 313, not voting 21, as follows:

[Roll No. 611]

AYES—100

Abercrombie
Baca
Ballance
Bell
Berman
Berry
Bishop (GA)
Blumenauer
Brady (TX)
Brown, Corrine
Brown-Waite, Ginny
Capuano
Cardoza
Carson (IN)
Case
Chabot
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
Doggett
Eshoo
Etheridge
Farr
Fattah
Filner
Frost
Gilchrest
Green (TX)
Green (WI)
Grijalva
Harman
Hinchey
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kucinich
Lampson
Lantos
Larson (CT)
Lee
Lewis (GA)
Lofgren
Marshall
McCollum
McDermott
McHugh
McNulty
Meek (FL)
Meeks (NY)
Millender-McDonald
Miller (NC)
Mollohan
Moran (VA)
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pastor
Payne
Petri
Rahall
Rodriguez
Rogers (KY)
Ross
Roybal-Allard
Rush
Sànchez, Linda T.
Sandlin
Saxton
Schakowsky
Scott (GA)
Scott (VA)
Serrano
Solis
Spratt
Stenholm
Strickland
Taylor (MS)
Thompson (MS)
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Waters
Watson
Wolf

NOES—313

Aderholt
Akin
Alexander
Allen
Andrews
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bereuter
Berkley
Biggert
Bilirakis
Bishop (NY)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carson (OK)
Carter
Castle
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Greenwood
Gutierrez
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Janklow
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
LaHood
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McKeon
Meehan
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Miller, George
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)

Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Loretta
Sanders
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Stark
Stearns
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Upton
Velázquez
Vitter
Walden (OR)
Walsh
Wamp
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—21

Ackerman
Bachus
Bishop (UT)
Capps
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Kolbe
Lipinski
McInnis
McIntyre
Neal (MA)
Paul
Quinn
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1558

Mr. GILCHREST and Mr. ABERCROMBIE changed their vote from "no" to "aye."

Mr. MEEHAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Ms. CAPPS. Mr. Chairman, I was not able to be present for the following rollcall vote and would like the RECORD to reflect that I would have voted as follows: Rollcall No. 611—"no."

The CHAIRMAN pro tempore. Are there other amendments?

The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMMONS) having assumed the chair, Mr. BONILLA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1829) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes, pursuant to House Resolution 428 he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

☐ 1600

The SPEAKER pro tempore (Mr. SIMMONS). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the passage of H.R. 1829 will be followed by a 5-minute vote on the motion to instruct on H.R. 2660 by the gentlewoman from Connecticut (Ms. DELAURO), the motion to instruct on H.R. 1308 by the gentleman from California (Mr. BECERRA), the motion to instruct on H.R. 1 by the gentlewoman from California (Mrs. CAPPS).

The vote was taken by electronic device, and there were—yeas 350, nays 65, not voting 19, as follows:

[Roll No. 612]

YEAS—350

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Carter
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Inslee
Isakson
Israel
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McKeon
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)

Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—65

Berry
Blumenauer
Blunt
Brown-Waite, Ginny
Capuano
Cardoza
Case
Castle
Chabot
Clyburn
Davis (CA)
Davis (IL)
DeGette
Delahunt
Farr
Filner
Frost
Gilchrest
Green (WI)
Hefley
Hensarling
Holden
Holt
Honda
Hunter
Hyde
Issa
Jackson (IL)
Jones (NC)
Lampson
LaTourette
Lewis (GA)
Lofgren
Lucas (OK)
McCollum
McHugh
McNulty
Mollohan
Oberstar
Obey
Owens
Payne
Peterson (PA)
Petri
Rahall
Renzi
Rogers (KY)
Ross
Rush
Sabo
Sanchez, Loretta
Saxton
Scott (GA)
Scott (VA)
Serrano
Sherwood
Shimkus
Smith (NJ)
Spratt
Tancredo
Taylor (MS)
Thompson (MS)
Turner (TX)
Waters
Wolf

NOT VOTING—19

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
McIntyre
Neal (MA)
Ortiz
Paul
Rangel
Reyes
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS) (during the vote). Members are advised 2 minutes remain to cast their votes.

☐ 1617

Ms. ROYBAL-ALLARD and Mrs. NAPOLITANO changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The remaining votes will be taken in the following order:

Motion to instruct on H.R. 2660, motion to instruct on H.R. 1308, motion to instruct on H.R. 1.

All will be the yeas and nays, and all will be 5-minute votes.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 2660 offered by the gentlewoman from Connecticut (Ms. DELAURO), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentlewoman from Connecticut (Ms. DELAURO).

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 310, nays 101, not voting 23, as follows:

[Roll No. 613]

YEAS—310

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Calvert
Camp
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Coble
Conyers
Cooper
Costello
Cox
Cramer
Crenshaw
Crowley
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frost
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Gordon
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hayes
Hayworth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (NY)
Kirk
Kleczka
Kline
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Nethercutt
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Rahall
Ramstad
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Tauzin
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tiahrt
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NAYS—101

Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Biggert
Blackburn
Blunt
Boehner
Bonilla
Bonner
Brady (TX)
Burgess
Buyer
Cannon
Cantor
Carter
Chabot
Chocola
Cole
Collins
Crane
Cubin
Culberson
DeLay
DeMint
Doolittle
Dreier
Duncan
Emerson
Feeney
Flake
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gilchrest
Goode
Goodlatte
Granger
Hart
Hastings (WA)
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Isakson
Istook
Jenkins
Johnson, Sam
King (IA)
Kingston
Knollenberg
Kolbe
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Miller (MI)
Musgrave
Myrick
Neugebauer
Ney
Northup
Otter
Oxley
Pearce
Pence
Peterson (PA)
Pitts
Portman
Pryce (OH)
Radanovich
Regula
Rogers (KY)
Royce
Sensenbrenner
Shadegg
Sherwood
Simpson
Souder
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiberi
Toomey
Turner (OH)
Vitter
Wamp
Weldon (FL)
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—23

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss
Gutknecht
Hastings (FL)
Jones (OH)
Kilpatrick
Lipinski
McInnis
McIntyre
Neal (MA)
Ortiz
Paul
Rangel
Reyes
Sabo
Smith (MI)
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised they have 2 minutes to cast their votes.

☐ 1626

Mr. ADERHOLT, Ms. BALDWIN and Mr. AKIN changed their vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1308, TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1308 offered by the gentleman from California (Mr. BECERRA), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from California (Mr. BECERRA).

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 197, nays 207, not voting 30, as follows:

[Roll No. 614]

YEAS—197

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NAYS—207

Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—30

Ackerman
Bachus
Bishop (UT)
Crane
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss
Gutknecht
Hastings (FL)
Hefley
Jenkins
Jones (OH)
Kilpatrick
Larsen (WA)
Linder
Lipinski
McInnis
McIntyre
Neal (MA)
Ortiz
Paul
Pryce (OH)
Rangel
Reyes
Smith (TX)
Taylor (NC)
Towns
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMMONS) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1634

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1 offered by the gentlewoman from California (Mrs. CAPPS), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Mrs. CAPPS).

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 197, nays 209, not voting 28, as follows:

[Roll No. 615]

YEAS—197

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Hall
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Janklow
Jefferson
John
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kleczka
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Norwood
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Quinn
Rahall
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson

Watt
Waxman
Weiner
Wexler
Woolsey
Wu

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Aderholt
Akin
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
McCotter
McCrery
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Nunes
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—28

Ackerman
Bachus
Bishop (UT)
Deal (GA)
Dooley (CA)
Fletcher
Gephardt
Goss
Gutierrez
Gutknecht
Harris
Hastings (FL)
Jenkins
Jones (OH)
Kilpatrick
Lipinski
Manzullo
McInnis
McIntyre
Neal (MA)
Nussle
Ortiz
Paul
Rangel
Reyes
Schrock
Towns
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1642

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GUTIERREZ. Mr. Speaker, I was inadvertently absent from this Chamber today, November 6, 2003, and missed rollcall vote 615. I would like the Record to show that, had I been present in this Chamber, I would have voted "yea."

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Speaker, due to personal business, I was unable to record my vote on four votes ordered for today. Had I been present I would have voted "no" on the amendment offered by Representative GREEN to H.R. 1829, rollcall No. 610; "no" on the amendment offered by Representative JACKSON-LEE to H.R. 1829, rollcall No. 611; "aye" on final passage of H.R. 1829, the Federal Prisons Industries Act, rollcall No. 612; and "aye" on the motion offered by Representative DELAURO to instruct conferees to H.R. 2660, the bill making appropriations for the Departments of Labor, Health and Human Services and Education for Fiscal Year 2004, rollcall No. 613; on the motion to instruct; "aye" on the motion offered by Representative BECERRA to instruct conferees to H.R. 1308, child tax credit legislation, rollcall No. 614; and "aye" on the motion offered by Representative CAPPS to instruct conferees on H.R. 1, Medicare reform legislation, rollcall No. 615.

PERSONAL EXPLANATION

Mr. GOSS. Mr. Speaker, on rollcall Nos. 613, 614, and 615, I was unavoidably detained. Had I been present, I would have voted "nay" on all 3 motions.

AUTHORIZING VISITOR CENTER FOR VIETNAM VETERANS MEMORIAL

Mr. POMBO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1442) to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

TITLE I—VIETNAM VETERANS MEMORIAL VISITOR CENTER

SEC. 101. VISITOR CENTER

Public Law 96–297 (16 U.S.C. 431 note) is amended by adding at the end the following:

"SEC. 6. VISITOR CENTER.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—The Vietnam Veterans Memorial Fund, Inc., is authorized to construct a visitor center at or near the Vietnam Veterans Memorial on Federal land in the District of Columbia, or its environs, subject to the provisions of this section, in order to better inform and educate the public about the Vietnam Veterans Memorial and the Vietnam War.

"(2) LOCATION.—The visitor center shall be located underground.

"(3) CONSULTATION ON DESIGN PHASE.—The Vietnam Veterans Memorial Fund, Inc. shall consult with educators, veterans groups, and the National Park Service in developing the proposed design of the visitor center.

"(b) COMPLIANCE WITH STANDARDS APPLICABLE TO COMMEMORATIVE WORKS.—Chapter 89 of title 40, United States Code, shall apply, including provisions related to the siting, design, construction, and maintenance of the visitor center, and the visitor center shall be considered a commemorative work for the purposes of that Act, except that—

"(1) final approval of the visitor center shall not be withheld;

"(2) the provisions of subsections (b) and (c) of section 8908 of title 40, United States Code, requiring further approval by law for the location of a commemorative work within Area I and prohibiting the siting of a visitor center within the Reserve shall not apply;

"(3) the size of the visitor center shall be limited to the minimum necessary—

"(A) to provide for appropriate educational and interpretive functions; and

"(B) to prevent interference or encroachment on the Vietnam Veterans Memorial and to protect open space and visual sightlines on the Mall; and

"(4) the visitor center shall be constructed and landscaped in a manner harmonious with the site of the Vietnam Veterans Memorial, consistent with the special nature and sanctity of the Mall.

"(c) OPERATION AND MAINTENANCE.—

"(1) IN GENERAL.—The Secretary of the Interior shall—

"(A) operate and maintain the visitor center, except that the Secretary shall enter into a written agreement with the Vietnam Veterans Memorial Fund, Inc. for specified maintenance needs of the visitor center, as determined by the Secretary; and

"(B) as soon as practicable, in consultation with educators and veterans groups, develop a written interpretive plan for the visitor center in accordance with National Park Service policy.

"(2) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—Paragraph (1)(A) does not waive the requirements of section 8906(b) of title 40, United States Code, with respect to the visitor center.

"(d) FUNDING.—The Vietnam Veterans Memorial Fund, Inc. shall be solely responsible for acceptance of contributions for, and payment of expenses of, the establishment of the visitor center. No Federal funds shall be used to pay any expense of the establishment of the visitor center.".

TITLE II—COMMEMORATIVE WORKS

SEC. 201. SHORT TITLE.

This title may be cited as the "Commemorative Works Clarification and Revision Act of 2003".

SEC. 202. ESTABLISHMENT OF RESERVE.

(a) FINDINGS.—Congress finds that—

(1) the great cross-axis of the Mall in the District of Columbia, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, is a substantially completed work of civic art; and

(2) to preserve the integrity of the Mall, a reserve area should be designated within the core of the great cross-axis of the Mall where the siting of new commemorative works is prohibited.

(b) Reserve.—Section 8908 of title 40, United States Code, is amended by adding at the end the following:

"(c) Reserve.—After the date of enactment of the Commemorative Works Clarification and Revision Act of 2003, no commemorative work or visitor center shall be located within the Reserve.".

SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.

(a) Purposes.—Section 8901(2) of title 40, United States Code, is amended by striking "Columbia;" and inserting "Columbia and its environs, and to encourage the location of commemorative works within the urban fabric of the District of Columbia;".

(b) Definitions.—Section 8902 of title 40, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) Definitions.—In this chapter:

"(1) Commemorative work.—The term 'commemorative work' means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.

"(2) The District of Columbia and its environs.—The term 'the District of Columbia and its environs' means those lands and properties administered by the National Park Service and the General Services Administration located in the Reserve, Area I, and Area II as depicted on the map entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003.

"(3) Reserve.—The term 'Reserve' means the great cross-axis of the Mall, which generally extends from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map referenced in paragraph (2).

"(4) Sponsor.—The term 'sponsor' means a public agency, or an individual, group or organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, and which is authorized by Congress to establish a commemorative work in the District of Columbia and its environs.".

(c) Authorization.—Section 8903 of title 40, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "work commemorating a lesser conflict" and inserting "work solely commemorating a limited military engagement"; and

(B) by striking "the event" and inserting "such war or conflict";

(2) in subsection (d)—

(A) by striking "Consultation with National Capital Memorial Commission.—" and inserting "Consultation with National Capital Memorial Advisory Commission.—";

(B) by striking "House Administration" and inserting "Resources"; and

(C) by inserting "Advisory" before "Commission"; and

(3) by striking subsection (e) and inserting the following:

"(e) Expiration of Legislative Authority.—Any legislative authority for a commemorative work shall expire at the end of the seven-year period beginning on the date of the enactment of such authority, or at the end of the seven-year period beginning on the date of the enactment of legislative authority to locate the commemorative work within Area I, if such additional authority has been granted, unless—

"(1) the Secretary of the Interior or the Administrator of General Services (as appropriate) has issued a construction permit for the commemorative work during that period; or

"(2) the Secretary or the Administrator (as appropriate), in consultation with the National Capital Memorial Advisory Commission, has made a determination that—

"(A) final design approvals have been obtained from the National Capital Planning Commission and the Commission of Fine Arts; and

"(B) 75 percent of the amount estimated to be required to complete the commemorative work has been raised.

If these two conditions have been met, the Secretary or the Administrator (as appropriate) may extend the seven-year legislative authority for a period not to exceed three additional years. Upon expiration of the legislative authority, any previous site and design approvals shall also expire.".

(d) National Capital Memorial Advisory Commission.—Section 8904 of title 40, United States Code, is amended—

*(1) in the heading, by inserting "**Advisory**" before "**Commission**";*

(2) in subsection (a), by striking "There is a National" and all that follows through "consists of" and inserting the following: "There is established the National Capital Memorial Advisory Commission, which shall be composed of";

(3) in subsection (c)—

(A) by inserting "Advisory" before "Commission shall"; and

(B) by striking "Services" and inserting "Services (as appropriate)"; and

(4) in subsection (d) by inserting "Advisory" before "Commission".

(e) Site and Design Approval.—Section 8905 of title 40, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "person" each place it appears and inserting "sponsor"; and

(B) in paragraph (1)—

(i) by inserting "Advisory" before "Commission"; and

(ii) by striking "designs" and inserting "design concepts"; and

(2) in subsection (b)—

(A) by striking "Secretary, and Administrator" and inserting "and the Secretary or Administrator (as appropriate)"; and

(B) in paragraph (2)(B), by striking, "open space and existing public use." and inserting "open space, existing public use, and cultural and natural resources.".

(f) Criteria for Issuance of Construction Permit.—Section 8906 of title 40, United States Code, is amended—

(1) in subsection (a)(3) and (a)(4) by striking "person" and inserting "sponsor"; and

(2) by striking subsection (b) and inserting the following:

"(b) Donation for Perpetual Maintenance and Preservation.—

"(1) In addition to the criteria described above in subsection (a), no construction permit shall be issued unless the sponsor authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. All such amounts shall be available for those purposes pursuant to the provisions of this subsection. The provisions of this subsection shall not apply in instances when the commemorative work is constructed by a Department or agency of the Federal Government and less than 50 percent of the funding for such work is provided by private sources.

"(2) Notwithstanding any other provision of law, money on deposit in the Treasury on the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 provided by a sponsor for maintenance pursuant to this subsection shall be credited to a separate account in the Treasury.

"(3) Money provided by a sponsor pursuant to the provisions of this subsection after the date of enactment of the Commemorative Works Clarification and Revision Act of 2003 shall be credited to a separate account with the National Park Foundation.

"(4) Upon request of the Secretary or Administrator (as appropriate), the Secretary of the Treasury or the National Park Foundation shall make all or a portion of such moneys available to the Secretary or the Administrator (as appropriate) for the maintenance of a commemorative work. Under no circumstances may the Secretary or Administrator request funds from a separate account exceeding the total money in the account established under paragraph (2) or (3). The Secretary and the Administrator shall maintain an inventory of funds available for such purposes. Funds provided under this paragraph shall be available without further appropriation and shall remain available until expended.".

(g) Areas I and II.—Section 8908(a) of title 40, United States Code, is amended—

(1) by striking "Secretary of the Interior and Administrator of General Services" and inserting "Secretary of the Interior or the Administrator of General Services (as appropriate)"; and

(2) by striking "numbered 869/86581, and dated May 1, 1986" and inserting "entitled 'Commemorative Areas Washington, DC and Environs', numbered 869/86501 B, and dated June 24, 2003".

SEC. 204. SITE AND DESIGN CRITERIA.

Section 8905(b) of title 40, United States Code (as amended by section 203(e)), is amended by adding at the end the following:

"(5) Museums.—No commemorative work primarily designed as a museum may be located on lands under the jurisdiction of the Secretary in Area I or in East Potomac Park as depicted on the map referenced in section 8902(2).

"(6) Site-specific guidelines.—The National Capital Planning Commission and the Commission of Fine Arts may develop such criteria or guidelines specific to each site that are mutually agreed upon to ensure that the design of the commemorative work carries out the purposes of this chapter.

"(7) Donor contributions.—Donor contributions to commemorative works shall not be acknowledged in any manner as part of the commemorative work or its site.".

SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.

Except for the provision in the amendment made by section 202(b) prohibiting a visitor center from being located in the Reserve (as defined in section 8902 of title 40, United States Code), nothing in this title shall apply to a commemorative work for which a site was approved in accordance with chapter 89 of title 40, United States Code, prior to the date of enactment of this title.

SEC. 206. NATIONAL PARK SERVICE REPORTS.

Within six months after the date of enactment of this title, the Secretary of the Interior, in consultation with the National Capital Planning Commission and the Commission of Fine Arts, shall submit to the Committee on Energy and Natural Resources of the United States Senate, and to the Committee on Resources of the United States House of Representatives reports setting forth plans for the following:

(1) To relocate, as soon as practicable after the date of enactment of this Act, the National Park Service's stable and maintenance facilities that are within the Reserve (as defined in section 8902 of title 40, United States Code).

(2) To relocate, redesign or otherwise alter the concession facilities that are within the Reserve to the extent necessary to make them compatible with the Reserve's character.

(3) To limit the sale or distribution of permitted merchandise to those areas where such

activities are less intrusive upon the Reserve, and to relocate any existing sale or distribution structures that would otherwise be inconsistent with the plan.

(4) To make other appropriate changes, if any, to protect the character of the Reserve.

Mr. POMBO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was unavoidably detained in my district on November 4. On rollcall vote 603, H. Con. Res. 94, if I had been present, I would have voted aye.

I was unavoidably detained in my district on November 4. For rollcall vote 602, H. Con. Res. 176, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 609, H.R. 3365, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 608, H.R. 3214, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 607, H.R. 2620, if I had been present, I would have voted aye.

I was unavoidably detained in my district on official business on November 5. On rollcall vote 606, H.R. 2559, had I been present, I would have voted aye.

I was unavoidably detained in my district on November 5. On rollcall vote 605, H.J. Res. 76, had I been present, I would have voted aye.

On November 5, rollcall vote 604, H.R. 2443, I was detained in my district on official business. If I had been present, I would have voted aye.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

☐ 1645

APPOINTMENT OF CONFEREES ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

Mr. OXLEY. Mr. Speaker, by direction of the Committee on Financial Services and pursuant to clause 1 of rule XXII of the rules of the House of Representatives for the 108th Congress, I move to take from the Speaker's table the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. SIMMONS). The gentleman from Ohio (Mr. OXLEY) is recognized for 1 hour.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a simple motion to get us into conference with the Senate on H.R. 2622, the Fair and Accurate Credit Transactions Act, which the Senate passed yesterday. We have a lot of work to do in a short amount of time.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY).

The motion was agreed to.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. FRANK of Massachusetts moves that the managers on the part of the House in the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2622 be instructed as follows:

1. That the House conferees insist that section 304 of the House bill relating to the duties of furnishers of information be included in the conference report.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Ohio (Mr. OXLEY) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I should inform the membership that it is the earnest hope and, indeed, intention of the gentleman from Ohio and myself to control most of those 30 minutes apiece somewhere else other than on the floor of this House.

I very much appreciated the ability to work with the chairman. We had a difficult issue, the fair credit bill. It is not everything I would have liked to have seen. It is different than it would have been if our side was in the majority. But nevertheless it was a genuinely legislated bill. There was give and take. It is, I think, an improvement over current law. The other body has also passed a bill which has similar characteristics. It is an eminently conferencable bill because both Houses have legislated on similar subjects not in diametrically opposite ways, but in similar ways.

This instruction motion, and we have discussed this with the majority side, has been cut down, as a clever deduction would lead you to believe, since if you read the instruction motion, it consists of a paragraph numbered 1. Ordinarily one does not number a paragraph 1 unless one has a 2. We did have a 2; it has gone in the interest of conciliation and compromise, so we now have one. And it is that the House stick by its position on a very important subject, and I appreciate the gentleman from Ohio's support on this.

What we have done in this bill, in both bodies, is to increase the information to consumers about credit reports. We have in various ways, by increasing the flow of information, given the consumers a better chance to know what is being said about them. But there was one flaw that came to me as I read the volumes of testimony that we got, namely, there was a problem with the input of the information at the outset, the accuracy. What we have is, in the law, a very low standard of care that the initial furnishers of the information have to have.

I understand they are having problems. We are not trying to overburden them. Indeed, I have talked to the gentleman from California (Mr. ROYCE) about some ways later on to modify this to keep people from being flooded; but essentially what the motion says is that we stick by the language in our bill that makes it easier, if you get this information and it tells you that there was some inaccuracy about you, this bill, this language, makes it easier for you to get that corrected. It means that you are entitled to more cooperation than under current law to get inaccurate information about you corrected. That is what we do. I appreciate the gentleman from Ohio's support.

Mr. OXLEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. OXLEY. I thank my friend from Massachusetts for yielding.

Mr. Speaker, let me say to my good friend that this is a bill that passed this House a few weeks ago with, I think, 392 votes and had strong bipartisan support because of the work that the committee did in working with all sectors of the committee on this important issue. All of us know that we need to reauthorize the Fair Credit Reporting Act by the end of this year, and so time is of the essence. I am prepared to not only associate myself with the remarks of the gentleman from Massachusetts but also to support his motion to instruct.

Mr. MOORE. Mr. Speaker, I rise in support of the motion to instruct conferees being offered by the ranking Democratic member of the financial Services Committee, Mr. FRANK. As a member of that committee, I was deeply involved in the drafting and consideration of the Fair and Accurate Credit Transactions Act.

I was pleased to join with my colleagues, Representatives BACHUS, HOOLEY and BIGGERT, in introducing this bipartisan measure. This bill was approved in subcommittee on a vote of 41–0, in full committee by a vote of 63–3 and by the full House by a vote of 392–30 with one voting present. Earlier this week, the Senate approved a similar version of this bill by 95–2.

Mr. Speaker, this is the way Congress should work. This is the way our constituents want us to conduct their business. Consideration of this bill consistently has been bipartisan and thoughtful. All members of the committee with opinions and proposals on the issues raised by H.R. 2622 were able to offer amendments and participate in debate. The way in which this measure was handled made this a stronger piece of legislation than the version we introduced. I commend our committee's leadership, Chairman OXLEY and Ranking Democrat FRANK, for making this proposal.

The instructions before us today urge the conferees to agree to provisions in the House bill that will enhance the accuracy of information which creditors, retailers and other furnishers of information provide to consumer reporting agencies. They also add new requirements that provide consumers with an additional option to correct their consumer files by disputing information directly with individual furnishers of that information.

Mr. Speaker, the problems of inaccurate and incomplete information that plague the current credit reporting system are of great personal concern to those of our constituents who have suffered them. I'm sure each of us could relate instances involving constituents who have faced tremendous difficulty and aggravation in correcting inaccurate credit histories.

This legislation directly addresses these very real problems faced by people every day of the year. The provisions of the motion to instruct will ensure that the new law does so meaningfully.

Our credit system is the envy of every other country in the world. Our country, overall, does an excellent job of making credit available quickly and fairly to consumers and businesses. Enactment of H.R. 2622 will preserve and strengthen this system. I urge my colleagues to support the Frank motion and to support the conference report that should be before us within a few weeks.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. FRANK).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: For consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. OXLEY, BEREUTER, BACHUS, CASTLE, ROYCE, NEY, Mrs. KELLY, Mr. GILLMOR, Mr. LATOURETTE, Mrs. BIGGERT, Messrs. SESSIONS, FRANK of Massachusetts, KANJORSKI, SANDERS, Ms. WATERS, Mr. WATT, Mr. GUTIERREZ, Ms. HOOLEY of Oregon and Mr. MOORE.

There was no objection.

GENERAL LEAVE

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the motion to go to conference and the motion to instruct on the bill, H.R. 2622, and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BELL. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. BELL moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 2660, be instructed to insist on the highest funding levels possible for the National Institutes of Health.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Texas (Mr. BELL) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BELL).

Mr. BELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to address an issue that affects every Member in the House as well as every American that we speak for in this body. I am talking about the future health of our Nation and our commitment as a society to cure disease, end suffering, and improve the quality of life for our fellow citizens.

Disease does not discriminate in America. It is not partisan. It takes as its victims men and women of every race and ethnicity, every socioeconomic bracket, rich or poor, Republican or Democrat, young or old. Disease can strike anyone: cancer, Alzheimer's, Parkinson's, AIDS, diabetes, depression, ALS, multiple sclerosis, sickle-cell anemia, heart disease. The most talented, the most brilliant, the most loving and the most giving people in the world have been and continue to be victims of these baffling diseases. These are diseases that have affected America's best and brightest.

Health is the principal building block to our Nation's wealth and welfare. Our ability to produce, create, innovate, contribute, and lead this great country through the next generations and the true measure of greatness of our free society which promises life, liberty and the pursuit of happiness are in large part dependent on the commitment we in the United States Congress make to the future of health and science research and discovery. I am talking about the funding level this body determines for the National Institutes of Health, or NIH as it is known.

As all of my colleagues know, what began as a one-room laboratory of hygiene in 1887 is now today one of the world's foremost medical research centers. The National Institutes of Health is the steward of medical and behavioral research for our Nation. The NIH provides leadership and direction to programs designed to improve the health of the Nation by conducting and supporting research in the causes, diagnosis, prevention, and cure of human diseases.

Because we have invested in the NIH, it is estimated that 62,000 HIV-related deaths were prevented in the year 2000, 241,000 stroke-related deaths were prevented in the year 2000, and 815,000 coronary heart-related disease deaths were prevented in the year 2000. In cancer research alone, in childhood leukemia, the cure rate has reached 80 percent as a result of a host of new drugs. Testicular cancer now has a 91 percent cure rate, and for prostate cancer, the annual death rates have been reduced by 28 percent. Ovarian cancer can now be diagnosed through a simple blood screening. We now have the wonderful new drug Tamoxifen to treat breast cancer.

The proposal for fiscal year 2004 would be the smallest percentage increase for NIH in 18 years and a sharp deceleration from the 15 percent annual increases that NIH received in recent years under the bipartisan program to double the medical research budget. The House-passed version of the fiscal year 2004 Labor-HHS-Education Appropriations Act provides an increase of just 2.5 percent, which translates into $682 million, an increase that may not even keep up with the rate of inflation. The bottom line is, if there is a cure, the NIH will most likely find it. We must give them the proper resources to do their job.

This is not a partisan issue. This is our issue, yours and mine. I know I am not the only one that feels this way. I know that I am joined by my friends on both sides of the aisle. In fact, I am proud to say that I was joined by 213 of my colleagues in the House, both Democrats and Republicans, in sending a letter to the conferees urging them to provide the highest level of funding possible for the NIH. Therefore, it is my hope that we can continue to move forward on this issue in a bipartisan fashion, which is why I hope the leadership of both parties and my fellow colleagues on both sides of the aisle will all join me in voting for this motion to instruct on a matter I believe a majority of this body already supports. It is just too important to all of us here and to all Americans for us to ignore.

Mr. Speaker, I reserve the balance of my time.

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased today to rise to discuss the funding the Committee on Appropriations has provided to the National Institutes of Health and respond to the motion to instruct from the gentleman from Texas. I think all Members of the House have been touched by a family member or constituent with a heart-wrenching medical problem who turned to the research supported by NIH as their hope for recovery or relief from pain.

The fiscal year 2004 appropriation bills passed by the House and Senate continue the tradition of congressional support. The House bill provides almost a $700 million increase for NIH, one of the largest program increases in the bill and the largest increase in the Department of Health and Human Services. This comes on the heels of completing the doubling of funding for NIH over a 5-year period, from $13.7 billion to $27 billion in the short span of 5 years.

☐ 1700

I think the chart we have here tells the story very eloquently. We can see on the bar graph how much since 1996 NIH funding has increased through the doubling mechanism, and it is very substantially more than it was when the Republicans took over. It was $13 billion. Now, it is $27 billion. And I think it shows the commitment of the majority party to NIH. Yes, it is a little bit less than the doubling era, but we cannot continue that; we do not have the resources, but it still provides an increase in new grants and the highest total level of grants in NIH's history. And because NIH had more than a $1 billion of one-time costs in fiscal year 2003 that can be converted to research funding in fiscal year 2004, the real increase for NIH is more than 6 percent, that is, for research programs, a level in line with most annual increases prior to the doubling.

I am confident that Dr. Zerhouni, the new director of NIH, will lead the agency on a productive new path in the postdoubling era. I am enthused about the "road map" he has unveiled after extensive consultation with the research community. Of course, we would all like to provide Dr. Zerhouni with the highest possible funding level in conference, and I am confident we will do that. I intend to support the gentleman's motion. I think the House has already demonstrated that they want to do it with the highest possible funding level in light of the resources made available to us as the Committee on Appropriations, and I have no quarrel with the gentleman and I know that we will, in conference, try to reach the highest funding level that is possible because NIH is an extremely important resource of this Nation. They have done great work over the years, and we are very supportive of them both in our subcommittee and the Committee on Appropriations and in conference.

Mr. Speaker, I reserve the balance of my time.

Mr. BELL. Mr. Speaker, I yield myself 1 minute.

I would like to thank the gentleman from Ohio for his support for the motion to instruct. And all I would like to say in response is that I hope that he will join me in trying to urge the conferees to look for the highest level of funding possible. In that 2.5 percent, while it may be a little bit more money, the rate of inflation is predicted to be 3.3 percent. So one could make the argument that this will be a net decrease and it will have a dramatic impact on the following diseases: cancer, Parkinson's, Alzheimer's, heart disease, HIV/AIDS, depression and mental illness, diabetes, dental diseases, measles, ALS, kidney disease, genome research.

Everybody knows the incredible need that we face, and I very much appreciate the gentleman from Ohio's recognizing that, and, hopefully, we can get a much higher level of funding from the conferees.

Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

Mr. LANGEVIN. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to say that I rise in strong support of the Bell motion to instruct conferees on the Labor, Health and Human Services and Education Appropriations bill to increase funding for the National Institutes of Health to the highest level possible.

Mr. Speaker, I was proud to be a part of the Congress that worked together with Presidents Clinton and Bush to double the budget of the NIH between 1998 and 2003. I want to especially commend the gentleman from Ohio (Chairman REGULA) and the ranking member for their leadership on this issue.

The growth during those years has already yielded amazing results, and we are just beginning to see the fruits of that landmark achievement. Everyone agrees this investment in the future of medicine was the right decision to make for America and, indeed, for the world.

The outcomes of these cutting-edge projects are opportunities for us to understand diseases, improve health, and open the doors to future progress through the application of scientific research. We are on the road to obtaining the knowledge we need to more fully understand and ultimately control or defeat cancer, Parkinson's disease, diabetes, paralysis, and many other diseases and conditions. These projects also play a key role in preparing the Nation for incidents of bioterrorism.

Given how far we have come in this remarkable bipartisan effort, I am extremely disappointed that the Labor, Health and Human Services and Education Appropriations bill by the House this year contained a margin of increase that inconsistent with all that we have accomplished in recent years. The House-passed increase of 2.5 percent would be the smallest percentage increase in 18 years, as aptly pointed out by my colleague, and would fail to sustain these projects that have only just begun. In fact, 2.5 percent falls far short of what is needed merely to keep up with inflation, again, pointed out by my colleague. Experts in the research field have made it clear to me that they need an estimated 8 to 10 percent increase in funding to renew the many ongoing multi-year research projects, while encouraging new research projects and exploring new ideas and avenues of inquiry.

Mr. Speaker, we must do all we can to encourage younger physicians and scientists interested in medical research careers to use their talents for the greater good. Millions of Americans now suffering with diseases and illnesses deserve our continued commitment to new research and ultimately to a cure. To that end, Mr. Speaker, I urge all of my colleagues to vote in favor of the Bell motion to instruct. I commend my colleague for offering the motion.

Mr. REGULA. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. SHAW), a strong booster of the NIH.

Mr. SHAW. Mr. Speaker, I rise in very strong support for the motion to instruct. I think through the years in all the years that I have been in Congress, we have seen great bipartisan support when it comes to the National Institutes of Health, and it is because we are getting so close so many breakthroughs. Cures for cancer, cures for diabetes, the list goes on and on and on, and we are going to improve the quality of life for so many people throughout the world, and we are going to also extend the life of so many people.

When we look at the tremendous breakthroughs that we have had with diseases such as cancer, I myself was a victim of cancer, and it was, I think, probably the most dangerous cancer one can have, and that is cancer of the lungs. We do not spend nearly enough on lung cancer research. We need to do a much better job. We need to do more. Lung cancer kills more people than the next three combined, and this means we need to get moving over into that direction.

I asked the question once why do we not spend more on lung cancer? And one of the answers I got was that there are so few survivors that push for this and for more and more research in this area. And we get another answer: It is caused by smoking. I had not smoked in 30 years, and the type of cancer I had of the lung is the nonsmoking type of cancer. But early detection and this research is the key to wiping out all of these diseases.

My prognosis is very good. I get regular checkups, and I will be fine. But there are so many out there that are suffering, that the clock is ticking and their life is very limited, and I just lost two of my good friends in Ft. Lauderdale to lung cancer within the last year. And I was giving the eulogy for a very dear friend of mine only 2 months after my operation; she died of lung cancer. It is a terrible disease. We are so close to unlocking all these secrets, and we are so close to being able to offer more and more early detection with all the wonderful breakthroughs that we have had.

So I compliment the chairman and the gentleman from Texas (Mr. BELL) on the motion to instruct. I am sure that it will get wide bipartisan support, and I also want to applaud the tremendous increases in funding that we have had over the years. I think that shows that the Congress does definitely care. We are concerned about the life and the health of all Americans and people throughout the world who all benefit from the wonderful research that goes on at NIH.

Mr. BELL. Mr. Speaker, I yield myself 15 seconds.

I just want to thank the gentleman from Florida for his comments and evidencing the strong bipartisan support that this motion to instruct does enjoy.

Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I rise to support the motion of my colleague from Texas and thank him for his leadership on this issue.

If there is anything that we as a Nation ought to be able to agree on, it is our common resolve to fight and overcome the scourge of disease and disability. This is not a Democratic issue. This is not a Republican issue. It is an American issue. It is really a human issue. And I want to commend the gentleman from Ohio (Mr. REGULA) and the others who on a bipartisan basis over the years have helped double and really make a commitment to this issue.

There are literally tens of thousands of our fellow citizens and their families waiting today, right now as we are talking on this floor, for a cure or a treatment or a breakthrough that will mean the difference between sickness and health, between hope and despair, between independence and suffering, between life and death.

How disappointing, then, that after following through on our noble bipartisan effort to double our NIH budget over 5 years, we should be here today talking about an effective freeze on spending, on our investment in basic biological and biomedical research. It is as if we had our collective foot on the pedal together in a race for a cure on all these diseases and then all of a sudden we slam on the brakes. What happened? Did we win the race against these diseases? Of course not. Is there any less need today? No. Are there fewer promising avenues for research? Of course not. In fact, the opposite is true. We are poised, because of our investments over the last 5 years, to make breakthroughs in many areas if we continue to commit the necessary resources.

I am very proud of the fact that the National Institutes of Health has its home in my congressional district. We also have a flourishing biomedical research industry developing the medicines of tomorrow. We have just completed mapping the human genome. We are on the threshold of many new discoveries, many new cures, and we have the potential for breakthroughs in so many areas. Now is not the time to rest.

The House-passed appropriation calls for just a 2.5 percent increase, the smallest in 18 years, and effectively, when we consider the fact that biomedical inflation is 3.3 percent, it effectively takes us backwards. The Senate came in at 3.5 percent, barely standing still. What are we saying? What kind of message are we sending to our citizens? What are we telling our families? Sorry, the tax cuts were just too important? Sorry, this just is not one of our top priorities anymore? Do not worry, we need to take a breather, there is always next year? That is the wrong message to send. Diseases do not call it quits. Diseases do not say okay, time out for this year, wait until next year. And neither should we.

So I congratulate my colleague from Texas for offering this motion. I urge my colleagues on both sides of the aisle to continue that bipartisan support that we have had for the last 5 years in doubling the NIH budget. Let us continue it. Let us make a renewed commitment not to put the brakes on, which is unfortunately what this budget does. Let us take advantage of the investments and the knowledge we have gained over the last 5 years to follow through and come up with cures to so many diseases that plague our citizens.

□ 1715

Mr. REGULA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me reiterate that in the last 5 years we have doubled the budget of NIH. We have had some wonderful results. They testified in our committee not long ago that today, because of advances in medical science, every 5 years life expectancy goes up 1 year. That is a tremendous breakthrough and achievement, particularly for our younger people. I look at my 20-month-old granddaughter and think how much more she will have in years, and, hopefully, quality years. That is the other challenge of NIH.

Let me say again that this is a little misleading to talk about a freeze, because last year we put a lot of money in construction, which is not in this budget. So in real terms of research this budget is up 6 percent, because of the money that will be available that has not been put into construction, as has been the case in other years.

I also want to commend Dr. Zerhouni, the new director of NIH. I think we can look forward to his leadership being very effective on the part of this institution. He has developed a new road map, after extensive consultation with the research community; and the road map is designed to bring the NIH greater successes than they have experienced in the past. That is a great credit to his leadership; it is a great credit to Secretary Thompson, who named him to this position, and to President Bush, who supported this very strongly.

I think we can look forward to a continued period of great accomplishments from NIH. We are very supportive of this effort and will put the highest amount possible, as stated in the motion to instruct. We will do that.

But we have limitations. We have the budget. We have the dollars available to us. In our subcommittee, it is not just NIH. It is education; it is IDEA. There was an extra $1 billion we put in this year. There are a whole host of good programs.

I say our Subcommittee on Labor, Health and Human Services, Education and Related Agencies is the love-your-neighbor committee, because all 280 million Americans in one way or another have their lives touched by the education programs, by NIH research, by our Labor Department programs to help people get relocated and get new jobs in the event of plant closures.

So we are going to do the best we can. This motion to instruct, we are going to support it because it says essentially what the committee will try to do in conference.

Mr. Speaker, I yield back the balance of my time.

Mr. BELL. Mr. Speaker, I yield 3½ minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Texas for yielding me time.

Mr. Speaker, I want to begin by saying that this is a moment in American history where we begin to pay the price for the Bush tax cuts. For 3 years, we have been told that the $3 trillion worth of tax cuts that are now going to be put in place over the next 15 years, that we do not have to worry because it will not impact on education, it will not impact on Social Security, it will not impact on Medicare, it will not impact on Medicaid, it will not impact on NIH. Do not worry.

Well, the gentleman from Ohio did a wonderful job doubling the NIH budget over a 5-year period. He has got a heart of gold. But this issue is now out of his control. There is no money left. We have got to tighten our belt.

How about in Iraq? Well, not there. There, we have an ability to send $87.5 billion this year, on top of the $75 billion we have already spent. For NIH, sorry, no increase. No increase? Fourteen million Americans are going to have Alzheimer's by the time all the baby boomers have retired, 14 million. Five million are going to have Parkinson's disease by the time all the baby boomers have retired; 1½ million Americans are going to have ALS by the time all the baby boomers have retired.

For Iraq, $150 billion over a 1-year period. For NIH, for all of the health care security for every American family, after inflation, after some of the money which is going to have to now be spent on bio-defense and antiterrorism at NIH as well and coordination with the antiterrorism effort, we are going to see a net decrease in NIH spending.

Now, one of the by-products of all the NIH spending over the years has been the lengthening of life expectancy. That is good. But the problem is that it has made it clearer that when people age, all of these other diseases then manifest themselves, Alzheimer's, ALS, Parkinson's and many others for which we do not have a cure. We have cured the diseases that people died from in 1900, remarkably because of NIH; but we have not cured the diseases of the 21st century yet. That only can happen if NIH is fully funded.

Now, for smart bombs, an unlimited budget; for smart medical research, I am sorry, no increase.

Mr. Speaker, if we are not going to fund and leave the money in for the nursing home care for all of these people, and, by the way, half the people in nursing homes have Alzheimer's, guess who pays for it? Medicaid. When it hits 14 million, it is going to be Medicaid. But this tax cut is now going to make it impossible for us to fund that nursing home care for those senior citizens across our country.

So they either have to have it one way or the other in the Bush administration: cure these diseases, or leave the money in for the nursing home care. You cannot have it both ways.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I want to thank the gentleman from Texas (Mr. BELL) and the gentleman from Ohio (Mr. REGULA) for the great work they do for NIH.

I am here as the cochair for the Diabetes Caucus to encourage Members to vote for this motion to instruct. Diabetes is one of the fastest growing and deadliest diseases in the United States. Approximately 17 million Americans, or 6.2 percent of the population, have diabetes. NIH funding is essential to preventing, treating, and curing this disease. Research done at the NIDDK has been critical for the prevention and treatment of diabetes and its complications, which include blindness, kidney failure, heart disease, and amputation.

NIH research has shown that it is possible to stop the progression of the disease in newly diagnosed individuals; it has helped pinpoint the genes that cause the disease and its complications; and it has proven that normalization of blood glucose levels can help many people with the disease avoid complications.

Nothing, however, has shown more progress than the results we have seen in clinical trials involving the transplantation of insulin-producing cells into individuals with Type I diabetes. This groundbreaking research has truly brought us within the reach of a cure. So far, we are seeing an 80 percent success rate. By actually funding this research, we can help the Immune Tolerance Network support further clinical trials so that islet transplantation will be available for the millions of Americans with diabetes.

The tiny 2.5 percent NIH funding increase passed by the House means that some studies by the NIH will not be continued and that researchers with promising ideas will not be funded at all. We are stifling research with this anemic increase, and we are limiting the quality of health care available to all Americans.

Diabetes costs $132 billion a year and one in four Medicare dollars is attributable to individuals with diabetes. A larger investment now in this research will save money in the future.

Let us keep our promise to the children who visited this year. Let us remember them, and vote for the Bell amendment.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise in strong support of my neighbor in Houston's motion to instruct conferees to increase funding for the National Institutes of Health.

The NIH is the crown jewel of America's biomedical research system. Thanks to incredible work done at NIH, Americans are living longer, enjoying a better quality of life, and witnessing cures and treatment for diseases that once meant certain death.

The Congress made a commitment to build on the success of the NIH by doubling its budget over the past 5 years, and I congratulate the appropriations process. I was a strong supporter of that effort, and I am glad that the President signed that fifth and final installment last year.

But, in all honesty, 2.5 percent is an embarrassment. My concern, Mr. Speaker, is a saying we have in some rural areas, Don't eat your seed corn. That is what we are doing here. The NIH research is the seed corn for our biomedical successes. If we do not continue to provide much more than 2.5 percent, then we are eating our seed corn in our country. That should not happen, because, in the long run, and even in the short run, our constituents' health will directly be affected.

Mr. Speaker, this is the smallest increase in 18 years for the NIH, a sharp deceleration from the 15 percent annual increases; and that is why I say, let us not eat our seed corn. Let us provide the opportunity for us and our children and our parents to continue to benefit from the success of NIH.

This leaves almost no room for any projects. According to NIH, just maintaining ongoing research projects will require funding increases totaling $652 million in FY 2004. That would eat up the majority of the $673 million increase in the bill.

Mr. Speaker, that is why it is so important that we provide much more money to NIH.

Again, I thank the gentleman from Houston, Texas (Mr. BELL) for providing this motion to instruct.

Mr. Speaker, I rise today in strong support of my Houston colleague's motion to instruct conferees to increase funding for the National Institutes of Health (NIH).

The NIH is the crown jewel of America's biomedical research system. Thanks to the incredible work done at NIH, Americans are living longer, enjoying better quality of life, and witnessing cures and treatment for diseases that once meant certain death.

The Congress made a commitment to build on the success of the NIH by doubling its budget over the past five years.

I was a strong supporter of that endeavor, and was proud that last year, the President signed the fifth and final installment of that promise.

But I, like my colleagues, was terribly disappointed that this historic increase was followed by an embarrassing increase of only 2.5 percent.

IThis is the smallest percentage increase in 18 years and a sharp deceleration from the 15 percent annual increases that NIH received in recent years under the bipartisan program to double the medical research budget.

This proposed increase doesn't even cover the costs of what it'll take to keep up with inflation.

And it leaves almost no room for any new projects. According to NIH, just maintaining ongoing research projects will require funding increases totaling $652 million in FY 2004. That would eat up the majority of the $673 million increase in the bill.

If we are really committed to providing the investments necessary to maintain our momentum, we must provide at least an 8–10 percent increase in NIH funding.

I urge my colleagues to support Congressman BELL's motion, and urge conferees to keep the momentum going by providing a sufficient increase for NIH.

Mr. BELL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Mrs. CAPPS), who also serves as the Chair of the Cancer Caucus, as well as the Heart and Stroke Caucus.

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me time, and I rise in support of the Bell motion to instruct.

Mr. Speaker, there is not a Member of the House who is not terrifically proud of what goes on at the NIH and proud of the role that we play in funding this tremendous use of taxpayer dollars. We can see the direct connection between that investment and the very best health care in the world that is available because of the science that goes on there and the connections that are made between what happens out in Bethesda and the daily lives of not only American citizens, but people around the world who depend upon the research and the difference that it makes. These investments have provided us with cures for the diseases that once killed so many people.

Now we are faced with what the completion of the Genome Project has brought us, poised as we are on the edge of discovering treatments, prevention methods and cures for some of the most debilitating and costly diseases that we know in our world today.

As people are living longer, we find so many who struggle with heart disease, with diabetes, with Alzheimer's, with ALS, with a myriad of conditions, where the research that is going on there now and the studies that are building upon the Genome Project and being developed are going to bring us those cures.

I want to speak just for a minute, following in the sequence of other speakers, about cancer and what clinical trials mean. I speak from personal experience as well, knowing as I do how lives depend on the pipeline that comes from the research right here, that is the hope for the future for people who struggle today, who face being cut off, many in midlife with promising futures, and the economic value that we place on them.

For this, and many other reasons, I want us to turn what we are creating, a deficit in NIH funding, into an increase. I support the Bell motion to instruct conferees.

□ 1730

Mr. BELL. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from Texas for yielding me this time. This is a very important topic. I am a cancer survivor myself, but I think every family in America has been touched by serious illness, and the NIH can help if it is properly funded. We are very grateful for the increases in the past. I celebrate the leadership of the gentleman from Ohio; he is a great Member of this body. But I worry that others in his party who call themselves compassionate conservatives have left out the compassionate part.

To freeze the NIH budget at a time like this does serious damage to the research efforts that are going on all across this country, literally harming the futures of so many of our citizens. It is not the gentleman's fault. He has done the best that he can.

We all know that in this nonbinding motion that we are all about to vote for, it will really amount to very little change in that budget. We can and must do more. We must influence the President's budget-making process right now for his budget for next fiscal year. We need to make sure that we have no more freezes like this, no more inadequate increases, because the need is too great, whether it is cancer or heart or stroke or ALS or cystic fibrosis and a myriad of other diseases. People do not have the time to wait.

So it is very important that we tackle these issues. I would hope that the gentleman, as he votes for this nonbinding motion to instruct, and his colleagues, will do more than just put that vote up on the board and pretend that they are for a big increase, because we all know that in the President's budget this last year, there was not a big increase. There was not really much more than a freeze, and we have to do better than that.

So this is a time for us to really dig deep, to do the quiet, behind-the-scenes work that is necessary to make sure that our NIH budget genuinely increases to meet the terrific need, not only in our country, but around the world, because as the gentleman knows, we are inventing the cures for diseases around this world.

[From the Tennessean.com, Nov. 7, 2003]

REPRESENTATIVE JIM COOPER: DON'T LET CONGRESSIONAL BUDGET CUTS SLOW THE WAR AGAINST CANCER

(By Representative Jim Cooper)

Patty Corlew lives on a quiet street in Mt. Juliet. She's a wife and mother. She works part-time. She helps out at Boy Scouts and is someone folks describe as a solid friend and good neighbor. Patty Corlew is not someone you'd likely expect to be a protestor. Fortunately, you'd be wrong about Patty Corlew.

"My boys were almost 2 and almost 6 when I was diagnosed with breast cancer. Thanks for these last nine years. I only wish my friend Mary and Elizabeth and others could have shared them with me and watched their children grow and become grandmothers like I hope to become. Please find a cure."

Patty Corlew is speaking out. She's added her name and her story to the growing list of Middle Tennessee-area cancer survivors who are concerned about the proposed level of funding for the National Institutes of Health (NIH) currently pending in Congress.

Those of us fortunate to live in Middle Tennessee don't have to look far to see the potential impact of a slowdown in NIH funding. Nashville is home to two of the leading medical research institutions working in partnership with NIH and its National Cancer Institute (NCI).

At the Vanderbilt-Ingram Cancer Center, a team led by Dr. Ray DuBois was the first to establish the link between colorectal tumors and an enzyme known as COX–2. Their findings helped explain why people who took large quantities of aspirin or drugs like ibuprofen over long periods of time had a lower incidence of colorectal cancer. Dr. DuBois is now the leader of a national study exploring whether COX–2 inhibitors might be used to prevent colorectal cancer as well as a variety of other cancers.

Meharry Medical College recently launched a long-term study of racial disparities in breast cancer. Women from minorities are more likely to die of breast cancer today even though they are less likely to get the disease. According to Dr. Ana Grau, cancer surgeon and director of The Breast Health Center at Metro General Hospital at Meharry, the center is determined to improve breast cancer survival rates for all women.

In another study, Vanderbilt-Ingram and Meharry are working together to answer one simple but important question: Why are African Americans, and all people in the South, at greater risk of developing and dying from cancer than other ethnic or regional groups? The NIH-supported study will track more than 100,000 participants over five years to determine what lifestyle factors may be related to higher cancer rates for minorities and all residents in our region.

As these examples indicate, NIH is providing help and hope to millions of Americans today. Without the appropriate funding, however, future discoveries like these may be threatened.

In each of the past five years, NIH funding has increased by 14–15%. Last year, during congressional hearings, NIH leadership said the current pace of medical breakthroughs could only be maintained if NIH funding continues to grow at a level of 8–10%. Yet the House and Senate Conference Committee is expected to support the Bush Administration's NIH request: an increase of just 2.7%.

Like Patty Corlew, I am a cancer survivor. I was fortunate to discover my cancer early. And I am blessed to live in a community where cutting-edge cancer research and treatment is something we almost take for granted.

The examples described here of research being conducted at Vanderbilt-Ingram and Meharry are only three out of many promising studies currently underway at each institution. And Vanderbilt-Ingram and Meharry are not alone in working at the frontier of cancer research. More than 80% of NIH funding now goes to support research conducted at universities around the country.

In the next few weeks, Congress will be asked to decide the future direction of NIH work, whether the pace of disease exploration should continue at the aggressive level of recent years. In these tough economic times, every budget decision must be evaluated carefully. We must consider not only costs, but potential return on each taxpayer dollar we commit.

How do you measure the value of good health and quality of life?

As a member of the House Budget Committee, I am very concerned about the current trend in government spending. I strongly believe we cannot continue to ignore the rising deficit. But I also believe we cannot turn our backs on the progress currently being made in medical research. On the issue of NIH fund, I stand with Patty Corlew.

Mr. BELL. Mr. Speaker, I yield 3 minutes and 15 seconds to the gentleman from Maryland (Mr. HOYER), the distinguished whip of the minority party.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding to the distinguished whip of the Democratic Party.

Mr. Speaker, our Republican colleagues, in my opinion, should review the work of Sir Isaac Newton. It was Newton, after all, who wrote 4 centuries ago: to every action, there is always opposed an equal reaction. Today we are seeing that principle play out right before our eyes.

Earlier this year, the majority party enacted its third tax cut in 3 years, the most recent one giving America's millionaires an average tax cut of $93,500. And what do we suppose is the reaction to that action? Underfunding the No Child Left Behind Act by $8 billion? Yes. Cutting heating assistance for our Nation's poor? Certainly. And the smallest percentage increase in funding for the National Institutes of Health in 18 years? Indeed, Mr. Speaker, it is true.

The 2.5 percent increase for NIH in the House-passed version of the Labor-HHS-Education appropriation bill, which is the same increase proposed by the Bush administration, pales in comparison to the 15 percent annual increases NIH has received in recent years under our bipartisan program to double the medical research budget. I would say, parenthetically, we actually did not do that. The number got to a double, but because we added $1.7 billion in additional responsibilities for our biomedical terrorist research, actually we did not reach the double. But the proposed 2.5 percent increase for NIH fails to keep up with inflation in research costs and will not allow for any real increase in research efforts. In other words, this is a retreat.

This appropriation even fails to provide funds to complete the John E. Porter Neuroscience Research Center, which is now under construction on the NIH campus.

Mr. Speaker, the 3.5 percent increase for NIH in the Senate is certainly preferable to what this body passed. But even that 3.5 percent increase would fail to cover the cost of renewing ongoing grants at committed levels and would barely keep pace with inflation. Therefore, Mr. Speaker, I urge my colleagues to support this important motion that the gentleman from Texas (Mr. BELL) has made to instruct offered by our side of the aisle, and the gentleman from Texas (Mr. BELL) in particular, to insist on the highest funding levels possible for NIH. We should not permit, Mr. Speaker, tax cuts for the most affluent Americans to squeeze out funding for research on Alzheimer's, cancer, heart disease, multiple sclerosis, and a host of other health concerns that affect the American people.

Isaac Newton was correct. For every action, there is an opposite reaction. Cutting NIH is that reaction.

Mr. BELL. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, what this comes down to is a question of priorities. There can be no higher priority in the United States of America than our Nation's health. Everybody listening knows the diseases that are impacted by NIH funding. It is no secret. And the gentleman from Ohio has certainly worked diligently over the course of the last 5 years to increase funding for the NIH, but this is not the time to stop. When progress is being made, we should not, as the gentleman from Maryland (Mr. VAN HOLLEN) pointed out, we should not put on the brakes.

If anyone doubts what a priority this is with health organizations across the country, they should know that over 600 major health organizations across the United States are supporting an increase in the NIH budget. The list includes the AARP, the National Academy of Health, Alzheimer's Association, American Academy of Family Physicians, American Academy of Pediatricians, American Association of Blood Banks. I could go on and on, and I would not even be out of the As.

The point is, this motion has wide, wide support in the medical research and educational communities, and they are not going to be satisfied if the conferees come back and say, 2.5 percent is as high of an increase as we can give. They are looking for a much higher degree of funding. The Senate has offered 3.5 percent, but that is not enough. There is no greater priority right now in the United States of America than the health of our fellow citizens.

Mr. Speaker, I encourage my colleagues to continue the bipartisan support for this motion to instruct the conferees to vote in favor of it. I would encourage the conferees to do all they can to raise the level of funding high above the 3.5 percent level.

Mrs. BORDALLO. Mr. Speaker, today I join my colleague's motion to instruct the conferees on the Labor-Health and Human Services and Education appropriations bill to increase funding levels for the National Institutes of Health (NIH) to the highest funding levels possible.

NIH is the recognized leader in medical research and the focal point for health research in our country. Studies funded by the Institutes, have led to advances in the prevention, diagnosis and treatment of many diseases. Still thousands of Americans die every day from five major diseases: heart disease, cancer, stroke, diabetes, and Alzheimer's. Of these, heart disease, diabetes and certain cancers disproportionately affect minority populations. Additional research is necessary to understand the impact of these and other diseases that affect our minority communities and to develop cures and identify behavioral interventions that are effective at prevention. We are more aware today that research is needed to understand the impact of these diseases on our minority communities. We must increase funding to continue current research and development and to allow for new projects. In doing so, we give hope to all those afflicted with disease.

The SPEAKER pro tempore (Mr. KLINE). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. BELL).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINCOLN DIAZ-BALART of Florida (during debate on motion to instruct conferees on H.R. 2660), from the Committee on Rules, submitted a privileged report (Rept. No. 108–352) on the resolution (H. Res. 434) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

Mr. FILNER. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

> Mr. FILNER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 6 be instructed to reject section 12403 of the House bill, relating to the definition of oil and gas exploration and production in the Federal Water Pollution Control Act.

The SPEAKER pro tempore. Pursuant to clause 7, rule XXII, the gentleman from California (Mr. FILNER) and the gentleman from Texas (Mr. BARTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume. I rise today to speak on this motion to instruct the conferees on the energy bill.

Mr. Speaker, sometimes the Republican Party is called the GOP. Well, I often wondered what that meant. It is clear from this energy bill that it means gas, oil and petroleum. And my motion would instruct the conferees to strike a section of H.R. 6 which represents a shameless payback to the oil and gas companies of this Nation.

This section, if my colleagues can believe it, Mr. Speaker, grants oil and gas companies a free pass from complying with the Clean Water Act, a free pass from complying with one of the major environmental laws that was passed in the 1970s. Under this section, oil and gas development and production sites, oil and gas development and production sites and construction sites do not have to worry about what their activities are doing to our water supply. No other industry in America gets this exemption; only the oil and gas development and production industry. And, they are under no obligation to control storm water runoff that would sully our beautiful lakes, rivers, and streams, and they suffer no consequences.

It must be nice for the oil and gas companies to have friends like that in Congress and in the White House, especially when these friends are members of the majority party, the GOP, gas, oil and petroleum, who, rather than dealing with the messy process we so often revere here and hold up as a model of democracy in the world, simply block out all those who would disagree with them. Heaven forbid anybody would bring up objections about the health of our water, not to mention the health of our people. The majority party, gas, oil and petroleum, has blocked out any dissenters right from the beginning on this bill.

One of my colleagues, the gentleman from Massachusetts (Mr. MARKEY), tried to introduce an amendment to strike this section, but he was ruled out of order and, get this, because the Committee on Energy and Commerce said it was not under their jurisdiction, but it was under the jurisdiction of the Committee on Transportation and Infrastructure, but that Committee on Transportation and Infrastructure never considered the bill. Talk about a Catch-22. And attempts to remove it on the floor of this House were thwarted by the Committee on Rules.

It is widely acknowledged that the majority did not allow the minority to participate, even in the conference committee, where the Senate and House meet to deal with their differences. So there was never a chance for honest debate of this section. This is what we call as a model for the world, a democracy.

So what do we have now, Mr. Speaker? A situation where oil and gas companies will be able to pollute our waters so that our children and grandchildren will not be able to use them. Our waters will be spoiled, our health will be threatened, but that is okay. We do not need clean water anyway, as long as we have our oil. And any suggestions that we invest more in renewable energies or in cleaner energies all were thrown out, and the handouts to the oil companies just keep getting bigger and bigger.

Right now, I encourage my colleagues to stop this insult to the environment and to the democratic process. We ought to vote "yes" on this motion to instruct and not to let the oil and gas companies pollute our waterways, and we should let the Nation know that we care about clean water.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion to instruct filed by the gentleman from California (Mr. FILNER) seeks to remove section 12403 of H.R. 6, the pending energy bill in conference with our counterparts in the other body, the provision that passed the Committee on Energy and Commerce and the House as a whole. The motion to instruct would seek to have the House conferees reject the provision that the House has already adopted when we passed H.R. 6 on April 11 by a vote of 247 for the bill to 175 against the bill. That is approximately a 60 percent vote in support of the overall package.

Section 12403 in the context of the Federal Water Pollution Control Act, which we commonly refer to as the Clean Water Act, defines oil and gas exploration and production to mean "all field operations necessary for both exploration and production of oil and gas, including activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment, whether or not such activities may be considered construction activities."

□ 1745

Why do we need to have a definition in this energy bill? Section 402(1)(2) of the Clean Water Act specifically prohibits the administrator of the EPA from requiring a Federal stormwater discharge permit for discharges of stormwater runoff from, again, I quote directly from the act, "oil and gas exploration, production, processing, or treatment operations or transmission facilities composed entirely of flows which are from conveyances or systems of conveyances, including, but not limited to, pipes, conduits, ditches, and channels, used for collecting and conveying precipitation runoff and which are not contaminated." This has been the law since 1987.

In plain language what it means is the EPA has no regulatory authority over waste water in the construction or the operation of a drilling rig in the United States. This has been the law since 1987. The statutory language seems clear that any matter of stormwater collection, whether it is a ditch, a culvert under a road, a diversion channel around an oil and gas well location, does not have to be permitted by the EPA. We could not be more clear. But the EPA has sought to regulate the building of the oil and gas location sites by insisting on National Pollutant Discharge Elimination System, NPDES, permits, commonly referred to as stormwater discharge permits for the construction of the site.

So even the EPA will admit that once it is built and in operation, they have no jurisdiction. So they are trying to do a back-door, an end-around and say you have to get a permit to construct the site. That simply is not the intent of the Congress. It was not the intent of the Congress 10, 15 years ago; and it is not the intent of this Congress. It is a direct contravention of the intent of Congress.

The requirement for a stormwater discharge permit is in direct opposition to Congress that the EPA attempts to separate the movement and placement of drilling equipment from oil and gas exploration and production operations. Applying common sense, which sometimes is in short supply, I understand, but if you apply common sense to the plain meaning of the statute, you would show that activities necessary to prepare a site for drilling and for the movement and placement of drilling equipment are part and parcel of the operation. You cannot have one without the other. Therefore, a statutory exclusion for one totally encompasses the other as well.

The existing statute specifically precludes the requirement for stormwater discharge permit if the runoff is not contaminated by coming into contact with, again I quote from the act, "any overburden, raw material, intermediate products, finished product, byproduct, or waste products located on the site of such operations." Yet the EPA seems willing to entertain those and argue that dirt, D-I-R-T, is a contaminant. The term "overburden" is used in association with mining operations, not oil and gas operations, and is defined in the code of the Federal regulations to exclude topsoil. The terms "intermediate products, finished product, by-product, or waste products" eliminate consideration of dirt from their definitions because their definition encompasses the results of a process. Dirt is not something that EPA regulates.

"Raw material" is commonly defined as a crude or processed material that can be converted by manufacture, processing, or combination to a new and useful product. Raw material is not dirt. Therefore, pursuant to the express language in the statute, the building of an oil and gas well location which involves the movement of topsoil, or as we would say in Texas, dirt, is not subject to the requirements of stormwater discharge permit. We are talking about rain on dirt. This is not a man-made pollutant.

But even though the Clean Water Act is abundantly clear on this issue, EPA has chosen to ignore its express language, consequently the need for this definitional provision. Does this definitional provision affect the existing Clean Water Act? No. The provision merely defines oil and gas exploration and production. It does not change the substantive application of the Clean Water Act but merely provides a definition to provide clarity that should be readily apparent to any normally intelligent human being upon reading the statute.

The Clean Water Act requires a permit for contaminated runoff. This provision does not change that requirement. This provision does not allow contaminated stormwater runoff. In keeping with the existing law, which was enacted as a part of the Water Quality Control Act of 1987, this provision preserves the congressional intent to preclude the necessity of a permit for stormwater runoff that is not contaminated.

Congress never intended for EPA to require a permit for the runoff of uncontaminated water or rain over dirt. Vote against the motion to instruct. Let common sense prevail and preserve the House position.

Mr. Speaker, I reserve the balance of my time.

Mr. FILNER. Mr. Speaker, I would yield myself 2 minutes to respond to the gentleman from Texas (Mr. BARTON) who continues to throw dirt into this discussion.

It is true that the section of the Clean Water Act that the gentleman from Texas (Mr. BARTON) referred to provides that permits are not required where stormwater runoff is diverted around mining operations or oil and gas operations and does not come into contact with overburdened raw material product or processed wastes. This was in recognition of the fact that there are several situations in mining and oil and gas industries where stormwater is already channeled around plants and operations in a series of ditches in order to prevent such pollution of the stormwater. But this section does not include any stormwater runoff that has been contaminated by contact with overburdened raw material where ends meet products, et cetera. The soils that are disturbed in drilling wells are both overburdened and waste products.

There is no evidence anywhere, even in the industry comments, that suggest that stormwater is routed around these drilling and construction sites as it is in the operation sites. In fact, what I wanted to bring in the argument is there is no evidence, even from the oil and gas industries, even from the GOP, that the stormwater flowing through the construction sites are free of sediments or other pollutants. That is what makes them contaminated.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I would like to thank the gentleman from California (Mr. FILNER) for offering this motion to instruct the energy bill conferees.

Rather than working on an energy bill that will work to solve our Nation's energy crisis, it appears that the Republicans are using this bill to wage a tax on our national resources, on our air, on our water.

The provision that was passed in the House without committee action would permanently exempt the oil and gas industry from the Clean Water Act's requirement to control stormwater runoff from construction activities at their exploration or production sites. Contaminated runoff would certainly impair the health of our Nation's streams, our lakes, our rivers, the waters, Mr. Speaker, where anglers fish, children swim. And we must not forget where our drinking water comes from.

Why are we rolling back the good progress that the Clean Water Act has made? Why are we doing this without a single hearing in the committee of jurisdiction and without the benefit of the EPA's years of work? It is time for the GOP gas/oil/petroleum group and their leadership to stop putting the interests of big oil and gas companies ahead, ahead of what is best for the American people.

Mr. Speaker, I urge my colleagues to vote in favor of the gentleman's motion to instruct.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Houston, Texas, (Mr. GREEN) a member of the committee of jurisdiction.

Mr. GREEN of Texas. Mr. Speaker, under current law, oil and natural gas exploration and production activities do not have to do the extensive stormwater permitting that is required for large residential or commercial developments.

The provision in question in the energy bill clarifies what is current law. Oil and gas drill site activity is not the same as residential and commercial building construction and should not have to do the same permits.

It is unnecessary, and the loss to our domestic oil and natural gas supplies would be severe. This motion to instruct is trying to put a square peg in a round hole.

All the provision in the energy bill does is clarify that the definition of oil and natural gas exploration and production includes the preparation work for that exploration and production.

The provision in the energy bill does not roll back the Clean Water Act in any way. If a producer discharges reportable quantities of any hazardous substances in stormwater, they have to do stormwater permitting. If a producer's site discharges stormwater that contributes to a water quality violation, they have to do stormwater permitting. If there is a production site that I find out in my district that is actually polluting, then I will have them investigate it. That is under current law. And they should be.

The result of this policy, if we adopt this motion to instruct, is that we would have less domestic energy and higher natural gas prices. And with natural gas prices as high as they already are, the effects of this motion would now be very serious on the manufacturing jobs, not only in my own district that depend on affordable natural gas, but all over the country, whether it is in California or whether you are on the east coast.

We do not have a choice on where to get our natural gas. If it is by nature, it is by nature. We need to produce it where it is, and hopefully it will be more domestically. The opportunities for imports of natural gas from Mexico and Canada and overseas are limited. So we are going to have to depend on our own resources even more. It is going to be hard to do that. If we are going to have to depend on our own resources, it is going to be hard to do that with a bad regulatory policy.

The EPA, if they know that there is pollution already in an oil and gas site, they can go out. In California, that seems like where a lot of these motions to instruct come from; they can go out and investigate. If there is pollution, they can be cited. But do not make them go ahead and hinder what industrial production we are trying to do right now. That is all this does is restate what is current law, Mr. Speaker.

That is why I urge my colleagues to vote against the Filner motion to instruct conferees.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Texas (Mr. GREEN) continued to muddy the waters not only of this debate but of this Nation.

Let me quote from EPA's most recent national water quality inventory 2000 report which says siltation, siltation is one of the leading pollution problems in the Nation's rivers and streams. Siltation alters aquatic habitat, suffocates fish eggs and bottom dwelling organisms, and can interfere with drinking water treatment processes and recreational use of a river. Dirt, dirt, dirt. We are talking about pollution of our Nation's streams.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I rise in strong support of this motion to instruct conferees on the Energy Policy Act. This motion is about a subject about which the gentleman from California (Mr. FILNER), my colleagues, and the gentleman from Massachusetts (Mr. MARKEY) and I sent around in a Dear Colleague letter recently as part of my efforts on the energy subcommittee to alert Members of this body about the raft of terrible provisions in the energy bill conference report.

This particular provision undermines the Clean Water Act by giving oil and gas companies a permanent exemption from pollution control requirements at drilling sites. The Clean Water Act requires developers to obtain a stormwater permit from EPA to ensure that their construction practices do not lead to harmful runoff. In fact, if you go right outside the Capitol, especially on a rainy day like today, you will notice some of the measures these permits require for the visitors center construction site right here.

In this case, it is simple things like rocks and mesh over storm drains that keep out stormwater that could be polluted by construction activities.

□ 1800

Currently, the oil and gas industry enjoys a temporary moratorium on complying with these storm water permitting provisions. This moratorium is for construction sites of less than five acres. EPA is continuing to study the issue further, and the agency is expected to issue a final rule March 25.

Yes, the drafters of the energy bill cannot wait for EPA to determine an appropriate course of action. Instead, the energy bill shortcuts the process and gives the industry a permanent exemption for all construction activities for oil and gas exploration regardless of size. As a result of this exemption, oil and gas exploration would be the only construction activity not subject to Clean Water Act requirements. Oil and gas operations would be under no obligation to control pollution that would pollute our Nation's lakes, rivers and streams. This is an end-run around one of our Nation's most successful environmental laws. And, of course, no hearings have been held on this issue in the committee of jurisdiction, the Committee on Transportation and Infrastructure.

This amendment to the Clean Water Act is bad for public health, bad for environment, and certainly does not belong in the energy bill.

Finally, Mr. Speaker, I would like to take this opportunity to note how deeply disappointed I am in the conduct of the energy conference to date. To date there has been one official meeting of the conference, despite assurances by the leadership that it would be an open conference with full debate on the key issues. Instead, the bill is basically being drafted in secret with only occasional press reports about what is exactly in the bill. And from what we can tell, the bill will make major policy changes on a raft of issues. It will spend billions and billions of taxpayer dollars in subsidies to some of the richest industries on this planet; and all of this is being done basically in the dead of night.

It is very much like the way the appropriations process has been run and most of the rest of the major issues as well. This kind of closed, secretive process does not produce good policy. Quite frankly, it is scandalous. It is undemocratic.

For that and other reasons, I certainly do appreciate the gentleman from California's (Mr. FILNER) efforts on this motion. I urge all Members to support it and oppose any energy bill that contains such a shameful provision.

Mr. BARTON of Texas. Mr. Speaker, how much time remains on each side?

The SPEAKER pro tempore (Mr. HAYES). The gentleman from Texas (Mr. BARTON) has 20 minutes remaining. The gentleman from California (Mr. FILNER) has 17 minutes.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in opposition to the Filner motion to instruct conferees on H.R. 6, the energy bill.

If you ask any one of a thousand people employed by the oil and gas industry in my district, the question, How do you physically get oil and gas? They will all answer the same way. The first step is exploration and production to prepare a site for drilling. Like a surgeon sanitizing a patient before an operation, an exploration site must be prepared before drilling can begin. Cleaning, grading and excavating have always been an inherent part of oil and gas activities.

Congress has exempted oil and gas deficits from the storm water permit process and there is good reason to do so. Oil and gas exploration occurs in predominantly rural areas and remote locations. Oil and gas site preparation uses temporary, nonimpervious, low-impact techniques. These techniques have inherently lower environmental impacts compared to conventional commercial and residential construction in urban settings.

If these activities are nonexempt, oil and gas leases will be lost to time delay. If oil and gas leases are lost, development of on-shore domestic and oil gas reserves will be lost.

Mr. Speaker, I do not have to tell that you we depend far too much on foreign oil. We import more than half of our oil from foreign sources, a number that is expected to grow to 66 percent by the year 2010 if we do not act now.

I urge my colleagues to support domestic production and vote no on the Filner motion to instruct.

Mr. FILNER. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. GRIJALVA).

Mr. GRIJALVA. Mr. Speaker, I rise today to speak in support of the Filner motion to instruct.

The issue of proper regulation of oil and gas companies with regard to clean water is a very real and serious concern for the people of Southern Arizona that I represent.

On July 30 of this year, as an example, an 8-inch high pressure gasoline pipeline operated by Kinder Morgan, Incorporated on the west side of Tucson, Arizona, ruptured. Ten thousand gallons of gasoline were sprayed 50 feet in the air dousing five homes under construction, which later had to be demolished. Hazardous fumes were created 250 yards away from occupied homes.

In the aftermath, there were reports of ground water contamination resulting from the rupture and possibly from the reconstruction efforts. Initial reports varied, some indicating serious contamination. More recent reports seem to show contamination may have been ongoing for some time and only came to light due to the investigation of the rupture.

Safety inspection reports dating back to 1995, and as far back as 1988, indicated potential problems for a rupture, but yet this information was never made available to the public or to their elected officials.

To address this problem, I have asked the EPA to conduct an independent assessment of the degree of contamination and the risks for residents. If the Filner motion is not passed, this type of oversight and enforcement would be seriously compromised. The people in my district have a terrible wealth of experience with ground water contamination. A plume of TCE created the most serious of many Superfund sites in my district. This pollution has created a legacy of illness and death across the south and west sides of Tucson. I am told it continues to grow every day.

The gas and oil industries facilities covered by this exemption tend to be located in lower-income, minority and poor neighborhoods. Companies, of course, seek to limit their legal liabilities by placing these facilities near populations without the money to litigate or the strong political representation. Then the companies come back to us and ask for more legal protection, as they have in this amendment, and for our complicity in this injustice.

The bill before us would expand an exemption that should never have been passed in the first place. It is absurd that we would be debating whether to increase pollution by giving legal immunity to corporate polluters. How can a Member of Congress seriously argue that we should allow more pollution in our ground water, rivers and streams?

The issue is clear: Do we want to maintain our standards of clean water or do we want to expand existing loopholes that allow even greater environmental injustices to occur with our complicity?

I urge my colleagues to protect human health, protect our children, and our precious and increasingly fragile natural legacy by voting yes on the Filner motion to instruct.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 24, 2003.

Hon. MARIANNE HORINKO,
Acting Administrator, U.S. Environmental Protection Agency, Pennsylvania Avenue, NW., Washington, DC.

WAYNE NASTRI,
Regional Administrator, Hawthorne Street, U.S. Environmental Protection Agency, Region 9, San Francisco, CA.

DEAR MS. HORINKO AND MR. NASTRI: I am writing regarding the recent gasoline pipeline rupture in Tucson, Arizona. This disaster is of extremely grave concern to me and to the constituents I represent in Arizona.

On July 30, the pipeline, owned and operated by Kinder Morgan, Inc., ruptured, spraying 10,000 gallons of gasoline onto homes in Tucson. This event subjected my constituents to serious environmental, health and safety risks. Thankfully, no one was injured in the rupture. Now that the immediate danger of the rupture has passed, however, residents are enduring the impacts of the pipeline's reconstruction and potential realignment.

Neither the public nor elected officials knew the extent of the safety risks associated with the pipeline. Our preliminary information indicates that the pipeline may have failed safety inspections from 1995 on; however, this information was not made public, nor made available to elected officials or emergency personnel. This information is very disturbing in light of the extreme risks involved with the transportation of highly flammable materials.

In the aftermath of the rupture, there have been reports of groundwater contamination as a result of the pipeline rupture and/or reconstruction efforts. Reports on the issue have varied: some indicating a dangerous contamination, and some not. In light of this discrepancy, and a great deal of anxiety on the part of residents of Tucson, I request that you immediately commence an independent assessment of the situation in order to ensure that the citizens of Tucson and southern Arizona are safe from any unnecessary risks of the rupture itself and impending reconstruction.

It is absolutely crucial that citizens of Southern Arizona know the full extent of the danger and risks associated with this rupture and reconstruction efforts. It is the EPA's responsibility to ensure that our citizens are protected from environmental contamination. Please inform my staff member, Rachel Kondor, at (202) 225-2435, as to the steps you plan to take with regard to this issue.

Sincerely,
RAÚL M. GRIJALVA,
Member of Congress.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Lubbock, Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise in opposition to the Filner motion to instruct conferees.

First and foremost, Mr. Speaker, the House Energy Policy Act does not exempt oil and gas exploration and production sites from environmental regulation. Any claim that it does is simply untrue. Rather, the provision in the legislation clarifies under what conditions EPA should regulate these facilities. This provision simply clears up Congress's original intentions with regard to storm water permitting under the 1987 Clean Water Act's amendments. It should be included in this conference report.

Noncontaminated storm water from oil and gas exploration and production sites was specifically excluded from the new storm water permitting requirements for sites in 1987. However, EPA did not interpret the law that way. EPA decided to subject uncontaminated runoff from these sites to rules designated to regulate runoff from major construction sites, such as shopping centers and subdivisions.

Mr. Speaker, before coming to Congress, I was a land developer. I have moved a lot of dirt in my life. I have prepared a lot of sites to build homes for Americans; and there is a lot of difference between preparing a site for drilling and preparing a site for homes.

Additionally, the cost of making these kinds of nonsense pollution requirements for sites that should not be under this regulation only adds to the cost of housing and it only adds to the cost of oil and gas exploration in our country, at a time where we are a net importer, Mr. Speaker, of substantial amount of our petroleum products.

Oil and gas exploration production sites are not major construction sites and should not be permitted in the same manner. That was Congress's original intention, and we need to restore the intent in the conference report.

While EPA has suspended permitting for these sites in order to reevaluate the regulations, we need this provision to clear up the issue and end the lawsuits and move forward once and for all.

If there is contaminated runoff at these sites, it will be subject to EPA permitting. Oil and gas producers continue to manage storm water when they build on exploration sites in order to prevent contaminated runoff. Exploration sites need to be stabilized quickly in order for development equipment can be brought on to the sites quickly.

Timing is crucial with these projects and unnecessary regulation slows and discourages new development of energy resources we need. Disruption of energy supply development is detrimental to a sound national energy policy. Oppose the Filner motion to instruct.

Mr. Speaker, this is needless regulation that we need to start curbing in our country, and I urge Members to be oppose the Filner motion to instruct.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I keep hearing the gentleman from Texas saying that we should not disturb the development of oil and gas, and surely we must find sources of energy in this Nation.

What about alternative sources? And why does everyone other industry in America have to comply with this section of the Clean Water Act and not gas and oil if this motion does not pass.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on his important motion to instruct.

My friends who are so concerned about the energy industry, I fear are giving us conflicting signals. On the one hand, we are told that we can open up areas to additional drilling and exploitation because it is so safe, because it can be done without environmental damage. They are willing to go into the pristine arctic wilderness area and subject it to drilling.

Yet, we are told here that, no, we actually have to extend further protections, further exemptions from full compliance with our Nation's environmental laws. I find it a little ironic.

It is sad that we are debating what may be in the energy bill because the irony is, of course, that the committee members who are on our side of the aisle have been excluded. They do not really know exactly what is in the conference committee report, let alone the public and the rest of America. But the fact is that we are very likely to be dealing with this exemption.

I have heard references again that I find ironic to the committee of jurisdiction. The gentleman will remember that when the gentleman from Massachusetts (Mr. MARKEY) attempted in the Committee on Energy and Commerce to provide an amendment to deal with this specific subject, he was ruled out of order because the committee of jurisdiction happens to be our Committee on Transportation and Infrastructure, but we have not been dealing with this. This is dropped in in this hidden conference process from which the Democrats have been excluded.

When there was an effort to go to the Committee on Rules earlier to explicitly deal with this matter when the energy bill was coming forward, the Committee on Rules would not allow it.

The gentleman from Texas refers dismissively to "dirt" as though it is not a pollutant. Well, I ask the gentleman to come to the Pacific Northwest and talk to sportspeople who will tell you that inappropriate regulation of dirt, of silt is a serious pollution problem. And that is why responsible contractors deal with it and, in fact, that is why we have had it under Federal statute and why it is being employed right here within sight of the Capitol. Dirt, silt is a serious problem.

Now, this regulation has been under control since 1992. In fact, the EPA has been looking to extend it because this is serious business, not just the sites that are over five acres, but from one to five acres. Again we have been operating under this rule for 10 years.

Now, I am sorry my colleague from Houston got away because I have the provisions here of Section 402, and it appears that it would not permit the administrator to do what he was saying, to clean up pollution after the fact.

The point is we should not be cleaning up after the fact. There is no good reason to roll back this protection. There is no good reason for the Committee on Energy and Commerce to act outside their jurisdiction and deny the opportunity for the Committee on Transportation and Infrastructure to deal with it.

Last, I find it ironic that this comes forward on a day when two more environmental rollbacks have been brought forward by this administration. There is a leak that they are going to cut back clean water jurisdiction over streams that do not have a ground water source, and today the administration announced that it would not be pursuing any of the pending new source review cases against utilities that went ahead with construction in violation of the new source review program.

□ 1815

This despite their repeated assurances when they were coming forward with the NSR rule change that they would not affect pending cases.

Mr. Speaker, this is a part of a pattern of environmental rollback that we have seen with this administration that will not correlate its campaign rhetoric with what it does in office and where this Congress is complacent in stepping back from our requirement to protect the environment.

I strongly, strongly urge that we approve the motion to instruct from the gentleman from California.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. CARSON), a member of the Committee on Transportation and Infrastructure.

Mr. CARSON of Oklahoma. Mr. Speaker, I rise tonight in opposition to my good friend the gentleman from California's (Mr. FILNER) motion to instruct conferees on the Energy Policy Act of 2003. This motion will instruct conferees to drop a critical provision of domestic oil and natural gas production which would negatively impact this very important industry in my home State of Oklahoma and throughout the country.

The provision in the Energy Policy Act simply clarifies current confusion in the Clean Water Act that has led the Environmental Protection Agency to believe it should regulate storm water discharges resulting from the construction of exploration and production facilities under a different standard than operating facilities. This was never the intent of Congress.

The Energy Policy Act would clarify that one permitting standard would apply to both construction and operation of exploration and production facilities. This provides for sound, consistent and cost-effective regulations designed for the conditions associated with oil and natural gas facilities to be developed.

I respectfully request that my colleagues join me in opposing the Filner motion to instruct. I appreciate the granting of the time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

I would tell the Rhodes scholar from Oklahoma that he needs some additional training in research. Staff that was here when the bill was written know the intent of Congress, and it is not as the gentleman described.

Let me respond to several of the arguments from the other side. If the provisions stays in the energy bill, it is a rollback of existing requirements for construction over five acres. That is what exists now, and this rolls it back, no matter what they say that this intended 10 years ago or whatever.

Our original intent in 1987 was to exempt storm water that was totally unpolluted. Storm water that was totally unpolluted was exempted. Storm water from construction is polluted, as we have heard from the gentleman from Oregon, and the gentleman from Texas knows that when there is no possibility of runoff into the waters of the United States one does not need a permit. Where all the storm water is kept on site, go do it; they do not need the permit.

So we are I think hearing justifications. We are hearing rationalizations of the destruction of our environment.

Mr. Speaker, other industries do not have this exemption from the Clean Water Act. In fact, many other companies, including mom and pop businesses with far fewer resources than the oil and gas industry that the Republican party tries to protect, every one of those businesses must take steps to reduce polluted storm water runoff from their construction activities. So why not oil and gas companies? Could it be because they spend every election cycle millions of dollars on campaign contributions?

These companies I think are getting a payback here in the form of special interest loopholes in the Clean Water Act that was stuck into the energy bill. In the last few years, they have given over $64 million to Federal candidates and their parties. It is a great payback that we have here in the energy bill for those contributions.

Mr. Speaker, environmental groups all across the Nation support this instruction: The Audubon Society, the American Rivers, the Center for International Environmental Law, Clean Ocean Action, Clean Water Action, Coastal Alliance, Defenders of Wildlife, Earthjustice, Environmental Integrity Project, Friends of the Earth, the Gulf Restoration Network, the League of Conservation Voters, the National Environmental Trust, the National Resources Defense Council, the Save the Dunes Council, the Sierra Club, The Ocean Conservancy, The Wilderness Society, the Union of Concerned Scientists and the U.S. Public Interest Research Group. The National League of Cities supports my instruction, and not only these environmental groups support the motion but hunting and fishing groups in America do, Trout Unlimited, the Izaak Walton League and the National Wildlife Federation.

It is clear that an exemption is being carved out to allow one business, one sector of our economy, one extremely powerful sector of our economy to buy its way out of the Clean Water Act. I think that is a terrible terrible thing to say to our Nation, that if one gives the campaign contributions they get exempted from the environmental protection that is required of everyone else.

Mr. Speaker, I would urge us to adopt this motion to instruct.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Can I inquire of the gentleman, who is the author of the amendment, if he has any other speakers?

Mr. FILNER. I have someone to counter whatever the gentleman says.

Mr. BARTON of Texas. The reason I ask is, the gentleman has the right to close. So after I speak is the gentleman going to give the closing statement? Is that the gentleman's intention at this point in time?

Mr. FILNER. Yes.

Mr. BARTON of Texas. Okay. Mr. Speaker, how much time do I still have?

The SPEAKER pro tempore (Mr. HAYES). The gentleman from Texas (Mr. BARTON) has 12 minutes remaining, and the gentleman from California (Mr. FILNER) has 3½ minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume, and at the end of my statement I am going to ask my good friend from Abilene to answer a few questions since I know he has got a number of these drilling sites in his District.

I want to start out by saying we have no opposition if a State or a local government, for whatever reason, wishes to put some regulations in place to prevent siltation into their waterways, but the Clean Water Act is explicit that we do not regulate drilling sites, oil and gas drilling sites, under the Clean Water Act. It is explicit in the Act. What EPA has tried to do is say, that is true, but we should be able to regulate the site construction, the site preparation of these drilling sites.

Now, use a little common sense. What is the worst thing that is going to happen while one is preparing a site to be used as a drilling site for oil and gas exploration? It might rain. It might rain. I do not know how long it takes to prepare a drilling site. My good friend from Abilene may know. It may take a week. It may take 2 weeks. It may take a couple of days, but if it takes 6 months to get the permit to prepare the site, and a person has to spend $10- or $15,000 to get the permit and then to put up the berms and all that stuff and it does not rain, they have done a lot of work for nothing, and maybe if one is a small, independent drilling operator like there are a lot of in my District, trying to operate out of the old Corsicana field or Mexia field, they may say to heck with it, I am not going to even try.

The average well in Texas produces less than 10 barrels of oil a day right now. How many little guys do we want to make it so impossible to do anything to extend the life of our existing fields on the off chance that while they are preparing the site to drill it might rain? The Clean Water Act does not regulate dirt as a pollutant. It is not a regulated pollutant.

So all that we are saying in the bill that has already passed the House is the law already is explicit that the EPA cannot regulate an active drilling site. We say they cannot go in and in a back door way try to regulate the site preparation, and again, we are talking about storm water, rainwater, runoff which if one is preparing a drilling site, the worst that is going to happen is it might rain and they might get a little mud. That is the worst that is going to happen.

Mr. FILNER. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. FILNER. Mr. Speaker, the gentleman said, if I heard him right, that he might be going over previously active fields, right, construction that were, am I to understand, active fields?

Mr. BARTON of Texas. In my District, we are going into old fields and trying to extend the life of those fields, and on occasion, believe it or not, they do scrape up $10- or $15-, $50,000, get a lease, go out and actually try to drill a new well. It does happen, not as often as it should, in my opinion, but it does happen.

Mr. FILNER. Mr. Speaker, if the gentleman would continue to yield, would there not be the possibility in active sites or previously at the sites benzene, toluene, other heavy metals? There would not be just dirt there?

Mr. BARTON of Texas. If one goes to drill in an existing site, under State regulation, in my case the State of Texas, requires site remediation, site monitoring, and again, we are talking about storm water runoff. If there is contamination, we do not change that. We do not change that at all.

All we are simply saying is heaven help the poor guy or girl in our society that wants to go out and try to find some more oil and gas and they actually put up their own money, go to the bank, borrow it, whatever. Let us do not require them to get a waste water runoff permit from the Federal EPA that explicitly says in the current law one does not have to have once the site is active.

I want to ask my good friend from Abilene a few questions if he would care to engage me in a colloquy or dialogue. I would assume that the gentleman has some oil and gas production in his District in West Texas. Is that correct?

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Texas.

Mr. STENHOLM. That is correct.

Mr. BARTON of Texas. Has the gentleman ever been in a conversation with an oil and gas producer at some cafe or maybe a church or at a social and they actually talked about maybe going out and trying to drill a few new wells?

Mr. STENHOLM. Mr. Speaker, I have done better than that. I have had them drill on my own property. They drilled 11 dry holes which I have had discussions with them as to why they could not do a better job of finding oil under my property than just drilling dry holes.

But from the standpoint of the basic in the gentleman's exchange with the gentleman from California (Mr. FILNER), we used to have a very bad situation in Texas, and I can show my colleagues land in my community that was literally destroyed by the oil and gas industry because of their inability and unwillingness to protect it. That was 50 years ago.

Today, when the last well that was drilled on my property, again a dry hole, one cannot tell they were there today. They do an excellent job because that is the rules and regulations that Texas imposes upon the oil and gas industry, and I believe that is basically true all over the United States today.

The question before us, though, it is not just oil and gas producers that are opposed to these proposed storm water regulations being imposed unilaterally across the board on every possible site. It is also my small towns and communities have got real problems with this, home developers, et cetera, because in dry West Texas, we can impose some of these regulations based on the possibility of rain and spend more money than one can possibly get out of the investment that they are going in. So it would have a very damaging effect on economic development.

□ 1830

Mr. BARTON of Texas. Mr. Speaker, I ask the gentleman from Texas, on the dry holes drilled on the gentleman's property, how long did it take them to prepare the site for drilling?

Mr. STENHOLM. A couple of days. They would go in and dig the slush pit. The next thing, the drill rigs are there.

Mr. BARTON of Texas. When they are doing this site preparation, they prepare the pits, they have State and Federal regulations they have to comply with in terms of the drilling muds and the fluids that go down in the well and come up with the well; is that correct?

Mr. STENHOLM. And they have to dig a pit that will hold that which they are going to use on that particular site.

Mr. BARTON of Texas. So if there is anything that is going to be contaminated, they are preparing for those types of fluids?

Mr. STENHOLM. Under current law, that is correct.

Mr. BARTON of Texas. But they are not actually using any of those fluids in the site preparation? They are not doing a test run where they put those kinds of fluids in?

Mr. STENHOLM. Not until they drill.

Mr. BARTON of Texas. If we were to agree to the Filner motion to pull something out of the pending energy bill that has already passed the House so EPA could regulate the site preparation for storm water, rain water runoff, then, obviously, additional site preparation would be required, additional berms, plastic fences, and those types of things; is that correct?

Mr. STENHOLM. That is most certainly the fear, and it is not just a fear, it is a reality if we impose these regulations all across the United States, as someone might in a certain area in which we have a different rainfall characteristic.

The annual rainfall in my district ranges from 14 inches in the west to 35 inches in the eastern part of my district, the part that adjoins the district of the gentleman from Texas (Mr. BARTON). Therefore, there are different components. But the law gets interpreted and put into place and enforced in ways that assume that a drilling rig in west Texas is going to suddenly be faced with a 20-inch rain.

Mr. BARTON of Texas. Mr. Speaker, I appreciate the gentleman for engaging in this dialogue, and it is obviously not prepared. Let me continue to yield and ask a final question.

Does the gentleman know anybody in west Texas, in his district, that thinks that dirt that gets wet is a pollutant? Wet dirt caused by rain raining on the drilling site, is there anybody in west Texas that thinks that is a pollutant, wet dirt because of rain?

Mr. STENHOLM. In the case of a flood, wet dirt that goes into a home is a pollutant.

Mr. BARTON of Texas. When was the last flood in Abilene?

Mr. STENHOLM. Two years ago, but I take the gentleman's point.

Ironically, we are facing the same question in some regions of this country where dirt is considered a pollutant, and we are attempting to regulate plows. I remember 3 years ago, I believe, in Arizona, we were attempting to regulate dust storms. That is difficult to do, the same way the gentleman is talking about regulating when is it going to rain and how much is it going to rain. From the standpoint of a normal operation in my district, again, on my own farm, the site is prepared. It would be unconscionable to require a permit, going over 6–8 months, or order to find an opportunity there based on storm water. It is done based on other conditions, and that is already current law.

Mr. BARTON of Texas. Mr. Speaker, I agree with the gentleman. We have shown in this debate that there is bipartisan opposition to the Filner motion. It is not because we do not like the gentleman from California (Mr. FILNER). He is a great guy. It is not because he is from California, the Golden State, it is simply because his motion, to those of us who oppose it, just defies common sense.

The law is clear if we have an active drilling site, it is explicitly exempt in the statute from regulation for waste water runoff. There is no reason in the world to take the plain language of an active drilling site and say you should have to regulate, at the Federal level, the site preparation for rain water runoff. That is why we clarified and added this simple section that says what they say for the site itself when it is active should also be applicable to site preparation. I ask for a no vote on the Filner motion to instruct.

Mr. Speaker, I yield back the balance of my time.

Mr. FILNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say that the gentleman from Abilene, Texas (Mr. STENHOLM) did such a good job for the gentleman from Texas (Mr. BARTON) that they should have treated him better in the Texas redistricting law.

We have been told we ought to cry for some of these gas and oil producers and developers, and that these poor folks, we have to let them produce. I am told that the permit that would be needed for such a situation only takes 7 days. That is the law. I do not know what Members are talking about—6 months, or we will never be allowed to prepare the site. It is 7 days for the permit.

In an arid area such as the gentleman's, the law specifically waives the requirement for a permit. If there is no corrosive rain, there is no permit required. I would be tempted to say the gentleman is throwing red herrings across the debate, but with the gentleman's policies, the red herrings might all be killed so I will not.

Let me get to dirt.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, let me say the concern I have, when the regulations are read and the experiences we have had, we have had some extremely damaging experiences with the Endangered Species Act. What the gentleman says—7-day permit, that is correct; but someone comes in and sues at the exact moment, and then we get into the litigation and all of the questions based on it.

Mr. FILNER. Mr. Speaker, I understand the gentleman's concerns. In California we have the same ones. Litigation is not the route that we wouldfavor. We would like a commonsense, as the gentleman from Texas kept saying, a commonsense law.

But dirt, siltation, is in fact the second leading polluting problem in our Nation's rivers and streams. It suffocates fish and eggs and bottom-dwelling organisms. It alters aquatic habitat, and interferes with drinking water and the recreational process of the river. So siltation is a real problem.

In conclusion, our country needs energy. We support its development, but clean water is as important as energy. It is vital for our economy and for our life itself. And the lands where the wells are drilled are the same lands that provide water for our ranchers and our city dwellers, as well as our fish and wildlife population.

The oil and gas industry say, and I have seen TV advertisements and full-page ads in magazines, that we can develop energy and protect the environment at the same time, and we agree with them. So why should Congress weaken environmental protection by writing a special exemption for one industry alone? I ask for approval of the motion to instruct.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the motion, and I commend the gentleman from California, Mr. FILNER, for offering this motion to prevent an egregious assault on the Clean Water Act, Section 12403 of H.R. 6, the Energy Policy Act of 2003, amends the Clean Water Act to provide a permanent exemption from stormwater permitting requirements for construction activities associated with oil and gas exploration and production operations.

If this provision remains in the energy conference report, oil and gas exploration would be the only construction activity not subject to Clean Water Act requirements. Oil and gas operations would be under no obligation to control stormwater runoff that would impair our Nation's lakes, rivers, and streams. It is a complete, unprecedented end-run around one of our Nation's most successful environmental laws and should be stricken from the conference report.

Since its enactment 31 years ago, the Clean Water Act has prevented billions of pounds of pollution from fouling our Nation's waters, and we have doubled the number of healthy rivers, lakes, and streams across America. Instead of celebrating these considerable accomplishments, this Congress, following the direction of the Bush Administration, seeks to abandon them. This provision allowing the oil and gas industry a permanent exemption from complying with Clean Water Act requirements is the latest step down that road.

If left unchecked, stormwater carries pollutants from construction sites to nearby waterways, endangering human health, harming wildlife, and rendering these waterways unsuitable for recreational uses such as swimming or fishing. We cannot allow the oil and gas industry to operate without regard to the amount of pollution running into our Nation's waterways from its construction activities, thereby reversing decades of effort at reducing polluted stormwater.

Since 1990, construction sites, including oil and gas construction sites, larger than five acres have been required to control stormwater pollution. In December 1999, the Environmental Protection Agency (EPA) published a rule, to be effective in March of this year, that requires smaller construction sites, those between one and five acres in size, to control stormwater runoff. However, in response to heavy oil and gas industry pressure, EPA granted the industry a special two-year exemption from this rule. EPA decided that it needed two more years to study the impacts of enforcing this rule on the oil and gas industry, while ignoring the impacts of industry pollution on water quality.

This two-year delay is nothing more than a special favor to the oil and gas industry—remember it has been nearly four years since EPA first published the rule. The provision currently at issue takes the favoritism to the extreme by providing the oil and gas industry a permanent exemption from controlling stormwater runoff—regardless of the size of the construction site.

The oil and gas industry exemption is not only wrong on substance, but it is also wrong on process. Since consideration of this bill began early last spring, the Republican majority has blocked repeated attempts by Democrats to be heard on this provision. During the Energy and Commerce Committee's consideration of the House Energy Bill Committee Print in April, Congressman MARKEY offered an amendment to strike the offending provision. Chairman TAUZIN ruled the Markey amendment out of order, stating that it was non-germane because the issue was not within the jurisdiction of the Energy and Commerce Committee and was "within the jurisdiction completely" of the Transportation and Infrastructure Committee. Despite my serious concern with this Clean Water Act exemption, the Transportation and Infrastructure Committee never considered the bill.

When the House considered the bill, Congressmen COSTELLO, MARKEY, and I sought to offer an amendment to H.R. 6 to strike the provision. But the Rules Committee blocked our efforts to offer that amendment on the House Floor. As a result, today, seven months since the Energy and Commerce Committee considered the bill, is the first time Democrats have the opportunity to debate and vote on this Clean Water Act exemption for the oil and gas industry.

This provision exempting oil and gas companies from complying with the stormwater permitting requirements rolls back the clock on environmental protections and seriously jeopardizes the health of our Nations lakes, rivers, and streams.

I urge members to adopt this motion and instruct the Energy bill conferees to reject this provision.

Mr. FILNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. FILNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FILNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

Mr. CARDOZA. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CARDOZA of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1 be instructed as follows:

(1) To reject the provisions of subtitle C of title II of the House bill.

(2) To reject the provisions of section 231 of the Senate amendment.

(3) Within the scope of conference, to increase payments under the medicaid program for inpatient hospital services furnished by disproportionate share hospitals by an amount equal to the amount of savings attributable to the rejection of the aforementioned provisions.

(4) To insist upon section 1001 of the House bill and section 602 of the Senate bill.

Mr. CARDOZA (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from California (Mr. CARDOZA) and the gentleman from Texas (Mr. BRADY) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion we are debating tonight instructs the Medicare conference committee to reject the controversial plan of premium support and reallocate the money saved to increase payments to disproportionate share hospitals.

As a representative of an area with multiple DHS hospitals, I feel it is vitally important to provide them with the maximum Federal funding possible. However, let me first discuss the issue of premium support, and why I am concerned that this plan could potentially dismantle Medicare.

Under premium support, in the year 2010, private insurance companies and traditional fee-for-service would compete against each other to provide services to beneficiaries. Monthly premiums would be set according to an average and beneficiaries would then be given something similar to a voucher for which they could purchase coverage.

However, premium support will create a system where seniors' benefits can vary widely from county to county, State to State, and their choice in doctors can be restricted, vital services may not be covered, and their monthly premium can radically fluctuate. That is if the private plans even participate at all.

We need to look no further than the administration to find proof that this is an impending problem. A recent report by the Department of Health and Human Services actuary showed radical disparities in the monthly premiums by region. For example in Davidson County, North Carolina, Medicare beneficiaries would only pay $53 a month under premium support. However, my constituents in Stanislaus County would be forced to pay a whopping $117 per month, so more than double.

I am very concerned about subjecting a trusted health care system like Medicare to the uncertainty of the private market. I am especially hesitant about a system that relies on HMOs and other private insurance plans to administer services to our seniors. In my hometown of Merced County, there is not one, not one Medicare+Choice plan that my constituents can participate in, not one. However, for someone residing in Los Angeles County, 200–250 miles down the road, they have a pick of 11 different plans. HMOs have made it abundantly clear that serving rural America is not profitable, and, therefore, they have pulled out of those regions in a mass exodus. Now, the House bill relies on these plans to provide services for Medicare beneficiaries.

Mr. Speaker, to me it just does not make sense. So let us not take a gamble with our seniors. Instead, let us spend our resources on something far more tangible, disproportionate share hospitals. These are America's safety net hospitals caring for the sickest and poorest of our citizens, and they must not be abandoned in their time of need. Currently, there are over 40 million Americans without health insurance, and the number continues to rise. DHS hospitals accept every patient, regardless of their financial status, and provide the best possible care available day in and day out.

In my district, my hospitals fall between the cracks of not quite big enough to be considered urban, and just a little too large to be considered rural; but we have one of the largest uninsured populations in the country and increasing DHS funds are absolutely essential for their survival. Mercy Hospital in Merced County is facing severe financial shortages because of a lack of payments in this area and because of a high indigent population.

□ 1845

My motion not only directs the conferees to use funds saved by premium support for DSH hospitals but it also insists that the final legislation retain the most generous DSH provisions from the House and Senate versions of the Medicare legislation.

As we all know, DSH hospitals are facing the possibility of falling off a proverbial cliff due to the drastic reduction in Federal funding as directed by the Balanced Budget Act of 1997. Section 1001 of this bill increases DSH allotments in fiscal year 2004 to that of 120 percent of fiscal year 2003. Section 602 of the Senate bill increases the floor for low DSH States from 1 percent to 3 percent of total Medicaid spending.

This provision is extremely important for States of Alaska, Arkansas, Delaware, Idaho, Iowa, Kansas, Maryland, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Wisconsin, and Wyoming who are bound by law not to spend more than 1 percent of their Medicaid dollars on DSH hospitals. Hospitals in these States are suffering as well, and we cannot let them fail, either.

Mr. Speaker, I urge every Member of this body to support my motion to instruct the Medicare conferees. America's seniors deserve a guaranteed Medicare benefit and America's safety net hospitals deserve our assistance.

Mr. Speaker, I reserve the balance of my time.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Medicare recently celebrated its 37th birthday. Medicine has changed a lot since 1965. Unfortunately, Medicare has not. Back then our seniors spent half their medical dollars for doctors, the rest for hospitals. It was pretty simple. But today, a remarkable 40 percent of seniors' costs are for prescription medicine. Through the miracle of modern science, through lifesaving drugs, technologies and new treatments, our parents and grandparents are living longer and healthier lives than any American generation. Best of all, due to new medicines, they are spending less of their golden years in hospitals and nursing homes and more of their time with their children and grandchildren.

Medicare needs to change with the times. Our seniors deserve a Medicare that includes a modern prescription drug benefit, one that is voluntary so seniors can keep the good plans they already have, one that gives seniors the right to choose the prescription plan that is best for them, not what is best for Washington, one that is affordable so that seniors have the peace of mind from knowing Medicare will remain strong and viable for generations to come. This is important as an issue to our country and to our State.

Back home in Texas, we have more than 2 million seniors who count on Medicare. On average, they fill 18 prescriptions a year, spending about $1,200 annually. Many of our seniors face serious problems paying for these medicines. It does not seem right that our neighbors when ill are opting to leave prescriptions unfilled or cutting back on food and sometimes traveling to other countries to purchase drugs simply to protect their precious health. At this point in their lives, do our parents and grandparents not deserve better? The time for petty partisan fighting is over. It is time for Congress to act right now.

That is why I am proud to serve on one of the two committees which developed the Medicare Prescription Drug Modernization Act that successfully passed the U.S. House of Representatives recently. The legislation brings Medicare into the 21st century. It provides catastrophic protection for seniors with very expensive medicine costs, extra help for the poor and lowers drug prices while still encouraging the medical breakthroughs that our loved ones are counting on. The plan starts with a 2-year discount drug card for the neediest seniors, reducing medicine costs by an estimated 25 percent. After that, a new Medicare part D that is for drugs will be available from several different health care plans for prescription medicine. Seniors may choose one or not. It is not mandatory. It is their choice.

Like most health care plans, there will be a small annual deductible, monthly premiums of around $35, and copayments up to a certain amount. Some seniors we know have extremely expensive medicine costs, much greater than the average person. To make sure these seniors will not face losing all that they have worked a lifetime to save, the new Medicare health plan includes catastrophic coverage that picks up most of the prescription costs over a certain amount. And for the neediest seniors, Medicare will pay for the prescription health care plan and many of the costs that go along with it. Those details are being finalized as we speak tonight.

But the House bill that we passed does more than just offer affordable prescription drug coverage. It also includes funding to make sure doctors and hospitals, nursing homes and home health agencies continue to treat our Medicare seniors. In fact, the DSH hospitals, those who take care of our neediest, will receive a 20 percent increase. The allotment is increased 20 percent, a major amount, for those hospitals. There are new preventive tests added to Medicare, such as cholesterol screening and initial physicals; and there are important reforms to speed generic drugs to the market to lower drug prices.

As one would imagine, no change of this importance is without honest disagreement. Some believe this bill is too small. They have offered a proposal three times larger, which as one would guess bankrupts Medicare within a few years and mandates a Washington-style one-size-fits-all plan that does nothing to actually improve Medicare. The better way, I believe, is to guarantee our seniors have a prescription plan they can count on; one that will not threaten future medical breakthroughs; one that will not lead to rationing of health care; and one that will extend the life of Medicare, not hasten its demise. Yet others believe this benefit is too large, that Congress should focus on giving help only to the poorest. Unfortunately, we already have a program like that. It is called Medicaid. It is not the model we should have for this Nation and for our seniors.

As a fiscal conservative, I looked real hard at the cost of adding prescription medicine to Medicare, an additional 10 percent over the next 10 years. I am convinced we can spend a dime now to help seniors with their medicines, or we can pay a dollar later when they end up in the hospital, end up with a surgery they did not need to have if we would have helped them a little with the drugs beforehand.

I am also proud to support one of the best improvements in the basic Medicare program, the one we are talking about tonight. In 2010, seniors will have a choice of their basic Medicare plans, much like the choice Members of Congress and other Federal workers have that are included in the Federal employee health care plan. Groups like the Heritage Foundation say these reforms found only in the House plan go a long way toward fundamental change in Medicare. My question is, If these health care plans are good enough for Congress, why can our seniors not have access to them? Why can they not have the type of choices we have for our families at taxpayer expense? Why can we not have plans like the Federal employee plan that not only works better, provides better coverage but does not increase so much in cost over the years?

Recently a study was done that compared Medicare for the last 20 years against the Federal employee health care plan, the one the Members of Congress have. What the plan showed was that Medicare without prescription drugs rose faster in cost and price than the Federal plan with prescription drugs did. In other words, less care in Medicare, higher growing costs. More competition, better health care and the costs were lower over the years. Why can seniors not have the same choice of good health care plans for Medicare and the cost where we know with the baby boomers coming into Medicare in the future, we will want those reasonable increases so that we can make Medicare last forever? That is the issue tonight that we are debating. Why can seniors not have the same type of health care that Members of Congress have? Why can they not have good choices? Why can we not have one that will actually make Medicare last longer and not hasten its bankruptcy? We need these types of reforms when we add Medicare prescription drugs.

As I watch our conferees, led by the gentleman from Louisiana (Mr. TAUZIN) of the Committee on Energy and Commerce and the gentleman from California (Mr. THOMAS) of the Committee on Ways and Means and the other conferees, I know that many Members of Congress, including myself, believe that added reforms to make Medicare better and last longer is the only responsible way to add a prescription drug benefit.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would say to the gentleman from Texas that it is my understanding that we have never offered a proposal that costs three times as much. In fact, the gentleman alluded to the fact that he favored a plan much like the plan that Members of Congress currently have. That is something that we have proposed. We have never heard that plan from the Republicans. We would certainly be willing to entertain a plan that was something similar to what Members of Congress have for our seniors, without a doughnut hole.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM), the ranking member of the Committee on Agriculture and the cochair of the Blue Dog Coalition.

Mr. STENHOLM. Mr. Speaker, I rise in strong support of the Cardoza motion to instruct Medicare conferees. The Cardoza motion instructs conferees to insist on a House-passed provision that would largely eliminate reductions in Medicaid disproportionate share hospital payments, or better known as DSH payments, currently scheduled to go into effect in fiscal year 2004 and fiscal year 2005 and provide some benefits in later years. DSH funding is our Nation's primary source of support for our safety net hospitals that serve our most vulnerable populations. Medicaid DSH is especially important now as the number of uninsured Americans continues to rise, with now over 43 million Americans without health care coverage.

In our State of Texas, I say to my friend from Houston, where nearly a quarter of the population has no health insurance, hospitals and health care clinics rely heavily on the DSH payments in order to finance care for the poor and uninsured. Despite the growing demand, Texas is increasingly constrained from making DSH payments to needy hospitals. In the recent budget cycle, Texas State legislators slashed millions in funding and services throughout the Medicaid program in response to the State budget deficit. In fiscal year 2003, Texas DSH payments were reduced by $80 million due to statutory limits in Federal law.

All of these cuts inevitably will fall on the shoulders of Texas' poor and uninsured, depriving them of their access to basic health care as providers like hospitals are left with no choice but to reduce services. Particularly this is a problem in rural areas. If hospitals and health care providers do not close their doors or fold under the financial pressure, they may shift the burden of caring for the poor and uninsured by charging more to the patients who can afford to pay, making health care more expensive for all Americans.

The House DSH provision contained in the Cardoza motion is essential to ensuring that the most vulnerable Texans continue to receive vital health care services. The provision, section 1001 in House bill 1, would provide Texas an estimated $140 million increase in fiscal year 2004 over current law. Sufficient DSH payments are absolutely critical if hospitals and health care clinics are to continue to serve the neediest and the poorest Texans. Now is not the time to deny the poor and uninsured access to the health care they need or to shift the burden to the average American on an experimental program.

I cannot say how strongly I oppose the general provisions that my friends on the other side of the aisle seem to believe that privatizing Medicare, turning Medicare over to the private industry, is going to be the best way to serve the uninsured in Texas. It will not work because it cannot possibly work when you already have a program that the administrative cost runs consistently less than 2 percent. No one has ever been able to show me in any debate, any discussion, anywhere at any time that you can do a better job with less money. I would enjoy hearing people defend this from the standpoint of something other than philosophy.

But in the case tonight, we have a clear choice. This motion is clear to us, unless you believe, as some do, that privatizing is the way to go. We have already experimented with this in agriculture. We have done it now for 10 years. It has not worked and cannot work, and we continue to hear folks coming to the floor of the House talking about the need for additional Federal involvement in disaster programs covered by insurance. It does not work there. It cannot possibly work in something as important as health care.

I encourage all of my colleagues to support the Cardoza motion to instruct Medicare conferees and hope the conferees are listening carefully.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

The fact of the matter is that the best way that we can provide Medicare for our seniors is to give them a tested improvement that we ourselves are the beneficiaries of as Members of Congress. Some would like to just add Medicare prescription drugs onto the current Medicare system and if it goes bankrupt, it goes bankrupt. If the boomers use all the money, they use all the money. No big deal. Just let that happen. That is what this motion does.

What we are trying to do is take the responsible approach. What we are trying to do is to offer to Medicare seniors not only a way to help them with their prescription drugs but a way to make Medicare better for them and a way to make it last longer. Yes, seniors in Medicare today; they will tell you there are serious problems with Medicare. Fewer and fewer doctors are willing to see our seniors. There are complaints about service. This bill is increasing reimbursements to hospitals and health care providers, to these same hospitals that my friend from Texas talked about. But we are also adding something more important, a Medicare system you can count on for future years.

□ 1900

The way we do that is not, as my friend from Abilene, Texas, just said, sort of what has come to appear to be a tried-and-true tested way to scare our seniors by using the word "privatize," by saying we are ending Medicare as we know it. The fact of the matter is we are creating Medicare the way Members of Congress know it. Where we have a choice of plans that have worked for years and years and years for us, that have worked very well for us, and the question still comes down to if we add a prescription drug plan, should we not make Medicare last longer and improve it? And why cannot seniors have the same type of choice of health care plans that Members of Congress have? I mean have they not earned it at this point in life? And we know from recent studies that this is a proven way to provide health care in a way that helps provide Medicare for years and years and years to come.

The sections that are being proposed to be struck today save costs for Medicare, make it more financially sound, and we have a prescription drug plan that they desperately need. We are putting Medicare on a sound financial basis that will last longer and be better. It allows taxpayers to share in the savings and, as beneficiaries, make the best choice for them, not what Washington wants. And it parallels the competition that we have in the plans that Members of Congress use. It creates a level playing field between traditional fee-for-service which our seniors can continue to choose, and many will, and private plans that offer more choices and lower costs over time. We are seeking these types of improvements because we know it is the only responsible way to help our seniors afford medicine costs and create a Medicare system they can count on for the future.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN), a member of the Committee on Energy and Commerce, who has over the years become a leader in this body on health care in America.

Mr. BROWN of Ohio. Mr. Speaker, I thank my friend from California for his good work as a freshman in really stepping up and learning health care issues and fighting for the right causes in health care and protecting Medicare.

I would not expect the gentleman from Texas (Mr. BRADY) to know what his counterparts in the Committee on Energy and Commerce did. He is a distinguished member of the Committee on Ways and Means. But when he stands here and says that we just want to give to seniors what Members of Congress already get, he should know that the Committee on Energy and Commerce had an amendment, the Democrats in the Committee on Energy and Commerce, saying that every senior should get a plan at least as good as Members of Congress get, and it was voted down in a party-line vote. It was not the first time we had tried that. We had tried it other years. We will continue to try it. But the gentleman from Texas (Mr. BRADY) should remember that soon after the Medicare bill passed in the middle of the night, as all controversial bills pass in this body, by one vote, as almost all of them pass, and after Republicans surrounded a couple of Members on the House floor in the middle of the night, and convinced a couple of Republicans to switch their votes so they could get their bill through by one vote, he should remember a couple days after that, I believe the next week, that a Republican Congressman from, I believe, Virginia had legislation that said that we will not bring Members of Congress and Federal employees down to the level of the Republican Medicare plan. It was to protect those Federal employees, also protecting Members of Congress, but to protect them so they did not get a plan with this huge doughnut hole, this huge gap in coverage, with lots of out-of-pocket costs. My Republican friends did not want that plan for Federal employees and, I might add, for themselves.

This is the same Republican Congress where almost 200 Members of Congress voted for a pay raise for themselves and then a couple of months later voted against a $1,500 pay increase for our servicemen and women of Iraq, just to bring another issue which sort of hits home with a whole lot of us.

The fact is that Medicare works, Medicare is rock solid, it is equitable, it is dependable, it is flexible, it is cost-efficient, it serves America's seniors so very well.

President Bush, when he unveiled his prescription drug plan, he said, If you want prescription drug coverage, Mr. and Mrs. Senior in this country, you have got to leave Medicare and go into a private HMO. Then he realized that did not sound too good. Even the privatizers on the other side of the aisle who want to turn Medicare over to the insurance industry, even they realized that was not going to work in an election year; so they backed off that plan.

But the fact is that H.R. 1 abandons Medicare as we know it, trades it in for a multi-health plan system we already know does not work, privatizes the system, turns it over to HMOs. That is why the Cardoza motion to instruct is so very important. That is why Members should support it if they like Medicare the way it is. But under their plan without the Cardoza motion to instruct, Medicare ends in 7 years. It is a bad idea. Support the Cardoza motion to instruct.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

I think it is important to know that what we are talking about tonight is not about Iraq. It is not about congressional pay raises. It is about our seniors getting drug help for medicines that they desperately need and to make sure that we change and improve Medicare in a way that it lasts, in a way that they can count on for years and years to come.

It is true that an amendment was offered, and I always get a kick out of Washington. We think it is so important to score points against each other with amendments and clever motions on the floor. Our seniors, frankly, do not care about that. They need some help in buying medicines, and they need a Medicare system that will last long that they can count on. The fact of the matter is the amendment simply added costs to Medicare, did not add any of the improvements that would make it last longer. So bankrupting Medicare sooner is not something I would brag about, but in Washington people think that is clever.

Also, in Washington a big intent is SOS, scare our seniors, talk about how Medicare can never be made better, that there are no improvements, there are no other options to look at. But the fact of the matter is my colleagues on the other side continue to claim traditional Medicare is more efficient than the private plans that we as Members of Congress have. If that is the case, they have nothing to fear from the reforms and improvements in the Medicare bill.

If Medicare truly is more efficient than private plans, then the beneficiaries, our seniors, in competitive areas who remain in traditional fee-for-service will see their premiums go down; so they will benefit from this competition. We want to provide incentives for seniors to choose the best plan, the most efficient form of care, and if traditional Medicare is that, then they will be given incentives to remain in traditional Medicare through premium decreases. In other words, seniors will see their Medicare premiums go down, not up, and that will be a pleasant change for seniors. But if private plans like the ones Congress have can deliver Medicare service more efficiently, then we want seniors to have incentives to join those plans. We want them to have the choice to pick the plan that is best for them, not a one-size-fits-all from Washington.

These improvements are necessary to bring Medicare costs under control so it lasts longer, so it is something our seniors can count on. We are not scaring seniors. We are offering them the choices they deserve at this time in their life.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would like to first assure the gentleman from Texas that I have not attempted to score debating points since I graduated from high school, and I think this issue dealing with Medicare for our seniors, prescription drugs for our seniors, is far too important to consider debating points. What we are concerned about is the fact that we have been excluded, predominantly, from a conference committee that is critically important to the vast majority of our seniors in this Nation. So this is the only method we have to have input into that conference process. I would also like to make the point that administrative costs in private plans are approximately 15 percent and under the Medicare system that we have in this country is probably one of the most efficient possible ways of delivering health care to our seniors. We only have a 2 percent administrative cost.

Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. CAPPS), my friend and colleague who has been a leader on the Committee on Energy and Commerce in fighting for maximum Federal dollars for Medicaid DSH hospitals.

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I rise in strong support of this Cardoza motion to instruct conferees on H.R. 1, the Medicare Prescription Drug and Modernization Act of 2003. I support it for what it protects, Medicare as we know it, and for what it supports, our underfunded DSH hospitals.

The House and Senate Medicare bills, as we know, would impose a privatization scheme on Medicare. This would jeopardize health care for our seniors and turn them over to the tender mercies of the private insurance industry whose strongest obligation is not to seniors but to their bottom line.

We created Medicare precisely because the private insurance industry cannot afford affordable health care for seniors, and recent experiences with Medicare+Choice simply reinforce that lesson. Covering Medicare beneficiaries is too expensive for private plans to justify to their investors, and this is especially true in rural areas, where the low population and the lack of providers has proved to be too high a hurdle for private plans. But in spite of this experience, the House bill would turn Medicare into a voucher program.

The Senate bill would simply pay HMOs more per beneficiary than the traditional fee-for-service Medicare costs, and this would result in what my colleague from Texas does not think will happen, but it is naive to assume that this bribery for the HMOs to take these patients would inspire patients to stay in traditional Medicare. Therefore, they would opt out and Medicare would end as we know it. Why not just stick with traditional Medicare as we have it now?

This is a waste of money, this plan to privatize, and the net result would drive premiums up for Medicare beneficiaries, way up. At the same time this Medicare modernization bill deals a double whammy to hospitals that deal with a disproportionate share of populations whose resources do not match their needs. These hospitals have suffered a cut of hundreds of billions of dollars in this bill because of efforts to limit spending on Medicare. So these cuts threaten hospitals' ability to provide health care for America's poor and uninsured, just when uninsured seniors will find themselves without the ability to pay for their medications. They are told that this is because the budget is so tight, we cannot afford to properly fix this problem. We simply should not be throwing money at the private insurance industry when so many hospitals are just struggling to stay open.

So I urge support for this motion to instruct conferees so that they will continue to support hospitals and patients over HMOs and protect our constituents from the ill-conceived changes which will eventually eliminate Medicare as we know it today.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Here we go again, trying to scare our seniors, privatizing, ending Medicare as we know it, all the phrases the pollsters have used and tested to make sure that we get a partisan message out rather than a drug plan for our seniors.

The truth of the matter is if we were to adopt this proposal tonight, Medicare would go bankrupt sooner. We would be adding the prescription drug plan that we seriously need, but we would not make any changes making Medicare better and last longer so that the next generation would have a Medicare system they can count on. The fact of the matter is we are not trying to end Medicare as we know it. We are trying to create it as Congress knows it, as Members of Congress have in the health plans and choices we have today. The fact of the matter is that there is no effect on Medicare entitlement by the House plan. Seniors will have entitlement to defined benefits just the way they do today. They will have access to traditional fee-for-service Medicare all throughout the country. What they will have when we defeat this proposal, as we will later, is something they do not have today, which is a choice of Medicare plans, health care plans that are more to what they need, not what Washington needs, one that suits a changing senior population. Seniors, as my colleagues know, some of them are in very good health. Some of the seniors in my district have episodes in one-time, two-time types of illnesses. They have to treat other illnesses as they get older and move into more chronic care areas where it is a continual fight for a healthy life.

□ 1915

Having the types of choices the Members of Congress have, the types of health care plans we think are good enough for our families, but apparently some do not think are good enough for our seniors to have, those types of choices, I think our seniors deserve that.

More importantly, without these changes, without these improvements to make Medicare last longer and make it a better plan for seniors, we are simply bankrupting it sooner. We are abdicating our responsibilities as Members of Congress. We are not doing the right thing for seniors.

My thought is if someone promises you something that seems too good to be true, it usually is. Being responsible and adding a prescription plan that is affordable for future generations and improving Medicare in a way that keeps the costs down for future taxpayers, that is the responsible way of helping our seniors.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to the gentleman from Texas by saying that those seniors in my district are already scared. They are scared about the fact that they cannot afford prescription drugs now. They are scared about the fact that all of the HMO+Choice plans have pulled out. They are scared about the fact that, in some parts of this country, it will be $53 a month, and in my district the administration says it will be $117 a month, which they do not know where it is going to come from.

Mr. BRADY of Texas. Mr. Speaker, will the gentleman yield?

Mr. CARDOZA. I yield to the gentleman from Texas.

Mr. BRADY of Texas. In the same setting, CBO estimates the premiums for fee-for-service Medicare may go down by $10 a month, or, at most, increase by $3 a month. It is much less variation than the CMS study that is cited here tonight.

The fact of the matter is that without some reforms to make Medicare better and last longer, premiums for taxpayers will go up and the whole system is going, frankly, to go bankrupt sooner.

I think one thing we share as Democrats and Republicans is wanting to try to find some way where we can make Medicare better and last longer. I do think that, despite our philosophical differences, we have some common ground in that area.

Mr. CARDOZA. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SANDLIN), my fellow Blue Dog and a member of the Committee on Ways and Means.

Mr. SANDLIN. Mr. Speaker, I thank my friend from California for yielding me time.

Mr. Speaker, do we want to privatize Medicare? That is the question. It is as simple as that. Do we want to make prescription drugs available and affordable for senior citizens, or do we want to give money to HMOs to operate a plan for their profit? That is the question.

I rise today to join my colleagues in instructing the Medicare prescription drug bill conferees to reject the House-passed premium support provision, turning Medicare into a private voucher program, as well as the $6 billion wasted in the ill-conceived Kyl demonstration projects.

We have a clear responsibility as Members of Congress to improve Medicare, not to destroy it. Yet, if we allow the Republican leadership to continue on their dangerous path toward privatizing Medicare, our seniors' access to affordable health care will be compromised beyond compare. Further, Medicare's promise of equity will be ended in a regional free-for-all in benefits and prices.

The Republican leadership is playing games with the American public with their constant renaming of this ill-conceived proposal. We all know it. You can call it "premium support," you can call it "comparative cost adjustment," you can call it a "voucher program." Heck, you can call it "Ray" or you can call it "Jay," but it is the same thing. Starting in 2010, our seniors will no longer be entitled to a Medicare defined benefit. It is as simple as that. How is that fair? Importantly, contrary to what my good friend from Texas said, it is estimated that the average Medicare premium will rise by 25 percent under the Republican plan, and some up to 88 percent in rural areas.

Mr. Speaker, as you know, over 80 percent of rural Medicare beneficiaries live in an area that private insurance companies have made a choice not to serve at all. Now, how is that fair?

What about this Kyl demonstration project, Mr. Speaker? What is that all about? The Kyl demonstration project follows the same destructive path towards anti-consumer, anti-senior, anti-hospital, pro-private insurance company, HMO legislation. That is what it is. Under this proposal, private plans will be paid significantly more than it costs under Medicare to deliver the same service. Are we expected to believe that we are going to save money by spending more money for the same services? Is that what it is all about?

Just think what Congress could do if we freed up this money. I am sure our cash-strapped hospitals at home would not mind the money, particularly those in desperate need of improved DSH payments.

I can say with absolutely certainty in East Texas that the Atlanta Memorial Hospital, the East Texas Medical Center in Athens, Hopkins Memorial Hospital, Nacogdoches Memorial Hospital, Presbyterian Hospital of Greenville, Roy H. Laird Memorial Hospital and Titus County Memorial Hospital, they would be relieved and happy to receive this additional funding.

We should ensure that we retain the House provision in H.R. 1 that prevents cuts in Medicaid DSH payments. Furthermore, we should include the Senate provision that provides critical DSH increases for 18 "Low DSH" States.

Mr. Speaker, it is clear, our senior citizens and our hospitals and our rural communities need our help. The HMOs are doing just fine without us. I urge my colleagues to stand up for seniors, stand up for our hospitals, stand up for our rural communities, and vote in favor of the Cardoza motion. That is our obligation. That is our responsibility.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us clear up the facts again so we do not continue to scare our seniors for political purposes. The fact of the matter is that the Medicare entitlement has not changed. Medicare seniors will be able to choose the same fee-for-service they have for years. They will be able to choose it all throughout the country. The proposal we are talking about tonight actually saves money and lengthens the solid stability of Medicare.

The fact of the matter is when you hear Members talk about "we do not want to privatize Medicare," what they are saying is we do not want to provide the same choices the Members of Congress have. When they talk about giving money to the big, bad HMOs, they do not say, just like we do in the plans of Members of Congress.

The fact of the matter is that in this proposal the reforms we are offering, the choices, are that we are giving seniors an opportunity to choose the plan that is best for them, plans like we have for our families here in Congress, but apparently we do not want to offer for our seniors.

What we do know from history is two things: One is that low-income seniors, when they have a choice between just Medicare and other plans, they choose the other plans, because they get better value for their money, better health care, and we can make Medicare last longer.

The other point is the recent study that showed when you compare 20 years of Medicare costs against the 20 years of Congress' health care plans and that of our Federal employees, the Medicare plan provided less health care at a higher increase in costs than the private plans that Members of Congress rely upon that we are going to start offering, where possible, for seniors, where we have got more health care and the costs did not increase as much.

If we want to be responsible about adding senior prescription costs for our seniors, we also have to be responsible about giving them the reforms to make Medicare better and make it last longer, because if we accept proposals like this, frankly, we are going to hasten the bankruptcy of Medicare, not extend it.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would respond to the gentleman from Texas by saying it is my understanding that we have offered to do the Congressional plan both in committee and here on the floor, and I would just say to the gentleman from Texas that I would be happy to join with him in this. In fact, the gentleman from Texas is in the majority, and he could propose that proposal tonight, if he so chooses.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON), whose district is faced with a growing problem of uninsured.

Ms. CARSON of Indiana. Mr. Speaker, certainly my heartfelt thanks go to my colleague the gentleman from California (Mr. CARDOZA) for bringing this important issue to the attention of the United States Congress.

The gentleman from California (Mr. CARDOZA) himself is the beneficiary of quality health insurance, yet he is standing here tonight on behalf of the millions of Americans who do not have adequate insurance, who are either under-insured or have no insurance, and the $6 billion that this bill spends on vouchers certainly could be put to better use.

Let me explain very briefly about the Nation's DSH hospitals that need help right now. Let me use my own hospital as an example. Wishard Memorial Hospital, located in Indianapolis, is a Disproportionate Share Hospital and the fifth largest provider of outpatient indigent care nationwide. It is 144 years old and had some 850,000 patient visits in 2002, and that included a 19-percent increase over the prior year for indigent care.

Nine out of every ten of Wishard's patients receive health care through Medicaid or Medicare or are completely uninsured. Wishard collects, on average, 10 cents on the dollar from people who have no insurance. As a result, Wishard has one of the lowest private pay rates in the country. This fact makes it almost completely dependent upon the funding that it receives from the Disproportionate Share Hospital formula, leaving the hospital with virtually no means to make up for the financial losses.

Without Wishard Memorial's services, Indiana's healthcare system would be plunged into crisis. The magnitude of the ripple effect caused by its collapse would be felt by hospitals and clinics throughout Indiana as Wishard's indigent patients seek care elsewhere.

Wishard Memorial's demise would do significant damage to medical education, homeland security, and indigent care in Indiana.

Wishard's indigent care comprises of almost 850,000 annual patient visits.

The hospital contains one of only two adult level-one trauma centers in Indiana.

The hospital operates the largest adult bum unit.

The hospital provides the most mental health and psychiatric services to indigent patients.

The hospital is the medical facility in Marion County for bioterrorism and smallpox preparedness and response.

Two-thirds of Indiana's medical students are trained at the hospital.

The hospital expects to end this year with a shortfall of about $35 million and has started next year planning to spend $54.3 million less than this year.

Wishard provided $66 million in care to uninsured people in 1996. That figure jumped to $118 million last year.

I want to thank members of the Indiana delegation, Representatives BURTON, SOUDER, PENCE, CHOCOLA, VISCLOSKY and HILL for their continued support of Wishard Memorial Hospital.

I urge everyone to support this motion to Instruct. Our nation's Disproportionate Share Hospitals are in desperate need of your help.

Mr. Speaker, this is why I am so grateful to the gentleman from California (Mr. CARDOZA) for bringing this issue before the ears and eyes of America, and certainly before the United States House of Representatives, who can, in fact, see something that is broken and can fix it.

Mr. CARDOZA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, my friend from Texas said earlier we are not talking about a Congressional pay raise, but it is relevant, because the American people need to know that we are not willing to provide them with what we provide for ourselves. In this Chamber we voted to give ourselves a pay raise, and we voted to deny our soldiers a $1,500 pay increase. That is relevant to this discussion.

We have a pretty good health plan here. I think it is fairly well subsidized by the taxpayer. We are not willing to do that for America's senior citizens.

We need a Medicare program that is predictable, affordable, stable and secure. That is what our forebearers have given us, and that is what we need to hold on to.

My friend from Texas said we would hasten the destruction of Medicare. You know what will hasten the destruction of Medicare? Your party's raiding the surplus and using it for other purposes. That will hasten the demise of Medicare.

My seniors are pretty wise. They know what is going on up here. They know that we want to privatize this system, this system that they love and depend upon, and that we want to, by 2010, take away this guaranteed benefit. Quite frankly, America's seniors are going to storm this place when they find out what is happening. They will not tolerate these misstatements, this distortion, this exaggeration.

Quite frankly, if we allow the Republican Party under the leadership of this administration to do what they want to do, we will not have Medicare by 2010 as we know it today. Can you imagine what this country would be like without Medicare? Well, if your party has its way, I am afraid America's senior citizens are going to find out. That is why we ought to do the right thing here tonight and accept this motion to recommit.

Mr. BRADY of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here is a lesson on how to scare seniors in three easy steps:

Tell them you are going to privatize Medicare. Do not tell them we are going to offer the same choices that Members of Congress have.

Tell them we are going to provide vouchers for Medicare. Do not tell them we are going to offer them the same types of choices that Congress has.

Tell them we are going to end Medicare as you know it, but do not tell them we are trying to offer Medicare the way Members of Congress have health care.

What they will not tell you, because it will actually reassure our seniors, is that the bill that we passed in this House, the bill that we are discussing tonight, says it clearly: There will be no change in Medicare's defined benefit package. Let me say that again: No change in Medicare's defined benefit package.

We are not ending Medicare as people know it; we are offering more choices and better Medicare. "Nothing in this part shall be construed as changing the entitlement to defined benefits under Parts A and B of the Social Security Act."

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The fact of the matter is, I think my friend, the gentleman from Ohio (Mr. STRICKLAND) said it best when he said we are not prepared to offer seniors what we have. Well, Members on this side of the aisle, we are. We know that the health care choices we have as Federal workers and Members of Congress should be the choices our seniors have, and that is what this debate is about tonight.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from California for yielding me this time, and I thank him for his leadership on this motion.

I am delighted that my good friend from Texas, and we are good friends, put on the record that there will be no change in the Republican bill on defined benefits. That means that our seniors know what they are talking about. They are against that bill, because they will not get a prescribed, guaranteed Medicare prescription drug benefit as it now stands.

So the reason why we have a motion to instruct is because we are fighting not to privatize Medicare and, in so doing, I say to my colleague, the gentleman from California (Mr. CARDOZA) has rightly suggested that the premiums that we will save, we can then invest in our DSH hospitals who are suffering and whose doors are closing.

I want a guaranteed prescription drug benefit, Medicare prescription drug benefit, and I am committed to working with the gentleman from California (Mr. CARDOZA) and my friends on the other side of the aisle to get what seniors understand is realistic, something this Congress, Republicans and Democrats, have promised for over 10 years.

But as we are working now, it is important, since we are locked out of the conference, that we instruct them to recognize the importance of helping the suffering hospitals that I have in my district. Northwest Memorial Hospital, which I had a chance of visiting, has an enormous caseload of uninsured patients, if you will, or uninsured individuals in their service area. They have a desire to have a prenatal clinic that will serve a number of individuals, including our Hispanics and other minorities in the area. They cannot do it because they do not have the money.

Mr. Speaker, let us support this motion to instruct that provides the resources to help our hospitals from closing their doors.

Mr. BRADY of Texas. Mr. Speaker, I yield myself the remaining time, and I will be brief in closing.

The fact of the matter is that the section I read, this law, this very thick law deals with existing Medicare today, where we offer reassurance to seniors that there will be no change in those defined benefits. But the rest of that very thick bill talks about two things. The way that we can help seniors finally pay for the prescription costs that are so valuable to them, but so expensive, and, in a way that we are talking about tonight, we can offer seniors new choices in health care plans while we are making Medicare last longer and perform better.

This is the issue we have before us tonight: whether we are willing to just simply add prescription drugs to Medicare, a load that will be too large when our baby boomers, our next generation come to rely upon Medicare; or do we add prescription drug coverage in a way that we also improve Medicare, where we make it last longer, where we make it a better system for our seniors, one that the next generation can count on; where we give the reforms and offer the choices that Members of Congress and our Federal workers have; where it is not Washington one-size-fits-all plans; where we do not dictate to people and mandate to people; where we do not ration the health care; where we do not tell them what is best for them; and where the bureaucracy does not get in-between the doctor and the patient.

Mr. Speaker, our seniors want help with prescription coverage, but they also want a Medicare system they can count on for years and years and years to come. These reforms, these improvements will lengthen Medicare, make it a better health care system, offer new choices for seniors who want them, and offer the types of choices the Members of Congress have. That is the debate tonight.

It all comes down to this: why is the health care system we have good enough for us in Congress, but not good enough for our seniors back home? My answer is that it is. They ought to have those same types of choices. They have earned it. They deserve it. And we are going to have a system that is not only better, but will last a long, long time.

Mr. Speaker, I yield back the balance of my time.

Mr. CARDOZA. Mr. Speaker, I yield myself such time as I may consume.

I would first like to thank all of my colleagues who spoke on behalf of this motion today. I would like to thank my colleague from Texas (Mr. BRADY) from across the aisle for participating in this debate. We may differ in our opinions about which way is the best way to reform Medicare, but I appreciate his willingness to engage, in any case.

I would like to urge my colleagues on both sides of the aisle to consider supporting my motion to instruct. The premium support provisions in both the House and Senate versions of this bill are a recipe for disaster for our seniors. If premium support is enacted, our seniors will be subjected to vastly different premiums and benefits depending on where they live, they will be forced to assume all the risks associated with health care, and they will most likely lose their ability to choose their preferred doctor and hospital, that is, if the private plans even participate.

In my district, all but one of the supplemental private insurance plans we have once had have pulled out of our area, leaving my constituents in a serious lurch. Let us not take this giant risk again, Mr. Speaker. Let us instead spend our resources helping our safety net hospitals survive. DSH hospitals are the backbone of our communities, and the number of uninsured continue to grow, as do their responsibilities to serve these populations. My motion retains the best provisions from both the House and Senate, and allocates any monies saved from dropping premium support to DSH hospitals across the United States.

Mr. Speaker, I urge an "aye" vote.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California (Mr. CARDOZA).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CARDOZA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

PROPOSED USE OF DISTRICT OF COLUMBIA PUBLIC SAFETY FUNDS RELATED TO TERRORIST THREATS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 108–140)

The SPEAKER pro tempore (Mr. PEARCE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

Consistent with Division C, District of Columbia Appropriations Act of Public Law 108–7, the Consolidated Appropriations Resolution, 2003, I am notifying the Congress of the proposed use of $10,623,873 provided in Division C under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia." This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 6, 2003.*

CONFERENCE ON THE CHANGING NATURE OF THE HOUSE SPEAKERSHIP

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. DREIER. Mr. Speaker, it is among my duties to keep in mind the historical precedents of this body when determining how legislation will move through the House. I am very privileged to do this job for our esteemed Speaker, the gentleman from Illinois (Mr. HASTERT).

Speaker HASTERT perhaps, more than any other in recent history, is uniquely qualified to bring a historical perspective to his job as Speaker as he was, as we all know, a government and history teacher at Yorkville High School in Illinois.

Because of his deep-rooted interest in the history of our Republic, it is my pleasure to announce to our colleagues that Speaker HASTERT, along with former Speakers Jim Wright, Tom Foley, and Newt Gingrich, will be participating in an event entitled, "The Changing Nature of the House Speakership: The Cannon Centenary Conference." This conference, named for Joseph Cannon, is being held on November 12 and is jointly sponsored by the Congressional Research Service and the University of Oklahoma.

Mr. Speaker, I encourage all of our colleagues to take the time to participate in this conference and perhaps learn something new about the history of this great body and the institution of the Speakership.

Mr. Speaker, I have a copy of the program here, and I will include it in the RECORD at this point.

THE CHANGING NATURE OF THE HOUSE SPEAKERSHIP: THE CANNON CENTENARY CONFERENCE

A HISTORIC EVENT FEATURING ALL THREE LIVING FORMER SPEAKERS AND THE CURRENT SPEAKER.

The Speaker of the House is second in line only to the Vice President to succeed to the presidency. Few lawmakers can be said to possess the visibility and authority of the Speaker.

The role of the Speaker has been shaped largely by history rather than by constitutional definition. The Speakership has been influenced by the individuals who have held the post and the circumstances in which they have operated; formal obligations that have been assigned to the office by House rules and by statute; the character of the House as a political and constitutional institution; and the traditions and customs that have evolved over time.

We invite you to attend a one-day conference examining the changing nature of the speakership—a historic event featuring the current Speaker and all three living former Speakers and commemorating the centenary of one of the most noteworthy Speakers in the history of the House: Joseph G. Cannon, Republican from Illinois, who served as Speaker from 1903 to 1911.

This conference will explore the evolving nature of the speakership and discuss the key forces and factors which influences the ability to lead a large and complex institutions like the House of Representatives.

8:30 am Registration

9:00 am Welcome and Introduction—Daniel P. Mulhollan, Director, Congressional Research Service

9:15 am The O'Neill Speakership, 1977–1987—John A. Farrell, author, "Tip O'Neill and the Democratic Century" Comments by Hon. Mickey Edwards and Hon. Dan Rostenkowski

10:45 am Hon. James C. Wright, Jr., Speaker, 1987–1989—Comments by Hon. David E. Bonior and Hon. Tom Loeffler

Noon–1:45 pm Hon. J. Dennis Hastert, Speaker

2:00 pm Hon. Thomas S. Foley, Speaker, 1989–1995—Comments by Hon. Vic Fazio and Hon. Bill Frenzel

3:30 pm Hon. Newt Gingrich, Speaker, 1995–1999—Comments by Hon. Leon E. Panetta and Hon. Robert S. Walker

4:45–5:15 pm Conference Summary—Robert V. Remini, author of books on Andrew Jackson, John Quincy Adams, Henry Clay and Daniel Webster

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REPUBLICANS SEND WRONG MESSAGE TO AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, with Veteran's Day nearing, I am ashamed, frankly, of how little this House of Representatives has done for the men and women who have served our country. There has been lots of talk, good talk, especially in the early days of November, but not much real action. In honor of our veterans, the men and women who are risking their lives today, tonight, and tomorrow in Iraq and Afghanistan, the many who have lost and continue to lose their good health and even their lives, our message should reflect our admiration for their commitment. It does not.

In July, House Republican leadership, through a procedural maneuver, struck down an attempt to restore $1.8 billion, just to restore $1.8 billion in veterans health care funding when they forced the House to vote on a bill with inadequate funding for veterans' health. Democrats and veterans' groups opposed the bill and demanded that the Republican leadership restore funding to the Veterans Administration. Now, it appears the VA–HUD appropriations bill will come out of conference $500 million short of the VA funding level that we demanded and the Republicans promised in their budget resolution.

What kind of Veteran's Day message is that sending?

In light of the inadequacy of the majority's VA spending bill, Democrats fought for consideration of other solutions that would make up for those shortfalls that Republicans offered. Over 200 Democrats signed a discharge petition offered by the gentleman from Georgia (Mr. MARSHALL) that would force the House to consider legislation to eliminate the discriminatory disabled veterans tax. Responding, finally, to this pressure, Republican leaders offered a proposal that would only reach 50 percent of those veterans unfairly affected by this tax. Because this proposal would be phased in over 10 years, reduction of the tax would be very small in the early years of the proposal and veterans would not even receive their full benefits. This is the best Republicans could offer: Veterans would not receive their full benefits until 2014, 11 years away.

This so-called solution pits one group of veterans against another group of veterans, hardly something we should do any time, but especially something we should not do in wartime. That is some message.

Democrats have offered a legislative package that does the right thing. Our proposal increases veterans' health care over the next 10 years by $10 billion. It would end the disabled veterans' tax and pay veterans $500 a month if their disability claim has been left pending for longer than 6 months. It would give $1,000 bonuses for those soldiers returning home from Iraq and from Afghanistan. It would make military pay increases permanent for those in imminent danger and away from their families.

The Republicans have offered so much less; in fact, they have taken away. As soon as President Bush took office, he raised the copay at veterans' clinics across the country by 350 percent, from $2 to $7 per veteran per prescription drug per month. He has since proposed to raise that to $15, from $2 to $7 to $15; in effect, slashing the drug benefit that veterans have deservedly gotten in this country.

The President and Republicans have also cut education benefits.

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Why are they cutting education benefits to veterans? Why are they cutting prescription drug benefits to veterans? The answer is simple. It is to make room for the Republican tax cut. The tax cut, everyone knows that by now, the tax cut, that if you are a millionaire you get $93,000 tax savings. Half of the people in my district in Ohio, northeast Ohio, in Akron and Lorain, Northridge, half of them get zero. Half the people in my State get zero while the "leave no millionaire behind" tax cut from the President goes forward, making it not just unfair in terms of the taxes that the wealthy get benefits from in a tax cut, and the middle class and working families do not, but also that is why he has cut veterans benefits, that is why the President has cut education benefits.

This was all topped off, Mr. Speaker, by the actions early this fall where almost 200 Members of Congress on the Republican side voted for a $3,500, in fact, pay increase for themselves and voted against a $1,500 pay increase for our troops overseas. That is the height of hypocrisy. We do tax cuts for millionaires, we do pay increases for ourselves, then we turn around, my friends on the other side of the aisle, and do not vote for a pay increase for our young men and women in uniform.

Our young men and women were sent to Iraq on the promise that when they returned to this country, this country would care for them. Unless the Republican majority considers proposals that fully meet the needs of veterans, as my colleagues and I have tried to do, they are breaking that covenant.

CONFIRMATION OF JUDICIAL NOMINEES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Mr. Speaker, I point out to the body and the American people that the President had made an excellent nomination in the name of Miguel Estrada. And for 28 months Mr. Estrada was held in limbo while we waited for the Constitution to be upheld in the other body. And that would be the advise and consent clause of the Constitution that establishes that the Senate shall confirm the President's nominees.

Now that 28 months and 5 days have passed, Mr. Estrada determined he needed to move on with his life. But the rules in the other body that establish a 60 percent vote to end a filibuster, have effectively established that standard as a requirement for a confirmation of a justice.

And now today, and as I read some of the publications that are out, I am heartened to learn that through the newspapers that the other body is planning to debate judicial nominations starting on Wednesday evening of this week. They pledge to debate the issue all night to get their message to the American people. I applaud them in their endeavor, and I will do all I can to support their efforts.

The blockage of judicial nominations by a determined minority is one of the most important issues before our Nation. Nothing less than our Constitution is at stake. I believe the Constitution is clear: a minority cannot impose a supermajority requirement for confirmation of a judicial nominee. The President is entitled to confirmation of his nominees if they garner a simple majority.

The advise and consent clause, which is article II, section 2 of the United States Constitution requires a simple majority of 51 votes for confirmation of a judicial nominee. Many nominees have 51 such votes. And that standard is the standard that has existed since the ratification of our Constitution in 1789, well over 200 years. But there is a new standard now, brought about by the minority. I firmly believe that it is unconstitutional to require a higher standard.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members to avoid improper references to Senate proceedings, including confirmation of judicial proceedings.

Mr. KING of Iowa. Mr. Speaker, I firmly believe that it is unconstitutional to require a higher standard for nominees than the simple majority specified in our Constitution. Janice Rogers Brown, Carolyn Kuhl, Charles Pickering, William Pryor, and Priscilla Owen, who are all waiting to be confirmed, deserve an up-or-down vote.

Mr. Speaker, I would like to bring attention to the House of a few of these well-qualified nominees. Janice Rogers Brown.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. If the gentleman will suspend. The Chair will again remind Members of the House to avoid improper references to Senate proceedings, including using Senate action on particular nominees.

The gentleman may continue.

Mr. KING of Iowa. Mr. Speaker, I will adhere to that directive. I will say these are reliable people. And in the case of Janice Rogers Brown, she is a classic American success story. She is a daughter of an Alabama sharecropper who became a member of the California Supreme Court. She was reelected to the Supreme Court by 76 percent, which was the largest margin of any justice running that year. More importantly, she is a well-qualified and excellent judge. She applies the law without bias and with an even hand.

William Pryor, another nominee, has a model judicial temperament. As attorney general, Pryor has demonstrated an ability to make decisions in full compliance with the letter of existing law, despite his own personal beliefs or preference. Even while Pryor personally opposed abortion, he has faithfully applied the Supreme Court's rulings on partial birth abortion and instructed Alabama officials not to enforce the State's partial birth abortion ban in a way that would violate the case law. It is clear that William Pryor would interpret the law, not make the law from the bench.

Mr. Speaker, I hope the American people will support this endeavor.

I hope the American people will listen next week when the qualifications of nominees such as William Pryor, Janice Rogers Brown and others are debated by the other body. At issue is one of the most important Constitutional questions of our time. Will the Constitution be upheld? Or will a determined minority be allowed to thwart the clear text of the Constitituion and the will of the American people?

TAXING THE DISABLED VETERAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, November 11, Veterans' Day, more than 130,000 of our troops are in Iraq and at risk, thousands more in Afghanistan and elsewhere and around the world; and here at home we have 25.3 million veterans, 376,000 in my State.

What are we doing in celebration of Veterans' Day? Well, unfortunately, the Congress has done little. In fact, I would say this is the most antiveteran Congress under the most antiveteran administration in recent history.

Mr. Speaker, 150,000 veterans have waited 6 months or longer for basic health care appointments; 14,000 veterans have been waiting 15 months or longer for their expedited disability claims; 560,000 disabled veterans are subject to the disabled veterans tax. Yes, that is right. They are taxed because they are disabled veterans. It is a special tax levied on them.

The President refused to spend $275 million in emergency money, but they have figured out a way to cut down the waiting list for health care. We can thank President Bush for that. His administration actually cut off 164,000 veterans from eligibility for health care this year, those who do not have service-connected disabilities but make as little as $25,000 a year. He did find a way to reduce the waiting list by eliminating the eligibility of yet another group of veterans. Not the first time this administration has done that, not the last.

They proposed to double the drug copayment for veterans from $7 to $15. That was the President's and the Republican majority's proposal in this House. Luckily, it has not gone forward.

Finally, the House majority Republicans in their budget resolution cut $14 billion over the next 10 years from veterans programs.

Now, to focus particularly on the disabled veterans tax, it is odd in a Congress that can borrow money, which is what we are doing because we are running deficits, that can borrow money to give each millionaire an average tax cut of $93,000, that can borrow money to relieve the horrible burden from people who invest for a living, do not work for wages, but invest for a living, of paying taxes on the dividends on their dividend-paying stocks. Not too many of these vets that are disqualified have dividend-paying stocks. In fact, most Americans do not have dividend-paying stocks. But that investor class, they are going to get exempted from paying that horrible burden. The millionaires, $93,000. We are going to borrow the money to give them that benefit. But somehow we cannot repeal a tax on disabled veterans which says that they will be offset dollar for dollar their veterans disability benefit which they earned against their military retirement pay. These are people who gave a career, a lifetime in service for their country, and somehow we cannot do that.

Now, there is a bill pending that would actually repeal the entire tax. We tried to do this last year. The President threatened to veto the bill. He said we cannot simply afford to take care of those veterans. We can afford as much or more per year to exempt people who earn dividends on stock. We can afford as much or more per year to give millionaires an average of $93,000 each in tax relief, but somehow we cannot afford that for our disabled veterans.

In fact, for the lifetime of these veterans, it would cost $40 billion. Now, that is still a lot of money here. That is almost half as much money as the Congress borrowed just the other day to send to Iraq. That is a lot of money. But somehow the President says we cannot afford $40 billion to deliver on our promises to these veterans for their lifetime for their disabilities.

There are, in fact, in the House 373 cosponsors of the bill. Then what is the problem? That is almost the entire House of Representatives on the bill. Well, the Republican leadership is the problem. They will not let the bill come up. And, of course, the President is a problem because he is threatening to veto the bill because we cannot afford to take care of these disabled veterans.

Now, there is a way to bring a bill to the floor when the Republican leaders refuse to bring a bill to do away with the disability tax on veterans. It is called a discharge petition. Need 218 people to sign it. Force the bill to the floor of the House over the objections of the Republican leadership. 203 people have signed it. Only two of those are Republicans. There are 158 Republicans who put their name on this bill, go home and tell their disabled veterans they want to help them, but they will not sign the discharge petition. They will not force the bill to the floor of the House.

Now, that would be a wonderful gift for our veterans for Veterans' Day if just another 15 Republicans who are cosponsors of the bill, claiming credit for it, have the guts to come down here and sign the petition, which is right behind me, to recognize our veterans properly for their service to our Nation. Now that would be a real Veterans' Day celebration.

THE CRISIS OF THE VA HEALTH CARE SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I would like to talk about the trend that we are seeing from this administration when it comes to protecting our troops and caring for our veterans. As more and more Americans are coming to understand, the VA health care system is in a crisis. Veterans are waiting months for appointments, and some are being turned away when they go to enroll in the system.

The bottom line here is funding, obviously. If we want the VA to provide the veterans with quality care, then we need to recognize and address this funding problem.

There are two things that we can do. We can appropriate the money that is needed, or we can refuse to put the needed funds into the system and instead throw the burden on the backs of the veterans themselves.

Sadly, the second option is what this administration has chosen to do over the last 2½ years. I would like to describe a pattern of behavior that is coming from this administration. In February of 2002, this administration, through the VA, increased the veterans prescription drug copayment from $2 to $7 a prescription. Now, for veterans who are living on fixed incomes, many who take 8 or 10 or more prescriptions in a month, this is a tremendous financial burden. That was in February of 2002.

In July of 2002, this administration, through its VA, issued a gag order. The VA deputy secretary issued a memo that instructed all VA network directors to halt outreach activities aimed at encouraging new veterans to come in for services. Instead, providing the resources necessary, the VA says to their doctors, their social workers, their nurses, you can no longer actively inform veterans of what they are entitled to receive. They even went so far as to tell these doctors they could not participate in a community health fair. That was in July of 2002.

Well, in January of 2003, the VA decided they were going to create a new category of veterans. They called them Priority 8 veterans. These are veterans who served honorably. Many of them are combat-decorated veterans.

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And the VA is saying to this group, you are out of here. Do not come to us. You can no longer enroll in the VA health care system because you make too much money.

Well, the American people need to know that those of us who serve in this Chamber make about $155,000 a year and a combat-decorated veteran can make as little as $24,000 a year, and the

VA is saying to you, you can no longer participate in VA health care. Think about that. We make $155,000, a veteran who served honorably, perhaps even in combat, can make as little as $24,000 a year and this administration says they are high income, so you cannot participate. I think that is shameful, quite frankly. Shameful.

Well, that was in January of 2003. You see the pattern? Episode after episode of the VA doing things that are harmful to the veteran.

Well, then in January 2003, the President sent his budget request to us. And in the President's budget request, he suggested that we not charge a veteran $7 for each prescription but that that be increased to $15 a prescription.

Now, think about that. At a time when we are preparing to send our young men and women into battle, the President rewards our veterans by asking that their prescription drug costs be increased from $7 to $15 a prescription. It gets worse. In that same budget request coming from the President, he asked that there be a new annual enrollment fee imposed upon Category 7 and 8 veterans of $250 a year. I just think this is outrageous. The veterans of this country are coming to understand who their friends are. And how can this administration claim to be a friend of the veteran and at the same time put these increasingly onerous financial burdens upon them.

Well, I want to talk about one other issue this evening with the time I have left. A few months ago, I received a letter from a soldier in Iraq who was concerned that his troops had not been provided basic, modern bulletproof vests, but instead were issued Vietnam-era flak jackets. The flak jackets are designed to protect against slower moving shrapnel and are incapable of stopping high-velocity projectiles such as bullets from assault weapons, and we sent our soldiers into battle in Iraq without this most basic protection. Shame on us.

PERMISSION TO HAVE UNTIL 6 A.M. FRIDAY, NOVEMBER 7, 2003 TO FILE CONFERENCE REPORT ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mr. BEREUTER. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until 6 a.m. Friday, November 7, 2003, to file a conference report on the bill, (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The SPEAKER pro tempore (Mr. PEARCE). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

CARING FOR OUR VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, others have spoken tonight on specific issues before Congress that affect our Nation's veterans. I rise to say how proud I am of the men and women now serving in our Nation's Armed Forces in Iraq.

Mr. Speaker, as you know, I spent 3 days last week in Iraq as part of a Congressional delegation. I ate lunch and supper with our soldiers in Bagdad on Friday. Sunday morning I attended a worship service with our soldiers in Kirkuk. That day, I had lunch with our soldiers in Kirkuk and supper with our soldiers in Tikrit.

They slept on cots. They used port-a-johns, but their spirits were high and their dedication undimmed.

Our delegation stopped briefly in Germany on the way home. We visited soldiers at a military hospital in Landstuhl. Our military escorts told us what to expect. Regardless of the pain they were in, regardless of how their lives would be changed by their injuries, the patients we had talked to were soldiers, and when they spoke with us, they would soldier up.

I spoke with men who had grievous injuries. I heard not one word of complaint. I visited several of the soldiers who were on the Chinook helicopter that was shot down Sunday near Falujah. The medical personnel told us that it would help to encourage them to talk about what had happened. I will spare you the details of the injuries they suffered and that they saw their buddies suffer.

The gentleman from Hawaii (Mr. CASE) and I asked them what message they would have us deliver, what they wanted us to tell the folks back home. They said to tell folks back home to support our soldiers when they got home. And one told me to tell the soldiers in his unit that he loved them.

Another young man was wounded when his convoy was ambushed. They were ambushed with rocket-propelled grenades and small arms fire. A grenade landed near him and caused a traumatic amputation of his arm. A buddy applied a tourniquet and two of his buddies commandeered an Iraqi truck and evacuated him from the fire fight.

In the truck he said two prayers. The first is that he would live to be a father, that he would help his children with their homework, that he would take them to ball games, that he would watch them grow up. The second prayer was that the eight soldiers who remained behind would survive. And they all did. The young man had lost his arm, but he was grateful that the Lord had answered his prayers.

My visit to our soldiers in Iraq and in the hospital in Landstuhl reminded me of the duty our men and women in uniform feel in defending our Nation and of the sacrifices they are making in answering that call.

The benefits our Nation provides, our Nation's veterans are well-earned. They are the least we can do for those who defended our freedom at the risk of their lives.

Mr. Speaker, as a Member of Congress, I will do all that I can to honor our Nation's debt to those men and women.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. MCCOTTER) is recognized for 5 minutes.

Mr. MCCOTTER. Mr. Speaker, I rise for the purpose of entering into the RECORD how I would have voted on issues before the House that I was unable to vote on on Wednesday, October 29 and on Thursday, October 30.

On rollcall No. 579, I was the sponsor of the resolution and would have voted yes. On rollcall No. 578, I was a cosponsor of the bill and would have voted yes.

On Thursday, October 30, on rollcall No. 580, I would have voted no. On rollcall No. 581, I would have vote yes. On rollcall No. 584, I would have voted no. On rollcall No. 585, I would have voted no. On rollcall No. 586, I would have voted yes. On roll 588, I would have voted no.

On rollcall 589, I would have voted no. On rollcall No. 590, I would have voted no. And on rollcall No. 594, I would have voted no.

On substantive votes, on rollcall No. 582, I would have voted yes. On rollcall 583, I would have voted yes. On rollcall 587, I would have voted yes. On rollcall No. 591, I would have voted no. On roll 592, I would have voted yes.

On rollcall No. 593, I have would have voted yes. On rollcall No. 595, I would have voted yes. On rollcall No. 596, I would have voted yes. On rollcall No. 597, I would have voted yes. On rollcall No. 598, I would have voted no. On rollcall No. 599, I would have voted no. On roll No. 601, I would have voted yes. On roll No. 600, I would have voted no.

The purpose for my inability to vote on these issues is, as the gentleman from North Carolina (Mr. MILLER) pointed out, there was a Congressional delegation that went to Iraq to visit with our troops and to inspect reconstruction and also to stop and visit our troops in the hospital at Landstuhl.

While this business in front of our House was extremely important, I believe that nothing was more important for showing our support for the troops and inspecting the conditions under which they must exist and survive.

In fact, I would just like to say that no matter how important this business was, nothing to me last week was more important that visiting with the troops at Landstuhl and to hear one of our fallen soldiers who had been in the Chinook say that he had gone through the most traumatic experience of his life and would not wish it upon his worst enemy. For in that moment he proved to me and all the world not only the bravery and courage of the American men and women in uniform, but their compassion as well.

MAKE VETERANS A PRIORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, today I would like to join several of my colleagues who have already spoken tonight, including the gentleman from the great State of Ohio (Mr. STRICKLAND), and join him in talking about the plight of veterans in our country.

As Veterans Day is coming up next week, I thought it would be an opportune time to talk for a few minutes about what is going on in this country with our veterans.

We have Veterans Day, but really every day should be Veterans Day, but we designate a specific day as we do Christmas and birthdays to remind us as we go throughout the year that we have to continue the fight for our veterans. Unfortunately, the servicemen and women and veterans today are fighting on two fronts. They are fighting on the front in the Middle East and, unfortunately, they are fighting on the front back at home.

Back at home the veterans are not having too much success, and I would like to use one example of concurrent receipt. And for those people watching tonight who do not know what concurrent receipt is, it is basically a disabled veterans tax. If a disabled veteran gets a retirement from the military, not the disability benefits but a retirement pay check, the Federal Government will deduct from your disability benefits and you will only receive your military retirement. Some vets are losing 18, 20, $25,000. You steal the benefits from their retirement, and you supposedly substitute that from what they should be receiving for their disability. So these are people who got hurt, who have earned in many ways the benefits that they are getting, but now they are not receiving them.

So someone came up with a plan. And what they are going to do is they are going to phase out this disabled veterans tax over the next 10 years. So someone who fought in World War II, in the 1940s and may be 80, 81 years old today, this plan says that you will not get your full disability for 10 years. So we are asking veterans who are 81 years old, actually, we are telling them, that they will not be able to receive their benefits until they are 91 years old. Talk about an outrage. Talk about an outrage.

The American Legion National Commander said, It is a matter of priorities in Washington, D.C. Four hundred thirty five thousand military retirees altogether, 135,000 disabled retirees will not qualify for full relief until 2014. Good luck.

In Ohio, my home State, full concurrent receipt would benefit if they did it right. If we paid the bill, if we paid these disabled veterans what we owe them, it would benefit 9,617 disabled vets.

Under the Republican plan, only 2,249 will be receiving the benefits, which leaves 7,368 disabled vets in the great State of Ohio left out in the cold.

Now, as the American Legion Commander said, Washington, D.C. is about priorities. There is a lot of money down here to do different things, and it is about priorities. So I think it is all together appropriate to talk about what the priorities of this administration and the priorities of this Congress are.

Corporate tax rates are the lowest they have been since the 1930s. If you are a corporation today in America, you are getting just about everything you want. We have enough money down here for a tax cut for the top 1 percent. The top 400 families in this country get an average tax return of $8,500,000.

We have passed free trade agreements that have eroded our manufacturing base. We have a farm bill that has more pork in it than a Christmas ham. We threaten vetoes of Buy American provisions, Buy American provisions in the Defense appropriations bill. This administration has threatened to veto the bill if it has Buy American provisions in it. We have enough money to rebuild Iraq's schools and hospitals and universal health care; and then what takes the cake is they have enough time and energy to remove the antiprofiteering provision of the Iraq supplemental. It is time for people in this country to be outraged. If we cannot take care of our veterans, who can we take care of?

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ORDER OF BUSINESS

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent to take my Special Order time at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

HONORING JAY S. PIFER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. MOLLOHAN) is recognized for 5 minutes.

Mr. MOLLOHAN. Mr. Speaker, I rise today to recognize and honor Jay S. Pifer, a businessman and friend, as he plans his retirement after more than 40 years with Allegheny Energy Company, an integrated energy company with a balanced portfolio of businesses. At a time when too many corporate leaders are failing in their obligations to their customers, employees, investors and community, it is a rare privilege to be able to honor a man who demonstrates on a daily basis what integrity and leadership truly mean.

Mr. Pifer, who began his tenure with Allegheny as an apprentice engineering technician, was named interim president and CEO before being named chief operating officer in June. Like many in the energy production and distribution business today, Allegheny has suffered significant erosion in its financial health which has resulted in a virtually completely turnover in the company's management. During this time of turbulence and upheaval, Jay served to hold the company together, facilitating the transition from the old management team to the new. Further, he agreed to stay on to help the new team while it got its bearings. During this period, Allegheny faced ice, snow and thunderstorms capped recently by Hurricane Isabel, and Jay and his crews performed spectacularly with speed and grace.

Financial troubles notwithstanding, Jay Pifer and Allegheny led the industry in customer satisfaction, named recently as second best on the East Coast. His dedication to his employees, customers, and community served by Allegheny is legendary, and we hate to see him leave. However, his dedication to his family and his faith is even greater, and we understand his desire to spend his time with those who have supported him during these 40 years.

Jay has held many leadership positions with the company, including president of Allegheny Power energy delivery subsidiary, which supplies power throughout the State of West Virginia, as well as Maryland, Pennsylvania, Virginia and Ohio. During that time, J.D. Power and Associates recognized Allegheny Power as the second best company in customer satisfaction in the East, and 10th best in the Nation with improvement in each of the last 10 years.

In addition to his service with Allegheny, Jay has been involved in many civic and community activities, only a few of which include serving on the boards of the United Way, the Business Round Tables of West Virginia and Pennsylvania, and the West Virginia Education Alliance. His commitment to young people includes a long association with the Boy Scouts of America, and he currently serves on the advisory board of the northeast region of the Boy Scouts. He is also an ordained lay Pastor in the United Methodist Church.

In what was described in the Washington Post as perhaps an unprecedented effort to showcase a new approach to conservation, Jay oversaw the sale of a large tract of Allegheny Power land to the Canaan Valley Institute which included one of the largest wetlands east of the Mississippi River, which will now be preserved as a habitat for threatened and endangered wildlife, as well as public recreation. Land and stream management practices are being developed on this land as part of the Canaan Valley Institute's land and water stewardship education program. Jay was instrumental in the expansion of the Canaan Valley National Wildlife Refuge, the Nation's 500th national wildlife refuge.

On February 14, 2002, he once again demonstrated his commitment to conservation by engineering the sale of 12,000 acres to the refuge. I was honored to work with Jay on these land transfers which will benefit generations to come.

Mr. Speaker, it would be impossible to catalog here tonight all of Jay's accomplishments and contributions, yet these few examples illustrate what an outstanding gentleman Jay Pifer is.

Mr. Speaker, I ask my colleagues to join me in honoring Jay S. Pifer.

REIMPORTATION IS THE RIGHT PRESCRIPTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. BEREUTER) is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, this week's issue of Congressional Quarterly Weekly reports that on the subject of drug reimportation, FDA Commissioner Mark McClellan said the following in an October 20 speech to the National Press Club, "These Members are out of touch with the realities of keeping our drug supply safe, and the clear and present dangers to America's supply of drugs that their bills would create."

Evidently, it is Mr. McClellan who is out of touch with reality. Millions of Americans are finding prescription drug reimportation from Canada and other countries to be a viable and necessary alternative to high-priced drugs in the United States. The number of those Americans is growing every day. It would be wrong for Members of Congress to ignore this reality and to ignore the excessive cost of prescription drugs in America.

If Mr. McClellan thinks Americans are content to allow price gouging on prescriptions to continue, he is mistaken. American consumers are understandably fed up.

Large pharmaceutical manufacturers have long been gouging American consumers by charging substantially more, in some cases up to 90 percent more, for prescription drugs sold in the United States than in Canada and other industrialized countries. Americans refuse to be exploited by the pharmaceutical industry any longer. The exploitation of American consumers must end. The excuse that most of the world's pharmaceutical research and development takes place in America does not justify the continued degree of cost shifting onto the backs of American consumers. Profit levels of American, foreign, and multi-national pharmaceutical firms are huge, as is the level of their advertising budgets and their level of inducements offered to prescribing physicians.

This Member firmly believes that many of the safety issues which opponents have brought to the forefront in this debate are really red herrings. The real issue is the prices Americans pay for the medicines they need.

According to a recent Washington Post-ABC News poll, there is strong support for opening drug markets, despite warnings by FDA that it cannot guarantee the safety of these life-saving medicines. Even with the possibility of a drug safety issue being mentioned in the question, more than two-thirds, or 69 percent of respondents, said it should be legal for Americans to buy prescription drugs from Canada or other industrialized countries. In fact, 12 percent of those surveyed said that they or a family member had purchased prescription drugs from Canada or other country in order to obtain a better price.

The reimportation debate is not a battle of right versus left, it is a battle of right versus wrong. It is simply wrong to require Americans to pay the world's highest prices for prescription drugs, so they thereby can subsidize consumers everywhere else on earth to generate the research, advertising and profit revenues for pharmaceutical companies.

As a Member of Congress serving in the people's House, this Member has a responsibility to do what is right for Nebraskans and all Americans. This Member supports prescription drug reimportation because Americans deserve access to quality drugs at world market prices and reimportation seems to be the only solution immediately available to reduce the gross overcharge of American consumers for prescription drugs.

A typically cynical comment was made by an unnamed health care lobbyist found in the November 1, 2003, Congressional Quarterly Weekly regarding the Medicare bill and the likelihood that the final bill will include importation provisions that will never be implemented. The unnamed source is quoted as saying, "You tell them that this will only kick in after FDA has appropriated $100 million for border safety, or FDA has a counterfeit, tamper-resistant device packaging system in place." The lobbyist concluded, "Whatever the trigger is, just say it will never be met."

Mr. Speaker, there have been rumors that the Medicare conference report will come out of committee with a drug reimportation provision which will contain language under which the FDA can say they cannot responsibly or legally implement, as they did on two previous congressional efforts to provide for prescription drug reimportation. This is unacceptable.

Governor Rod Blagojevich, our former colleague in the House, is asking the FDA to allow Illinois to explore a plan to import approved medications from Canada, and knows this issue well. He recently said, "It is awfully hard to stop an idea whose time has come." He is absolutely right in that assessment. Americans will find a way to buy FDA-approved drugs from abroad, either legally or illegally. The FDA needs to face the fact and get on with the method of discharging its responsibilities given those realities.

Mr. Speaker, there is a serious call for action from the American people. We must open the drug markets so Americans can obtain the prescription drugs they need when they need them most and at affordable prices.

Mr. Speaker, I include for the RECORD an article published in the Los Angeles Times today entitled, "Open Door to Drug Imports."

[From the Los Angeles Times, Nov. 6, 2003]

OPEN DOOR TO DRUG IMPORTS

In the 2002 election cycle, the U.S. drug industry gave political candidates nearly $30 million. For the 2004 cycle it has already spent more than $3 million, two-thirds of it on GOP members of Congress. The industry is getting a good return on its money. Bush administration officials and sympathetic legislators are still trying to add a $400-billion drug benefit to Medicare that prohibits, not just omits, cost controls. House and Senate conferees have proposed forbidding the federal government to negotiate better prices, as such countries as Canada and agencies as the Department of Veterans Affairs do.

The glimmer of good news is that at least one consumer-friendly reform may survive. The conferees, pressured by state and local leaders, last week began considering an amendment to let consumers buy drugs directly and more cheaply from Canada.

The Bush administration and most legislators on the conference committee, including some Democrats, say it is dangerous to legalize drug purchases from Canada. They echo Food and Drug Administration head Mark B. McClellan's line that the agency can't guarantee the safety of drugs that aren't manufactured, stored and distributed under FDA guidelines. McClellan says he fears tampering by shippers as well. Canada, however, has one of the world's most stringent pharmaceutical quality oversight systems. As for adulteration in shipping, that can happen in any mail-order operation.

Californians are right to ask why importation from Mexico, which also has lower prices than the U.S., was excluded. Legislators argue that Mexico's prescription drug oversight is too lax, but it's also because strong proponents of drug importation—

Reps. Bernard Sanders (I-VT.), Gil Gutknecht (R-Minn.) and Jo Ann Emerson (R-Mo.)—are in states closer to Canada.

A temporary solution, which the Canada measure would be, is better than no solution. Plenty of individuals and even municipalities are already importing from Canada, mostly over the Internet. Legalizing the practice would allow for better safety regulations.

On Tuesday, two top negotiators on the conference committee, Rep. Bill Thomas (R-Bakersfield) and Sen. Edward M. Kennedy (D-Mass.), said the Medicare drug benefit was "on life support," imperiled by partisan disagreements. That's good news, because the bill would create a gigantic, cost-ineffective benefits shaped behind closed conference doors.

Regional leaders whose budgets are being busted by drug prices—including Minnesota Gov. Tim Pawlenty and New York City Mayor Michael R. Bloomberg, both Republicans—are pressuring the conferees to pass the Canada measure even if a larger Medicare drug benefit dies. As Pawlenty recently framed the issue: "There's a rebellion brewing across America. It is the prescription drug equivalent of the Boston Tea Party."

WHAT IS THE PLAN IN IRAQ?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, today the President signed the bill taking $87 billion to deal with Iraq.

I will include for the RECORD an article from the Everett Herald entitled, "Parents Who Protested War Mourn Death of Soldier Son." This man from my district leaves behind a wife who is pregnant to deliver in 1 month and two small girls.

As we held the memorial service today for the 15 troops that were killed on Sunday in Iraq when one of our Chinook helicopters went down, I could not help thinking about the memorial service that will be held for the person who died last night and the one who died this morning, and there will be more and more. The memorial service for Benjamin Colgan from my district is down the road yet.

This morning I spoke about the President's need to present a plan for stopping the bloodshed. As far as we know, there is no plan. Our experience shows us there was no or little planning about what would happen after the military action stopped. They have never stopped because there was no plan. Now, apparently we are going to sit in Iraq while the President continues to say "bring 'em on" until the war on terror is won, until Iraq has free enterprise, until Iraq has good roads, until Iraq loves Americans. Well, it is not going to happen.

The war on terror is much like the war on drugs or the war on poverty, we have to keep at it, but we are not going to defeat the enemy and get a surrender sign on the battleship Missouri. If the President says we are going to keep troops in Iraq until the war on terror is over, then the President is planning to keep troops in Iraq forever.

Maybe the Iraqis are ingrates or foolish, or maybe they are reacting like people have reacted since time immemorial to occupations. Many have lamented the way the President squandered the good will of the nations of the world after September 11. Now, the President is squandering the goodwill of the Iraqi people, most of whom were happy to have Saddam Hussein removed.

I did not, and I still do not, believe that removing a foreign dictator is sufficient reason for the United States to invade another country. If it were, we would be invading dozens of countries. But the fact is that removal of Saddam Hussein was a gain for the Iraqi people and the United States for a short time had their gratitude. Now, that we have moved from being liberators to occupiers, that gratitude is fast drying up.

Our troops are not safe. Our leaders have gone to such lengths to identify nongovernmental groups like the Red Cross and Doctors Without Borders that they are not safe either, and they are leaving. The status quo is not sustainable. We need to plan what will replace the status quo.

What I fear is that in the absence of a plan, we will stumble down the path with a paper Constitution in December and an improvised election which will signal our withdrawal, and will leave Iraq in chaos because we did not bring the United Nations in to set things up.

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Mr. Speaker, we need a plan. We need to know what the benchmarks are, what the goals are, what the test is about when we will leave. I think that the President's case for war was shoddy. I think the planning for the post-war period was shoddy or perhaps nonexistent. With body bags arriving in Dover virtually every day, we cannot afford a shoddy, years-long occupation. Americans are targeted in Iraq in a way that United Nations blue helmets would not be, in a way that a force from countries in the region would not be, in a way that we cannot sustain.

We have to plan to get out, sooner rather than later. It is the only chance for Iraq to have a fresh start, and it is the only chance for a lot of young Americans to come back alive. To fail to do this, to lay out the plan, what we are going to do and how we are going to get out so that the whole world can see, is the only hope of getting the Iraqis to stop killing our people. The failure to do that, the stonewalling by our President and taking the money we gave him, $87 billion more to keep on doing what he is doing, we are in for a long siege.

[Published on HeraldNet.com, Nov. 5, 2003]

PARENTS WHO PROTESTED WAR MOURN DEATH OF SOLDIER SON

MAN WAS BECOMING SKEPTICAL OF U.S. SITUATION IN IRAQ

KENT.—As a boy, Benjamin Colgan marched with his parents in peace protests.

Joseph and Pat Colgan, 62 and 60, respectively, whose activism dates from the Vietnam War, were surprised when their son enlisted in the Army. But they continued to support him, even as they opposed the war in Iraq.

On Monday, their worst fears came true. Colgan, 30, a second lieutenant, the father of two young daughters with a third child due next month, died Saturday when a roadside bomb exploded as he responded to a rocket-propelled grenade attack in Baghdad, the Defense Department said.

A U.S. flag hung outside the family's home Monday. Funeral arrangements were pending.

Word came with a knock on the door at the Colgans' home.

"I saw the cross on his lapel pin and I said, 'No, not my son! Not my son!'" his mother said.

"There will be many people experiencing the same thing," she added. "This war, it shouldn't be."

Benjamin Colgan was assigned to the 2nd Battalion, 3rd Field Artillery Regiment, 1st Armored Division.

His parents were concerned when he gave a dim appraisal of Baghdad in an e-mail Friday.

"What raised a red flag was when he said, 'It's getting real old and getting real crazy,'" his father said.

As a young child, he had joined his parents on marches to protest nuclear weapons at Naval Submarine Base Bangor. Then, to pay for college, he enlisted in the Army after graduation from Mount Rainier High School in Des Moines in 1991.

"That was hard, but you support your children," his mother said.

She and her husband joined protest marches again against the war in Iraq this year.

They tied a yellow ribbon around the maple in their front yard, a tree they had planted when Benjamin Colgan was born. On Monday, they replaced it with a black ribbon.

Benjamin Colgan initially planned to become a medic, but joined the Special Forces and then Delta Force, the military's most elite and secretive unit.

He left to attend officer candidate school, was assigned to the 1st Armored Division in Germany after graduation, and hoped to return to Delta Force after earning his captain's bars, his father said.

His mother says his death has only strengthened her position against the war.

"People keep asking, 'Are the Iraqis better off?'" she said. "What we have to start asking is, 'Are we better off?' And we're not. We're losing our children."

COMMEMORATING VETERANS' DAY 2003

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my Special Order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. CUMMINGS. Mr. Speaker, tonight I rise with fellow Members of the Congressional Black Caucus and other Members of Congress to salute this Nation's veterans in commemoration of Veterans' Day next Tuesday. Mr. Speaker, it is a very special day for so many of our men and women who have given their blood, their sweat, and their tears to defend the lives that we live in this country. Many of them have given their lives standing up for what America is all about.

And so it gives me great honor to yield 20 minutes to my distinguished colleague from the great State of Missouri and the ranking member of the House Armed Services Committee, Congressman IKE SKELTON, for his remarks.

Mr. SKELTON. Mr. Speaker, let me first thank my friend and colleague from Maryland for the honor of addressing the House at this moment. I much appreciate it.

Mr. Speaker, recent press reports have indicated that the administration is planning to begin the withdrawal of American forces from Iraq in the spring of 2004. Based on recent visits to my congressional district in Missouri, I believe such a move would be very politically popular. Overwhelmingly, the people want our troops brought home as rapidly as possible. I, too, want to bring them home.

However, if we have learned anything from recent history in Baghdad, it is that poor planning for the occupation has contributed to the dangerous and confused situation in which we find ourselves. I was concerned about planning for the occupation last year. In fact, Mr. Speaker, I wrote to the President on two occasions, first on September 4, 2002, and second, on the eve of the war, on March 18, 2003. My letters detailed the potential problems our forces might encounter during the postconflict occupation of Iraq, and I submit copies of those letters for the RECORD.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 4, 2002.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Thank you for inviting me to the briefing this morning. I share your concern about the continuing threat posed by Saddam Hussein and his efforts to produce weapons of mass destruction (WMD). I would like to offer my assistance as the administration considers how to deal with this threat.

Before Congress can authorize any military action that might be part of the administration's plan, we must have answers to more questions than were about to be raised at today's meeting. Our constitutional duty requires us to ensure that all implications of such action are considered in advance. The case has not yet been fully made as to what the threat is, why military force is an appropriate way of addressing the threat, and why action must occur now. In short, Congress and the American people must be clear on your strategic vision before we can authorize a specific course of action. I believe, like Clausewitz, that in strategy there is an "imperative . . . not to take the first step without considering the last."

Your strategy for dealing with Iraq must address the fundamental questions of the threat, the method of acting, and the timing. Furthermore, any strategy to eliminate Iraqi WMD must also address several component issues, each of which raises critical questions.

HOW TO MANAGE IRAQ'S TRANSITION TO A STABLE POST-SADDAM REGIME

As I mentioned to you this morning, this is a critical question for administration strategy to answer in advance of any military action. I have no doubt that our military would decisively defeat Iraq's forces and remove Saddam. But like the proverbial dog chasing the car down the road, we must consider what we would do after we caught it.

As Sun-Tzu said in the classic strategic treatise, The Art of War, "To win victory is easy; to preserve its fruits, difficult." Military planners and political leaders alike knew this in World War II. Planning for the occupation of Germany and Japan—two economically viable, technologically sophisticated nations—took place well in advance of the end of the war. The extreme difficulty of occupying Iraq with its history of autocratic rule, its balkanized ethnic tensions, and its isolated economic system argues both for careful consideration of the benefits and risks of undertaking military action and for detailed advanced occupation planning if such military action is approved.

Specifically, your strategy must consider the form of a replacement regime and take seriously the possibility that this regime might be rejected by the Iraqi people, leading to civil unrest and even anarchy. The effort must be to craft a stable regime that will be geopolitically preferable to Saddam and will incorporate the disparate interests of all groups within Iraq—Shi'a, Sunni, and Kurd. We must also plan now for what to do with members of the Baath party that continue to support Saddam and with the scientists and engineers who have expertise born of the Iraqi WMD program.

All these efforts require careful planning and long-term commitment of manpower and resources. The American people must be clear about the amount of money and the number of soldiers that will have to be devoted to this effort for many years to come.

HOW TO ENSURE THE ACTION IN IRAQ DOES NOT UNDERMINE INTERNATIONAL SUPPORT FOR THE BROADER WAR ON TERRORISM

In planning for military operations in Iraq, we cannot ignore the lack of international support to date. Pre-emptive action against Iraq is currently vocally opposed by many of our allies and friends throughout the world and particularly in the Middle East.

When we are seen as acting against the concerns of large numbers of our friends, it calls into question the "humble" approach to international relations you espoused during the presidential campaign. More than that, it has several potentially damaging long-term consequences. First, it risks losing the large number of partners needed to prosecute the global war on terrorism. To ferret terrorist groups out of their many hiding places, we must have broad allied support. Second, it risks seriously damaging U.S. moral legitimacy, potentially providing states like India and Pakistan with a preemptive option that could drive long-standing conflicts beyond containable bounds.

Finally and perhaps most dangerously, actions without broad Arab support may inflame the sources of terrorism, causing unrest and anger throughout the Muslim world. This dynamic will be worse if Iraq attacks Israel—perhaps with weapons of mass destruction—and draws them into the conflict. Iran, which has the potential to seize a reformist path, may well move away from the United States in the face of attacks that could next be taken against them. Together, these dynamics will make achieving peace in the Middle East more difficult and may well provide the rationale for more terrorist attacks against Americans.

These concerns do not make military action in Iraq untenable. They do, however, highlight the depth and importance of the issues to be addressed before we strike. We need to ensure that in taking out Saddam, we don't win the battle and lose the war.

HOW TO ENSURE THAT THE UNITED STATES CAN EXECUTE THIS OPERATION SUCCESSFULLY AS WELL AS ITS OTHER MILITARY MISSIONS

As you are well aware, Mr. President, the consideration of military action against Iraq comes at a time when U.S. forces are actively engaged throughout the world in a range of missions. Given the operational pressures these forces currently face, we must ask what the risks and trade-offs will be of defeating Iraq, particularly if Iraqi forces mass in Baghdad for urban operations. How many casualties must the American people be prepared to take in a worst-case scenario? What will the impact of sustained operations be on so-called high-demand, low-density assets? What military operations might we have to forego because of continued demands in Iraq? Will we still be prepared for the range of other threats that might emerge throughout the world? With little allied support and contributions, will we still be able to maintain military spending on transformational technologies and on sound quality of life for our forces if we are bearing a huge wartime cost alone? What will be the impact on the domestic economy of these resource drains and of the long-term costs of reconstructing Iraq? These questions must be answered before any military action commences so that the American people understand the risks and the sacrifices involved.

I ask these questions only to highlight the complexity of the undertaking and the need for Congress, the American people, and our friends around the world to understand exactly what is at stake and why we must act now. Only such a comprehensive strategic approach will ensure that we commit U.S. troops consciously and with full knowledge of the range of challenges we face—both in the initial campaign and in the long aftermath to follow. Even a strategy that has military action as its centerpiece will require great diplomatic efforts to ensure its success. I look forward to hearing the administration's answers and to working with you to find the best course of action.

Sincerely,

IKE SKELTON,
Ranking Democrat.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 18, 2003.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: This is a critical week for our nation and for the world. As you prepare to make the most difficult decision of sending our troops into combat, the thoughts and prayers of all Americans are with you. My colleagues here in Congress have many different views on the wisdom of action in Iraq and the severity of its consequences. But we are united in our support for all the men and women who serve this nation.

There is no doubt that our forces will be victorious in any conflict, but there is great potential for a ragged ending to a war as we deal with the aftermath. I appreciate the efforts that members of your administration have made to keep me informed about plans for the administration and reconstruction of Iraq following military conflict. Your team has thought about many of the things that will need to be done.

Secretary Rumsfeld frequently talks about the list he keeps of things that could go wrong in an Iraq war. I have kept my own list—of things that could go wrong after the war is over. The list below is indicative of this broader list. My hope is that this will be helpful to members of your administration as you continue to plan for all possibilities. These are not complete scenarios but rather a series of possible problems that could occur in some combination.

INTERNAL DIVISIONS AND EXTERNAL INFLUENCES IN IRAQ

Without access to Iraq through Turkey, U.S. troops are not present in northern Iraq in large numbers. Turkey enters northern Iraq to establish a buffer zone and fighting breaks out between the Turks and Kurds. A significant U.S. military force is needed to separate the groups, complicating the governmental transition and international support.

An uprising in Kirkuk leaves the Kurds in control of areas of the city and surrounding area. This triggers a large Turkish invasion to protect the Turkmen minority and to prevent Kurdish control of oil resources. Again this would require U.S. military resources with all the attending effects.

In the event that Turkey crosses into Iraq, Iran may do the same, ostensibly to stem the refugee flows from southern Iraq and to protect Shi'a interests.

Shi'a populations in the south rebel and undertake attacks against Sunnis. U.S. troops must step in to protect the Sunnis and restore peace. These tensions resurface during attempts to build a federal and representative government.

Urban fighting in the south brings Shi'a into conflict with Sunnis. The resulting devastation causes a refugee crisis as Shi'a make for the Iranian border. The results of Saddam's policy of forced Arabization of areas like Kirkuk yield dangerous consequences. Groups like the Kurds flow back into these areas seeking to reclaim their former homes and land, sparking conflict with Iraqi Arabs.

Attempts to fashion a federal government in Baghdad prove difficult. Iran is able to establish proxies for its influence among the Shi'a representatives. Once in Iraq, infighting breaks out among members of the former Iraqi opposition in exile. The United States is unable to transition the administration of Iraq effectively and has to remain in place, with significant military backing.

The war involves lengthy urban combat, particularly in Baghdad. Most infrastructure is destroyed resulting in massive humanitarian problems. The emphasis on humanitarian aid distracts from efforts to establish a new government. Once established the government faces massive political pressure from the sustained humanitarian crisis.

WEAPONS OF MASS DESTRUCTION

Saddam uses biological and chemical weapons against advancing U.S. troops, but also inflicts substantial civilian casualties. Efforts to stabilize cities and to establish a government are complicated by the need to deal with the large number of dead and to decontaminate affected areas.

Saddam uses biological and chemical weapons directly against civilian populations or against another Arab country and seeks to affix blame for civilian suffering to the United States. Over the period of occupation, this resentment complicates U.S. efforts to maintain support for reconstruction efforts.

U.S. troops are unable to quickly find all of Saddam's capabilities, requiring a long, labor-intensive search and anxiety as to when the task is complete.

Regional leaders, for money or to gain influence, retain caches of WMD and transfer some to terrorist groups.

Saddam attacks Israel with missiles containing weapons of mass destruction. Israel retaliates. Arab countries, notably Saudi Arabia and Jordan, come under intense political pressure to withdraw their support from the U.S. war effort. U.S. forces are forced to reposition operational centers into Iraq and Kuwait, complicating reconstruction and transition efforts.

OIL RESOURCES

Saddam sabotages a significant number of wells before his defeat. Current estimates indicate he may already have wired up to 1,500 of these wells. The damage takes years to contain at great economic and environmental cost and removes a major source of reconstruction funding.

Internal groups, such as the Kurds, seize oil-rich land before American troops reach the area, causing internal clashes over these resources. Militant Shi'as seize other wells in the South.

INTERNATIONAL SUPPORT

The United States takes immediate control of Iraq's administration and of reconstruction. The United Nations can't agree on how involved to get given the divisions among the Security Council about the need for conflict. The lack of UN involvement in the administration makes the European Union and others less likely to give. This situation delays reconstruction and puts more of the cost on the United States and a smaller number of partners.

U.S. reconstruction efforts that give U.S. corporations a great role at the expense of multilateral organizations and other participation—as was detailed in yesterday's Wall Street Journal—spur resentment and again limit the willingness of others to participate.

AMERICAN COMMITMENT

Stabilization and reconstruction prove more difficult than expected. U.S. troop requirements approach 200,000—the figure General Shinseki has mentioned—for a sustained period. This puts pressure on troop rotations, reservists, their families, and employers and requires a dramatic increase in end-strength.

Required funding reaches the figure suggested by a recent Council on Foreign Relations assessment—$20 billion annually for several years. During a period of economic difficulty, the American public calls for greater burdensharing.

It is my hope that none of these eventualities comes to pass. But as you and all military leaders know, good planning requires considering the range of possibilities. It also requires advance preparation of the American people. You have regularly outlined the reasons for why the United States must disarm Iraq. I urge you to do the same in explaining why we must stay with Iraq for the long haul, even with the economic and military burdens this will entail.

As always, I am willing to help in any way I can to make this case to my colleagues and the American people.

Sincerely,

IKE SKELTON,
Ranking Democrat.

Mr. Speaker, I regret that my advice went unheeded. I believe that the poor planning for the occupation of Iraq approaches dereliction of duty. The looting and political chaos that resulted in the wake of the war was not adequately anticipated. The terrible shape of the utilities and of the Iraqi oil industry was misjudged. Our allies were not brought along adequately. Because of the rolling start of the war, not enough forces were on the ground. All in all, a painful lesson was learned, a lesson that many young military officers learn early in their careers: proper planning prevents poor performance.

It is imperative that any plans to withdraw our forces from Baghdad be properly planned. We must have a clear strategic goal, and specific steps must be identified that we must follow in order to achieve that goal. Moreover, those steps must be objective and must be measurable. An early exit means retreat or defeat.

For the administration to pull our forces out early for the wrong reasons, let us say for the sake of the upcoming Presidential elections, before we have achieved our objectives is irresponsible in the extreme. It risks creating a political vacuum with its resulting chaos. And into that vacuum, I assure you forces of terrorism and radical Islam will step. Our objective in going into Iraq was not only to eliminate weapons of mass destruction and to combat terrorism but also to plant the seeds for democracy and real change in the region. Mr. Speaker, that is a worthy goal; but if we pull out early before Iraq is well launched toward democracy, we will have sown the seeds of chaos and defeat far worse than we can imagine. No one can predict the consequences of that chaos, except those consequences will not be good.

We have not seen the President's plans that will enable the military to begin to withdraw its forces. All we have seen are leaks about the Pentagon's plans to begin the withdrawal. We have, however, seen a series of statements by Ambassador Bremer with respect to the seven steps necessary for the return of "sovereignty" to the Iraqi people. Those are good steps, but in my opinion they do not go nearly far enough. First, they are directed only to the handoff of full governmental responsibility to the Iraqi people. Second, they do not address the conditions to make a successful handoff necessary. And third, they do not address a much wider range of deeper, long-term problems.

Here are the six steps that I believe the President should adopt as necessary measures to be achieved before our forces are withdrawn:

One, there must be a secure environment. Basic public services must be reestablished. For example, there must be adequate Iraqi police and courts to deal with public safety concerns and criminal acts. Another key element is that there should be no appreciable presence of al Qaeda in Iraq. Saddam Hussein, remember him?, must be captured or we must know he is dead. If he is captured, we must be confident that the Iraqis have an adequate judicial system to deal with him and that he is no longer a threat to us or to the Iraqi people.

The Iraqi army must be reconstituted, at least insofar as necessary to provide for basic security needs and to secure Iraq's borders. Iraq must make certain that neither terrorists nor weapons of mass destruction come across its borders.

All weapons of mass destruction must be accounted for and the basic production facilities for weapons of mass destruction must be destroyed. In addition, the vast arsenal of conventional munitions, mortar and artillery rounds, small arms, rockets and missiles must be accounted for and either destroyed or secured.

Two, basic services. Much progress has been made in getting the lights and electricity back on, but much more remains to be done. Water, roads, sewers, bridges, indeed, the whole transportation network, needs to be repaired or well on its way to being repaired. The education system must be modernized, the universities reinvigorated. This does not need to be accomplished prior to our withdrawal, but we and the Iraqi people must be confident that progress is being made because in the absence of progress, there can be no confidence that democracy will take root and will succeed.

Three, the establishment of a new constitution. I agree with the procedures laid out by Ambassador Bremer. We must move as rapidly as possible to sponsor the drafting of a constitution that reflects the genuine aspirations of the Iraqi people. In that regard, I note that Ambassador Bremer did not call for the Bill of Rights for the Iraqi people. He did not call for essential internationally recognized human rights to be adopted as part of the constitution. Mr. Speaker, I believe nothing is more important than the adoption of these basic human rights, including respect for the individual, due process in courts, full political and economic rights for women, and freedom of the press.

Four, the basic elements of a government must be in place. The Iraqi Governing Council is a start, but the members of that body have been selected by us. We need to move rapidly to put in place a government that is respected by the people. I worry greatly that if we do not rapidly begin to give the Iraqis greater authority over their day-to-day affairs, hard-liner Islamic fundamentalists like Sadr with private militias of their own will try to take power. These militia are willing to use violence to pursue their political objectives to establish an Islamic state. We cannot let chaos reign and these Islamic fundamentalists take power.

In that regard, it is imperative that the new government be one that respects democratic institutions. For example, the army, police and security services must be ones that are accountable to their democratic leaders. Any former members of the Baath Party who take positions of responsibility must be properly vetted and be individuals in whom we and the Iraqis have confidence that they will respect democratic institutions.

Five, the economy. It is also imperative that major steps be made toward getting the economy going again. We did not adequately anticipate the terrible shape of the Iraqi oil industry, and oil revenues have been a disappointment. Progress is being made, but more needs to be made before we can be confident that the Iraqis can take over. Other areas of the economy are also in shambles, and much work must be done. Entrepreneurs in Iraq, in this country, and among Iraq's neighbors and our allies must be given the opportunity to move in as rapidly as possible and get the economy going again. An essential element of that, of course, is a secure environment and a functioning judicial system that is regarded as sufficiently open and fair as to encourage and support foreign investment.

Six, international support. We must ensure that there is wide support in the United Nations, among our allies, and with Iraq's neighbors for the rebuilding measures we have taken. They must be willing to commit forces where necessary and resources when available to help rebuild Iraq's infrastructure, support its government, and grow its economy. They must be committed to supporting democratic institutions as they emerge.

Mr. Speaker, if the President does not adopt a strategy of incorporating these six points, I believe a premature withdrawal of American forces would lead to a disaster. I want all the forces to come home as rapidly as possible, but I also want the mission to succeed.

Americans are fond of saying, "These colors don't run." Well, Mr. Speaker, I do not want to run before we have done our job. The sacrifices of all of our brave men and women who have died or have been wounded must not be in vain. The losses and sacrifices made by the Iraqi people must not be in vain. The stakes are just too great. We must accomplish our mission, and the President must lay out a strategy to achieve those objectives before he begins the withdrawal of American forces. To do otherwise is to sacrifice national security for political survival.

Mr. CUMMINGS. Mr. Speaker, I want to take a moment to thank the gentleman from Missouri for his service and the position that he holds. We in the Congress, of course, look up to him as our ranking member of the House Armed Services Committee for his advice on our veterans and on military matters, and I appreciate his service.

Mr. Speaker, given that our country is currently engaged in a war in both Iraq and Afghanistan, the members of the Congressional Black Caucus feel compelled to pay homage to our soldiers at home and abroad.

□ 2045

Our brave men and women continue to risk their lives in order that others may enjoy freedom. In fact, we have come to the House floor on numerous occasions to express our appreciation for the dedication, courage, and sacrifice of our Armed Forces. Tonight Mr. Speaker, the Congressional Black Caucus again stands before this House to honor those currently serving in the over 100 nations around the globe where the United States military has operations, and we especially pause to remember those who laid the foundation for our freedom.

Mr. Speaker, the United States military is among the most diverse institutions in our country; and it is this diversity in gender, ethnicity, skill, and talent that contributes most to our military's awesome strength. Throughout history, heroic citizens of our great Nation have transcended individual prejudice and intolerance to unite in the pursuit of liberty and in their valiant protection of our borders.

However, many of these same individuals have too often been unrecognized and forgotten once the final shot has been fired and the last drop of blood has been shed. So as my favorite theologian Charles Swindoll, who has penned these words that are imbedded in the DNA of every cell of my brain, Swindoll says "The greatest deeds often performed are those that are performed by those who are unknown, unseen, unappreciated, and unapplauded." And we want to make sure that our veterans do not fall into any of those categories.

And it was the gentleman from Illinois (Mr. EVANS), my good friend, the ranking Democrat on our House Committee on Veterans' Affairs, who penned these words, and they are just so brilliant, I just wanted to repeat the gentleman from Illinois' (Mr. EVANS) words. He said, "50 million have held the venerable title of veteran. More than 1 million have died while wearing the uniform. It is this generation's responsibility, and that of every subsequent generation, to make sure the numbers have faces, lives that connect to them. We are losing 1,500 veterans a day. Each death represents a life, another rich, colorful, dynamic, dramatic, brutal, or heartening story. The gentleman from Illinois (Mr. EVANS) goes on to say: "The only way this and future generations can hold dear to what our veterans have done, can understand the sacrifice, is to record and share their stories and to continue the traditions of honoring their service such as those observed on November 11. We must not lose their deeds to time or neglect. The greatest gift in return for what these extraordinary individuals have given us is to make certain their lives and experiences are perpetuated, to recount their sacrifices to every generation." Finally, he goes on to say: "War may begin over real estate, mineral rights, religion, or boundaries, but ultimately it is about people and lives. It is about one man or woman seeking to make certain that the next one can live freely and have a say in his or her own destiny. It is about sacrifices to ensure our Nation and world in which the rights of the individual are acknowledged, respected, and cherished."

Mr. Speaker, I yield to the wonderful gentlewoman from the great State of California (Ms. LEE), the daughter of a veteran.

Ms. LEE. Mr. Speaker, first let me thank the gentleman from Maryland, our chairman, for once again organizing this very important special order tonight recognizing the service of Americans veterans. Once again, let me just commend the gentleman from Maryland (Mr. CUMMINGS) for his leadership and for ensuring that our country understands and recognizes that the Congressional Black Caucus stands tall here in this Congress on each and every issue with which our country is faced.

Yes, I am a very proud daughter of a veteran, and I represent a State which boasts the highest veteran population, ensuring that veterans receive their benefits of course, and recognition for their contributions is, therefore, a major priority for me. We owe every veteran around this country an enormous debt of gratitude. And we here in Congress really do have the opportunity and the obligation to honor that debt by providing veterans with the benefits that they were guaranteed, including adequate benefits for veterans, surviving spouses and families, burial rights, health care, disabled tax credits, and home loan assistance. This issue, as my colleagues know, is not a partisan issue but a fundamental issue of fairness.

In July, during consideration of the fiscal year 2004 VA-HUD appropriations bill, my colleagues on both sides of the aisle were really, quite frankly, embarrassed by the Republicans' leadership attempt to shortchange to the tune of $1.4 billion those who sacrificed the most for our Nation. So yesterday this body unanimously voted to increase a host of veterans' benefits. But it has yet to deal with the most pressing veterans' issues like concurrent receipt legislation which would extend full retirement and health care benefits and end the practice of unjustly subtracting disability payments from veterans' pensions, creating, in effect, a special 'disabled veterans' tax. So that is why we have filed a discharge petition to bring H.R. 2569, the Salute to Veterans and the Armed Forces Act of 2003, to the floor. And tonight I call upon my Republican colleagues to join us in eliminating this unfair and very outrageous tax on our Nation's veterans.

Mr. Speaker, on November 11 we will remember our veterans, as we should really do each and every day. Injustice in housing must end. It is shameful that veterans are twice as likely to become homeless as nonveterans, and female veterans are about four times as likely to become homeless as their counterparts. It is also shameful that despite the fact that 76 percent of these veterans are on the street in large part due to alcohol, drug, or mental health problems, or a combination, quite frankly, of all three, that we here in Congress fail to provide the necessary resources to help them get back on their feet.

Looking back on the plight of so many of our Nation's homeless veterans, I cannot help but think and remember that so many are the victims of the 1980's and "Reaganomics" and today's struggling economy, and I am outraged that we are allowing their numbers to grow.

Finally, when we talk about the veterans and the failures of this country to fulfill its promises to them, we must also discuss and recognize the racial disparities and discriminations that affect every aspect of American society including, yes, veterans. People of color have served this country in numbers far out of proportion to their percentages within population.

How is this the case? The harsh truth is that economic forces oftentimes compel minorities to assume the risks of service, yet historically they have not received its rewards in equal measure. The truth is African American veterans were denied employment opportunities, education, housing, and, of course, jobs returning to America after fighting for America. I remember this very well. They are truly heroes. They are real patriots.

The creation of the Bureau of Colored Troops during the Civil War, the famous Buffalo Soldiers of the Indian Campaigns, the 92nd Division and the 761st Tank Battalion and African American women, who served in the Women's Army Corps and the Waves during World War II, and the 24th Regiment of the Korean War are only a few examples of the famous and forgotten African Americans who defended this Nation.

In many ways our military has become the most integrated institution in this country. Despite its advancements, however, in the treatment of blacks and minorities in the military, there remains issues that really do need to be addressed, legacies of biased drafting procedures, advancement, honors, distribution of benefits, and really back to it, the treatment upon coming back home after returning from active duty.

We must honor the legacy of all veterans as members of the Congressional Black Caucus tonight are doing. We choose to highlight the service of African American and other minority veterans. We respect their service and their role really as leaders. And I would like to just thank all of those who have contributed to American history for their service and for their sacrifice. This Congress must step up to the plate and put our money where our mouth is in a very real way, and that is to support our veterans.

In a note from the Veterans for Peace organization, I was reminded that Veterans Day was once called Armistice Day, the anniversary of the end of World War I, of course, the "War to end all Wars." Tragically, that war has been followed by many others. Let us honor our veterans by working each and every day for freedom, for peace, and for justice.

Once again, I want to thank the chairman of the Congressional Black Caucus for his unbelievable leadership, focus, and for his commitment to honor in a real way our veterans.

Mr. CUMMINGS. Mr. Speaker, I want to thank the gentlewoman for her comments, and I just want to talk to her for just a moment.

She said something that really touched me, and I think that many people who have moved throughout our neighborhoods know this, but there are so many veterans who are homeless, and it is so painful. When I go to our drug treatment centers, it is not unusual for me to just sit down and talk to the people there and just find out a little bit about their history. And I notice that it is interesting that when people who are a little bit older, I would say maybe one out of every six or seven that I talk to is a veteran, and a lot of them are, of course, complaining about various things, but the fact is a lot of them link a lot of their problems to their service.

When a person serves, when they volunteer and they go in or they are drafted or whatever the case may have been, they go in to serve their country. But I also think our country, and I think this is what the gentlewoman was talking about too, has a duty to take care of them when they get back, because after all, I mean it is very nice for us to stand here and say all those wonderful things about our soldiers with the ongoing conflict we have certainly in Iraq, but the fact is there is that duty, and just as we lift them up and applaud them as they go off to war and just as we pray for them and we hold them in high esteem when they go off to fight our battles and defend our freedom, when they come back, they should come back to a situation that makes them whole. Just this evening, as a matter of fact, on one of the national news shows, there was a just a very painful story of a young man who just came back from Iraq, and I know he is not a veteran yet, but when he got back, his bills had amounted up to so much between him and his family. He was a National Guardsman, and they had some kind of a furniture repair business or something of that nature, but in the course of his being gone for the period he was gone, his income from the business went down 80 percent, and now he finds himself in a position where his wife and he have decided for whatever reasons to go their separate ways.

□ 2100

But the thing that really touched me was he had apparently an opportunity to now get out of the military, but he said he wanted to stay. He said that he was an Honor Guard, one of the men who go to the funerals and fold up the flag and deliver it to the family. He said that he wanted to stay because he felt that that was so important.

When I heard that, I said to myself, we really ought to make sure that we do right by our veterans. It is not enough for us to come and applaud them. It is not enough for us to come and thank them. We have really got to support them.

Ms. LEE. The gentleman from Maryland (Mr. CUMMINGS) is absolutely correct. I agonize every time I walk down the streets in my community and see veterans who are homeless, and then find that hospitals are closing and that they cannot get their medication and they do not have anyplace to sleep.

I think it is a shame and disgrace that we have allowed that to happen to our veterans, because here they are, proudly serving our country. We should roll out the red carpet upon their return, and we should have every program, every provision for them returning to either civilian life or life here in the military. That should be made easy, that transition.

Instead, what do we have? We have cuts in their funding, we have lack of medical care for them, and we have many of our veterans coming back from different parts of the world with unknown diseases, and we cannot get them in for treatment or diagnosis or for any kind of medical care. It is mind-boggling to me.

I will tell the gentleman, I think we need to really look at what we mean when we say we support our troops, because, in supporting our troops, for me, that means, yes, protecting them and keeping them from harm's way, but also upon their return making sure that their families and their lives are not only made whole, but that they receive the type of incentives and the type of real action, affirmative action, that we should provide for them, because they have done such a job for this country.

Mr. CUMMINGS. When the gentlewoman talks about disabilities, I want her to go back a moment and talk about concurrent receipt. It seems to be just an unfair situation, when you are injured and you go leave the military on a disability and then your disability payments are then deducted from the funds that you are supposed to be getting. Can the gentlewoman explain that to us?

Ms. LEE. That, in essence, is taxing disabled veterans for disabilities that they unfortunately acquired while serving this country.

Mr. CUMMINGS. Basically what is happening is they are taking away money.

Ms. LEE. They are taking away money from them after they have been hurt. That is mean. That is mean, and I think it immoral. Somehow, the entire country needs to wake up to that and say how unjust this is and correct this. That is why H.R. 2569 has got to come to the floor.

Mr. CUMMINGS. I agree. I get letters all the time from our veterans on that issue of concurrent receipt. As a matter of fact, I just got something today where a gentleman from Oklahoma was just very upset. He said, "I wish you all would address that, because it is just so unfair to me." He is extremely angry.

Ms. LEE. He should be. What we are doing is making veterans pay for their disabilities, which are no fault of their own. It should be just the reverse. We should pay them a stipend, an additional benefit, for what they have done.

Mr. CUMMINGS. I want to thank the gentlewoman for her support. I really appreciate it.

Mr. Speaker, as I conclude, I just want to go on and say that although the U.S. military has traditionally been, as my colleague has said, a diverse institution, it has not always been an integrated institution. From Crispus Attucks, who suffered the first shot during the Revolutionary War, to the Tuskegee Airmen, who never lost a single bomber under their escort during World War II, African Americans have answered the call to service whenever our country was in need. Yet these same soldiers have not always been treated fairly by their country.

Even today, our veterans, all of our veterans, are not treated, as the gentlewoman from California (Ms. LEE) has said, with dignity and the honor that they deserve. How else can we explain the things that the gentlewoman from California (Ms. LEE) just talked about, cutting the veterans budget in this year's budget resolution? How else can we explain proposing to close veterans hospitals around the country when they are in dire need of care? We must change this course and honor our veterans in word and in deed.

So, Mr. Speaker, I stand on the floor of the House tonight feeling a sense of pride; pride for the ultimate sacrifice that our men and women have made throughout our history, so that I and my colleagues might stand on this floor tonight.

I want to just yield back to the gentlewoman from California (Ms. LEE) with regard to some issues that she wants to discuss.

Ms. LEE. Just very briefly. As the gentleman was talking, I am reminded of my childhood now. I can remember very vividly men in uniform, black men in uniform, being denied entrance to a restaurant or to a movie theater, or being forced to go to a water fountain that said "Colored Only," in uniform. I can remember this.

I have so many unfortunate memories of proud African American men in their uniforms being turned away, being discriminated against for one reason, and that is because they were black. I think that they are true heroes, they are true patriots; and I hope that history will record their service to this great country. But also I think we need to make sure that history is accurate in its writing and in its history and not cloud over the fact that men in uniform did not have equal access to basic kinds of services, such as a water fountain.

Mr. CUMMINGS. It is very interesting, in my district we just had an opportunity for some African American students to talk to the superintendent of schools. This is one of the best school systems in the country, Howard County, outside of Baltimore. The African American students were talking to the school board, talking about the difference in the disparity between their achievement and those of white children.

One of the things that they said that just was so profound is they said it is so important that we know our history. I chimed in and said, "It is not just important that you know it. That is not enough. It is very important that all of your classmates know it too, because then I think the world can appreciate all that has been contributed, not only by African Americans, but by this whole melting pot in making this country what it is."

I cannot forget as you were talking, Jessie Jackson, Sr., talking about when he came back from war. He had to sit in the back of the train, and a lot of the white German prisoners were allowed to sit in the front of the train.

The reason I understand why you raised these issues is we want to make sure on the one hand that we honor our veterans, but we realize that honoring our veterans is giving the total story, or, as somebody used to say in one of the movies, "giving the rest of the picture."

Ms. LEE. The gentleman is right. History must be recorded accurately. I think only by telling the truth, by putting forth the true history of any group of people, but especially our veterans, whom we are discussing tonight, that has got to be a priority for our young people, because how will they know what to do in the future? How will they know how to live? What kind of values will they embrace, if they do not know of the struggles and of the challenges and of the fights that many people in this country have waged?

So history must be recorded, and it must be recorded accurately.

Mr. CUMMINGS. As we conclude, I think when one looks at the stories that the gentlewoman told about when she was a little girl and would see what the veterans would return to, and the water fountain that said "Whites Only," the fact is that so many of these soldiers, think about the Buffalo Soldiers and many others. Although they knew that this country was not necessarily treating them fairly, they still stood up. As a matter of fact, many of them were beating down the doors trying to stand up for this country.

Not only do we pause here tonight to thank the living veterans, but we thank those and their spirits who may have gone on who were fighting for a country that they knew was not necessarily treating them right, but they were always fighting for their future. They were fighting for generations yet unborn.

Let me say that when one thinks about somebody putting their life on the line and knowing that they would return to a situation in this country where they were not treated fairly, but puts their life on the line today so that, not only their offspring, but even the offspring of those that might not have treated them right could have freedom and could have opportunity and could have convenience, that is a powerful statement. It really is.

So we come here not only to honor the veterans who can hear us tonight, but we come here also to honor those who have gone on and who dreamed a dream that the world would be better that they were fighting for.

Ms. LEE. There are many veterans who are still with us who are getting older now who I have the privilege to know and work with, and those are the Tuskegee Airmen. What a wonderful legacy they have left.

I will never forget when I was working for our great statesman, Congressman Ron Dellums. I was on his staff and we worked very hard to get a display in the museum, I believe it was in the NASA museum, of the Tuskegee Airmen. That was a real fight, but we got it there. Millions of people were able to read about, see and honor the Tuskegee Airmen because of Ron Dellums and because of the work we did to make sure that they received a prominent place in the museum here.

Mr. CUMMINGS. So many people here hear the Congressional Black Caucus stand up over and over again and talk about the war and talk about our objections to the war; but one thing they always hear from us over and over again is that we support our troops, that we support our men and women who are out there fighting. But we have come here tonight to say not only do we support our troops, but we also support our veterans with everything we have got. I used to say we support them 100 percent. I change that to 1 million percent.

Ms. LEE. That is right. My final comment is, as I said earlier, I think we need to put our money where our mouth is now and try to fight like we know how to fight to make sure that each and every nickel that they deserve they receive.

Mr. CUMMINGS. So, Mr. Speaker, again as I have said before, there are so many deeds that go unnoticed, and the ones who perform them are often unseen, unnoticed, unappreciated, and unapplauded. Tonight we in the Congressional Black Caucus take a moment to salute those who have given so much so that we might live the lives that we live.

IN MEMORY OF THE HONORABLE CORWIN M. NIXON

The SPEAKER pro tempore (Mr. PEARCE). Under a previous order of the House, the gentleman from Ohio (Mr. PORTMAN) is recognized for 5 minutes.

Mr. PORTMAN. Mr. Speaker, I rise to speak briefly about a dear friend of mine who passed away earlier this morning. I rise to honor the memory of the Honorable Corwin Nixon, a dear friend, a distinguished constituent, and an accomplished public servant, who passed away this morning in his beloved Ohio at the age of 90.

He was someone I knew all my life, and someone whose devotion to public service was an inspiration to me. He served with honor for 30 years in the Ohio General Assembly, including 14 years as minority leader. Before his election to the State legislature, he served 12 years as a Warren County commissioner.

He was probably the most recognized man in Warren County, and evidence of the great affection for him can be seen throughout southern Ohio. His name is on a Waynesville covered bridge, a Dayton health center, and an aquatic center at Miami University. But most importantly, Mr. Speaker, thousands of people in Warren County remember him fondly and the help he gave them, a family member, a neighbor, or a friend.

Corwin Nixon's life experiences and his extraordinary people skills made him an effective representative for all the people in Warren County. He grew up on a farm near Red Lion, Ohio, where he continued to live most of his life.

□ 2115

He rose through the ranks to become manager at a Kroger grocery store in Lebanon, Ohio, and in the 1950s became the manager of the Lebanon Raceway, a job that became his passion as he built the raceway into a major regional attraction.

Corwin Nixon was also an active volunteer, locally, Statewide, and nationally. Among his many activities he served on the boards of Bethesda Hospital in Cincinnati and Grandview Hospital in Dayton. He was President of both the U.S. Trotting Association and the International Trotting Association. He was an original member of the American Horse Council. He was inducted into the Ohio Harness Hall of Fame and received the Harness Horseman International Appreciation Award.

He used to say his start in politics "just happened," but it happened because of his remarkable work ethic, his genuine concern for people, and his ability to deliver for his constituents. His trademark in the State legislature was his ability to work effectively on both sides of the aisle to achieve results for all people. He was a true gentleman who respected everyone and treated them with respect.

Despite all of his impressive accomplishments in government and business, Mr. Nixon's greatest legacy is his family. He and his wife Eleanor were married for 45 years before her death. Their two children, Keith and Karen, provided them with three grandchildren, Melissa, Tina, and Keith, Jr. and four great grandchildren, Corwin Nixon, III, Eleanor, Preston, and Austin.

Mr. Speaker, Corwin Nixon was one of Ohio's great public servants, whose accomplishments touched many lives in our area and throughout the State of Ohio. He will be greatly missed.

CALLING FOR IMMEDIATE ACTION FOR HEALTHY FOREST RESTORATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Virginia (Mr. GOODLATTE) is recognized for 60 minutes as the designee of the majority leader.

Mr. GOODLATTE. Mr. Speaker, today the House asked for conferees to meet with the other Chamber to work out differences on the Healthy Forest Restoration Act, H.R. 1904. This evening, I am pleased to be joined by some of my colleagues on the House side to talk about the importance of this legislation that passed the House of Representatives nearly 6 months ago and, yet, has still not been resolved.

This issue has been debated for literally years. Former Committee on Agriculture Chairman Bob Smith of Oregon attempted to address this issue after the Sierra Grande fire which destroyed hundreds of homes in New Mexico in the year 2000. The other Chamber considered similar measures. Last year, a similar bill was reported out of the Committee on Resources.

This year, I worked with two other distinguished full committee chairmen, the gentleman from California (Mr. POMBO) of the Committee on Resources and the gentleman from Wisconsin (Mr. SENSENBRENNER) of the Committee on the Judiciary. We crafted a bipartisan bill that garnered 90 cosponsors. The bill went through three full committee markups before coming to the floor. Our bill takes a truly national approach to a national problem. We passed this bill on May 20 of this year by an overwhelming and bipartisan majority.

I think it is critical to note that we appointed conferees today. We also unanimously accepted a motion from the minority to instruct our conferees to finish work on this bill within 1 week. The fact that the whole House agreed to these instructions shows the urgency of starting these negotiations but, because of a small group in the other Chamber, the essential step of appointing conferees is being delayed. Any further obstruction from the minority party in the other body thwarts the will of not only the 80 members of the other Chamber who voted in favor of their version, but of the entire U.S. House of Representatives.

Since we passed this bill, almost 6 months have elapsed. While H.R. 1904 languished in the other Chamber, 169 days have gone by, over 3.5 million acres have burned, 30 firefighters have died, and 20 civilians have perished as a result of the fury of catastrophic wildfires. The California wildfires of the last 2 weeks provided a stark reminder of the need to act to prevent future disasters. It was only when the California wildfires were dominating the nightly news that the other Chamber saw fit to take up this critical bill, with an 80 to 14 vote on the measure, which seemed to indicate a sense of urgency on the part of the other Chamber.

Unfortunately, the minority party of the other Chamber is still not allowing the naming of conferees. They are refusing to do so in spite of the fact that they know the differences between the two bills are not insurmountable. They are refusing to do so in spite of the fact that an agreement that could result in real action to improve forest health is easily within reach.

The goals of the two bills are strikingly similar. Both seek to address the issues that have tied the hands of our forest managers: NEPA analysis that drags on for months, administrative appeals that spring up at the last minute, and court actions that stall proposed projects for so long that they are moot long before the judicial process concludes.

Now, I do not want to downplay the fact that there are differences. Their version of the bill added over 100 pages of text and five whole new titles that were not in our version. While there is obviously a good deal of work to be done, we owe it to the people who have fought these fires and the neighbors of our Federal forests who have been threatened, evacuated, or left homeless, to finish the job and produce a bill that the President can sign.

All of these issues can be resolved. The only thing preventing us from beginning this resolution is the refusal by the minority in the other Chamber to allow the appointment of their conferees. This action negates the legislative process which calls for a bicameral conference committee to work out any differences between two versions of the same bill, and it is the only thing preventing us from taking steps to protect our communities, our forests, and our watersheds from catastrophic wildfires.

It is important to remember that the House bill received widespread support when it came to this floor. The Society of American Foresters praised it for giving new tools to forest managers to protect our forests. The National Volunteer Fire Council praised it for reducing the threat faced by their members when they are on the fire line. Many of the same groups, as well as the International Association of Fire Chiefs, have asked us to go to conference to address specific issues and finalize a bill. That is my strong desire as well as the desire of the vast majority of those in this House.

There are over 190 million acres of forests and rangelands which remain at risk of catastrophic wildfire, insect, and disease, a landmass larger than New England. Our bill takes the modest step of addressing the hazardous conditions on only 20 million acres of this total. At the same time, it takes an innovative approach to forest health on private forestlands, creating new programs to detect and suppress such forest pests as the Hemlock Wooly Adelgid, the Emerald Ash Borer, and the Gypsy Moth. In short, it takes a national approach to a national problem.

It is time to put partisan politics aside, so that we can bring forth a bill before the end of the session which can prevent future catastrophic forest fires and to begin improving the health of our Nation's forests. It would compound the tragedy still unfolding in California if last week's vote in the other Chamber was just for show. A tiny minority should not be allowed to continue the dilatory tactics that have caused this bill to languish until the end of the session. Time is short. The fires are smoldering in California, and the conditions that created these infernos will only get worse unless Congress acts now.

I would now like to recognize several of my colleagues who have supported our bill as it moved quickly through the House and whose districts badly need the attention H.R. 1904 would provide. First, someone who understands this problem exceedingly well, because the State of Colorado has experienced some very difficult problems with forest fires this year and in previous years, particularly last year. I recall the devastation to the water supply for the City of Denver, something that is of great concern to us that our bill addresses, but that some would like to delete from it because they only want to allow work being done in what are called "beauty strips" around urban areas, overlooking the fact that the watersheds for many, many communities around the country are protected by our national forests and ruined when those forests go up in flames, and mud and ash and everything else goes down into these important reservoirs and other water supplies.

So at this time I am pleased to yield to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, the House passed its version of the Healthy Forest Initiative in May of this year with an overwhelming majority and bipartisan support. The other Chamber has had our version of the bill for over 6 months and only passed it after fires in southern California scorched almost 1 million acres, destroyed over 3,400 homes, and killed 20 citizens last week.

During a meeting of the Committee on Agriculture, one of our members expressed to us his sorrow that one of his cousins had been burned to death and her sister was burned over 85 percent of her body. One of our own Members lost his home in this tragic event.

After we took this vote in the House, a simple motion to appoint conferees has been blocked by the minority party, preventing the swift conclusion of negotiations. The forest health conditions across the country are too extreme and the threats to our citizens' lives and property too severe for this to be a political football. In Colorado, a beautiful State with beautiful national forests, 7.5 million acres are at risk to fire, insects, and disease. This is more than two-thirds of our forested acres in my State alone.

The need to provide the modest relief provided by H.R. 1904 can best be illustrated by what the people on the front range went through trying to protect their forest. Working in close cooperation with the local community, conservation groups, and Colorado State University, the Forest Service proposed a modest effort to reduce hazardous fuels in this region. After exhaustive NEPA analysis, radical environmentalists filed an administrative appeal, and then a lawsuit.

As the process unfolded, the Hayman fire destroyed the watershed before the project could be implemented. My colleague, the gentleman from Colorado (Mr. TANCREDO), described this in July, how devastating the Hayman fire was. Mr. Speaker, 138,114 acres were destroyed, and 132 homes were lost in that fire. In total, in the year of 2002, the damages were 619,000 acres burned, 384 homes destroyed, 624 additional structures demolished and, sadly, nine firefighters were killed in this fire. The damage from the fires closed 26 water treatment facilities. After two smaller fires, the Denver Water Board had to spend over $20 million cleaning up the reservoir.

The crises in our forests warrant action. It is imperative that conferees be appointed. Partisan politics must be put aside, and Congress must act to protect our national treasures.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to avoid improper references to the Senate, including criticizing Senate action or inaction.

Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman. Her observations are very true. One of the areas that we overlook not only are the water pollution problems that occur, but also air pollution. The fires in California have emitted so many toxic fumes and other forms of air pollution that some are saying that more emissions have occurred from just those fires in California in the last few weeks than occur from all of the automobiles, all of the trucks, and all of the buses emitting all year long in the country. And we saw so many evidences of it. I have a sister who lives in southern California and experienced the difficulty with breathing and so on. Literally millions of people were exposed to this enormous problem. It is not simply a natural wildfire that burns along the ground and the large trees are preserved and so on; these fires consume everything in their path: large trees, small trees, homes, businesses, automobiles, and even some people's lives. And, in doing so, the devastation is truly enormous. Yet, we ignore it as we continue to neglect our forests and not give the professional forest managers the ability to manage those forests.

At this time, it is my pleasure to yield to the gentleman from North Carolina (Mr. HAYES), a member of the Committee on Agriculture and chairman of the Subcommittee on Livestock and Horticulture who knows something about this from problems in North Carolina.

□ 2130

Mr. HAYES. Mr. Speaker, I thank the gentleman from Virginia (Mr. GOODLATTE) very much for yielding, and I thank him for his leadership in putting together a comprehensive effort to respond to the tragedies that have faced us in recent days. And thank goodness for rain. It certainly was not sound management practices that have given our valiant firefighters the breath that they needed, the time to rest, and to hopefully bring these fires under control.

Mr. Speaker, I appreciate this opportunity to discuss the healthy forest initiative, which was passed by the House in May with an overwhelming bipartisan majority and was finally passed last week by the other Chamber. It is sad that it takes utter devastation, destroyed homes, and loss of life before legislation can finally be passed that will correct Federal policies that desperately were needed to be changed years ago.

But now that we are in the home stretch and the House is eager to move the conference on this legislation, a simple motion to appoint conferees again is being blocked, as was mentioned earlier. The House appointed conferees today. And I want to commend the gentleman from Virginia (Chairman GOODLATTE) and the gentleman from California (Chairman POMBO) for their efforts and leadership in trying to move this bill to conference as quickly and as constructively as possible.

This legislation is important in a number of States, particularly my home State of North Carolina. The Healthy Forest Restoration Act not only provides our Federal land managers with greater flexibility to deal with fire dangers in the West but new authority to test innovative detection and suppression techniques for the many pests that threaten the Eastern forests.

The Southern pine beetle is the most significant threat to forest health in North Carolina. Normally Southern pine beetles attack and kill stress-weakened trees. When populations reach epidemic proportions, even healthy trees can be attacked and overwhelmed.

In North Carolina, the beetles are affecting over 1.5 million acres of pine. Timber valued at more than $12.4 million was destroyed last year alone by the pine beetle. Our hardwood forests are also threatened by invasive pests such as the gypsy moth. Gypsy moth eradication is a high priority because of the damage it can do to trees in residential areas as well as scenic mountain areas.

There are almost 17 million acres of private timberland in North Carolina, representing billions of dollars in investments by private landowners and the forest industry. The threats to these forests threaten the economy of my State and the ecological value of these lands. No individual landowner is equipped to deal with the pest outbreaks on the scale that we have seen in recent years.

At this time, I would like to ask the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture, if he would yield for a question.

Mr. Speaker, it is my understanding from recent meetings that we have held that the minority leader in the other body has made a provision and added to another bill basically a healthy forest initiative for the State of South Dakota. However, we here are unable to move forward with conferees at this point in order to give the same type of attention, protection, and also commonsense land management practices to our other States. Is this the gentleman's understanding?

Mr. GOODLATTE. Mr. Speaker, the gentleman from North Carolina (Mr. HAYES) is correct. It is regrettable but nonetheless true, that legislation was passed a couple of years ago that included a provision placed into an appropriations bill that creates a different standard for South Dakota.

I am quite glad that the Black Hills National Forest in South Dakota has that different standard, because they have the ability to allow the Forest Service employees, the district rangers, and others in that national forest to prepare the land in environmentally sensitive ways, to protect that forest from the kind of catastrophic wildfires that we have seen in California and Oregon and Arizona and New Mexico and Colorado and Idaho and Montana and other States as well.

But there is absolutely no reason why the provisions in either the bill passed by the House or the bill passed by the other body, neither of which contain the same level of authority granted to the Forest Service folks in South Dakota, could not be made available to the other 49 States as well. We are not even asking for as much as what South Dakota has right now. And, yet, we are being impeded from being able to bring this issue to a resolution.

We are so very close; the differences between the House and Senate can be worked out. There are differences. We should not minimize them. They are important differences. But we passed today here on the floor of this House a motion to instruct conferees offered by the gentleman from Texas (Mr. STENHOLM), the ranking democrat on the Committee on Agriculture, a motion to instruct that says we will have an open conference with participation by all of the conferees appointed. And, by the way, the Speaker went ahead today and appointed those conferees. We are ready to act. We have committed to an open process. We have committed to a speedy process.

The motion to instruct calls for reporting back a bill to the House by next Thursday. And that is possible if we would be able to go to conference. But if action is not taken promptly, we will lose that timetable. Time will slip away from us. And, of course, we are nearing the end of this Congress. And if time slips too much, we may be unable to complete this legislation, which President Bush very anxiously wants to sign, supported by so many bipartisan Members of both the House and the other body.

Mr. HAYES. Mr. Speaker, I appreciate the gentleman's not only keen perspective on the issue but his accurate knowledge of the history. And I would ask that if he would yield for one more question, I would like to pursue this issue a little further in South Dakota.

My question is this: the gentleman mentioned the Black Hills National Forest, which is a true national treasure. And I agree with him wholeheartedly that I am very glad that this wonderful treasure has this degree of protection. I seem to recall, particularly since my daughter-in-law is a native of South Dakota, and a wonderful member of my staff is also a South Dakotan, and I have enjoyed many trips there, but were there not some catastrophic fires there as well not too long ago?

Mr. GOODLATTE. Mr. Speaker, reclaiming my time, the gentleman from North Carolina (Mr. HAYES) is correct. There have been catastrophic fires in South Dakota, but there was even more importantly a recognition that there were vast areas, not just the so-called beauty strips immediately around communities, but vast areas of the Black Hills National Forest that were at risk of catastrophic wildfire.

We are not talking about the wildfire that burns along the ground and gets rid of the brush and things out of the area and leaves the larger trees; but we are talking about fires that, because of the buildup of fuel density, the trees continuing to grow, the fires being suppressed over a long period of time, when they finally do occur, they stair-step up from the brush into the smaller trees, into the larger trees, into the overstory of all of the trees in an area and devastate the whole area.

Then when it comes up to a community, no small narrow band of treated area will keep that kind of massive fire that can sometimes leap over long distances because of the enormous height that the flames reach and the burning pieces. In the California fire, there was a report last week of an instance in which a 4 by 8 piece of plywood was spotted by one of the planes combating the fire flying through the air in flames at 2,800 feet of altitude. Now, when these things can reach that kind of proportion, a small strip around a community will not protect the community. So wisely, the legislation that protects South Dakota does not include that type of restriction.

The Forest Service there can use their judgment with proper notice to the public and with fair hearing for people who have, as we all do, a concern that these things be done properly, the ability to treat various parts of the forest not simply limit it to those areas. That is one of the things that is apparently holding up our progress here. I think it is a serious mistake.

Mr. Speaker, we should be allowed to go in and work with the other body to fashion legislation that will address this problem in the other 49 States.

Mr. HAYES. Mr. Speaker, again I thank the gentleman for his precise and concise information. As a matter of instruction for this body, the conditions you describe almost duplicate the conditions in a thunderstorm. The fire starts low, as you said; and as the heat builds, it creates a tremendous upswelling of current, which, again, has the same destructive effect as a thunderstorm which results in hail and tornadoes. But as the gentleman very clearly illustrated, those pieces of burning limbs, lumber, whatever the case may be, can spread this fire in an incredibly rapid manner.

And my point in all this being that the same reasons that South Dakota saw fit to pass local legislation are the reasons that we have in this fine legislation that we are talking about tonight.

In closing, Madam Speaker, I would like to make one more point. I have heard the terms partisan, bipartisan. This is about as bipartisan as anything could possibly be. Both parties are working very hard, way beyond, for the most part, to reach commonsense solutions to tragic, dangerous, destructive, and expensive fires.

I would say to my friend, the gentleman from Virginia (Mr. GOODLATTE), that to me an observation is that this is not partisan in any way. And I use as an example, I was in the chair this afternoon, and the discussion was about how we develop more plentiful, less expensive sources of energy to keep our manufacturers, keep our transportation, to create jobs and to grow our economy. And, again, it was a bipartisan effort, Republicans and Democrats joined together in a commonsense manner to reach agreement and to come up with policy and solutions that are good for all America.

So what I saw there were Republicans and Democrats hand in hand working together against the extremists who inhabit a very small portion of the population, but have an unusual amount of sway in these discussions.

So I would simply submit for this discussion that this is not about disagreements between parties; this is about commonsense men and women of good faith on both sides, Republican and Democrats, who are uniting against a radical extreme, far way-out small segment of the community that is costing lives and costing money.

So that is my point, Madam Speaker. This is not a partisan issue. And I think it is important that we take it further and define it as it really is. It is common sense versus nonsense.

So, in closing, again, I thank the gentleman from Virginia (Mr. GOODLATTE), Madam Speaker, for the time and attention. The Healthy Forest Restoration Act provides the flexibility and resources necessary to deal with these problems, protects millions of acres, thousands of homes, and citizens. I hope the two Chambers can resolve their differences and send the bill to the President as quickly as possible. Common sense, not nonsense.

Mr. GOODLATTE. Madam Speaker, I hope that what was done by this Congress for the State of South Dakota 2 years ago will be done for the other 49 States as well. In fact, we do not even ask quite as much. We simply ask for fair treatment, and we hope that we will get it soon. It is very, very important.

Madam Speaker, I think it is interesting to note that of the speakers we have had down here tonight, the furthest west is the gentlewoman from Colorado. And I think this reflects that this is not simply a Western problem; this is a problem that affects the whole country. Because in the East while we have different types of forests, they also suffer forest fires; but the greatest threat in the eastern forests are the insects, and the disease, many of which are nonnative species that have come into this country from one source or another around the world. And we do not have the natural enemies of these species to combat in our forests. So often times they run rampant: the pine bark beetle that the gentleman from North Carolina (Mr. HAYES) mentioned, the wooly adelgid which attacks our hemlocks, the gypsy moth which attacks our hardwoods, and the emerald ash borer which attacks our ash trees.

Madam Speaker, at this time I yield to the gentleman from Georgia (Mr. BURNS).

□ 2145

Mr. BURNS. Madam Speaker, I appreciate the gentleman yielding me this time.

Madam Speaker, it is time for us to take action. This body has done its job. The Committee on Agriculture that the chairman does such a wonderful job in managing brought this bill to the floor. As my colleagues have pointed out, it was passed overwhelmingly from both sides of the aisle, and there was not a dissension that we could not resolve. So as we worked with the Committee on Resources and worked with the Committee on Agriculture, we came here and passed this measure in May. We had high hopes for swift action in the other body. We were happy finally to see that action recently.

Unfortunately, it was only after the tragic situations in the West and in California where so much air and water quality was damaged, and certainly the loss of life and homes, the threats that were there, we were certainly glad to see action; but now we face a challenge. The challenge is moving from the two bodies to the conference committee, and we have worked very vehemently to ensure that happens.

When this measure came to the committee, I consulted the Warnell School of Forestry at the University of Georgia and asked them to review the legislation and give me their input, and tell me what they thought was best for not only Georgia's forest, but our Nation's forests. They did a very thorough job in their advice and counsel, and I took it.

We have the Chattahoochee National Forest in Georgia. It is a place I enjoy. I enjoy the fishing and the trout streams and the air and the quality of life there. We have to protect it. H.R. 1904, the Healthy Forest Initiative, is legislation that will not only protect the Chattahoochee National Forest, but forests from North Carolina to California, from the Dakotas to Texas, and it is important that we move this legislation.

Certainly the biggest challenge that we face is not allowing our forests to become the political football of the current session of Congress. They are too important. We have over 17 million acres of private forest land in Georgia alone. As the chairman accurately pointed out, fires are a concern for us, but they are not the dramatic concern that we see in the West like in California and Colorado. Our real challenge is pests, as the gentleman from North Carolina has pointed out.

Mr. HAYES. Madam Speaker, I cannot help but be touched by the irony of what the gentleman is saying. The gentleman from Georgia is a very valued member of the Committee on Agriculture, and I have been here slightly longer than he has, so when the gentleman came, I had an opportunity to give him an assignment. I think he remembers the assignment.

Madam Speaker, Georgia is known for many, many things, but the one that we particularly enjoy is the bobwhite quail. Prime forest management for the bobwhite quail requires controlled burning. It requires removing fuel which prevents forest fires, but when done in a controlled way, in the spring of the year, under proper humidity conditions, typically at night to reduce smoke and other emissions, not only is habitat produced, but food sources for nongame species, cover for songbirds, all types of animals and birds, is created. Again, a commonsense, tried-and-true practice, accepted for well over 100 years of land management, here is a way that we actively control fuel, manage our forests, stop disease, create habitat, and increase filtration ability for watersheds and streams.

Madam Speaker, I ask the gentleman how is that project coming?

Mr. BURNS. Madam Speaker, I would tell the gentleman that the challenge is still there. When I was growing up, there was an abundance of small game, especially small bobwhite quail and squirrels and rabbits, just natural wildlife. My colleague is correct, back in that era it was a common practice to burn the woods. We would take the underbrush out. We would create the habitat as the gentleman from North Carolina (Mr. HAYES) suggests, and that would provide a plentiful environment for native species and migratory birds.

As we face the challenges today, we see fewer and fewer of our natural habitats available for our wildlife. I think this is a bill that promotes wildlife. It promotes best practices in our forestry. I think the biggest concern I have is we do not need to be playing politics with the forests of our Nations.

We have fires in Georgia. Mercifully, they are fairly small, but yet we lost over 84,000 acres of forestland to fire in the last 4 years. But as has been pointed out, we have had a 278 percent increase in the southern pine beetle, and that can be directly attributed to the fact that we are not managing our forests with the best practices.

This restoration act provides our Federal land managers with the flexibility that they need not only to deal with forest fires and fire dangers, but also to deal with disease and pests that are invading all of our forests. We have to suppress the pests and make sure that they do not continue to threaten our eastern forests. Billions of dollars to Georgia's economy are attributable to our forestry industry. There are 17 million acres that need protection. If we look at our neighboring States of Florida, Alabama, Tennessee, South Carolina, we all face similar challenges as we try to deal with the need to have healthy, vibrant forests.

It amazes me that we cannot come to some reasonable accommodation in a very expeditious amount of time. I would hope that as this body has already done, as it has worked together, and as the gentleman from North Carolina (Mr. HAYES) has pointed out, this has been a very strong bipartisan bill. We have worked hand in hand with both sides of the aisle to reach a conclusion and agreement that we can move to the other body. They took that up, they passed it by a substantial margin, even an overwhelming margin, and now it is time for the next step. The next step has to be for us to move forward and bring this bill to a conference and out of conference and back to the floor of the House.

The Healthy Forest Restoration Act is indeed a national solution to a national problem. The time for action is now. I concur with my colleagues from Virginia and North Carolina. We need a commonsense solution, and we have it in our midst. We need to move it through both bodies and pass it and send it to the President.

Mr. GOODLATTE. Madam Speaker, I thank the gentleman from Georgia (Mr. BURNS) for his comments.

Now, somebody who has experienced this problem firsthand in the State of New Mexico has joined us. I yield to the gentleman from New Mexico (Mr. PEARCE). New Mexico last year suffered some devastating fires which we thought would be just the thing that would cause Congress to get over the top and get this issue resolved. Unfortunately, we fell short; but we are back again this year, and we are as close as we have ever been to getting this legislation through both bodies so we can send it to the President.

Mr. PEARCE. Madam Speaker, I thank the gentleman for talking about this critical issue in front of this body.

I grew up in New Mexico and on our vacations we would drive to Cloudcroft, New Mexico. From the early 1950s, I noticed that there was a place there of thousands of acres where no tree grew. It was in the middle of pine forests in southern New Mexico, and it was always odd to me. It was only after beginning to work in the legislature and learning what makes a forest grow and not grow that I realized that was a forest fire that had occurred in the middle part of the century, and over 50 years later, the soil was still sterile from the effects of that fire.

So when my constituents ask me what is a healthy forest, I tell them one that is natural, one that grows up the way that conditions would permit. In New Mexico, a healthy forest, generally, historically, pictures tell us, had about 25 to 50 trees per acre. I like to ask schoolchildren when I go around, how many trees per acre are in New Mexico forests now? On average, we have over 1,500 trees per acre. The trees do not get the nutrients that they need, they do not get the water they need. In attempting to get the sunlight they need, the small-diameter trees grow to 50, 75 and 100 feet, matching the height of the mature trees. Then, as has been described, as a fire starts, it uses the small diameter as kindling to get the fire burning across the top of the entire forest, the crown fires burning just the top of the trees, burning just the piece that will kill it, and then the healthy, good hardwood stands rotting, waiting to just become a part of the soil, sometimes waiting years to decay.

Another problem with an unhealthy forest is that they soak up water, and in New Mexico which is an arid State which desperately needs water, and we are in the fifth year of a drought, if each tree consumes only one gallon per day, the estimates are in New Mexico, we have over a billion too many trees, that is 1 billion gallons a day. The actual estimates are much higher, Madam Speaker, and that trees will probably use 100 gallons a day. And in an arid State where water is life, where water is growth, where water is our future, we are mismanaging our forests into unhealthy situations that are going to burn and destroy this national treasure and this natural resource, that rob our cities of the water they need for growth and for the population, all because extremists in this society say we would rather watch them burn than to cut one single tree.

There are extremists in this city who say no State, except South Dakota, will be allowed to cut trees without the NEPA studies that are required, no state but South Dakota, a provision that was snuck in in the middle of the night over 3 years ago in an omnibus bill. The rest of the States want the same permission to do commonsense thinning to create a healthy forest. It is not a question of if our forests are going to burn, Madam Speaker, it is a question of when our forests are going to burn.

I flew this year between two towns in western New Mexico, and I flew over 200,000 acres with just the stubs of smouldering trees standing. The entire 200,000 acres was killed in just a short period of time. The unreasonable, extreme environmentalists who will block every attempt to do commonsense thinning which will create our healthy forests should be ashamed. And those special interest people who in this city who will give one State permission to do the commonsense practices of good forest management should unlock the doors and allow the rest of us to have access to the same commonsense approach to managing our forests, to managing our forests to become healthy forests instead of the death traps they are now.

Madam Speaker, I thank the gentleman for yielding me this time.

Mr. GOODLATTE. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for some very commonsense observations. Just looking across the spectrum of Members who have spoken here tonight and who spoke here today on the motion to instruct conferees, we had Members from Oregon, California, Colorado, Montana, Idaho, New Mexico, Arizona, all across the West they experience this problem; and then Georgia, Virginia, North Carolina, they experience this problem. And folks from Michigan and Pennsylvania have spoken about forestlands. We are blessed in this country with great and bountiful forests all across America, but we need to take care of them. And when we have to manage them because people live in and around them and we have to fight forest fires, that fuel density builds up. When it does, we have to give our forest managers, the professional people, the ability to step in and do what needs to be done.

□ 2200

We are doing it in such a way that we expedite the process so that it does not go for so long that the problem overtakes the solution, but at the same time we do it in such a way that the ability of concerned citizens to have their input in the process, to even appeal the decisions that they think are inappropriate, to have that opportunity to do that but do it in a way that is expedited because that is what is needed for a problem as serious as this one.

I see that we are now joined by another Member of Congress who has experienced this problem firsthand in his State of Montana. I would be pleased to yield to the gentleman from Montana for him to also give his observations about the problem with the state of forests in his State and around the country.

Mr. REHBERG. I thank the gentleman from Virginia for taking on an issue that we find very important in the State of Montana and throughout the Nation and, that is, healthy forests. I have been involved in the issue since 1988. We saw the fires exist in our State to the tune of almost 1 million acres. As an observer, I assumed our elected officials would do something about that. Over the course of the next few years, I watched nothing happen. Our forests continued to deteriorate. In the year 2000 in the State of Montana, we saw almost 1 million acres burn again, and I assumed something would be done. Again, nothing was done. When I joined the Congress, I was impressed by the fact that our chairman now of the Committee on Resources and my chairman of the Committee on Agriculture were willing to hold hearings to try and find the solution to healthy forests. It does not take rocket scientists to figure out what is wrong.

I manage resources. I am in the agriculture business in Montana. I clearly understand a mineral cycle, a water cycle. I understand that when you have undergrazed grass, it kills grass as much as overgrazed grass. I notice that when you have timber, when you have underthinned timber, it creates the same devastation as clear cutting.

But there are those within our Federal Government and there are those within this Congress that do not understand that. When I see various Members of the body from the other side of the Capitol making exceptions for their State, understanding that you need a management plan to thin their timber to create a healthier environment and they do not want to provide that same opportunity for us, there is something hypocritical. Shame on them. It is time that this Congress understands that healthy forests are created. But I understand that there are only a certain level of tools that can be used to manage our forests.

What are those tools? Prescribed burn can be a tool. Uncontrolled fire is a catastrophe. It is stupid. But prescribed burn is a tool. Grazing, which is something I know something about because I have grazing animals on my operation to thin the undergrazed properties, creates a healthy environment. So what do we do? Move some livestock in and graze and take care of that undergrazed property.

Logging. Why do we find that timber companies are bad things? On forest properties, on Federal properties, we tell them what to cut, when to cut, how to cut and we ask them to use their capital, their labor and their equipment. How can that be a problem? Unless, of course, we do not do it right. We have some of the best environmental laws in this country. Let us use those logging companies as a tool to manage our forests. But we cannot get beyond the politics of creating some kind of an argument that we do not want logging companies in our forests. Let us use them as a tool. Let us talk about holistic management of our forests. Let us move beyond the politics.

I think that we have a plan that we have sent to the Senate; we have asked them to consider an opportunity, we have asked them to consider a holistic approach to management. What do we hear? "We have a perfect plan. We want the House to accept it without any debate." How arrogant. I have only been here for 3 years, I say to the chairman of my Committee on Agriculture. I have only been here for 3 years, but the arrogance of the attitude that we have got the perfect piece of legislation being sent from the Senate is incredible. I do not understand that kind of a concept.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PEARCE). The Chair would remind all Members to avoid improper references to the Senate, including criticizing Senate action or inaction.

Mr. REHBERG. The arrogance of somebody who makes a determination that we do not have a dog in this fight, that we do not have an opinion, that we do not understand the holistic management of our forests is incredible to me. I think the taxpayer ought to be appalled. I think the Nation ought to be appalled. And I think it is time that we make a determination to do what the gentleman from Virginia has done in the Committee on Agriculture with all the hearings that I sat through as a freshman on his subcommittee and that our chairman of the Interior and now Resources Committee has done to consider the whole healthy forests initiative. I think we ought to take the high road; we ought to take the approach that we have sent over to them and say, it is not entirely about safe communities, which safe communities are important, but it is about healthy forests. And we sent over a healthy forests policy.

And so what we really need to do is we need to sit down in the conference committee, work out the differences, pass something along to the President, and do what the gentleman initially suggested a number of years ago and, that is, create truly a healthy forest policy. I thank the gentleman for what he has done in his committee.

Mr. GOODLATTE. I thank the gentleman. The gentleman's point is very well taken. A healthy forest means safe communities. That is what we are really talking about here. If we get to the root cause of this problem, which is our unhealthy forests, we will not see the kind of disasters that we have seen in recent years that have taken lives, taken homes, taken families away from their communities. It has been a disaster of the highest order. While these disasters have taken place, the Congress has watched the burning and has been inactive.

The gentleman is correct. In the subcommittee that I used to chair, we held many, many hearings. In the full committee that I chair now, we are holding those hearings. We moved forward with legislation. We worked closely with the Committee on Resources and the Committee on the Judiciary. We passed a bipartisan bill. Forty-one Democrats in the House joined with the overwhelming majority of Republicans to pass this bill. The ranking member of the Committee on Agriculture has been a real pleasure to work with on this issue, even though he has acknowledged today in his district in Texas there is so little forestland. But he recognizes this problem in other parts of Texas and in other parts of the country. We have worked together to move this far. Why we cannot see the same response from other quarters where we need to have cooperation to get this done and to move the final bill to the President, I do not know. But nonetheless, we stand here and wait for the opportunity to finish what we have started.

Mr. REHBERG. Mr. Speaker, if I might ask the gentleman from Virginia a question. What possible reason would others within the United States Congress want to create an exception for their own forests or their own State and not provide the same opportunity for Virginia, Washington, Idaho, Colorado, now California, and certainly Montana?

Mr. GOODLATTE. We mentioned this earlier. It is indeed disappointing that the opportunity would exist for anyone to jump the gun, if you will, to get an opportunity to do the right thing, and we are glad that the State of South Dakota has the tools that they need to protect the Black Hills National Forest, a precious resource. Why we would not also have the opportunity to do that in the 49 other States where all of the States in one way or another have problems with protecting forests, why we would not get that, I do not know. But we stand here and we wait for the opportunity.

Mr. REHBERG. Another question, Mr. Speaker, if I might of the gentleman from Virginia. Is there any reason why this has not happened in the past based upon the majorities of the Congress and the fact that within the last year and a half this is the first time in 40 years we have had an opportunity to effect change? Would we not now try a different management approach? Not to say we are entirely blameless, because certainly we supported Smokey Bear, we believed that putting fires out, we believed that the management plan that existed in the past perhaps had some credibility. But recognizing that it has failed, would it not be incumbent upon us now in our new majority position to come up with a new and more exciting, more vibrant opportunity to see not only a healthier wildlife and a healthier environment but certainly a safer environment for our forests?

Mr. GOODLATTE. The gentleman is absolutely right. There is absolutely no question that we have to fight forest fires. We do not want to send the message that when people go into our national forests or when natural lightning strikes occur that we should not be getting those firefighters out there. That is a part of saving the forests from disastrous wildfires, not the natural fires that burn along the ground, but the kind that stair-steps up and consumes the entire forest.

We also know that it is important to do that, to keep the communities and people who live around those forests safe. But we also know that when you do that, when you intervene like that, you also have to take the responsibility to keep the forests healthy in other ways, to use prescribed burns where it is appropriate to do so. These have minimal consequences when they are done properly. They accomplish the goal of burning out the brush on the ground. They do not emit the kind of massive amounts of air pollution that these catastrophic, uncontrolled wildfires have. They do not cause the same kind of devastation to our water resources that these kinds of fires we have seen in Colorado and California and Montana and elsewhere have. But we need to give the Forest Service the tools to take the proper steps.

And so I am glad the gentleman has made that observation that this legislation that we have passed through the House with strong bipartisan support and similar legislation that has passed through the other body but has not yet been conferenced, has not yet had the opportunity to resolve the differences, stands waiting for that final resolution. We stand here waiting for the opportunity to conference this.

Mr. REHBERG. Mr. Speaker, if I may in conclusion to the chairman of the Committee on Agriculture just say very quickly that as I travel around the State of Montana and this country, I know and I talk to people about the fact that Federal properties in Montana, which I represent, are owned by the taxpayers. I understand that. And so when I ask them a question, what do you want to see from your forests, they usually tell me, I want to see healthy wildlife. Okay. I can accept that. They say they want to see a healthy environment. We do not get so specific as talking about the mineral cycle and the water cycle, but it is something that I understand. They talk about the fact that they want to see healthy trees. When I explain to them that a dead tree that has got beetles in it and the beetles pass on to another tree, a dead and dying tree creates a dead and dying forest, and unless we remove the cancer of that dead and dying tree, it will kill the forest. They say, that, I can understand.

Then we move on to fire and I say, if you do not control the litter, the excess, the overgrowth and the dying trees, you will create a fire danger and that is not very bright. You know what they do? They usually go, yeah. You know, we did not realize. If you had just told us that we have dead and dying trees, we have wildlife that do not have enough grass, we are creating a canopy that is killing the grass, it is killing the trees, it is creating a safety danger and houses are burning up and people are losing their lives, they usually go, I can understand this issue. What do you suggest?

And then I move into talking about the tools that are available, prescribed burn, grazing, logging, thinning and such. They go, well, we had no idea, because that's not the story we are hearing from our lobbyists and our special interests and our newspapers and television stations in places like Connecticut and Rhode Island and such. And, yeah, we own that land and we want to take care of that land and we thank you for understanding the issue. Thank you for supporting healthy forests.

I thank the gentleman from Virginia for his hard work, his dedication and his effort to create the right kind of bill coming out of this Congress. I just hope that that is what we can pass on to the President of the United States.

Mr. GOODLATTE. I thank the gentleman. I want to thank the Speaker of the House, Speaker HASTERT, for the opportunity to discuss this important issue tonight. I also want to thank my ranking member, the gentleman from Texas (Mr. STENHOLM), without whom we would not have come so far this year. The other committee chairmen who helped hone the bill also deserve high praise for their efforts. I wish that I were not here on the floor of the House pleading the case to start formal negotiations.

□ 2215

This issue has dragged on needlessly for the entire legislative session. We need to discharge our duty, follow regular order, and conduct open, fair conference processes called for by the House this morning.

THE MIDDLE CLASS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, the gentleman from Vermont (Mr. SANDERS) is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, tonight I want to focus on some very important issues which impact the middle class of our country, and I do that as the only Independent in the U.S. House of Representatives. And as an Independent, the views that I am going to express are somewhat different than the views of many of my colleagues.

The first point that I want to make is in a sense an obvious point to most people in this country, especially perhaps the 50 or 60 percent of the American people who have given up on the political process and no longer vote, and that is that in Washington, D.C., in the White House and in the United States Congress, money, big money plays an enormous role. There is a reason, and I am going to get into this in greater length in a moment, why we are hemorrhaging decent-paying manufacturing jobs and those jobs are going to China where workers there are paid 50 cents an hour and why corporate America is laying off millions of American workers to take jobs abroad. And one of the reasons that we have a disastrous trade policy is the huge amounts of money that come into Congress, that go into the White House, which have opened up access so that these corporations can go a long way toward destroying decent-paying jobs in America. Money talks. There is a reason why in the United States of America our people pay by far the highest prices in the world for prescription drugs.

I border in Vermont, the State that I represent, Canada, the Canadian Nation. And in Canada people pay in some cases one-fifth, one-third, one-half of the prices that people in the United States pay for the same exact medicine made by the same company. There is a reason for the fact that in the United States we are the only country in the industrialized world that does not in one form or another regulate the drug industry and prevent them from charging Americans any prices they want, and that reason is big money.

The pharmaceutical industry contributes huge amounts of money to Members of Congress. They have lobbyists running all over this place. Several years ago when the President of the United States had a major fund raiser, there was the pharmaceutical industry up there on the dais with him. There is a reason why the United States today is the only Nation in the industrialized world which does not have a national health care program guaranteeing health care to all people, and that reason is money coming into Washington, D.C. from the insurance companies and other people who profit off of a health care system which is disintegrating before our eyes. There is a reason why pollution all over America is rampant, and that has to do with the money that utilities and other large corporations contribute to political parties and to the White House.

Front page, New York Times today: "Lawyers at EPA Say it will Drop Pollution Cases," and the article goes on to point out, of course, that "Representatives of the utility industry have been among President Bush's biggest campaign donors, and a change in the enforcement policies has been a top priority of the industry's lobbyists." In other words, they have now been given permission to pollute because they are major campaign contributors.

There is a reason why this Congress and this President have passed legislation which provides enormous tax breaks for the wealthiest people in our country, hundreds and hundreds of billions of dollars in tax breaks that will go to millionaires and billionaires, while at the same time we have the highest rate of childhood poverty in the industrialized world for our children, where we have working people living in their cars because they cannot afford the housing that is available to them. That has everything to do with the money that the wealthy and large corporations contribute into the political process.

Mr. Speaker, the corporate media, which, of course, is owned by big money interests, does not talk about what is happening in our country too much in terms of what is going on in the lives of ordinary people, but in my view, in many respects the United States is rapidly becoming three separate nations. On one hand we have an increasingly wealthy elite composed of a small number of people with unbelievable wealth and power. That is one group. Small numbers but incredible wealth, incredible power. And then we have the vast majority of the people who are in the middle class, and the middle class in our country today is, as most Americans know, shrinking. The average American today is working longer hours for lower wages than he or she used to. People are going bankrupt at frightening numbers. It is extremely rare when we can see one breadwinner in the family earning enough money to pay the bills in almost every instance in the middle class. Now, two people are needed to work, and sometimes these folks are working unbelievable hours and are becoming stressed out. That is the middle class, shrinking, people working longer hours for lower wages, wondering how they are going to be able to send their kids to college. And at the bottom, at the bottom of the ladder, we have a growing number of Americans who are living in abject poverty, people who are barely able to keep their heads above water, people who are in many instances working for $5.15 an hour, the minimum wage, and those people, after 40 hours of work, 50 hours of work, are falling further behind. They cannot afford to get their cars fixed to get the work. They cannot afford child care for their children, and that is what is happening to our low-income people, and poverty in America, as we all know, is increasing.

What we very rarely hear discussed in the House of Representatives, in the corporate media, is the growing gap between the rich and the poor and the fact that in our country we have the most unequal distribution of wealth and income. The fact that there have been rich and poor is not new. That has always gone on. But the disparities in wealth and income that currently exist in our country today have not been seen since the 1920's. In other words, instead of becoming a more egalitarian country, a country in which the middle class is growing, where fewer people are living in poverty, what we are seeing is more and more inequality in terms of the distribution of wealth and income.

Today, Mr. Speaker, the wealthiest 1 percent of the population owns more wealth than the bottom 95 percent. That is right. The richest 1 percent owns more wealth than the bottom 95 percent. Some people may think that is okay. Let me be frank. I do not think that that is right, that that is moral, that that is what this country should be about. The CEOs of our largest corporations today earn more than 500 times what their employees are making, 500 times. While workers are being squeezed, being forced to pay more for health insurance, while their pensions are being cut back, the CEOs of large corporations in many instances make out like bandits. And I am not just talking here about the crooks, the dishonest people, the illegal people who ran companies like Enron and WorldCom and Arthur Andersen and those companies. I am not talking about them. I am talking about the highly-respected CEOs like the retired head of General Electric, Jack Welch, who, when he retired in 2000, received $123 million in compensation and $10 million a year in pension benefits for the rest of his life, and he did that after throwing tens and tens of thousands of American workers out on the streets as he moved his plants abroad to China, Mexico, and other countries. Good job, Jack. He is sure worth $123 million now that he has laid off tens of thousands of American workers. I am talking about people like Lou Gerstner of IBM, who, from 1997 to 2002, received $366 million in compensation while slashing the pensions of his employees and the health care benefits of IBM retirees. Right on, Lou. $366 million for him; cuts in pensions and health care benefits for his retirees. A great American. I am talking about C.A. Heimbold Jr., Bristol-Myers Squibb, who received almost $75 million in 2001 while helping to make it impossible for many seniors in this country to purchase prescription drugs because they are priced so high.

Today the Nation's 13,000 wealthiest families who constitute 1/100 of 1 percent of the population receive almost as much income as the bottom 20 million families in the United States. That to my mind is not what America is supposed to be.

New data from the Congressional Budget Office shows that the gap between the rich and the poor in terms of income more than doubled from 1979 to 2000. In other words, we are moving in exactly the wrong direction. The gap is such that the wealthiest 1 percent had more money to spend after taxes than the bottom 40 percent. The richest 2.8 million Americans had $950 billion after taxes, while the poorest 110 million had less, 14.4 percent.

Mr. Speaker, it is increasingly common to see in my State of Vermont, and all over this Nation, working people working not at one job, not at two jobs in order to pay the bills, but in more instance than we can imagine, working three jobs, working incredible hours, not 40 hours but 50 hours, 60 hours. Is this what the new global economy is all about, seeing men and women all over America working one, two, three jobs with minimal benefits?

When I was growing up, the expectation of being in the middle class, and I know this is a very radical concept that some young people might find difficult to understand, but the concept then before computers, before the explosion of technology, concept of being in the middle class in those days was that one person in a family could work 40 hours a week and earn enough money to pay the bills and take care of his or her family. Imagine what a radical idea that was, one person. The reality now is that we find very few families in the middle class where one person works 40 hours and earns enough money to pay the bills.

□ 2230

In terms of what is happening to the middle-class, we have lost over 3 million jobs in the last 3 years, and, with 9 million workers unemployed, unemployment is over 6 percent. That is a serious problem. But in truth, the unemployment situation is far worse than that, because official unemployment statistics do not include those workers who are no longer actively searching for work. So if you are in a high unemployment area, if there are no jobs and you are not actively working, you are not included. Those figures do not include workers who are working part-time because they cannot find full-time work. Those figures do not include Ph.D.s who are driving cabs and skilled workers who are doing unskilled labor because there are no jobs around that fit their skills. But, nonetheless, we have 9 million people who are unemployed.

Importantly, of the 3 million jobs that we have lost over the last 3 years, 2.7 million were in the manufacturing sector. This is an issue that I want to spend a moment on, because what is happening in our manufacturing sector today is a disaster for this country and bodes very, very poorly for the future of our Nation.

The bottom line is, and Congress must finally recognize this, our trade policies are failing. NAFTA has failed. Our membership in the WTO has failed. Perhaps, above all, permanent normal trade relations with China, PNTR, has failed.

The time is now, and, in fact, it is long overdue, for the United States Congress to stand up to corporate America, to stand up to the President of the United States, to stand up to editorial writers all over America, all of whom have told us, year after year, how great unfettered free trade would be. Well, the evidence is in. They were wrong. They were horrendously wrong.

They told us that unfettered free trade would create new jobs. Instead, we have lost jobs.

They told us that unfettered free trade would improve the standard of living of the middle-class. Instead, real wages have gone down.

Let us be very clear: The decline of manufacturing is one of the reasons why our middle-class is shrinking and why wages for middle-class workers have declined. When we talk about the loss of 3 million jobs in the last 3 years, we should appreciate that 90 percent of those jobs were lost in manufacturing, and, with the loss of manufacturing jobs, we have seen a decline in real inflation-accounted-for wages over the last 30 years.

Today, American workers in the private sector are earning 8 percent less than they were in 1973; 8 percent less. Now, just think about that for a moment. In the last 30 years there has been a revolution in technology. We all know that. We all know what computers have done, what e-mail has done, what faxes have done, what cell phones and satellite communications have done. We know what robotics in factories have done. In other words, we are a much more productive Nation than we were 30 years ago. Almost every worker is producing more.

Given that reality, that we have new tools that make us more productive, why is it that the average worker in the private sector today is earning 8 percent less than he or she was earning in 1973? This is a major issue that we have got to put up there on the radar screen, and an issue that needs to be discussed all over our country.

Let us be honest about it: Manufacturing in this country today is in a state of collapse. In the last 3 years, we have lost 2.7 million manufacturing jobs, which comprise 16 percent of the total; 16 percent of manufacturing jobs have been lost in the last 3 years.

In my own small State of Vermont, the third smallest State in the country, we have lost some 8,700 manufacturing jobs between January 2001 and August 2003. And here is the tragedy: When we talk about the loss of manufacturing jobs, we are talking about the loss of decent-paying jobs, often with decent benefits.

In Vermont, for example, on average, someone working in manufacturing makes over $42,000 a year. That is a decent income. When that employee loses his or her job, when that job goes to China, in almost every instance the new job that is acquired by that worker pays less and provides lower benefits.

Mr. Speaker, in 2002, the United States had a $435 billion trade deficit; a $435 billion trade deficit. This year, the trade deficit with China alone, one country, China, is expected to be $120 billion, and that number is projected to go up and up and up in future years.

In recent years we have seen the trade deficit rise from $11.5 billion in 1990 to $49 billion in 1997 to $120 billion this year. And here is what is scary; the National Association of Manufacturers estimates that if present trends continue, our trade deficit with China will go up to $330 billion in 5 years.

Now, our disastrous trade policy is not only costing us millions of decent-paying jobs, it is squeezing wages. It is lowering the wages for the average person. Many employers are making it very clear that if workers do not take cuts in their health care coverage or do not take cuts in wages, that they will move operations to China, to Mexico, or elsewhere.

One of the areas where people are most severely hurt is among the young entry level workers, people without a college education.

Mr. Speaker, for entry level workers without a college level education, the real wages, that is, inflation-accounted-for wages, that they receive have dropped by over 28 percent from 1979 to 1997, which are the latest figures that I have seen. The drop for women during that period was only 18 percent.

How did that happen? Why did that happen? Well, the answer is fairly obvious. Twenty-five years ago, 30 years ago, if you graduated high school you had, as often as not, the opportunity to go to work in manufacturing. You did not get rich, but you were able to make a living, you were able to have decent health care and other benefits.

But with the decline of manufacturing, what job opportunities are now open to young workers who do not have a college degree? Well, everybody knows what is open. They can go to work at McDonald's for the minimum wage, or a little bit more than that, or they can go to work at Wal-Mart. But the sad truth is that those jobs do not pay anything close to a living wage.

What I think can best show what is happening in our economy today is that not so many years ago the largest employer in the United States was General Motors, and workers who work at General Motors today and worked at General Motors 20 years ago earned a living wage with decent benefits.

Today, Mr. Speaker, our largest employer is Wal-Mart. And that is what has happened to the American economy. We have gone from a General Motors economy to a Wal-Mart economy, where people earn low wages and miserable benefits. Today, Wal-Mart employees earn $8.23 per hour, or $13,800 annually, wages which are below the poverty level.

In other words, the largest employer in America, Wal-Mart, now pays workers wages that are below the poverty level. Many of these workers qualify for Federal food stamp programs, which means that Wal-Mart is being directly subsidized by U.S. taxpayers. They pay inadequate wages, workers cannot make it, the Federal Government subsidizes Wal-Mart and allows those workers to get food stamps.

Wal-Mart, as you know, has been sued by 27 States for not paying the overtime pay their workers are entitled to, and, recently, on the front pages of our newspapers, Federal agents raided their headquarters and 60 of their stores across the country, arresting 300 illegal workers in 21 States. That is the largest employer in the United States of America.

That is what the transformation of the American economy is all about. We have gone from an economy where workers used to work producing real products, making middle-class wages with good benefits, to a Wal-Mart economy, where our largest employer now pays workers poverty wages with minimal benefits and has a huge turnover.

Frankly, Mr. Speaker, in hindsight, it did not take a genius to predict that unfettered free trade with China would be a disaster. Many of us have been saying that right here on this floor for years. With educated, hard-working Chinese workers available at 30, 40, 50 cents an hour, and with corporations having the capability of bringing their Chinese-made products back into this country tariff-free, why would American multinational corporations not shut down? Why would they not shut down their plants in this country and move to China? It does not take a genius to figure out that that is what they would do, and that is what they are doing.

Should anyone be surprised that Motorola eliminated 42,000 American jobs in 2001 while investing $3.4 billion in China, or that it plans to invest $10 billion there by 2006?

Who is shocked that General Electric has thrown hundreds of thousands of American workers out on the street in the last 30 years, while investing $1.5 billion in China? From 1978 to 1995, GE eliminated 269,000 jobs in the United States. Meanwhile, of course, its former CEO, Jack Welch, managed to put together an estimated fortune of some $900 million for himself.

Boeing has laid off 135,000 American workers. In the last 30 years, General Motors has shrunk their U.S. workforce by 250,000. IBM, another major corporation, has signed deals to train 100,000 software specialists in China over a 3-year period. Honeywell has built 13 factories in China. Ethan Allen Furniture, which does business in my State, has cut jobs at three sawmills and 17 U.S. manufacturing plants. Nobody, nobody, should be surprised at those developments.

China, for American multinational corporations, is a great place to do business, if by "doing business" we mean making products for export back into the United States that companies previously made here. Not only are wages extremely low in China, 30, 40, 50 cents an hour, but if workers attempt to stand up for their rights and they try to form a union, they get arrested. They go to jail.

That is a great place to do business. In the United States we have environmental standards. Factories, plants cannot throw their garbage into the air and into our waterways. Not in China, which is rapidly becoming one of the most polluted countries in the world.

It is a great place to do business: Low wages, people go to jail when they form unions. If people stand up and protest against their former government, they go to jail. Massive pollution. What a wonderful place to go and support the authoritarian government in China.

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Mr. Speaker, I want to read a quote, and I think some of our Members and Americans will really be quite surprised by this quote, but I think it needs to be brought out, and it needs to be discussed, because this is what is going on in America today. This is a quote from Jeffrey Immelt, who is the chairman and CEO of General Electric, obviously one of the largest corporations not only in America, but in the world, and this is what he said at an investor meeting on December 6, 2002, a little less than a year ago. This is the chairman of General Electric: "When I am talking to GE managers, I talk China, China, China, China, China. You need to be there. You need to change the way people talk about it and how they get there. I am a nut on China. Outsourcing from China is going to grow to $5 billion. We are building a tech center in China. Every discussion today has to center on China. The cost basis is extremely attractive. You can take an 18 cubic foot refrigerator, make it in China, land it in the United States, and land it for less than we can make an 18 cubic foot refrigerator today, ourselves." Jeffrey Immelt, Chairman, CEO of General Electric.

There it is. This is not an American company; this is a company prepared to sell out every American worker and run to China where they can exploit people there and bring that product back into this country tariff-free. And it is not just General Electric. I quoted GE. I could have quoted a dozen other corporations.

Mr. Speaker, the trade problem with China is now so severe that it is not only a question of companies located in the United States moving to China, but it is companies located in Mexico moving to China. Everyone knows that Mexican wages are a fraction of the wages in the United States, but for many American corporations and international corporations, wages in Mexico are too high, which is why hundreds of factories have shut down there and have gone to China, causing major problems for Mexico. Mexico cannot compete with China, and we signed a trade agreement with them which says that American workers are supposed to compete against the desperate people of that country.

Over the years, advocates of unfettered free trade have tried to gloss over the bad news about the decline in factory employment by promising that a new high-tech economy was in the making. It would be a new economy in which millions of workers, young people, would be able to be sitting in clean offices, working behind their computers, earning $50,000, $60,000, $70,000 a year. We do not have to worry about those old factory jobs, let them go to China and Mexico, because we have all of these high-tech jobs that are going to pay people really good wages. That is what they told us. Do not worry about blue collar jobs, we have the white collar jobs.

Unfortunately, Mr. Speaker, the advocates of free trade are wrong again. We now know that blue collar manufacturing jobs are not the only casualty of unfettered free trade. Estimates are that some 50,000 to 60,000 high-tech, white collar jobs have been lost in this country in the last 2 years, and that many of them have ended up in India. When Americans argue with the phone company about whether their phone bill is right or wrong, they are not going to be talking to somebody in Boston, New York City or Los Angeles; more often than not, they are going to be talking to somebody in India. That is who we are going to be talking to, more and more. And that whole phenomenon of outsourcing information technology jobs is happening more and more.

According to Forester Research, a major consultant on this issue, they say, "Over the next 15 years, 3.3 million U.S. service industry jobs and $136 billion in wages will move offshore. The information technology industry will lead the initial overseas exodus." That is from Forester Research.

According to Booz Allen Hamilton, companies can lower their costs by as much as 80 percent by shifting tasks such as computer programming, accounting, and procurement to China. That is your job going abroad. Among many other companies moving high-tech jobs abroad is Microsoft, which is spending $750 million over the next 3 years on research and development and outsourcing in China.

Recently, Intel Corporation Chairman Andy Grove warned that the U.S. could lose the bulk of its information technology jobs to overseas competitors in the next decade, largely to India and China.

In other words, Mr. Speaker, not only has unfettered free trade cost us much of our textile industry, our footwear industry, our steel industry, our tool and die industry, our electronics industry, our furniture industry, as well as many, many other industries, it is now going to cost us, unless we change it, millions of high-tech information technology jobs as well.

Mr. Speaker, I want to place into the RECORD a recent press release from the University of California at Berkeley. Its headline is, "UC Berkeley Study Assesses Potential Impacts of Second Wave of Outsourcing Jobs From the U.S.," and this is the way it begins: "A ferocious new wave of outsourcing of white collar jobs is sweeping the United States. According to a new study published by the University of California Berkeley, researchers say the trend could leave as many as 14 million service jobs in the United States vulnerable. Study authors, who are both researchers at the Fisher Center for Real Estate and Urban Economics housed at UC Berkeley's Haas School of Business, say that not all of the jobs are likely to be lost, but they note that jobs remaining in the United States could be subject to pressure to lower wages, and that the jobs that leave may slow the Nation's job growth or generate losses in related activities.

What are those jobs? Well, if you are a telephone operator, watch out. If you deal with health records, if you are a payroll clerk, if you are a legal assistant or a paralegal, if you are an accountant, if you are a financial research analyst, if you work behind a computer, there are folks in India, there are folks in China who can do that job for a fraction of the pay that you are being paid, and your boss is interested in taking that job there.

Now, let me be very clear, Mr. Speaker. The United States needs to have a strong and positive relationship with China. I very much respect the Chinese people, and I am not here attacking China. I am here saying that the President of the United States, corporate America, and the United States Congress have sold out the American worker. China is doing fine. We do not have to criticize them. They are doing very, very well. They just sent a man into space. Their economy is exploding. The problem is not China. The problem is that corporate America, and all of their money, have influenced the United States Congress and the President of the United States. And not just this President, but Mr. Clinton, but Bush the first, but Ronald Reagan before him, into a trade policy which is a disaster.

The bottom line is that American workers should not and cannot be asked to compete against desperate people who make 30 cents or 40 cents an hour. That is wrong.

Now, trade in itself is a good thing. I am not anti-trade. But we need a trade policy, and I know how heretical it is to say this, but we actually need a trade policy that works for America and not just large multinational corporations. We need a trade policy that is fair for the American workers. We want to export our products that are manufactured by American workers, not export the jobs that American workers have. When the New York Yankees are engaged in trade, they do not engage in free trade by which they trade their best ball player for a third-string, minor leaguer, they do not do that. The United States has the most lucrative market in the world, and we are giving it away. Let us engage in trade that works for us, that works for the other side; not engage in trade which is decimating American manufacturing and increasingly, high-tech jobs.

Now is not the time to engage in an accelerated race to the bottom. We should be talking about how wages go up, not down; how poverty is eliminated, not increased. And that is why we need to change our trade policies, and that is why, Mr. Speaker, I have introduced H.R. 3228, which would repeal permanent Normal Trade Relations with China. Let us get it out in the open. Let us not be talking about currency. It is important, but it is not the major issue. The major issue is that our trade agreement with China, permanent normalized trade relations is a disaster. We have to repeal it, and then we can engage in a fair trade agreement with China and with other countries.

I am very happy, Mr. Speaker, to tell my colleagues that since we have introduced that legislation just a few weeks ago, we have garnered 54 cosponsors and it is strongly bipartisan, 14 Republicans are on board that legislation right now, and I appreciate that. We have a tripartisan piece of legislation, and it is something that I know the American people support. If any person in the House of Representatives or elsewhere wants to learn more about that legislation, we have written it up on our Web site which is www.bernie.house.gov. We have a lot of information there about trade and many other important information about what is going on in Congress.

Mr. Speaker, when we talk about the decline of the middle class, when we talk about unemployment going up, wages going down, the loss of decent-paying jobs, we should also talk about what is happening to the quality of life of so many people in our country. We should recognize that the average American today is working incredibly long hours in order to pay the bills. Today, in fact, the average American employee works, by far, the longest hours of any worker in the industrialized world, and that situation is getting worse.

According to statistics from the International Labor Organization, the average American last year worked 1,978 hours, up from 1,942 hours in 1990. That is an increase of almost 1 week of work. Since 1990, the average American is now working an additional week a year.

Now, I see those workers in the State of Vermont and I see them all over the country. They are stressed out. They do not have enough vacation time. They are working day and night just to pay the bills. Again, we want to ask ourselves this simple question: What is going on in our country when we have increased productivity, more technology and, yet, more and more workers earning lower real, inflation-accounted for wages, and they are working incredibly long hours? What is going on in our economy?

The bottom line there is that we have got to begin to create an economy that works for the middle class and not just for the very, very rich. We have to create an economy where people are earning more income so they can work fewer hours, so they have more time to spend in leisure and with their kids and with their families.

I have talked, Mr. Speaker, about what is going on with the middle class. I have talked a little bit about the conversion from a manufacturing society, a General Motors society to a service industry economy, a Wall Street economy. But let us look for a moment at those people who are not even in the middle class. They have not made it into the middle class, those people who are living in poverty. Sadly, Mr. Speaker, while the rich become richer, 1.3 million more Americans became poor and entered poverty just in the last year.

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We now have 34.8 million people who now live in poverty. In the midst of those people, Mr. Speaker, and what is happening, people we have got to ask about the 11 million Americans who are trying to survive on the pathetic minimum wage of $5.15 an hour.

And I wonder how it is that in this great institution we can lower taxes for billionaires, but I have not heard one word from the President of the United States about the need to raise the minimum wage above the pathetic level of $5.15 an hour.

Now, how does somebody survive who makes $5.15 an hour or $6 an hour. Does anybody care? Well, I will tell you how some of them do it. After working 40 hours a week, some of these workers, full-time employees, go to sleep, not in their houses, not in their apartments, but in their automobiles because they cannot afford the housing units that are available in their region.

And what, Mr. Speaker, about the 43.6 million Americans who lack any health insurance at all? What happens to those people? That is over 15 percent of our population. And what about the 3½ million people who will experience homelessness this year, 1.3 million of them children? And what about our elderly citizens who cannot afford their prescription drugs, who shrug their shoulders and nod their heads when doctors write out a prescription because they do not have the money to fill those prescriptions? How many of them die? How many of them see a deterioration in their health?

And what about the veterans, the veterans who have put their lives on the line defending this country and then try to get into a VA hospital that they are entitled to get into but they find out that they have to be placed on a waiting list? They were not placed on a waiting list when they were going off to fight, but now to get the health benefits they are entitled to, they are placed on a waiting list.

And just last year the President of the United States, after giving huge tax breaks to the richest 1 percent, threw over 150,000 veterans off of VA health care. Tax breaks for billionaires, inadequate funding for our veterans.

In the last several years we have seen huge increases in health insurance costs. And with the increase of unemployment, we have seen more and more working people lose their health insurance. And what happens to those people? What happens if you have no health insurance and you have an automobile accident and you end up in the hospital? Well, I tell you what happens. You go bankrupt. And the largest single cause of bankruptcy, personal bankruptcy in this country are for people who cannot pay the medical costs that have been generated because of an accident or an illness.

Mr. Speaker, our health care system today is a disgrace and is in a state of disintegration. More and more people are uninsured and more and more people are underinsured, that is, they have to pay higher and higher copayments, higher and higher deductibles, higher and higher premiums. There are millions of Americans today who have insurance, but who hesitate to go to the doctor when they should be going because they cannot afford the deductible and the copayment. And doctors will tell you that the patients they are seeing today are far sicker than the patients they used to see because people simply cannot afford payments out of their own pocket.

In my mind, the only solution to our health care crisis, the only right thing to do to really address the disintegration of our health care system is to do what every other major industrialized nation on Earth has done, and that is to move toward a national health care system which guarantees health care to every man, woman, and child as a right of citizenship.

The reality of our health care nonsystem is not only that 43 million Americans are uninsured, not only that more and more are underinsured, not only that we pay the highest prices in the world for prescription drugs; but the reality is that this system is the most wasteful and bureaucratic system in the world. Many people do not know this, but in the United States we spends twice as much as the Canadians, three times as much per person as the United Kingdom spends. And those countries provide health care to all of their people.

And study after study shows that if we moved toward a single-pay national health care system, we can guarantee health care to all of our people, quality health care, freedom of choice for the doctor that you want to go to and not spend one penny more than we are currently spending on our disintegrating nonsystem. And, Mr. Speaker, that is what we have got to do. We can no longer tolerate the disgrace of tens of millions of people being uninsured, people going bankrupt because they get ill, people delaying going to the doctor.

In areas of this country dental care is a disaster. Children have rotting teeth in their mouths because there are no dentists who will treat them or dentists available in the area. We need to finally move toward a national health care system and make health care a right of all people.

Now, Mr. Speaker, those are some of the problems facing our country. Poverty is increasing. Middle class is shrinking. Rich are growing richer. Large corporations and their CEOs, while they hide behind the American flag and they tell us how much they love America, they are prepared to throw millions of American workers out on the street and move to an authoritarian China because they can make more money there.

Now, I wish I could say, Mr. Speaker, that the Bush administration is in any rational way responding to these problems. But I think it really would be impossible to say that. Instead of addressing the very serious problems facing our veterans, facing our children, facing public education, facing the fact that middle-class families are finding it harder and harder to send their kids to college, instead of addressing the crisis of the high cost of prescription drugs, the proudest achievement of the Bush administration is huge tax breaks, 40 percent of which went to the wealthiest 1 percent.

And in the midst of all of this, in the midst of workers working longer hours for lower wages, the decline of manufacturing, the Bush administration, if one can believe it, is now attacking overtime pay for American workers. Can you imagine that? Attacking overtime pay for American workers and trying to undo laws that have been on the books for decades which say that if you work over 40 hours a week you will get time and a half.

I am very proud that a number of Republicans joined many of us Democrats, Independents, on the floor of this House to say that that is wrong and that in fact we were not going to cut back on the overtime pay that workers earn and deserve.

Now, when we talk about the Bush administration, we should also point out a very strange irony. The President considers himself a conservative. That is fine. But, generally speaking, conservatives have told us over and over again, year after year after year, what a terrible thing it is to grow the deficit and grow the national debt because when you do that they have told us, and they were right, you are simply passing on today's problems to our children and our grandchildren. Over and over again I have heard from these podiums right here how terrible it is to grow the deficit. Well, guess what? We now have the largest deficit this year in modern American history and the largest national debt that we have ever had.

□ 2310

In the midst of that and accelerating that deficit and accelerating that national debt are the huge tax breaks that the President and the Republican leadership have given to the wealthy.

Now some people, many conservatives, they say why would a conservative President grow the deficit and grow the national debt. That is not conservative. Let me suggest my view as to why they are doing that. We can all understand that if the wealthy contribute large amounts of money, you are going to give them a tax break. I think that is obscene, but that is nothing new; that is politics. But there is something more cynical going on here. That is, I believe, by driving up the national debt and the deficit, what the President is saying is that we will be so deeply in debt that we have got to tear apart many of the important social programs that have protected tens and tens and millions of Americans.

It is my opinion that in many respects this President wants to undue many of the major gains that were won by working people over the last 100 years and bring us back to the 19th century where workers had no guarantees, and when trouble struck them and their families, they were dependent on charity and the largess of the wealthy.

I think that is one of the reasons why this national debt is going up, so the President and future Presidents will be able to say we can no longer afford to maintain Social Security; let us privatize it. We can no longer afford to protect Medicare; let us privatize it. Let us do away with Medicaid. Let us do away with the Veterans Administration. Let us do away with Pell grants. We cannot afford it. I think what this administration is doing, and this is the most right-wing administration in modern history, is essentially trying to remove all of the protections that the elderly, the poor, the sick, and the young have and were won over the last 100 years. That is what I think is going on, and I think that is a very, very dangerous trend.

Mr. Speaker, let me conclude my remarks by mentioning that this weekend I am going to be going to Madison, Wisconsin, to participate in a major media conference where we expect some 1,500 people from all over the country. I want to congratulate some of the organizers of that conference, Bob McChesney, John Nichols and many others for putting it together. The issue that they are going to be talking about and I will be talking about is the danger that faces our country when a handful of huge media conglomerates increasingly own and control what we see, hear, and read.

On June 2, the FCC by a 3–2 vote voted to make a bad situation worse and to allow even fewer large media conglomerates to control more and more media. That certainly will be one of the many issues that that conference will be dealing with.

I believe it is a very frightening day for democracy when so few large corporations control so much of the flow of information in this country. And if we are not able to overturn that FCC decision, and I and many of us are working hard on that, the day could come in the not-too-distant future where in a community like Burlington, Vermont, you can have one company owning the major television station, the major newspaper, and a number of radio stations. That is one of the rules that was undone; the prevention of that was one of the rules that the FCC just eliminated.

Now the good news is that the United States Senate, the other body, voted for a resolution of disapproval against that by a 55–40 vote. Liberals and conservatives came together, Republicans and Democrats came together and said that is not what media should become in America.

Mr. Speaker, I have a letter which has 205 signatures on it for the Speaker of the House, and it says to the Speaker, let the U.S. House of Representatives have a vote on doing what the other body did. Let us also have the opportunity to vote for a resolution of disapproval regarding the FCC decision. Three million Americans have contacted the FCC, and I think we should listen to those Americans, and I think the Speaker should give us a vote.

RECESS

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 16 minutes p.m.), the House stood in recess subject to the call of the Chair.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5101. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate [Docket No. FV03-931-1 FR] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5102. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Processed Fruits and Vegetables—received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5103. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—National Organic Program; Amendments to the National List of Allowed and Prohibited Substances [Docket Number TM-02-03] (RIN: 0581-AC19) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5104. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Mexican Fruit Fly; Removal of Regulated Area [Docket No. 02-129-4] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5105. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Joseph M. Cosumano, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5106. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John S. Caldwell, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5107. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets [Docket No. 03-21] (RIN: 1557-AC76); Federal Reserve System [Regulations H and Y; Docket No. R-1156]; Federal Deposit Insurance Corporation (RIN: 3064-AC74); Office of Thrift Supervision [No. 2003-48] (RIN: 1550-AB79) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5108. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—Rehabilitation Continuing Education Programs (RIN: 1820-ZA14) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5109. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Skin Pretectant Drug Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Direct Final Rule; Confirmation of Effective Date [Docket No. 78N-021A] (RIN: 0910-AA01) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5110. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose of Packaging Requirements; Removal of Regulations for Unit-Dose Packaging Requirements; Removal of Regulations for Unit-Dose Packaging for Dietary Supplements and Drugs [Docket Nos. 91P-018 6 and 93P-0306] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5111. A letter from the Regulations Coordinator, OP/RPMS, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals [Docket No. 2003N-0400] (RIN: 0910-ZA21) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5112. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Cambria, California) [MB Docket No. 03-182; RM-10757] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5113. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Wright City, Oklahoma) [MM Docket No. 01-255; RM-10265] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5114. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charles Town, West Virginia and Stephens City, Virginia) [MB Docket No. 03-12; RM-10627] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5115. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendmet of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Crowell, Texas) [MB Docket No. 03-168; RM-10747]; (Florien, Louisiana) [MB Docket No. 03-169; RM-10748] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5116. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Lamont and McFarland, California) [MB Docket No. 03-64; RM-10672] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5117. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendmet of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Dickens, Texas) [MB Docket No. 02-258; RM-10500]; (Floydada, Texas) [MB Docket No. 02-259; RM-10501]; (Rankin, Texas) [MB Docket No. 02-262; RM-10504]; (San Diego, Texas) [MB Docket No. 02-264; RM-10505]; (Westbrook, Texas) [MB Docket No. 02-265; RM-10556] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5118. A letter from the Senior Legal Advisor to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cobleskill and Saint Johnsville, New York) [MM Docket No. 00-40; RM-9824] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5119. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102]; Non-Initialized Phones [RM-8143] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5120. A letter from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service [MM Docket No. 99-325] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5121. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5122. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67]; Petition for Clarification of WorldCom, Inc.—received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5123. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 28000 kHz [ET Docket No. 02-16] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5124. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule— Amendment of the Commission's Rules To Establish New Personal Communications Services, Narrowband PCS; Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Narrowband PCS [GEN Docket No. 90-314, ET Docket No. 92-100 and PP Docket No. 93-253; FCC 01-135] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5125. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures [WT Docket No. 97-82] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5126. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Multiple Address Systems [WT Docket No. 97-81] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5127. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 90.20(e)(6) of the Commission's Rules to revise the Authorized Duty Cycle on 173.075 MHz [WT Docket No. 01-97; RM-9798] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5128. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010 [WT Docket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5129. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the 4.9 GHz Band Transferred from Federal Government Use [WT Docket No. 00-32] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5130. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended [WT Docket No. 99-87]; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies [RM-9332]; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz [RM-9405]; Petition for Rule Making of The American Mobile Telecommunications Association [RM-9705] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5131. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—1998 Biennial Regulatory Review--47 C.F.R. Part 90—Private Land Mobile Radio Services [WT Docket No. 98-182; RM-9222] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce..

5132. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—2000 Biennial Regulatory Review-Spectrum Aggregation Limits for Commercial Mobile Radio Services [WT Docket No. 01-14; FCC 01-328] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5133. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico [FCC 01-387] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5134. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Competitive Bidding Rules to License Certain Rural Service Areas [WT Docket No. 01-32; FCC-02-09] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5135. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010 [WT DOcket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5136. A letter from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Addition of Kazakhstan to the Nuclear Suppliers Group (NSG), and other revisions [Docket No.

031010256-3256-01] (RIN: 0694-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5137. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation [AAG/A Order No. 019-2003] received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5138. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Contract Bundling [FAC 2001-17; FAR Case 2002-029] (RIN: 9000-AJ58) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5139. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—New River Gorge National River Hunting Regulation (RIN: 1024-AD12) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5140. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Glen Canyon National Recreation Area, PWC Use (RIN: 1024-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5141. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Special Regulations, Areas of the National Park System; Saguaro National Park, Designated Bicycle Routes (RIN 1024-AD10) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5142. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Assateague Island National Seashore, Personal Watercraft Use (RIN 1024-AD02) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5143. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Serivce, Department of the Interior, transmitting the Department's final rule—Migratory Bird Permits; Regulations Governing Rehabilitation Activites and Permit Exceptions (RIN: 1018-AH87) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5144. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Texas Regulatory Program [TX-50-FOR] received Novmber 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5145. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Wyoming Regulatory Program [WY-031-FOR Rule Package 1J] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5146. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Great Channel Between Stone Harbor and Nummy Island, NJ [CGD05-03-050] (RIN: 1625-AA-09) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5147. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone: Port Valdez and Valdez Narrows, Valdez, AK [COTP Prince Wiliam Sound 03-002] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5148. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Casotte, Chevron Pascagoula Refinery Pascagoula, MS [COTP Mobile-03-022] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5149. A letter from the Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting the Department's final rule—Standard Time Zone Boundry in the State of South Dakota: Relocation of Jones, Mellette, and Todd Counties [Docket No. OST-2003-15858] (RIN: 2105-AD30) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5150. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series Airplanes [Docket No. 2000-CE-45-AD; Amendment 39-13313; AD 2003-19-10] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5151. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42-200, -300, -320, and -500 Series Airplanes; and Model ATR72 Series Airplanes [Docket No. 2001-NM-306-AD; Amendment 39-13298; AD 2003-18-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5152. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-54-AD; Amendment 39-13133; AD 2003-09-04] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5153. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming Fuel Injected Reciprocating Engines [Docket No. 97-ANE-50-AD; Amendment 39-133222; AD 2003-14-03] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5154. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, and 200 Series Airplanes [Docket No. 2002-CE-45-AD; Amendment 39-13218; AD 2003-13-16] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5155. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model 369A, D, E, H, HE, HM, HS, F, and FF Helicopters [Docket No. 2003-SW-17-AD; Amendment 39-13215; AD 2003-08-51] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5156. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters [Docket No. 2003-SW-26-AD; Amendment 39-13198; AD 2003-12-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4090, and PW4090-3 Turbofan Engines [Docket No. 2003-NE-24-AD; Amendment 39-13211; AD 2003-13-11] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5158. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers and Harland Ltd. Models SC-7 Series 2 and SC-7 Series 3 Airplanes [Docket No. 2003-CE-15-AD; Amendment 39-13207; AD 2003-13-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5159. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Goodrich Avionics Systems, Inc. TAWS8000 Terrain Awareness Warning System [Docket No. 2003-CE-25-AD; Amendment 39-13208; AD 2003-13-08] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5160. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2003-NM-101-AD; Amendment 39-13209; AD 2003-13-09] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5161. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2001-NM-109-AD; Amendment 39-13288; AD 2003-17-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5162. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30378; Amdt. No. 3067] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5163. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Jet Route J-147 [Docket No. FAA-2003-15363; Airspace Docket No. 03-AEA-3] (RIN: 2120-AA66) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the

Committee on Transportation and Infrastructure.

5164. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Pilot Point, AK [Docket No. FAA-2003-14855; Airspace Docket No. 03-AAL-04] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5165. A letter from the Assistant Secretary, Department of Labor, transmitting the Department's final rule—Unemployment Compensation—Trust Fund Integrity Rule; Birth and Adoption Unemployment Compensation; Removal of Regulations (RIN: 1205-AB33) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5166. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—No Portion of Bonds May Be Issued for Skyboxes, Airplanes, Gambling Establisments, Etc. (Rev. Rul. 2003-116) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HASTINGS of Washington) at 8 o'clock and 16 minutes a.m., Friday, November 7, 2003

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mrs. MYRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 108–355) on the resolution (H. Res. 437) waiving points of order against the conference report to accompany the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for mlitary construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT (H. REPT. 108–354)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1588), to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 2004".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.

Subtitle B—Army Programs

Sec. 111. Stryker vehicle program.
Sec. 112. CH–47 helicopter program.

Subtitle C—Navy Programs

Sec. 121. Multiyear procurement authority for F/A–18 aircraft program.
Sec. 122. Multiyear procurement authority for Tactical Tomahawk cruise missile program.
Sec. 123. Multiyear procurement authority for Virginia class submarine program.
Sec. 124. Multiyear procurement authority for E–2C aircraft program.
Sec. 125. Multiyear procurement authority for Phalanx Close In Weapon System program.
Sec. 126. Pilot program for flexible funding of cruiser conversions and overhauls.

Subtitle D—Air Force Programs

Sec. 131. Elimination of quantity limitations on multiyear procurement authority for C–130J aircraft.
Sec. 132. Limitation on retiring C–5 aircraft.
Sec. 133. Limitation on obligation of funds for procurement of F/A–22 aircraft.
Sec. 134. Aircraft for performance of aerial refueling mission.
Sec. 135. Procurement of tanker aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Collaborative program for development of electromagnetic gun technology.
Sec. 212. Leadership and duties of Department of Defense Test Resource Management Center.
Sec. 213. Development of the Joint Tactical Radio System.
Sec. 214. Future Combat Systems.
Sec. 215. Extension of reporting requirement for RAH–66 Comanche aircraft program.
Sec. 216. Studies of fleet platform architectures for the Navy.

Subtitle C—Ballistic Missile Defense

Sec. 221. Enhanced flexibility for ballistic missile defense systems.
Sec. 222. Fielding of ballistic missile defense capabilities.
Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.
Sec. 224. Renewal of authority to assist local communities affected by ballistic missile defense system test bed.
Sec. 225. Prohibition on use of funds for nuclear-armed interceptors in missile defense systems.
Sec. 226. Follow-on research, development, test, and evaluation related to system improvements for missile defense programs transferred to military departments.

Subtitle D—Other Matters

Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.
Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.
Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.
Sec. 234. Department of Defense program to expand high-speed, high-bandwidth capabilities for network-centric operations.
Sec. 235. Blue forces tracking initiative.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

Sec. 311. Reauthorization and modification of title I of Sikes Act.
Sec. 312. Clarification of Department of Defense response to environmental emergencies.
Sec. 313. Repeal of authority to use environmental restoration account funds for relocation of a contaminated facility.
Sec. 314. Authorization for Department of Defense participation in wetland mitigation banks.
Sec. 315. Inclusion of environmental response equipment and services in Navy definitions of salvage facilities and salvage services.
Sec. 316. Repeal of model program for base closure environmental restoration.
Sec. 317. Requirements for restoration advisory boards and exemption from Federal Advisory Committee Act.
Sec. 318. Military readiness and conservation of protected species.
Sec. 319. Military readiness and marine mammal protection.
Sec. 320. Report regarding impact of civilian community encroachment and certain legal requirements on military installations and ranges and plan to address encroachment.
Sec. 321. Cooperative water use management related to Fort Huachuca, Arizona, and Sierra Vista subwatershed.
Sec. 322. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.
Sec. 323. Public health assessment of exposure to perchlorate.
Sec. 324. Comptroller General review of Arctic Military Environmental Cooperation program.

Subtitle C—Workplace and Depot Issues

Sec. 331. Exemption of certain firefighting service contracts from prohibition on contracts for performance of firefighting functions.

Sec. 332. Technical amendment relating to closure of Sacramento Army Depot, California.

Sec. 333. Exception to competition requirement for depot-level maintenance and repair workloads performed by depot-level activities.

Sec. 334. Resources-based schedules for completion of public-private competitions for performance of Department of Defense functions.

Sec. 335. Delayed implementation of revised Office of Management and Budget Circular A-76 by Department of Defense pending report.

Sec. 336. Pilot program for best-value source selection for performance of information technology services.

Sec. 337. High-performing organization business process reengineering pilot program.

Sec. 338. Naval Aviation Depots multi-trades demonstration project.

Subtitle D—Other Matters

Sec. 341. Cataloging and standardization for defense supply management.

Sec. 342. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.

Sec. 343. Permanent authority for purchase of certain municipal services at installations in Monterey County, California.

Sec. 344. Department of Defense telecommunications benefit.

Sec. 345. Independent assessment of material condition of the KC–135 aerial refueling fleet.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.

Sec. 402. Revision in permanent active duty end strength minimum levels.

Sec. 403. Personnel strength authorization and accounting process.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.

Sec. 412. End strengths for Reserves on active duty in support of the reserves.

Sec. 413. End strengths for military technicians (dual status).

Sec. 414. Fiscal year 2004 limitations on non-dual status technicians.

Sec. 415. Permanent limitations on number of non-dual status technicians.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.

Sec. 422. Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Matters

Sec. 501. Standardization of qualifications for appointment as service chief.

Sec. 502. Eligibility for appointment as Chief of Army Veterinary Corps.

Sec. 503. Repeal of required grade of defense attaché in France.

Sec. 504. Repeal of termination provisions for certain authorities relating to management of general and flag officers in certain grades.

Sec. 505. Retention of health professions officers to fulfill active-duty service commitments following promotion nonselection.

Sec. 506. Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.

Sec. 507. Contingent exclusion from officer strength and distribution-in-grade limitations for officer serving as Associate Director of Central Intelligence for Military Support.

Sec. 508. Reappointment of incumbent Chief of Naval Operations.

Sec. 509. Secretary of Defense approval required for practice of wearing uniform insignia of higher grade known as "frocking".

Subtitle B—Reserve Component Matters

Sec. 511. Streamlined process for continuation of officers on the Reserve Active-Status List.

Sec. 512. Consideration of Reserve officers for position vacancy promotions in time of war or national emergency.

Sec. 513. Authority for delegation of required secretarial special finding for placement of certain retired members in Ready Reserve.

Sec. 514. Authority to provide expenses of Army and Air Staff personnel and National Guard Bureau personnel attending national conventions of certain military associations.

Sec. 515. Expanded authority for use of Ready Reserve in response to terrorism.

Sec. 516. National Guard officers on active duty in command of National Guard units.

Sec. 517. Presidential report on mobilization of reserve component personnel and Secretary of Defense assessment.

Sec. 518. Authority for the use of operation and maintenance funds for promotional activities of the National Committee for Employer Support of the Guard and Reserve.

Subtitle C—ROTC and Military Service Academies

Sec. 521. Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships.

Sec. 522. Increase in allocation of scholarships under Army Reserve ROTC scholarship program to students at military junior colleges.

Sec. 523. Authority for nonscholarship senior ROTC sophomores to voluntarily contract for and receive subsistence allowance.

Sec. 524. Appointments to military service academies from nominations made by delegates from Guam, Virgin Islands, and American Samoa.

Sec. 525. Readmission to service academies of certain former cadets and midshipmen.

Sec. 526. Defense task force on sexual harassment and violence at the military service academies.

Sec. 527. Actions to address sexual harassment and violence at the service academies.

Sec. 528. Study and report related to permanent professors at the United States Air Force Academy.

Sec. 529. Dean of the faculty of the United States Air Force Academy.

Subtitle D—Other Military Education and Training Matters

Sec. 531. Authority for the Marine Corps University to award the degree of Master of Operational Studies.

Sec. 532. Authorization for Naval Postgraduate School to provide instruction to enlisted members participating in certain programs.

Sec. 533. Cost reimbursement requirements for personnel receiving instruction at the Air Force Institute of Technology

Sec. 534. Inclusion of accrued interest in amounts that may be repaid under Selected Reserve critical specialties education loan repayment program.

Sec. 535. Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund.

Sec. 536. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Sec. 537. Impact aid eligibility for heavily impacted local educational agencies affected by privatization of military housing.

Subtitle E—Administrative Matters

Sec. 541. High-tempo personnel management and allowance.

Sec. 542. Enhanced retention of accumulated leave for high-deployment members.

Sec. 543. Standardization of statutory authorities for exemptions from requirement for access to secondary schools by military recruiters.

Sec. 544. Procedures for consideration of applications for award of the Purple Heart medal to veterans held as prisoners of war before April 25, 1962.

Sec. 545. Authority for Reserve and retired regular officers to hold State and local office notwithstanding call to active duty.

Sec. 546. Policy on public identification of casualties.

Sec. 547. Space personnel career fields.

Sec. 548. Department of Defense Joint Advertising, Market Research, and Studies program.

Sec. 549. Limitation on force structure reductions in Naval and Marine Corps Reserve aviation squadrons.

Subtitle F—Military Justice Matters

Sec. 551. Extended limitation period for prosecution of child abuse cases in courts-martial.

Sec. 552. Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.

Subtitle G—Benefits

Sec. 561. Additional classes of individuals eligible to participate in the Federal long-term care insurance program.

Sec. 562. Authority to transport remains of retirees and retiree dependents who die in military treatment facilities.

Sec. 563. Eligibility for dependents of certain mobilized reservists stationed overseas to attend defense dependents schools overseas.

Subtitle H—Domestic Violence

Sec. 571. Travel and transportation for dependents relocating for reasons of personal safety.

Sec. 572. Commencement and duration of payment of transitional compensation.

Sec. 573. Exceptional eligibility for transitional compensation.
Sec. 574. Types of administrative separations triggering coverage.
Sec. 575. Comptroller General review and report.
Sec. 576. Fatality reviews.
Sec. 577. Sense of Congress.

Subtitle I—Other Matters

Sec. 581. Recognition of military families.
Sec. 582. Permanent authority for support for certain chaplain-led military family support programs.
Sec. 583. Department of Defense-Department of Veterans Affairs Joint Executive Committee.
Sec. 584. Review of the 1991 death of Marine Corps Colonel James E. Sabow.
Sec. 585. Policy on concurrent deployment to combat zones of both military spouses of military families with minor children.
Sec. 586. Congressional notification of amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.
Sec. 587. Study of National Guard Challenge Program.
Sec. 588. Findings and sense of Congress on reward for information leading to resolution of status of members of the Armed Forces who remain unaccounted for.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2004.
Sec. 602. Revised annual pay adjustment process.
Sec. 603. Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service.
Sec. 604. Special subsistence allowance authorities for members assigned to high-cost duty location or under other unique and unusual circumstances.
Sec. 605. Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty.
Sec. 606. Temporary increase in authorized amount of family separation allowance.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Hazardous duty pay for duty involving ski-equipped aircraft on Antarctica or the Arctic icepack.
Sec. 616. Special pay for reserve officers holding positions of unusual responsibility and of critical nature.
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Sec. 3631. Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

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Sec. 124. Multiyear procurement authority for E–2C aircraft program.
Sec. 125. Multiyear procurement authority for Phalanx Close In Weapon System program.
Sec. 126. Pilot program for flexible funding of cruiser conversions and overhauls.

Subtitle D—Air Force Programs

Sec. 131. Elimination of quantity limitations on multiyear procurement authority for C–130J aircraft.
Sec. 132. Limitation on retiring C–5 aircraft.
Sec. 133. Limitation on obligation of funds for procurement of F/A–22 aircraft.
Sec. 134. Aircraft for performance of aerial refueling mission.
Sec. 135. Procurement of tanker aircraft.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Army as follows:

(1) For aircraft, $2,098,985,000.

(2) For missiles, $1,549,462,000.

(3) For weapons and tracked combat vehicles, $1,997,304,000.

(4) For ammunition, $1,413,305,000.

(5) For other procurement, $4,365,246,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Navy as follows:

(1) For aircraft, $9,009,948,000.

(2) For weapons, including missiles and torpedoes, $2,233,534,000.

(3) For shipbuilding and conversion, $11,729,984,000.

(4) For other procurement, $4,739,143,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Marine Corps in the amount of $1,123,499,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement of ammunition for the Navy and the Marine Corps in the amount of $924,355,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2004 for procurement for the Air Force as follows:

(1) For aircraft, $12,035,151,000.

(2) For ammunition, $1,284,725,000.

(3) For missiles, $4,298,505,000.

(4) For other procurement, $11,631,859,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2004 for Defense-wide procurement in the amount of $3,768,506,000.

Subtitle B—Army Programs

SEC. 111. STRYKER VEHICLE PROGRAM.

(a) LIMITATION.—Of the funds authorized to be appropriated under section 101 for procurement for the Army for fiscal year 2004 that are available for the Stryker vehicle program, not more than 80 percent may be obligated until—

(1) the Secretary of the Army has submitted to the Deputy Secretary of Defense the report specified in subsection (b);

(2) the Secretary of Defense has submitted to the congressional defense committees the report referred to in subsection (c); and

(3) a period of 30 days has elapsed after the date of the receipt by those committees of the report and certification under paragraph (2).

(b) SECRETARY OF THE ARMY REPORT.—The report referred to in subsection (a)(1) is the report required to be submitted by the Secretary of the Army to the Deputy Secretary of Defense not later than July 8, 2003, that identifies options for modifications to the equipment and configuration of the Army brigades designated as "Stryker brigade combat teams" to assure that those brigades, after incorporating such modifications, provide—

(1) a higher level of combat capability and sustainability;

(2) a capability across a broader spectrum of combat operations; and

(3) a capability to be employed independently of higher-level command formations and support.

(c) SECRETARY OF DEFENSE REPORT.—The Secretary of Defense shall transmit to the congressional defense committees, not later than 30 days after the date of the receipt by the Deputy Secretary of Defense of the report of the Secretary of the Army referred to in subsection (b), the modification options identified by the Secretary of the Army for purposes of that report.

The Secretary of Defense shall include any comments that may be applicable to the analysis of the Secretary of the Army's report.

SEC. 112. CH–47 HELICOPTER PROGRAM.

(a) Requirement for Study.—The Secretary of the Army shall conduct a study of the feasibility and the costs and benefits of providing for the participation of a second source in the production of gears for the helicopter transmissions incorporated into CH–47 helicopters to be procured by the Army with funds authorized to be appropriated by this Act.

(b) Report.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a).

Subtitle C—Navy Programs

SEC. 121. MULTIYEAR PROCUREMENT AUTHORITY FOR F/A–18 AIRCRAFT PROGRAM.

The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2005 program year, for procurement of aircraft in the F/A–18E, F/A–18F, and EA–18G configurations. The total number of aircraft procured through a multiyear contract under this section may not exceed 234.

SEC. 122. MULTIYEAR PROCUREMENT AUTHORITY FOR TACTICAL TOMAHAWK CRUISE MISSILE PROGRAM.

(a) Authority.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of Tactical Tomahawk cruise missiles. The total number of missiles procured through a multiyear contract under this section shall be determined by the Secretary of the Navy, based upon the funds available, but not to exceed 900 in any year.

(b) Tactical Tomahawk Cruise Missiles.—The Secretary of the Navy may not enter into a contract authorized by subsection (a) until the Secretary—

(1) determines on the basis of operational testing that the Tactical Tomahawk Cruise Missile is effective for fleet use; and

(2) submits notice of such determination to the congressional defense committees.

SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR VIRGINIA CLASS SUBMARINE PROGRAM.

(a) Authority.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of Virginia-class submarines.

(b) Limitation.—The Secretary of the Navy may not enter into a contract authorized by subsection (a) until—

(1) the Secretary submits to the congressional defense committees a certification that the Secretary has made each of the findings with respect to such contract specified in subsection (a) of section 2306b of title 10, United States Code; and

(2) a period of 30 days has elapsed after the date of the transmission of such certification.

(c) Applicability of Shipbuilder Teaming Law.—Paragraphs (2)(A), (3), and (4) of section 121(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1648) shall apply in the exercise of authority to enter into a multiyear contract under subsection (a).

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR E–2C AIRCRAFT PROGRAM.

(a) Aircraft.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of E–2C and TE–2C aircraft.

(b) Engines.—The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement of engines for aircraft in the E–2C or TE–2C configuration.

(c) Limitation on Term of Contracts.—Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this section may not be for a period in excess of four program years.

SEC. 125. MULTIYEAR PROCUREMENT AUTHORITY FOR PHALANX CLOSE IN WEAPON SYSTEM PROGRAM.

The Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2004 program year, for procurement for the Phalanx Close In Weapon System program, Block 1B.

SEC. 126. PILOT PROGRAM FOR FLEXIBLE FUNDING OF CRUISER CONVERSIONS AND OVERHAULS.

(a) Establishment.—The Secretary of the Navy may carry out a pilot program of flexible funding of conversions and overhauls of cruisers of the Navy in accordance with this section.

(b) Authority.—Under the pilot program, the Secretary may, subject to subsection (d), transfer amounts described in subsection (c) to the appropriation for the Navy for procurement for shipbuilding and conversion for any fiscal year to continue to provide funds for any conversion or overhaul of a cruiser of the Navy for which funds were initially provided from the appropriation to which transferred.

(c) Funds Available for Transfer.—The amounts available for transfer under this section are amounts appropriated to the Navy for any fiscal year after fiscal year 2003 and before fiscal year 2013 for the following purposes:

(1) For procurement, as follows:

(A) For shipbuilding and conversion.

(B) For weapons procurement.

(C) For other procurement.

(2) For operation and maintenance.

(d) Limitations.—(1) A transfer may be made with respect to a cruiser under this section only to meet either (or both) of the following requirements:

(A) An increase in the size of the workload for conversion or overhaul to meet existing requirements for the cruiser.

(B) A new conversion or overhaul requirement resulting from a revision of the original baseline conversion or overhaul program for the cruiser.

(2) A transfer may not be made under this section before the date that is 30 days after the date on which the Secretary of the Navy transmits to the congressional defense committees a written notification of the intended transfer. The notification shall include the following matters:

(A) The purpose of the transfer.

(B) The amounts to be transferred.

(C) Each account from which the funds are to be transferred.

(D) Each program, project, or activity from which the funds are to be transferred.

(E) Each account to which the funds are to be transferred.

(F) A discussion of the implications of the transfer for the total cost of the cruiser conversion or overhaul program for which the transfer is to be made.

(e) Merger of Funds.—Amounts transferred to an appropriation with respect to the conversion or overhaul of a cruiser under this section shall be credited to and merged with other funds in the appropriation to which transferred and shall be available for the conversion or overhaul of such cruiser for the same period as the appropriation to which transferred.

(f) Relationship to Other Transfer Authority.—The authority to transfer funds under this section is in addition to any other authority provided by law to transfer appropriated funds and is not subject to any restriction, limitation, or procedure that is applicable to the exercise of any such other authority.

(g) Final Report.—Not later than October 1, 2011, the Secretary of the Navy shall submit to the congressional defense committees a report containing the Secretary's evaluation of the efficacy of the authority provided under this section.

(h) Termination of Program.—No transfer may be made under this section after September 30, 2012.

Subtitle D—Air Force Programs

SEC. 131. ELIMINATION OF QUANTITY LIMITATIONS ON MULTIYEAR PROCUREMENT AUTHORITY FOR C–130J AIRCRAFT.

Section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2475) is amended by striking "up to 40 C-130J aircraft in the CC–130J configuration and up to 24 C–130J aircraft in the KC–130J configuration" and inserting "C–130J aircraft in the CC–130J and KC–130J configurations".

SEC. 132. LIMITATION ON RETIRING C–5 AIRCRAFT.

(a) Limitation.—The Secretary of the Air Force may not proceed with a decision to retire C–5A aircraft from the active inventory of the Air Force in any number that would reduce the total number of such aircraft in the active inventory below 112 until—

(1) the Air Force has modified a C–5A aircraft to the configuration referred to as the Reliability Enhancement and Reengining Program (RERP) configuration, as planned under the C–5 System Development and Demonstration program as of May 1, 2003; and

(2) the Director of Operational Test and Evaluation of the Department of Defense—

(A) conducts an operational evaluation of that aircraft, as so modified; and

(B) provides to the Secretary of Defense and the congressional defense committees an operational assessment.

(b) Operational Evaluation.—An operational evaluation for purposes of paragraph (2)(A) of subsection (a) is an evaluation, conducted during operational testing and evaluation of the aircraft, as so modified, of the performance of the aircraft with respect to reliability, maintainability, and availability and with respect to critical operational issues.

(c) Operational Assessment.—An operational assessment for purposes of paragraph (2)(B) of subsection (a) is an operational assessment of the program to modify C–5A aircraft to the configuration referred to in subsection (a)(1) regarding both overall suitability and deficiencies of the program to improve performance of the C–5A aircraft relative to requirements and specifications for reliability, maintainability, and availability of that aircraft as in effect on May 1, 2003.

SEC. 133. LIMITATION ON OBLIGATION OF FUNDS FOR PROCUREMENT OF F/A–22 AIRCRAFT.

(a) Limitation.—Of the amount appropriated for fiscal year 2004 for procurement of F/A–22 aircraft, $136,000,000 may not be obligated until the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees the Under Secretary's certification that—

(1) the five aircraft designated to participate in the initial operational test and evaluation program for the F/A–22 aircraft, plus the avionics software test aircraft, have each been equipped with the avionics software operational flight program that is configured for initial operational test and evaluation; and

(2) before the commencement of that initial operational test and evaluation program, the six aircraft specified in paragraph (1) demonstrate, on average, a mean time between covered avionics anomalies of at least five hours.

(b) COVERED AVIONICS ANOMALIES.—For purposes of subsection (a), the term "covered avionics anomalies" means any of the following:

(1) A software event referred to as a Type 1 failure.

(2) A software event referred to as a Type 2 failure.

(3) A hardware event referred to as a Type 5 failure.

(c) CONTINGENCY WAIVER AUTHORITY.—If the Under Secretary notifies the Secretary of Defense that the Under Secretary is unable to make the certification described in subsection (a), the Secretary may waive the limitation under that subsection. Upon making such a waiver—

(1) the Secretary of Defense shall notify the congressional defense committees of the waiver and of the reasons therefor; and

(2) the funds described in subsection (a) may then be obligated, by reason of such waiver, after the end of the 30-day period beginning on the date on which the Secretary's notification is received by those committees.

SEC. 134. AIRCRAFT FOR PERFORMANCE OF AERIAL REFUELING MISSION.

(a) RESTRICTION ON RETIREMENT OF KC-135E AIRCRAFT.—The Secretary of the Air Force shall ensure that the number of KC-135E aircraft of the Air Force that are retired in fiscal year 2004, if any, does not exceed 12 such aircraft.

(b) REQUIRED ANALYSIS.—Not later than March 1, 2004, the Secretary of the Air Force shall submit to the congressional defense committees an analysis of alternatives for meeting the aerial refueling requirements that the Air Force has the mission to meet. The Secretary shall provide for the analysis to be performed by a federally funded research and development center or another entity independent of the Department of Defense.

SEC. 135. PROCUREMENT OF TANKER AIRCRAFT.

(a) LEASED AIRCRAFT.—The Secretary of the Air Force may lease no more than 20 tanker aircraft under the multiyear aircraft lease pilot program referred to in subsection (d).

(b) MULTIYEAR PROCUREMENT AUTHORITY.—(1) Beginning with the fiscal year 2004 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the purchase of tanker aircraft necessary to meet the requirements of the Air Force for which leasing of tanker aircraft is provided for under the multiyear aircraft lease pilot program but for which the number of tanker aircraft leased under the authority of subsection (a) is insufficient.

(2) The total number of tanker aircraft purchased through a multiyear contract under this subsection may not exceed 80.

(3) Notwithstanding subsection (k) of section 2306b of title 10, United States Code, a contract under this subsection may be for any period not in excess of 10 program years.

(4) A multiyear contract under this subsection may be initiated or continued for any fiscal year for which sufficient funds are available to pay the costs of such contract for that fiscal year, without regard to whether funds are available to pay the costs of such contract for any subsequent fiscal year. Such contract shall provide, however, that performance under the contract during the subsequent year or years of the contract is contingent upon the appropriation of funds and shall also provide for a cancellation payment to be made to the contractor if such appropriations are not made.

(c) STUDY OF LONG-TERM TANKER AIRCRAFT MAINTENANCE AND TRAINING REQUIREMENTS.—(1) The Secretary of Defense shall carry out a study to identify alternative means for meeting the long-term requirements of the Air Force for—

(A) the maintenance of tanker aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b); and

(B) training in the operation of tanker aircraft leased under the multiyear aircraft lease pilot program or purchased under subsection (b).

(2) Not later than April 1, 2004, the Secretary of Defense shall submit a report on the results of the study to the congressional defense committees.

(d) MULTIYEAR AIRCRAFT LEASE PILOT PROGRAM DEFINED.—In this section, the term "multiyear aircraft lease pilot program" means the aerial refueling aircraft program authorized under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284).

(e) SENSE OF CONGRESS.—It is the sense of Congress that, in budgeting for a program to acquire new tanker aircraft for the Air Force, the President should ensure that sufficient budgetary resources are provided to the Department of Defense to fully execute the program and to further ensure that all other critical defense programs are fully and properly funded.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for defense science and technology.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Collaborative program for development of electromagnetic gun technology.
Sec. 212. Leadership and duties of Department of Defense Test Resource Management Center.
Sec. 213. Development of the Joint Tactical Radio System.
Sec. 214. Future Combat Systems.
Sec. 215. Extension of reporting requirement for RAH-66 Comanche aircraft program.
Sec. 216. Studies of fleet platform architectures for the Navy.

Subtitle C—Ballistic Missile Defense

Sec. 221. Enhanced flexibility for ballistic missile defense systems.
Sec. 222. Fielding of ballistic missile defense capabilities.
Sec. 223. Oversight of procurement, performance criteria, and operational test plans for ballistic missile defense programs.
Sec. 224. Renewal of authority to assist local communities affected by ballistic missile defense system test bed.
Sec. 225. Prohibition on use of funds for nuclear-armed interceptors in missile defense systems.
Sec. 226. Follow-on research, development, test, and evaluation related to system improvements for missile defense programs transferred to military departments.

Subtitle D—Other Matters

Sec. 231. Global Research Watch program in the Office of the Director of Defense Research and Engineering.
Sec. 232. Defense Advanced Research Projects Agency biennial strategic plan.
Sec. 233. Enhancement of authority of Secretary of Defense to support science, mathematics, engineering, and technology education.
Sec. 234. Department of Defense program to expand high-speed, high-bandwidth capabilities for network-centric operations.
Sec. 235. Blue forces tracking initiative.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $9,544,833,000.

(2) For the Navy, $14,845,503,000.

(3) For the Air Force, $20,555,667,000.

(4) For Defense-wide activities, $18,438,718,000, of which $286,661,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2004.—Of the amounts authorized to be appropriated by section 201, $11,029,557,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research, applied research, and advanced technology development" means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. COLLABORATIVE PROGRAM FOR DEVELOPMENT OF ELECTROMAGNETIC GUN TECHNOLOGY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish and carry out a collaborative program for evaluation and demonstration of advanced technologies and concepts for advanced gun systems that use electromagnetic propulsion for direct and indirect fire applications.

(b) DESCRIPTION OF PROGRAM.—The program under subsection (a) shall be carried out collaboratively pursuant to a memorandum of agreement to be entered into among the Director of Defense Research and Engineering, the Secretary of the Army, the Secretary of the Navy, the Director of the Defense Advanced Research Projects Agency, and other appropriate officials of the Department of Defense, as determined by the Secretary. The program shall include the following activities:

(1) Identification of technical objectives, quantified technical barriers, and enabling technologies associated with development of the objective electromagnetic gun systems envisioned to meet the needs of each of the Armed Forces and, in so doing, identification of opportunities for development of components or subsystems common to those envisioned gun systems.

(2) Preparation of a plan and schedule for development of electromagnetic gun systems for military applications, which—

(A) includes the programs currently planned within the Department of Defense;

(B) describes how enabling technologies common to such programs are developed and utilized; and

(C) provides estimated dates for decision points, prototype demonstrations, and transitions of technologies to acquisition programs.

(3) Identification of a strategy for the participation of industry in the program.

(c) MATTERS INCLUDED.—The advanced technologies and concepts included under the program may include, but are not limited to, the following:

(1) Advanced electrical power, energy storage, and switching systems.

(2) Electromagnetic launcher materials and construction techniques for long barrel life.

(3) Guidance and control systems for electromagnetically launched projectiles.

(4) Advanced projectiles and other munitions for electromagnetic gun systems.

(5) Hypervelocity terminal effects.

(d) TRANSITION OF TECHNOLOGIES.—The Secretary of Defense shall encourage the transition of technologies developed under the program under subsection (a) into appropriate acquisition programs of the military departments.

(e) REPORT.—Not later than March 31, 2004, the Director of Defense Research and Engineering, in collaboration with the other officials who entered into the memorandum of agreement under subsection (b), shall submit a report to the congressional defense committees on the implementation of the program under subsection (a). The report shall include the following:

(1) A description of the memorandum of agreement entered into under subsection (b).

(2) The plan and schedule required by subsection (b)(2).

(3) A description of the goals and objectives of the program.

(4) Identification of funding required for fiscal years 2004 and 2005 and for the future-years defense program to carry out the program.

(5) A description of a plan for industry participation in the program.

SEC. 212. LEADERSHIP AND DUTIES OF DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) AUTHORITY TO SELECT CIVILIAN EMPLOYEE AS DIRECTOR.—Subsection (b)(1) of section 196 of title 10, United States Code, is amended—

(1) by striking "on active duty. The Director" and inserting "on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director"; and

(2) by adding at the end the following: "A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.".

(b) EXPANSION OF DUTIES OF DIRECTOR.—(1) Subsection (c)(1)(B) of such section is amended by inserting after "Department of Defense" the following: ", other than budgets and expenditures for activities described in section 139(i) of this title".

(2) Subsection (e)(1) of such section is amended—

(A) by striking ", the Director of Operational Test and Evaluation,"; and

(B) by striking ", Director's, or head's" and inserting "or Defense Agency head's".

SEC. 213. DEVELOPMENT OF THE JOINT TACTICAL RADIO SYSTEM.

(a) PLAN FOR MANAGEMENT OF DEVELOPMENT PROGRAM.—The Secretary of Defense shall develop a plan for implementation of management of the development program for the Joint Tactical Radio System under a single joint program office. As part of such plan, the Secretary shall designate an office for such purpose. The Secretary shall include in the plan measures to ensure that—

(1) the Joint Tactical Radio Program has a program management structure that provides strong and effective joint management;

(2) the head of the joint program office has sufficient control and authority to properly execute that development program; and

(3) effective processes are established to resolve disputes between military departments with respect to that program.

(b) PROGRAM DEVELOPMENT.—The Secretary shall provide that, subject to the authority, direction, and control of the Secretary, the head of the joint program office designated under subsection (a) shall—

(1) establish and control the systems engineering and the performance and design specifications for the Joint Tactical Radio System;

(2) establish and control the standards for development of software and equipment for that system; and

(3) establish and control the standards for operation of that system.

(c) PROGRAM REQUIREMENTS.—The Secretary shall ensure—

(1) that there is developed and implemented a single, unified concept of operations for all users of the Joint Tactical Radio System; and

(2) that the responsibility for the coordination of the operational requirements for that system is vested in the Chairman of the Joint Chiefs of Staff, with the participation of the Joint Tactical Radio System program office.

(d) REPORT ON PLAN.—The Secretary shall submit the plan required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 2004.

(e) IMPLEMENTATION DEADLINE.—The Secretary shall implement the plan required by subsection (a) not later than December 1, 2004.

SEC. 214. FUTURE COMBAT SYSTEMS.

(a) LIMITATION.—Of the funds authorized to be appropriated under section 201(1) for development and demonstration of systems for the Future Combat Systems program, $170,000,000 may not be obligated or expended until 30 days after the Secretary of the Army submits to the congressional defense committees a report on such program. The report shall include the following:

(1) The findings and conclusions of—

(A) the review of the Future Combat Systems program carried out by the independent panel at the direction of the Secretary of Defense; and

(B) the milestone B review of the Future Combat Systems program carried out by the Defense Acquisition Board.

(2) For each of the three projects requested under program element 64645A, a breakdown of the costs of that project for fiscal year 2004 at a level of detail sufficient to justify the amount requested for that project in the budget submitted by the President.

(b) SEPARATE PROGRAM ELEMENTS.—For fiscal years beginning with 2004, the Secretary of Defense shall ensure that the following matters (referred to as projects under program element 64645A in the budget justification materials submitted in support of the President's budget for fiscal year 2004) are each planned, programmed, and budgeted for as a separate, dedicated program element:

(1) The Future Combat Systems project.

(2) The Networked Fires System Technology project.

(3) The Objective Force Indirect Fires project.

(c) ANNUAL REPORT.—At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, United States Code, the Secretary of the Army shall submit to the congressional defense committees a report on the programs and projects comprising the Future Combat Systems program. The report shall include—

(1) for each such program or project, a breakdown of the costs of that program or project for that fiscal year at a level of detail sufficient to justify the amount requested for that program or project in that budget; and

(2) any updated analysis of alternatives for the program.

SEC. 215. EXTENSION OF REPORTING REQUIREMENT FOR RAH-66 COMANCHE AIRCRAFT PROGRAM.

Section 211 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2479) is amended in subsection (a) by inserting "and fiscal year 2004" after "fiscal year 2003".

SEC. 216. STUDIES OF FLEET PLATFORM ARCHITECTURES FOR THE NAVY.

(a) INDEPENDENT STUDIES.—(1) The Secretary of Defense shall provide for the performance of two independent studies of alternative future fleet platform architectures for the Navy.

(2) The Secretary shall forward the results of each study to the congressional defense committees not later than January 15, 2005.

(3) Each such study shall be submitted both in unclassified, and to the extent necessary, in classified versions.

(b) ENTITIES TO PERFORM STUDIES.—The Secretary of Defense shall provide for the studies under subsection (a) to be performed as follows:

(1) One study shall be performed by a federally funded research and development center.

(2) The other study shall be performed by the Office of Force Transformation within the Office of the Secretary of Defense and shall include participants from (A) the Office of Net Assessment within the Office of the Secretary of Defense, (B) the Department of the Navy, and (C) the Joint Staff.

(c) PERFORMANCE OF STUDIES.—(1) The Secretary of Defense shall require the two studies under this section to be conducted independently of each other.

(2) In performing a study under this section, the organization performing the study, while being aware of the current and projected fleet platform architectures, shall not be limited by the current or projected fleet platform architecture and shall consider the following:

(A) The National Security Strategy of the United States.

(B) Potential future threats to the United States and to United States naval forces.

(C) The traditional roles and missions of United States naval forces.

(D) Alternative roles and missions for United States naval forces.

(E) Other government and non-government analyses that would contribute to the study through variations in study assumptions or potential scenarios.

(F) The role of evolving technology on future naval forces.

(G) Opportunities for reduced manning and unmanned ships and vehicles in future naval forces.

(d) STUDY RESULTS.—The results of each study under this section shall—

(1) present the alternative fleet platform architectures considered, with assumptions and possible scenarios identified for each;

(2) provide for presentation of minority views of study participants; and

(3) for the recommended architecture, provide—

(A) the numbers, kinds, and sizes of vessels, the numbers and types of associated manned and unmanned vehicles, and the basic capabilities of each of those platforms; and

(B) other information needed to understand that architecture in basic form and the supporting analysis.

Subtitle C—Ballistic Missile Defense

SEC. 221. ENHANCED FLEXIBILITY FOR BALLISTIC MISSILE DEFENSE SYSTEMS.

(a) FLEXIBILITY FOR SPECIFICATION OF PROGRAM ELEMENTS.—Subsection (a) of section 223 of title 10, United States Code, is amended—

(1) by inserting "BY PRESIDENT" in the subsection heading after "SPECIFIED";

(2) by striking "program elements governing functional areas as follows:" and inserting "such program elements as the President may specify."; and

(3) by striking paragraphs (1) through (6).

(b) CONFORMING AMENDMENTS.—(1) Subsection (c) of such section is amended by striking "for each program element specified in subsection (a)" and inserting "for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a)".

(2) Subsection (c)(3) of section 232 of the National Defense Authorization Act for Fiscal

Year 2002 (Public Law 107–107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking "each functional area" and all that follows through "subsection (b)," and inserting "each then-current program element for ballistic missile defense systems in effect pursuant to subsection (a) or (b)".

(c) AMENDMENTS RELATING TO CHANGES IN ACQUISITION TERMINOLOGY.—(1) Section 223(b)(2) of title 10, United States Code, is amended by striking "means the development phase whose" and inserting "means the period in the course of an acquisition program during which the".

(2) Subsection (d)(1) of section 232 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1037; 10 U.S.C. 2431 note) is amended by striking ", as added by subsection (b)".

SEC. 222. FIELDING OF BALLISTIC MISSILE DEFENSE CAPABILITIES.

Funds authorized to be appropriated under section 201(4) for the Missile Defense Agency may be used for the development and fielding of an initial set of ballistic missile defense capabilities.

SEC. 223. OVERSIGHT OF PROCUREMENT, PERFORMANCE CRITERIA, AND OPERATIONAL TEST PLANS FOR BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) PROCUREMENT.—(1) Chapter 9 of title 10, United States Code, is amended by inserting after section 223 the following new section:

"§223a. Ballistic missile defense programs: procurement

"(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

"(1) The production rate capabilities of the production facilities planned to be used for production of that element.

"(2) The potential date of availability of that element for initial fielding.

"(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

"(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

"(c) PERFORMANCE CRITERIA.— The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

"(d) TESTING PROGRESS.—The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 223 the following new item:

"223a. Ballistic missile defense programs: procurement.".

(b) IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY OF TEST PLANS.—Subsection (d) of section 223a of title 10, United States Code, as added by subsection (a), shall be implemented not later than March 1, 2004.

SEC. 224. RENEWAL OF AUTHORITY TO ASSIST LOCAL COMMUNITIES AFFECTED BY BALLISTIC MISSILE DEFENSE SYSTEM TEST BED.

Section 235(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1041) is amended—

(1) in paragraph (1), by inserting "or 2004" after "for fiscal year 2002"; and

(2) by adding at the end the following new paragraph:

"(3) Not later than 60 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004, the Secretary of Defense shall submit to the congressional defense committees a report on the community assistance projects under this subsection that are to be supported using funds referred to in paragraph (1) for fiscal year 2004. The report shall include, for each such project, a description of the project and an estimate of the total cost of the project.".

SEC. 225. PROHIBITION ON USE OF FUNDS FOR NUCLEAR-ARMED INTERCEPTORS IN MISSILE DEFENSE SYSTEMS.

No funds authorized to be appropriated for the Department of Defense by this Act may be obligated or expended for research, development, test, and evaluation, procurement, or deployment of nuclear-armed interceptors in a missile defense system.

SEC. 226. FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATED TO SYSTEM IMPROVEMENTS FOR MISSILE DEFENSE PROGRAMS TRANSFERRED TO MILITARY DEPARTMENTS.

(a) REQUIREMENT FOR DELINEATION OF RESPONSIBILITY FOR FOLLOW-ON RDT&E.—Subsection (e) of section 224 of title 10, United States Code, is amended—such section is amended—

(1) by striking "for each" and inserting "before a";

(2) by inserting "is" before "transferred";

(3) by striking "responsibility" and inserting "roles and responsibilities"; and

(4) by striking "remains with the Director" and inserting "are clearly delineated".

(b) CONFORMING AMENDMENT.—Subsection (a) of such section is amended by striking "a Department of Defense missile defense program described in subsection (b)" and inserting "the integration of a ballistic missile defense element into the overall ballistic missile defense architecture".

Subtitle D—Other Matters

SEC. 231. GLOBAL RESEARCH WATCH PROGRAM IN THE OFFICE OF THE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.

(a) PROGRAM REQUIRED.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2364 the following new section:

"§2365. Global Research Watch Program

"(a) PROGRAM.—The Director of Defense Research and Engineering shall carry out a Global Research Watch program in accordance with this section.

"(b) PROGRAM GOALS.—The goals of the program are as follows:

"(1) To monitor and analyze the basic and applied research activities and capabilities of foreign nations in areas of military interest, including allies and competitors.

"(2) To provide standards for comparison and comparative analysis of research capabilities of foreign nations in relation to the research capabilities of the United States.

"(3) To assist Congress and Department of Defense officials in making investment decisions for research in technical areas where the United States may not be the global leader.

"(4) To identify areas where significant opportunities for cooperative research may exist.

"(5) To coordinate and promote the international cooperative research and analysis activities of each of the armed forces and Defense Agencies.

"(6) To establish and maintain an electronic database on international research capabilities, comparative assessments of capabilities, cooperative research opportunities, and ongoing cooperative programs.

"(c) FOCUS OF PROGRAM.—The program shall be focused on research and technologies at a technical maturity level equivalent to Department of Defense basic and applied research programs.

"(d) COORDINATION.—(1) The Director shall coordinate the program with the international cooperation and analysis activities of the military departments and Defense Agencies.

"(2) The Secretaries of the military departments and the directors of the Defense Agencies shall provide the Director of Defense Research and Engineering such assistance as the Director may require for purposes of the program.

"(e) CLASSIFICATION OF DATABASE INFORMATION.—Information in electronic databases of the Global Research Watch program shall be maintained in unclassified form and, as determined necessary by the Director, in classified form in such databases.

"(f) TERMINATION.—The requirement to carry out the program under this section shall terminate on September 30, 2006.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after section 2364 the following new item:

"2365. Global Research Watch Program.".

SEC. 232. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY BIENNIAL STRATEGIC PLAN.

(a) REQUIREMENT FOR PLAN.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2351 the following new section:

"§2352. Defense Advanced Research Projects Agency: biennial strategic plan

"(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other year, and in time for submission to Congress under subsection (c), the Director of the Defense Advanced Research Projects Agency shall prepare a strategic plan for the activities of that agency.

"(b) CONTENTS.—The strategic plan required by subsection (a) shall include the following matters:

"(1) The long-term strategic goals of that agency.

"(2) Identification of the research programs of that agency that support—

"(A) achievement of those strategic goals; and

"(B) exploitation of opportunities that hold the potential for yielding significant military benefits.

"(3) The connection of the activities and programs of that agency to activities and missions of the armed forces.

"(4) A technology transition strategy for the programs of that agency.

"(5) A description of the policies of that agency on the management, organization, and personnel of that agency.

"(c) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit to Congress the strategic plan most recently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2351 the following new item:

"2352. Defense Advanced Research Projects Agency: biennial strategic plan.".

SEC. 233. ENHANCEMENT OF AUTHORITY OF SECRETARY OF DEFENSE TO SUPPORT SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY EDUCATION.

Section 2192 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) In furtherance of the authority of the Secretary of Defense under any provision of this chapter or any other provision of law to support educational programs in science, mathematics, engineering, and technology, the Secretary of Defense may, unless otherwise specified in such provision—

"(A) enter into contracts and cooperative agreements with eligible entities;

"(B) make grants of financial assistance to eligible entities;

"(C) provide cash awards and other items to eligible entities;

"(D) accept voluntary services from eligible entities; and

"(E) support national competition judging, other educational event activities, and associated award ceremonies in connection with these educational programs.

"(2) In this subsection:

"(A) The term 'eligible entity' includes a department or agency of the Federal Government, a State, a political subdivision of a State, an individual, and a not-for-profit or other organization in the private sector.

"(B) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States.".

SEC. 234. DEPARTMENT OF DEFENSE PROGRAM TO EXPAND HIGH-SPEED, HIGH-BANDWIDTH CAPABILITIES FOR NETWORK-CENTRIC OPERATIONS.

(a) IN GENERAL.—The Secretary of Defense shall carry out a program of research and development to promote the development of high-speed, high-bandwidth communications capabilities for support of network-centric operations by the Armed Forces.

(b) PURPOSES.—The purposes of the program required by subsection (a) are as follows:

(1) To accelerate the development and fielding by the Armed Forces of network-centric operational capabilities (including expanded use of unmanned vehicles, satellite communications, and sensors) through the promotion of research and development, and the focused coordination of programs, to achieve high-speed, high-bandwidth connectivity to military assets.

(2) To provide for the development of equipment and technologies for military high-speed, high-bandwidth communications capabilities for support of network-centric operations.

(c) DESCRIPTION OF PROGRAM.—In carrying out the program of research and development required by subsection (a), the Secretary shall—

(1) identify areas of advanced wireless communications in which research and development, or the use of emerging technologies, has significant potential to improve the performance, efficiency, cost, and flexibility of advanced communications systems for support of network-centric operations;

(2) develop a coordinated plan for research and development on—

(A) improved spectrum access through spectrum-efficient communications for support of network-centric operations;

(B) high-speed, high-bandwidth communications;

(C) networks, including complex ad hoc adaptive network structures;

(D) communications devices, including efficient receivers and transmitters;

(E) computer software and wireless communication applications, including robust security and encryption; and

(F) any other matters that the Secretary considers appropriate for the purposes described in subsection (b);

(3) ensure joint research and development, and promote joint systems acquisition and deployment, among the military departments and defense agencies, including the development of common cross-service technology requirements and doctrine, so as to enhance interoperability among the military services and defense agencies;

(4) conduct joint experimentation among the Armed Forces, and coordinate with the Joint Forces Command, on experimentation to support the development of network-centric warfare capabilities from the operational to the small unit level in the Armed Forces;

(5) consult with other Federal entities and with private industry to develop cooperative research and development efforts, to the extent that such efforts are practicable.

(d) REPORT.—(1) The Secretary shall submit to the congressional defense committees, together with the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2006 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), a report on the activities carried out under this section through the date on which the report is submitted.

(2) The report under paragraph (1) shall include the following:

(A) A description of the research and development activities carried out under subsection (a), including the particular activities carried out under the plan required by subsection (c)(2).

(B) Current and proposed funding for the particular activities carried out under that plan, as set forth in each of subparagraphs (A) through (F) of subsection (c)(2).

(C) A description of the joint research and development activities required by subsection (c)(3).

(D) A description of the joint experimentation activities required by subsection (c)(4).

(E) An analysis of the effects on recent military operations of limitations on communications bandwidth and access to radio frequency spectrum.

(F) An assessment of the effect of additional resources on the ability to achieve the purposes described in subsection (b).

(G) Such recommendations for additional activities under this section as the Secretary considers appropriate to meet the purposes described in subsection (b).

SEC. 235. BLUE FORCES TRACKING INITIATIVE.

(a) GOAL.—It shall be a goal of the Department of Defense to coordinate fully the various efforts of the Chairman of the Joint Chiefs of Staff, the commanders of the combatant commands, and the Secretaries of the military departments to develop an effective system for tracking of United States and other friendly forces (known as "blue forces") during combat operations.

(b) JOINT BLUE FORCES TRACKING EXPERIMENT.—(1) The Secretary of Defense, acting through the commander of the United States Joint Forces Command, shall carry out a joint experiment during fiscal year 2004 to demonstrate and evaluate available joint blue forces tracking technologies.

(2) The objectives of the experiment under paragraph (1) are as follows:

(A) To explore various options for tracking United States and other friendly forces during combat operations.

(B) To determine an optimal, achievable, and upgradable solution for the development, acquisition, and fielding of a system for tracking all United States military forces that is coordinated and interoperable and also accommodates the participation of military forces of allied nations with United States forces in combat operations.

(c) REPORT.—Not later than 60 days after the conclusion of the experiment under subsection (b), but not later than December 1, 2004, the Secretary shall submit to the congressional defense committees a report on the results of the experiment, together with a comprehensive plan for the development, acquisition, and fielding of a functional, near real-time blue forces tracking system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Other Department of Defense programs.

Subtitle B—Environmental Provisions

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Sec. 312. Clarification of Department of Defense response to environmental emergencies.
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Sec. 315. Inclusion of environmental response equipment and services in Navy definitions of salvage facilities and salvage services.
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Sec. 317. Requirements for restoration advisory boards and exemption from Federal Advisory Committee Act.
Sec. 318. Military readiness and conservation of protected species.
Sec. 319. Military readiness and marine mammal protection.
Sec. 320. Report regarding impact of civilian community encroachment and certain legal requirements on military installations and ranges and plan to address encroachment.
Sec. 321. Cooperative water use management related to Fort Huachuca, Arizona, and Sierra Vista subwatershed.
Sec. 322. Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona.
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Sec. 331. Exemption of certain firefighting service contracts from prohibition on contracts for performance of firefighting functions.
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Sec. 334. Resources-based schedules for completion of public-private competitions for performance of Department of Defense functions.

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Sec. 338. Naval Aviation Depots multi-trades demonstration project.

Subtitle D—Other Matters

Sec. 341. Cataloging and standardization for defense supply management.

Sec. 342. Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract.

Sec. 343. Permanent authority for purchase of certain municipal services at installations in Monterey County, California.

Sec. 344. Department of Defense telecommunications benefit.

Sec. 345. Independent assessment of material condition of the KC–135 aerial refueling fleet.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $24,627,037,000.

(2) For the Navy, $27,975,559,000.

(3) For the Marine Corps, $3,426,056,000.

(4) For the Air Force, $26,089,670,000.

(5) For Defense-wide activities, $16,243,157,000.

(6) For the Army Reserve, $1,966,009,000.

(7) For the Naval Reserve, $1,171,921,000.

(8) For the Marine Corps Reserve, $173,952,000.

(9) For the Air Force Reserve, $2,179,188,000.

(10) For the Army National Guard, $4,256,331,000.

(11) For the Air National Guard, $4,406,146,000.

(12) For the United States Court of Appeals for the Armed Forces, $10,333,000.

(13) For Environmental Restoration, Army, $396,018,000.

(14) For Environmental Restoration, Navy, $256,153,000.

(15) For Environmental Restoration, Air Force, $384,307,000.

(16) For Environmental Restoration, Defense-wide, $24,081,000.

(17) For Environmental Restoration, Formerly Used Defense Sites, $252,619,000.

(18) For Overseas Humanitarian, Disaster, and Civic Aid programs, $59,000,000.

(19) For Cooperative Threat Reduction programs, $450,800,000.

(20) Overseas Contingencies Program, $5,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2004 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, $632,261,000.

(2) For the National Defense Sealift Fund, $1,062,762,000.

(3) For the Defense Commissary Agency Working Capital Fund, $1,089,246,000.

SEC. 303. OTHER DEPARTMENT OF DEFENSE PROGRAMS.

(a) DEFENSE HEALTH PROGRAM.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for the Defense Health Program, $15,401,509,000, of which—

(1) $15,007,887,000 is for Operation and Maintenance;

(2) $65,796,000 is for Research, Development, Test, and Evaluation; and

(3) $327,826,000 is for Procurement.

(b) CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.—(1) Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for Chemical Agents and Munitions Destruction, Defense, $1,530,261,000, of which—

(A) $1,199,168,000 is for Operation and Maintenance;

(B) $251,881,000 is for Research, Development, Test, and Evaluation; and

(C) $79,212,000 is for Procurement.

(2) Amounts authorized to be appropriated under paragraph (1) are authorized for—

(A) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(B) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

(c) DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for Drug Interdiction and Counter-Drug Activities, Defense-wide, $817,371,000.

(d) DEFENSE INSPECTOR GENERAL.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 2004 for expenses, not otherwise provided for, for the Office of the Inspector General of the Department of Defense, $162,449,000, of which—

(1) $160,049,000 is for Operation and Maintenance;

(2) $2,100,000 is for Research, Development, Test, and Evaluation; and

(3) $300,000 is for Procurement.

Subtitle B—Environmental Provisions

SEC. 311. REAUTHORIZATION AND MODIFICATION OF TITLE I OF SIKES ACT.

(a) REAUTHORIZATION.—Section 108 of the Sikes Act (16 U.S.C. 670f) is amended by striking "fiscal years 1998 through 2003" each place it appears and inserting "fiscal years 2004 through 2008".

(b) SENSE OF CONGRESS REGARDING SECTION 107.—(1) Congress finds the following:

(A) The Department of Defense maintains over 25,000,000 acres of valuable fish and wildlife habitat on approximately 400 military installations nationwide.

(B) These lands contain a wealth of plant and animal life, vital wetlands for migratory birds, and nearly 300 federally listed threatened species and endangered species.

(C) Increasingly, land surrounding military bases are being developed with residential and commercial infrastructure that fragments fish and wildlife habitat and decreases its ability to support a diversity of species.

(D) Comprehensive conservation plans, such as integrated natural resource management plans under the Sikes Act (16 U.S.C. 670 et seq.), can ensure that these ecosystem values can be protected and enhanced while allowing these lands to meet the needs of military operations.

(E) Section 107 of the Sikes Act (16 U.S.C. 670e–2) requires sufficient numbers of professionally trained natural resources management personnel and natural resources law enforcement personnel to be available and assigned responsibility to perform tasks necessary to carry out title I of the Sikes Act, including the preparation and implementation of integrated natural resource management plans.

(F) Managerial and policymaking functions performed by Department of Defense on-site professionally trained natural resource management personnel on military installations are appropriate governmental functions.

(G) Professionally trained civilian biologists in permanent Federal Government career managerial positions are essential to oversee fish and wildlife and natural resource conservation programs and are essential to the conservation of wildlife species on military land.

(2) It is the sense of Congress that the Secretary of Defense should take whatever steps are necessary to ensure that section 107 of the Sikes Act (16 U.S.C. 670e–2) is fully implemented consistent with the findings made in paragraph (1).

(c) PILOT PROGRAM.—(1) Section 101 of the Sikes Act (16 U.S.C. 670a) is amended by adding at the end the following new subsection:

"(g) PILOT PROGRAM FOR INVASIVE SPECIES MANAGEMENT FOR MILITARY INSTALLATIONS IN GUAM.—

"(1) INCLUSION OF INVASIVE SPECIES MANAGEMENT.—During fiscal years 2004 through 2008, the Secretary of Defense shall, to the extent practicable and conducive to military readiness, incorporate in integrated natural resources management plans for military installations in Guam the management, control, and eradication of invasive species—

"(A) that are not native to the ecosystem of the military installation; and

"(B) the introduction of which cause or may cause harm to military readiness, the environment, or human health and safety.

"(2) CONSULTATION.—The Secretary of Defense shall carry out this subsection in consultation with the Secretary of the Interior.".

(2) Section 101(g) of the Sikes Act, as added by paragraph (1), shall apply—

(A) to any integrated natural resources management plan prepared for a military installation in Guam under section 101(a)(1) of such Act on or after the date of the enactment of this Act; and

(B) effective March 1, 2004, to any integrated natural resources management plan prepared for a military installation in Guam under such section before the date of the enactment of this Act.

SEC. 312. CLARIFICATION OF DEPARTMENT OF DEFENSE RESPONSE TO ENVIRONMENTAL EMERGENCIES.

(a) TRANSPORTATION OF HUMANITARIAN RELIEF SUPPLIES TO RESPOND TO ENVIRONMENTAL EMERGENCIES.—Section 402 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d)(1) The Secretary of Defense may use the authority provided by subsection (a) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available.

"(2) Notwithstanding subsection (a), the Secretary of Defense may require reimbursement for

costs incurred by the Department of Defense to transport supplies under this subsection.".

(b) CONDITIONS ON PROVISION OF TRANSPORTATION.—Subsection (b) of such section is amended—

(1) in paragraph (1)(C), by inserting "or entity" after "people";

(2) in paragraph (1)(E), by inserting "or use" after "distribution"; and

(3) in paragraph (3), by striking "donor to ensure that supplies to be transported under this section" and inserting "entity requesting the transport of supplies under this section to ensure that the supplies".

(c) PROVISION OF DISASTER ASSISTANCE.—Section 404 of such title is amended—

(1) in subsection (a), by inserting "or serious harm to the environment" after "loss of lives";

(2) in subsection (c)(2), by inserting "or the environment" after "human lives"; and

(3) by adding at the end the following new subsection:

"(e) LIMITATION ON TRANSPORTATION ASSISTANCE.—Transportation services authorized under subsection (b) may be provided in response to a manmade or natural disaster to prevent serious harm to the environment, when human lives are not at risk, only if other sources to provide such transportation are not readily available.".

(d) PROVISION OF HUMANITARIAN ASSISTANCE.—Section 2561(a) of such title is amended—

(1) by inserting "(1)" before "To the extent"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may use the authority provided by paragraph (1) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available. The Secretary may require reimbursement for costs incurred by the Department of Defense to transport supplies under this paragraph.".

SEC. 313. REPEAL OF AUTHORITY TO USE ENVIRONMENTAL RESTORATION ACCOUNT FUNDS FOR RELOCATION OF A CONTAMINATED FACILITY.

(a) REPEAL.—Effective October 1, 2003, section 2703(c) of title 10, United States Code, is amended—

(1) in paragraph (1) by striking "only—" and all that follows through the period at the end and inserting "only to carry out the environmental restoration functions of the Secretary of Defense and the Secretaries of the military departments under this chapter and under any other provision of law.";

(2) by striking paragraphs (2) and (3); and

(3) by redesignating paragraph (4) as paragraph (2) and striking the second sentence of such paragraph.

(b) EFFECT OF REPEAL ON EXISTING AGREEMENTS.—An agreement in effect on September 30, 2003, under section 2703(c)(1)(B) of title 10, United States Code, as in effect on that date, to pay for the costs of permanently relocating a facility because of a release or threatened release of hazardous substances, pollutants, or contaminants shall remain in effect after that date, subject to the terms of the agreement, and costs may be paid in accordance with the terms of the agreement, notwithstanding the amendments made by subsection (a).

SEC. 314. AUTHORIZATION FOR DEPARTMENT OF DEFENSE PARTICIPATION IN WETLAND MITIGATION BANKS.

(a) DOD PARTICIPATION.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2694a the following new section:

"§2694b. Participation in wetland mitigation banks

"(a) AUTHORITY TO PARTICIPATE.—The Secretary of a military department, and the Secretary of Defense with respect to matters concerning a Defense Agency, when engaged in an authorized activity that may or will result in the destruction of, or an adverse impact to, a wetland, may make payments to a wetland mitigation banking program or 'in-lieu-fee' mitigation sponsor approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605; November 28, 1995) or the Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (65 Fed. Reg. 66913; November 7, 2000), or any successor administrative guidance or regulation.

"(b) ALTERNATIVE TO CREATION OF WETLAND.—Participation in a wetland mitigation banking program or consolidated user site under subsection (a) shall be in lieu of mitigating wetland impacts through the creation of a wetland on Federal property.

"(c) TREATMENT OF PAYMENTS.—Payments made under subsection (a) to a wetland mitigation banking program or consolidated user site may be treated as eligible project costs for military construction.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694a the following new item:

"2694b. Participation in wetland mitigation banks.".

(b) MITIGATION AND MITIGATION BANKING REGULATIONS.—(1) To ensure opportunities for Federal agency participation in mitigation banking, the Secretary of the Army, acting through the Chief of Engineers, shall issue regulations establishing performance standards and criteria for the use, consistent with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), of on-site, off-site, and in-lieu fee mitigation and mitigation banking as compensation for lost wetlands functions in permits issued by the Secretary of the Army under such section. To the maximum extent practicable, the regulatory standards and criteria shall maximize available credits and opportunities for mitigation, provide flexibility for regional variations in wetland conditions, functions and values, and apply equivalent standards and criteria to each type of compensatory mitigation.

(2) Final regulations shall be issued not later than two years after the date of the enactment of this Act.

SEC. 315. INCLUSION OF ENVIRONMENTAL RESPONSE EQUIPMENT AND SERVICES IN NAVY DEFINITIONS OF SALVAGE FACILITIES AND SALVAGE SERVICES.

(a) SALVAGE FACILITIES.—Section 7361 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SALVAGE FACILITIES DEFINED.—In this section, the term 'salvage facilities' includes equipment and gear utilized to prevent, abate, or minimize damage to the environment.".

(b) SETTLEMENT OF CLAIMS FOR SALVAGE SERVICES.—Section 7363 of such title is amended—

(1) by inserting "(a) AUTHORITY TO SETTLE CLAIM.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) SALVAGE SERVICES DEFINED.—In this section, the term 'salvage services' includes services performed in connection with a marine salvage operation that are intended to prevent, abate, or minimize damage to the environment.".

SEC. 316. REPEAL OF MODEL PROGRAM FOR BASE CLOSURE ENVIRONMENTAL RESTORATION.

Section 2926 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is repealed.

SEC. 317. REQUIREMENTS FOR RESTORATION ADVISORY BOARDS AND EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.

(a) MEMBERSHIP AND MEETING REQUIREMENTS FOR RESTORATION ADVISORY BOARDS.—The Secretary of Defense shall amend the regulations required by section 2705(d)(2) of title 10, United States Code, relating to the establishment, characteristics, composition, and funding of restoration advisory boards to ensure that each restoration advisory board complies with the following requirements:

(1) Each restoration advisory board shall be fairly balanced in its membership in terms of the points of view represented and the functions to be performed.

(2) Unless a closed or partially closed meeting is determined to be proper in accordance with one or more of the exceptions listed in the section 552b(c) of title 5, United States Code, each meeting of a restoration advisory board shall be—

(A) held at a reasonable time and in a manner or place reasonably accessible to the public, including individuals with disabilities; and

(B) open to the public.

(3) Timely notice of each meeting of a restoration advisory board shall be published in a local newspaper of general circulation.

(4) Interested persons may appear before or file statements with a restoration advisory board, subject to such reasonable restrictions as the Secretary may prescribe.

(5) Subject to section 552 of title 5, United States Code, the records, reports, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to, prepared for, or prepared by each restoration advisory board shall be available for public inspection and copying at a single, publicly accessible location, such as a public library or an appropriate office of the military installation for which the restoration advisory board is established, at least until the restoration advisory board is terminated.

(6) Detailed minutes of each meeting of each restoration advisory board shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the restoration advisory board. The accuracy of the minutes of a restoration advisory board shall be certified by the chairperson of the board.

(b) FACA EXEMPTION.—Section 2705(d)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(C) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a restoration advisory board established under this subsection.".

SEC. 318. MILITARY READINESS AND CONSERVATION OF PROTECTED SPECIES.

(a) LIMITATION ON DESIGNATION OF CRITICAL HABITAT.—Section 4(a)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(3)"; and

(3) by adding at the end the following:

"(B)(i) The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a

benefit to the species for which critical habitat is proposed for designation.

"(ii) Nothing in this paragraph affects the requirement to consult under section 7(a)(2) with respect to an agency action (as that term is defined in that section).

"(iii) Nothing in this paragraph affects the obligation of the Department of Defense to comply with section 9, including the prohibition preventing extinction and taking of endangered species and threatened species.".

(b) CONSIDERATION OF EFFECTS OF DESIGNATION OF CRITICAL HABITAT.—Section 4(b)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(2)) is amended by inserting "the impact on national security," after "the economic impact,".

SEC. 319. MILITARY READINESS AND MARINE MAMMAL PROTECTION.

(a) DEFINITION OF HARASSMENT FOR MILITARY READINESS ACTIVITIES.—Section 3(18) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(18)) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

"(B) In the case of a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) or a scientific research activity conducted by or on behalf of the Federal Government consistent with section 104(c)(3), the term 'harassment' means—

"(i) any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild; or

"(ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered.

"(C) The term 'Level A harassment' means harassment described in subparagraph (A)(i) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(i).

"(D) The term 'Level B harassment' means harassment described in subparagraph (A)(ii) or, in the case of a military readiness activity or scientific research activity described in subparagraph (B), harassment described in subparagraph (B)(ii).".

(b) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL DEFENSE.—Section 101 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371) is amended by inserting after subsection (e) the following:

"(f) EXEMPTION OF ACTIONS NECESSARY FOR NATIONAL DEFENSE.—(1) The Secretary of Defense, after conferring with the Secretary of Commerce, the Secretary of the Interior, or both, as appropriate, may exempt any action or category of actions undertaken by the Department of Defense or its components from compliance with any requirement of this Act, if the Secretary determines that it is necessary for national defense.

"(2) An exemption granted under this subsection—

"(A) subject to subparagraph (B), shall be effective for a period specified by the Secretary of Defense; and

"(B) shall not be effective for more than 2 years.

"(3)(A) The Secretary of Defense may issue additional exemptions under this subsection for the same action or category of actions, after—

"(i) conferring with the Secretary of Commerce, the Secretary of the Interior, or both as appropriate; and

"(ii) making a new determination that the additional exemption is necessary for national defense.

"(B) Each additional exemption under this paragraph shall be effective for a period specified by the Secretary of Defense, of not more than 2 years.

"(4) Not later than 30 days after issuing an exemption under paragraph (1) or an additional exemption under paragraph (3), the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate notice describing the exemption and the reasons therefor. The notice may be provided in classified form if the Secretary of Defense determines that use of the classified form is necessary for reasons of national security.".

(c) INCIDENTAL TAKINGS OF MARINE MAMMALS IN MILITARY READINESS ACTIVITIES.—Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by redesignating clauses (i) and (ii) and subclauses (I) and (II) as subclauses (I) and (II) and items (aa) and (bb), respectively;

(B) by inserting "(i)" after "(5)(A)"; and

(C) by adding at the end the following new clauses:

"(ii) For a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), a determination of 'least practicable adverse impact on such species or stock' under clause (i)(II)(aa) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

"(iii) Notwithstanding clause (i), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register.";

(2) in subparagraph (D), by adding at the end the following new clauses:

"(vi) For a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), a determination of 'least practicable adverse impact on such species or stock' under clause (i)(I) shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Before making the required determination, the Secretary shall consult with the Department of Defense regarding personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

"(vii) Notwithstanding clause (iii), for any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), the Secretary shall publish the notice required by such clause only in the Federal Register."; and

(3) by adding at the end the following new subparagraph:

"(F) Notwithstanding the provisions of this subsection, any authorization affecting a military readiness activity (as defined in section 315(f) of Public Law 107–314; 16 U.S.C. 703 note) shall not be subject to the following requirements:

"(i) In subparagraph (A), 'within a specified geographical region' and 'within that region of small numbers'.

"(ii) In subparagraph (B), 'within a specified geographical region' and 'within one or more regions'.

"(iii) In subparagraph (D), 'within a specific geographic region', 'of small numbers', and 'within that region'.".

SEC. 320. REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES AND PLAN TO ADDRESS ENCROACHMENT.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the impact, if any, of the following types of encroachment issues affecting military installations and operational ranges:

(1) Civilian community encroachment on those military installations and ranges whose operational training activities, research, development, test, and evaluation activities, or other operational, test and evaluation, maintenance, storage, disposal, or other support functions require, or in the future reasonably may require, safety or operational buffer areas. The requirement for such a buffer area may be due to a variety of factors, including air operations, ordnance operations and storage, or other activities that generate or might generate noise, electromagnetic interference, ordnance arcs, or environmental impacts that require or may require safety or operational buffer areas.

(2) Compliance by the Department of Defense with State Implementation Plans for Air Quality under section 110 of the Clean Air Act (42 U.S.C. 7410).

(3) Compliance by the Department of Defense with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(b) MATTERS TO BE INCLUDED WITH RESPECT TO CIVILIAN COMMUNITY ENCROACHMENTS.—With respect to paragraph (1) of subsection (a), the study shall include the following:

(1) A list of all military installations described in subsection (a)(1) at which civilian community encroachment is occurring.

(2) A description and analysis of the types and degree of such civilian community encroachment at each military installation included on the list.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such civilian community encroachment on operational training activities, research, development, test, and evaluation activities, and other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions performed by military installations included on the list. The analysis shall include the following:

(A) A review of training and test ranges at military installations, including laboratories and technical centers of the military departments, included on the list.

(B) A description and explanation of the trends of such encroachment, as well as consideration of potential future readiness problems resulting from unabated encroachment.

(4) An estimate of the costs associated with current and anticipated partnerships between the Department of Defense and non-Federal entities to create buffer zones to preclude further development around military installations included on the list, and the costs associated with the conveyance of surplus property around such military installations for purposes of creating buffer zones.

(5) Options and recommendations for possible legislative or budgetary changes necessary to mitigate current and anticipated future civilian community encroachment problems.

(c) MATTERS TO BE INCLUDED WITH RESPECT TO COMPLIANCE WITH SPECIFIED LAWS.—With respect to paragraphs (2) and (3) of subsection (a), the study shall include the following:

(1) A list of all military installations and other locations at which the Armed Forces are encountering problems related to compliance with the laws specified in such paragraphs.

(2) A description and analysis of the types and degree of compliance problems encountered.

(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such compliance problems on the following functions performed at military installations:

(A) Operational training activities.

(B) Research, development, test, and evaluation activities.

(C) Other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions.

(4) A description and explanation of the trends of such compliance problems, as well as consideration of potential future readiness problems resulting from such compliance problems.

(d) PLAN TO RESPOND TO ENCROACHMENT ISSUES.—On the basis of the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c), the Secretary of Defense shall prepare a plan to respond to the encroachment issues described in subsection (a) affecting military installations and operational ranges.

(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following reports regarding the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c):

(1) Not later than January 31, 2004, an interim report describing the progress made in conducting the study and containing the information collected under the study as of that date.

(2) Not later than January 31, 2006, a report containing the results of the study and the encroachment response plan required by subsection (d).

(3) Not later than January 31, 2007, and each January 31 thereafter through January 31, 2010, a report describing the progress made in implementing the encroachment response plan.

SEC. 321. COOPERATIVE WATER USE MANAGEMENT RELATED TO FORT HUACHUCA, ARIZONA, AND SIERRA VISTA SUBWATERSHED.

(a) LIMITATION ON FEDERAL RESPONSIBILITY FOR CIVILIAN WATER CONSUMPTION IMPACTS.—

(1) LIMITATION.—For purposes of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536), concerning any present and future Federal agency action at Fort Huachuca, Arizona, water consumption by State, local, and private entities off of the installation that is not a direct or indirect effect of the agency action or an effect of other activities that are interrelated or interdependent with that agency action, shall not be considered in determining whether such agency action is likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

(2) VOLUNTARY REGIONAL CONSERVATION EFFORTS.—Nothing in this subsection shall prohibit Federal agencies operating at Fort Huachuca from voluntarily undertaking efforts to mitigate water consumption.

(3) DEFINITION OF WATER CONSUMPTION.—In this subsection, the term "water consumption" means all water use off of the installation from any source.

(4) EFFECTIVE DATE.—This subsection applies only to Federal agency actions regarding which the Federal agency involved determines that consultation, or reinitiation of consultation, under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is required with regard to an agency action at Fort Huachuca on or after the date of the enactment of this Act.

(b) RECOGNITION OF UPPER SAN PEDRO PARTNERSHIP.—Congress hereby recognizes the Upper San Pedro Partnership, Arizona, a partnership of Fort Huachuca, Arizona, other Federal, State, and local governmental and nongovernmental entities, and its efforts to establish a collaborative water use management program in the Sierra Vista Subwatershed, Arizona, to achieve the sustainable yield of the regional aquifer, so as to protect the Upper San Pedro River, Arizona, and the San Pedro Riparian National Conservation Area, Arizona.

(c) REPORT ON WATER USE MANAGEMENT AND CONSERVATION OF REGIONAL AQUIFER.—

(1) IN GENERAL.—The Secretary of Interior shall prepare, in consultation with the Secretary of Agriculture and the Secretary of Defense and in cooperation with the other members of the Partnership, a report on the water use management and conservation measures that have been implemented and are needed to restore and maintain the sustainable yield of the regional aquifer by and after September 30, 2011. The Secretary of the Interior shall submit the report to Congress not later than December 31, 2004.

(2) PURPOSE.—The purpose of the report is to set forth measurable annual goals for the reduction of the overdrafts of the groundwater of the regional aquifer, to identify specific water use management and conservation measures to facilitate the achievement of such goals, and to identify impediments in current Federal, State, and local laws that hinder efforts on the part of the Partnership to mitigate water usage in order to restore and maintain the sustainable yield of the regional aquifer by and after September 30, 2011.

(3) REPORT ELEMENTS.—The report shall use data from existing and ongoing studies and include the following elements:

(A) The net quantity of water withdrawn from and recharged to the regional aquifer in the one-year period preceding the date of the submission of the report.

(B) The quantity of the overdraft of the regional aquifer to be reduced by the end of each of fiscal years 2005 through 2011 to achieve sustainable yield.

(C) With respect to the reduction of overdraft for each fiscal year as specified under subparagraph (B), an allocation of responsibility for the achievement of such reduction among the water-use controlling members of the Partnership who have the authority to implement measures to achieve such reduction.

(D) The water use management and conservation measures to be undertaken by each water-use controlling member of the Partnership to contribute to the reduction of the overdraft for each fiscal year as specified under subparagraph (B), and to meet the responsibility of each such member for each such reduction as allocated under subparagraph (C), including—

(i) a description of each measure;

(ii) the cost of each measure;

(iii) a schedule for the implementation of each measure;

(iv) a projection by fiscal year of the amount of the contribution of each measure to the reduction of the overdraft; and

(v) a list of existing laws that impede full implementation of any measure.

(E) The monitoring and verification activities to be undertaken by the Partnership to measure the reduction of the overdraft for each fiscal year and the contribution of each member of the Partnership to the reduction of the overdraft.

(d) ANNUAL REPORT ON PROGRESS TOWARD SUSTAINABLE YIELD.—

(1) IN GENERAL.—Not later than October 31, 2005, and each October 31 thereafter through 2011, the Secretary of the Interior shall submit, on behalf of the Partnership, to Congress a report on the progress of the Partnership during the preceding fiscal year toward achieving and maintaining the sustainable yield of the regional aquifer by and after September 30, 2011.

(2) REPORT ELEMENTS.—Each report shall include the following:

(A) The quantity of the overdraft of the regional aquifer reduced during the reporting period, and whether such reduction met the goal specified for such fiscal year under subsection (c)(3)(B).

(B) The water use management and conservation measures undertaken by each water-use controlling member of the Partnership in the fiscal year covered by such report, including the extent of the contribution of such measures to the reduction of the overdraft for such fiscal year.

(C) The legislative accomplishments made during the fiscal year covered by such report in removing legal impediments that hinder the mitigation of water use by members of the Partnership.

(e) VERIFICATION INFORMATION.—Information used to verify overdraft reductions of the regional aquifer shall include at a minimum the following:

(1) The annual report of the Arizona Corporation Commission on annual groundwater pumpage of the private water companies in the Sierra Vista Subwatershed.

(2) The San Pedro base flow monitoring record of the Charleston flow gauge of the United States Geological Survey.

(3) Current surveys of the groundwater levels in area wells as reported by the Arizona Department of Water Resources and by Federal agencies.

(f) SENSE OF CONGRESS.—It is the sense of Congress that any future appropriations to the Partnership should take into account whether the Partnership has met its annual goals for overdraft reduction.

(g) DEFINITIONS.—In this section:

(1) The term "Partnership" means the Upper San Pedro Partnership, Arizona.

(2) The term "regional aquifer" means the Sierra Vista Subwatershed regional aquifer, Arizona.

(3) The term "water-use controlling member" has the meaning given that term by the Partnership.

SEC. 322. TASK FORCE ON RESOLUTION OF CONFLICT BETWEEN MILITARY TRAINING AND ENDANGERED SPECIES PROTECTION AT BARRY M. GOLDWATER RANGE, ARIZONA.

(a) TASK FORCE.—The Secretary of Defense shall establish a task force to determine and assess various means of resolving the conflict between the dual objectives at Barry M. Goldwater Range, Arizona, of the full utilization of live ordnance delivery areas for military training and the protection of endangered species that are present at Barry M. Goldwater Range.

(b) COMPOSITION.—The task force shall be composed of the following members:

(1) The Air Force range officer, who shall serve as chairperson of the task force.

(2) The range officer at Barry M. Goldwater Range.

(3) The commander of Luke Air Force Base, Arizona.

(4) The commander of Marine Corps Air Station, Yuma, Arizona.

(5) The Director of the United States Fish and Wildlife Service.

(6) The manager of the Cabeza Prieta National Wildlife Refuge, Arizona.

(7) A representative of the Department of Game and Fish of the State of Arizona, selected by the Secretary in consultation with the Governor of the State of Arizona.

(8) A representative of a wildlife interest group in the State of Arizona, selected by the Secretary in consultation with wildlife interest groups in the State of Arizona.

(9) A representative of an environmental interest group (other than a wildlife interest

group) in the State of Arizona, as selected by the Secretary in consultation with environmental interest groups in the State of Arizona.

(c) DUTIES.—The task force shall—

(1) assess the effects of the presence of endangered species on military training activities in the live ordnance delivery areas at Barry M. Goldwater Range and in any other areas of the range that are adversely effected by the presence of endangered species;

(2) determine various means of addressing any significant adverse effects on military training activities on Barry M. Goldwater Range that are identified pursuant to paragraph (1); and

(3) determine the benefits and costs associated with the implementation of each means identified under paragraph (2).

(d) USE OF EXPERTS.—The chairperson of the task force may secure for the task force the services of such experts with respect to the duties of the task force as the chairperson considers advisable to carry out such duties.

(e) REPORT.—Not later than February 28, 2005, the task force shall submit to Congress a report containing—

(1) a description of the assessments and determinations made under subsection (c);

(2) such recommendations for legislative and administrative action as the task force considers appropriate; and

(3) an evaluation of the utility of task force proceedings as a means of resolving conflicts between military training objectives and protection of endangered species at other military training and testing ranges.

SEC. 323. PUBLIC HEALTH ASSESSMENT OF EXPOSURE TO PERCHLORATE.

(a) EPIDEMIOLOGICAL STUDY OF EXPOSURE TO PERCHLORATE.—The Secretary of Defense shall provide for an independent epidemiological study of exposure to perchlorate in drinking water. The entity conducting the study shall—

(1) assess the incidence of thyroid disease and measurable effects of thyroid function in relation to exposure to perchlorate;

(2) ensure that the study is of sufficient scope and scale to permit the making of meaningful conclusions of the measurable public health threat associated with exposure to perchlorate, especially the threat to sensitive subpopulations; and

(3) examine thyroid function, including measurements of urinary iodine and thyroid hormone levels, in a sufficient number of pregnant women, neonates, and infants exposed to perchlorate in drinking water and match measurements of perchlorate levels in the drinking water of each study participant in order to permit the development of meaningful conclusions on the public health threat to individuals exposed to perchlorate.

(b) REVIEW OF EFFECTS OF PERCHLORATE ON ENDOCRINE SYSTEM.—The Secretary shall provide for an independent review of the effects of perchlorate on the human endocrine system. The entity conducting the review shall assess—

(1) available data on human exposure to perchlorate, including clinical data and data on exposure of sensitive subpopulations, and the levels at which health effects were observed; and

(2) available data on other substances that have endocrine effects similar to perchlorate to which the public is frequently exposed.

(c) PERFORMANCE OF STUDY AND REVIEW.—(1) The Secretary shall provide for the performance of the study under subsection (a) through the Centers for Disease Control, the National Institutes of Health, or another Federal entity with experience in environmental toxicology selected by the Secretary.

(2) The Secretary shall provide for the performance of the review under subsection (b) through the Centers for Disease Control, the National Institutes of Health, or another appropriate Federal research entity with experience in human endocrinology selected by the Secretary. The Secretary shall ensure that the panel conducting the review is composed of individuals with expertise in human endocrinology.

(d) REPORTING REQUIREMENTS.—Not later than June 1, 2005, the Federal entities conducting the study and review under this section shall submit to the Secretary reports containing the results of the study and review.

SEC. 324. COMPTROLLER GENERAL REVIEW OF ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.

(a) REQUIREMENT FOR REVIEW.—The Comptroller General shall conduct a review of the Arctic Military Environmental Cooperation program, including—

(1) the current and proposed technology development and demonstration role of the program in United States nonproliferation efforts; and

(2) the relationship of the program to the Cooperative Threat Reduction Program specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) ELEMENTS OF REVIEW.—The review shall include an assessment of the following:

(1) Whether the conditions in the Western Pacific region require an expansion of the Arctic Military Environmental Cooperation program to include that region.

(2) The extent to which foreign countries, including Russia, make financial contributions to the program.

(3) The extent to which the Cooperative Threat Reduction Program and the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction Initiative use the program.

(4) Whether the program is important to the disarmament and nonproliferation functions of the Cooperative Threat Reduction Program.

(5) Future-year funding and program plans of the Department of Defense for the program.

(c) REPORT ON REVIEW.—Not later than May 1, 2004, the Comptroller General shall submit to Congress a report containing the results of the review.

Subtitle C—Workplace and Depot Issues

SEC. 331. EXEMPTION OF CERTAIN FIREFIGHTING SERVICE CONTRACTS FROM PROHIBITION ON CONTRACTS FOR PERFORMANCE OF FIREFIGHTING FUNCTIONS.

(a) ADDITIONAL EXEMPTION.—Section 2465(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) A contract for the performance of firefighting functions if the contract is—

"(A) for a period of one year or less; and

"(B) covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking "apply—" and inserting "apply to the following contracts:";

(2) by striking "to a" at the beginning of paragraphs (1), (2), and (3) and inserting "A";

(3) by striking the semicolon at the end of paragraph (1) and inserting a period; and

(4) by striking "; or" at the end of paragraph (2) and inserting a period.

SEC. 332. TECHNICAL AMENDMENT RELATING TO CLOSURE OF SACRAMENTO ARMY DEPOT, CALIFORNIA.

Section 2466 of title 10, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 333. EXCEPTION TO COMPETITION REQUIREMENT FOR DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS PERFORMED BY DEPOT-LEVEL ACTIVITIES.

Section 2469 of title 10, United States Code, is amended—

(1) in subsection (b), by striking "Subsection" and inserting "Except as provided in subsection (c), subsection";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) EXCEPTION FOR PUBLIC-PRIVATE PARTNERSHIPS.—The requirements of subsection (a) may be waived in the case of a depot-level maintenance and repair workload that is performed at a Center of Industrial and Technical Excellence designated under subsection (a) of section 2474 of this title by a public-private partnership entered into under subsection (b) of such section consisting of a depot-level activity and a private entity.".

SEC. 334. RESOURCES-BASED SCHEDULES FOR COMPLETION OF PUBLIC-PRIVATE COMPETITIONS FOR PERFORMANCE OF DEPARTMENT OF DEFENSE FUNCTIONS.

(a) APPLICATION OF TIMEFRAMES.—Any interim or final deadline or other schedule-related milestone for the completion of a Department of Defense public-private competition shall be established solely on the basis of considered research and sound analysis regarding the availability of sufficient personnel, training, and technical resources to the Department of Defense to carry out such competition in a timely manner.

(b) EXTENSION OF TIMEFRAMES.—(1) The Department of Defense official responsible for managing a Department of Defense public-private competition shall extend any interim or final deadline or other schedule-related milestone established (consistent with subsection (a)) for the completion of the competition if the official determines that the personnel, training, or technical resources available to the Department of Defense to carry out the competition in a timely manner are insufficient.

(2) A determination under this subsection shall be made pursuant to procedures prescribed by the Secretary of Defense.

SEC. 335. DELAYED IMPLEMENTATION OF REVISED OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76 BY DEPARTMENT OF DEFENSE PENDING REPORT.

(a) LIMITATION PENDING REPORT.—No studies or competitions may be conducted under the policies and procedures contained in the revised Office of Management and Budget Circular A–76 dated May 29, 2003 (68 Fed. Reg. 32134), relating to the possible contracting out of commercial activities being performed, as of such date, by employees of the Department of Defense, until the end of the 45-day period beginning on the date on which the Secretary of Defense submits to Congress a report on the effects of the revisions.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall contain, at a minimum, specific information regarding the following:

(1) The extent to which the revised circular will ensure that employees of the Department of Defense have the opportunity to compete to retain their jobs.

(2) The extent to which the revised circular will provide appeal and protest rights to employees of the Department of Defense.

(3) Identify safeguards in the revised circular to ensure that all public-private competitions are fair, appropriate, and comply with requirements of full and open competition.

(4) The plans of the Department to ensure an appropriate phase-in period for the revised circular, as recommended by the Commercial Activities Panel of the Government Accounting Office in its April 2002 report to Congress, including recommendations for any legislative changes that may be required to ensure a smooth and efficient phase-in period.

(5) The plans of the Department to provide training to employees of the Department of Defense regarding the revised circular, including how the training will be funded, how employees will be selected to receive the training, and the number of employees likely to receive the training.

(6) The plans of the Department to collect and analyze data on the costs and quality of work contracted out or retained in-house as a result of a sourcing process conducted under the revised circular.

SEC. 336. PILOT PROGRAM FOR BEST-VALUE SOURCE SELECTION FOR PERFORMANCE OF INFORMATION TECHNOLOGY SERVICES.

(a) AUTHORITY TO USE BEST-VALUE CRITERION.—The Secretary of Defense may carry out a pilot program for the procurement of information technology services for the Department of Defense that uses a best-value criterion in the selection of the source for the performance of the information technology services.

(b) REQUIRED EXAMINATION UNDER PILOT PROJECT.—Under the pilot program, the Secretary of Defense shall modify the examination otherwise required by section 2461(b)(3)(A) of title 10, United States Code, to be an examination of the performance of an information technology services function by Department of Defense civilian employees and by one or more private contractors to demonstrate whether—

(1) a change to performance by the private sector will result in the best value to the Government over the life of the contract, as determined in accordance with the competition requirements of Office of Management and Budget Circular A–76; and

(2) certain benefits exist, in addition to price, that warrant performance of the function by a private sector source at a cost higher than that of performance by Department of Defense civilian employees.

(c) EXEMPTION FOR PILOT PROGRAM.—Section 2462(a) of title 10, United States Code, does not apply to the procurement of information technology services under the pilot program.

(d) DURATION OF PILOT PROGRAM.—(1) The authority to carry out the pilot program begins on the date on which the Secretary of Defense submits to Congress the report on the effect of the recent revisions to Office of Management and Budget Circular A–76, as required by section 335 of this Act, and expires on September 30, 2008.

(2) The expiration of the pilot program shall not affect the selection of the source for the performance of an information technology services function for the Department of Defense for which the analysis required by section 2461(b)(3) of title 10, United States Code, has been commenced before the expiration date or for which a solicitation has been issued before the expiration date.

(e) GAO REVIEW.—Not later than February 1, 2008, the Comptroller General shall submit to Congress a report containing—

(1) a review of the pilot program to assess the extent to which the pilot program is effective and is equitable for the potential public sources and the potential private sources of information technology services for the Department of Defense; and

(2) any other conclusions of the Comptroller General resulting from the review.

(f) INFORMATION TECHNOLOGY SERVICE DEFINED.—In this section, the term "information technology service" means any service performed in the operation or maintenance of information technology (as defined in section 11101 of title 40, United States Code) that is necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel).

SEC. 337. HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program under which the Secretary concerned shall create, or continue the implementation of, high-performing organizations through the conduct of a Business Process Reengineering initiative at selected military installations and facilities under the jurisdiction of the Secretary concerned.

(b) EFFECT OF PARTICIPATION IN PILOT PROGRAM.—(1) During the period of an organization's participation in the pilot program, including the periods referred to in paragraphs (2) and (3) of subsection (f), the Secretary concerned may not require the organization to undergo any Office of Management and Budget Circular A–76 competition or other public-private competition involving any function of the organization covered by the Business Process Reengineering initiative. The organization may elect to undergo such a competition as part of the initiative.

(2) Civilian employee or military personnel positions of the participating organization that are part of the Business Process Reengineering initiative shall be counted toward any numerical goals, target, or quota that the Secretary concerned is required or requested to meet during the term of the pilot program regarding the number of positions to be covered by public-private competitions.

(c) ELIGIBLE ORGANIZATIONS.—Subject to subsection (d), the Secretary concerned may select two types of organizations to participate in the pilot program:

(1) Organizations that underwent a Business Process Reengineering initiative within the preceding five years, achieved major performance enhancements under the initiative, and will be able to sustain previous or achieve new performance goals through the continuation of its existing or completed Business Process Reengineering plan.

(2) Organizations that have not undergone or have not successfully completed a Business Process Reengineering initiative, but which propose to achieve, and reasonably could reach, enhanced performance goals through implementation of a Business Process Reengineering initiative.

(d) ADDITIONAL ELIGIBILITY REQUIREMENTS.—(1) To be eligible for selection to participate in the pilot program under subsection (c)(1), an organization described in such subsection shall demonstrate, to the satisfaction of the Secretary concerned, the completion of a total organizational assessment that resulted in enhanced performance measures at least comparable to those performance measures that might be achieved through competitive sourcing.

(2) To be eligible for selection to participate in the pilot program under subsection (c)(2), an organization described in such subsection shall identify, to the satisfaction of the Secretary concerned—

(A) functions, processes, and measures to be studied under the Business Process Reengineering initiative;

(B) adequate resources to carry out the Business Process Reengineering initiative; and

(C) labor-management agreements in place to ensure effective implementation of the Business Process Reengineering initiative.

(e) LIMITATION ON NUMBER OF PARTICIPANTS.—Total participants in the pilot program is limited to eight military installations and facilities, with some participants to be drawn from organizations described in subsection (c)(1) and some participants to be drawn from organizations described in subsection (c)(2).

(f) IMPLEMENTATION AND DURATION.—(1) The implementation and management of a Business Process Reengineering initiative under the pilot program shall be the responsibility of the commander of the military installation or facility at which the Business Process Reengineering initiative is carried out.

(2) An organization selected to participate in the pilot program shall be given a reasonable initial period, to be determined by the Secretary concerned, in which the organization must implement the Business Process Reengineering initiative. At the end of this period, the Secretary concerned shall determine whether the organization has achieved initial progress toward designation as a high-performing organization. In the absence of such progress, the Secretary concerned shall terminate the organization's participation in the pilot program.

(3) If an organization successfully completes implementation of the Business Process Reengineering initiative under paragraph (2), the Secretary concerned shall designate the organization as a high-performing organization and grant the organization an additional five-year period in which to achieve projected or planned efficiencies and savings under the pilot program.

(g) REVIEWS AND REPORTS.—The Secretary concerned shall conduct annual performance reviews of the participating organizations or functions under the jurisdiction of the Secretary concerned. Reviews and reports shall evaluate organizational performance measures or functional performance measures and determine whether organizations are performing satisfactorily for purposes of continuing participation in the pilot program.

(h) PERFORMANCE MEASURES.—Performance measures utilized in the pilot program should include the following, which shall be measured against organizational baselines determined before participation in the pilot program:

(1) Costs, savings, and overall financial performance of the organization.

(2) Organic knowledge, skills or expertise.

(3) Efficiency and effectiveness of key functions or processes.

(4) Efficiency and effectiveness of the overall organization.

(5) General customer satisfaction.

(i) DEFINITIONS.—In this section

(1) The term "Business Process Reengineering" refers to an organization's complete and thorough analysis and reengineering of mission and support functions and processes to achieve improvements in performance, including a fundamental reshaping of the way work is done to better support an organization's mission and reduce costs.

(2) The term "high-performing organization" means an organization whose performance exceeds that of comparable providers, whether public or private.

(3) The term "Secretary concerned" means the Secretary of a military department and the Secretary of Defense, with respect to matters concerning the Defense Agencies.

SEC. 338. NAVAL AVIATION DEPOTS MULTI-TRADES DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT REQUIRED.—In accordance with section 4703 of title 5, United States Code, the Secretary of the Navy shall carry out a demonstration project under which three Naval Aviation Depots are given the flexibility to promote by one grade level workers who are certified at the journey level as able to perform multiple trades.

(b) SELECTION REQUIREMENTS.—As a condition on eligibility for selection to participate in the demonstration project, the head of a Naval Aviation Depot shall submit to the Secretary a business case analysis and concept plan—

(1) that, on the basis of the results of analysis of work processes, demonstrate that process improvements would result from the trade combinations proposed to be implemented under the demonstration project; and

(2) that describes the improvements in cost, quality, or schedule of work that are anticipated to result from the participation in the demonstration project.

(c) PARTICIPATING WORKERS.—(1) Actual worker participation in the demonstration project shall be determined through competitive selection. Not more than 15 percent of the wage grade journeyman at a demonstration project location may be selected to participate.

(2) Job descriptions and competency-based training plans must be developed for each worker while in training under the demonstration project and once certified as a multi-trade worker. A certified multi-trade worker who receives a pay grade promotion under the demonstration project must use each new skill during at least 25 percent of the worker's work year.

(d) FUNDING SOURCE.—Appropriations for operation and maintenance of the Naval Aviation Depots selected to participate in the demonstration project shall be used as the source of funds to carry out the demonstration project, including the source of funds for pay increases made under the project.

(e) DURATION.—The demonstration project shall be conducted during fiscal years 2004 through 2006.

(f) REPORT.—Not later than January 15, 2007, the Secretary shall submit a report to Congress describing the results of the demonstration project.

(g) GAO EVALUATION.—The Secretary shall transmit a copy of the report to the Comptroller General. Within 90 days after receiving the report, the Comptroller General shall submit to Congress an evaluation of the report.

Subtitle D—Other Matters

SEC. 341. CATALOGING AND STANDARDIZATION FOR DEFENSE SUPPLY MANAGEMENT.

Section 2451 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) The Secretary shall coordinate with the Administrator of General Services to enable the use of commercial identifiers for commercial items within the Federal cataloging system.".

SEC. 342. SALE OF DEFENSE INFORMATION SYSTEMS AGENCY SERVICES TO CONTRACTORS PERFORMING THE NAVY-MARINE CORPS INTRANET CONTRACT.

(a) AUTHORITY.—The Secretary of Defense may sell working-capital funded services of the Defense Information Systems Agency to a person outside the Department of Defense for use by that person in the performance of the Navy-Marine Corps Intranet contract.

(b) REIMBURSEMENT.—The Secretary shall require reimbursement of each working-capital fund for the costs of services sold under subsection (a) that were paid for out of such fund. The sources of the reimbursement shall be the appropriation or appropriations funding the Navy-Marine Corps Intranet contract or any cash payments received by the Secretary for the services.

(c) NAVY-MARINE CORPS INTRANET CONTRACT DEFINED.—In this section, the term "Navy-Marine Corps Intranet contract" has the meaning given such term in section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–217)).

SEC. 343. PERMANENT AUTHORITY FOR PURCHASE OF CERTAIN MUNICIPAL SERVICES AT INSTALLATIONS IN MONTEREY COUNTY, CALIFORNIA.

(a) AUTHORITY.—Subject to section 2465 of title 10, United States Code, public works, utility, and other municipal services needed for the operation of any Department of Defense asset in Monterey County, California, may be purchased from government agencies located in that county.

(c) REPEAL OF EXISTING TEMPORARY AUTHORITY.—Section 816 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2820) is repealed.

SEC. 344. DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

(a) PROVISION OF PREPAID PHONE CARDS.—As soon as possible after the date of the enactment of this Act, the Secretary of Defense shall provide, wherever practicable, prepaid phone cards, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who (as determined by the Secretary) are eligible for combat zone tax exclusion benefits due to their service in direct support of Operation Enduring Freedom and Operation Iraqi Freedom to enable those members to make telephone calls without cost to the member.

(b) MONTHLY BENEFIT.—The value of the benefit provided under subsection (a) to any member in any month, to the extent the benefit is provided from amounts available to the Department of Defense, may not exceed—

(1) $40; or

(2) 120 calling minutes, if the cost to the Department of Defense of providing such number of calling minutes is less than the amount specified in paragraph (1).

(c) END OF PROGRAM.—The program established by subsection (a) shall terminate on September 30, 2004.

(d) FUNDING.—(1)(A) In carrying out the program under this section, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, free or reduced-cost services of private sector entities, and programs to enhance morale and welfare.

(B) The Secretary may not award a contract to a commercial firm for the purposes of subparagraph (A) other than through the use of competitive procedures.

(2) The Secretary may accept gifts and donations in order to defray the costs of the program under this section. Such gifts and donations may be accepted from—

(A) any foreign government;

(B) any foundation or other charitable organization, including any that is organized or operates under the laws of a foreign country; and

(C) any source in the private sector of the United States or a foreign country.

(e) DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT.—If the Secretary of Defense determines that, in order to implement this section as quickly as practicable, it is necessary to provide additional telephones in any area to facilitate telephone calling for which benefits are provided under this section, the Secretary may, consistent with the availability of resources, award competitively bid contracts to one or more commercial entities for the provision and installation of telephones in that area.

(f) NO COMPROMISE OF MILITARY MISSION.—The Secretary of Defense should not take any action under this section that would compromise the military objectives or mission of the Department of Defense.

SEC. 345. INDEPENDENT ASSESSMENT OF MATERIAL CONDITION OF THE KC-135 AERIAL REFUELING FLEET.

Not later than May 1, 2004, the Secretary of Defense shall submit to the congressional defense committees an assessment, conducted by an entity outside of the Department of Defense, of the material condition of the fleet of KC–135 aerial refueling aircraft of the Air Force. The assessment shall include the following:

(1) Trend analysis for operational readiness for KC–135E and KC–135R aircraft from fiscal year 1996 through fiscal year 2003.

(2) Trend analysis for the number of manhours of organizational-level and depot-level maintenance required for KC–135E and KC–135R aircraft from fiscal year 1996 through fiscal year 2003, setting forth separately the manhours required for control and treatment of corrosion.

(3) The number of KC–135E and KC–135R aircraft grounded due to corrosion for each year, and the length of time each aircraft was grounded pending corrosion repair, based on maintenance conducted from fiscal year 1996 through fiscal year 2003.

(4) An itemization of improved corrosion repair processes for KC–135E and KC–135R aircraft used between fiscal year 1996 and fiscal year 2003 which resulted in a decrease in the number of manhours required for control and treatment of corrosion.

(5) An analysis of the relationship between manhours for corrosion repair as set forth under paragraph (2) and the processes set forth under paragraph (4).

(6) An analysis of major structural repairs required due to corrosion for KC–135E and KC–135R aircraft annually from fiscal year 1996 through fiscal year 2003.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent active duty end strength minimum levels.
Sec. 403. Personnel strength authorization and accounting process.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2004 limitations on non-dual status technicians.
Sec. 415. Permanent limitations on number of non-dual status technicians.

Subtitle C—Authorizations of Appropriations

Sec. 421. Military personnel.
Sec. 422. Armed Forces Retirement Home.

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2004, as follows:

(1) The Army, 482,400.

(2) The Navy, 373,800.

(3) The Marine Corps, 175,000.

(4) The Air Force, 359,300.

SEC. 402. REVISION IN PERMANENT ACTIVE DUTY END STRENGTH MINIMUM LEVELS.

Section 691(b) of title 10, United States Code, is amended as follows:

(1) ARMY.—Paragraph (1) is amended by striking "480,000" and inserting "482,400".

(2) NAVY.—Paragraph (2) is amended by striking "375,700" and inserting "373,800".

(3) AIR FORCE.—Paragraph (4) is amended by striking "359,000" and inserting "359,300".

SEC. 403. PERSONNEL STRENGTH AUTHORIZATION AND ACCOUNTING PROCESS.

(a) QUARTERLY STRENGTH LEVELS.—Section 115 of title 10, United States Code, is amended—

(1) by redesignating subsections (c), (e), and (g) as subsections (e), (g), and (c), respectively, and by transferring—

(A) subsection (e), as so redesignated, so as to appear after subsection (d);

(B) subsection (g), as so redesignated, so as to appear after subsection (f); and

(C) subsection (c), as so redesignated, so as to appear after subsection (b);

(2) by transferring subsection (d) to the end of such section and redesignating that subsection as subsection (h); and

(3) by inserting after subsection (c), as redesignated and transferred by paragraph (1), the following new subsection (d):

"(d) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (c). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

"(2)(A) After annual end-strength levels required by subsections (a) and (c) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (e)) and subsection (c).

"(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (e)) and subsection (c).

"(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.".

(b) CONFORMING AND STYLISTIC AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS TO BE AUTHORIZED BY LAW.—" after "(a)";

(2) in subsection (b), by inserting "LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—" after "(b)";

(3) in subsection (c), as redesignated and transferred by subsection (a)(1), by inserting "MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—" after "(c)";

(4) in subsection (e), as redesignated and transferred by subsection (a)(1), by inserting "AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.—" after "(e)";

(5) in subsection (f)—

(A) by inserting "AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY END STRENGTHS.—" after "(f)"; and

(B) in paragraph (2), by striking "subsection (c)(1)" and inserting "subsection (e)(1)";

(6) in subsection (g), as redesignated and transferred by subsection (a)(1), by inserting "ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.—" after "(g)"; and

(7) in subsection (h), as redesignated and transferred by subsection (a)(2), by inserting "CERTAIN ACTIVE-DUTY PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—" after "(h)".

(c) CROSS REFERENCE AMENDMENTS.—Section 10216 of such title is amended by striking "section 115(g)" each place it appears and inserting "section 115(c)".

(d) EFFECTIVE DATE.—Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2004, as follows:

(1) The Army National Guard of the United States, 350,000.

(2) The Army Reserve, 205,000.

(3) The Naval Reserve, 85,900.

(4) The Marine Corps Reserve, 39,600.

(5) The Air National Guard of the United States, 107,030.

(6) The Air Force Reserve, 75,800.

(7) The Coast Guard Reserve, 10,000.

(b) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2004, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,599.

(2) The Army Reserve, 14,374.

(3) The Naval Reserve, 14,384.

(4) The Marine Corps Reserve, 2,261.

(5) The Air National Guard of the United States, 12,191.

(6) The Air Force Reserve, 1,660.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The minimum number of military technicians (dual status) as of the last day of fiscal year 2004 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

(1) For the Army Reserve, 6,949.

(2) For the Army National Guard of the United States, 24,589.

(3) For the Air Force Reserve, 9,991.

(4) For the Air National Guard of the United States, 22,806.

SEC. 414. FISCAL YEAR 2004 LIMITATIONS ON NON-DUAL STATUS TECHNICIANS.

(a) LIMITATIONS.—(1) Within the limitation provided in section 10217(c)(2) of title 10, United States Code, the number of non-dual status technicians employed by the National Guard as of September 30, 2004, may not exceed the following:

(A) For the Army National Guard of the United States, 1,600.

(B) For the Air National Guard of the United States, 350.

(2) The number of non-dual status technicians employed by the Army Reserve as of September 30, 2004, may not exceed 910.

(3) The number of non-dual status technicians employed by the Air Force Reserve as of September 30, 2004, may not exceed 90.

(b) NON-DUAL STATUS TECHNICIANS DEFINED.—In this section, the term "non-dual status technician" has the meaning given that term in section 10217(a) of title 10, United States Code.

SEC. 415. PERMANENT LIMITATIONS ON NUMBER OF NON-DUAL STATUS TECHNICIANS.

Section 10217(c) of title 10, United States Code, is amended by striking "and Air Force Reserve may not exceed 175" and inserting "may not exceed 595 and by the Air Force Reserve may not exceed 90".

Subtitle C—Authorizations of Appropriations

SEC. 421. MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2004 a total of $98,908,400,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2004.

SEC. 422. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2004 from the Armed Forces Retirement Home Trust Fund the sum of $65,279,000 for the operation of the Armed Forces Retirement Home.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Matters

Sec. 501. Standardization of qualifications for appointment as service chief.
Sec. 502. Eligibility for appointment as Chief of Army Veterinary Corps.
Sec. 503. Repeal of required grade of defense attaché in France.
Sec. 504. Repeal of termination provisions for certain authorities relating to management of general and flag officers in certain grades.
Sec. 505. Retention of health professions officers to fulfill active-duty service commitments following promotion nonselection.
Sec. 506. Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.
Sec. 507. Contingent exclusion from officer strength and distribution-in-grade limitations for officer serving as Associate Director of Central Intelligence for Military Support.

Sec. 508. Reappointment of incumbent Chief of Naval Operations.
Sec. 509. Secretary of Defense approval required for practice of wearing uniform insignia of higher grade known as "frocking".

Subtitle B—Reserve Component Matters

Sec. 511. Streamlined process for continuation of officers on the Reserve Active-Status List.
Sec. 512. Consideration of Reserve officers for position vacancy promotions in time of war or national emergency.
Sec. 513. Authority for delegation of required secretarial special finding for placement of certain retired members in Ready Reserve.
Sec. 514. Authority to provide expenses of Army and Air Staff personnel and National Guard Bureau personnel attending national conventions of certain military associations.
Sec. 515. Expanded authority for use of Ready Reserve in response to terrorism.
Sec. 516. National Guard officers on active duty in command of National Guard units.
Sec. 517. Presidential report on mobilization of reserve component personnel and Secretary of Defense assessment.
Sec. 518. Authority for the use of operation and maintenance funds for promotional activities of the National Committee for Employer Support of the Guard and Reserve.

Subtitle C—ROTC and Military Service Academies

Sec. 521. Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships.
Sec. 522. Increase in allocation of scholarships under Army Reserve ROTC scholarship program to students at military junior colleges.
Sec. 523. Authority for nonscholarship senior ROTC sophomores to voluntarily contract for and receive subsistence allowance.
Sec. 524. Appointments to military service academies from nominations made by delegates from Guam, Virgin Islands, and American Samoa.
Sec. 525. Readmission to service academies of certain former cadets and midshipmen.
Sec. 526. Defense task force on sexual harassment and violence at the military service academies.
Sec. 527. Actions to address sexual harassment and violence at the service academies.
Sec. 528. Study and report related to permanent professors at the United States Air Force Academy.
Sec. 529. Dean of the faculty of the United States Air Force Academy.

Subtitle D—Other Military Education and Training Matters

Sec. 531. Authority for the Marine Corps University to award the degree of Master of Operational Studies.
Sec. 532. Authorization for Naval Postgraduate School to provide instruction to enlisted members participating in certain programs.
Sec. 533. Cost reimbursement requirements for personnel receiving instruction at the Air Force Institute of Technology
Sec. 534. Inclusion of accrued interest in amounts that may be repaid under Selected Reserve critical specialties education loan repayment program.
Sec. 535. Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund.
Sec. 536. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 537. Impact aid eligibility for heavily impacted local educational agencies affected by privatization of military housing.

Subtitle E—Administrative Matters

Sec. 541. High-tempo personnel management and allowance.
Sec. 542. Enhanced retention of accumulated leave for high-deployment members.
Sec. 543. Standardization of statutory authorities for exemptions from requirement for access to secondary schools by military recruiters.
Sec. 544. Procedures for consideration of applications for award of the Purple Heart medal to veterans held as prisoners of war before April 25, 1962.
Sec. 545. Authority for Reserve and retired regular officers to hold State and local office notwithstanding call to active duty.
Sec. 546. Policy on public identification of casualties.
Sec. 547. Space personnel career fields.
Sec. 548. Department of Defense Joint Advertising, Market Research, and Studies program.
Sec. 549. Limitation on force structure reductions in Naval and Marine Corps Reserve aviation squadrons.

Subtitle F—Military Justice Matters

Sec. 551. Extended limitation period for prosecution of child abuse cases in courts-martial.
Sec. 552. Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel.

Subtitle G—Benefits

Sec. 561. Additional classes of individuals eligible to participate in the Federal long-term care insurance program.
Sec. 562. Authority to transport remains of retirees and retiree dependents who die in military treatment facilities.
Sec. 563. Eligibility for dependents of certain mobilized reservists stationed overseas to attend defense dependents schools overseas.

Subtitle H—Domestic Violence

Sec. 571. Travel and transportation for dependents relocating for reasons of personal safety.
Sec. 572. Commencement and duration of payment of transitional compensation.
Sec. 573. Exceptional eligibility for transitional compensation.
Sec. 574. Types of administrative separations triggering coverage.
Sec. 575. Comptroller General review and report.
Sec. 576. Fatality reviews.
Sec. 577. Sense of Congress.

Subtitle I—Other Matters

Sec. 581. Recognition of military families.
Sec. 582. Permanent authority for support for certain chaplain-led military family support programs.
Sec. 583. Department of Defense-Department of Veterans Affairs Joint Executive Committee.
Sec. 584. Review of the 1991 death of Marine Corps Colonel James E. Sabow.
Sec. 585. Policy on concurrent deployment to combat zones of both military spouses of military families with minor children.
Sec. 586. Congressional notification of amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation.
Sec. 587. Study of National Guard Challenge Program.
Sec. 588. Findings and sense of Congress on reward for information leading to resolution of status of members of the Armed Forces who remain unaccounted for.

Subtitle A—Officer Personnel Matters

SEC. 501. STANDARDIZATION OF QUALIFICATIONS FOR APPOINTMENT AS SERVICE CHIEF.

(a) CHIEF OF NAVAL OPERATIONS.—Section 5033(a)(1) of title 10, United States Code, is amended by striking "from officers on the active-duty list in the line of the Navy who are eligible to command at sea and who hold the grade of rear admiral or above" and inserting "from the flag officers of the Navy".

(b) COMMANDANT OF THE MARINE CORPS.—Section 5043(a)(1) of title 10, United States Code, is amended by striking "from officers on the active-duty list of the Marine Corps not below the grade of colonel" and inserting "from the general officers of the Marine Corps".

SEC. 502. ELIGIBILITY FOR APPOINTMENT AS CHIEF OF ARMY VETERINARY CORPS.

(a) APPOINTMENT FROM AMONG MEMBERS OF THE CORPS.—Section 3084 of title 10, United States Code, is amended by inserting after "The Chief of the Veterinary Corps of the Army" the following: "shall be appointed from among officers of the Veterinary Corps. The Chief of the Veterinary Corps".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to appointments of the Chief of the Veterinary Corps of the Army that are made on or after the date of the enactment of this Act.

SEC. 503. REPEAL OF REQUIRED GRADE OF DEFENSE ATTACHE IN FRANCE.

(a) IN GENERAL.—Section 714 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 41 of such title is amended by striking the item relating to section 714.

SEC. 504. REPEAL OF TERMINATION PROVISIONS FOR CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

(a) SENIOR JOINT OFFICER POSITIONS.—Section 604 of title 10, United States Code, is amended by striking subsection (c)

(b) DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.—Section 525(b)(5) of such title is amended by striking subparagraph (C).

(c) AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—Section 526(b) of such title is amended by striking paragraph (3).

SEC. 505. RETENTION OF HEALTH PROFESSIONS OFFICERS TO FULFILL ACTIVE-DUTY SERVICE COMMITMENTS FOLLOWING PROMOTION NONSELECTION.

(a) IN GENERAL.—Section 632 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by inserting "except as provided in paragraph (3) and in subsection (c)," before "be discharged"; and

(2) by adding at the end the following new subsection:

"(c)(1) If a health professions officer described in paragraph (2) is subject to discharge under subsection (a)(1) and, as of the date on which the officer is to be discharged under that paragraph, the officer has not completed a period of active duty service obligation that the officer incurred under section 2005, 2114, 2123, or 2603 of this title, the officer shall be retained on active duty until completion of such active duty service obligation, and then be discharged under that subsection, unless sooner retired or discharged under another provision of law.

"(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the active duty service obligation of that officer is not in the best interest of the service.

"(3) This subsection applies to a medical officer or dental officer or an officer appointed in a medical skill other than as a medical officer or dental officer (as defined in regulations prescribed by the Secretary of Defense).".

(b) TECHNICAL AMENDMENTS.—Sections 630(2), 631(a)(3), and 632(a)(3) of such title are amended by striking "clause" and inserting "paragraph".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply in the case of an officer who as of the date of the enactment of this Act is required to be discharged under section 632(a)(1) of title 10, United States Code, by reason of having failed of selection for promotion to the next higher regular grade a second time.

SEC. 506. PERMANENT AUTHORITY TO REDUCE THREE-YEAR TIME-IN-GRADE REQUIREMENT FOR RETIREMENT IN GRADE FOR OFFICERS IN GRADES ABOVE MAJOR AND LIEUTENANT COMMANDER.

(a) ACTIVE COMPONENT OFFICERS.—Subsection (a)(2)(A) of section 1370 of title 10, United States Code, is amended by striking "in the case of retirements effective during the period. beginning on October 1, 2002, and ending on December 31, 2003".

(b) RESERVE COMPONENT OFFICERS.—Subsection (d)(5)(A) of such section is amended by striking "2 years" and all that follows and inserting "two years.".

SEC. 507. CONTINGENT EXCLUSION FROM OFFICER STRENGTH AND DISTRIBUTION-IN-GRADE LIMITATIONS FOR OFFICER SERVING AS ASSOCIATE DIRECTOR OF CENTRAL INTELLIGENCE FOR MILITARY SUPPORT.

(a) ASSOCIATE DIRECTOR NOT COUNTED.—Chapter 32 of title 10, United State Code, is amended by adding at the end the following new section:

"§528. Exclusion: officer serving as Associate Director of Central Intelligence for Military Support

"(a) When none of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, an officer of the armed forces assigned to the position of Associate Director of Central Intelligence for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer's armed force.

"(b) The positions referred to in subsection (a) are the following:

"(1) Director of Central Intelligence.

"(2) Deputy Director of Central Intelligence.

"(3) Deputy Director of Central Intelligence for Community Management.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"528. Exclusion: Associate Director of Central Intelligence for Military Support.".

SEC. 508. REAPPOINTMENT OF INCUMBENT CHIEF OF NAVAL OPERATIONS.

Notwithstanding the provisions of section 5033(a)(1) of title 10, United States Code, the President, by and with the advice and consent of the Senate, may reappoint the officer serving as Chief of Naval Operations on October 1, 2003, for an additional term as Chief of Naval Operations. Such a reappointment shall be for a term of not more than two years.

SEC. 509. SECRETARY OF DEFENSE APPROVAL REQUIRED FOR PRACTICE OF WEARING UNIFORM INSIGNIA OF HIGHER GRADE KNOWN AS "FROCKING".

(a) OSD APPROVAL REQUIRED.—Section 777(b) of title 10, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) in the case of an officer selected for promotion to a grade above colonel or, in the case of an officer of the Navy, a grade above captain—

"(A) authority for that officer to wear the insignia of that grade has been approved by the Secretary of Defense (or a civilian officer within the Office of the Secretary of Defense whose appointment was made with the advice and consent of the Senate and to whom the Secretary delegates such approval authority); and

"(B) the Secretary of Defense has submitted to Congress a written notification of the intent to authorize the officer to wear the insignia for that grade and a period of 30 days has elapsed after the date of the notification.".

(b) EFFECTIVE DATE.—Paragraph (3) of subsection (b) of section 777 of title 10, United States Code, as added by subsection (a), shall not apply with respect to the wearing by an officer of insignia for a grade that was authorized under that section before the date of the enactment of this Act.

Subtitle B—Reserve Component Matters

SEC. 511. STREAMLINED PROCESS FOR CONTINUATION OF OFFICERS ON THE RESERVE ACTIVE-STATUS LIST.

(a) REPEAL OF REQUIREMENT FOR USE OF SELECTION BOARDS.—Section 14701 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "by a selection board convened under section 14101(b) of this title" and inserting "under regulations prescribed by the Secretary of Defense"; and

(B) in paragraph (6), by striking "as a result of the convening of a selection board under section 14101(b) of this title" and inserting "under regulations prescribed under paragraph (1)";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) CONFORMING AMENDMENTS.—(1) Section 14101(b) of such title is amended—

(A) by striking "CONTINUATION BOARDS" and inserting "SELECTIVE EARLY SEPARATION BOARDS";

(B) by striking paragraph (1);

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(D) by striking the last sentence.

(2) Section 14102(a) of such title is amended by striking "Continuation boards" and inserting "Selection boards convened under section 14101(b) of this title".

(3) Section 14705(b)(1) of such title is amended by striking "continuation board" and inserting "selection board".

SEC. 512. CONSIDERATION OF RESERVE OFFICERS FOR POSITION VACANCY PROMOTIONS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) PROMOTION CONSIDERATION WHILE ON ACTIVE-DUTY LIST.—(1) Subsection (d) of section 14317 of title 10, United States Code, is amended by striking "If a reserve officer" and inserting "Except as provided in subsection (e), if a reserve officer".

(2) Subsection (e) of such section is amended to read as follows:

"(e) OFFICERS ORDERED TO ACTIVE DUTY IN TIME OF WAR OR NATIONAL EMERGENCY.—(1) A reserve officer who is not on the active-duty list and who is ordered to active duty in time of war or national emergency may, if eligible, be considered for promotion—

"(A) by a mandatory promotion board convened under section 14101(a) of this title or a special selection board convened under section 14502 of this title; or

"(B) in the case of an officer who has been ordered to or is serving on active duty in support of a contingency operation, by a vacancy promotion board convened under section 14101(a) of this title.

"(2) An officer may not be considered for promotion under this subsection after the end of the two-year period beginning on the date on which the officer is ordered to active duty.

"(3) An officer may not be considered for promotion under this subsection during a period when the operation of this section has been suspended by the President under section 123(a) of this title.

"(4) Consideration of an officer for promotion under this subsection shall be under regulations prescribed by the Secretary of the military department concerned.".

(b) CONFORMING AMENDMENT.—Section 14315(a)(1) of such title is amended by striking "as determined by the Secretary concerned, is available" and inserting "under regulations prescribed by the Secretary concerned, has been recommended".

SEC. 513. AUTHORITY FOR DELEGATION OF REQUIRED SECRETARIAL SPECIAL FINDING FOR PLACEMENT OF CERTAIN RETIRED MEMBERS IN READY RESERVE.

The last sentence of section 10145(d) of title 10, United States Code, is amended to read as follows: "The authority of the Secretary concerned under the preceding sentence may not be delegated—

"(1) to a civilian officer or employee of the military department concerned below the level of Assistant Secretary; or

"(2) to a member of the armed forces below the level of the lieutenant general or vice admiral in an armed force with responsibility for military personnel policy in that armed force.".

SEC. 514. AUTHORITY TO PROVIDE EXPENSES OF ARMY AND AIR STAFF PERSONNEL AND NATIONAL GUARD BUREAU PERSONNEL ATTENDING NATIONAL CONVENTIONS OF CERTAIN MILITARY ASSOCIATIONS.

(a) AUTHORITY.—Section 107(a)(2) of title 32, United States Code, is amended—

(1) by striking "officers" and inserting "members";

(2) by striking "Army General Staff" and inserting "Army Staff"; and

(3) by striking "the National Guard Association of the United States" and inserting "the Enlisted Association of the National Guard of the United States, the National Guard Association of the United States,".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to funds appropriated for a fiscal year before fiscal year 2004.

SEC. 515. EXPANDED AUTHORITY FOR USE OF READY RESERVE IN RESPONSE TO TERRORISM.

Section 12304 of title 10, United States Code, is amended—

(1) in subsection (b)(2), by striking "catastrophic" and inserting "significant"; and

(2) by adding at the end of subsection (c) the following new paragraph:

"(3) No unit or member of a reserve component may be ordered to active duty under this section to provide assistance referred to in subsection (b) unless the President determines that the requirements for responding to an emergency referred to in that subsection have exceeded, or will exceed, the response capabilities of local, State, and Federal civilian agencies.".

SEC. 516. NATIONAL GUARD OFFICERS ON ACTIVE DUTY IN COMMAND OF NATIONAL GUARD UNITS.

(a) CONTINUATION IN STATE STATUS.—Subsection (a) of section 325 of title 32, United States Code, is amended—

(1) by striking "(a) Each" and inserting "(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each"; and

(2) by adding at the end the following new paragraph:

"(2) An officer of the Army National Guard of the United States or the Air National Guard of the United States is not relieved from duty in the National Guard of his State or Territory, or of Puerto Rico or the District of Columbia, under paragraph (1) while serving on active duty in command of a National Guard unit if—

"(A) the President authorizes such service in both duty statuses; and

"(B) the Governor of his State or Territory or Puerto Rico, or the commanding general of the District of Columbia National Guard, as the case may be, consents to such service in both duty statuses.".

(b) FORMAT AMENDMENT.—Subsection (b) of such section is amended by inserting "RETURN TO STATE STATUS.—" after "(b)".

SEC. 517. PRESIDENTIAL REPORT ON MOBILIZATION OF RESERVE COMPONENT PERSONNEL AND SECRETARY OF DEFENSE ASSESSMENT.

(a) PRESIDENTIAL REPORT—Not later than six months after the date of the enactment of this Act, the President shall transmit to Congress a report on the mobilization during fiscal years 2002 and 2003 of members of the reserve components. The report shall include, for each of those fiscal years, the following:

(1) The number of members of the reserve components who were called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States Code.

(2) Of the members counted under paragraph (1), the number who, under a call or order to active duty referred to in paragraph (1), served on active duty for one year or more (including any extension on active duty) and, for those members, specification of their military specialties and the number of such members in each such specialty.

(3) Of the members counted under paragraph (1), the number who, under a provision of law referred to in paragraph (1), were called or ordered to active duty more than once and, for those members, specification of their military specialties and the number of such members in each such specialty.

(b) ASSESSMENT BY SECRETARY OF DEFENSE.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following:

(1) A description of the effects on reserve component recruitment and retention that have resulted from—

(A) the calls and orders of Reserves to active duty during fiscal years 2002 and 2003; and

(B) the tempo of the service of the Reserves on the active duty to which called or ordered.

(2) A description of changes in the Armed Forces, including any changes in the allocation of roles and missions, in force structure, and in capabilities between the active components and the reserve components of the Armed Forces, that are envisioned by the Secretary of Defense on the basis of—

(A) the effects discussed under paragraph (1); or

(B) the lessons learned from calling and ordering the reserve components to active duty during fiscal years 2002 and 2003.

(C) future military force structure and capabilities requirements.

(3) On the basis of the lessons learned as a result of calling and ordering members of the reserve components to active duty during fiscal years 2002 and 2003, an assessment of the process for calling and ordering such members to active duty, preparing such members for active duty, processing such members into the force upon entry onto active duty, and deploying such members, including an assessment of the adequacy of the alert and notification process from the perspectives of individual members, of reserve component units, and of employers of such members.

SEC. 518. AUTHORITY FOR THE USE OF OPERATION AND MAINTENANCE FUNDS FOR PROMOTIONAL ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.

Section 2241 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.—Amounts appropriated for operation and maintenance may, under regulations prescribed by the Secretary of Defense, be used by the Secretary for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.".

Subtitle C—ROTC and Military Service Academies

SEC. 521. EXPANDED EDUCATIONAL ASSISTANCE AUTHORITY FOR CADETS AND MIDSHIPMEN RECEIVING ROTC SCHOLARSHIPS.

(a) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE ON ACTIVE DUTY.—Section 2107(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3) In the case of a cadet or midshipman eligible to receive financial assistance under paragraph (1) or (2), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for the cadet or midshipman and other expenses required by the educational institution.

"(4) The total amount of financial assistance, including the payment of room and board and other educational expenses, provided to a cadet or midshipman in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet or midshipman under paragraph (1) or (2), or another amount determined by the Secretary concerned, without regard to whether room and board and other educational expenses for such cadet or midshipman are paid under paragraph (3).".

(b) FINANCIAL ASSISTANCE PROGRAM FOR SERVICE IN TROOP PROGRAM UNITS.—Section 2107a(c) of such title is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraphs:

"(2) In the case of a cadet eligible to receive financial assistance under paragraph (1), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for such cadet and other expenses required by the educational institution.

"(3) The total amount of financial assistance, including the payment of room and board and any other educational expenses, provided to a cadet in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet under paragraph (1), or another amount determined by the Secretary of the Army, without regard to whether the room and board and other educational expenses for such cadet are paid under paragraph (2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payment of expenses of cadets and midshipmen of the Senior Reserve Officers' Training Corps program that are due after the date of the enactment of this Act.

SEC. 522. INCREASE IN ALLOCATION OF SCHOLARSHIPS UNDER ARMY RESERVE ROTC SCHOLARSHIP PROGRAM TO STUDENTS AT MILITARY JUNIOR COLLEGES.

Section 2107a(h) of title 10, United States Code, is amended by striking "10" each place it appears and inserting "17".

SEC. 523. AUTHORITY FOR NONSCHOLARSHIP SENIOR ROTC SOPHOMORES TO VOLUNTARILY CONTRACT FOR AND RECEIVE SUBSISTENCE ALLOWANCE.

(a) AUTHORITY FOR ALLOWANCE.—Section 209 of title 37, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) NONSCHOLARSHIP SENIOR ROTC MEMBERS NOT IN ADVANCED TRAINING.—A member of the Selected Reserve Officers' Training Corps who has entered into an agreement under section 2103a of title 10 is entitled to a monthly subsistence allowance at a rate prescribed under subsection (a). That allowance may be paid to the member by reason of such agreement for a maximum of 20 months.".

(b) AUTHORITY TO ACCEPT ENROLLMENT.—(1) Chapter 103 of title 10, United States Code, is amended by inserting after section 2103 the following new section:

"§2103a. Students not eligible for advanced training: commitment to military service

"(a) AUTHORITY.—A member of the program who has completed successfully the first year of a four-year Senior Reserve Officers' Training Corps course and who is not eligible for advanced training under section 2104 of this title and is not a cadet or midshipman appointed under section 2107 of this title may—

"(1) contract with the Secretary of the military department concerned, or the Secretary's designated representative, to serve for the period required by the program; and

"(2) agree in writing to accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and to serve in the armed forces for the period prescribed by the Secretary.

"(b) ELIGIBILTY REQUIREMENTS.—A member of the program may enter into a contract and agreement under this section (and receive a subsistence allowance under section 209(c) of title 37) only if the person—

"(1) is a citizen of the United States;

"(2) enlists in an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary; and

"(3) executes a certificate of loyalty in such form as the Secretary of Defense prescribes or take a loyalty oath as prescribed by the Secretary.

"(c) PARENTAL CONSENT FOR MINORS.—A member of the program who is a minor may enter into a contract under subsection (a)(1) only with the consent of the member's parent or guardian.

"(d) TERMINATION OF AUTHORITY.—No contract may be entered into under subsection (a)(1) after December 31, 2006.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2103 the following new item:

"2103a. Students not eligible for advanced training: commitment to military service.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2004.

SEC. 524. APPOINTMENTS TO MILITARY SERVICE ACADEMIES FROM NOMINATIONS MADE BY DELEGATES FROM GUAM, VIRGIN ISLANDS, AND AMERICAN SAMOA.

(a) UNITED STATES MILITARY ACADEMY.—Section 4342(a) of title 10, United States Code, is amended—

(1) in paragraphs (6) and (8), by striking "Two" and inserting "Three"; and

(2) in paragraph (9), by striking "One" and inserting "Two".

(b) UNITED STATES NAVAL ACADEMY.—Section 6954(a) of such title is amended—

(1) in paragraphs (6) and (8), by striking "Two" and inserting "Three"; and

(2) in paragraph (9), by striking "One" and inserting "Two".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9342(a) of such title is amended—

(1) in paragraphs (6) and (8), by striking "Two" and inserting "Three"; and

(2) in paragraph (9), by striking "One" and inserting "Two".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the nomination of candidates for appointment to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy for classes entering those academies after the date of the enactment of this Act.

SEC. 525. READMISSION TO SERVICE ACADEMIES OF CERTAIN FORMER CADETS AND MIDSHIPMEN.

(a) INSPECTOR GENERAL REPORT AS BASIS FOR READMISSION.—(1) When a formal report by an Inspector General within the Department of Defense concerning the circumstances of the separation of a cadet or midshipman from one of the service academies contains a specific finding specified in paragraph (2), the Secretary of the military department concerned may use that report as the sole basis for readmission of the former cadet or midshipman to the respective service academy.

(2) A finding specified in this paragraph is a finding that substantiates that a former service academy cadet or midshipman, while attending the service academy—

(A) received administrative or punitive action or nonjudicial punishment as a result of reprisal;

(B) resigned in lieu of disciplinary, administrative, or other action that the formal report concludes constituted a threat of reprisal; or

(C) otherwise suffered an injustice that contributed to the resignation of the cadet or midshipman.

(b) READMISSION.—In the case of a formal report by an Inspector General described in subsection (a), the Secretary concerned shall offer the former cadet or midshipman an opportunity for readmission to the service academy from which the former cadet or midshipman resigned, if the former cadet or midshipman is otherwise eligible for such readmission.

(c) APPLICATIONS FOR READMISSION.—A former cadet or midshipman described in a report referred to in subsection (a) may apply for readmission to the service academy on the basis of that report and shall not be required to submit the request for readmission through a board for the correction of military records.

(d) REGULATIONS TO MINIMIZE ADVERSE IMPACT UPON READMISSION.—The Secretary of each military department shall prescribe regulations for the readmission of a former cadet or midshipman described in subsections (a), with the goal, to the maximum extent practicable, of readmitting the former cadet or midshipman at no loss of the academic or military status held by the former cadet at the time of resignation.

(e) CONSTRUCTION WITH OTHER REMEDIES.—This section does not preempt or supersede any other remedy that may be available to a former cadet or midshipman.

(f) SERVICE ACADEMIES.—In this section, the term "service academy" means the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SEC. 526. DEFENSE TASK FORCE ON SEXUAL HARASSMENT AND VIOLENCE AT THE MILITARY SERVICE ACADEMIES.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Department of Defense task force to examine matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy.

(b) RECOMMENDATIONS.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary of Defense a report recommending ways by which the Department of Defense and the Department of the Army and the Department of the Navy may more effectively address matters relating to sexual harassment and violence at the United States Military Academy and the United States Naval Academy, respectively. The report shall include an assessment of, and recommendations (including any recommended changes in law) for measures to improve, with respect to sexual harassment and violence at those academies, the following:

(1) Victims' safety programs.

(2) Offender accountability.

(3) Effective prevention of sexual harassment and violence.

(4) Collaboration among military organizations with responsibility or jurisdiction with respect to sexual harassment and violence.

(5) Coordination between military and civilian communities, including local support organizations, with respect to sexual harassment and violence.

(6) Coordination between military and civilian communities, including civilian law enforcement relating to acts of sexual harassment and violence.

(7) Data collection and case management and tracking.

(8) Curricula and training, including standard training programs for cadets at the United States Military Academy and midshipmen at the United States Naval Academy and for permanent personnel assigned to those academies.

(9) Responses to sexual harassment and violence at those academies, including standard guidelines.

(10) Other issues identified by the task force relating to sexual harassment and violence at those academies.

(c) METHODOLOGY.—The task force shall consider the findings and recommendations of previous reviews and investigations of sexual harassment and violence conducted for those academies as one of the bases for its assessment.

(d) REPORT.—(1) The task force shall submit to the Secretary of Defense and the Secretaries of the Army and the Navy a report on the activities of the task force and on the activities of the United States Military Academy and the United States Naval Academy to respond to sexual harassment and violence at those academies.

(2) The report shall include the following:

(A) Any barriers to implementation of improvements as a result of those efforts.

(B) Other areas of concern not previously addressed in prior reports.

(C) The findings and conclusions of the task force.

(D) Any recommendations for changes to policy and law as the task force considers appropriate, including whether cases of sexual assault at those academies should be included in the Department of Defense database known as the Defense Incident-Based Reporting System.

(3) Within 90 days after receipt of the report under paragraph (1) the Secretary of Defense shall submit the report, together with the Secretary's evaluation of the report, to the Committees on Armed Services of the Senate and House of Representatives.

(e) REPORT ON AIR FORCE ACADEMY.—Simultaneously with the submission of the report under subsection (d)(3), the Secretary of Defense, in coordination with the Secretary of the Air Force, shall submit to the committees specified in that subsection the Secretary's assessment of the effectiveness of corrective actions being taken at the United States Air Force Academy as a result of various investigations conducted at that Academy into matters involving sexual assault and harassment.

(f) COMPOSITION.—(1) The task force shall consist of not more than 14 members, to be appointed by the Secretary of Defense. Members shall be appointed from each of the Army, Navy, Air Force, and Marine Corps, and shall include an equal number of personnel of the Department of Defense (military and civilian) and persons from outside the Department of Defense. Members appointed from outside the Department of Defense may be appointed from other Federal departments and agencies, from State and local agencies, or from the private sector.

(2) The Secretary shall ensure that the membership of the task force appointed from the Department of Defense includes at least one judge advocate.

(3) In appointing members to the task force, the Secretary may—

(A) consult with the Attorney General regarding a representative from the Office of Violence Against Women of the Department of Justice; and

(B) consult with the Secretary of Health and Human Services regarding a representative from the Women's Health office of the Department of Health and Human Services.

(4) Each member of the task force appointed from outside the Department of Defense shall be an individual who has demonstrated expertise in the area of sexual harassment and violence or shall be appointed from one of the following:

(A) A representative from the Office of Civil Rights of the Department of Education.

(B) A representative from the Centers for Disease Control and Prevention of the Department of Health and Human Services.

(C) A sexual assault policy and advocacy organization.

(D) A civilian law enforcement agency.

(E) A judicial policy organization.

(F) A national crime victim policy organization.

(5) The members of the task force shall be appointed not later than 120 days after the date of the enactment of this Act.

(g) CO-CHAIRS OF THE TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment

from among the Department of Defense personnel on the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by those members.

(h) ADMINISTRATIVE SUPPORT.—(1) Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be appointed in accordance with, and subject to, section 3161 of title 5, United States Code.

(2) The Deputy Under Secretary of Defense for Personnel and Readiness, under the direction of the Under Secretary of Defense for Personnel and Readiness, shall provide oversight of the task force. The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the task force's duties.

(3) The Deputy Under Secretary shall coordinate with the Secretary of the Army to provide visits of the task force to the United States Military Academy and with the Secretary of the Navy to provide visits of the task force to the United States Naval Academy.

(i) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to the Committees on Armed Services of the Senate and House of Representatives pursuant to subsection (d)(3).

SEC. 527. ACTIONS TO ADDRESS SEXUAL HARASSMENT AND VIOLENCE AT THE SERVICE ACADEMIES.

(a) POLICY ON SEXUAL HARASSMENT AND VIOLENCE.—(1) Under guidance prescribed by the Secretary of Defense—

(A) the Secretary of the Army shall direct the Superintendent of the United States Military Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Military Academy;

(B) the Secretary of the Navy shall direct the Superintendent of the United States Naval Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Naval Academy; and

(C) the Secretary of the Air Force shall direct the Superintendent of the United States Air Force Academy to prescribe a policy on sexual harassment and violence applicable to the personnel of the United States Air Force Academy.

(2) The policy on sexual harassment and violence prescribed for an academy under paragraph (1) shall specify the following:

(A) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve academy personnel.

(B) Procedures that a cadet or midshipman should follow in the case of an occurrence of sexual harassment or violence, including—

(i) a specification of the person or persons to whom the alleged offense should be reported;

(ii) a specification of any other person whom the victim should contact; and

(iii) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

(C) Procedures for disciplinary action in cases of alleged criminal sexual assault involving academy personnel.

(D) Any other sanction authorized to be imposed in a substantiated case of harassment or violence involving academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(E) Required training on the policy for all academy personnel, including the specific training required for personnel who process allegations of sexual harassment or violence involving academy personnel.

(3) In prescribing the policy on sexual harassment and violence for an academy under paragraph (1), the Superintendent of that academy shall take into consideration—

(A) the findings, conclusions, and recommendations of the panel established pursuant to title V of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 609) to review sexual misconduct allegations at the United States Air Force Academy; and

(B) the findings, conclusions, and recommendations of other previous reviews and investigations of sexual harassment and violence conducted with respect to one or more of the academies covered by paragraph (1).

(4) The policy for each such academy required by paragraph (1) shall be prescribed not later than June 1, 2004.

(b) ANNUAL ASSESSMENT.—(1) The Secretary of Defense, through the Secretaries of the military departments, shall direct each Superintendent to conduct at the academy under the jurisdiction of that Superintendent an assessment during each academy program year to determine the effectiveness of the academy's policies, training, and procedures on sexual harassment and violence to prevent criminal sexual harassment and violence involving academy personnel.

(2) For the assessment for each of the 2004, 2005, 2006, 2007, and 2008 academy program years, the Superintendent shall conduct a survey of all academy personnel—

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and violence events, on or off the academy reservation, that have been reported to officials of the academy; and

(ii) the incidence, in that program year, of sexual harassment and violence events, on or off the academy reservation, that have not been reported to officials of the academy; and

(B) to assess the perceptions of academy personnel on—

(i) the policies, training, and procedures on sexual harassment and violence involving academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and violence involving academy personnel in such program year; and

(iv) any other issues relating to sexual harassment and violence involving academy personnel.

(c) ANNUAL REPORT.—(1) The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force shall direct the Superintendent of the United States Military Academy, the Superintendent of the United States Naval Academy, and the Superintendent of the United States Air Force Academy, respectively, to submit to the Secretary a report on sexual harassment and violence involving academy personnel for each of the 2004, 2005, 2006, 2007, and 2008 academy program years.

(2) The annual report for an academy under paragraph (1) shall contain, for the academy program year covered by the report, the following matters:

(A) The number of sexual assaults, rapes, and other sexual offenses involving academy personnel that have been reported to academy officials during the program year, and the number of the reported cases that have been substantiated.

(B) The policies, procedures, and processes implemented by the Secretary of the military department concerned and the leadership of the academy in response to sexual harassment and violence involving academy personnel during the program year.

(C) In the report for the 2004 academy program year, a discussion of the survey conducted under subsection (b), together with an analysis of the results of the survey and a discussion of any initiatives undertaken on the basis of such results and analysis.

(D) In the report for each of the subsequent academy program years, the results of the annual survey conducted in such program year under subsection (b).

(E) A plan for the actions that are to be taken in the following academy program year regarding prevention of and response to sexual harassment and violence involving academy personnel.

(3) The Secretary of a military department shall transmit the annual report on an academy under this subsection, together with the Secretary's comments on the report, to the Secretary of Defense and the Board of Visitors of the academy.

(4) The Secretary of Defense shall transmit the annual report on each academy under this subsection, together with the Secretary's comments on the report to, the Committees on Armed Services of the Senate and the House of Representatives.

(5) The report for the 2004 academy program year for an academy shall be submitted to the Secretary of the military department concerned not later than one year after the date of the enactment of this Act.

(6) In this subsection, the term "academy program year" with respect to a year, means the academy program year that ends in that year.

SEC. 528. STUDY AND REPORT RELATED TO PERMANENT PROFESSORS AT THE UNITED STATES AIR FORCE ACADEMY.

(a) SECRETARY OF AIR FORCE RECOMMENDATIONS.—Not later than six months after the date of the enactment of the Act, the Secretary of the Air Force shall submit to the Secretary of Defense a report containing recommended changes in policy and law pertaining to the selection, tenure, utilization, responsibilities, and qualifications of the permanent professors at the Air Force Academy.

(b) SECRETARY OF DEFENSE RECOMMENDATIONS.—Not later than one month after receiving the report of the Secretary of the Air Force under subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the report received from the Secretary of the Air Force, together with the recommendations of the Secretary of Defense for action and proposals for legislation.

(c) MATTERS TO BE CONSIDERED BY SECRETARY OF AIR FORCE.—The Secretary of the Air Force in preparing the report required by subsection (a), shall, at a minimum, do the following:

(1) Conduct a comprehensive review and assessment of the existing faculty system at the Air Force Academy, including both civilian and military permanent professorships.

(2) Take into account the findings, conclusions, and recommendation regarding faculty and permanent professorships at the Air Force Academy of—

(A) the report of the Panel to Review Sexual Misconduct Allegations at the U. S. Air Force Academy (referred to as the "Fowler Panel"), dated September 22, 2003;

(B) the report released on June 19, 2003, of the special working group appointed by the Secretary of the Air Force known as the Working Group Concerning the Deterrence of and Response to Incidents of Sexual Assault at the U.S. Air Force Academy, which was led by the General Counsel of the Department of the Air Force; and

(C) the Agenda for Change of the Air Force Academy dated March 26, 2003.

(3) Solicit information regarding the faculty and permanent professorship systems at the United States Naval Academy and the United

States Military Academy and consider that information as part of the required assessment.

(4) Consult with experts on higher education outside the Department of Defense.

SEC. 529. DEAN OF THE FACULTY OF THE UNITED STATES AIR FORCE ACADEMY.

(a) AUTHORITY TO APPOINT DEAN FROM PERSONS OTHER THAN AIR FORCE ACADEMY FACULTY HEADS OF DEPARTMENTS.—Subsection (a) of section 9335 of title 10, United States Code, is amended to read as follows:

"(a) The Dean of the Faculty is responsible to the Superintendent for developing and sustaining the curriculum and overseeing the faculty of the Academy. The qualifications, selection procedures, training, pay grade, and retention of the Dean shall be prescribed by the Secretary of the Air Force. If a person appointed as the Dean is not an officer on active duty, the person shall be appointed as a member of the Senior Executive Service.".

(b) CONFORMING AMENDMENTS.—Subsection (b) of such section is amended—

(1) in the first sentence—

(A) by striking "of the Air Force" and inserting "on active duty"; and

(B) by inserting "(or the equivalent)" after "brigadier general" both places it appears; and

(2) in the last sentence—

(A) by inserting "applicable" before "limitation"; and

(C) by striking "of the Air Force".

(c) STATUTORY STATUS AS PERMANENT PROFESSOR.—(1) Section 9331(b)(2) of such title is amended by striking "dean of the Faculty, who is a permanent professor" and inserting "Dean of the Faculty".

(2) Section 9336(a) of such title is amended by striking ", other than the Dean of the Faculty,".

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to any Dean of the Faculty of the United States Air Force Academy selected on or after the date of the enactment of this Act.

Subtitle D—Other Military Education and Training Matters

SEC. 531. AUTHORITY FOR THE MARINE CORPS UNIVERSITY TO AWARD THE DEGREE OF MASTER OF OPERATIONAL STUDIES.

(a) AUTHORITY.—Section 7102 of title 10, United States Code; is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) COMMAND AND STAFF COLLEGE OF THE MARINE CORP UNIVERSITY.—Upon the recommendation of the Director and faculty of the Command and Staff College of the Marine Corps University, the President of the Marine Corps University may confer the degree of master of operational studies upon graduates of the Command and Staff College's School of Advanced Warfighting who fulfill the requirements for that degree.".

(b) EFFECTIVE DATE.—The authority to confer the degree of master of operational studies under section 7102(c) of title 10, United States Code (as added by subsection (a)) may not be exercised until the Secretary of Education determines, and certifies to the President of the Marine Corps University, that the requirements established by the Command and General Staff College of the Marine Corps University for that degree are in accordance with generally applicable requirements for a degree of master of arts.

SEC. 532. AUTHORIZATION FOR NAVAL POSTGRADUATE SCHOOL TO PROVIDE INSTRUCTION TO ENLISTED MEMBERS PARTICIPATING IN CERTAIN PROGRAMS.

(a) EXPANDED ELIGIBILITY FOR ENLISTED PERSONNEL.—Subsection (a)(2) of section 7045 of title 10, United States Code, is amended to read as follows:

"(2)(A) The Secretary may permit an enlisted member of the armed forces to receive instruction at the Naval Postgraduate School through attendance at an executive level seminar.

"(B) The Secretary may permit an eligible enlisted member of the armed forces to receive instruction at the Postgraduate School in connection with pursuit of a program of education in information assurance as a participant in the Information Security Scholarship program under chapter 112 of this title. To be eligible for instruction under this subparagraph, the enlisted member must have been awarded a baccalaureate degree by an institution of higher education.

"(C) In addition to instruction authorized under subparagraphs (A) and (B), the Secretary may, on a space-available basis, permit an enlisted member of the armed forces who is assigned permanently to the staff of the Postgraduate School or to a nearby command to receive instruction at the Postgraduate School."..

(b) REIMBURSEMENT.—Subsection (b) of such section is amended—

(1) by striking "The Department" and inserting "(1) Except as provided under paragraph (3), the Department";

(2) by striking "officers" in the first sentence and inserting "members";

(3) by designating the second sentence as paragraph (2) and in that sentence—

(A) by inserting "under subsection (a)(2)(C)" after "permitted";

(B) by inserting "on a space-available basis" after "instruction at the Postgraduate School"; and

(C) by striking "(taking into consideration the admission of enlisted members on a space-available basis)"; and

(4) by adding at the end the following new paragraph:

"(3) The requirements for payment of costs and fees under paragraph (1) shall be subject to such exceptions as the Secretary of Defense may prescribe for members of the armed forces who receive instruction at the Postgraduate School in connection with pursuit of a degree or certification as participants in the Information Security Scholarship program under chapter 112 of this title.".

SEC. 533. COST REIMBURSEMENT REQUIREMENTS FOR PERSONNEL RECEIVING INSTRUCTION AT THE AIR FORCE INSTITUTE OF TECHNOLOGY

(a) REIMBURSEMENT FROM OTHER SERVICES.—Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) REIMBURSEMENT.—(1) The Department of the Army, the Department of the Navy, and the Department of Homeland Security shall bear the cost of the instruction at the Air Force Institute of Technology that is received by members of the armed forces detailed for that instruction by the Secretaries of the Army, Navy, and Homeland Security, respectively.

"(2) Members of the Army, Navy, Marine Corps, and Coast Guard may only be detailed for instruction at the Institute on a space-available basis.

"(3) In the case of an enlisted member of the Army, Navy, Marine Corps, and Coast Guard permitted to receive instruction at the Institute, the Secretary of the Air Force shall charge that member only for such costs and fees as the Secretary considers appropriate (taking into consideration the admission of enlisted members on a space-available basis).".

(b) STYLISTIC AMENDMENTS.—(1) Subsection (a) of such section is amended by inserting "AUTHORITY TO CONFER DEGREES.—" after "(a)".

(2) Subsection (b) of such section is amended by inserting "CIVILIAN FACULTY.—" after "(b)".

(c) CLARIFYING AMENDMENT.—Subsection (a) of such section is further amended—

(1) by striking "When the" and all that follows through "the Commander" and inserting "(1) The Commander";

(2) by striking "that Institute" and inserting "the United States Air Force Institute of Technology"; and

(3) by adding at the end the following new paragraph:

"(2) The authority under this subsection to confer a degree is effective only during a period when the United States Air Force Institute of Technology is accredited with respect to the award of that degree by a nationally recognized accreditation association or authority.".

SEC. 534. INCLUSION OF ACCRUED INTEREST IN AMOUNTS THAT MAY BE REPAID UNDER SELECTED RESERVE CRITICAL SPECIALTIES EDUCATION LOAN REPAYMENT PROGRAM.

Section 16301 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", plus the amount of any interest that may accrue during the current year"; and

(2) in subsection (c), by adding at the end the following new sentence: "For the purposes of this section, any interest that has accrued on the loan for periods before the current year shall be considered as within the total loan amount that shall be repaid.".

SEC. 535. FUNDING OF EDUCATION ASSISTANCE ENLISTMENT INCENTIVES TO FACILITATE NATIONAL SERVICE THROUGH DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.

(a) IN GENERAL.—Subsection (j) of section 510 of title 10, United States Code, is amended to read as follows:

"(j) FUNDING.—(1) Amounts for the payment of incentives under paragraphs (1) and (2) of subsection (e) shall be derived from amounts available to the Secretary of the military department concerned for the payment of pay, allowances and other expenses of the members of the armed force concerned.

"(2) Amounts for the payment of incentives under paragraphs (3) and (4) of subsection (e) shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.".

(b) CONFORMING AMENDMENTS.—Section 2006(b) of such title is amended—

(1) in paragraph (1), by inserting "paragraphs (3) and (4) of section 510(e) and" after "Department of Defense benefits under"; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

"(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.".

SEC. 536. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2004.—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2004, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2004 of—

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

(d) DEFINITIONS.—In this section:

(1) The term "educational agencies assistance" means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 20 U.S.C. 7703 note).

(2) The term "local educational agency" has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 537. IMPACT AID ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.

(a) TRANSITION.—Section 8003(b)(2)(H) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)(H)) is amended by striking clauses (i) and (ii) and inserting the following:

"(i) ELIGIBILITY.—For any fiscal year, a heavily impacted local educational agency that received a basic support payment under this paragraph for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B), (C), (D), or (E), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

"(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E), as the case may be, shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year and under the same provisions of subparagraph (D) or (E) under which the agency was paid during the prior fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with basic support payments under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003.

Subtitle D—Administrative Matters

SEC. 541. HIGH-TEMPO PERSONNEL MANAGEMENT AND ALLOWANCE.

(a) DEPLOYMENT MANAGEMENT.—Subsection (a) of section 991 of title 10, United States Code, is amended to read as follows:

"(a) MANAGEMENT RESPONSIBILITIES.—(1) The deployment (or potential deployment) of a member of the armed forces shall be managed to ensure that the member is not deployed, or continued in a deployment, on any day on which the total number of days on which the member has been deployed—

"(A) out of the preceding 365 days would exceed the one-year high-deployment threshold; or

"(B) out of the preceding 730 days would exceed the two-year high-deployment threshold.

"(2) In this subsection:

"(A) The term 'one-year high-deployment threshold' means—

"(i) 220 days; or

"(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

"(B) The term 'two-year high-deployment threshold' means—

"(i) 400 days; or

"(ii) a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness.

"(3) A member may be deployed, or continued in a deployment, without regard to paragraph (1) if the deployment, or continued deployment, is approved by the Secretary of Defense. The authority of the Secretary under the preceding sentence may only be delegated to—

"(A) a civilian officer of the Department of Defense appointed by the President, by and with the advise and consent of the Senate, or a member of the Senior Executive Service; or

"(B) a general or flag officer in that member's chain of command (including an officer in the grade of colonel, or in the case of the Navy, captain, serving in a general or flag officer position who has been selected for promotion to the grade of brigadier general or rear admiral (lower half) in a report of a selection board convened under section 611(a) or 14101(a) of this title that has been approved by the President).".

(b) CHANGES FROM PER DIEM TO HIGH-DEPLOYMENT ALLOWANCE.—(1) Subsection (a) of section 436 of title 37, United States Code, is amended to read as follows:

"(a) MONTHLY ALLOWANCE.—The Secretary of the military department concerned shall pay a high-deployment allowance to a member of the armed forces under the Secretary's jurisdiction for each month during which the member—

"(1) is deployed; and

"(2) at any time during that month—

"(A) has been deployed for 191 or more consecutive days (or a lower number of consecutive days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness);

"(B) has been deployed, out of the preceding 730 days, for a total of 401 or more days (or a lower number of days prescribed by the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness); or

"(C) in the case of a member of a reserve component, is on active duty—

"(i) under a call or order to active duty for a period of more than 30 days that is the second (or later) such call or order to active duty (whether voluntary or involuntary) for that member in support of the same contingency operation; or

"(ii) for a period of more than 30 days under a provision of law referred to in section 101(a)(13)(B) of title 10, if such period begins within one year after the date on which the member was released from previous service on active duty for a period of more than 30 days under a call or order issued under such a provision of law.".

(2) Subsection (c) of such section is amended to read as follows:

"(c) RATE.—The monthly rate of the allowance payable to a member under this section shall be determined by the Secretary concerned, not to exceed $1,000 per month.".

(3) Such section is further amended by adding at the end the following new subsections:

"(g) AUTHORITY TO EXCLUDE CERTAIN DUTY ASSIGNMENTS.—The Secretary concerned may exclude members serving in specified duty assignments from eligibility for the high-deployment allowance while serving in those assignments. Any such specification of duty assignments may only be made with the approval of the Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness. Specification of a particular duty assignment for purposes of this subsection may not be implemented so as to apply to the member serving in that position at the time of such specification.

"(h) PAYMENT FROM OPERATION AND MAINTENANCE FUNDS.—The monthly allowance payable to a member under this section shall be paid from appropriations available for operation and maintenance for the armed force in which the member serves.".

(4) Such section is further amended—

(A) in subsection (d), by striking "per diem";

(B) in subsection (e), by striking "per diem" and inserting "allowance"; and

(C) in subsection (f)—

(i) by striking "per diem" and inserting "allowance"; and

(ii) by striking "day on which" and inserting "month during which".

(5)(A) The heading of such section is amended to read as follows:

"§436. High-deployment allowance: lengthy or numerous deployments; frequent mobilizations".

(B) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"436. High-deployment allowance: lengthy or numerous deployments; frequent mobilizations.".

(c) CHANGES TO REPORTING REQUIREMENT.—Section 487(b)(5) of title 10, United States Code, is amended to read as follows:

"(5) For each of the armed forces, the description shall indicate, for the period covered by the report—

"(A) the number of members who received the high-deployment allowance under section 436 of title 37;

"(B) the number of members who received each rate of allowance paid;

"(C) the number of members who received the allowance for one month, for two months, for three months, for four months, for five months, for six months, and for more than six months; and

"(D) the total amount spent on the allowance.".

SEC. 542. ENHANCED RETENTION OF ACCUMULATED LEAVE FOR HIGH-DEPLOYMENT MEMBERS.

(a) ENHANCED AUTHORITY TO RETAIN ACCUMULATED LEAVE.—Paragraph (1) of section 701(f) of title 10, United States Code, is amended to read as follows:

"(f)(1)(A) The Secretary concerned, under uniform regulations to be prescribed by the Secretary of Defense, may authorize a member described in subparagraph (B) who, except for this paragraph, would lose any accumulated leave in excess of 60 days at the end of the fiscal year, to retain an accumulated total of 120 days leave.

"(B) This subsection applies to a member who serves on active duty for a continuous period of at least 120 days—

"(i) in an area in which the member is entitled to special pay under section 310(a) of title 37; or

"(ii) while assigned to a deployable ship or mobile unit or to other duty comparable to that specified in clause (i) that is designated for the purpose of this subsection.

"(C) Except as provided in paragraph (2), leave in excess of 60 days accumulated under this paragraph is lost unless it is used by the member before the end of the third fiscal year after the fiscal year in which the continuous period of service referred to in subparagraph (B) terminated.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2003, or the date of the enactment of this Act, whichever is later.

SEC. 543. STANDARDIZATION OF STATUTORY AUTHORITIES FOR EXEMPTIONS FROM REQUIREMENT FOR ACCESS TO SECONDARY SCHOOLS BY MILITARY RECRUITERS.

(a) CONSISTENCY WITH ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Paragraph

(5) of section 503(c) of title 10, United States Code, is amended by striking "apply to—" and all that follows through "school which" and inserting "apply to a private secondary school that".

(b) Correction of Cross Reference.—Paragraph (6)(A)(i) of such section is amended by striking "14101" and "8801" and inserting "9101" and "7801", respectively.

SEC. 544. PROCEDURES FOR CONSIDERATION OF APPLICATIONS FOR AWARD OF THE PURPLE HEART MEDAL TO VETERANS HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

Section 521 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 309; 10 U.S.C. 1129 note) is amended by adding at the end the following new subsection:

"(d) Procedures for Award.—In determining whether a former prisoner of war who submits an application for the award of the Purple Heart under subsection (a) is eligible for that award, the Secretary concerned shall apply the following procedures:

"(1) Failure of the applicant to provide any documentation as required by the Secretary shall not in itself disqualify the application from being considered.

"(2) In evaluating the application, the Secretary shall consider (A) historical information as to the prison camp or other circumstances in which the applicant was held captive, and (B) the length of time that the applicant was held captive.

"(3) To the extent that information is readily available, the Secretary shall assist the applicant in obtaining information or identifying the sources of information referred to in paragraph (2).

"(4) The Secretary shall review a completed application under this section based upon the totality of the information presented, taking into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application.".

SEC. 545. AUTHORITY FOR RESERVE AND RETIRED REGULAR OFFICERS TO HOLD STATE AND LOCAL OFFICE NOTWITHSTANDING CALL TO ACTIVE DUTY.

Section 973(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) in paragraph (3)—

(A) by inserting "by reason of subparagraph (A) of paragraph (1)" after "applies"; and

(B) by striking ", the District of Columbia," and all that follows through "such government)" and inserting "(or of any political subdivision of a State)"; and

(3) by inserting after paragraph (3) the following new paragraph (4):

"(4)(A) An officer to whom this subsection applies by reason of subparagraph (B) or (C) of paragraph (1) may not hold, by election or appointment, a civil office in the government of a State (or of any political subdivision of a State) if the holding of such office while this subsection so applies to the officer—

"(i) is prohibited under the laws of that State; or

"(ii) as determined by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, interferes with the performance of the officer's duties as an officer of the armed forces.

"(B) Except as otherwise authorized by law, while an officer referred to in subparagraph (A) is serving on active duty, the officer may not exercise the functions of a civil office held by the officer as described in that subparagraph."; and

(4) by adding at the end the following

"(6) In this subsection, the term 'State' includes the District of Columbia and a territory, possession, or commonwealth of the United States.".

SEC. 546. POLICY ON PUBLIC IDENTIFICATION OF CASUALTIES.

(a) Requirement for Policy.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe the policy of the Department of Defense on public release of the name or other personally identifying information of any member of the Army, Navy, Air Force, or Marine Corps who while on active duty or performing inactive-duty training is killed or injured, whose duty status becomes unknown, or who is otherwise considered to be a casualty.

(b) Guidance on Timing of Release.—The policy under subsection (a) shall include guidance for ensuring that any public release of information on a member under the policy occurs only after the lapse of an appropriate period following notification of the next-of-kin regarding the casualty status of such member.

SEC. 547. SPACE PERSONNEL CAREER FIELDS.

(a) Strategy Required.—The Secretary of Defense shall develop a strategy for the Department of Defense that will—

(1) promote the development of space personnel career fields within each of the military departments; and

(2) ensure that the space personnel career fields developed by the military departments are integrated with each other to the maximum extent practicable.

(b) Report.—Not later than February 1, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the strategy developed under subsection (a). The report shall include the following:

(1) A statement of the strategy developed under subsection (a), together with an explanation of that strategy.

(2) An assessment of the measures required for the Department of Defense and the military departments to integrate the space personnel career fields of the military departments.

(3) A comprehensive assessment of the adequacy of the actions of the Secretary of Air Force pursuant to section 8084 of title 10, United States Code, to establish for Air Force officers a career field for space.

(c) General Accounting Office Review and Reports.—(1) The Comptroller General shall review the strategy developed under subsection (a) and the status of efforts by the military departments in developing space personnel career fields.

(2) The Comptroller General shall submit to the committees referred to in subsection (b) two reports on the review under paragraph (1), as follows:

(A) Not later than June 15, 2004, the Comptroller General shall submit a report that assesses how effective that Department of Defense strategy and the efforts by the military departments, when implemented, are likely to be for developing the personnel required by each of the military departments who are expert in development of space doctrine and concepts of space operations, the development of space systems, and operation of space systems.

(B) Not later than March 15, 2005, the Comptroller General shall submit a report that assesses, as of the date of the report—

(i) the effectiveness of that Department of Defense strategy and the efforts by the military departments in developing the personnel required by each of the military departments who are expert in development of space doctrine and concepts of space operations, the development of space systems, and in operation of space systems; and

(ii) progress made in integrating the space career fields of the military departments.

SEC. 548. DEPARTMENT OF DEFENSE JOINT ADVERTISING, MARKET RESEARCH, AND STUDIES PROGRAM.

(a) Program Authorized.—The Secretary of Defense may carry out a joint advertising, market research, and studies program to complement the recruiting advertising programs of the military departments and improve the ability of the military departments to attract and recruit qualified individuals to serve in the Armed Forces.

(b) Funding.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $7,500,000 may be made available to carry out the joint advertising, market research, and studies program.

SEC. 549. LIMITATION ON FORCE STRUCTURE REDUCTIONS IN NAVAL AND MARINE CORPS RESERVE AVIATION SQUADRONS.

The Secretary of the Navy may not reduce or disestablish a Naval Reserve or Marine Corps Reserve aviation squadron before February 1, 2004.

Subtitle E—Military Justice Matters

SEC. 551. EXTENDED LIMITATION PERIOD FOR PROSECUTION OF CHILD ABUSE CASES IN COURTS-MARTIAL.

Subsection (b) of section 843 of title 10, United States Code (article 43 of the Uniform Code of Military Justice), is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2)(A) A person charged with having committed a child abuse offense against a child is liable to be tried by court-martial if the sworn charges and specifications are received before the child attains the age of 25 years by an officer exercising summary court-martial jurisdiction with respect to that person.

"(B) In subparagraph (A), the term 'child abuse offense' means an act that involves sexual or physical abuse of a person who has not attained the age of 16 years and constitutes any of the following offenses:

"(i) Rape or carnal knowledge in violation of section 920 of this title (article 120).

"(ii) Maiming in violation of section 924 of this title (article 124).

"(iii) Sodomy in violation of section 925 of this title (article 126).

"(iv) Aggravated assault or assault consummated by a battery in violation of section 928 of this title (article 128).

"(v) Indecent assault, assault with intent to commit murder, voluntary manslaughter, rape, or sodomy, or indecent acts or liberties with a child in violation of section 934 of this title (article 134).".

SEC. 552. CLARIFICATION OF BLOOD ALCOHOL CONTENT LIMIT FOR THE OFFENSE UNDER THE UNIFORM CODE OF MILITARY JUSTICE OF DRUNKEN OPERATION OF A VEHICLE, AIRCRAFT, OR VESSEL.

Section 911 of title 10, United States Code (article 111 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a)(2), by striking "is in excess of" and inserting "is equal to or exceeds"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

"(A) In the case of the operation or control of a vehicle, aircraft, or vessel in the United States, such limit is the lesser of—

"(i) the blood alcohol content limit under the law of the State in which the conduct occurred, except as may be provided under paragraph (2)

for conduct on a military installation that is in more than one State; or

"(ii) the blood alcohol content limit specified in paragraph (3).";

(B) in paragraphs (1)(B) and (3), by striking "maximum"; and

(C) in paragraph (4)(A), by striking "maximum permissible" and all that follows through the period at the end and inserting "amount of alcohol concentration in a person's blood or breath at which operation or control of a vehicle, aircraft, or vessel is prohibited.".

Subtitle F—Benefits

SEC. 561. ADDITIONAL CLASSES OF INDIVIDUALS ELIGIBLE TO PARTICIPATE IN THE FEDERAL LONG-TERM CARE INSURANCE PROGRAM.

(a) Certain Employees of the District of Columbia Government.—Section 9001(1) of title 5, United States Code, is amended by striking "2105(c)," and all that follows and inserting "2105(c).".

(b) Former Federal Employees Who Would Be Eligible To Begin Receiving an Annuity Upon Attaining the Requisite Minimum Age.—Section 9001(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) any former employee who, on the basis of his or her service, would meet all requirements for being considered an 'annuitant' within the meaning of subchapter III of chapter 83, chapter 84, or any other retirement system for employees of the Government, but for the fact that such former employee has not attained the minimum age for title to annuity.".

(c) Reservists Transferred to the Retired Reserve Who Are Under Age 60.—Section 9001(4) of title 5, United States Code, is amended by striking "including" and all that follows through "who has" and inserting "and a member who has been transferred to the Retired Reserve and who would be entitled to retired pay under chapter 1223 of title 10 but for not having".

(d) Reference Amendment.—Section 9001(2)(A) of title 5, United States Code, as amended by subsection (b), is further amended by striking "of this subsection".

SEC. 562. AUTHORITY TO TRANSPORT REMAINS OF RETIREES AND RETIREE DEPENDENTS WHO DIE IN MILITARY TREATMENT FACILITIES.

(a) Authorized Transportation.—Section 1490 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "located in the United States"; and

(2) in subsection (b)(1), by striking "outside the United States or to a place".

(b) Conforming Amendment.—Subsection (c) of such section is amended to read as follows:

"(c) Definition of Dependent.—In this section, the term 'dependent' has the meaning given such term in section 1072(2) of this title.".

(c) Effective Date.—The amendments made by this section shall apply only with respect to persons dying on or after the date of the enactment of this Act.

SEC. 563. ELIGIBILITY FOR DEPENDENTS OF CERTAIN MOBILIZED RESERVISTS STATIONED OVERSEAS TO ATTEND DEFENSE DEPENDENTS SCHOOLS OVERSEAS.

(a) Tuition Status Parity With Dependents of Other Reservists.—Section 1404(c) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 923(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

"(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

"(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

"(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

"(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

"(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

"(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10, United States Code;

"(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

"(iii) are serving on active duty outside the United States or in Alaska or Hawaii.".

(b) Clerical Amendment.—The heading of such section is amended to read as follows:

"SPACE-AVAILABLE ENROLLMENT OF STUDENTS; TUITION".

Subtitle G—Domestic Violence

SEC. 571. TRAVEL AND TRANSPORTATION FOR DEPENDENTS RELOCATING FOR REASONS OF PERSONAL SAFETY.

Section 406(h) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) If a determination described in subparagraph (B) is made with respect to a dependent of a member described in that subparagraph and a request described in subparagraph (C) is made by or on behalf of that dependent, the Secretary may provide a benefit authorized for a member under paragraph (1) or (3) to that dependent in lieu of providing such benefit to the member.

"(B) A determination described in this subparagraph is a determination by the commanding officer of a member that—

"(i) the member has committed a dependent-abuse offense against a dependent of the member;

"(ii) a safety plan and counseling have been provided to that dependent;

"(iii) the safety of the dependent is at risk; and

"(iv) the relocation of the dependent is advisable.

"(C) A request described in this subparagraph is a request by the spouse of a member, or by the parent of a dependent child in the case of a dependent child of a member, for relocation.

"(D) Transportation may be provided under this paragraph for household effects or a motor vehicle only if a written agreement of the member, or an order of a court of competent jurisdiction, gives possession of the effects or vehicle to the spouse or dependent of the member concerned.

"(E) In this paragraph, the term 'dependent-abuse offense' means an offense described in section 1059(c) of title 10.".

SEC. 572. COMMENCEMENT AND DURATION OF PAYMENT OF TRANSITIONAL COMPENSATION.

(a) Commencement.—Paragraph (1)(A) of section 1059(e) of title 10, United States Code, is amended by striking "shall commence" and all that follows and inserting "shall commence—

"(i) as of the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

"(ii) if there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and".

(b) Duration.—(1) Paragraph (2) of such section is amended by striking "a period of 36 months" and all that follows through "12 months" and inserting "a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned".

(2) Policies under subsection (e)(2) of section 1059 of title 10, United States Code, as amended by paragraph (1), for the duration of transitional compensation payments under that section shall be prescribed under such subsection not later than six months after the date of the enactment of this Act.

(c) Termination.—Paragraph (3)(A) of such section is amended by striking "punishment applicable to the member under the sentence is remitted, set aside, or mitigated" and inserting "conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated".

(d) Effective Date.—The amendments made by this section shall apply only with respect to cases in which a court-martial sentence is ajudged on or after the date of the enactment of this Act.

SEC. 573. EXCEPTIONAL ELIGIBILITY FOR TRANSITIONAL COMPENSATION.

(a) Authority.—Section 1059 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(m) Exceptional Eligibility for Dependents of Former Members.—(1) The Secretary concerned, under regulations prescribed under subsection (k), may authorize eligibility for benefits under this section for dependents and former dependents of a former member of the armed forces in a case in which the dependents or former dependents are not otherwise eligible for such benefits and the Secretary concerned determines that the former member engaged in conduct that is a dependent-abuse offense under this section and the former member was separated from active duty other than as described in subsection (b).

"(2) In a case in which the Secretary concerned, under the authority of paragraph (1), authorizes benefits to be provided under this section, such benefits shall be provided in the same manner as if the former member were an individual described in subsection (b), except that, under regulations prescribed under subsection (k), the Secretary shall make such adjustments to the commencement and duration of payment provisions of subsection (e), and may make adjustments to other provisions of this section, as the Secretary considers necessary in light of the circumstances in order to provide benefits substantially equivalent to the benefits provided in the case of an individual described in subsection (b).

"(3) The authority of the Secretary concerned under paragraph (1) may not be delegated.".

(b) Effective Date.—The authority under subsection (m) of section 1059 of title 10, United

States Code, as added by subsection (a), may be exercised with respect to eligibility for benefits under that section only for dependents and former dependents of individuals who are separated from active duty in the Armed Forces on or after the date of the enactment of this Act.

SEC. 574. TYPES OF ADMINISTRATIVE SEPARATIONS TRIGGERING COVERAGE.

Section 1059(b)(2) of title 10, United States Code, is amended by inserting ", voluntarily or involuntarily," after "administratively separated".

SEC. 575. COMPTROLLER GENERAL REVIEW AND REPORT.

(a) Review.—During the two-year period beginning on the date of the enactment of this Act, the Comptroller General shall review and assess the progress of the Department of Defense in implementing the recommendations of the Defense Task Force on Domestic Violence. In reviewing the status of the Department's efforts, the Comptroller General should specifically focus on—

(1) the efforts of the Department to ensure confidentiality for victims and accountability and education of commanding officers and chaplains; and

(2) the resources that the Department of Defense has provided toward such implementation, including personnel, facilities, and other administrative support, in order to ensure that necessary resources are provided to the organization within the Office of the Secretary of Defense with direct responsibility for oversight of implementation by the military departments of recommendations of the Task Force in order for that organization to carry out its duties and responsibilities.

(b) Report.—The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the results of the review and assessment under subsection (a) not later than 30 months after the date of the enactment of this Act.

SEC. 576. FATALITY REVIEWS.

(a) Army.—(1) Part II of subtitle B of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 375—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

"Sec.

"4061. Fatality reviews.

"§4061. Fatality reviews

"(a) Review of Fatalities.—The Secretary of the Army shall conduct a multidisciplinary, impartial review (referred to as a 'fatality review') in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following:

"(1) A member of the Army on active duty.

"(2) A current or former dependent of a member of the Army on active duty.

"(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the Army on active duty.

"(b) Matters To Be Included.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

"(1) An executive summary.

"(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

"(3) Legal disposition.

"(4) System intervention and failures, if any, within the Department of Defense.

"(5) A discussion of significant findings.

"(6) Recommendations for systemic changes, if any, within the Department of the Army and the Department of Defense.

"(c) OSD Guidance.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).".

(2) The tables of chapters at the beginning of subtitle B, and at the beginning of part II of subtitle B, of such title are each amended by inserting after the item relating to chapter 373 the following new item:

"375. Miscellaneous Investigation Requirements and Other Duties .... 4061".

(b) Navy and Marine Corps.—(1) Chapter 555 of title 10, United States Code, is amended by adding at the end the following new section:

"§6036. Fatality reviews

"(a) Review of Fatalities.—The Secretary of the Navy shall conduct a multidisciplinary, impartial review (referred to as a 'fatality review') in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following.

"(1) A member of the naval service on active duty.

"(2) A current or former dependent of a member of the naval service on active duty.

"(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the naval service on active duty.

"(b) Matters To Be Included.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

"(1) An executive summary.

"(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

"(3) Legal disposition.

"(4) System intervention and failures, if any, within the Department of Defense.

"(5) A discussion of significant findings.

"(6) Recommendations for systemic changes, if any, within the Department of the Navy and the Department of Defense.

"(c) OSD Guidance.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6036. Fatality reviews.".

(c) Air Force.—(1) Part II of subtitle D of such title is amended by adding at the end the following new chapter:

"CHAPTER 875—MISCELLANEOUS INVESTIGATION REQUIREMENTS AND OTHER DUTIES

"Sec.

"9061. Fatality reviews.

"§9061. Fatality reviews

"(a) Review of Fatalities.—The Secretary of the Air Force shall conduct a multidisciplinary, impartial review (referred to as a 'fatality review') in the case of each fatality known or suspected to have resulted from domestic violence or child abuse against any of the following:

"(1) A member of the Air Force on active duty.

"(2) A current or former dependent of a member of the Air Force on active duty.

"(3) A current or former intimate partner who has a child in common or has shared a common domicile with a member of the Air Force on active duty.

"(b) Matters To Be Included.—The report of a fatality review under subsection (a) shall, at a minimum, include the following:

"(1) An executive summary.

"(2) Data setting forth victim demographics, injuries, autopsy findings, homicide or suicide methods, weapons, police information, assailant demographics, and household and family information.

"(3) Legal disposition.

"(4) System intervention and failures, if any, within the Department of Defense.

"(5) A discussion of significant findings.

"(6) Recommendations for systemic changes, if any, within the Department of the Air Force and the Department of Defense.

"(c) OSD Guidance.—The Secretary of Defense shall prescribe guidance, which shall be uniform for the military departments, for the conduct of reviews by the Secretary under subsection (a).".

(2) The tables of chapters at the beginning of subtitle D, and at the beginning of part II of subtitle D, of such title are each amended by inserting after the item relating to chapter 873 the following new item:

"875. Miscellaneous Investigation Requirements and Other Duties .... 9061".

(d) Applicability.—Sections 4061, 6036, and 9061 of title 10, United States Code, as added by this section, apply with respect to fatalities that occur on or after the date of the enactment of this Act.

SEC. 577. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the Secretary of Defense should develop a Department of Defense strategic plan for domestic violence that incorporates the core principles of domestic violence intervention identified by the Defense Task Force on Domestic Violence in its third annual report under section 591(e) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 1562 note); and

(2) the Secretary of each military department should establish and support a Victim Advocate Protocol as recommended by the Defense Task Force on Domestic Violence.

Subtitle H—Other Matters

SEC. 581. RECOGNITION OF MILITARY FAMILIES.

(a) Findings.—Congress makes the following findings:

(1) The families of both active and reserve component members of the Armed Forces, through their sacrifices and their dedication to the Nation and its values, contribute immeasurably to the readiness of the Armed Forces.

(2) Without the continued support of military families, the Nation's ability to sustain a high quality all-volunteer military force would be undermined.

(3) In the perilous and challenging times of the global war on terrorism, with hundreds of thousands of active and reserve component military personnel deployed overseas in places of combat and other imminent danger, military families are making extraordinary sacrifices and will be required to do so for the foreseeable future.

(4) Beginning in 1997, military family service and support centers have responded to the encouragement and support of private, non-profit organizations to recognize and honor the American military family during the Thanksgiving period each November.

(b) Military Family Recognition.—In view of the findings in subsection (a), Congress determines that it is appropriate that special measures be taken annually to recognize and honor the American military family.

(c) Department of Defense Programs and Activities.—The Secretary of Defense shall—

(1) implement and sustain programs, including appropriate ceremonies and activities, to recognize and honor the contributions and sacrifices of the American military family, including families of both active and reserve component military personnel;

(2) focus the celebration of the American military family during a specific period of each year to give full and proper recognition to those families; and

(3) seek the assistance and support of appropriate civilian organizations, associations, and other entities (A) in carrying out the annual celebration of the American military family, and (B) in sustaining other, longer-term efforts to support the American military family.

SEC. 582. PERMANENT AUTHORITY FOR SUPPORT FOR CERTAIN CHAPLAIN-LED MILITARY FAMILY SUPPORT PROGRAMS.

(a) IN GENERAL.—(1) Chapter 88 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§1789. Chaplain-led programs: authorized support

"(a) AUTHORITY.—The Secretary of a military department may provide support services described in subsection (b) to support chaplain-led programs to assist members of the armed forces on active duty and their immediate family members, and members of reserve components in an active status and their immediate family members, in building and maintaining a strong family structure.

"(b) AUTHORIZED SUPPORT SERVICES.—The support services referred to in subsection (a) are costs of transportation, food, lodging, child care, supplies, fees, and training materials for members of the armed forces and their family members while participating in programs referred to in that subsection, including participation at retreats and conferences.

"(c) IMMEDIATE FAMILY MEMBERS.—In this section, the term 'immediate family members', with respect to a member of the armed forces, means—

"(1) the member's spouse; and

"(2) any child (as defined in section 1072(6) of this title) of the member who is described in subparagraph (D) of section 1072(2) of this title.".

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 1788 the following new item:

"1789. Chaplain-led programs: authorized support.".

(b) EFFECTIVE DATE.—Section 1789 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2003.

SEC. 583. DEPARTMENT OF DEFENSE-DEPARTMENT OF VETERANS AFFAIRS JOINT EXECUTIVE COMMITTEE.

(a) ESTABLISHMENT OF JOINT COMMITTEE.—(1) Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§320. Department of Veterans Affairs-Department of Defense Joint Executive Committee

"(a) JOINT EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee is composed of—

"(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

"(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

"(b) ADMINISTRATIVE MATTERS.—(1) The Deputy Secretary of Veterans Affairs and the Under Secretary of Defense shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee.

"(2) The two Departments shall supply appropriate staff and resources to provide administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a subordinate Health Executive Committee, a subordinate Benefits Executive Committee, and such other committees or working groups as considered necessary by the Deputy Secretary and Under Secretary.

"(c) RECOMMENDATIONS.—(1) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under section 8111 of this title and shall oversee implementation of those efforts.

"(2) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

"(d) FUNCTIONS.—In order to enable the Committee to make recommendations in its annual report under subsection (c)(2), the Committee shall do the following:

"(1) Review existing policies, procedures, and practices relating to the coordination and sharing of resources between the two Departments.

"(2) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of services and resources of the two Departments, with the goal of improving the quality, efficiency and effectiveness of the delivery of benefits and services to veterans, service members, military retirees, and their families through an enhanced Department of Veterans Affairs and Department of Defense partnership.

"(3) Identify and assess further opportunities for the coordination and collaboration between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for benefits provided by either Department.

"(4) Review the plans of both Departments for the acquisition of additional resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of resources.

"(5) Review the implementation of activities designed to promote the coordination and sharing of resources between the Departments.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"320. Department of Veterans Affairs-Department of Defense Joint Executive Committee.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (c) of section 8111 of such title is repealed.

(2) Such section is further amended—

(A) in subsection (b)(2), by striking "the interagency committee provided for under subsection (c)" and inserting "the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of this title";

(B) in subsection (d)(1), by striking "Committee established in subsection (c)" and inserting "Department of Veterans Affairs-Department of Defense Joint Executive Committee";

(C) in subsection (e)(1), by striking "Committee under subsection (c)(2)" and inserting "Department of Veterans Affairs-Department of Defense Joint Executive Committee with respect to health care resources"; and

(D) in subsection (f)(2), by striking subparagraphs (B) and (C) and inserting the following:

"(B) The assessment of further opportunities identified by the Department of Veterans Affairs-Department of Defense Joint Executive Committee under subsection (d)(3) of section 320 of this title for the sharing of health-care resources between the two Departments.

"(C) Any recommendation made by that committee under subsection (c)(2) of that section during that fiscal year.".

(c) TECHNICAL AMENDMENTS.—Subsection (f) of such section is further amended by inserting "(Public Law 107–314)" in paragraphs (3), (4)(A), (4)(B), and (5) after "for Fiscal Year 2003".

(d) EFFECTIVE DATE.—(1) If this Act is enacted before October 1, 2003—

(A) section 320 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2003; and

(B) the amendments made by subsections (b) and (c) shall take effect on October 1, 2003, immediately after the amendment made by section 721(a)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2589).

(2) If this Act is enacted on or after October 1, 2003, the amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 584. REVIEW OF THE 1991 DEATH OF MARINE CORPS COLONEL JAMES E. SABOW.

(a) REVIEW REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall commence a review, as specified in subsection (c), of the death of Colonel James S. Sabow, United States Marine Corps, who died on January 22, 1991, at the Marine Corps Air Station, El Toro, California.

(b) FOCUS OF REVIEW.—The principal focus of the review under subsection (a) shall be to determine the cause of the death of Colonel Sabow, given the medical and forensic factors associated with that death.

(c) REVIEW BY OUTSIDE EXPERTS.—The Secretary of Defense shall provide that the evidence concerning the cause of the death of Colonel Sabow and the medical and forensic factors associated with that death shall be reviewed by medical and forensic experts outside the Department of Defense.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written report on the findings of the review under subsection (a). The Secretary shall include in the report (1) the Secretary's conclusions as a result of the review, including the Secretary's conclusions regarding the cause of death of Colonel Sabow, and (2) the conclusions of the experts reviewing the matter under subsection (c).

SEC. 585. POLICY ON CONCURRENT DEPLOYMENT TO COMBAT ZONES OF BOTH MILITARY SPOUSES OF MILITARY FAMILIES WITH MINOR CHILDREN.

(a) PUBLICATION OF POLICY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) prescribe the policy of the Department of Defense on concurrent deployment to a combat zone of both spouses of a dual-military family with one or more minor children; and

(2) transmit the policy to the Committees on Armed Services of the Senate and the House of Representatives.

(b) DUAL-MILITARY FAMILY DEFINED.—In this section, the term "dual-military family" means a family in which both spouses are members of the Armed Forces.

SEC. 586. CONGRESSIONAL NOTIFICATION OF AMENDMENT OR CANCELLATION OF DEPARTMENT OF DEFENSE DIRECTIVE RELATING TO REASONABLE ACCESS TO MILITARY INSTALLATIONS FOR CERTAIN PERSONAL COMMERCIAL SOLICITATION.

An amendment to Department of Defense Directive 1344.7, "Personal Commercial Solicitation on DoD Installations", or cancellation of *that directive, shall not take effect until the end of the 30-day period beginning on the date on which the Secretary of Defense submits to Congress notice of the amendment or cancellation and the reasons therefor.*

SEC. 587. STUDY OF NATIONAL GUARD CHALLENGE PROGRAM.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to evaluate—

(1) the adequacy and impact of the matching funds requirement in effect under section 509(d) of title 32, United States Code, for States to participate in the National Guard Challenge Program; and

(2) the value of the National Guard Challenge Program to the Department of Defense.

(b) CONSIDERATION OF MATCHING FUND ALTERNATIVES.—As part of the study, the Secretary shall identify potential alternatives to the matching funds structure provided for the National Guard Challenge Program under section 509(d) of title 32, United States Code, such as a range of Federal-State matching ratios, that would provide flexibility in the management of the program to better respond to temporary fiscal conditions.

(c) SUBMISSION OF STUDY.—Not later than March 1, 2004, the Secretary shall submit to Congress a report containing the results of the study and such recommendations as the Secretary considers appropriate in response to the study.

SEC. 588. FINDINGS AND SENSE OF CONGRESS ON REWARD FOR INFORMATION LEADING TO RESOLUTION OF STATUS OF MEMBERS OF THE ARMED FORCES WHO REMAIN UNACCOUNTED FOR.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense estimates that there are more than 10,000 members of the Armed Forces and others who as a result of activities during the Korean War or the Vietnam War were placed in a missing status or a prisoner of war status, or who were determined to have been killed in action, although remains of those members have not been recovered, and they remain unaccounted for.

(2) One member of the Armed Forces, Navy Captain Michael Scott Speicher, remains unaccounted for from the first Persian Gulf War, and there have been credible reports of his having been seen alive in Iraq in the years since his aircraft was shot down on the first night of that war on January 16, 1991.

(3) The United States should pursue every lead and otherwise maintain a relentless and thorough quest to completely account for the fates of those members of the Armed Forces who are missing or otherwise unaccounted for.

(4) The Secretary of Defense has the authority to disburse funds as a reward to individuals who provide information leading to the conclusive resolution of cases of missing members of the Armed Forces.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should—

(1) use the authority available to the Secretary to disburse funds rewarding individuals who provide information leading to the conclusive resolution of the status of any missing member of the Armed Forces; and

(2) authorize and publicize a reward of $1,000,000 for information resolving the fate of any member of the Armed Forces, such as Navy Captain Michael Scott Speicher, who the Secretary has reason to believe may be alive in captivity.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2004.
Sec. 602. Revised annual pay adjustment process.
Sec. 603. Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service.
Sec. 604. Special subsistence allowance authorities for members assigned to high-cost duty location or under other unique and unusual circumstances.
Sec. 605. Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty.
Sec. 606. Temporary increase in authorized amount of family separation allowance.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.
Sec. 614. One-year extension of other bonus and special pay authorities.
Sec. 615. Hazardous duty pay for duty involving ski-equipped aircraft on Antarctica or the Arctic icepack.
Sec. 616. Special pay for reserve officers holding positions of unusual responsibility and of critical nature.
Sec. 617. Payment of Selected Reserve reenlistment bonus to members of Selected Reserve who are mobilized.
Sec. 618. Availability of hostile fire and imminent danger special pay for reserve component members on inactive duty.
Sec. 619. Temporary increase in authorized amount of hostile fire and imminent danger special pay.
Sec. 620. Retroactive payment of hostile fire or imminent danger pay for service in eastern Mediterranean Sea in Operation Iraqi Freedom.
Sec. 621. Expansion of overseas tour extension incentive program to officers.
Sec. 622. Repeal of congressional notification requirement for designation of critical military skills for retention bonus.
Sec. 623. Eligibility of warrant officers for accession bonus for new officers in critical skills.
Sec. 624. Special pay for service as member of Weapons of Mass Destruction Civil Support Team.
Sec. 625. Incentive bonus for conversion to military occupational specialty to ease personnel shortage.
Sec. 626. Bonus for reenlistment during service on active duty in Afghanistan, Iraq, or Kuwait.

Subtitle C—Travel and Transportation Allowances

Sec. 631. Shipment of privately owned motor vehicle within continental United States.
Sec. 632. Transportation of dependents to presence of members of the Armed Forces retired for illness or injury incurred in active duty.
Sec. 633. Payment or reimbursement of student baggage storage costs for dependent children of members stationed overseas.
Sec. 634. Contracts for full replacement value for loss or damage to personal property transported at Government expense.
Sec. 635. Payment of lodging expenses of members during authorized leave from temporary duty location.

Subtitle D—Retired Pay and Survivor Benefits

Sec. 641. Phase-in of full concurrent receipt of military retired pay and veterans disability compensation for certain military retirees.
Sec. 642. Revisions to combat-related special compensation program.
Sec. 643. Special rule for computation of retired pay base for commanders of combatant commands.
Sec. 644. Survivor Benefit Plan annuities for surviving spouses of Reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training.
Sec. 645. Survivor Benefit Plan modifications.
Sec. 646. Increase in death gratuity payable with respect to deceased members of the Armed Forces.
Sec. 647. Death benefits study.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

Sec. 651. Expanded commissary access for Selected Reserve members, reserve retirees under age 60, and their dependents.
Sec. 652. Defense commissary system and exchange stores system.
Sec. 653. Limitations on private operation of defense commissary store functions.
Sec. 654. Use of appropriated funds to operate defense commissary system.
Sec. 655. Recovery of nonappropriated fund instrumentality and commissary store investments in real property at military installations closed or realigned.

Subtitle F—Other Matters

Sec. 661. Comptroller General report on adequacy of special pays and allowances for frequently deployed members.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2004.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2004 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2004, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

COMMISSIONED OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,751.10	8,004.90	8,173.20	8,220.60	8,430.30
O–7	6,440.70	6,739.80	6,878.40	6,988.50	7,187.40
O–6	4,773.60	5,244.30	5,588.40	5,588.40	5,609.70
O–5	3,979.50	4,482.90	4,793.40	4,851.60	5,044.80
O–4	3,433.50	3,974.70	4,239.90	4,299.00	4,545.30
O–3[3]	3,018.90	3,422.40	3,693.90	4,027.20	4,220.10
O–2[3]	2,608.20	2,970.60	3,421.50	3,537.00	3,609.90
O–1[3]	2,264.40	2,356.50	2,848.50	2,848.50	2,848.50
	Over 8	Over 10	Over 12	Over 14	Over 16
O–10[2]	$0.00	$0.00	$0.00	$0.00	$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	8,781.90	8,863.50	9,197.10	9,292.80	9,579.90
O–7	7,384.20	7,611.90	7,839.00	8,066.70	8,781.90
O–6	5,850.00	5,882.10	5,882.10	6,216.30	6,807.30
O–5	5,161.20	5,415.90	5,602.80	5,844.00	6,213.60
O–4	4,809.30	5,137.80	5,394.00	5,571.60	5,673.60
O–3[3]	4,431.60	4,568.70	4,794.30	4,911.30	4,911.30
O–2[3]	3,609.90	3,609.90	3,609.90	3,609.90	3,609.90
O–1[3]	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50
	Over 18	Over 20	Over 22	Over 24	Over 26
O–10[2]	$0.00	$12,524.70	$12,586.20	$12,847.80	$13,303.80
O–9	0.00	10,954.50	11,112.30	11,340.30	11,738.40
O–8	9,995.70	10,379.10	10,635.30	10,635.30	10,635.30
O–7	9,386.10	9,386.10	9,386.10	9,386.10	9,433.50
O–6	7,154.10	7,500.90	7,698.30	7,897.80	8,285.40
O–5	6,389.70	6,563.40	6,760.80	6,760.80	6,760.80
O–4	5,733.00	5,733.00	5,733.00	5,733.00	5,733.00
O–3[3]	4,911.30	4,911.30	4,911.30	4,911.30	4,911.30
O–2[3]	3,609.50	3,609.50	3,609.50	3,609.50	3,609.50
O–1[3]	2,848.50	2,848.50	2,848.50	2,848.50	2,848.50

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O–7 through O–10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or commander of a unified or specified combatant command (as defined in section 161(c) of title 10, United States Code) is $14,634.20, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] This table does not apply to commissioned officers in pay grade O–1, O–2, or O–3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–3E	$0.00	$0.00	$0.00	$4,027.20	$4,220.10
O–2E	0.00	0.00	0.00	3,537.00	3,609.90
O–1E	0.00	0.00	0.00	2,848.50	3,042.30
	Over 8	Over 10	Over 12	Over 14	Over 16
O–3E	$4,431.60	$4,568.70	$4,794.30	$4,984.20	$5,092.80
O–2E	3,724.80	3,918.60	4,068.60	4,180.20	4,180.20
O–1E	3,154.50	3,269.40	3,382.20	3,537.00	3,537.00
	Over 18	Over 20	Over 22	Over 24	Over 26
O–3E	$5,241.30	$5,241.30	$5,241.30	$5,241.30	$5,241.30
O–2E	4,180.20	4,180.20	4,180.20	4,180.20	4,180.20
O–1E	3,537.00	3,537.00	3,537.00	3,537.00	3,537.00

WARRANT OFFICERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,119.40	3,355.80	3,452.40	3,547.20	3,710.40
W–3	2,848.80	2,967.90	3,089.40	3,129.30	3,257.10
W–2	2,505.90	2,649.00	2,774.10	2,865.30	2,943.30
W–1	2,212.80	2,394.00	2,515.20	2,593.50	2,802.30
	Over 8	Over 10	Over 12	Over 14	Over 16

WARRANT OFFICERS[1]—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W–5	$0.00	$0.00	$0.00	$0.00	$0.00
W–4	3,871.50	4,035.00	4,194.30	4,359.00	4,617.30
W–3	3,403.20	3,595.80	3,786.30	3,988.80	4,140.60
W–2	3,157.80	3,321.60	3,443.40	3,562.20	3,643.80
W–1	2,928.30	3,039.90	3,164.70	3,247.20	3,321.90

Pay Grade	Over 18	Over 20	Over 22	Over 24	Over 26
W–5	$0.00	$5,360.70	$5,544.30	$5,728.80	$5,914.20
W–4	4,782.60	4,944.30	5,112.00	5,277.00	5,445.90
W–3	4,291.80	4,356.90	4,424.10	4,570.20	4,716.30
W–2	3,712.50	3,843.00	3,972.60	4,103.70	4,103.70
W–1	3,443.70	3,535.80	3,535.80	3,535.80	3,535.80

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

ENLISTED MEMBERS[1]

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E–9[2] ...	$0.00	$0.00	$0.00	$0.00	$0.00
E–8	0.00	0.00	0.00	0.00	0.00
E–7	2,145.00	2,341.20	2,430.60	2,549.70	2,642.10
E–6	1,855.50	2,041.20	2,131.20	2,218.80	2,310.00
E–5	1,700.10	1,813.50	1,901.10	1,991.10	2,130.60
E–4	1,558.20	1,638.30	1,726.80	1,814.10	1,891.50
E–3	1,407.00	1,495.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3] ...	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40

Pay Grade	Over 8	Over 10	Over 12	Over 14	Over 16
E–9[2] ...	$0.00	$3,769.20	$3,854.70	$3,962.40	$4,089.30
E–8	3,085.50	3,222.00	3,306.30	3,407.70	3,517.50
E–7	2,801.40	2,891.10	2,980.20	3,139.80	3,219.60
E–6	2,516.10	2,596.20	2,685.30	2,763.30	2,790.90
E–5	2,250.90	2,339.70	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3] ...	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40

Pay Grade	Over 18	Over 20	Over 22	Over 24	Over 26
E–9[2] ...	$4,216.50	$4,421.10	$4,594.20	$4,776.60	$5,054.70
E–8	3,715.50	3,815.70	3,986.40	4,081.20	4,314.30
E–7	3,295.50	3,341.70	3,498.00	3,599.10	3,855.00
E–6	2,809.80	2,809.80	2,809.80	2,809.80	2,809.80
E–5	2,367.90	2,367.90	2,367.90	2,367.90	2,367.90
E–4	1,891.50	1,891.50	1,891.50	1,891.50	1,891.50
E–3	1,585.50	1,585.50	1,585.50	1,585.50	1,585.50
E–2	1,337.70	1,337.70	1,337.70	1,337.70	1,337.70
E–1[3] ...	1,193.40	1,193.40	1,193.40	1,193.40	1,193.40

[1] Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

[2] Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, is $6,090.90, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

[3] In the case of members in pay grade E–1 who have served less than 4 months on active duty, the rate of basic pay is $1,104.00.

SEC. 602. REVISED ANNUAL PAY ADJUSTMENT PROCESS.

(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Subsection (a) of section 1009 of title 37, United States Code, is amended to read as follows:

"(a) REQUIREMENT FOR ANNUAL ADJUSTMENT.—Effective on January 1 of each year, the rates of basic pay for members of the uniformed services under section 203(a) of this title shall be increased under this section.".

(b) EFFECTIVENESS OF ADJUSTMENT.—Subsection (b) of such section is amended by striking "shall—" and all that follows and inserting "shall have the force and effect of law.".

(c) PERCENTAGE OF ADJUSTMENT; ALTERNATIVE PAY ADJUSTMENT AUTHORITY.—Such section is further amended—

(1) by striking subsections (c), (d), (e), and (g);

(2) by redesignating subsection (f) as subsection (d);

(3) by inserting after subsection (b) the following new subsection (c):

"(c) EQUAL PERCENTAGE INCREASE FOR ALL MEMBERS.—(1) An adjustment made under this section in a year shall provide all eligible members with an increase in the monthly basic pay that is the percentage (rounded to the nearest one-tenth of one percent) by which the ECI for the base quarter of the year before the preceding year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

"(2) Notwithstanding paragraph (1), but subject to subsection (d), the percentage of the adjustment taking effect under this section during each of fiscal years 2004, 2005, and 2006, shall be one-half of one percentage point higher than the percentage that would otherwise be applicable under such paragraph.

"(3) In this subsection:

"(A) The term 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics.

"(B) The term 'base quarter' for any year is the three-month period ending on September 30 of such year."; and

(4) by adding at the end the following new subsection:

"(e) PRESIDENTIAL DETERMINATION OF NEED FOR ALTERNATIVE PAY ADJUSTMENT.—(1) If, because of national emergency or serious economic *conditions affecting the general welfare, the President considers the pay adjustment which would otherwise be required by this section in any year to be inappropriate, the President shall prepare and transmit to Congress before September 1 of the preceding year a plan for such alternative pay adjustments as the President considers appropriate, together with the reasons therefor.*

"(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including the Indexes of Leading Economic Indicators, the Gross Domestic Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

"(3) The President shall include in the plan submitted to Congress under paragraph (1) an assessment of the impact that the alternative pay adjustments proposed in the plan would have on the Government's ability to recruit and retain well-qualified persons for the uniformed services.".

SEC. 603. COMPUTATION OF BASIC PAY RATE FOR COMMISSIONED OFFICERS WITH PRIOR ENLISTED OR WARRANT OFFICER SERVICE.

Section 203(d)(2) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking "enlisted member," and all that follows through the period and inserting "enlisted member."; and

(2) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Service as a warrant officer, as an enlisted member, or as a warrant officer and an enlisted member, for which at least 1,460 points have been credited to the officer for the purposes of section 12732(a)(2) of title 10.".

SEC. 604. SPECIAL SUBSISTENCE ALLOWANCE AUTHORITIES FOR MEMBERS ASSIGNED TO HIGH-COST DUTY LOCATION OR UNDER OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.

Section 402 of title 37, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) SPECIAL RULE FOR HIGH-COST DUTY LOCATIONS AND OTHER UNIQUE AND UNUSUAL CIRCUMSTANCES.—The Secretary of Defense may authorize a member of the armed forces who is not entitled to the meals portion of the per diem in connection with an assignment in a high-cost duty location or under other unique and unusual circumstances, as determined by the Secretary, to receive any or all of the following:

"(1) Meals at no cost to the member, regardless of the entitlement of the member to a basic allowance for subsistence under subsection (a).

"(2) A basic allowance for subsistence at the standard rate, regardless of the entitlement of the member for all meals or select meals during the duty day.

"(3) A supplemental subsistence allowance at a rate higher than the basic allowance for subsistence rates in effect under this section, regardless of the entitlement of the member for all meals or select meals during the duty day.".

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR EACH MEMBER MARRIED TO ANOTHER MEMBER WITHOUT DEPENDENTS WHEN BOTH SPOUSES ARE ON SEA DUTY.

(a) ENTITLEMENT.—Section 403(f)(2)(C) of title 37, United States Code, is amended—

(1) in the first sentence, by striking "are jointly entitled to one basic allowance for housing" and inserting "are each entitled to a basic allowance for housing"; and

(2) by striking "The amount of the allowance" and all that follows and inserting "The amount of the allowance payable to a member under the preceding sentence shall be based on the without dependents rate for the pay grade of the member.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of October 1, 2003, and apply to months beginning on or after that date.

SEC. 606. TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF FAMILY SEPARATION ALLOWANCE.

Section 427 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF ALLOWANCE.—For the period beginning on October 1, 2003, and ending on December 31, 2004, the monthly allowance authorized by subsection (a)(1) shall be increased to $250.".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking "January 1, 2004" and inserting "January 1, 2005".

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(f) ACCESSION BONUS FOR DENTAL OFFICERS.—Section 302h(a)(1) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(c) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(e) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(d) RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.—Section 323(i) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

(e) ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.—Section 324(g) of such title is amended by striking "December 31, 2003" and inserting "December 31, 2004".

SEC. 615. HAZARDOUS DUTY PAY FOR DUTY INVOLVING SKI-EQUIPPED AIRCRAFT ON ANTARCTICA OR THE ARCTIC ICEPACK.

(a) ADDITIONAL TYPE OF DUTY ELIGIBLE FOR PAY.—Section 301(a) of title 37, United States Code, is amended—

(1) in paragraph (11), by striking "or" at the end;

(2) by redesignating paragraph (12) as paragraph (13); and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) involving use of ski-equipped aircraft on the ground in Antarctica or on the Arctic icepack; or".

(b) MONTHLY AMOUNT.—Subsection (c) of such section is amended—

(1) in paragraph (1), by striking "(11)" and inserting "(12)"; and

(2) in paragraph (2)(A), by striking "(12)" and inserting "(13)".

(c) TECHNICAL AMENDMENTS.—(1) Subsections (a)(2), (b), (c), and (f)(2)(A) of such section are amended by striking "clause" each place it appears and inserting "paragraph".

(2) Subsection (c)(1) of such section is amended by striking "clauses" and inserting "paragraphs".

(d) EFFECTIVE DATE.—Paragraph (12) of section 301(a) of title 37, United States Code, as added by subsection (a)(3), shall apply to duty described in such paragraph that is performed on or after October 1, 2003.

SEC. 616. SPECIAL PAY FOR RESERVE OFFICERS HOLDING POSITIONS OF UNUSUAL RESPONSIBILITY AND OF CRITICAL NATURE.

(a) ELIGIBILITY.—Section 306 of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "(a)";

(B) by striking "who is entitled to the basic pay of pay grade O-6 or below and" and inserting "described in paragraph (2)"; and

(C) by adding at the end the following new paragraph:

"(2) An officer of the armed forces referred to in paragraph (1) is an officer who is entitled to the basic pay under section 204 of this title, or the compensation under section 206 of this title, of pay grade O–6 or below.";

(2) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) If an officer entitled to compensation under section 206 of this title is paid special pay under subsection (a) for the performance of duties in a position designated under such subsection, the special pay shall be paid at the rate of 1/30 of the monthly rate authorized by such subsection for each day of the performance of duties in the designated position.".

(b) LIMITATION.—Subsection (d) of such section, as redesignated by subsection (a)(2) of this section, is amended—

(1) by inserting "(1)" after "(d)";

(2) in paragraph (1), as so designated, by inserting "or mobilization in support of a contingency operation" after "training"; and

(3) by adding at the end the following new paragraph:

"(2) Of the number of officers in the Selected Reserve of the Ready Reserve of an armed force who are not on active duty (other than for training or mobilization in support of a contingency operation), not more than 5 percent of the number of such officers in each of the pay grades O–3 and below, and not more than 10 percent of the number of such officers in pay grade O–4, O–5, or O–6, may be paid special pay under subsection (b).".

SEC. 617. PAYMENT OF SELECTED RESERVE REENLISTMENT BONUS TO MEMBERS OF SELECTED RESERVE WHO ARE MOBILIZED.

Section 308b of title 37, United States Code, as amended by section 611(a), is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) PAYMENT TO MOBILIZED MEMBERS.—A member entitled to a bonus under this section who is called or ordered to active duty shall be paid, during that period of active duty, any amount of the bonus that becomes payable to the member during that period of active duty.".

SEC. 618. AVAILABILITY OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY FOR RESERVE COMPONENT MEMBERS ON INACTIVE DUTY.

(a) EXPANSION AND CLARIFICATION OF CURRENT LAW.—Section 310 of title 37, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking subsection (a) and inserting the following new subsections:

"(a) ELIGIBILITY AND SPECIAL PAY AMOUNT.—Under regulations prescribed by the Secretary of Defense, a member of a uniformed service may be paid special pay at the rate of $150 for any month in which—

"(1) the member was entitled to basic pay or compensation under section 204 or 206 of this title; and

"(2) the member—

"(A) was subject to hostile fire or explosion of hostile mines;

"(B) was on duty in an area in which the member was in imminent danger of being exposed to hostile fire or explosion of hostile mines and in which, during the period the member was on duty in the area, other members of the uniformed services were subject to hostile fire or explosion of hostile mines;

"(C) was killed, injured, or wounded by hostile fire, explosion of a hostile mine, or any other hostile action; or

"(D) was on duty in a foreign area in which the member was subject to the threat of physical harm or imminent danger on the basis of civil insurrection, civil war, terrorism, or wartime conditions.

"(b) CONTINUATION DURING HOSPITALIZATION.—A member covered by subsection (a)(2)(C) who is hospitalized for the treatment of the injury or wound may be paid special pay under this section for not more than three additional months during which the member is so hospitalized.".

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (c), as redesignated by subsection (a)(1), by inserting "LIMITATIONS AND ADMINISTRATION.—" before "(1)"; and

(2) in subsection (d), as redesignated by subsection (a)(1), by inserting "DETERMINATIONS OF FACT.—" before "Any".

(c) EFFECTIVE DATE.—Subsections (a) and (b) of section 310 of title 37, United States Code, as added by subsection (a)(2), shall take effect as of September 11, 2001.

(d) RELATION TO TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY.—(1) The amendment made by subsection (a)(2) does not affect the authority to pay an increased amount of hostile fire and imminent danger special pay under section 310 of title 37, United States Code, pursuant to—

(A) the amendment made by subsection (a) of section 1316 of Public Law 108–11 (117 Stat. 570) during the period specified in subsection (c)(1) of such section, as modified by section 113 of Public Law 108–84 (117 Stat. 1044); or

(B) the amendment made by section 619 of this Act during the period specified in such amendment.

(2) Effective as of April 16, 2003, section 1316(c)(2) of Public Law 108–11 (117 Stat. 570) is amended by inserting "the dollar amounts specified in" before "sections".

SEC. 619. TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF HOSTILE FIRE AND IMMINENT DANGER SPECIAL PAY.

Section 310 of title 37, United States Code, as amended by section 618, is further amended by adding at the end the following new subsection:

"(e) TEMPORARY INCREASE IN AUTHORIZED AMOUNT OF SPECIAL PAY.—For the period beginning on October 1, 2003, and ending on December 31, 2004, the rate of pay authorized by subsection (a) shall be increased to $225.".

SEC. 620. RETROACTIVE PAYMENT OF HOSTILE FIRE OR IMMINENT DANGER PAY FOR SERVICE IN EASTERN MEDITERRANEAN SEA IN OPERATION IRAQI FREEDOM.

(a) PAYMENT AUTHORIZED.—The Secretary of Defense may authorize the payment of hostile fire or imminent danger pay under section 310(a) of title 37, United States Code, to members of the Armed Forces who were assigned to duty, during the period beginning on March 19, 2003, and ending on April 11, 2003, in the area specified in subsection (b) in connection with Operation Iraqi Freedom at any time during that period.

(b) SPECIFIED AREA.—The area referred to in subsection (a) is the Mediterranean Sea east of 30 degrees East Longitude (sea area only).

SEC. 621. EXPANSION OF OVERSEAS TOUR EXTENSION INCENTIVE PROGRAM TO OFFICERS.

(a) SPECIAL PAY OR BONUS FOR EXTENDING OVERSEAS TOUR OF DUTY.—(1) Subsections (a) and (b) of section 314 of title 37, United States Code, are amended by striking "an enlisted member" and inserting "a member".

(2)(A) The heading of such section is amended to read as follows:

"§314. Special pay or bonus: qualified members extending duty at designated locations overseas".

(B) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"314. Special pay or bonus: qualified members extending duty at designated locations overseas.".

(b) REST AND RECUPERATIVE ABSENCE IN LIEU OF PAY OR BONUS.—(1) Subsection (a) of section 705 of title 10, United States Code, is amended by striking "an enlisted member" and inserting "a member".

(2) The heading of such section, and the item relating to such section in the table of sections at the beginning of chapter 40 of such title, are each amended by striking the sixth word.

SEC. 622. REPEAL OF CONGRESSIONAL NOTIFICATION REQUIREMENT FOR DESIGNATION OF CRITICAL MILITARY SKILLS FOR RETENTION BONUS.

Section 323(b) of title 37, United States Code, is amended—

(1) by striking "(1)"; and

(2) by striking paragraph (2).

SEC. 623. ELIGIBILITY OF WARRANT OFFICERS FOR ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.

Section 324 of title 37, United States Code, is amended in subsections (a) and (f)(1) by inserting "or an appointment" after "commission".

SEC. 624. SPECIAL PAY FOR SERVICE AS MEMBER OF WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by inserting after section 305a the following new section:

"§305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team

"(a) SPECIAL PAY AUTHORIZED.—The Secretary of a military department may pay special pay under this subsection to members of an armed force under the jurisdiction of the Secretary who are entitled to basic pay under section 204 and are assigned by orders to duty as members of a Weapons of Mass Destruction Civil Support Team if the Secretary determines that the payment of such special pay is needed to address recruitment or retention concerns in that armed force.

"(b) MONTHLY RATE.—The monthly rate of special pay under subsection (a) may not exceed $150.

"(c) INCLUSION OF RESERVE COMPONENT MEMBERS PERFORMING INACTIVE DUTY TRAINING.—(1) To the extent funds are made available to carry out this subsection, the Secretary of a military department may pay the special pay under subsection (a) to members of a reserve component of the armed forces who are entitled to compensation under section 206 of this title and who perform duty under orders as members of a Weapons of Mass Destruction Civil Support Team.

"(2) The amount of the special pay for a member referred to in paragraph (1) shall be equal to 1/30 of the monthly special pay rate in effect under subsection (b) for each day on which the member performs duty under orders as members of a Weapons of Mass Destruction Civil Support Team.

"(d) REGULATIONS.—Special pay under this section shall be provided in accordance with regulations prescribed by the Secretary of Defense.

"(e) DEFINITION.—In this section, the term 'Weapons of Mass Destruction Civil Support Team' means a team of members of the reserve components of the armed forces that is established under section 12310(c) of title 10 in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 305a the following new item:

"305b. Special pay: service as member of Weapons of Mass Destruction Civil Support Team.".

SEC. 625. INCENTIVE BONUS FOR CONVERSION TO MILITARY OCCUPATIONAL SPECIALTY TO EASE PERSONNEL SHORTAGE.

(a) IN GENERAL.—Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage

"(a) INCENTIVE BONUS AUTHORIZED.—The Secretary concerned may pay a bonus under this section to an eligible member of the armed forces who executes a written agreement to convert to, and serve for a period of not less than three years in, a military occupational specialty for which there is a shortage of trained and qualified personnel.

"(b) ELIGIBLE MEMBERS.—A member is eligible to enter into an agreement under subsection (a) if—

"(1) the member is entitled to basic pay; and

"(2) at the time the agreement is executed, the member is serving in—

"(A) pay grade E–6, with not more than 10 years of service computed under section 205 of this title; or

"(B) pay grade E–5 or below, regardless of years of service.

"(c) AMOUNT AND PAYMENT OF BONUS.—(1) A bonus under this section may not exceed $4,000.

"(2) A bonus payable under this section shall be disbursed in one lump sum when the member's conversion to the military occupational specialty is approved by the chief personnel officer of the member's armed force.

"(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—A bonus paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

"(e) REPAYMENT OF BONUS.—(1) A member who receives a bonus under this section and who, voluntarily or because of misconduct, fails to serve in such military occupational specialty for the period specified in the agreement executed under subsection (a) shall refund to the United States an amount that bears the same ratio to the bonus amount paid to the member as the unserved part of such period bears to the total period agreed to be served.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is, for all purposes, a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of the agreement for which a bonus was paid under this section shall not discharge the person signing such agreement from the debt arising under paragraph (1).

"(4) Under regulations prescribed pursuant to subsection (f), the Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(f) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.

"(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2006.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage.".

SEC. 626. BONUS FOR REENLISTMENT DURING SERVICE ON ACTIVE DUTY IN AFGHANISTAN, IRAQ, OR KUWAIT.

(a) CRITICAL SKILL REENLISTMENT BONUS.—Section 308(a) of title 37, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary of Defense may waive the eligibility requirement in paragraph (1)(B) in the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in this subsection while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom or Operation Iraqi Freedom.".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(c) of such title is amended by adding at the end the following new paragraph:

"(3) In the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in subsection (a) while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom or Operation Iraqi Freedom, the Secretary concerned may waive so much of paragraph (1)(B) or subsection (a)(2) as requires that the skill or unit in which the member reenlists or extends an enlistment be a designated skill or designated unit determined by the Secretary concerned.".

(c) READY RESERVE REENLISTMENT BONUS.—Section 308h(a) of such title is amended by adding at the end the following new paragraph:

"(4) The Secretary concerned may waive the eligibility requirement in paragraph (2)(B) in the case of a reenlistment or voluntary extension of enlistment by a member of the armed forces that is entered into as described in this subsection while the member is serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom and Operation Iraqi Freedom.".

(d) RETROACTIVE APPLICATION.—The amendments made by this section shall take effect as of March 18, 2003, and apply with respect to reenlistments or the voluntary extension of enlistments that are entered into on or after that date.

Subtitle C—Travel and Transportation Allowances

SEC. 631. SHIPMENT OF PRIVATELY OWNED MOTOR VEHICLE WITHIN CONTINENTAL UNITED STATES.

(a) AUTHORITY TO PROCURE CONTRACT FOR TRANSPORTATION OF MOTOR VEHICLE.—Section 2634 of title 10, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) In the case of a member's change of permanent station described in subparagraph (A) or (B) of subsection (i)(1), the Secretary concerned may authorize the member to arrange for the shipment of the motor vehicle in lieu of transportation at the expense of the United States under this section. The Secretary concerned may pay the member a monetary allowance in lieu of transportation, as established under section 404(d)(1) of title 37, and the member shall be responsible for any transportation costs in excess of such allowance.".

(b) ALLOWANCE FOR SELF-PROCUREMENT OF TRANSPORTATION OF MOTOR VEHICLE.—Section 406(b)(1)(B) of title 37, United States Code, is amended by adding at the end the following new sentence: "In the case of the transportation of a motor vehicle arranged by the member under section 2634(h) of title 10, the Secretary concerned may pay the member, upon presentation of proof of shipment, a monetary allowance in lieu of transportation, as established under section 404(d)(1) of this title.".

SEC. 632. TRANSPORTATION OF DEPENDENTS TO PRESENCE OF MEMBERS OF THE ARMED FORCES RETIRED FOR ILLNESS OR INJURY INCURRED IN ACTIVE DUTY.

Section 411h(a) of title 37, United States Code, is amended—

(1) in paragraph (1), by striking "military control" and inserting "control"; and

(2) in paragraph (2)(A)—

(A) by striking "or is entitled" and inserting ", is entitled"; and

(B) by inserting before the semicolon at the end the following: ", or is retired for the illness or injury referred to in subparagraph (B)".

SEC. 633. PAYMENT OR REIMBURSEMENT OF STUDENT BAGGAGE STORAGE COSTS FOR DEPENDENT CHILDREN OF MEMBERS STATIONED OVERSEAS.

Section 430(b)(2) of title 37, United States Code, is amended in the first sentence by inserting before the period at the end the following: "or during a different period in the same fiscal year selected by the member".

SEC. 634. CONTRACTS FOR FULL REPLACEMENT VALUE FOR LOSS OR DAMAGE TO PERSONAL PROPERTY TRANSPORTED AT GOVERNMENT EXPENSE.

(a) AUTHORITY.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2636 the following new section:

"§2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers

"(a) PROCUREMENT OF COVERAGE.—The Secretary of Defense may include in a contract for the transportation of baggage and household effects for members of the armed forces at Government expense a clause that requires the carrier under the contract to pay the full replacement value for loss or damage to the baggage or household effects transported under the contract.

"(b) DEDUCTION UPON FAILURE OF CARRIER TO SETTLE.—In the case of a loss or damage of baggage or household effects transported under a contract with a carrier that includes a clause described in subsection (a), the amount equal to the full replacement value for the baggage or household effects may be deducted from the amount owed by the United States to the carrier under the contract upon a failure of the carrier to settle a claim for such loss or total damage within a reasonable time. The amount so deducted shall be remitted to the claimant, notwithstanding section 2636 of this title.

"(c) INAPPLICABILITY OF RELATED LIMITS.—The limitations on amounts of claims that may be settled under section 3721(b) of title 31 do not apply to a carrier's contractual obligation to pay full replacement value under this section.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations for administering this section. The regulations shall include policies and procedures for validating and evaluating claims, validating proper claimants, and determining reasonable time for settlement.

"(e) TRANSPORTATION DEFINED.—In this section, the terms 'transportation' and 'transport', with respect to baggage or household effects, includes packing, crating, drayage, temporary storage, and unpacking of the baggage or household effects.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2636 the following new item:

"2636a. Loss or damage to personal property transported at Government expense: full replacement value; deduction from amounts due carriers.".

SEC. 635. PAYMENT OF LODGING EXPENSES OF MEMBERS DURING AUTHORIZED LEAVE FROM TEMPORARY DUTY LOCATION.

(a) PAYMENT OR REIMBURSEMENT AUTHORIZED.—Chapter 7 of title 37, United States Code, is amended by inserting after section 404a the following new section:

"§404b. Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave

"(a) PAYMENT OR REIMBURSEMENT AUTHORIZED.—The Secretary concerned may pay or reimburse a member of the armed forces assigned to temporary duty as described in subsection (b) for lodging expenses incurred by the member at the temporary duty location while the member is in an authorized leave status.

"(b) COVERED MEMBERS.—Subsection (a) applies with respect to a member assigned to temporary duty, for a period of more than 30 days, in support of a contingency operation or in other specific situations designated by the Secretary concerned if the member——

"(1) immediately before taking the authorized leave, was performing the temporary duty at a location away from the home or permanent duty station of the member;

"(2) was receiving a per diem allowance under section 404(a)(4) of this title to cover lodging and subsistence expenses incurred at the temporary duty location because quarters of the United States were not available for assignment to the member at that location; and

"(3) immediately after completing the authorized leave, returns to the duty location.

"(c) PAYMENT LIMITATION.—The amount paid or reimbursed under subsection (a) for a member may not exceed the lesser of—

"(1) the actual daily cost of lodging incurred by the member at the temporary duty location while the member was in an authorized leave status; and

"(2) the lodging portion of the applicable daily per diem rate for the temporary duty location.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 404a the following new item:

"404b. Travel and transportation allowances: lodging expenses at temporary duty location for members on authorized leave.".

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. PHASE-IN OF FULL CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES.

(a) CONCURRENT RECEIPT.—Section 1414 of title 10, United States Code, is amended to read as follows:

"§1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation

"(a) PAYMENT OF BOTH RETIRED PAY AND COMPENSATION.—

"(1) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (hereinafter in this section referred to as a 'qualified retiree') is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38. During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to such a qualified retiree is subject to subsection (c).

"(2) QUALIFYING SERVICE-CONNECTED DISABILITY.—In this section, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs.

"(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

"(1) CAREER RETIREES.—The retired pay of a member retired under chapter 61 of this title with 20 years or more of service otherwise creditable under section 1405 of this title, or at least 20 years of service computed under section 12732 of this title, at the time of the member's retirement is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

"(2) DISABILITY RETIREES WITH LESS THAN 20 YEARS OF SERVICE.—Subsection (a) does not apply to a member retired under chapter 61 of this title with less than 20 years of service otherwise creditable under section 1405 of this title, or with less than 20 years of service computed under section 12732 of this title, at the time of the member's retirement.

"(c) PHASE-IN OF FULL CONCURRENT RECEIPT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, retired pay payable to a qualified retiree shall be determined as follows:

"(1) CALENDAR YEAR 2004.—For a month during 2004, the amount of retired pay payable to a qualified retiree is the amount (if any) of retired pay in excess of the current baseline offset plus the following:

"(A) For a month for which the retiree receives veterans' disability compensation for a disability rated as total, $750.

"(B) For a month for which the retiree receives veterans' disability compensation for a disability rated as 90 percent, $500.

"(C) For a month for which the retiree receives veterans' disability compensation for a disability rated as 80 percent, $350.

"(D) For a month for which the retiree receives veterans' disability compensation for a disability rated as 70 percent, $250.

"(E) For a month for which the retiree receives veterans' disability compensation for a disability rated as 60 percent, $125.

"(F) For a month for which the retiree receives veterans' disability compensation for a disability rated as 50 percent, $100.

"(2) CALENDAR YEAR 2005.—For a month during 2005, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount specified in paragraph (1) for that qualified retiree; and

"(B) 10 percent of the difference between (i) the current baseline offset, and (ii) the amount specified in paragraph (1) for that member's disability.

"(3) CALENDAR YEAR 2006.—For a month during 2006, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (2) for that qualified retiree; and

"(B) 20 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (2) for that qualified retiree.

"(4) CALENDAR YEAR 2007.—For a month during 2007, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (3) for that qualified retiree; and

"(B) 30 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (3) for that qualified retiree.

"(5) CALENDAR YEAR 2008.—For a month during 2008, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (4) for that qualified retiree; and

"(B) 40 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (4) for that qualified retiree.

"(6) CALENDAR YEAR 2009.—For a month during 2009, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (5) for that qualified retiree; and

"(B) 50 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (5) for that qualified retiree.

"(7) CALENDAR YEAR 2010.—For a month during 2010, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (6) for that qualified retiree; and

"(B) 60 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (6) for that qualified retiree.

"(8) CALENDAR YEAR 2011.—For a month during 2011, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (7) for that qualified retiree; and

"(B) 70 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (7) for that qualified retiree.

"(9) CALENDAR YEAR 2012.—For a month during 2012, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (8) for that qualified retiree; and

"(B) 80 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (8) for that qualified retiree.

"(10) CALENDAR YEAR 2013.—For a month during 2013, the amount of retired pay payable to a qualified retiree is the sum of—

"(A) the amount determined under paragraph (9) for that qualified retiree; and

"(B) 90 percent of the difference between (i) the current baseline offset, and (ii) the amount determined under paragraph (9) for that qualified retiree.

"(11) GENERAL LIMITATION.—Retired pay determined under this subsection for a qualified retiree, if greater than the amount of retired pay otherwise applicable to that qualified retiree, shall be reduced to the amount of retired pay otherwise applicable to that qualified retiree.

"(d) COORDINATION WITH COMBAT-RELATED SPECIAL COMPENSATION PROGRAM.—

"(1) IN GENERAL.—A person who is a qualified retiree under this section and is also an eligible combat-related disabled uniformed services retiree under section 1413a of this title may receive special compensation in accordance with that section or retired pay in accordance with this section, but not both.

"(2) ANNUAL OPEN SEASON.—The Secretary concerned shall provide for an annual period (referred to as an 'open season') during which a person described in paragraph (1) shall have the right to make an election to change from receipt of special compensation in accordance with section 1413a of this title to receipt of retired pay in accordance with this section, or the reverse, as the case may be. Any such election shall be

made under regulations prescribed by the Secretary concerned. Such regulations shall provide for the form and manner for making such an election and shall provide for the date as of when such an election shall become effective. In the case of the Secretary of a military department, such regulations shall be subject to approval by the Secretary of Defense.

"(e) DEFINITIONS.—In this section:

"(1) RETIRED PAY.—The term 'retired pay' includes retainer pay, emergency officers' retirement pay, and naval pension.

"(2) VETERANS' DISABILITY COMPENSATION.—The term 'veterans' disability compensation' has the meaning given the term 'compensation' in section 101(13) of title 38.

"(3) DISABILITY RATED AS TOTAL.—The term 'disability rated as total' means—

"(A) a disability, or combination of disabilities, that is rated as total under the standard schedule of rating disabilities in use by the Department of Veterans Affairs; or

"(B) a disability, or combination of disabilities, for which the scheduled rating is less than total but for which a rating of total is assigned by reason of inability of the disabled person concerned to secure or follow a substantially gainful occupation as a result of disabilities for which veterans' disability compensation may be paid.

"(4) CURRENT BASELINE OFFSET.—

"(A) IN GENERAL.—The term 'current baseline offset' for any qualified retiree means the amount for any month that is the lesser of—

"(i) the amount of the applicable monthly retired pay of the qualified retiree for that month; and

"(ii) the amount of monthly veterans' disability compensation to which the qualified retiree is entitled for that month.

"(B) APPLICABLE RETIRED PAY.—In subparagraph (A), the term 'applicable retired pay' for a qualified retiree means the amount of monthly retired pay to which the qualified retiree is entitled, determined without regard to this section or sections 5304 and 5305 of title 38, except that in the case of such a retiree who was retired under chapter 61 of this title, such amount is the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.".

(b) REPEAL OF SUPERCEDED SPECIAL COMPENSATION AUTHORITY.—Section 1413 of title 10, United States Code, is repealed.

(c) SOURCE OF FUNDS FOR SPECIAL COMPENSATION AUTHORITIES FOR DEPARTMENT OF DEFENSE RETIREES.—

(1) Sections 1413(g) and 1413a(h) of title 10, United States Code, are each amended—

(A) by inserting before "Payments under" the following new sentence: "Payments under this section for a member of the Army, Navy, Air Force, or Marine Corps shall be paid from the Department of Defense Military Retirement Fund."; and

(B) by inserting "for any other member" before "for any fiscal year".

(2) Section 1463(a)(1) of such title is amended by inserting before the semicolon the following: "and payments under section 1413, 1413a, or 1414 of this title paid to such members".

(3) Section 1465(b) of such title is amended by adding at the end the following new paragraph:

"(3) At the same time that the Secretary of Defense makes the determination required by paragraph (1) for any fiscal year, the Secretary shall determine the amount of the Treasury contribution to be made to the Fund for the next fiscal year under section 1466(b)(2)(D) of this title. That amount shall be determined in the same manner as the determination under paragraph (1) of the total amount of Department of Defense contributions to be made to the Fund during that fiscal year under section 1466(a) of this title, except that for purposes of this paragraph the Secretary, in making the calculations required by subparagraphs (A) and (B) of that paragraph, shall use the single level percentages determined under subsection (c)(4), rather than those determined under subsection (c)(1).".

(4) Section 1465(c) of such title is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: ", to be determined without regard to section 1413, 1413a, or 1414 of this title";

(ii) in subparagraph (B), by inserting before the period at the end the following: ", to be determined without regard to section 1413, 1413a, or 1414 of this title"; and

(iii) in the sentence following subparagraph (B), by striking "subsection (b)" and inserting "subsection (b)(1)";

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph (4):

"(4) Whenever the Secretary carries out an actuarial valuation under paragraph (1), the Secretary shall include as part of such valuation the following:

"(A) A determination of a single level percentage determined in the same manner as applies under subparagraph (A) of paragraph (1), but based only upon the provisions of sections 1413, 1413a, and 1414 of this title.

"(B) A determination of a single level percentage determined in the same manner as applies under subparagraph (B) of paragraph (1), but based only upon the provisions of sections 1413, 1413a, and 1414 of this title.

Such single level percentages shall be used for the purposes of subsection (b)(3).".

(5) Section 1466(b) of such title is amended—

(A) in paragraph (1), by striking "sections 1465(a) and 1465(c)" and inserting "sections 1465(a), 1465(b)(3), 1465(c)(2), and 1465(c)(3)"; and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(D) The amount for that year determined by the Secretary of Defense under section 1465(b)(3) of this title for the cost to the Fund arising from increased amounts payable from the Fund by reason of section 1413, 1413a, or 1414 of this title.".

(6) The amendments made by this subsection shall take effect as of October 1, 2003. The Secretary of Defense shall provide for such administrative adjustments as necessary to provide for payments made for any period during fiscal year 2004 before the date of the enactment of this Act to be treated as having been made in accordance with such amendments and for the provisions of such amendments to be implemented as if enacted as of September 30, 2003.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 71 of such title is amended—

(1) by striking the item relating to section 1413; and

(2) by striking the item relating to section 1414 and inserting the following:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation for disabilities rated 50 percent or higher: concurrent payment of retired pay and veterans' disability compensation.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 2004, and shall apply to payments for months beginning on or after that date.

SEC. 642. REVISIONS TO COMBAT-RELATED SPECIAL COMPENSATION PROGRAM.

(a) EXTENSION OF PROGRAM TO COMBAT-RELATED DISABILITIES RATED BELOW 60 PERCENT.—(1) Subsection (e) of section 1413a of title 10, United States Code, is amended to read as follows:

"(e) COMBAT-RELATED DISABILITY.—In this section, the term 'combat-related disability' means a disability that is compensable under the laws administered by the Secretary of Veterans Affairs and that—

"(1) is attributable to an injury for which the member was awarded the Purple Heart; or

"(2) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

"(A) as a direct result of armed conflict;

"(B) while engaged in hazardous service;

"(C) in the performance of duty under conditions simulating war; or

"(D) through an instrumentality of war.".

(2) Subsection (c)(2) of such section is amended by striking "qualifying".

(b) CLARIFICATION OF SERVICE REQUIRED FOR ELIGIBILITY.—Subsection (c)(1) of such section is amended by inserting before the semicolon the following: "or is entitled to retired pay under section 12731 of this title (other than by reason of section 12731b of this title)".

(c) CLARIFICATION OF DETERMINATION OF AMOUNT OF COMPENSATION.—Subsection (b)(1) of such section is amended by striking "for a" and all that follows and inserting "under subsection (a) for any month is the amount of compensation to which the retiree is entitled under title 38 for that month, determined without regard to any disability of the retiree that is not a combat-related disability.".

(d) REVISED COORDINATION PROVISION.—Subsection (f) of such section is amended to read as follows:

"(f) COORDINATION WITH CONCURRENT RECEIPT PROVISION.—Subsection (d) of section 1414 of this title provides for coordination between benefits under that section and under this section.".

(e) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§1413a. Combat-related special compensation".

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1413a. Combat-related special compensation.".

(f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply to payments under section 1413a of title 10, United States Code, for months beginning on or after January 1, 2004. The amendment made by subsection (d) shall take effect on January 1, 2004.

SEC. 643. SPECIAL RULE FOR COMPUTATION OF RETIRED PAY BASE FOR COMMANDERS OF COMBATANT COMMANDS.

(a) TREATMENT EQUIVALENT TO CHIEFS OF SERVICE.—Subsection (i) of section 1406 of title 10, United States Code, is amended by inserting "as a commander of a unified or specified combatant command (as defined in section 161(c) of this title)," after "Chief of Service,".

(b) CONFORMING AMENDMENT.—The heading for such subsection is amended by inserting "COMMANDERS OF COMBATANT COMMANDS," after "CHIEFS OF SERVICE,".

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to officers who first become entitled to retired pay under title 10, United States Code, on or after such date.

SEC. 644. SURVIVOR BENEFIT PLAN ANNUITIES FOR SURVIVING SPOUSES OF RESERVES NOT ELIGIBLE FOR RETIREMENT WHO DIE FROM A CAUSE INCURRED OR AGGRAVATED WHILE ON INACTIVE-DUTY TRAINING.

(a) SURVIVING SPOUSE ANNUITY.—Paragraph (1) of section 1448(f) of title 10, United States Code, is amended to read as follows:

"(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a person who—

"(A) is eligible to provide a reserve-component annuity and dies—

"(i) before being notified under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay; or

"(ii) during the 90-day period beginning on the date he receives notification under section 12731(d) of this title that he has completed the years of service required for eligibility for reserve-component retired pay if he had not made an election under subsection (a)(2)(B) to participate in the Plan; or

"(B) is a member of a reserve component not described in subparagraph (A) and dies from an injury or illness incurred or aggravated in the line of duty during inactive-duty training.".

(b) CONFORMING AMENDMENT.—The heading for subsection (f) of section 1448 of such title is amended by inserting "OR BEFORE" after "DYING WHEN".

(c) EFFECTIVE DATE.—Subparagraph (B) of section 1448(f)(1) of title 10, United States Code, as added by subsection (a), shall take effect as of September 10, 2001, and shall apply with respect to performance of inactive-duty training (as defined in section 101(d) of title 10, United States Code) on or after that date.

SEC. 645. SURVIVOR BENEFIT PLAN MODIFICATIONS.

(a) ELIGIBILITY OF DEPENDENT CHILDREN FOR SURVIVOR ANNUITIES IN CASES OF DEATHS OF MEMBERS ON ACTIVE DUTY.—(1) Paragraph (2) of section 1448(d) of title 10, United States Code, is amended to read as follows:

"(2) DEPENDENT CHILDREN.—

"(A) ANNUITY WHEN NO ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1), the Secretary concerned shall pay an annuity under this subchapter to the member's dependent children under section 1450(a)(2) of this title as applicable.

"(B) OPTIONAL ANNUITY WHEN THERE IS AN ELIGIBLE SURVIVING SPOUSE.—In the case of a member described in paragraph (1) who dies on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 and for whom there is a surviving spouse eligible for an annuity under paragraph (1), the Secretary may pay an annuity under this subchapter to the member's dependent children under section 1450(a)(3) of this title, if applicable, instead of paying an annuity to the surviving spouse under paragraph (1), if the Secretary concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children under this paragraph instead of an annuity for the surviving spouse under paragraph (1).".

(2) Paragraph (1) of such section is amended by striking "The Secretary concerned" and inserting "Except as provided in paragraph (2)(B), the Secretary concerned".

(b) VITIATION OF SURVIVOR ANNUITY ELECTIONS MADE BY DISABILITY RETIREES WHO DIE OF DISABILITY-RELATED CAUSES.—(1) Section 1448(b)(1) of such title is amended by adding at the end the following new subparagraph:

"(F) VITIATION OF ELECTION BY DISABILITY RETIREE WHO DIES OF DISABILITY-RELATED CAUSE.—If a member retired on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 under chapter 61 of this title dies within one year after the date on which the member is so retired and the cause of death is related to a disability for which the member was retired under that chapter (as determined under regulations prescribed by the Secretary of Defense)—

"(i) an election made by the member under paragraph (1) to provide an annuity under the Plan to any person other than a dependent of that member (as defined in section 1072(2) of this title) is vitiated; and

"(ii) the amounts by which the member's retired pay was reduced under section 1452 of this title shall be refunded and paid to the person to whom the annuity under the Plan would have been paid pursuant to such election.".

(2) Section 1458 of such title is amended by adding at the end the following new subsection:

"(j) VITIATION OF ELECTION BY DISABILITY RETIREE WHO DIES OF DISABILITY-RELATED CAUSE.—If a member retired on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004 under chapter 61 of this title dies within one year after the date on which the member is so retired and the cause of death is related to a disability for which the member was retired under that chapter (as determined under regulations prescribed by the Secretary of Defense)—

"(1) an election made by the member to provide a supplemental spouse annuity under this subchapter is vitiated; and

"(2) the amounts by which the member's retired pay was reduced under section 1460 of this title shall be refunded and paid to the person to whom the supplemental spouse annuity would have been paid pursuant to such election.".

(c) INSURABLE INTEREST ANNUITY DEEMED ELECTIONS.—Section 1448(d) of such title is amended by adding at the end the following new paragraph:

"(6) DEEMED ELECTION.—

"(A) ANNUITY FOR DEPENDENT.—In the case of a member described in paragraph (1) who dies on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004, the Secretary concerned may, if no other annuity is payable on behalf of the member under this subchapter, pay an annuity to a natural person who has an insurable interest in such member as if the annuity were elected by the member under subsection (b)(1). The Secretary concerned may pay such an annuity under this paragraph only in the case of a person who is a dependent of that member (as defined in section 1072(2) of this title).

"(B) COMPUTATION OF ANNUITY.—An annuity under this subparagraph shall be computed under section 1451(b) of this title as if the member had retired for total disability on the date of death with reductions as specified under section 1452(c) of this title, as applicable to the ages of the member and the natural person with an insurable interest.".

SEC. 646. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO DECEASED MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking "$6,000" and inserting "$12,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001, and shall apply with respect to deaths occurring on or after that date.

SEC. 647. DEATH BENEFITS STUDY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the sacrifices made by the members of the Armed Forces are significant and are worthy of meaningful expressions of gratitude by the United States, especially in cases of sacrifice through loss of life;

(2) the tragic events of September 11, 2001, and subsequent worldwide combat operations in the Global War on Terrorism and in Operation Iraqi Freedom have highlighted the significant disparity between the financial benefits for survivors of deceased members of the Armed Forces and the financial benefits for survivors of civilian victims of terrorism;

(3) the death benefits system composed of the death gratuity paid by the Department of Defense to survivors of members of the Armed Forces, the subsequently established Servicemembers' Group Life Insurance (SGLI) program, and other benefits for survivors of deceased members has evolved over time, but there are increasing indications that the evolution of such benefits has failed to keep pace with the expansion of indemnity and compensation available to segments of United States society outside the Armed Forces, a failure that is especially apparent in a comparison of the benefits for survivors of deceased members with the compensation provided to families of civilian victims of terrorism; and

(4) while the Servicemembers' Group Life Insurance (SGLI) program provides an assured source of life insurance for members of the Armed Forces that benefits the survivors of such members upon death, that program requires servicemembers to pay for that life insurance coverage and does not provide an assured minimum benefit.

(b) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the totality of all current and projected death benefits for survivors of deceased members of the Armed Forces to determine the adequacy of such benefits. In carrying out the study, the Secretary shall—

(1) compare the Federal death benefits for survivors of deceased members of the Armed Forces with—

(A) commercial and other private sector death benefits plans for segments of United States society outside the Armed Forces; and

(B) the benefits available under Public Law 107–37 (115 Stat. 219) (commonly known as the "Public Safety Officer Benefits Bill");

(2) assess the personnel policy effects that would result from a revision of the death gratuity benefit to provide a stratified schedule of entitlement amounts that places a premium on deaths resulting from participation in combat or from acts of terrorism;

(3) assess the adequacy of the current system of Survivor Benefit Plan annuities under title 10, United States Code, and dependency and indemnity compensation under title 38, United States Code, and the anticipated effects (if any) of an elimination of the offset of Survivor Benefit Plan annuities by dependency and indemnity compensation payments;

(4) examine the commercial insurability of members of the Armed Forces in high-risk military occupational specialties; and

(5) examine the extent to which private trusts and foundations engage in fundraising or otherwise provide financial benefits for survivors of deceased members of the Armed Forces.

(c) REPORT.—Not later than March 1, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (b). The report shall include the following:

(1) The assessments, analyses, and conclusions resulting from the study.

(2) Proposed legislation to address the deficiencies in the system of Federal death benefits for survivors of deceased members of the Armed Forces that are identified in the course of the study.

(3) An estimate of the costs of the system of death benefits provided for in the proposed legislation.

(d) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study to identify the death benefits that are payable under Federal, State, and local laws for employees of the United States, State governments, and local governments. Not later than March 1, 2004, the Comptroller General shall submit a report containing the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

Subtitle E—Commissary and Nonappropriated Fund Instrumentality Benefits

SEC. 651. EXPANDED COMMISSARY ACCESS FOR SELECTED RESERVE MEMBERS, RESERVE RETIREES UNDER AGE 60, AND THEIR DEPENDENTS.

(a) Access to Military Commissaries.—Section 1065 of title 10, United States Code, is amended—

(1) in subsections (a), (b), and (c), by inserting "commissary stores and" after "use" each place it appears; and

(2) in subsection (d)—

(A) by inserting "commissary stores and" after "use" the first and third places it appears; and

(B) by inserting "stores and" after "use" the second and fourth places it appears.

(b) Conforming Amendments; Transfer of Section.—Chapter 54 of such title is amended—

(1) by striking sections 1063 and 1064;

(2) in section 1063a(c)(2), by striking "section 1065(e)" and inserting "section 1063(e)";

(3) by redesignating section 1063a, as amended by paragraph (2), as section 1064;

(4) by transferring section 1065, as amended by subsection (a), so as to appear after section 1062; and

(5) by striking the heading of such section, as amended by subsection (a) and transferred by paragraph (4), and inserting the following new heading:

"§1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60".

(c) Clerical Amendments.—The table of sections at the beginning of such chapter is amended by striking the items relating to sections 1063, 1063a, 1064, and 1065 and inserting the following new items:

"1063. Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60.

"1064. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.".

SEC. 652. DEFENSE COMMISSARY SYSTEM AND EXCHANGE STORES SYSTEM.

(a) Existence of Systems.—Chapter 147 of title 10, United States Code, is amended by inserting before section 2482 the following new section:

"§2481. Existence of defense commissary system and exchange stores system

"(a) In General.—The Secretary of Defense shall operate a defense commissary system and an exchange stores system in the manner provided by this chapter and other provisions of law.

"(b) Separate Systems.—(1) Except as provided in paragraph (2), the defense commissary system and the exchange stores system shall be operated as separate systems of the Department of Defense.

"(2) This subsection does not apply to the following:

"(A) Combined exchange and commissary stores operated under the authority provided by section 2490a of this title.

"(B) NEXMART stores of the Navy Exchange Service Command established before October 1, 2003.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 2482 the following new item:

"2481. Existence of defense commissary system and exchange stores system.".

SEC. 653. LIMITATIONS ON PRIVATE OPERATION OF DEFENSE COMMISSARY STORE FUNCTIONS.

Section 2482(a) of title 10, United States Code, is amended—

(1) by striking the first and second sentences and inserting the following: "(1) Under such regulations as the Secretary of Defense may approve, private persons may operate selected commissary store functions, except that such functions may not include functions relating to the procurement of products to be sold in a commissary store or functions relating to the overall management of a commissary system or the management of a commissary store."; and

(2) by adding at the end the following new paragraph:

"(2) Any change to private operation of a commissary store function that is being performed by more than 10 Department of Defense civilian employees shall not take effect until the end of the 75-day period beginning on the date on which the Secretary of Defense submits to Congress written notice of the change.".

SEC. 654. USE OF APPROPRIATED FUNDS TO OPERATE DEFENSE COMMISSARY SYSTEM.

(a) Requirement That Commissary Operating Expenses Be Paid From Appropriated Funds.—Section 2484 of title 10, United States Code, is amended—'

(1) in subsection (a), by striking "may" and inserting "shall"; and

(2) in subsection (b), by striking "may" in the first sentence and inserting "shall".

(b) Supplemental Funds for Commissary Operations.—Such section is further amended by adding at the end the following new subsection:

"(c) Supplemental Funds for Commissary Operations.—Amounts appropriated to cover the expenses of operating the Defense Commissary Agency and the defense commissary system may be supplemented with additional funds from manufacturers' coupon redemption fees, handling fees for tobacco products, and other amounts received as reimbursement for other support activities provided by commissary activities.".

SEC. 655. RECOVERY OF NONAPPROPRIATED FUND INSTRUMENTALITY AND COMMISSARY STORE INVESTMENTS IN REAL PROPERTY AT MILITARY INSTALLATIONS CLOSED OR REALIGNED.

(a) 1988 Law.—Section 204(b)(7)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(1) in the second sentence of clause (i), by striking "The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)" and inserting "Subject to the limitation in clause (iii), amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended,";

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause (iii):

"(iii) The aggregate amount obligated from the reserve account established under clause (i) may not exceed the following:

"(I) In fiscal year 2004, $31,000,000.

"(II) In fiscal year 2005, $24,000,000.

"(III) In fiscal year 2006, $15,000,000.".

(b) 1990 Law.—Section 2906(d)(3) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking "The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts)" and inserting "Subject to the limitation contained in section 204(b)(7)(C)(iii) of the Defense Authorization Amendments and Base Closure and Realignment Act, amounts in the reserve account are hereby made available to the Secretary, without appropriation and until expended,".

Subtitle F—Other Mutters

SEC. 661. COMPTROLLER GENERAL REPORT ON ADEQUACY OF SPECIAL PAYS AND ALLOWANCES FOR FREQUENTLY DEPLOYED MEMBERS.

Not later than April 1, 2004, the Comptroller General shall submit to Congress a report regarding the adequacy of special pays and allowances for members of the Armed Forces who are frequently deployed away from their permanent duty stations for periods of less than 30 days. The report shall include an assessment of the eligibility requirements for the family separation allowance under section 427 of title 37, United States Code, including those relating to required duration of absences from the permanent duty station.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

Sec. 701. Medical and dental screening for Ready Reserve members alerted for mobilization.
Sec. 702. Coverage for Ready Reserve members under TRICARE program.
Sec. 703. Earlier eligibility date for TRICARE benefits for members of reserve components.
Sec. 704. Temporary extension of transitional health care benefits.
Sec. 705. Assessment of needs of Reserves for health care benefits.
Sec. 706. Limitation on fiscal year 2004 outlays for temporary Reserve health care programs.
Sec. 707. TRICARE beneficiary counseling and assistance coordinators for reserve component beneficiaries.
Sec. 708. Eligibility of Reserve officers for health care pending orders to active duty following commissioning.

Subtitle B—Other Benefits Improvements

Sec. 711. Acceleration of implementation of chiropractic health care for members on active duty.
Sec. 712. Reimbursement of covered beneficiaries for certain travel expenses relating to specialized dental care.
Sec. 713. Eligibility for continued health benefits coverage extended to certain members of uniformed services.
Sec. 714. Authority for designated providers to enroll covered beneficiaries with other primary health insurance coverage.

Subtitle C—Planning, Programming, and Management

Sec. 721. Permanent extension of authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
Sec. 722. Department of Defense Medicare-Eligible Retiree Health Care Fund valuations and contributions.
Sec. 723. Surveys on continued viability of TRICARE Standard.
Sec. 724. Plan for providing health coverage information to members, former members, and dependents eligible for certain health benefits.
Sec. 725. Transfer of certain members of the Pharmacy and Therapeutics Committee to the Uniform Formulary Beneficiary Advisory Panel under the pharmacy benefits program.
Sec. 726. Working group on military health care for persons reliant on health care facilities at military installations to be closed or realigned.

Sec. 727. Joint program for development and evaluation of integrated healing care practices for members of the Armed Forces and veterans.

Subtitle A—Enhanced Benefits for Reserves

SEC. 701. MEDICAL AND DENTAL SCREENING FOR READY RESERVE MEMBERS ALERTED FOR MOBILIZATION.

Subsection (f) of section 1074a of title 10, United States Code, as amended by section 1114 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, is amended to read as follows:

"(f)(1) At any time after the Secretary concerned notifies members of the Ready Reserve that the members are to be called or ordered to active duty for a period of more than 30 days, the administering Secretaries may provide to each such member any medical and dental screening and care that is necessary to ensure that the member meets the applicable medical and dental standards for deployment.

"(2) The notification to members of the Ready Reserve described in paragraph (1) shall include notice that the members are eligible for screening and care under this section.

"(3) A member provided medical or dental screening or care under paragraph (1) may not be charged for the screening or care.".

SEC. 702. COVERAGE FOR READY RESERVE MEMBERS UNDER TRICARE PROGRAM.

Section 1076b of title 10, United States Code, as amended by section 1115 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, is amended to read as follows:

"§ 1076b. TRICARE program: coverage for members of the Ready Reserve

"(a) Eligibility.—Each member of the Selected Reserve of the Ready Reserve and each member of the Individual Ready Reserve described in section 10144(b) of this title is eligible, subject to subsection (h), to enroll in TRICARE and receive benefits under such enrollment for any period that the member—

"(1) is an eligible unemployment compensation recipient; or

"(2) is not eligible for health care benefits under an employer-sponsored health benefits plan.

"(b) Types of Coverage.—(1) A member eligible under subsection (a) may enroll for either of the following types of coverage:

"(A) Self alone coverage.

"(B) Self and family coverage.

"(2) An enrollment by a member for self and family covers the member and the dependents of the member who are described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(c) Open Enrollment Periods.—The Secretary of Defense shall provide for at least one open enrollment period each year. During an open enrollment period, a member eligible under subsection (a) may enroll in the TRICARE program or change or terminate an enrollment in the TRICARE program.

"(d) Scope of Care.—(1) A member and the dependents of a member enrolled in the TRICARE program under this section shall be entitled to the same benefits under this chapter as a member of the uniformed services on active duty or a dependent of such a member, respectively.

"(2) Section 1074(c) of this title shall apply with respect to a member enrolled in the TRICARE program under this section.

"(e) Premiums.—(1) The Secretary of Defense shall charge premiums for coverage pursuant to enrollments under this section. The Secretary shall prescribe for each of the TRICARE program options a premium for self alone coverage and a premium for self and family coverage.

"(2) The monthly amount of the premium in effect for a month for a type of coverage under this section shall be the amount equal to 28 percent of the total amount determined by the Secretary on an appropriate actuarial basis as being reasonable for the coverage.

"(3) The premiums payable by a member under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums by members not entitled to such basic pay or compensation.

"(4) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subparagraph (B) of such section for such fiscal year.

"(f) Other Charges.—A person who receives health care pursuant to an enrollment in a TRICARE program option under this section, including a member who receives such health care, shall be subject to the same deductibles, copayments, and other nonpremium charges for health care as apply under this chapter for health care provided under the same TRICARE program option to dependents described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

"(g) Termination of Enrollment.—(1) A member enrolled in the TRICARE program under this section may terminate the enrollment only during an open enrollment period provided under subsection (c), except as provided in subsection (h).

"(2) An enrollment of a member for self alone or for self and family under this section shall terminate on the first day of the first month beginning after the date on which the member ceases to be eligible under subsection (a).

"(3) The enrollment of a member under this section may be terminated on the basis of failure to pay the premium charged the member under this section.

"(h) Relationship to Transition TRICARE Coverage Upon Separation From Active Duty.—(1) A member may not enroll in the TRICARE program under this section while entitled to transitional health care under subsection (a) of section 1145 of this title or while authorized to receive health care under subsection (c) of such section.

"(2) A member who enrolls in the TRICARE program under this section within 90 days after the date of the termination of the member's entitlement or eligibility to receive health care under subsection (a) or (c) of section 1145 of this title may terminate the enrollment at any time within one year after the date of the enrollment.

"(i) Certification of Noncoverage by Other Health Benefits Plan.—The Secretary of Defense may require a member to submit any certification that the Secretary considers appropriate to substantiate the member's assertion that the member is not covered for health care benefits under any other health benefits plan.

"(j) Eligible Unemployment Compensation Recipient Defined.—In this section, the term 'eligible unemployment compensation recipient' means, with respect to any month, any individual who is determined eligible for any day of such month for unemployment compensation under State law (as defined in section 205(9) of the Federal-State Extended Unemployment Compensation Act of 1970), including Federal unemployment compensation laws administered through the State.

"(k) Regulations.—The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

"(l) Termination of Authority.—An enrollment in TRICARE under this section may not continue after December 31, 2004.".

SEC. 703. EARLIER ELIGIBILITY DATE FOR TRICARE BENEFITS FOR MEMBERS OF RESERVE COMPONENTS.

Subsection (d) of section 1074 of title 10, United States Code, as amended by section 1116 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, is amended to read as follows:

"(d)(1) For the purposes of this chapter, a member of a reserve component of the armed forces who is issued a delayed-effective-date active-duty order, or is covered by such an order, shall be treated as being on active duty for a period of more than 30 days beginning on the later of the date that is—

"(A) the date of the issuance of such order; or

"(B) 90 days before the date on which the period of active duty is to commence under such order for that member.

"(2) In this subsection, the term 'delayed-effective-date active-duty order' means an order to active duty for a period of more than 30 days in support of a contingency operation under a provision of law referred to in section 101(a)(13)(B) of this title that provides for active-duty service to begin under such order on a date after the date of the issuance of the order.

"(3) This subsection shall cease to be effective on December 31, 2004.".

SEC. 704. TEMPORARY EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS.

(a) Extension.—Subject to subsection (b), and notwithstanding section 1117 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004, during the period beginning on the date of the enactment of this Act and ending on December 31, 2004, section 1145(a) of title 10, United States Code, shall be administered by substituting for paragraph (3) the following:

"(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.".

(b) Effective Date.—(1) Subsection (a) shall apply with respect to separations from active duty that take effect on or after the date of the enactment of this Act.

(2) Beginning on January 1, 2005, the period for which a member is provided transitional health care benefits under section 1145(a) of title 10, United States Code, shall be adjusted as necessary to comply with the limits provided under paragraph (3) of such section.

SEC. 705. ASSESSMENT OF NEEDS OF RESERVES FOR HEALTH CARE BENEFITS.

(a) GAO Evaluation of Needs of Reserve Components for Health Care Benefits.—The Comptroller General shall evaluate the needs of members of the reserve components of the Armed Forces and their families for obtaining and maintaining coverage for health care benefits under health care benefits plans and programs.

(b) Special Concern.—In conducting the evaluation under this section, the Comptroller General shall give special consideration to the implications of the increased use of the reserve components for carrying out and supporting operations of the Armed Forces that has been experienced since the 1980s and is anticipated to continue, particularly the increased frequency and magnitude of the mobilization of Reserves and the increased length of the periods of active duty of Reserves when mobilized.

(c) Matters Covered.—The evaluation under this section shall include the following matters:

(1) An examination of the extent to which Reserves and the members of their families are covered by health care benefits plans when the Reserves are not on active duty, including—

(A) the sources of the coverage;

(B) the scope of the benefits; and

(C) the extent to which the Reserves and the members of their families use the benefits available.

(2) An identification of options for providing health care benefits to Reserves and the members of their families not covered by health care benefits plans without creating an incentive for other Reserves to terminate coverage by such plans.

(3) A review of Department of Defense initiatives during fiscal years 2003 and 2004 to address the problems of access of mobilized Reserves and their families to health care and health care benefits, including—

(A) a determination of the effectiveness of such initiatives; and

(B) a determination of the extent to which the problems continue.

(4) An identification of options for continuing, after a Reserve is mobilized, any coverage of the Reserve and the Reserve's family that exists under a health benefits plan before the Reserve is mobilized.

(5) An assessment of the effects of—

(A) the provisions of this title that authorize or require the Department of Defense to provide assistance specifically to Reserves to facilitate the access to and use of TRICARE benefits by Reserves or members of their families; and

(B) the provisions of this title that provide eligibility for health care under chapter 55 of title 10, United States Code, for Reserves who are alerted by the Department of Defense to prepare to be mobilized imminently.

(6) An examination of the existing programs under which the Department of Defense provides health care benefits to mobilized Reserves during a transitional period immediately following the release of the Reserves from the active duty for which mobilized, including an assessment of the extent to which those programs meet the needs of such Reserves for health care benefits on a transitional basis.

(d) REPORT.—Not later than May 1, 2004, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the evaluation required by this subsection, including findings and recommendations.

(e) DEFINITIONS.—In this section:

(1) The term "mobilized" means called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of title 10, United States Code).

(2) The term "Reserves" means members of the reserve components of the Armed Forces.

SEC. 706. LIMITATION ON FISCAL YEAR 2004 OUTLAYS FOR TEMPORARY RESERVE HEALTH CARE PROGRAMS.

(a) OUTLAY LIMITATION.—In the administration of the temporary Reserve health care programs, the Secretary of Defense shall carry out those program so as to limit the total Department of Defense expenditures under those program during fiscal year 2004 to an amount not in excess $400,000,000.

(b) CONTINUITY OF CARE.—In the administration of the temporary Reserve health care programs, the Secretary of Defense shall carry out the implementation and termination of those programs so as to ensure the least amount of disruption to the continuity of care for persons provided care under those programs.

(c) TEMPORARY RESERVE HEALTH CARE PROGRAMS.—For purposes of this section, the term "temporary Reserve health care programs" means the following:

(1) The program under section 1076b of title 10, United States Code, as amended by section 702.

(2) The program under section 1074(d) of title 10, United States Code, as amended by section 703.

(3) The program under section 704.

SEC. 707. TRICARE BENEFICIARY COUNSELING AND ASSISTANCE COORDINATORS FOR RESERVE COMPONENT BENEFICIARIES.

Section 1095e(a)(1) of title 10, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) designate for each of the TRICARE program regions at least one person (other than a person designated under subparagraph (A)) to serve full-time as a beneficiary counseling and assistance coordinator solely for members of the reserve components and their dependents who are beneficiaries under the TRICARE program; and".

SEC. 708. ELIGIBILITY OF RESERVE OFFICERS FOR HEALTH CARE PENDING ORDERS TO ACTIVE DUTY FOLLOWING COMMISSIONING.

Section 1074(a) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking "who is on active duty" and inserting "described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) Members of the uniformed services referred to in paragraph (1) are as follows:

"(A) A member of a uniformed service on active duty.

"(B) A member of a reserve component of a uniformed service who has been commissioned as an officer if—

"(i) the member has requested orders to active duty for the member's initial period of active duty following the commissioning of the member as an officer;

"(ii) the request for orders has been approved;

"(iii) the orders are to be issued but have not been issued; and

"(iv) the member does not have health care insurance and is not covered by any other health benefits plan.".

Subtitle B—Other Benefits Improvements

SEC. 711. ACCELERATION OF IMPLEMENTATION OF CHIROPRACTIC HEALTH CARE FOR MEMBERS ON ACTIVE DUTY.

The Secretary of Defense shall accelerate the implementation of the plan required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398; 114 Stat. 1654A–173) (relating to chiropractic health care services and benefits), with a goal of completing implementation of the plan by October 1, 2005.

SEC. 712. REIMBURSEMENT OF COVERED BENEFICIARIES FOR CERTAIN TRAVEL EXPENSES RELATING TO SPECIALIZED DENTAL CARE.

Section 1074i of title 10, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "In any case"; and

(2) by adding at the end the following new subsection:

"(b) DEFINITIONS.—In this section:

"(1) The term 'specialty care provider'. includes a dental specialist.

"(2) The term 'dental specialist' means an oral surgeon, orthodontist, prosthodontist, periodontist, endodontist, or pediatric dentist, and includes such other providers of dental care and services as determined appropriate by the Secretary of Defense.".

SEC. 713. ELIGIBILITY FOR CONTINUED HEALTH BENEFITS COVERAGE EXTENDED TO CERTAIN MEMBERS OF UNIFORMED SERVICES.

(a) EXTENSION.—Section 1078a(b) of title 10, United States Code, is amended in paragraphs (1), (2)(A), and (3)(A) by striking "armed forces" and inserting "uniformed services" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to members of the uniformed services who are not otherwise covered by section 1078a of title 10, United States Code, before the date of the enactment of this Act and who, on or after such date, first meet the eligibility criteria specified in subsection (b) of that section.

SEC. 714. AUTHORITY FOR DESIGNATED PROVIDERS TO ENROLL COVERED BENEFICIARIES WITH OTHER PRIMARY HEALTH INSURANCE COVERAGE.

Subsection (d) of section 724 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 10 U.S.C. 1073 note) is amended to read as follows:

"(d) ADDITIONAL ENROLLMENT AUTHORITY.—(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

"(2)(A) The designated provider may market such services to, and enroll, covered beneficiaries who—

"(i) subject to the limitation in subparagraph (B), have other primary health insurance coverage (other than Medicare coverage) covering basic primary care and inpatient and outpatient services; or

"(ii) are enrolled in the direct care system under the TRICARE program, regardless of whether the covered beneficiaries were users of the health care delivery system of the uniformed services in prior years.

"(B) For each fiscal year beginning after September 30, 2003, the number of covered beneficiaries who are newly enrolled by a designated provider pursuant to subparagraph (A)(i) may not exceed 10 percent of the excess (if any) of—

"(i) the number of enrollees in managed care plans offered by designated providers as of the first day of such fiscal year; over

"(ii) the number of such enrollees as of the first day of the immediately preceding fiscal year.

"(3) For purposes of this subsection, a covered beneficiary who has other primary health insurance coverage includes any covered beneficiary who has primary health insurance coverage—

"(A) on the date of enrollment with a designated provider pursuant to paragraph (2)(A)(i); or

"(B) on such date of enrollment and during the period after such date while the beneficiary is enrolled with the designated provider.".

Subtitle C—Planning, Programming, and Management

SEC. 721. PERMANENT EXTENSION OF AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking "The Secretary may not enter into a contract under this paragraph after December 31, 2003.".

SEC. 722. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND VALUATIONS AND CONTRIBUTIONS.

(a) SEPARATE PERIODIC ACTUARIAL VALUATION FOR SINGLE UNIFORMED SERVICE.—Section 1115(c) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: "The Secretary of Defense may determine a separate single level dollar amount under subparagraph (A) or (B) for any participating uniformed service, if, in the judgment of the Secretary, such a determination would produce a more accurate and appropriate actuarial valuation for that uniformed service.".

(b) ASSOCIATED CALCULATIONS OF PAYMENTS INTO THE FUND.—Section 1116 of such title is amended—

(1) in subsection (a), by striking "the amount that" in the matter preceding paragraph (1) and inserting "the amount that, subject to subsection (b),";

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) If an actuarial valuation referred to in paragraph (1) or (2) of subsection (a) has been calculated as a separate single level dollar amount for a participating uniformed service under section 1115(c)(1) of this title, the administering Secretary for the department in which such uniformed service is operating shall calculate the amount under such paragraph separately for such uniformed service. If the administering Secretary is not the Secretary of Defense, the administering Secretary shall notify the Secretary of Defense of the amount so calculated. To determine a single amount for the purpose of paragraph (1) or (2) of subsection (a), as the case may be, the Secretary of Defense shall aggregate the amount calculated under this subsection for a uniformed service for the purpose of such paragraph with the amount or amounts calculated (whether separately or otherwise) for the other uniformed services for the purpose of such paragraph.".

(c) CONFORMING AMENDMENT.—Subsections (a) and (c)(5) of section 1115 of such title are amended by striking "section 1116(b) of this title" and inserting "section 1116(c) of this title".

SEC. 723. SURVEYS ON CONTINUED VIABILITY OF TRICARE STANDARD.

(a) REQUIREMENT FOR SURVEYS.—(1) The Secretary of Defense shall conduct surveys in the TRICARE market areas in the United States to determine how many health care providers are accepting new patients under TRICARE Standard in each such market area.

(2) The Secretary shall carry out the surveys in at least 20 TRICARE market areas in the United States each fiscal year after fiscal year 2003 until all such market areas in the United States have been surveyed. The Secretary shall complete six of the fiscal year 2004 surveys not later than March 31, 2004.

(3) In prioritizing the market areas for the sequence in which market areas are to be surveyed under this subsection, the Secretary shall consult with representatives of TRICARE beneficiaries and health care providers to identify locations where TRICARE Standard beneficiaries are experiencing significant levels of access-to-care problems under TRICARE Standard and shall give a high priority to surveying health care providers in such areas.

(b) SUPERVISION.—(1) The Secretary shall designate a senior official of the Department of Defense to take the actions necessary for achieving and maintaining participation of health care providers in TRICARE Standard in each TRICARE market area in a number that is adequate to ensure the viability of TRICARE Standard for TRICARE beneficiaries in that market area.

(2) The official designated under paragraph (1) shall have the following duties:

(A) To educate health care providers about TRICARE Standard.

(B) To encourage health care providers to accept patients under TRICARE Standard.

(C) To ensure that TRICARE beneficiaries have the information necessary to locate TRICARE Standard providers readily.

(D) To recommend adjustments in TRICARE Standard provider payment rates that the official considers necessary to ensure adequate availability of TRICARE Standard providers for TRICARE Standard beneficiaries.

(c) GAO REVIEW.—(1) The Comptroller General shall, on an ongoing basis, review—

(A) the processes, procedures, and analysis used by the Department of Defense to determine the adequacy of the number of health care providers—

(i) that currently accept TRICARE Standard beneficiaries as patients under TRICARE Standard in each TRICARE market area (as of the date of completion of the review); and

(ii) that would accept TRICARE Standard beneficiaries as new patients under TRICARE Standard in each TRICARE market area (within a reasonable time after the date of completion of the review); and

(B) the actions taken by the Department of Defense to ensure ready access of TRICARE Standard beneficiaries to health care under TRICARE Standard in each TRICARE market area.

(2)(A) The Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the results of the review under paragraph (1). The first semiannual report shall be submitted not later than June 30, 2004.

(B) The semiannual report under subparagraph (A) shall include the following:

(i) An analysis of the adequacy of the surveys under subsection (a).

(ii) The adequacy of existing statutory authority to address inadequate levels of participation by health care providers in TRICARE Standard.

(iii) Identification of policy-based obstacles to achieving adequacy of availability of TRICARE Standard health care in the TRICARE market areas.

(iv) An assessment of the adequacy of Department of Defense education programs to inform health care providers about TRICARE Standard.

(v) An assessment of the adequacy of Department of Defense initiatives to encourage health care providers to accept patients under TRICARE Standard.

(vi) An assessment of the adequacy of information available to TRICARE Standard beneficiaries to facilitate access by such beneficiaries to health care under TRICARE Standard.

(vii) Any need for adjustment of health care provider payment rates to attract participation in TRICARE Standard by appropriate numbers of health care providers.

(d) DEFINITIONS.—In this section:

(1) The term "TRICARE Standard" means the option of the TRICARE program that is also known as the Civilian Health and Medical Program of the Uniformed Services, as defined in section 1072(4) of title 10, United States Code.

(2) The term "United States" means the United States (as defined in section 101(a) of title 10, United States Code), its possessions (as defined in such section), and the Commonwealth of Puerto Rico.

SEC. 724. PLAN FOR PROVIDING HEALTH COVERAGE INFORMATION TO MEMBERS, FORMER MEMBERS, AND DEPENDENTS ELIGIBLE FOR CERTAIN HEALTH BENEFITS.

(a) HEALTH INFORMATION PLAN REQUIRED.—The Secretary of Defense shall develop a plan to—

(1) ensure that each household that includes one or more eligible persons is provided information concerning—

(A) the extent of health coverage provided by sections 1079 or 1086 of title 10, United States Code, for each such person;

(B) the costs, including the limits on such costs, that each such person is required to pay for such health coverage;

(C) sources of information for locating TRICARE-authorized providers in the household's locality; and

(D) methods to obtain assistance in resolving difficulties encountered with billing, payments, eligibility, locating TRICARE-authorized providers, collection actions, and such other issues as the Secretary considers appropriate;

(2) provide mechanisms to ensure that each eligible person has access to information identifying TRICARE-authorized providers in the person's locality who have agreed to accept new patients under section 1079 or 1086 of title 10, United States Code, and to ensure that such information is periodically updated;

(3) provide mechanisms to ensure that each eligible person who requests assistance in locating a TRICARE-authorized provider is provided such assistance;

(4) provide information and recruitment materials and programs aimed at attracting participation of health care providers as necessary to meet health care access requirements for all eligible persons; and

(5) provide mechanisms to allow for the periodic identification by the Department of Defense of the number and locality of eligible persons who may intend to rely on TRICARE-authorized providers for health care services.

(b) IMPLEMENTATION OF PLAN.—The Secretary of Defense shall implement the plan required by subsection (a) with respect to any contract entered into by the Department of Defense after May 31, 2003, for managed health care.

(c) DEFINITIONS.—In this section:

(1) The term "eligible person" means a person eligible for health benefits under section 1079 or 1086 of title 10, United States Code.

(2) The term "TRICARE-authorized provider" means a facility, doctor, or other provider of health care services—

(A) that meets the licensing and credentialing certification requirements in the State where the services are rendered;

(B) that meets requirements under regulations relating to TRICARE for the type of health care services rendered; and

(C) that has accepted reimbursement by the Secretary of Defense as payment for services rendered during the 12-month period preceding the date of the most recently updated provider information provided to households under the plan required by subsection (a).

(d) SUBMISSION OF PLAN.—Not later than March 31, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the plan required by subsection (a), together with a schedule for implementation of the plan.

SEC. 725. TRANSFER OF CERTAIN MEMBERS OF THE PHARMACY AND THERAPEUTICS COMMITTEE TO THE UNIFORM FORMULARY BENEFICIARY ADVISORY PANEL UNDER THE PHARMACY BENEFITS PROGRAM.

Section 1074g of title 10, United States Code, is amended—

(1) in subsection (b)(1) in the second sentence, by striking "facilities," and all that follows through the end of the sentence and inserting "facilities and representatives of providers in facilities of the uniformed services."; and

(2) in subsection (c)(2)—

(A) by striking "represent nongovernmental" and inserting the following: "represent—

"(A) nongovernmental";

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(B) contractors responsible for the TRICARE retail pharmacy program;

"(C) contractors responsible for the national mail-order pharmacy program; and

"(D) TRICARE network providers.".

SEC. 726. WORKING GROUP ON MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT MILITARY INSTALLATIONS TO BE CLOSED OR REALIGNED.

(a) In General.—Section 722 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 10 U.S.C. 1073 note) is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

"(a) Establishment.—Not later than December 31, 2003, the Secretary of Defense shall establish a working group on the provision of military health care to persons who rely for health care on health care facilities located at military installations—

"(1) inside the United States that are selected for closure or realignment in the 2005 round of realignments and closures authorized by sections 2912, 2913, and 2914 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as added by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 155 Stat. 1342); or

"(2) outside the United States that are selected for closure or realignment as a result of force posture changes.

"(b) Membership.—The members of the working group shall include, at a minimum, the following:

"(1) The Assistant Secretary of Defense for Health Affairs, or a designee of the Assistant Secretary.

"(2) The Surgeon General of the Army, or a designee of that Surgeon General.

"(3) The Surgeon General of the Navy, or a designee of that Surgeon General.

"(4) The Surgeon General of the Air Force, or a designee of that Surgeon General.

"(5) At least one independent member (appointed by the Secretary of Defense) from each TRICARE region, but not to exceed a total of 12 members appointed under this paragraph, whose experience in matters within the responsibility of the working group qualify that person to represent persons authorized health care under chapter 55 of title 10, United States Code.

"(c) Duties.—(1) In developing the recommendations for the 2005 round of realignments and closures required by sections 2913 and 2914 of the Defense Base Closure and Realignment Act of 1990, the Secretary of Defense shall consult with the working group.

"(2) The working group shall be available to provide assistance to the Defense Base Closure and Realignment Commission.

"(3) In the case of each military installation referred to in paragraph (1) or (2) of subsection (a) whose closure or realignment will affect the accessibility to health care services for persons entitled to such services under chapter 55 of title 10, United States Code, the working group shall provide to the Secretary of Defense a plan for the provision of the health care services to such persons.

"(d) Special Considerations.—In carrying out its duties under subsection (c), the working group—

"(1) shall conduct meetings with persons entitled to health care services under chapter 55 of title 10, United States Code, or representatives of such persons;

"(2) may use reliable sampling techniques;

"(3) may visit the areas where closures or realignments of military installations will adversely affect the accessibility of health care for such persons and may conduct public meetings; and

"(4) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express their views.".

(b) Termination.—Section 722 of such Act is further amended by adding at the end the following new subsection:

"(f) Termination.—The working group established pursuant to subsection (a) shall terminate on December 31, 2006.".

(c) Conforming Amendment.—Subsection (e) of such section is amended by striking "joint services".

SEC. 727. JOINT PROGRAM FOR DEVELOPMENT AND EVALUATION OF INTEGRATED HEALING CARE PRACTICES FOR MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) Program.—The Secretary of Defense and the Secretary of Veterans Affairs may conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans. Any such program shall be carried out through the Department of Veterans Affairs-Department of Defense Joint Executive Committee established under section 320 of title 38, United States Code.

(b) Source of DOD Funds.—Amounts authorized to be appropriated by this Act for the Defense Health Program may be used for the program under subsection (a).

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

Sec. 801. Consolidation of contract requirements.
Sec. 802. Quality control in procurement of aviation critical safety items and related services.
Sec. 803. Federal support for enhancement of State and local anti-terrorism response capabilities.
Sec. 804. Special temporary contract closeout authority.
Sec. 805. Competitive award of contracts for reconstruction activities in Iraq.

Subtitle B—United States Defense Industrial Base Provisions

Part I—Essential Items Identification and Domestic Production Capabilities Improvement Program

Sec. 811. Consistency with United States obligations under international agreements.
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Subtitle A—Acquisition Policy and Management

SEC. 801. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) Amendment to Title 10.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2381 the following new section:

"§2382. Consolidation of contract requirements: policy and restrictions

"(a) Policy.—The Secretary of Defense shall require the Secretary of each military department, the head of each Defense Agency, and the head of each Department of Defense Field Activity to ensure that the decisions made by that official regarding consolidation of contract requirements of the department, agency, or field activity, as the case may be, are made with a view to providing small business concerns with appropriate opportunities to participate in Department of Defense procurements as prime contractors and appropriate opportunities to participate in such procurements as subcontractors.

"(b) Limitation on Use of Acquisition Strategies Involving Consolidation.—(1) An official of a military department, Defense Agency, or Department of Defense Field Activity may not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive concerned first—

"(A) conducts market research;

"(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

"(C) determines that the consolidation is necessary and justified.

"(2) A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under subparagraph (B) of that paragraph. However, savings in administrative or personnel costs alone do not constitute, for such purposes, a sufficient justification for a consolidation of contract requirements in a procurement unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

"(3) Benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

"(A) quality;

"(B) acquisition cycle;

"(C) terms and conditions; and

"(D) any other benefit.

"(c) DEFINITIONS.—In this section:

"(1) The terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, Defense Agency, or Department of Defense Field Activity, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy two or more requirements of that department, agency, or activity for goods or services that have previously been provided to, or performed for, that department, agency, or activity under two or more separate contracts smaller in cost than the total cost of the contract for which the offers are solicited.

"(2) The term 'multiple award contract' means—

"(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of this title;

"(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of this title or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

"(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with two or more sources pursuant to the same solicitation.

"(3) The term 'senior procurement executive concerned' means—

"(A) with respect to a military department, the official designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department; or

"(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense.

"(4) The term 'small business concern' means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2381 the following new item:

"2382. Consolidation of contract requirements: policy and restrictions.".

(b) DATA REVIEW.—(1) The Secretary of Defense shall revise the data collection systems of the Department of Defense to ensure that such systems are capable of identifying each procurement that involves a consolidation of contract requirements within the department with a total value in excess of $5,000,000.

(2) The Secretary shall ensure that appropriate officials of the Department of Defense periodically review the information collected pursuant to paragraph (1) in cooperation with the Small Business Administration—

(A) to determine the extent of the consolidation of contract requirements in the Department of Defense; and

(B) to assess the impact of the consolidation of contract requirements on the availability of opportunities for small business concerns to participate in Department of Defense procurements, both as prime contractors and as subcontractors.

(3) In this subsection:

(A) The term "consolidation of contract requirements" has the meaning given that term in section 2382(c)(1) of title 10, United States Code, as added by subsection (a).

(B) The term "small business concern" means a business concern that is determined by the Administrator of the Small Business Administration to be a small-business concern by application of the standards prescribed under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) APPLICABILITY.—This section applies with respect to procurements for which solicitations are issued after the date occurring 180 days after the date of the enactment of this Act.

SEC. 802. QUALITY CONTROL IN PROCUREMENT OF AVIATION CRITICAL SAFETY ITEMS AND RELATED SERVICES.

(a) QUALITY CONTROL POLICY.—The Secretary of Defense shall prescribe in regulations a quality control policy for the procurement of aviation critical safety items and the procurement of modifications, repair, and overhaul of such items.

(b) CONTENT OF REGULATIONS.—The policy set forth in the regulations shall include the following requirements:

(1) That the head of the design control activity for aviation critical safety items establish processes to identify and manage the procurement, modification, repair, and overhaul of aviation critical safety items.

(2) That the head of the contracting activity for an aviation critical safety item enter into a contract for the procurement, modification, repair, or overhaul of such item only with a source approved by the design control activity in accordance with section 2319 of title 10, United States Code.

(3) That the aviation critical safety items delivered, and the services performed with respect to aviation critical safety items, meet all technical and quality requirements specified by the design control activity.

(c) DEFINITIONS.—In this section, the terms "aviation critical safety item" and "design control activity" have the meanings given such terms in section 2319(g) of title 10, United States Code, as amended by subsection (d).

(d) CONFORMING AMENDMENT TO TITLE 10.—Section 2319 of title 10, United States Code, is amended—

(1) in subsection (c)(3), by inserting after "the contracting officer" the following: "(or, in the case of a contract for the procurement of an aviation critical safety item, the head of the design control activity for such item)"; and

(2) by adding at the end the following new subsection:

"(g) DEFINITIONS.—In this section:

"(1) The term 'aviation critical safety item' means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause a catastrophic or critical failure resulting in the loss of or serious damage to the aircraft or weapon system, an unacceptable risk of personal injury or loss of life, or an uncommanded engine shutdown that jeopardizes safety.

"(2) The term 'design control activity', with respect to an aviation critical safety item, means the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment in which the item is to be used.".

SEC. 803. FEDERAL SUPPORT FOR ENHANCEMENT OF STATE AND LOCAL ANTI-TERRORISM RESPONSE CAPABILITIES.

(a) PROCUREMENTS OF ANTI-TERRORISM TECHNOLOGIES AND SERVICES BY STATE AND LOCAL GOVERNMENTS.—The Administrator for Federal Procurement Policy shall establish a program under which States and units of local government may procure through contracts entered into by the Department of Defense or the Department of Homeland Security anti-terrorism technologies or anti-terrorism services for the purpose of preventing, detecting, identifying, deterring, or recovering from acts of terrorism.

(b) AUTHORITIES.—Under the program, the Secretary of Defense and the Secretary of Homeland Security may, but shall not be required to, award contracts using the procedures established by the Administrator of General Services for the multiple awards schedule program of the General Services Administration.

(c) DEFINITION.—In this section, the term "State or local government" has the meaning provided in section 502(c)(3) of title 40, United States Code.

SEC. 804. SPECIAL TEMPORARY CONTRACT CLOSEOUT AUTHORITY.

(a) AUTHORITY.—The Secretary of Defense may settle any financial account for a contract entered into by the Secretary or the Secretary of a military department before October 1, 1996, that is administratively complete if the financial account has an unreconciled balance, either positive or negative, that is less than $100,000.

(b) FINALITY OF DECISION.—A settlement under this section shall be final and conclusive upon the accounting officers of the United States.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of the authority under this section.

(d) TERMINATION OF AUTHORITY.—A financial account may not be settled under this section after September 30, 2006.

SEC. 805. COMPETITIVE AWARD OF CONTRACTS FOR RECONSTRUCTION ACTIVITIES IN IRAQ.

(a) COMPETITIVE AWARD OF CONTRACTS.—The Department of Defense shall fully comply with chapter 137 of title 10, United States Code, and other applicable procurement laws and regulations for any contract awarded for reconstruction activities in Iraq, and shall conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry.

(b) REPORT.—If the Department of Defense does not have a fully competitive contract in place to replace the March 8, 2003, contract for the reconstruction of the Iraqi oil industry on the date of the enactment of this Act, the Secretary of Defense shall submit to Congress, not later than 30 days after such date of enactment, a report detailing the reasons for allowing the March 8, 2003, contract to continue.

Subtitle B—United States Defense Industrial Base Provisions

Part I—Essential Items Identification and Domestic Production Capabilities Improvement Program

SEC. 811. CONSISTENCY WITH UNITED STATES OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS.

No provision of this subtitle or any amendment made by this subtitle shall apply to the extent the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with United States obligations under an international agreement.

SEC. 812. ASSESSMENT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES.

(a) ASSESSMENT PROGRAM.—(1) The Secretary of Defense shall establish a program to assess—

(A) the degree to which the United States is dependent on foreign sources of supply; and

(B) the capabilities of the United States defense industrial base to produce military systems necessary to support the national security objectives set forth in section 2501 of title 10, United States Code.

(2) For purposes of the assessment program, the Secretary shall use existing data, as required under subsection (b), and submit an annual report, as required under subsection (c).

(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than $25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

(A) Whether the contractor is a United States or foreign contractor.

(B) The principal place of business of the contractor and the principal place of performance of the contract.

(C) Whether the contract was awarded on a sole source basis or after receipt of competitive offers.

(D) The dollar value of the contract.

(2) The Federal Procurement Data System described in section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A)), or any successor system, shall collect from contracts described in paragraph (1) the information specified in that paragraph.

(3) Information obtained in the implementation of this section is subject to the same limitations on disclosure, and penalties for violation of such limitations, as is provided under section 2507 of title 10, United States Code. Such information also shall be exempt from release under section 552 of title 5, United States Code.

(4) For purposes of meeting the requirements set forth in this section, the Secretary of Defense may not require the provision of information beyond the information that is currently provided to the Department of Defense through existing data collection systems by non-Federal entities with respect to contracts and subcontracts with the Department of Defense or any military department.

(c) ANNUAL REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the assessment program covering the preceding fiscal year. The first report under this subsection shall cover fiscal year 2004 and shall be submitted to the Committees no later than February 1, 2005.

(2)(A) The report shall include the following with respect to contracts described in subsection (b):

(i) The total number and value of such contracts awarded by the Department of Defense.

(ii) The total number and value of such contracts awarded on a sole source basis.

(iii) The total number and value of contracts described in clause (ii) awarded to foreign contractors, summarized by country.

(iv) The total number and value of contracts awarded to foreign contractors through competitive procedures, summarized by country.

(B) The report also shall include—

(i) the status of the matters described in subparagraphs (A) and (B) of subsection (a)(1);

(ii) the status of implementation of successor procurement data management systems; and

(iii) such other matters as the Secretary considers appropriate.

SEC. 813. IDENTIFICATION OF ESSENTIAL ITEMS: MILITARY SYSTEM BREAKOUT LIST.

(a) IDENTIFICATION PROCESS.—(1) The Secretary of Defense shall establish a process, using the Defense Logistics Information System existing database, to identify, with respect to each military system—

(A) the essential items, assemblies, and components of the system that are active items, assemblies, and components;

(B) foreign and domestic sources of supply for active items, assemblies, and components of the system;

(C) the active items, assemblies, and components of the system that are commercial; and

(D) Federal Supply Class and North American Industry Classification System Codes for active items, assemblies, and components of the system.

(2) Any modification to the logistics management system or any successor system of the Department of Defense shall maintain the capability to identify—

(A) essential items, assemblies, and components described in paragraph (1)(A);

(B) foreign and domestic sources of supply for active items, assemblies, and components;

(C) the active items, assemblies, and components of the system that are commercial; and

(D) Federal Supply Class and North American Industry Classification System Codes for active items, assemblies, and components.

(3) For purposes of meeting the requirements set forth in this section, the Secretary of Defense may not require the provision of information beyond the information that is currently provided to the Department of Defense through existing data collection systems by non-Federal entities with respect to contracts and subcontracts with the Department of Defense or any military department.

(b) MILITARY SYSTEM ESSENTIAL ITEM BREAKOUT LIST.—The Secretary of Defense shall produce a list, to be known as the "military system essential item breakout list", consisting of the items, assemblies, and components identified under subsection (a)(1)(A). In producing the list, the Secretary of Defense shall consider the results of the report under subsection (c).

(c) ASSESSMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, acting through a federally funded research and development center, shall prepare a report that—

(1) assesses the criteria that should be used for identifying whether an item, assembly, or component is essential to a military system; and

(2) recommends which items, assemblies, and components should be included on the military system essential item breakout list under subsection (b).

(d) REPORT.—(1) Not later than November 1 of each year, beginning with November 1, 2005, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the implementation of this section. The report may be submitted in classified and unclassified form.

(2) The report shall include the following:

(A) A list of each military system covered by the process established under subsection (a).

(B) A list of the items, assemblies, and components on the military system essential item breakout list that are manufactured or produced outside the United States, setting forth military and commercial separately.

(C) The portion of the entire military system essential item breakout list that consists of the items, assemblies, and components listed under subparagraph (B) (stated as a percentage).

(D) A list of each Federal Supply Class and North American Industry Classification System Code represented on the military system essential item breakout list, and the portion of the entire military system essential item breakout list that consists of items, assemblies, or components in such classes or codes (stated as a percentage).

(E) A list of each country outside the United States where the items, assemblies, and components listed under subparagraph (B) are manufactured or produced, and the portion of the entire military system essential item breakout list that consists of—

(i) the items, assemblies, or components manufactured or produced in that country, setting forth military and commercial separately (stated as a percentage); and

(ii) the Federal Supply Classes and North American Industry Classification System Codes represented by those items, assemblies, or components (stated as a percentage).

(3) The Secretary shall submit an interim version of the report required by this subsection not later than February 1, 2005, containing as much information as is practicable to be included by such date.

SEC. 814. PRODUCTION CAPABILITIES IMPROVEMENT FOR CERTAIN ESSENTIAL ITEMS USING DEFENSE INDUSTRIAL BASE CAPABILITIES FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Industrial Base Capabilities Fund (hereafter in this section referred to as the "Fund").

(b) MONEYS IN FUND.—There shall be credited to the Fund amounts appropriated to it.

(c) USE OF FUND.—The Secretary of Defense is authorized to use all amounts in the Fund, subject to appropriation, for the purposes of enhancing or reconstituting United States industrial capability to produce items on the military system essential item breakout list (as described in section 812(b)) or items subject to section 2534 of title 10, United States Code, in the quantity and of the quality necessary to achieve national security objectives.

(d) LIMITATION ON USE OF FUND.—Before the obligation of any amounts in the Fund, the Secretary of Defense shall submit to Congress a report describing the Secretary's plans for implementing the Fund established in subsection (a), including the priorities for the obligation of amounts in the Fund, the criteria for determining the recipients of such amounts, and the mechanisms through which such amounts may be provided to the recipients.

(e) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until expended.

(f) FUND MANAGER.—The Secretary of Defense shall designate a Fund manager. The duties of the Fund manager shall include—

(1) ensuring the visibility and accountability of transactions engaged in through the Fund; and

(2) reporting to Congress each year regarding activities of the Fund during the previous fiscal year.

Part II—Requirements Relating to Specific Items

SEC. 821. ELIMINATION OF UNRELIABLE SOURCES OF DEFENSE ITEMS AND COMPONENTS.

(a) IDENTIFICATION OF CERTAIN COUNTRIES.—The Secretary of Defense, in coordination with the Secretary of State, shall identify and list

foreign countries that restrict the provision or sale of military goods or services to the United States because of United States counterterrorism or military operations after the date of the enactment of this Act. The Secretary shall review and update the list as appropriate. The Secretary may remove a country from the list, if the Secretary determines that doing so would be in the interest of national defense.

(b) Prohibition on Procurement of Items From Identified Countries.—The Secretary of Defense may not procure any items or components contained in military systems if the items or components, or the systems, are manufactured in any foreign country identified under subsection (a).

(c) Waiver Authority.—The Secretary of Defense may waive the limitation in subsection (b) if the Secretary determines in writing and notifies Congress that the Department of Defense's need for the item is of such an unusual and compelling urgency that the Department would be unable to meet national security objectives.

(d) Effective Date.—(1) Subject to paragraph (2), subsection (b) applies to contracts in existence on the date of the enactment of this Act or entered into after such date.

(2) With respect to contracts in existence on the date of the enactment of this Act, the Secretary of Defense shall take such action as is necessary to ensure that such contracts are in compliance with subsection (b) not later than 24 months after such date.

SEC. 822. INCENTIVE PROGRAM FOR MAJOR DEFENSE ACQUISITION PROGRAMS TO USE MACHINE TOOLS AND OTHER CAPITAL ASSETS PRODUCED WITHIN THE UNITED STATES.

(a) In General.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2435 the following new section:

"§2436. Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States

"(a) Establishment of Incentive Program.—The Secretary of Defense shall plan and establish an incentive program in accordance with this section for contractors to purchase capital assets manufactured in the United States in part with funds available to the Department of Defense.

"(b) Defense Industrial Capabilities Fund May Be Used.—The Secretary of Defense may use the Defense Industrial Capabilities Fund, established under section 814 of the National Defense Authorization Act for Fiscal Year 2004, for incentive payments under the program established under this section.

"(c) Applicability to Major Defense Acquisition Program Contracts.—The incentive program shall apply to contracts for the procurement of a major defense acquisition program.

"(d) Consideration.—The Secretary of Defense shall provide consideration in source selection in any request for proposals for a major defense acquisition program for offerors with eligible capital assets.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2435 the following new item:

"2436. Major defense acquisition programs: incentive program for contractors to purchase capital assets manufactured in United States.".

(b) Regulations.—(1) The Secretary of Defense shall prescribe regulations as necessary to carry out section 2436 of title 10, United States Code, as added by this section.

(2) The Secretary may prescribe interim regulations as necessary to carry out such section. For this purpose, the Secretary is excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this paragraph that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of section 2436 of title 10, United States Code, as added by this section.

(c) Effective Date.—Section 2436 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 18-month period beginning on the date of the enactment of this Act.

SEC. 823. TECHNICAL ASSISTANCE RELATING TO MACHINE TOOLS.

(a) Technical Assistance.—The Secretary of Defense shall publish in the Federal Register information on Government contracting for purposes of assisting machine tool companies in the United States and entities that use machine tools. The information shall contain, at a minimum, the following:

(1) An identification of resources with respect to Government contracting regulations, including compliance procedures and infofmation on the availability of counseling.

(2) An identification of resources for locating opportunities for contracting with the Department of Defense, including information about defense contracts that are expected to be carried out that may require the use of machine tools.

(b) Science and Technology Initiatives.—The Secretary of Defense shall incorporate into the Department of Defense science and technology initiatives on manufacturing technology an objective of developing advanced machine tool capabilities. Such technologies shall be used to improve the technological capabilities of the United States domestic machine tool industrial base in meeting national security objectives.

SEC. 824. STUDY OF BERYLLIUM INDUSTRIAL BASE.

(a) Requirement for Study.—The Secretary of Defense shall conduct a study of the adequacy of the industrial base of the United States to meet defense requirements of the United States for beryllium.

(b) Report.—Not later than March 31, 2005, the Secretary shall submit a report on the results of the study to Congress. The report shall contain, at a minimum, the following information:

(1) A discussion of the issues identified with respect to the long-term supply of beryllium.

(2) An assessment of the need, if any, for modernization of the primary sources of production of beryllium.

(3) A discussion of the advisability of, and concepts for, meeting the future defense requirements of the United States for beryllium and maintaining a stable domestic industrial base of sources of beryllium through—

(A) cooperative arrangements commonly referred to as public-private partnerships;

(B) the administration of the National Defense Stockpile under the Strategic and Critical Materials Stock Piling Act; and

(C) any other means that the Secretary identifies as feasible.

Part III—Other Domestic Source Requirements

SEC. 826. EXCEPTIONS TO BERRY AMENDMENT FOR CONTINGENCY OPERATIONS AND OTHER URGENT SITUATIONS.

Section 2533a(d) of title 10, United States Code, is amended—

(1) by striking "Outside the United States" in the subsection heading;

(2) in paragraph (1), by inserting "or procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) in support of contingency operations" after "in support of combat operations"; and

(3) by adding at the end the following new paragraph:

"(4) Procurements of any item listed in subsection (b)(1)(A), (b)(2), or (b)(3) for which the use of procedures other than competitive procedures has been approved on the basis of section 2304(c)(2) of this title, relating to unusual and compelling urgency of need.".

SEC. 827. INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF WASTE AND BYPRODUCTS OF COTTON AND WOOL FIBER FOR USE IN THE PRODUCTION OF PROPELLANTS AND EXPLOSIVES.

Section 2533a(f) of title 10, United States Code, is amended—

(1) by striking "(f) Exception" and all that follows through "the procurement of" and inserting the following:

"(f) Exceptions for Certain Other Commodities and Items.—Subsection (a) does not preclude the procurement of the following:

"(1)";

(2) by capitalizing the initial letter of the word following "(1)", as added by paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) Waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives.".

SEC. 828. BUY AMERICAN EXCEPTION FOR BALL BEARINGS AND ROLLER BEARINGS USED IN FOREIGN PRODUCTS.

Section 2534(a)(5) of title 10, United States Code, is amended by inserting before the period at the end the following: ", except ball bearings and roller bearings being procured for use in an end product manufactured by a manufacturer that does not satisfy the requirements of subsection (b) or in a component part manufactured by such a manufacturer".

Subtitle C—Defense Acquisition and Support Workforce Flexibility

SEC. 831. MANAGEMENT STRUCTURE.

(a) Repeal of Requirements for Certain Career Management Directors, Boards, and Policies.—Sections 1703, 1705, 1706, and 1707 of title 10, United States Code, are repealed.

(b) Conforming Amendments.—Chapter 87 of such title is amended—

(1) in section 1724(d)—

(A) in the first sentence, by striking "The acquisition career program board concerned" and all that follows through "if the board certifies" and inserting "the Secretary of Defense may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of the Department of Defense or member of the armed forces if the Secretary determines";

(B) in the second sentence, by striking "the board" and inserting "the Secretary"; and

(C) by striking the third sentence;

(2) in section 1732(b)—

(A) in paragraph (1)(C), by striking ", as validated by the appropriate career program management board"; and

(B) in paragraph (2)(A)(ii), by striking "has been certified by the acquisition career program board of the employing military department as possessing" and inserting "possess";

(3) in section 1732(d)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "the acquisition career program board of a military department" and all that follows through "if the board certifies" and inserting "The Secretary of Defense may waive any or all of the requirements of subsection (b) with respect to an employee if the Secretary determines";

(ii) in the second sentence, by striking "the board" and inserting "the Secretary"; and

(iii) by striking the third sentence; and

(B) in paragraph (2), by striking "The acquisition career program board of a military department" and inserting "The Secretary";

(4) in section 1734—

(A) in subsection (d)—

(i) by striking paragraph (2); and

(ii) by redesignating paragraph (3) as paragraph (2), and in that paragraph by striking the second sentence; and

(B) in subsection (e)(2), by striking ", by the acquisition career program board of the department concerned,"; and

(5) in section 1737(c)—

(A) by striking paragraph (2); and

(B) by striking "(1) The Secretary" and inserting "The Secretary".

SEC. 832. ELIMINATION OF ROLE OF OFFICE OF PERSONNEL MANAGEMENT.

(a) WORKFORCE QUALIFICATION REQUIREMENTS AND EXAMINATIONS.—Section 1725 of such title is repealed.

(b) ACQUISITION CORPS REQUIREMENTS.—Subchapter III of chapter 87 of title 10, United States Code, is amended—

(1) in section 1731, by striking subsection (c);

(2) in section 1732(c)(2), by striking the second and third sentences;

(3) in section 1734(g)—

(A) by striking paragraph (2); and

(B) in paragraph (1), by striking "(1) The Secretary" and inserting "The Secretary"; and

(4) in section 1737, by striking subsection (d).

(c) APPOINTMENT OF SCHOLARSHIP RECIPIENT IN COMPETITIVE SERVICE.—Section 1744(c)(3)(A)(i) of such title is amended by striking "and such other requirements as the Office of Personnel Management may prescribe".

SEC. 833. SINGLE ACQUISITION CORPS.

Subchapter III of chapter 87 of title 10, United States Code, as amended by section 832, is further amended—

(1) in section 1731—

(A) in subsection (a)—

(i) by striking "each of the military departments and one or more Corps, as he considers appropriate, for the other components of" in the first sentence; and

(ii) by striking the second sentence; and

(B) in subsection (b), by striking "an Acquisition Corps" and inserting "the Acquisition Corps";

(2) in sections 1732(a), 1732(e)(1), 1732(e)(2), 1733(a), 1734(e)(1), and 1737(a)(1), by striking "an Acquisition Corps" and inserting "the Acquisition Corps"; and

(3) in section 1734—

(A) in subsection (g), by striking "each Acquisition Corps, a test program in which members of a Corps" and inserting "the Acquisition Corps, a test program in which members of the Corps"; and

(B) in subsection (h), by striking "making assignments of civilian and military members of the Acquisition Corps of that military department" and inserting "making assignments of civilian and military personnel of that military department who are members of the Acquisition Corps".

SEC. 834. CONSOLIDATION OF CERTAIN EDUCATION AND TRAINING PROGRAM REQUIREMENTS.

(a) CONSOLIDATION OF AUTHORITY.—Section 1742 of such title is amended to read as follows:

"§1742. Internship, cooperative education, and scholarship programs

"The Secretary of Defense shall conduct the following education and training programs:

"(1) An intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.

"(2) A cooperative education credit program under which the Secretary arranges, through cooperative arrangements entered into with one or more accredited institutions of higher education, for such institutions to grant undergraduate credit for work performed by students who are employed by the Department of Defense in acquisition positions.

"(3) A scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.".

(b) CONFORMING AMENDMENTS.—Sections 1743 and 1744 of such title are repealed.

SEC. 835. GENERAL MANAGEMENT PROVISIONS.

Subchapter V of chapter 87 of title 10, United States Code, is amended—

(1) by striking section 1763; and

(2) by adding at the end the following new section 1764:

"§1764. Authority to establish different minimum requirements

"(a) AUTHORITY.—(1) The Secretary of Defense may prescribe a different minimum number of years of experience, different minimum education qualifications, and different tenure of service qualifications to be required for eligibility for appointment or advancement to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter.

"(2) Any requirement prescribed under paragraph (1) for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

"(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:

"(1) Contracting officer, except a position referred to in paragraph (5).

"(2) Program executive officer.

"(3) Senior contracting official.

"(4) Program manager.

"(5) A position in the contract contingency force of an armed force that is filled by a member of that armed force.

"(c) DEFINITION.—In this section, the term 'contract contingency force', with respect to an armed force, has the meaning given such term in regulations prescribed by the Secretary concerned.".

SEC. 836. CLERICAL AMENDMENTS.

The tables of sections for chapter 87 of title 10, United States Code, are amended as follows:

(1) The table of sections at the beginning of subchapter I is amended by striking the items relating to sections 1703, 1705, 1706, and 1707.

(2) The table of sections at the beginning of subchapter II is amended by striking the item relating to section 1725.

(3) The table of sections at the beginning of subchapter IV is amended by striking the items relating to sections 1742, 1743, and 1744 and inserting the following:

"1742. Internship, cooperative education, and scholarship programs.".

(4) The table of sections at the beginning of subchapter V is amended by striking the item relating to section 1763 and inserting the following:

"1764. Authority to establish different minimum requirements.".

Subtitle D—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 841. ADDITIONAL AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.

(a) ADDITIONAL AUTHORITY.—Section 129b of title 10, United States Code is amended by adding at the end the following new subsection:

"(d) ADDITIONAL AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts if the personal services—

"(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

"(B) directly support the mission of a defense intelligence component or counter-intelligence organization of the Department of Defense; or

"(C) directly support the mission of the special operations command of the Department of Defense.

"(2) The contracting officer for a personal services contract under this subsection shall be responsible for ensuring that—

"(A) the services to be procured are urgent or unique; and

"(B) it would not be practicable for the Department to obtain such services by other means.

"(3) The requirements of section 3109 of title 5 shall not apply to a contract entered into under this subsection.".

(b) CONFORMING AMENDMENTS.—(1) The heading for section 129b of such title is amended to read as follows:

"§129b. Authority to procure personal services".

(2) The item relating to section 129b in the table of sections at the beginning of chapter 3 of such title is amended to read as follows:

"129b. Authority to procure personal services.".

SEC. 842. ELIMINATION OF CERTAIN SUBCONTRACT NOTIFICATION REQUIREMENTS.

Subsection (e) of section 2306 of title 10, United States Code, is amended—

(1) by striking "(A)" and "(B)" and inserting "(i)" and "(ii)", respectively;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by striking "Each" and inserting "(1) Except as provided in paragraph (2), each"; and

(4) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to a prime contract with a contractor that maintains a purchasing system approved by the contracting officer for the contract.".

SEC. 843. MULTIYEAR TASK AND DELIVERY ORDER CONTRACTS.

(a) REPEAL OF APPLICABILITY OF EXISTING AUTHORITY AND LIMITATIONS.—Section 2306c of title 10, United States Code, is amended by striking subsection (g).

(b) CONTRACT PERIOD.—Section 2304a of such title is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) CONTRACT PERIOD.—The head of an agency entering into a task or delivery order contract under this section may provide for the contract to cover a total period of not more than five years.".

SEC. 844. ELIMINATION OF REQUIREMENT TO FURNISH WRITTEN ASSURANCES OF TECHNICAL DATA CONFORMITY.

Section 2320(b) of title 10, United States Code, is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

SEC. 845. ACCESS TO INFORMATION RELEVANT TO ITEMS DEPLOYED UNDER RAPID ACQUISITION AND DEPLOYMENT PROCEDURES.

Section 806(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2607; 10 U.S.C. 2302 note) is amended by adding at the end the following new paragraph:

"(3) If items are deployed under the rapid acquisition and deployment procedures prescribed pursuant to this section, or under any other authority, before the completion of operational test and evaluation of the items, the Director of Operational Test and Evaluation shall have access to operational records and data relevant to such items in accordance with section 139(e)(3) of title 10, United States Code, for the purpose of completing operational test and evaluation of the items. The access to the operational records and data shall be provided in a time and manner determined by the Secretary of Defense consistent with requirements of operational security and other relevant operational requirements.".

SEC. 846. APPLICABILITY OF REQUIREMENT FOR REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1180) is amended by striking ", as in effect on the date of enactment of this Act," and inserting "(as in effect on the date of the enactment of this Act), and the corresponding provision of any successor to such Instruction,".

SEC. 847. CERTAIN WEAPONS-RELATED PROTOTYPE PROJECTS.

(a) EXTENSION OF AUTHORITY.—Subsection (g) of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note) is amended by striking "September 30, 2004" and inserting "September 30, 2008".

(b) INCREASED SCOPE OF AUTHORITY.—Subsection (a) of such section is amended by inserting before the period at the end the following: ", or to improvement of weapons or weapon systems in use by the Armed Forces".

(c) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—Such section, as amended by subsection (a), is further amended—

(1) by redesignating subsections (e), (f), and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes under prototype projects carried out under this section.

"(2) Under the pilot program—

"(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)); and

"(B) the item or process may be treated as an item or process, respectively, that is developed in part with Federal funds and in part at private expense for the purposes of section 2320 of title 10, United States Code.

"(3) For the purposes of the pilot program, a qualifying contract or subcontract is a contract or subcontract, respectively, with a nontraditional defense contractor that—

"(A) does not exceed $50,000,000; and

"(B) is either—

"(i) a firm, fixed-price contract or subcontract; or

"(ii) a fixed-price contract or subcontract with economic price adjustment.

"(4) The authority to conduct a pilot program under this subsection shall terminate on September 30, 2008. The termination of the authority shall not affect the validity of contracts or subcontracts that are awarded or modified during the period of the pilot program, without regard to whether the contracts or subcontracts are performed during the period.".

SEC. 848. LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF UNITED STATES JOINT FORCES COMMAND.

(a) THREE-YEAR AUTHORITY TO DELEGATE ACQUISITION AUTHORITY.—(1) Chapter 6 of title 10, United States Code, is amended by inserting after section 167 the following new section:

"§ 167a. Unified combatant command for joint warfighting experimentation: acquisition authority

"(a) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—The Secretary of Defense may delegate to the commander of the unified combatant command referred to in subsection (b) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop and acquire equipment described in subsection (c). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.

"(b) COMMAND DESCRIBED.—The commander to whom authority is delegated under subsection (a) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.

"(c) EQUIPMENT.—The equipment referred to in subsection (a) is as follows:

"(1) Equipment for battle management command, control, communications, and intelligence.

"(2) Any other equipment that the commander referred to in subsection (b) determines necessary and appropriate for—

"(A) facilitating the use of joint forces in military operations; or

"(B) enhancing the interoperability of equipment used by the various components of joint forces.

"(d) EXCEPTIONS.—The authority delegated under subsection (a) does not apply to the development or acquisition of a system for which—

"(1) the total expenditure for research, development, test, and evaluation is estimated to be $10,000,000 or more; or

"(2) the total expenditure for procurement is estimated to be $50,000,000 or more.

"(e) INTERNAL AUDITS AND INSPECTIONS.—The commander referred to in subsection (b) shall require the inspector general of that command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).

"(f) TERMINATION.—The Secretary may delegate the authority referred to in subsection (a) only during fiscal years 2004 through 2006, and any authority so delegated shall not be in effect after September 30, 2006.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 167 the following new item:

"167a. Unified combatant command for joint warfighting experimentation: acquisition authority.".

(b) COMPTROLLER GENERAL REPORT.—The Comptroller General shall review the implementation of section 167a of title 10, United States Code, as added by subsection (a), and submit to Congress a report on such review not later than two years after the date of the enactment of this Act. The review shall cover the extent to which the authority provided under such section 167a has been used.

Subtitle E—Acquisition-Related Reports and Other Matters

SEC. 851. REPORT ON CONTRACT PAYMENTS TO SMALL BUSINESSES.

(a) REPORT.—The Comptroller General shall prepare and submit to the congressional defense committees a report on the timeliness of contract payments made to small businesses during fiscal years 2001 and 2002 by the Department of Defense. The report shall include an estimate of the following:

(1) The total amount of contract payments made by the Department to small businesses.

(2) The percentage of total contract payments to small businesses that were not made in a timely manner.

(3) The reasons that contract payments to small businesses were not made in a timely manner.

(4) The amount of interest owed and paid by the Department to small businesses due to contract payments not made in a timely manner.

(5) Such recommendations as the Comptroller General considers appropriate to improve the process for making contract payments to small businesses in a timely manner.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) a payment is considered not made in a timely manner if it caused interest to accrue under chapter 39 of title 31, United States Code (relating to prompt payment); and

(2) the term "small business" means an entity that qualifies as a small business concern under the Small Business Act.

SEC. 852. CONTRACTING WITH EMPLOYERS OF PERSONS WITH DISABILITIES.

(a) INAPPLICABILITY OF RANDOLPH-SHEPPARD ACT.—The Randolph-Sheppard Act does not apply to any contract described in subsection (b) for so long as the contract is in effect, including for any period for which the contract is extended pursuant to an option provided in the contract.

(b) JAVITS-WAGNER-O'DAY CONTRACTS.—Subsection (a) applies to any contract for the operation of a military mess hall, military troop dining facility, or any similar dining facility operated for the purpose of providing meals to members of the Armed Forces that—

(1) was entered into before the date of the enactment of this Act with a nonprofit agency for the blind or an agency for other severely handicapped in compliance with section 3 of the Javits-Wagner-O'Day Act (41 U.S.C. 48); and

(2) is in effect on such date.

(c) ENACTMENT OF POPULAR NAME AS SHORT TITLE.—The Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly known as the "Randolph-Sheppard Act") (20 U.S.C. 107 et seq.), is amended by adding at the end the following new section:

"SEC. 11. This Act may be cited as the 'Randolph-Sheppard Act'.".

SEC. 853. DEMONSTRATION PROJECT FOR CONTRACTORS EMPLOYING PERSONS WITH DISABILITIES.

(a) AUTHORITY.—The Secretary of Defense may carry out a demonstration project by entering into one or more contracts with an eligible contractor for the purpose of providing defense contracting opportunities for severely disabled individuals.

(b) EVALUATION FACTOR.—In evaluating an offer for a contract under the demonstration program, the percentage of the total workforce of the offeror consisting of severely disabled individuals employed by the offeror shall be one of the evaluation factors.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE CONTRACTOR.—The term "eligible contractor" means a business entity operated on a for-profit or nonprofit basis that—

(A) employs severely disabled individuals at a rate that averages not less than 33 percent of its total workforce over a period prescribed by the Secretary;

(B) pays not less than the minimum wage prescribed pursuant to section 6 of the Fair Labor

Standards Act of 1938 (29 U.S.C. 206) to the employees who are severely disabled individuals; and

(C) provides for its employees health insurance and a retirement plan comparable to those provided for employees by business entities of similar size in its industrial sector or geographic region.

(2) SEVERELY DISABLED INDIVIDUAL.—The term "severely disabled individual" means an individual with a disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) who has a severe physical or mental impairment that seriously limits one or more functional capacities.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers and Organizations

Sec. 901. Clarification of responsibility of military departments to support combatant commands.
Sec. 902. Combatant Commander Initiative Fund.
Sec. 903. Biennial review of national military strategy by Chairman of the Joint Chiefs of Staff.
Sec. 904. Report on changing roles of United States Special Operations Command.
Sec. 905. Sense of Congress regarding continuation of mission and functions of Army Peacekeeping Institute.
Sec. 906. Transfer to Office of Personnel Management of personnel investigative functions and related personnel of the Department of Defense.
Sec. 907. Defense acquisition workforce freeze for fiscal year 2004.

Subtitle B—Space Activities

Sec. 911. Coordination of space science and technology activities of the Department of Defense.
Sec. 912. Policy regarding assured access to space for United States national security payloads.
Sec. 913. Pilot program for provision of space surveillance network services to non-United States Government entities.
Sec. 914. Content of biennial global positioning system report.
Sec. 915. Report on processes-related space systems.

Subtitle C—Department of Defense Intelligence Components

Sec. 921. Redesignation of National Imagery and Mapping Agency as National Geospatial-Intelligence Agency.
Sec. 922. Protection of operational files of the National Security Agency.
Sec. 923. Integration of defense intelligence, surveillance, and reconnaissance capabilities.
Sec. 924. Management of National Security Agency Modernization Program.
Sec. 925. Modification of obligated service requirements under National Security Education Program.
Sec. 926. Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency.
Sec. 927. Commercial imagery industrial base.

Subtitle D—Other Matters

Sec. 931. Authority for Asia-Pacific Center for Security Studies to accept gifts and donations.
Sec. 932. Repeal of rotating chairmanship of Economic Adjustment Committee.
Sec. 933. Extension of certain authorities applicable to the Pentagon Reservation to include a designated Pentagon continuity-of-Government location.

Subtitle A—Duties and Functions of Department of Defense Officers and Organizations

SEC. 901. CLARIFICATION OF RESPONSIBILITY OF MILITARY DEPARTMENTS TO SUPPORT COMBATANT COMMANDS.

Sections 3013(c)(4), 5013(c)(4), and 8013(c)(4) of title 10, United States Code, are amended by striking "(to the maximum extent practicable)".

SEC. 902. COMBATANT COMMANDER INITIATIVE FUND.

(a) REDESIGNATION OF CINC INITIATIVE FUND.—(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the "Combatant Commander Initiative Fund".

(2) Section 166a of title 10, United States Code, is amended—

(A) by striking the heading for subsection (a) and inserting "COMBATANT COMMANDER INITIATIVE FUND.—"; and '

(B) by striking "CINC Initiative Fund" in subsections (a), (c), and (d), and inserting "Combatant Commander Initiative Fund".

(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.

(b) AUTHORIZED ACTIVITIES.—Subsection (b) of section 166a of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(10) Joint warfighting capabilities.".

(c) INCREASED MAXIMUM AMOUNTS AUTHORIZED FOR USE.—Subsection (e)(1) of such section is amended—

(1) in subparagraph (A), by striking "$7,000,000" and inserting "$10,000,000";

(2) in subparagraph (B), by striking "$1,000,000" and inserting "$10,000,000"; and

(3) in subparagraph (C), by striking "$2,000,000" and inserting "$5,000,000".

SEC. 903. BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY BY CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) BIENNIAL REVIEW.—Section 153 of title 10, United States Code, by adding at the end the following new subsection:

"(d) BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY.—(1) Not later then February 15 of each even-numbered year, the Chairman shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a comprehensive examination of the national military strategy. Each such examination shall be conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands.

"(2) Each report on the examination of the national military strategy under paragraph (1) shall include the following:

"(A) Delineation of a national military strategy consistent with—

"(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

"(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title; and

"(iii) the most recent Quadrennial Defense Review conducted by the Secretary of Defense pursuant to section 118 of this title.

"(B) A description of the strategic environment and the opportunities and challenges that affect United States national interests and United States national security.

"(C) A description of the regional threats to United States national interests and United States national security.

"(D) A description of the international threats posed by terrorism, weapons of mass destruction, and asymmetric challenges to United States national security.

"(E) Identification of United States national military objectives and the relationship of those objectives to the strategic environment, regional, and international threats.

"(F) Identification of the strategy, underlying concepts, and component elements that contribute to the achievement of United States national military objectives.

"(G) Assessment of the capabilities and adequacy of United States forces (including both active and reserve components) to successfully execute the national military strategy.

"(H) Assessment of the capabilities, adequacy, and interoperability of regional allies of the United States and or other friendly nations to support United States forces in combat operations and other operations for extended periods of time.

"(3)(A) As part of the assessment under this subsection, the Chairman, in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands, shall undertake an assessment of the nature and magnitude of the strategic and military risks associated with successfully executing the missions called for under the current National Military Strategy.

"(B) In preparing the assessment of risk, the Chairman should make assumptions pertaining to the readiness of United States forces (in both the active and reserve components), the length of conflict and the level of intensity of combat operations, and the levels of support from allies and other friendly nations.

"(4) Before submitting a report under this subsection to the Committees on Armed Services of the Senate and House of Representatives, the Chairman shall provide the report to the Secretary of Defense. The Secretary's assessment and comments thereon (if any) shall be included with the report. If the Chairman's assessment in such report in any year is that the risk associated with executing the missions called for under the National Military Strategy is significant, the Secretary shall include with the report as submitted to those committees the Secretary's plan for mitigating the risk.".

(b) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking "each year" and inserting "of each odd-numbered year".

SEC. 904. REPORT ON CHANGING ROLES OF UNITED STATES SPECIAL OPERATIONS COMMAND.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the changing roles of the United States Special Operations Command.

(b) CONTENT OF REPORT.—(1) The report shall specifically discuss in detail the following matters:

(A) The expanded role of the United States Special Operations Command in the global war on terrorism.

(B) The reorganization of that command to function as a supported combatant command for planning and executing operations.

(C) The role of that command as a supporting combatant command.

(2) The report shall also include, in addition to the matters discussed pursuant to paragraph (1), a discussion of the following matters:

(A) The military strategy to employ the United States Special Operations Command to fight the global war on terrorism and how that strategy contributes to the overall national security strategy with regard to the global war on terrorism.

(B) The scope of the authority granted to the commander of that command to act as a supported commander and to prosecute the global war on terrorism.

(C) The operational and legal parameters within which the commander of that command is to exercise command authority in foreign countries when taking action against foreign and United States citizens engaged in terrorist activities.

(D) The decisionmaking procedures for authorizing, planning, and conducting individual missions by that command, including—

(i) the requirement in section 167(d)(2) of title 10, United States Code, that the conduct of a special operations mission under the command of the commander of the United States Special Operations Command be authorized by the President or the Secretary of Defense; and

(ii) procedures for consultation with Congress.

(E) The procedures for the commander of that command to use to coordinate with commanders of other combatant commands, especially geographic commands.

(F) Future organization plans and resource requirements for that command conducting the global counterterrorism mission.

(G) The effect of the changing role of that command on other special operations missions, including foreign internal defense, psychological operations, civil affairs, unconventional warfare, counterdrug activities, and humanitarian activities.

(c) FORMS OF REPORT.—The report shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 905. SENSE OF CONGRESS REGARDING CONTINUATION OF MISSION AND FUNCTIONS OF ARMY PEACEKEEPING INSTITUTE.

It is the sense of Congress that the Secretary of Defense should maintain the functions and missions of the Army Peacekeeping Institute at the Army War College in Carlisle, Pennsylvania, or within a joint entity of the Department of Defense, such as the National Defense University or the Joint Forces Command, to ensure that members of the Armed Forces continue to study the strategic challenges and uses of peacekeeping missions and to prepare the Armed Forces for conducting such missions.

SEC. 906. TRANSFER TO OFFICE OF PERSONNEL MANAGEMENT OF PERSONNEL INVESTIGATIVE FUNCTIONS AND RELATED PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) TRANSFER OF FUNCTIONS.—(1) Subject to subsection (b), the Secretary of Defense may transfer to the Office of Personnel Management the personnel security investigations functions that, as of the date of the enactment of this Act, are performed by the Defense Security Service of the Department of Defense. Such a transfer may be made only with the concurrence of the Director of the Office of Personnel Management.

(2) The Director of the Office of Personnel Management may accept a transfer of functions under paragraph (1).

(3) Any transfer of a function under this subsection is a transfer of function within the meaning of section 3503 of title 5, United States Code.

(b) LIMITATION.—(1) The Secretary of Defense may not make a transfer of functions under subsection (a) unless the Secretary determines, and certifies in writing to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate, that each of the conditions specified in paragraph (2) has been met. Such a transfer may then be made only after a period of 30 days has elapsed after the date on which the certification is received by those committees.

(2) The conditions referred to in paragraph (1) are the following:

(A) That the Office of Personnel Management is fully capable of carrying out high-priority investigations required by the Secretary of Defense within a timeframe set by the Secretary of Defense.

(B) That the Office of Personnel Management has undertaken necessary and satisfactory steps to ensure that investigations performed on Department of Defense contract personnel will be conducted in an expeditious manner sufficient to ensure that those contract personnel are available to the Department of Defense within a timeframe set by the Secretary of Defense.

(C) That the Department of Defense will retain capabilities in the form of Federal employees to monitor and investigate Department of Defense and contractor personnel as necessary to perform counterintelligence functions and polygraph activities of the Department.

(D) That the authority to adjudicate background investigations will remain with the Department of Defense and that the transfer of Defense Security Service personnel to the Office of Personnel Management will improve the speed and efficiency of the adjudication process.

(E) That the Department of Defense will retain within the Defense Security Service sufficient personnel and capabilities to improve Department of Defense industrial security programs and practices.

(c) TRANSFER OF PERSONNEL.—(1) If the Director of the Office of Personnel Management accepts a transfer of functions under subsection (a), the Secretary of Defense shall also transfer to the Office of Personnel Management, and the Director shall accept—

(A) the Defense Security Service employees who perform those functions immediately before the transfer of functions; and

(B) the Defense Security Service employees who, as of such time, are first level supervisors of employees transferred under subparagraph (A).

(2) The Secretary may also transfer to the Office of Personnel Management any Defense Security Service employees (including higher level supervisors) who provide support services for the performance of the functions transferred under subsection (a) or for the personnel (including supervisors) transferred under paragraph (1) if the Director—

(A) determines that the transfer of such additional employees and the positions of such employees to the Office of Personnel Management is necessary in the interest of effective performance of the transferred functions; and

(B) accepts the transfer of the additional employees.

(3) In the case of an employee transferred to the Office of Personnel Management under paragraph (1) or (2), whether a full-time or part-time employee—

(A) subsections (b) and (c) of section 5362 of title 5, United States Code, relating to grade retention, shall apply to the employee, except that—

(i) the grade retention period shall be the one-year period beginning on the date of the transfer; and

(ii) paragraphs (1), (2), and (3) of such subsection (c) shall not apply to the employee; and

(B) the employee may not be separated, other than pursuant to chapter 75 of title 5, United States Code, during such one-year period.

(d) ACTIONS AFTER TRANSFER.—(1) Not later than one year after a transfer of functions to the Office of Personnel Management under subsection (a), the Director of the Office of Personnel Management, in coordination with the Secretary of Defense, shall review all functions performed by personnel of the Defense Security Service at the time of the transfer and make a written determination regarding whether each such function is inherently governmental or is otherwise inappropriate for performance by contractor personnel.

(2) A function performed by Defense Security Service employees as of the date of the enactment of this Act may not be converted to contractor performance by the Director of the Office of Personnel Management until—

(A) the Director reviews the function in accordance with the requirements of paragraph (1) and makes a written determination that the function is not inherently governmental and is not otherwise inappropriate for contractor performance; and

(B) the Director conducts a public-private competition regarding the performance of that function in accordance with the requirements of the Office of Management and Budget Circular A–76.

SEC. 907. DEFENSE ACQUISITION WORKFORCE FREEZE FOR FISCAL YEAR 2004.

(a) DEFENSE ACQUISITION WORKFORCE FREEZE.—During fiscal year 2004, the number of defense acquisition and support personnel may not at any time be greater than one percent above, or less than one percent below, the baseline number, and any variation from the baseline number (within such one percent variance) shall be only to exercise normal hiring and firing flexibility during the fiscal year.

(b) BASELINE NUMBER.—For purposes of subsection (a), the baseline number is the number of defense acquisition and support personnel as of October 1, 2003.

(c) USE OF FULL-TIME EQUIVALENT POSITIONS.—All determinations of personnel strengths for purposes of this section shall be on the basis of full-time equivalent positions.

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the limitation in subsection (a) upon a determination that such waiver is necessary to protect a significant national security interest of the United States. If the Secretary makes such a determination, the Secretary shall, within 30 days after making the determination, notify the Committees on Armed Services of the Senate and House of Representatives of the determination and the reasons for the determination.

(e) DEFINITION.—In this section, the term "defense acquisition and support personnel" means members of the Armed Forces and civilian personnel (other than civilian personnel who are employed at a maintenance depot) who are assigned to, or employed in, acquisition organizations of the Department of Defense (as specified in Department of Defense Instruction numbered 5000.58, dated January 14, 1992), and any other organization that, as determined by the Secretary, has acquisition as its predominant mission.

Subtitle B—Space Activities

SEC. 911. COORDINATION OF SPACE SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) IN GENERAL.—(1) Chapter 135 of title 10, United States Code, is amended by adding at the end the following new section:

"§2272. Space science and technology strategy: coordination

"(a) SPACE SCIENCE AND TECHNOLOGY STRATEGY.—(1) The Secretary of Defense shall develop and implement a space science and technology strategy and shall review and, as appropriate, revise the strategy annually. Functions of the Secretary under this subsection shall be carried out jointly by the Director of Defense Research and Engineering and the official of the Department of Defense designated as the Department of Defense Executive Agent for Space.

"(2) The strategy under paragraph (1) shall, at a minimum, address the following issues:

"(A) Short-term and long-term goals of the space science and technology programs of the Department of Defense.

"(B) The process for achieving the goals identified under subparagraph (A), including an implementation plan for achieving those goals.

"(C) The process for assessing progress made toward achieving those goals.

"(3) The strategy under paragraph (1) shall be included as part of the annual National Security Space Plan developed pursuant to Department of Defense regulations and shall be provided to Department of Defense components and science and technology entities of the Department of Defense to support the planning, programming, and budgeting processes of the Department.

"(4) The strategy under paragraph (1) shall be developed in consultation with the directors of research laboratories of the Department of Defense, the directors of the other Department of Defense research components, and the heads of other organizations of the Department of Defense as identified by the Director of Defense Research and Engineering and the Department of Defense Executive Agent for Space.

"(5) The strategy shall be available for review by the congressional defense committees.

"(b) Required Coordination.—In carrying out the space science and technology strategy developed under subsection (a), the directors of the research laboratories of the Department of Defense, the directors of the other Department of Defense research components, and the heads of all other appropriate organizations identified jointly by the Director of Defense Research and Engineering and the Department of Defense Executive Agent for Space shall each—

"(1) identify research projects in support of that strategy that contribute directly and uniquely to the development of space technology; and

"(2) inform the Director of Defense Research and Engineering and the Department of Defense Executive Agent for Space of the planned budget and planned schedule for executing those projects.

"(c) Definitions.—In this section:

"(1) The term 'research laboratory of the Department of Defense' means any of the following:

"(A) The Air Force Research Laboratory.

"(B) The Naval Research Laboratory.

"(C) The Office of Naval Research.

"(D) The Army Research Laboratory.

"(2) The term 'other Department of Defense research component' means either of the following:

"(A) The Defense Advanced Research Projects Agency.

"(B) The National Reconnaissance Office.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2272. Space science and technology strategy: coordination.".

(b) General Accounting Office Review.—(1) The Comptroller General shall review and assess the space science and technology strategy developed under subsection (a) of section 2272 of title 10, United States Code, as added by subsection (a), and the effectiveness of the coordination process required under subsection (b) of that section.

(2) Not later than September 1, 2004, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the findings and assessment under paragraph (1).

SEC. 912. POLICY REGARDING ASSURED ACCESS TO SPACE FOR UNITED STATES NATIONAL SECURITY PAYLOADS.

(a) In General.—(1) Chapter 135 of title 10, United States Code, is amended by adding after section 2272, as added by section 911(a)(1), the following new section:

"§2273. Policy regarding assured access to space: national security payloads

"(a) Policy.—It is the policy of the United States for the President to undertake actions appropriate to ensure, to the maximum extent practicable, that the United States has the capabilities necessary to launch and insert United States national security payloads into space whenever such payloads are needed in space.

"(b) Included Actions.—The appropriate actions referred to in subsection (a) shall include, at a minimum, providing resources and policy guidance to sustain—

"(1) the availability of at least two space launch vehicles (or families of space launch vehicles) capable of delivering into space any payload designated by the Secretary of Defense or the Director of Central Intelligence as a national security payload; and

"(2) a robust space launch infrastructure and industrial base.

"(c) Coordination.—The Secretary of Defense shall, to the maximum extent practicable, pursue the attainment of the capabilities described in subsection (a) in coordination with the Administrator of the National Aeronautics and Space Administration.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2272, as added by section 911(a)(2), the following new item:

"2273. Policy regarding assured access to space: national security payloads.".

SEC. 913. PILOT PROGRAM FOR PROVISION OF SPACE SURVEILLANCE NETWORK SERVICES TO NON-UNITED STATES GOVERNMENT ENTITIES.

(a) In General.—Chapter 135 of title 10, United States Code, is amended by adding after section 2273, as added by section 912(a), the following new section:

"§2274. Space surveillance network: pilot program for provision of satellite tracking support to entities outside United States Government

"(a) Pilot Program.—The Secretary of Defense may carry out a pilot program to determine the feasibility and desirability of providing to non-United States Government entities space surveillance data support described in subsection (b).

"(b) Space Surveillance Data Support.—Under such a pilot program, the Secretary may provide to a non-United States Government entity, subject to an agreement described in subsection (d), the following:

"(1) Satellite tracking services from assets owned or controlled by the Department of Defense, but only if the Secretary determines, in the case of any such agreement, that providing such services to that entity is in the national security interests of the United States.

"(2) Space surveillance data and the analysis of space surveillance data, but only if the Secretary determines, in the case of any such agreement, that providing such data and analysis to that entity is in the national security interests of the United States.

"(c) Eligible Entities.—Under the pilot program, the Secretary may provide space surveillance data support to non-United States Government entities including the following:

"(1) State governments.

"(2) Governments of political subdivisions of States.

"(3) United States commercial entities.

"(4) Governments of foreign countries.

"(5) Foreign commercial entities.

"(d) Required Agreement.—The Secretary may not provide space surveillance data support to a non-United States Government entity under the pilot program unless that entity enters into an agreement with the Secretary under which the entity—

"(1) agrees to pay an amount that may be charged by the Secretary under subsection (e); and

"(2) agrees not to transfer any data or technical information received under the agreement, including the analysis of tracking data, to any other entity without the express approval of the Secretary.

"(e) Rule of Construction Concerning Provision of Intelligence Assets or Data.—Nothing in this section shall be considered to authorize the provision of services or information concerning, or derived from, United States intelligence assets or data.

"(f) Charges.—(1) As a condition of an agreement under subsection (d), the Secretary may (except as provided in paragraph (2)) require the non-United States Government entity entering into the agreement to pay to the Department of Defense such amounts as the Secretary determines to be necessary to reimburse the Department for the costs of the Department of providing space surveillance data support under the agreement.

"(2) The Secretary may not require the government of a State or of a political subdivision of a State to pay any amount under paragraph (1).

"(g) Crediting of Funds Received.—Funds received for the provision of space surveillance data support pursuant to an agreement under this section shall be credited to accounts of the Department of Defense that are current when the funds are received and that are available for the same purposes as the accounts originally charged to provide such support. Funds so credited shall merge with and become available for obligation for the same period as the accounts to which they are credited.

"(h) Procedures.—The Secretary shall establish procedures for the conduct of the pilot program. As part of those procedures, the Secretary may allow space surveillance data and analysis of space surveillance data to be provided through a contractor of the Department of Defense.

"(i) Duration of Pilot Program.—The pilot program under this section shall be conducted during the three-year period beginning on a date specified by the Secretary of Defense, which date shall be not later than 180 days after the date of the enactment of this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2273, as added by section 912(b), the following new item:

"2274. Space surveillance network: pilot program for provision of satellite tracking support to entities outside United States Government.".

SEC. 914. CONTENT OF BIENNIAL GLOBAL POSITIONING SYSTEM REPORT.

(a) Revised Content.—Paragraph (1) of section 2281(d) of title 10, United States Code, is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C);

(3) by redesignating subparagraph (E) as subparagraph (D) and in that subparagraph striking "Any progress made toward" and inserting "Progress and challenges in"; and

(4) by striking subparagraph (F) and inserting the following:

"(E) Progress and challenges in protecting GPS from jamming, disruption, and interference.

"(F) Progress and challenges in developing the enhanced Global Positioning System required by section 218(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1951; 10 U.S.C. 2281 note).".

(b) CONFORMING AMENDMENT.—Paragraph (2) of such section is amended by inserting "(C)," after "under subparagraphs".

SEC. 915. REPORT ON PROCESSES-RELATED SPACE SYSTEMS.

Not later than March 15, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report to provide the —

(1) the Secretary's assessment of the role of the United States Strategic Command in planning and requirements development for space systems to support the warfighter;

(2) the Secretary's assessment of the processes by which space systems capabilities are integrated into training and doctrine of the Armed Forces; and

(3) the Secretary's recommendations for improvements in the processes identified pursuant to paragraphs (1) and (2).

Subtitle C—Department of Defense Intelligence Components

SEC. 921. REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.

(a) REDESIGNATION.—The National Imagery and Mapping Agency of the Department of Defense is hereby redesignated as the National Geospatial-Intelligence Agency.

(b) DEFINITION OF GEOSPATIAL INTELLIGENCE.—Section 467 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The term 'geospatial intelligence' means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.".

(c) AGENCY MISSIONS.—(1) Section 442(a) of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting "geospatial intelligence consisting of" after "provide"; and

(B) in paragraph (2), by striking "Imagery, intelligence, and information" and inserting "Geospatial intelligence".

(2) Section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a)) is amended by striking "imagery" and inserting "geospatial intelligence".

(d) TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The heading of chapter 22 is amended to read as follows:

"CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY".

(2) Chapter 22 is amended—

(A) by striking "National Imagery and Mapping Agency" each place it appears (other than in section 461(b)) and inserting "National Geospatial-Intelligence Agency";

(B) in section 453(b), by striking "NIMA" in paragraphs (1) and (2) and inserting "NGA"; and

(C) in section 461(b)—

(i) by striking "The National Imagery and Mapping Agency" and inserting "The Director of the National Geospatial-Intelligence Agency"; and

(ii) by striking "on the day before" and all that follows through the period and inserting "on September 30, 1996.".

(3) Section 193 is amended—

(A) by striking "National Imagery and Mapping Agency" in subsections (d)(1), (d)(2), (e), and (f)(4) and inserting "National Geospatial-Intelligence Agency";

(B) in the heading for subsection (d), by striking "NATIONAL IMAGERY AND MAPPING AGENCY" and inserting "NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY"; and

(C) in the heading for subsection (e), by striking "NIMA" and inserting "NGA".

(4) Section 201 is amended by striking "National Imagery and Mapping Agency" in subsections (b)(2)(C) and (c)(2)(C) and inserting "National Geospatial-Intelligence Agency".

(5)(A) Section 424 is amended by striking "National Imagery and Mapping Agency" in subsection (b)(3) and inserting "National Geospatial-Intelligence Agency".

(B)(i) The heading of such section is amended to read as follows:

"§424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies".

(ii) The item relating to that section in the table of sections at the beginning of subchapter I of chapter 21 is amended to read as follows:

"424. Disclosure of organizational and personnel information: exemption for specified infelligence agencies.".

(6) Section 425(a) is amended by adding at the end the following new paragraph:

"(5) The words 'National Geospatial-Intelligence Agency', the initials 'NGA,' or the seal of the National Geospatial-Intelligence Agency.".

(7) Section 1614(2)(C) is amended by striking "National Imagery and Mapping Agency" and inserting "National Geospatial-Intelligence Agency".

(8) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, are each amended by striking "Imagery and Mapping" in the item relating to chapter 22 and inserting "Geospatial-Intelligence".

(e) .CONFORMING AMENDMENTS TO NATIONAL SECURITY ACT OF 1947.—The National Security Act of 1947 is amended as follows:

(1) Section 3 (50 U.S.C. 401a) is amended by striking "National Imagery and Mapping Agency" in paragraph (4)(E) and inserting "National Geospatial- Intelligence Agency".

(2) Section 105 (50 U.S.C. 403–5) is amended by striking "National Imagery and Mapping Agency" in subsections (b)(2) and (d)(3) and inserting "National Geospatial-Intelligence Agency".

(3) Section 105A (50 U.S.C. 403–5a) is amended by striking "National Imagery and Mapping Agency" in subsection (b)(1)(C) and inserting "National Geospatial-Intelligence Agency".

(4) Section 105C (50 U.S.C. 403-5c) is amended—

(A) by striking "National Imagery and Mapping Agency" each place it appears and inserting "National Geospatial-Intelligence Agency";

(B) by striking "NIMA" each place it appears and inserting "NGA"; and

(C) by striking "NIMA's" in subsection (a)(6)(B)(iv)(II) and inserting "NGA's".

(5) Section 106 (50 U.S.C. 403–6) is amended by striking "National Imagery and Mapping Agency" in subsection (a)(2)(C) and inserting "National Geospatial-Intelligence Agency".

(6) Section 110 (50 U.S.C. 404e) is amended—

(A) by striking "National Imagery and Mapping Agency" in subsections (a), (b), and (c) and inserting "National Geospatial-Intelligence Agency"; and

(B) by striking "NATIONAL IMAGERY AND MAPPING AGENCY" in the section heading and inserting "NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY".

(7) The item relating to section 110 in the table of contents in the first section is amended to read as follows:

"Sec. 110. National mission of National Geospatial-Intelligence Agency.".

(f) CROSS REFERENCE CORRECTION.—Section 442(d) of title 10, United States Code, is by striking "section 120(a) of the National Security Act of 1947" and inserting "section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a))".

(g) REFERENCES.—Any reference to the National Imagery and Mapping Agency in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the National Geospatial-Intelligence Agency.

SEC. 922. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY.

(a) PROTECTION OF OPERATIONAL FILES OF NSA.—Title VII of the National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

"OPERATIONAL FILES OF THE NATIONAL SECURITY AGENCY

"SEC. 704. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—The Director of the National Security Agency, in coordination with the Director of Central Intelligence, may exempt operational files of the National Security Agency from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith.

"(b) OPERATIONAL FILES DEFINED.—(1) In this section, the term 'operational files' means—

"(A) files of the Signals Intelligence Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through technical systems; and

"(B) files of the Research Associate Directorate of the National Security Agency (and any successor organization of that directorate) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

"(2) Files that are the sole repository of disseminated intelligence, and files that have been accessioned into the National Security Agency Archives (or any successor organization) are not operational files.

"(c) SEARCH AND REVIEW FOR INFORMATION.—Notwithstanding subsection (a), exempted operational files shall continue to be subject to search and review for information concerning any of the following:

"(1) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code.

"(2) Any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code.

"(3) The specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

"(A) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

"(B) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

"(C) The Intelligence Oversight Board.

"(D) The Department of Justice.

"(E) The Office of General Counsel of the National Security Agency.

"(F) The Office of the Inspector General of the Department of Defense.

"(G) The Office of the Director of the National Security Agency.

"(d) Information Derived or Disseminated from Exempted Operational Files.—(1) Files that are not exempted under subsection (a) that contain information derived or disseminated from exempted operational files shall be subject to search and review.

"(2) The inclusion of information from exempted operational files in files that are not exempted under subsection (a) shall not affect the exemption under subsection (a) of the originating operational files from search, review, publication, or disclosure.

"(3) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

"(4) Records from exempted operational files that have been disseminated to and referenced in files that are not exempted under subsection (a) and that have been returned to exempted operational files for sole retention shall be subject to search and review.

"(e) Supercedure of Other Laws.—The provisions of subsection (a) may not be superseded except by a provision of law that is enacted after the date of the enactment of this section and that specifically cites and repeals or modifies such provisions.

"(f) Allegation; Improper Withholding of Records; Judicial Review.—(1) Except as provided in paragraph (2), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that the National Security Agency has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

"(2) Judicial review shall not be available in the manner provided for under paragraph (1) as follows:

"(A) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by the National Security Agency, such information shall be examined ex parte, in camera by the court.

"(B) The court shall determine, to the fullest extent practicable, the issues of fact based on sworn written submissions of the parties.

"(C) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

"(D)(i) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, the National Security Agency shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in subsection (b).

"(ii) The court may not order the National Security Agency to review the content of any exempted operational file or files in order to make the demonstration required under clause (i), unless the complainant disputes the National Security Agency's showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

"(E) In proceedings under subparagraphs (C) and (D), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

"(F) If the court finds under this subsection that the National Security Agency has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order the Agency to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this section (other than subsection (g)).

"(G) If at any time following the filing of a complaint pursuant to this paragraph the National Security Agency agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

"(H) Any information filed with, or produced for the court pursuant to subparagraphs (A) and (D) shall be coordinated with the Director of Central Intelligence before submission to the court.

"(g) Decennial Review of Exempted Operational Files.—(1) Not less than once every 10 years, the Director of the National Security Agency and the Director of Central Intelligence shall review the exemptions in force under subsection (a) to determine whether such exemptions may be removed from a category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

"(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of a particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

"(3) A complainant that alleges that the National Security Agency has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court's review shall be limited to determining the following:

"(A) Whether the National Security Agency has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether the National Security Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(b) Consolidation of Current Provisions on Protection of Operational Files of CIA.—Title VII of such Act is further amended—

(1) in section 701(b) (50 U.S.C. 431(b)), by striking "For purposes of this title" and inserting "In this section,"; and

(2) in section 702 (50 U.S.C. 432)—

(A) by striking the section heading;

(B) by redesignating the text of that section as subsection (g) of section 701 and redesignating subsections (a), (b), and (c) thereof as paragraphs (1), (2), and (3), respectively;

(C) by inserting "Decennial Review of Exempted Operational Files.—" after the subsection designation (as designated by subparagraph (B));

(D) in paragraph (1) (as redesignated by subparagraph (B)), by striking "of section 701 of this Act";

(E) in paragraph (2) (as redesignated by subparagraph (B)), by striking "of subsection (a) of this section" and inserting "paragraph (1)"; and

(F) in paragraph (3) (as redesignated by subparagraph (B))—

(i) by striking "with this section" in the first sentence and inserting "with this subsection"; and

(ii) by striking "to determining" in the second sentence and all that follows and inserting "to determining the following:

"(A) Whether the Central Intelligence Agency has conducted the review required by paragraph (1) before October 15, 1994, or before the expiration of the 10-year period beginning on the date of the most recent review.

"(B) Whether the Central Intelligence Agency, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.".

(c) Consolidation of Current Provisions on Protection of Operational Files of Certain Other Intelligence Agencies.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is further amended—

(1) by transferring section 105C (50 U.S.C. 403–5c), as amended by section 921(e)(4), and section 105D (50 U.S.C. 403–5e) to title VII of that Act and inserting them after section 701, as amended by subsection (b); and

(2) by redesignating those sections, as so transferred, as sections 702 and 703, respectively.

(d) Clerical Amendments.—The National Security Act of 1947 is amended as follows:

(1)(A) The heading for title VII is amended to read as follows:

"TITLE VII—PROTECTION OF
OPERATIONAL FILES".

(B) The heading for section 701 is amended to read as follows:

"OPERATIONAL FILES OF THE CENTRAL
INTELLIGENCE AGENCY".

(C) The heading for section 702, as transferred and redesignated by subsection (c), is amended to read as follows:

"OPERATIONAL FILES OF THE NATIONAL
GEOSPATIAL-INTELLIGENCE AGENCY".

(D) The heading for section 703, as transferred and redesignated by subsection (c), is amended by striking the first two words.

(2) The table of contents in the first section of the National Security Act of 1947 is amended—

(A) by striking the items relating to sections 105C and 105D; and

(B) by striking the items relating to title VII and sections 701 and 702 and inserting the following new items:

"Title VII—Protection of Operational Files

"Sec. 701. Operational files of the Central Intelligence Agency.
"Sec. 702. Operational files of the National Geospatial-Intelligence Agency.
"Sec. 703. Operational files of the National Reconnaissance Office.
"Sec. 704. Operational files of the National Security Agency.".

SEC. 923. INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

(a) Findings.—Congress makes the following findings:

(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating

those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

(4) The current funding structure of a National Foreign Intelligence Program (NFIP), Joint Military Intelligence Program (JMIP), and Tactical Intelligence and Related Activities Program (TIARA) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

(5) The position of Under Secretary of Defense for Intelligence was established in 2002 by Public Law 107–314 in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

(b) GOAL.—It shall be a goal of the Department of Defense to fully integrate the intelligence, surveillance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.

(c) ISR INTEGRATION REQUIREMENTS.—(1) Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end the following new section:

"§426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities

"(a) ISR INTEGRATION COUNCIL.—(1) The Under Secretary of Defense for Intelligence shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

"(A) to assist the Under Secretary with respect to matters relating to the integration of intelligence, surveillance, and reconnaissance capabilities, and coordination of related developmental activities, of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

"(B) otherwise to provide a means to facilitate the integration of such capabilities and the coordiation of such developmental activities.

"(2) The Council shall be composed of—

"(A) the senior intelligence officers of the armed forces and the United States Special Operations Command;

"(B) the Director of Operations of the Joint Staff; and

"(C) the directors of the intelligence agencies of the Department of Defense.

"(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of Central Intelligence (or that Director's representative) in the proceedings of the Council.

"(b) ISR INTEGRATION ROADMAP.—(1) The Under Secretary of Defense for Intelligence shall develop a comprehensive plan, to be known as the 'Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap', to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for the 15-year period of fiscal years 2004 through 2018.

"(2) The Under Secretary shall develop the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of Central Intelligence.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities.''.

(d) REPORT.—(1) Not later than September 30, 2004, the Under Secretary of Defense for Intelligence shall submit to the committees of Congress specified in paragraph (2) a report on the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap developed under subsection (b) of section 426 of title 10, United States Code, as added by subsection (c). The report shall include the following matters:

(A) The fundamental goals established in the roadmap.

(B) An overview of the intelligence, surveillance, and reconnaissance integration activities of the military departments and the intelligence agencies of the Department of Defense.

(C) An investment strategy for achieving—

(i) an integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities that ensures sustainment of needed tactical and operational efforts; and

(ii) efficient investment in new intelligence, surveillance, and reconnaissance capabilities.

(D) A discussion of how intelligence gathered and analyzed by the Department of Defense can enhance the role of the Department of Defense in fulfilling its homeland security responsibilities.

(E) A discussion of how counterintelligence activities of the Armed Forces and the Department of Defense intelligence agencies can be better integrated.

(F) Recommendations on how annual funding authorizations and appropriations can be optimally structured to best support the development of a fully integrated Department of Defense intelligence, surveillance, and reconnaissance architecture.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate.

(B) The Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 924. MANAGEMENT OF NATIONAL SECURITY AGENCY MODERNIZATION PROGRAM.

(a) MANAGEMENT OF ACQUISITION PROGRAMS THROUGH USD(AT&L).—(1) The Secretary of Defense shall direct that, effective as of the date of the enactment of this Act, acquisitions under the National Security Agency Modernization Program shall be directed and managed by the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) APPLICABILITY OF MAJOR DEFENSE ACQUISITION PROGRAM AUTHORITIES.—(1) Each project designated as a major defense acquisition program under paragraph (2) shall be managed under the laws, policies, and procedures that are applicable to major defense acquisition programs (as defined in section 2430 of title 10, United States Code).

(2) The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics) shall designate those projects under the National Security Agency Modernization Program that are to be managed as major defense acquisition programs.

(c) MILESTONE DECISION AUTHORITY.—(1) The authority to make a decision that a program is authorized to proceed from one milestone stage into another (referred to as the milestone decision authority) may only be exercised by the Under Secretary of Defense for Acquisition, Technology, and Logistics for the following:

(A) Each project of the National Security Agency Modernization Program that is to be managed as major defense acquisition program, as designated under subsection (b).

(B) Each major system under the National Security Agency Modernization Program.

(2) The limitation in paragraph (1) shall terminate on, and the Under Secretary may delegate the milestone decision authority referred to in paragraph (1) to the Director of the National Security Agency at any time after, the date that is the later of—

(A) September 30, 2005, or

(B) the date on which the Under Secretary submits to the appropriate committees of Congress a notification described in paragraph (3).

(3) A notification described in this paragraph is a notification by the Under Secretary of the Under Secretary's intention to delegate the milestone decision authority referred to in paragraph (1) to the Director of the National Security Agency, together with a detailed discussion of the justification for that delegation. Such a notification may not be submitted until—

(A) the Under Secretary has determined (after consultation with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management) that the Director has implemented acquisition management policies, procedures, and practices that are sufficient to ensure that acquisitions by the National Security Agency are conducted in a manner consistent with sound, efficient acquisition practices;

(B) the Under Secretary has consulted with the Under Secretary of Defense for Intelligence and the Deputy Director of Central Intelligence for Community Management on the delegation of such milestone decision authority to the Director; and

(C) the Secretary of Defense has approved the delegation of such milestone decision authority to the Director.

(d) PROJECTS COMPRISING PROGRAM.—The National Security Agency Modernization Program consists of the following projects of the National Security Agency:

(1) The Trailblazer project.

(2) The Groundbreaker project.

(3) Each cryptological mission management project

(4) Each other project of that Agency that—

(A) meets either of the dollar thresholds in effect under paragraph (2) of section 2430(a) of title 10, United States Code; and

(B) is determined by the Under Secretary of Defense for Acquisition, Technology, and Logistics as being a major project that is within, or properly should be within, the National Security Agency Modernization Project.

(e) DEFINITIONS.—In this section:

(1) MAJOR SYSTEM.—The term "major system" has the meaning given that term in section 2302(5) of title 10, United States Code.

(2) APPROPRIATE COMMITTEES OF CONGRESS.—The term "appropriate committees of Congress" means the following:

(A) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(B) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 925. MODIFICATION OF OBLIGATED SERVICE REQUIREMENTS UNDER NATIONAL SECURITY EDUCATION PROGRAM.

(a) IN GENERAL.—Section 802(b)(2) of the David L. Boren National Security Education

Act of 1991 (50 U.S.C. 1902(b)(2)) is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs (A) and (B):

"(A) in the case of a recipient of a scholarship, after the recipient's completion of the study for which scholarship assistance was provided under the program, work in a position in the Department of Defense or other element of the intelligence community that is certified by the Secretary as appropriate to utilize the unique language and region expertise acquired by the recipient pursuant to such study for a period specified by the Secretary, which period shall include one year of service for each year, or portion thereof, for which such scholarship assistance was provided; or

"(B) in the case of a recipient of a fellowship, after the recipient's completion of the study for which the fellowship assistance was provided under the program, work in a position described in subparagraph (A) that is certified by the Secretary as appropriate to utilize the unique language and region expertise acquired by the recipient pursuant to such study for a period specified by the Secretary, which period shall (at the discretion of the Secretary) include not less than one nor more than three years for each year, or portion thereof, for which such fellowship assistance was provided; and".

(b) APPLICABILITY.—(1) The amendment made by subsection (a) shall apply with respect to service agreements entered into under the David L. Boren National Security Education Act of 1991 on or after the date of the enactment of this Act.

(2) The amendment made by subsection (a) shall not affect the force, validity, or terms of any service agreement entered into under the David L. Boren National Security Education Act of 1991 before the date of the enactment of this Act that is in force as of that date.

SEC. 926. AUTHORITY TO PROVIDE LIVING QUARTERS FOR CERTAIN STUDENTS IN COOPERATIVE AND SUMMER EDUCATION PROGRAMS OF THE NATIONAL SECURITY AGENCY.

Section 2195 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) The Director of the National Security Agency may provide a qualifying employee of a defense laboratory of that Agency with living quarters at no charge, or at a rate or charge prescribed by the Director by regulation, without regard to section 5911(c) of title 5.

"(2) In this subsection, the term 'qualifying employee' means a student who is employed at the National Security Agency under—

"(A) a Student Educational Employment Program of the Agency conducted under this section or any other provision of law; or

"(B) a similar cooperative or summer education program of the Agency that meets the criteria for Federal cooperative or summer education programs prescribed by the Office of Personnel Management.".

SEC. 927. COMMERCIAL IMAGERY INDUSTRIAL BASE.

(a) REQUIREMENT.—Of the total amount authorized to be appropriated for fiscal year 2004 for the acquisition, processing, and licensing of imagery from commercial sources (including amounts authorized to be appropriated under that title for experimentation related to such imagery), not less than 90 percent shall be used for the following purposes:

(1) Acquisition of space-based imagery from commercial sources.

(2) Support for the development of next-generation commercial imagery satellites.

(3) Support for infrastructure improvements that meet unique requirements related to commercial imagery.

(b) WAIVER.—(1) The Secretary of Defense may waive the requirement in subsection (a) if the Secretary determines that the waiver is in the national security interest of the United States. Any such waiver shall be made in consultation with the Director of Central Intelligence.

(2) If the Secretary makes the waiver authorized by paragraph (1), the Secretary shall, within 30 days of issuing the waiver, submit to the appropriate congressional committees a report that includes the following:

(A) The Secretary's reasons for determining that the waiver is in the national security interest of the United States.

(B) The Secretary's plan for use of the amount referred to in subsection (a).

(c) REPORT ON DEPARTMENT OF DEFENSE IMPLEMENTATION OF PRESIDENT'S COMMERCIAL REMOTE SENSING POLICY.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the appropriate congressional committees a report on the actions taken, and to be taken, by the Secretary to implement the President's policy issued on May 13, 2003, with the title "U.S. Commercial Remote Sensing Space Policy". The Secretary shall consult with the Director of Central Intelligence in preparing the report.

(2) The report under paragraph (1) shall include an assessment of the following matters:

(A) The sufficiency for the sustainment of a viable commercial imagery industrial base in the United States of—

(i) the President's policy referred to in paragraph (1);

(ii) the amount provided for the Department of Defense for fiscal year 2004 for the acquisition of imagery from commercial sources; and

(iii) the amounts scheduled in the future-years defense program (as of the submission of the report) for the acquisition of imagery from commercial sources.

(B) The extent to which the President's policy referred to in paragraph (1) and Department of Defense programs relating to the procurement of imagery from commercial sources are sufficient to ensure that imagery is available to the Department of Defense from United States commercial sources to meet the needs of the Department of Defense in a timely manner.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—For the purposes of this section, the term "appropriate congressional committees" means—

(1) the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on Appropriations of the House of Representatives.

Subtitle D—Other Matters

SEC. 931. AUTHORITY FOR ASIA-PACIFIC CENTER FOR SECURITY STUDIES TO ACCEPT GIFTS AND DONATIONS.

(a) AUTHORIZED SOURCES OF GIFTS AND DONATIONS.—Subsection (a) of section 2611 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "foreign gifts and donations" and inserting "gifts and donations from sources described in paragraph (2)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The sources from which gifts and donations may be accepted under paragraph (1) are the following:

"(A) The government of a State or a political subdivision of a State.

"(B) The government of a foreign country.

"(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

"(D) Any source in the private sector of the United States or a foreign country.".

(b) CONFORMING AMENDMENTS.—(1) Section 2611 of such title is further amended—

(A) by striking "FOREIGN" in the headings for subsections (a) and (f);

(B) in subsection (c), by striking "foreign"; and

(C) in subsection (f)—

(i) by striking "foreign" after "section, a"; and

(ii) by striking "from a foreign" and all that follows through "country." and inserting a period.

(2) Section 184(b)(4) of such title is amended by striking "foreign".

(c) CLERICAL AMENDMENTS.— The heading of section 2611 of such title, and the item relating to such section in the table of sections at the beginning of chapter 155 of such title, are each amended by striking the third word after the colon.

(d) CROSS REFERENCE CORRECTION.—Section 2612(a) of such title is amended by striking "2611(f)" and inserting "2166(f)(4)".

SEC. 932. REPEAL OF ROTATING CHAIRMANSHIP OF ECONOMIC ADJUSTMENT COMMITTEE.

Section 4004(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note) is amended—

(1) by striking "Until October 1, 1997, the" and inserting "The"; and

(2) by striking the second sentence.

SEC. 933. EXTENSION OF CERTAIN AUTHORITIES APPLICABLE TO THE PENTAGON RESERVATION TO INCLUDE A DESIGNATED PENTAGON CONTINUITY-OF-GOVERNMENT LOCATION.

Section 2674 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) For purposes of subsections (b), (c), (d), and (e), the terms 'Pentagon Reservation' and 'National Capital Region' shall be treated as including the land and physical facilities at the Raven Rock Mountain Complex.".

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. United States contribution to NATO common-funded budgets in fiscal year 2004.
Sec. 1003. Authorization of supplemental appropriations for fiscal year 2003.
Sec. 1004. Authorization of supplemental appropriations for fiscal year 2004.
Sec. 1005. Reestablishment of authority for short-term leases of real or personal property across fiscal years.
Sec. 1006. Reimbursement rate for certain airlift services provided to Department of State.
Sec. 1007. Limitation on payment of facilities charges assessed by Department of State.
Sec. 1008. Use of the Defense Modernization Account for life cycle cost reduction initiatives.
Sec. 1009. Provisions relating to defense travel cards.

Subtitle B—Naval Vessels and Shipyards

Sec. 1011. Repeal of requirement regarding preservation of surge capability for naval surface combatants.
Sec. 1012. Enhancement of authority relating to use for experimental purposes of vessels stricken from Naval Vessel Register.
Sec. 1013. Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs.

Sec. 1014. Priority for Title XI assistance.
Sec. 1015. Support for transfers of decommissioned vessels and shipboard equipment.
Sec. 1016. Advanced shipbuilding enterprise.
Sec. 1017. Report on Navy plans for basing aircraft carriers.
Sec. 1018. Limitation on disposal of obsolete naval vessel.

Subtitle C—Counterdrug Matters

Sec. 1021. Expansion and extension of authority to provide additional support for counter-drug activities.
Sec. 1022. Authority for joint task forces to provide support to law enforcement agencies conducting counter-terrorism activities.
Sec. 1023. Use of funds for unified counterdrug and counterterrorism campaign in Colombia.
Sec. 1024. Sense of Congress on reconsideration of decision to terminate border and seaport inspection duties of National Guard under National Guard drug interdiction and counter-drug mission.

Subtitle D—Reports

Sec. 1031. Repeal and modification of various reporting requirements applicable to the Department of Defense.
Sec. 1032. Plan for prompt global strike capability.
Sec. 1033. Annual report concerning dismantling of strategic nuclear warheads.
Sec. 1034. Report on use of unmanned aerial vehicles for support of homeland security missions.

Subtitle E—Codifications, Definitions, and Technical Amendments

Sec. 1041. Codification and revision of defense counterintelligence polygraph program authority.
Sec. 1042. General definitions applicable to facilities and operations of Department of Defense.
Sec. 1043. Additional definitions for purposes of title 10, United States Code.
Sec. 1044. Inclusion of annual military construction authorization request in annual defense authorization request.
Sec. 1045. Technical and clerical amendments.

Subtitle F—Other Matters

Sec. 1051. Assessment of effects of specified statutory limitations on the granting of security clearances.
Sec. 1052. Acquisition of historical artifacts through exchange of obsolete or surplus property.
Sec. 1053. Conveyance of surplus T–37 aircraft to Air Force Aviation Heritage Foundation, Incorporated.
Sec. 1054. Department of Defense biennial strategic plan for management of electromagnetic spectrum.
Sec. 1055. Revision of Department of Defense directive relating to management and use of radio frequency spectrum.
Sec. 1056. Sense of Congress on deployment of airborne chemical agent monitoring systems at chemical stockpile disposal sites in the United States.
Sec. 1057. Expansion of pre-September 11, 2001, fire grant program of United States Fire Administration.
Sec. 1058. Review and enhancement of existing authorities for using Air Force and Air National Guard Modular Airborne Fire-Fighting Systems and other Department of Defense assets to fight wildfires.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2004 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2004.

(a) FISCAL YEAR 2004 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2004 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2003, of funds appropriated for fiscal years before fiscal year 2004 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), $853,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), $207,125,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term "fiscal year 1998 baseline limitation" means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1003. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2003.

(a) DOD AND DOE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense and the Department of Energy for fiscal year 2003 in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to title I of Public Law 108–11.

(b) REPORT ON FISCAL YEAR 2003 TRANSFERS.—Not later than 30 days after the end of each fiscal quarter for which unexpended balances of funds appropriated under title I of Public Law 108–11 are available for the Department of Defense, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer of such funds during such fiscal quarter of an amount provided for the Department of Defense through a so-called "transfer account", including the Iraqi Freedom Fund or any other similar account—

(1) the amount of the transfer;

(2) the appropriation account to which the transfer was made; and

(3) the specific purpose for which the transferred funds were used or are to be used.

SEC. 1004. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2004.

(a) DEPARTMENT OF DEFENSE AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2004 in this Act are hereby increased, with respect to any such amount, by the amount by which the corresponding appropriation account of the Department of Defense for fiscal year 2004 is increased by a supplemental appropriation, or by a transfer of funds, pursuant to title I of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

(b) DESIGNATION AS EMERGENCY.—Amounts by which authorizations of appropriations are increased in accordance with subsection (a) are designated as emergency requirements pursuant to section 502 of House Concurrent Resolution 95 of the 108th Congress.

SEC. 1005. REESTABLISHMENT OF AUTHORITY FOR SHORT-TERM LEASES OF REAL OR PERSONAL PROPERTY ACROSS FISCAL YEARS.

(a) REESTABLISHMENT OF AUTHORITY.—Subsection (a) of section 2410a of title 10, United States Code, is amended—

(1) by inserting "(1)" before "The Secretary of Defense";

(2) by striking "for procurement of severable services" and inserting "for a purpose described in paragraph (2)"; and

(3) by adding at the end the following new paragraph:

"(2) The purpose of a contract described in this paragraph is as follows:

"(A) The procurement of severable services.

"(B) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property".

(2) The item relating to such section in the table of sections at the beginning of chapter 141 of such title is amended to read as follows:

"2410a. Contracts for periods crossing fiscal years: severable service contracts; leases of real or personal property.".

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to funds appropriated for a fiscal year before fiscal year 2004.

SEC. 1006. REIMBURSEMENT RATE FOR CERTAIN AIRLIFT SERVICES PROVIDED TO DEPARTMENT OF STATE.

(a) AUTHORITY.—Subsection (a) of section 2642 of title 10, United States Code, is amended—

(1) by striking "(a) AUTHORITY" and all that follows through "the Department of Defense" the second place it appears and inserting the following:

"(a) AUTHORITY.—The Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military airlift services provided by a component of the Department of Defense as follows:

"(1) For military airlift services provided"; and

(2) by adding at the end the following new paragraph:

"(2) For military airlift services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.".

(b) CLERICAL AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§2642. Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate".

(2) The item relating to such section in the table of sections at the beginning of chapter 157 of such title is amended to read as follows:

"2642. Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate.".

SEC. 1007. LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE.

(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that year in providing goods and services to the Department of State.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of October 1, 2003.

SEC. 1008. USE OF THE DEFENSE MODERNIZATION ACCOUNT FOR LIFE CYCLE COST REDUCTION INITIATIVES.

(a) FUNDS AVAILABLE FOR DEFENSE MODERNIZATION ACCOUNT.—Section 2216 of title 10, United States Code is amended—

(1) by striking subsection (c);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) FUNDS AVAILABLE FOR ACCOUNT.—The Defense Modernization Account shall consist of the following:

"(1) Amounts appropriated to the Defense Modernization Account for the costs of commencing projects described in subsection (d)(1), and amounts reimbursed to the Defense Modernization Account under subsections (c)(1)(B)(iii) out of savings derived from such projects.

"(2) Amounts transferred to the Defense Modernization Account under subsection (c).".

(b) START-UP FUNDING.—Subsection (d) of such section is amended—

(1) by striking "available from the Defense Modernization Account pursuant to subsection (f) or (g)" and inserting "in the Defense Modernization Account";

(2) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(3) by inserting after "purposes:" the following new paragraph (1):

"(1) For paying the costs of commencing any project that, in accordance with criteria prescribed by the Secretary of Defense, is undertaken by the Secretary of a military department or the head of a Defense Agency or other element of the Department of Defense to reduce the life cycle cost of a new or existing system.".

(c) REIMBURSEMENT OF ACCOUNT OUT OF SAVINGS.—(1) Paragraph (1)(B) of subsection (c) of such section, as redesignated by subsection (a)(2), is amended by adding at the end the following new clause:

"(iii) Unexpired funds in appropriations accounts that are available for procurement or operation and maintenance of a system, if and to the extent that savings are achieved for such accounts through reductions in life cycle costs of such system that result from one or more projects undertaken with respect to such systems with funds made available from the Defense Modernization Account under subsection (b)(1).".

(2) Paragraph (2) of such subsection is amended by inserting ", other than funds referred to in subparagraph (B)(iii) of such paragraph," after "Funds referred to in paragraph (1)".

(d) REGULATIONS.—Subsection (h) of such section is amended—

(1) by inserting "(1)" after "COMPTROLLER.—"; and

(2) by adding at the end the following new paragraph (2):

"(2) The regulations prescribed under paragraph (1) shall, at a minimum, provide for—

"(A) the submission of proposals by the Secretaries concerned or heads of Defense Agencies or other elements of the Department of Defense to the Comptroller for the use of Defense Modernization Account funds for purposes set forth in subsection (d);

"(B) the use of a competitive process for the evaluation of such proposals and the selection of programs, projects, and activities to be funded out of the Defense Modernization Account from among those proposed for such funding; and

"(C) the calculation of—

"(i) the savings to be derived from projects described in subsection (d)(1) that are to be funded out of the Defense Modernization Account; and

"(ii) the amounts to be reimbursed to the Defense Modernization Account out of such savings pursuant to subsection (c)(1)(B)(iii).".

(e) ANNUAL REPORT.—Subsection (i) of such section is amended—

(1) by striking "QUARTERLY REPORTS.—(1) Not later than 15 days after the end of each calendar quarter," and inserting "ANNUAL REPORT.—(1) Not later than 15 days after the end of each fiscal year,"; and

(2) in paragraph (1), by striking "quarter" in subparagraphs (A), (B), and (C), and inserting "fiscal year".

(f) CODIFICATION AND EXTENSION OF EXPIRATION OF AUTHORITY.—(1) Such section is further amended by adding at the end the following new subsection:

"(k) EXPIRATION OF AUTHORITY AND ACCOUNT.—(1) The authority under subsection (c) to transfer funds into the Defense Modernization Account terminates at the close of September 30, 2006.

"(2) Three years after the termination date specified in paragraph (1), the Defense Modernization Account shall be closed and any remaining balance in the account shall be canceled and thereafter shall not be available for any purpose.".

(2) Subsection (c) of section 912 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 410; 10 U.S.C. 2216 note) is repealed.

SEC. 1009. PROVISIONS RELATING TO DEFENSE TRAVEL CARDS.

(a) MANDATORY DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO TRAVEL CARD CREDITORS.—Section 2784a(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "The Secretary of Defense may require" and inserting "The Secretary of Defense shall require";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of Defense may waive the requirement for a direct payment to a travel care issuer under paragraph (1) in any case the Secretary determines appropriate.".

(b) DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.—Section 2784a of title 10, United States Code, is amended—

(1) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) DETERMINATIONS OF CREDITWORTHINESS FOR ISSUANCE OF DEFENSE TRAVEL CARD.—(1) The Secretary of Defense shall evaluate the creditworthiness of an employee of the Department of Defense or a member of armed forces before issuing a Defense travel card to such an employee or member. The evaluation may include an examination of the individual's credit history in available credit records.

"(2) An individual may not be issued a Defense travel card if the individual is found not creditworthy as a result of the evaluation required under paragraph (1).".

(c) DISCIPLINARY ACTIONS AND ASSESSING PENALTIES FOR MISUSE OF DEFENSE TRAVEL CARDS.—

(1) REQUIREMENT FOR REGULATIONS.—Section 2784a of title 10, United States Code, is further amended by inserting after subsection (d) (as added by subsection (b)) the following new subsection (e):

"(e) REGULATIONS ON DISCIPLINARY ACTION.—(1) The Secretary of Defense shall prescribe regulations for making determinations regarding the taking of disciplinary action, including assessment of penalties, against Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.

"(2) The regulations prescribed under paragraph (1) shall—

"(A) provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the Department of Defense violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a Defense travel card, including removal in appropriate cases; and

"(B) provide that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).".

(2) REPORT.—Not later than February 1, 2004, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the regulations prescribed under section 2784a(e) of title 10, United States Code, as added by paragraph (1). The report shall include the following:

(A) The regulations.

(B) A discussion of the implementation of the regulations.

(C) A discussion of any additional administrative action, or any recommended legislation, that the Secretary considers necessary to effectively take disciplinary action against and penalize Department of Defense personnel for improper, fraudulent, or abusive use of Defense travel cards by such personnel.

(3) DEFENSE TRAVEL CARD DEFINED.—In this subsection, the term "Defense travel card" has the meaning given such term in section 2784a(f)(1) of title 10, United States Code (as redesignated by subsection (b)).

Subtitle B—Naval Vessels and Shipyards

SEC. 1011. REPEAL OF REQUIREMENT REGARDING PRESERVATION OF SURGE CAPABILITY FOR NAVAL SURFACE COMBATANTS.

(a) REPEAL.—Section 7296 of title 10, United States Code, is amended by striking subsection (b).

(b) CLERICAL AMENDMENTS.—Such section is further amended—

(1) by striking "(3) Any notification under paragraph (1)(A)" and inserting "(b) CONTENT OF NOTIFICATION.—Any notification under subsection (a)(1)(A)";

(2) by redesignating subparagraphs (A), (B), and (C) of subsection (b) (as redesignated by paragraph (1)) as paragraphs (1), (2), and (3), respectively; and

(3) by striking "subparagraph (B)" in subsection (b)(3) (as redesignated by paragraphs (1) and (2)) and inserting "paragraph (2)".

SEC. 1012. ENHANCEMENT OF AUTHORITY RELATING TO USE FOR EXPERIMENTAL PURPOSES OF VESSELS STRICKEN FROM NAVAL VESSEL REGISTER.

(a) ENVIRONMENTAL REMEDIATION.—Paragraph (1) of subsection (b) of section 7306a of title 10, United States Code, is amended—

(1) by inserting "AND ENVIRONMENTAL REMEDIATION OF" in the subsection heading after "STRIPPING"; and

(2) by inserting before the period at the end the following: "and such environmental remediation of the vessel as is required for the use of the vessel for experimental purposes".

(b) SALE OF MATERIAL AND EQUIPMENT STRIPPED FROM VESSEL.—Subsection (b) of such section is further amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) Material and equipment stripped from a vessel under paragraph (1) may be sold by the contractor or by a sales agent approved by the Secretary."; and

(3) in paragraph (3), as redesignated by paragraph (1), by striking "scrapping services" and all that follows through the end of such subsection and inserting "services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts needed for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes.".

(c) CLARIFICATION OF COVERED EXPERIMENTAL PURPOSES.—Such section is further amended by adding at the end the following new subsection:

"(c) USE FOR EXPERIMENTAL PURPOSES DEFINED.—In this section, the term 'use for experimental purposes', with respect to a vessel, includes use of the vessel in a Navy sink exercise or for target purposes.".

SEC. 1013. TRANSFER OF VESSELS STRICKEN FROM THE NAVAL VESSEL REGISTER FOR USE AS ARTIFICIAL REEFS.

(a) AUTHORITY TO MAKE TRANSFER.—Chapter 633 of title 10, United States Code, is amended by inserting after section 7306a the following new section:

"§ 7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs

"(a) AUTHORITY TO MAKE TRANSFER.—The Secretary of the Navy may transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register to any State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, for use as provided in subsetion (b).

"(b) VESSEL TO BE USED AS ARTIFICIAL REEF.—An agreement for the transfer of a vessel under subsection (a) shall require that—

"(1) the recipient use, site, construct, monitor, and manage the vessel only as an artificial reef in accordance with the requirements of the National Fishing Enhancement Act of 1984 (33 U.S.C. 2101 et seq.), except that the recipient may use the artificial reef to enhance diving opportunities if that use does not have an adverse effect on fishery resources (as that term is defined in section 2(14) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(14)); and

"(2) the recipient obtain, and bear all responsibility for complying with, applicable Federal, State, interstate, and local permits for using, siting, constructing, monitoring, and managing the vessel as an artificial reef.

"(c) PREPARATION OF VESSEL FOR USE AS ARTIFICIAL REEF.—The Secretary shall ensure that the preparation of a vessel transferred under subsection (a) for use as an artificial reef is conducted in accordance with—

"(1) the environmental best management practices developed pursuant to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 16 U.S.C. 1220 note); and

"(2) any applicable environmental laws.

"(d) COST SHARING.—The Secretary may share with the recipient of a vessel transferred under subsection (a) any costs associated with transferring the vessel under that subsection, including costs of the preparation of the vessel under subsection (c).

"(e) NO LIMITATION ON NUMBER OF VESSELS TRANSFERABLE TO PARTICULAR RECIPIENT.—A State, Commonwealth, or possession of the United States, or any municipal corporation or political subdivision thereof, may be the recipient of more than one vessel transferred under subsection (a).

"(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a transfer authorized by subsection (a) as the Secretary considers appropriate.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the use as artificial reefs of vessels stricken from the Naval Vessel Register in lieu of other authorized uses of such vessels, including the domestic scrapping of such vessels, or other disposals of such vessels, under this chapter or other applicable authority.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7306a the following new item:

"7306b. Vessels stricken from Naval Vessel Register: transfer by gift or otherwise for use as artificial reefs.".

SEC. 1014. PRIORITY FOR TITLE XI ASSISTANCE.

(a) IN GENERAL.—Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended—

(1) in subsection (i) (as added by section 3544 of this Act) by striking "PRIORITY' and inserting "PRIORITY FOR NATIONAL DEFENSE TANK VESSELS"; and

(2) by adding at the end the following:

"(j) PRIORITY FOR OTHER VESSELS SUITABLE FOR SERVICE AS A NAVAL AUXILIARY.—In guaranteeing and entering commitments to guarantee under this section, the Secretary shall, after applying subsection (i), give priority to a guarantee or commitment for a vessel that is otherwise eligible for a guarantee under this section and that the Secretary of Defense determines—

"(1) is suitable for service as a naval auxiliary in time of war or national emergency; and

"(2) meets a shortfall in sealift capacity or capability.".

(b) REPORT.—Within 180 days after the date of the enactment of this Act, the Secretary of Transportation and the Secretary of Defense shall transmit a report to the Senate Committee on Armed Services, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Armed Services that—

(1) sets forth the criteria to be used by the Secretary of Defense in making, for purposes of section 1103(j) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273(j)), as amended by this section, the determinations described in paragraphs (1) and (2) of that section; and

(2) describes the procedure that the Secretary of Defense will follow—

(A) in reviewing applications for which priority treatment is sought under section 1103(j) of that Act; and

(B) in reporting to the Secretary of Transportation with respect to such applications.

SEC. 1015. SUPPORT FOR TRANSFERS OF DECOMMISSIONED VESSELS AND SHIPBOARD EQUIPMENT.

(a) IN GENERAL.—Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7316. Support for transfers of decommissioned vessels and shipboard equipment

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of the Navy may provide an entity described in subsection (b) with assistance in support of a transfer of a vessel or shipboard equipment described in such subsection that is being executed under section 2572, 7306, 7307, or 7545 of this title, or under any other authority.

"(b) COVERED VESSELS AND EQUIPMENT.—The authority under this section applies—

"(1) in the case of a decommissioned vessel that—

"(A) is owned and maintained by the Navy, is located at a Navy facility, and is not in active use; and

"(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the vessel; and

"(2) in the case of any shipboard equipment that—

"(A) is on a vessel described in paragraph (1)(A); and

"(B) is being transferred to an entity designated by the Secretary of the Navy or by law to receive transfer of the equipment.

"(c) REIMBURSEMENT.—The Secretary may require a recipient of assistance under subsection (a) to reimburse the Navy for amounts expended by the Navy in providing the assistance.

"(d) DEPOSIT OF FUNDS RECEIVED.—Funds received in a fiscal year under subsection (c) shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7316. Support for transfers of decommissioned vessels and shipboard equipment.".

SEC. 1016. ADVANCED SHIPBUILDING ENTERPRISE.

(a) Findings.—Congress makes the following findings:

(1) The President's budget for fiscal year 2004, as submitted to Congress, includes $10,300,000 for the Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program.

(2) The Advanced Shipbuilding Enterprise is an innovative program to encourage greater efficiency among shipyards in the defense industrial base.

(3) The leaders of the Nation's shipbuilding industry have embraced the Advanced Shipbuilding Enterprise as a method of exploring and collaborating on innovation in shipbuilding and ship repair that collectively benefits all manufacturers in the industry.

(b) Sense of the Congress.—It is the sense of the Congress that—

(1) the Congress strongly supports the innovative Advanced Shipbuilding Enterprise of the National Shipbuilding Research Program that has yielded new processes and techniques to reduce the cost of building and repairing ships in the United States;

(2) the Congress is concerned that the future-years defense program submitted to Congress for fiscal year 2004 does not reflect any funding for the Advanced Shipbuilding Enterprise after fiscal year 2004; and

(3) the Secretary of Defense and the Secretary of the Navy should continue funding the Advanced Shipbuilding Enterprise at a sustaining level through the future-years defense program to support subsequent rounds of research that reduce the cost of designing, building, and repairing ships.

SEC. 1017. REPORT ON NAVY PLANS FOR BASING AIRCRAFT CARRIERS.

(a) Findings.—Congress finds that—

(1) the Committee on Armed Services of the Senate, in its report to accompany the bill S. 2514 of the 107th Congress (Senate Report 107–151, filed May 15, 2002), at page 442 of that report directed that the Chief of Naval Operations submit to the congressional defense committees, not later than 180 days after enactment of the defense authorization Act for fiscal year 2003, a report on plans of the Navy for basing aircraft carriers through 2015;

(2) the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) was enacted on December 2, 2002; and

(3) as of October 24, 2003, the Chief of Naval Operations has not submitted the report referred to in paragraph (1).

(b) Report on Aircraft Carrier Basing Plans.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on plans of the Navy for basing aircraft carriers through 2020.

SEC. 1018. LIMITATION ON DISPOSAL OF OBSOLETE NAVAL VESSEL.

The Secretary of the Navy may not dispose of the decommissioned destroyer ex-Forrest Sherman (DD–931) before October 1, 2004, to an entity that is not a nonprofit organization unless the Secretary first determines that there is no nonprofit organization that meets the criteria for donation of that vessel under section 7306(a)(3) of title 10, United States Code.

Subtitle C—Counterdrug Matters

SEC. 1021. EXPANSION AND EXTENSION OF AUTHORITY TO PROVIDE ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) General Extension of Authority.—Subsection (a) of section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1881) is amended—

(1) by inserting "(1)" before "Subject to";

(2) by striking "either or both" and inserting "any"; and

(3) by inserting after the second sentence the following new paragraph:

"(2) The authority to provide support to a government under this section expires September 30, 2006.".

(b) Additional Governments Eligible To Receive Support.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(3) The Government of Afghanistan.

"(4) The Government of Bolivia.

"(5) The Government of Ecuador.

"(6) The Government of Pakistan.

"(7) The Government of Tajikistan.

"(8) The Government of Turkmenistan.

"(9) The Government of Uzbekistan.".

(c) Types of Support.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking "riverine"; and

(2) in paragraph (3), by inserting "or upgrade" after "maintenance and repair".

(d) Maximum Annual Amount of Support.—Subsection (e)(2) of such section is amended by striking "$20,000,000 during any of the fiscal years 1999 through 2006" and inserting "$20,000,000 during any of the fiscal years 1999 through 2003, or $40,000,000 during any of the fiscal years 2004 through 2006".

(e) Counter-Drug Plan.—(1) Subsection (h) of such section is amended—

(A) in the subsection caption, by striking "Riverine";

(B) in the matter preceding paragraph (1)—

(i) by striking "fiscal year 1998" and inserting "fiscal year 2004"; and

(ii) by striking "riverine"; and

(C) by striking "riverine" each place it appears in paragraphs (2), (7), (8), and (9).

(2) Subsection (f)(2)(A) of such section is amended by striking "riverine".

(f) Clerical and Conforming Amendments.—(1) Subsection (b) of such section is further amended

(A) in paragraph (1), by striking ", for fiscal years 1998 through 2002"; and

(B) in paragraph (2), by striking ", for fiscal years 1998 through 2006".

*(2) The heading for such section is amended by striking "**PERU AND COLOMBIA**" and inserting "**OTHER COUNTRIES**".*

SEC. 1022. AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES.

(a) Authority.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, subject to all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities.

(b) Conditions.—Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.

SEC. 1023. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) Authority.—(1) In fiscal year 2004, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) Applicability of Certain Laws and Limitations.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8077 of the Department of Defense Appropriations Act, 2004 (Public Law 108–87; 115 Stat. 2267).

(3) The numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of the Emergency Supplemental Act, 2000 (division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131).

(c) Limitation on Participation of United States Personnel.—No United States Armed Forces personnel, United States civilian employees, or United States civilian contractor personnel employed by the United States may participate in any combat operation in connection with assistance using funds pursuant to the authority in subsection (a), except for the purpose of acting in self defense or of rescuing any United States citizen, including any United States Armed Forces personnel, United States civilian employee, or civilian contractor employed by the United States.

(d) Relation to Other Authority.—The authority provided by subsection (a) is in addition to any other authority in law to provide assistance to the Government of Colombia.

SEC. 1024. SENSE OF CONGRESS ON RECONSIDERATION OF DECISION TO TERMINATE BORDER AND SEAPORT INSPECTION DUTIES OF NATIONAL GUARD UNDER NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG MISSION.

(a) Findings.—Congress makes the following findings:

(1) The counter-drug inspection mission of the National Guard is highly important in preventing the entry of illegal narcotics into the United States.

(2) The expertise of members of the National Guard in conducting vehicle inspections at United States borders and seaports has contributed to the identification and seizure of illegal narcotics being smuggled into the United States.

(3) The support provided by the National Guard to the United States Customs Service and the Bureau of Border Security of the Department of Homeland Security greatly enhances the capability of these agencies to perform counterterrorism surveillance and other border protection duties.

(b) Sense of Congress.—It is the sense of Congress that the Secretary of Defense should reconsider the decision of the Department of Defense to terminate the border inspection and seaport inspection duties of the National Guard as part of the drug interdiction and counter-drug mission of the National Guard.

Subtitle D—Reports

SEC. 1031. REPEAL AND MODIFICATION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 117(e) is amended by striking "each month" and all that follows through "subsection (d)" and inserting "each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A)".

(2) Section 127(d) is amended to read as follows:

"(d) ANNUAL REPORT.—Not later than December 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).".

(3) Section 127a is amended by striking subsection (d).

(4) Section 128 is amended by striking subsection (d).

(5) Section 226(a) is amended—

(A) by striking "December 15" and inserting "January 15"; and

(B) by striking "in the following year" in paragraph (1) and inserting "in that year".

(6)(A) Section 228 is amended—

(i) in subsection (a)—

(I) by striking "MONTHLY" in the subsection heading and inserting "QUARTERLY";

(II) by striking "monthly" and inserting "quarterly"; and

(III) by striking "month" and inserting "fiscal-year quarter"; and

(ii) in subsection (c), by striking "month" each place it appears and inserting "quarter".

(B)(i) The heading of such section is amended to read as follows:

"§228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities"

(ii) The item relating to section 228 in the table of sections at the beginning of chapter 9 is amended to read as follows:

"228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities.".

(7) Section 437 is amended—

(A) by striking the second sentence of subsection (b); and

(B) in subsection (c)—

(i) by striking "report)—" in the matter preceding paragraph (1) and inserting "report) the following:";

(ii) by striking "a" in paragraphs (1), (2), and (3) after the paragraph designation and inserting "A";

(iii) by striking the semicolon at the end of paragraph (1) and insertinga period;

(iv) by striking "; and" at the end of paragraph (2) and inserting a period; and

(v) by adding at the end the following new paragraph:

"(4) A description of each corporation, partnership, or other legal entity that was established.".

(8)(A) Section 520c is amended—

(i) by striking subsection (b);

(ii) by striking "(a) PROVISION OF MEALS AND REFRESHMENTS.—"; and

(iii) by striking the heading for such section and inserting the following:

"§520c. Recruiting functions: provision of meals and refreshments"

(B) The item relating to such section in the table of sections at the beginning of chapter 31 is amended to read as follows:

"520c. Recruiting functions: provision of meals and refreshments.".

(9) Section 1060 is amended by striking subsection (d).

(10)(A) Section 1130 is amended—

(i) in subsection (a), by striking "and the other determinations necessary to comply with subsection (b)"; and

(ii) in subsection (b), by striking "to the requesting" and all that follows and inserting "to the requesting Member of Congress a detailed discussion of the rationale supporting the determination.".

(B) The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 57, are each amended by striking the last two words.

(11)(A) Section 1563 is amended—

(i) in subsection (a), by striking "and the other determinations necessary to comply with subsection (b)"; and

(ii) in subsection (b), by striking "notice in writing" and all that follows and inserting "a detailed discussion of the rationale supporting the determination.".

(B) The heading for such section, and the item relating to such section in the table of sections at the beginning of chapter 80, are each amended by striking the last two words.

(12) Section 2224 is amended by striking subsection (e).

(13) Section 2255(b) is amended—

(A) by striking paragraph (2);

(B) by striking "(1)" after "(b) EXCEPTION.—";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) by redesignating clauses (i), (ii), and (iii) of paragraph (1), as redesignated by subparagraph (C), as subparagraphs (A), (B), and (C), respectively.

(14) Section 2282 is amended by inserting "through 2008" after "March 1 of each year".

(15) Section 2323(i) is amended by striking paragraph (3).

(16) Section 2327(c)(1) is amended—

(A) in subparagraph (A), by striking "after the date on which such head of an agency submits to Congress a report on the contract" and inserting "if in the best interests of the Government";

(B) in subparagraph (B), by striking "A report under subparagraph (A)" and inserting "The Secretary shall maintain records of each contract entered into by reason of subparagraph (A). Such records"; and

(C) by striking subparagraph (C).

(17) Section 2350a is amended by striking subsection (f).

(18) Section 2350j(e)(2) is amended by inserting before the period the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of that report is provided in an electronic medium pursuant to section 480 of this title".

(19) Section 2371(h) is amended by adding at the end the following new paragraph:

"(3) No report is required under this subsection for a fiscal year after fiscal year 2006.".

(20) Section 2374a(e) is amended by inserting "during which one or more prizes are awarded under the program under subsection (a)" in the first sentence after "each fiscal year".

(21) Section 2410m(c) is amended—

(A) by striking "REPORTING REQUIREMENT.—Each year" and inserting "ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year";

(B) by inserting "at the end of such fiscal year" in paragraph (1) before the period;

(C) by striking "during the year preceding the year in which the report is submitted" in paragraph (2) and inserting "under this section during that fiscal year";

(D) by striking "in such preceding year" in paragraph (3) and inserting "under this section during that fiscal year"; and

(E) by striking "in such preceding year" in paragraph (4) and inserting "under this section during that fiscal year".

(22) Section 2457 is amended by striking subsection (d).

(23) Section 2515(d) is amended—

(A) by striking "ANNUAL" in the subsection heading and inserting "BIENNIAL"; and

(B) in paragraph (1)—

(i) in the first sentence, by striking "an annual report" and inserting "a biennial report";

(ii) in the second sentence, by striking "each year" and inserting "each even-numbered year"; and

(iii) in the third sentence, by striking "during the fiscal year" and inserting "during the two fiscal years".

(24) Section 2521 is amended by striking subsection (e).

(25) Section 2541d is amended—

(A) by striking subsection (b); and

(B) in subsection (a), by striking "(a)" and all that follows through "The Secretary of Defense" and inserting "The Secretary of Defense".

(26) Section 2645 is amended—

(A) in subsection (d)—

(i) by striking "to Congress" and all that follows through "notification of the loss" in paragraph (1) and inserting "to Congress notification of the loss";

(ii) by striking "loss; and" and inserting "loss."; and

(iii) by striking paragraph (2); and

(B) by striking subsection (g).

(27) Section 2662 is amended—

(A) in subsection (a)—

(i) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and by designating the sentences following subparagraph (F), as so redesignated, as paragraph (2);

(ii) in paragraph (2), as so designated, by striking "clause (1) or (2)" and inserting "subparagraph (A) or (B) of paragraph (1)" and by striking "clause (5)" and inserting "subparagraph (E)";

(iii) by inserting "(1)" before "The Secretary";

(iv) by striking "after the expiration of 30 days" and all that follows through "is submitted" and inserting "the Secretary submits a report, subject to paragraph (3),";

(v) by striking "$500,000" each place it appears and inserting "$750,000"; and

(vi) by adding at the end the following new paragraphs:

"(3) The authority of the Secretary of a military department to enter into a transaction described in paragraph (1) commences only after—

"(A) the end of the 30-day period beginning on the first day of the month with respect to which the report containing the facts concerning such transaction, and all other such proposed transactions for that month, is submitted under paragraph (1); or

"(B) the end of the 14-day period beginning on the first day of that month when a copy of the report is provided in an electronic medium pursuant to section 480 of this title on or before the first day of that month.

"(4) The report for a month under this subsection may not be submitted later than the first day of that month.";

(B) in subsection (b), by striking "more than" and all that follows through "$500,000" and inserting "more than $250,000, but not more than $750,000"; and

(C) in subsection (e)—

(i) by striking "$500,000" and inserting "$750,000"; and

(ii) by striking "the expiration" and all that follows through the period at the end and inserting the following: "the end of the 30-day period beginning on the date on which a report of *the facts concerning the proposed occupancy is submitted to the congressional committees named in subsection (a) or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".*

(28) Section 2667a(c)(2) is amended—

(A) by striking "Not later than 45 days before" and inserting "Before"; and

(B) by adding at the end the following new sentence: "The Secretary may then enter into the lease only after the end of the 30–day period beginning on the date on which the report is submitted or, if earlier, the end of the 14–day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".

(29) Section 2672a is amended—

(A) in subsection (a)(1), by striking "he or his designee" and inserting "the Secretary";

(B) in subsection (b), by striking the last sentence; and

(C) by adding at the end the following new subsection:

"(c) Not later than 10 days after the date on which the Secretary of a military department determines to acquire an interest in land under the authority of this section, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives written notice containing a description of the property and interest to be acquired and the reasons for the acquisition.".

(30) Section 2676(d) is amended by inserting before the period at the end of the last sentence the following: "or, if over sooner, a period of 14 days elapses from the date on which a copy of that notification is provided in an electronic medium pursuant to section 480 of this title".

(31) Section 2680 is amended by striking subsection (e).

(32) Section 2688(e) is amended to read as follows:

"(e) QUARTERLY REPORT.— Not later than 30 days after the end of each quarter of a fiscal year, the Secretary shall submit to the congressional defense committees a report on the conveyances made under subsection (a) during such fiscal quarter. The report shall include, for each such conveyance, an economic analysis (based upon accepted life-cycle costing procedures approved by the Secretary of Defense) demonstrating that—

"(1) the long-term economic benefit of the conveyance to the United States exceeds the long-term economic cost of the conveyance to the United States; and

"(2) the conveyance will reduce the long-term costs of the United States for utility services provided by the utility system concerned.".

(33) Section 2696 is amended—

(A) in subsection (b)—

(i) in paragraph (1), by inserting "and Congress" after "the Secretary concerned" the second place it appears; and

(ii) in paragraph (2), by inserting "and Congress" after "the Secretary concerned" the first place it appears;

(B) by striking subsection (c); and

(C) by striking subsection (d) and inserting the following new subsection (d):

"(d) EFFECT OF SUBMISSION OF NOTICE.—If the Administrator of General Services submits notice under subsection (b)(1) that further Federal use of a parcel of real property is requested by a Federal agency, the Secretary concerned may not proceed with the conveyance of the real property as provided in the provision of law authorizing or requiring the conveyance until the end of the 180-day period beginning on the date on which the notice is submitted to Congress.".

(34) Section 2803(b) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(35) Section 2804(b) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14–day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(36) Section 2805(b)(2) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14–day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(37) Section 2807 is amended—

(A) in subsection (b)—

(i) by striking "$500,000" and inserting "$1,000,000";

(ii) by striking "not less than 21 days"; and

(iii) by adding at the end the following new sentence: "The Secretary may then obligate funds for such services only after the end of the 21-day period beginning on the date on which the notification is received by the committees or, if earlier, the end of the 14–day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title."; and

(B) in subsection (c)(2), by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has elapsed from the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

(38) Section 2809(f)(2) is amended—

(A) by striking "calendar"; and

(B) by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title".

(39) Section 2812(c)(1)(B) is amended by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has expired following the date on which a copy of the justification and economic analysis are provided in an electronic medium pursuant to section 480 of this title".

(40) Section 2813(c) is amended—

(A) by striking "the end of the 30–day period beginning on the date"; and

(B) by adding at the end the following new sentence: "After the notification is transmitted, the Secretary may then enter into the contract only after the end of the 30–day period beginning on the date on which the notification is received by the committees or, if earlier, the end of the 21-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.".

(41) Section 2825 is amended—

(A) in subsection (b)(1)—

(i) by striking "(i)" in the last sentence; and

(ii) by striking ", and (ii)" and all that follows and inserting a period and the following new sentence: "If the Secretary concerned makes a determination under the preceding sentence with respect to an improvement, the waiver under that sentence with respect to that improvement may take effect only after the Secretary transmits a notice of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective, to the appropriate committees of Congress and a period of 21 days has elapsed after the date on which the notification is received by those committees or; if over sooner, a period of 14 days has elapsed after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title."; and

(B) in subsection (c)(1)(D), by inserting before the period at the end the following: "or, if over sooner, a period of 14 days elapses after the date on which a copy of the notice is provided in an electronic medium pursuant to section 480 of this title" .

(42) Section 2827(b)(2) is amended by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(43) Section 2836(f)(2) is amended—

(A) by striking "21 calendar days" and inserting "21 days"; and

(B) by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has expired following the date on which a copy of the economic analysis is provided in an electronic medium pursuant to section 480 of this title".

(44) Section 2837(c)(2) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

(45) Section 2854(b) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the seven-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(46) Section 2854a(c)(2) is amended—

(A) by striking "calendar"; and

(B) by inserting before the period at the end the following: "or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the justification is provided in an electronic medium pursuant to section 480 of this title".

(47) Section 2865(e)(2) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(48) Section 2866(c)(2) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(49) Section 2867(c) is amended by inserting before the period at the end of the last sentence the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title".

(50) Section 2875(e) is amended by inserting before the period at the end the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title".

(51) Section 2883(f) is amended by inserting before the period at the end the following: "or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notice and justification is provided in an electronic medium pursuant to section 480 of this title".

(52) Section 2902(g) is amended—

(A) by striking paragraph (2); and

(B) by striking "(1)" after "(g)".

(53) Section 4342(h) is amended by striking "Secretary of the Army" and inserting "Superintendent".

(54) Section 4357(c) is amended by inserting before the period at the end the following: "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

(55) Section 6954(f) is amended by striking "Secretary of the Navy" and inserting "Superintendent of the Naval Academy".

(56) Section 6975(c) is amended by inserting before the period at the end the following: "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

(57) Section 7049(c) is amended—

(A) by striking "CERTIFICATION" in the subsection heading and inserting "DETERMINATION"; and

(B) by striking ", and certifies to" and all that follows through "House of Representatives,".

(58) Section 9342(h) is amended by striking "Secretary of the Air Force" and inserting "Superintendent".

(59) Section 9356(c) is amended by inserting before the period at the end the following: "or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title".

(60) Section 9514 is amended—

(A) in subsection (c)—

(i) by striking "to Congress" and all that follows through "notification of the loss" in paragraph (1) and inserting "to Congress notification of the loss";

(ii) by striking "loss; and" and inserting "loss."; and

(iii) by striking paragraph (2); and

(B) by striking subsection (f).

(61) Section 12302 is amended by striking subsection (d).

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991.—Section 2921(g) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in paragraph (1), by striking "Not less than 30 days before" and inserting "Before";

(2) in paragraph (2), by striking "Not less than 30 days before" and inserting "Before"; and

(3) by adding at the end the following new paragraph:

"(3) When the Secretary submits a notification of a proposed agreement under paragraph (1) or (2), the Secretary may then enter into the agreement described in the notification only after the end of the 30-day period beginning on the date on which the notification is submitted or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.".

(c) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993.—THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993 (PUBLIC LAW 102–190) IS AMENDED AS FOLLOWS:

(1) Section 734 (10 U.S.C. 1074 note) is amended by striking subsection (c).

(2) Section 2868(a) (10 U.S.C. 2802 note) is amended by striking "The Secretary of Defense" and all that follows through "is to be authorized" and inserting "Not later than 30 days after the date on which a decision is made selecting the site or sites for the permanent basing of a new weapon system, the Secretary of Defense shall submit to Congress".

(d) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993.—THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (PUBLIC LAW 102–484) IS AMENDED AS FOLLOWS:

(1) Section 324 (10 U.S.C. 2701 note) is amended—

(A) by striking "(a) SENSE OF CONGRESS.—"; and

(B) by striking subsection (b).

(2) Section 1082(b)(1) (10 U.S.C. 113 note) is amended by striking "the Secretary of Defense—" and all that follows and inserting "the Secretary of Defense determines that it is in the national security interests of the United States for the military departments to do so.".

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 721 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 10 U.S.C. 1074 note) is amended by striking subsection (h).

(f) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) is amended as follows:

(1) Section 324 (10 U.S.C. 2706 note) is amended by striking subsection (c).

(2) Section 1065(b) (10 U.S.C. 113 note) is amended—

(A) by striking "(1)" before "Notwithstanding"; and

(B) by striking paragraph (2).

(g) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) is amended as follows:

(1) Section 745(e) (10 U.S.C. 1071 note) is amended—

(A) by striking "(1)" before "The Secretary of Defense"; and

(B) by striking paragraph (2).

(2) Section 1223 (22 U.S.C. 1928 note) is repealed.

(h) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 212 (10 U.S.C. 2501 note) is amended by striking subsection (c).

(2) Section 724 (10 U.S.C. 1092 note) is amended by striking subsection (e).

(3) Section 1039 (10 U.S.C. 113 note) is amended by striking subsection (b).

(i) MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2001.—Section 125 of the Military Construction Appropriations Act, 2001 (division A of Public Law 106–246; 114 Stat. 517), is repealed.

(j) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2002.—Section 8009 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2249; 10 U.S.C. 401 note), is amended by striking ", and these obligations shall be reported to the Congress".

SEC. 1032. PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.

(a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.—The Secretary of Defense shall establish an integrated plan for developing,deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.

(b) ANNUAL REPORTS.—(1) Not later than April 1 of each of 2004, 2005, and 2006, the Secretary shall submit to the congressional defense committees a report on the plan established under subsection (a).

(2) Each report under paragraph (1) shall include the following:

(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which those assets might be used.

(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including bombers, intercontinental ballistic missiles, and submarine-launched ballistic missiles.

(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.

(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.

(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.

(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.

(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.

(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.

(I) An estimated schedule for achieving the desired prompt global strike capabilities.

(J) The estimated cost of achieving the desired prompt global strike capabilities.

(K) A description of ongoing and future studies necessary for updating the plan appropriately.

SEC. 1033. ANNUAL REPORT CONCERNING DISMANTLING OF STRATEGIC NUCLEAR WARHEADS.

(a) ANNUAL REPORT.—Concurrent with the submission of the President's budget request to Congress each year, the Director of Central Intelligence shall submit to the committees specified in subsection (e) a report concerning dismantlement of Russian strategic nuclear warheads under the Moscow Treaty. Each such report shall discuss nuclear weapons dismantled by Russia during the prior fiscal year and the Director's projections for nuclear weapons to be dismantled by Russia during the current fiscal year and the fiscal year covered by the budget.

(b) CLASSIFICATION.—The annual report under this section shall be transmitted in an unclassified form when possible and classified form as necessary.

(c) TERMINATION OF REPORT REQUIREMENT.—The requirement to submit an annual report under this section terminates when the Moscow Treaty is no longer in effect.

(d) MOSCOW TREATY DEFINED.—For purposes of this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

(e) COMMITTEES SPECIFIED.—The committees to which annual reports are to be submitted under this section are the following:

(1) The Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

(2) The Committee on Armed Services, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives.

SEC. 1034. REPORT ON USE OF UNMANNED AERIAL VEHICLES FOR SUPPORT OF HOMELAND SECURITY MISSIONS.

(a) REQUIREMENT FOR REPORT.—Not later than April 1, 2004, the President shall submit to Congress a report on the potential uses of unmanned aerial vehicles for support of the performance of homeland security missions.

(b) CONTENT.—The report shall, at a minimum, include the following matters:

(1) An assessment of the potential for using unmanned aerial vehicles for monitoring activities in remote areas along the northern and southern borders of the United States.

(2) An assessment of the potential for using long-endurance, land-based unmanned aerial vehicles for supporting the Coast Guard in the performance of its—

(A) homeland security missions;

(B) drug interdiction missions; and

(C) other maritime missions along the approximately 95,000 miles of inland waterways in the United States.

(3) An assessment of the potential for using unmanned aerial vehicles for monitoring the safety and integrity of critical infrastructure within the territory of the United States, including the following:

(A) Oil and gas pipelines.

(B) Long-distance power transmission lines.

(C) Hydroelectric and nuclear power plants.

(D) Dams and drinking water utilities.

(4) An assessment of the potential for using unmanned aerial vehicles for monitoring the transportation of hazardous cargo.

(5) A discussion of the safety issues involved in—

(A) the use of unmanned aerial vehicles by agencies other than the Department of Defense; and

(B) the operation of unmanned aerial vehicles over populated areas of the United States.

(6) A discussion of—

(A) the effects on privacy and civil liberties that could result from the monitoring uses of unmanned aerial vehicles operated over the territory of the United States; and

(B) any restrictions on the domestic use of unmanned aerial vehicles that should be imposed, or any other actions that should be taken, to prevent any adverse effect of such a use of unmanned aerial vehicles on privacy or civil liberties.

(7) A discussion of what, if any, legislation and organizational changes may be necessary to accommodate the use of unmanned aerial vehicles of the Department of Defense in support of the performance of homeland security missions, including any amendment of section 1385 of title 18, United States Code (popularly referred to as the "Posse Comitatus Act").

(8) An evaluation of the capabilities of manufacturers of unmanned aerial vehicles to produce such vehicles at higher rates if necessary to meet any increased requirements for homeland security and homeland defense missions.

(c) REFERRAL TO COMMITTEES.—The report under subsection (a) shall—

(1) upon receipt in the Senate, be referred to the Committee on Armed Services of the Senate and other committees, as appropriate; and

(2) upon receipt in the House of Representatives, be referred to the Committee on Armed Services of the House of Representatives and other committees, as appropriate.

Subtitle E—Codifications, Definitions, and Technical Amendments

SEC. 1041. CODIFICATION AND REVISION OF DEFENSE COUNTERINTELLIGENCE POLYGRAPH PROGRAM AUTHORITY.

(a) CODIFICATION.—(1) Chapter 80 of title 10, United States Code, is amended by inserting after section 1564 the following new section:

"§1564a. Counterintelligence polygraph program

"(a) AUTHORITY FOR PROGRAM.—The Secretary of Defense may carry out a program for the administration of counterintelligence polygraph examinations to persons described in subsection (b). The program shall be based on Department of Defense Directive 5210.48, dated December 24, 1984.

"(b) PERSONS COVERED.—Except as provided in subsection (c), the following persons whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.4(a) of Executive Order 12958 (or a successor Executive order) are subject to this section:

"(1) Military and civilian personnel of the Department of Defense.

"(2) Personnel of defense contractors.

"(3) A person assigned or detailed to the Department of Defense.

"(4) An applicant for a position in the Department of Defense.

"(c) EXCEPTIONS FROM COVERAGE FOR CERTAIN INTELLIGENCE AGENCIES AND FUNCTIONS.—This section does not apply to the following persons:

"(1) A person assigned or detailed to the Central Intelligence Agency or to an expert or consultant under a contract with the Central Intelligence Agency.

"(2) A person who is—

"(A) employed by or assigned or detailed to the National Security Agency;

"(B) an expert or consultant under contract to the National Security Agency;

"(C) an employee of a contractor of the National Security Agency; or

"(D) a person applying for a position in the National Security Agency.

"(3) A person assigned to a space where sensitive cryptographic information is produced, processed, or stored.

"(4) A person employed by, or assigned or detailed to, an office within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs or a contractor of such an office.

"(d) OVERSIGHT.—(1) The Secretary shall establish a process to monitor responsible and effective application of polygraph examinations within the Department of Defense.

"(2) The Secretary shall make information on the use of polygraphs within the Department of Defense available to the congressional defense committees.

"(e) POLYGRAPH RESEARCH PROGRAM.—The Secretary shall carry out a continuing research program to support the polygraph examination activities of the Department of Defense. The program shall include—

"(1) an on-going evaluation of the validity of polygraph techniques used by the Department;

"(2) research on polygraph countermeasures and anti-countermeasures; and

"(3) developmental research on polygraph techniques, instrumentation, and analytic methods.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1564 the following new item:

"1564a. Counterintelligence polygraph program.".

(b) CONFORMING REPEAL.—Section 1121 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 113 note), is repealed.

SEC. 1042. GENERAL DEFINITIONS APPLICABLE TO FACILITIES AND OPERATIONS OF DEPARTMENT OF DEFENSE.

(a) GENERAL DEFINITIONS APPLICABLE TO FACILITIES AND OPERATIONS.—Section 101 of title 10, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

"(e) FACILITIES AND OPERATIONS.—The following definitions relating to facilities and operations apply in this title:

"(1) RANGE.—The term 'range', when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. Such term includes the following:

"(A) Firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas.

"(B) Airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration.

"(2) RANGE ACTIVITIES.—The term 'range activities' means—

"(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and

"(B) the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems.

"(3) OPERATIONAL RANGE.—The term 'operational range' means a range that is under the jurisdiction, custody, or control of the Secretary of Defense and—

"(A) that is used for range activities, or

"(B) although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities.

"(4) MILITARY MUNITIONS.—(A) The term 'military munitions' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard.

"(B) Such term includes the following:

"(i) Confined gaseous, liquid, and solid propellants.

"(ii) Explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives, and chemical warfare agents.

"(iii) Chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges.

"(iv) Devices and components of any item specified in clauses (i) through (iii).

"(C) Such term does not include the following:

"(i) Wholly inert items.

"(ii) Improvised explosive devices.

"(iii) Nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

"(5) UNEXPLODED ORDNANCE.—The term 'unexploded ordnance' means military munitions that—

"(A) have been primed, fused, armed, or otherwise prepared for action;

"(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

"(C) remain unexploded, whether by malfunction, design, or any other cause.".

(b) REFERENCES TO MILITARY MUNITIONS, ETC.—Section 2710(e) of such title is amended—

(1) by striking paragraphs (3), (5), and (9); and

(2) by redesignating paragraphs (4), (6), (7), (8), and (10) as paragraphs (3), (4), (5), (6), and (7), respectively.

SEC. 1043. ADDITIONAL DEFINITIONS FOR PURPOSES OF TITLE 10, UNITED STATES CODE.

(a) GENERAL DEFINITIONS.—Section 101(a) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(16) The term 'congressional defense committees' means—

"(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

"(17) The term 'base closure law' means the following:

"(A) Section 2687 of this title.

"(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(C) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).".

(b) REFERENCES TO CONGRESSIONAL DEFENSE COMMITTEES.—Title 10, United States Code, is further amended as follows:

(1) Section 135(e) is amended—

(A) by striking "(1)";

(B) by striking "each congressional committee specified in paragraph (2)" and inserting "each of the congressional defense committees"; and

(C) by striking paragraph (2).

(2) Section 153(c) is amended—

(A) in paragraph (1), by striking "committees of Congress named in paragraph (2)" and inserting "congressional defense committees";

(B) by striking paragraph (2); and

(C) by designating the second sentence of paragraph (1) as paragraph (2) and in that paragraph (as so designated) by striking "The report" and inserting "Each report under paragraph (1)".

(3) Section 181(d)(2) is amended—

(A) by striking "subsection:" and all that follows through "'oversight" and inserting "subsection, the term 'oversight"; and

(B) by striking subparagraph (B).

(4) Section 224 is amended by striking subsection (f).

(5) Section 228(e) is amended—

(A) by striking "DEFINITIONS" and all that follows through "(1) The term" and inserting "O&M BUDGET ACTIVITY DEFINED.—In this section, the term"; and

(B) by striking paragraph (2).

(6) Section 229 is amended by striking subsection (f).

(7) Section 1107(f)(4) is amended by striking subparagraph (C).

(8) Section 2216(j) is amended by striking paragraph (3).

(9) Section 2218(l) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4).

(10) Section 2306b(l) is amended—

(A) by striking paragraph (9); and

(B) by redesignating paragraph (10) as paragraph (9).

(11) Section 2308(e)(2) is amended—

(A) by striking subparagraph (A); and

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(12) Section 2350j is amended—

(A) in subsection (e), by striking "congressional committees specified in subsection (g)" in paragraphs (1) and (3) and inserting "congressional defense committees"; and

(B) by striking subsection (g).

(13) Section 2366(e) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(14) Section 2399(h) is amended—

(A) by striking "DEFINITIONS.—" and all that follows through "(1) The term" and inserting "OPERATIONAL TEST AND EVALUATION DEFINED.—In this section, the term";

(B) by striking paragraph (2);

(C) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(D) by realigning those paragraphs (as so redesignated) so as to be indented two ems from the left margin.

(15) Section 2667(h) is amended by striking paragraph (1).

(16) Section 2801(c)(4) is amended by striking "the Committee on" the first place it appears and all that follows through "House of Representatives" and inserting "the congressional defense committees".

(c) REFERENCES TO BASE CLOSURE LAWS.—Title 10, United States Code, is further amended as follows:

(1) Section 2306c(h) is amended by striking "ADDITIONAL" and all that follows through "(2) The term" and inserting "MILITARY INSTALLATION DEFINED.—In this section, the term".

(2) Section 2490a(f) is amended—

(A) by striking "DEFINITIONS.—" and all that follows through "(1) The term" and inserting "NONAPPROPRIATED FUND INSTRUMENTALITY DEFINED.—In this section, the term"; and

(B) by striking paragraph (2).

(3) Section 2667(h), as amended by subsection (b)(15), is further amended by striking "section:" and all that follows through "(3) The term" and inserting "section, the term".

(4) Section 2696(e) is amended—

(A) by striking paragraphs (1), (2), (3), and (4) and inserting the following:

"(1) A base closure law."; and

(B) by redesignating paragraphs (5) and (6) as paragraphs (2) and (3), respectively.

(5) Section 2705 is amended by striking subsection (h).

(6) Section 2871 is amended by striking paragraph (2).

SEC. 1044. INCLUSION OF ANNUAL MILITARY CONSTRUCTION AUTHORIZATION REQUEST IN ANNUAL DEFENSE AUTHORIZATION REQUEST.

(a) INCLUSION OF MILITARY CONSTRUCTION REQUEST.—Section 113a(b) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) Authority to carry out military construction projects, as required by section 2802 of this title.".

(b) REPEAL OF SEPARATE TRANSMISSION OF REQUEST.—(1) Section 2859 of such title is repealed.

(2) The table of sections at the beginning of subchapter III of chapter 169 of such title is amended by striking the item relating to section 2859.

SEC. 1045. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, are amended by striking "2701" in the item relating to chapter 160 and inserting "2700".

(2) Section 101(a)(9)(D) is amended by striking "Transportation" and inserting "Homeland Security".

(3) Section 1115(c)(1)(B) is amended by striking "and other than members" and inserting "(other than members".

(4) Section 2002(a)(2) is amended by striking "Foreign Service Institute" and inserting "George P. Schultz National Foreign Affairs Training Center".

(5)(A) Section 2248 is repealed.

(B) The table of sections at the beginning of subchapter I of chapter 134 is amended by striking the item relating to section 2248.

(6) Section 2432(h)(1) is amended by inserting "program" in the first sentence after "for such".

(7) Section 7305(d) is amended by inserting "such" before "title III" the second place it appears.

(b) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 323(a) is amended by striking "1 year" in paragraphs (1) and (2) and inserting "one year".

(2) Section 402 is amended—

(A) in subsection (b)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(iii) in paragraph (1) (as so redesignated), by striking "On and after January 1, 2002, the" and inserting "The"; and

(iv) in paragraph (3) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (1)"; and

(B) in subsection (d), by striking "subsection (b)(2)" and inserting "subsection (b)(1)".

(c) FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

(1) Section 814(g)(1) is amended by striking "the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106)" and inserting "subtitle III of title 40, United States Code".

(2) Section 1308(c) (22 U.S.C. 5959) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by redesignating the second paragraph (6) as paragraph (7).

(d) STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999.—Section 819(a) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2089) is amended by striking "section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c))," and inserting "section 503 of title 40, United States Code,".

(e) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997.—Section 1084(e) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2675) is amended by striking "98–515" and inserting "98–525". The amendment made by the preceding sentence shall take effect as if included in Public Law 104–201.

(f) FEDERAL ACQUISITION STREAMLINING ACT OF 1994.—Subsection (d) of section 1004 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3253) is amended by striking "under—" and all that follows through the end of paragraph (2) and inserting "under chapter 11 of title 40, United States Code.".

(g) ARMED FORCES RETIREMENT HOME ACT OF 1991.—Section 1520(b)(1)(C) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 420(b)(1)(C)) is amended by inserting "Armed Forces" before "Retirement Home Trust Fund".

Subtitle F—Other Matters

SEC. 1051. ASSESSMENT OF EFFECTS OF SPECIFIED STATUTORY LIMITATIONS ON THE GRANTING OF SECURITY CLEARANCES.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an assessment of the effects of the provisions of section 986 of title 10, United States Code (relating to limitations on security clearances), on the granting (or renewal) of security clearances for Department of Defense personnel and defense contractor personnel. The assessment shall review the effects of the disqualification factors specified in subsection (c) of that section and shall include such recommendations for legislation or administrative steps as the Secretary considers necessary.

SEC. 1052. ACQUISITION OF HISTORICAL ARTIFACTS THROUGH EXCHANGE OF OBSOLETE OR SURPLUS PROPERTY.

(a) ACQUISITION AUTHORIZED.—The Secretary of a military department may use the authority provided by section 2572 of title 10, United

States Code, to acquire an historical artifact that directly benefits the historical collection of the Armed Forces in exchange for any obsolete or surplus property held by that military department, without regard to whether the property is described in subsection (c) of such section.

(b) DURATION OF AUTHORITY.—The authority provided by subsection (a) applies during fiscal years 2004 and 2005.

SEC. 1053. CONVEYANCE OF SURPLUS T-37 AIRCRAFT TO AIR FORCE AVIATION HERITAGE FOUNDATION, INCORPORATED.

(a) AUTHORITY TO CONVEY.—The Secretary of the Air Force may convey to the Air Force Aviation Heritage Foundation, Incorporated, of Georgia (in this section referred to as the "Foundation"), all right, title, and interest of the United States in and to one surplus T-37 "Tweet" aircraft for the sole purpose of permitting the Foundation to use the aircraft in a static display. The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—(1) The Secretary may not convey the aircraft under subsection (a) until the aircraft has been demilitarized in such manner as the Secretary determines necessary to ensure that the aircraft is permanently unfit for flight and does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have.

(2) The Foundation shall be responsible for the costs of demilitarizing the aircraft, as required by paragraph (1). Demilitarization shall be carried out in a manner intended to preserve the historical and display value of the aircraft.

(c) CONDITIONS FOR CONVEYANCE.—(1) The conveyance of a T-37 aircraft under this section shall be subject to the following conditions:

(A) That the Foundation not convey any right, title, or interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force.

(B) That the Foundation not alter the aircraft to restore it to flyable condition.

(C) That if the Secretary of the Air Force determines at any time that the Foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in subparagraph (B), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(2) The Secretary shall include the conditions under paragraph (1) in the instrument of conveyance of the T-37 aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—Any conveyance of a T-37 aircraft under this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance by the Foundation with the conditions in subsection (b), and costs of restoration and maintenance of the aircraft conveyed shall be borne by the Foundation.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) DURATION OF CONVEYANCE AUTHORITY.—The authority to make the conveyance to the Foundation authorized by this section expires on September 30, 2005.

SEC. 1054. DEPARTMENT OF DEFENSE BIENNIAL STRATEGIC PLAN FOR MANAGEMENT OF ELECTROMAGNETIC SPECTRUM.

(a) REQUIREMENT FOR PLAN.—Chapter 23 of title 10, United States Code, is amended by inserting after section 487 the following new section:

"§488. Management of electomagnetic spectrum: biennial strategic plan

"(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other year, and in time for submission to Congress under subsection (b), the Secretary of Defense shall prepare a strategic plan for the management of the electromagnetic spectrum to ensure the accessibility and efficient use of that spectrum needed to support the mission of the Department of Defense.

"(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit to Congress the strategic plan most recently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 487 the following new item:

"488. Management of electomagnetic spectrum: biennial strategic plan.".

SEC. 1055. REVISION OF DEPARTMENT OF DEFENSE DIRECTIVE RELATING TO MANAGEMENT AND USE OF RADIO FREQUENCY SPECTRUM.

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall revise and reissue Department of Defense Directive 4650.1, relating to management and use of the radio frequency spectrum, last issued on June 24, 1987, to update the procedures applicable to Department of Defense management and use of the radio frequency spectrum and to ensure the consideration of requirements for usage of such spectrum by a system as early as practicable in the acquisition program for such system.

SEC. 1056. SENSE OF CONGRESS ON DEPLOYMENT OF AIRBORNE CHEMICAL AGENT MONITORING SYSTEMS AT CHEMICAL STOCKPILE DISPOSAL SITES IN THE UNITED STATES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Over 23,700 tons of lethal chemical agents in assembled chemical weapons and bulk storage containers are stored and awaiting destruction at eight chemical agent disposal facilities and stockpile storage sites in the United States. Some of these weapons and storage containers contain GB or VX nerve agents, while others contain blister agents such as HD (mustard agent).

(2) Approximately 960,000 persons live in the vicinity of the eight chemical weapons disposal facilities and stockpile storage sites.

(3) Airborne-agent chemical monitoring systems are currently deployed at each of the chemical demilitarization facilities and stockpile storage sites to provide continuous and near-real-time monitoring of the presence of chemical agents.

(4) The National Research Council has determined that monitoring levels used at the demilitarization facilities are very conservative and highly protective of workers and public health and safety and that the conservative monitoring levels are a contributing factor in false positive alarms.

(5) The National Research Council has expressed repeated concern about relatively frequent false positive alarms and the lack of real-time monitoring for airborne agents and has noted the poor state of agent monitoring technology for liquid waste streams and solid materials suspected of possible agent contamination.

(6) The National Research Council has concluded that, although the Program Manager for Chemical Demilitarization has made some efforts to develop better agent-monitoring technology, results to date have been disappointing.

(7) The National Research Council has concluded that development and deployment of airborne-agent monitors with shorter response time and lower false alarm rates would enhance safety and reduce the tendency to discount agent alarms, and has recommended that the Program Manager for Chemical Demilitarization and the relevant Department of Defense research and development agencies should invigorate and coordinate efforts to develop chemical agent monitors with improved sensitivity, specificity, and response time.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Army—

(1) should, in coordination with relevant Department of Defense research and development agencies, invigorate and coordinate efforts to develop chemical agent monitors with improved sensitivity, specificity, and response time; and

(2) should deploy improved chemical agent monitors in order to ensure the maximum protection of the general public, personnel involved in the chemical demilitarization program, and the environment.

SEC. 1057. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM OF UNITED STATES FIRE ADMINISTRATION.

The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by redesignating the second section 33 and section 34 as sections 35 and 36, respectively, and by inserting after the first section 33 the following new section:

"SEC. 34. EXPANSION OF PRE-SEPTEMBER 11, 2001, FIRE GRANT PROGRAM.

"(a) EXPANDED AUTHORITY TO MAKE GRANTS.—

"(1) HIRING GRANTS.—(A) The Administrator shall make grants directly to career, volunteer, and combination fire departments, in consultation with the chief executive of the State in which the applicant is located, for the purpose of increasing the number of firefighters to help communities meet industry minimum standards and attain 24-hour staffing to provide adequate protection from fire and fire-related hazards, and to fulfill traditional missions of fire departments that antedate the creation of the Department of Homeland Security.

"(B)(i) Grants made under this paragraph shall be for 4 years and be used for programs to hire new, additional firefighters.

"(ii) Grantees are required to commit to retaining for at least 1 year beyond the termination of their grants those firefighters hired under this paragraph.

"(C) In awarding grants under this subsection, the Administrator may give preferential consideration to applications that involve a non-Federal contribution exceeding the minimums under subparagraph (E).

"(D) The Administrator may provide technical assistance to States, units of local government, Indian tribal governments, and to other public entities, in furtherance of the purposes of this section.

"(E) The portion of the costs of hiring firefighters provided by a grant under this paragraph may not exceed—

"(i) 90 percent in the first year of the grant;

"(ii) 80 percent in the second year of the grant;

"(iii) 50 percent in the third year of the grant; and

"(iv) 30 percent in the fourth year of the grant.

"(F) Notwithstanding any other provision of law, any firefighter hired with funds provided under this subsection shall not be discriminated against for, or be prohibited from, engaging in volunteer activities in another jurisdiction during off-duty hours.

"(G) All grants made pursuant to this subsection shall be awarded on a competitive basis through a neutral peer review process.

"(H) At the beginning of the fiscal year, the Administrator shall set aside 10 percent of the funds appropriated for carrying out this paragraph for departments with majority volunteer or all volunteer personnel. After awards have been made, if less than 10 percent of the funds appropriated for carrying out this paragraph are not awarded to departments with majority volunteer or all volunteer personnel, the Administrator shall transfer from funds appropriated for carrying out this paragraph to funds available for carrying out paragraph (2) an amount equal to the difference between the amount that is provided to such fire departments and 10 percent.

"(2) RECRUITMENT AND RETENTION GRANTS.—In addition to any amounts transferred under paragraph (1)(H), the Administrator shall direct at least 10 percent of the total amount of funds appropriated pursuant to this section annually to a competitive grant program for the recruitment and retention of volunteer firefighters who are involved with or trained in the operations of firefighting and emergency response. Eligible entities shall include volunteer or combination fire departments, and organizations on a local or statewide basis that represent the interests of volunteer firefighters.

"(b) APPLICATIONS.—(1) No grant may be made under this section unless an application has been submitted to, and approved by, the Administrator.

"(2) An application for a grant under this section shall be submitted in such form, and contain such information, as the Administrator may prescribe.

"(3) At a minimum, each application for a grant under this section shall—

"(A) explain the applicant's inability to address the need without Federal assistance;

"(B) in the case of a grant under subsection (a)(1), explain how the applicant plans to meet the requirements of subsection (a)(1)(B)(ii) and (F);

"(C) specify long-term plans for retaining firefighters following the conclusion of Federal support provided under this section; and

"(D) provide assurances that the applicant will, to the extent practicable, seek, recruit, and hire members of racial and ethnic minority groups and women in order to increase their ranks within firefighting.

"(c) LIMITATION ON USE OF FUNDS.—(1) Funds made available under this section to fire departments for salaries and benefits to hire new, additional firefighters shall not be used to supplant State or local funds, or, in the case of Indian tribal governments, funds supplied by the Bureau of Indian Affairs, but shall be used to increase the amount of funds that would, in the absence of Federal funds received under this section, be made available from State or local sources, or in the case of Indian tribal governments, from funds supplied by the Bureau of Indian Affairs.

"(2) No grant shall be awarded pursuant to this section to a municipality or other recipient whose annual budget at the time of the application for fire-related programs and emergency response has been reduced below 80 percent of the average funding level in the 3 years prior to the date of enactment of this section.

"(3) Funds appropriated by the Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing firefighting functions on any Indian lands may be used to provide the non-Federal share of the cost of programs or projects funded under this section.

"(4)(A) Total funding provided under this section over 4 years for hiring a firefighter may not exceed $100,000.

"(B) The $100,000 cap shall be adjusted annually for inflation beginning in fiscal year 2005.

"(d) PERFORMANCE EVALUATION.—The Administrator may require a grant recipient to submit any information the Administrator considers reasonably necessary to evaluate the program.

"(e) SUNSET AND REPORTS.—The authority under this section to make grants shall lapse at the conclusion of 10 years from the date of enactment of this section. Not later than 6 years after the date of the enactment of this section, the Administrator shall submit a report to Congress concerning the experience with, and effectiveness of, such grants in meeting the objectives of this section. The report may include any recommendations the Administrator may have for amendments to this section and related provisions of law.

"(f) REVOCATION OR SUSPENSION OF FUNDING.—If the Administrator determines that a grant recipient under this section is not in substantial compliance with the terms and requirements of an approved grant application submitted under this section, the Administrator may revoke or suspend funding of that grant, in whole or in part.

"(g) ACCESS TO DOCUMENTS.—(1) The Administrator shall have access for the purpose of audit and examination to any pertinent books, documents, papers, or records of a grant recipient under this section and to the pertinent books, documents, papers, or records of State and local governments, persons, businesses, and other entities that are involved in programs, projects, or activities for which assistance is provided under this section.

"(2) Paragraph (1) shall apply with respect to audits and examinations conducted by the Comptroller General of the United States or by an authorized representative of the Comptroller General.

"(h) DEFINITIONS.—In this section, the term—

"(1) 'firefighter' has the meaning given the term 'employee in fire protection activities' under section 3(y) of the Fair Labor Standards Act (29 U.S.C. 203(y)); and

"(2) 'Indian tribe' means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section—

"(1) $1,000,000,000 for fiscal year 2004;

"(2) $1,030,000,000 for fiscal year 2005;

"(3) $1,061,000,000 for fiscal year 2006;

"(4) $1,093,000,000 for fiscal year 2007;

"(5) $1,126,000,000 for fiscal year 2008;

"(6) $1,159,000,000 for fiscal year 2009; and

"(7) $1,194,000,000 for fiscal year 2010.".

SEC. 1058. REVIEW AND ENHANCEMENT OF EXISTING AUTHORITIES FOR USING AIR FORCE AND AIR NATIONAL GUARD MODULAR AIRBORNE FIRE-FIGHTING SYSTEMS AND OTHER DEPARTMENT OF DEFENSE ASSETS TO FIGHT WILDFIRES.

(a) REVIEW REQUIRED.—The Director of the Office of Management and Budget shall conduct a review of existing authorities regarding the use of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units and other Department of Defense assets to fight wildfires to ensure that, in accordance with applicable legal requirements, such assets are available in the most expeditious manner to fight wildfires on Federal lands or non-Federal lands at the request of a Federal agency or State government. In conducting the review, the Director shall specifically consider—

(1) any adverse impact caused by the restrictions contained in section 1535(a)(4) of title 31, United States Code, or caused by the interpretation of such restrictions, on the ability of the Forest Service and other Federal agencies to procure such firefighting services; and

(2) whether the authorities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including section 403(c) of such Act (42 U.S.C. 5170b), are being properly utilized to facilitate an expeditious Department of Defense response to State requests under, and consistent with, such Act for firefighting services.

(b) DETERMINATION REQUIRED.—On the basis of the review, the Director shall make a determination regarding whether existing authorities are being used in a manner consistent with using the available capabilities of Department of Defense assets to fight wildfires in the most expeditious and efficacious way to minimize the risk to public safety.

(c) EXPEDITED ECONOMY ACT REVIEW PROCESS.—If the Director determines under subsection (b) that existing authorities are adequate for the deployment of Department of Defense assets to fight wildfires, the Director shall develop and implement, subject to subsection (f), such modifications to the process for conducting the cost comparison required by section 1535(a)(4) of title 31, United States Code, as the Director considers appropriate to further expedite the procurement of such firefighting services.

(d) DEVELOPMENT AND IMPLEMENTATION OF REVISED POLICIES.—If the Director determines under subsection (b) that the existing authorities or their use is inadequate or can be improved, the Director shall develop and implement, subject to subsection (f), such regulations, policies, and interagency procedures as may be necessary to improve the ability of the Department of Defense to respond to a request by a Federal agency or State government to assist in fighting wildfires on Federal lands or non-Federal lands under section 1535(a) of title 31, United States Code, or the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or both.

(e) REPORTING REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, the Director shall transmit to Congress a report—

(1) containing the results of the review conducted under subsection (a) and the determination made under subsection (b); and

(2) based on such determination, describing the modifications proposed to be made to existing authorities under subsection (c) or (d), including whether there is a need for legislative changes to further improve the procedures for using Department of Defense assets to fight wildfires.

(f) DELAYED IMPLEMENTATION.—The modifications described in the report prepared under subsection (e) to be made to existing authorities under subsection (c) or (d) shall not take effect until the end of the 30-day period beginning on the date on which the report is transmitted to Congress.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Subtitle A—Department of Defense National Security Personnel System

Sec. 1101. Department of Defense national security personnel system.

Subtitle B—Department of Defense Civilian Personnel Generally

Sec. 1111. Pilot program for improved civilian personnel management.
Sec. 1112. Clarification and revision of authority for demonstration project relating to certain acquisition personnel management policies and procedures.
Sec. 1113. Military leave for mobilized Federal civilian employees.

Sec. 1114. Restoration of annual leave for certain Department of Defense employees.
Sec. 1115. Authority to employ civilian faculty members at the Western Hemisphere Institute for Security Cooperation.
Sec. 1116. Extension of authority for experimental personnel program for scientific and technical personnel.

Subtitle C—Other Federal Government Civilian Personnel Matters

Sec. 1121. Modification of the overtime pay cap.
Sec. 1122. Common occupational and health standards for differential payments as a consequence of exposure to asbestos.
Sec. 1123. Increase in annual student loan repayment authority.
Sec. 1124. Authorization for cabinet secretaries, secretaries of military departments, and heads of executive agencies to be paid on a biweekly basis.
Sec. 1125. Senior Executive Service and performance.
Sec. 1126. Design elements of pay-for-performance systems in demonstration projects.
Sec. 1127. Federal flexible benefits plan administrative costs.
Sec. 1128. Employee surveys.
Sec. 1129. Human capital performance fund.

Subtitle A—Department of Defense National Security Personnel System

SEC. 1101. DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM.

(a) IN GENERAL.—(1) Subpart I of part III of title 5, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 99—DEPARTMENT OF DEFENSE NATIONAL SECURITY PERSONNEL SYSTEM

"Sec.
"9901. Definitions.
"9902. Establishment of human resources management system.
"9903. Attracting highly qualified experts.
"9904. Special pay and benefits for certain employees outside the United States.

"§9901. Definitions

"For purposes of this chapter—

"(1) the term 'Director' means the Director of the Office of Personnel Management; and

"(2) the term 'Secretary' means the Secretary of Defense.

"§9902. Establishment of human resources management system

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary may, in regulations prescribed jointly with the Director, establish, and from time to time adjust, a human resources management system for some or all of the organizational or functional units of the Department of Defense. The human resources management system established under authority of this section shall be referred to as the 'National Security Personnel System'.

"(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

"(1) be flexible;

"(2) be contemporary;

"(3) not waive, modify, or otherwise affect—

"(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

"(B) any provision of section 2302, relating to prohibited personnel practices;

"(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

"(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

"(I) providing for equal employment opportunity through affirmative action; or

"(II) providing any right or remedy available to any employee or applicant for employment in the public service;

"(D) any other provision of this part (as described in subsection (d)); or

"(E) any rule or regulation prescribed under any provision of law referred to in this paragraph;

"(4) ensure that employees may organize, bargain collectively as provided for in this chapter, and participate through labor organizations of their own choosing in decisions which affect them, subject to the provisions of this chapter and any exclusion from coverage or limitation on negotiability established pursuant to law;

"(5) not be limited by any specific law or authority under this title, or by any rule or regulation prescribed under this title, that is waived in regulations prescribed under this chapter, subject to paragraph (3); and

"(6) include a performance management system that incorporates the following elements:

"(A) adherence to merit principles set forth in section 2301;

"(B) a fair, credible, and transparent employee performance appraisal system;

"(C) a link between the performance management system and the agency's strategic plan;

"(D) a means for ensuring employee involvement in the design and implementation of the system;

"(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the performance management system;

"(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

"(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance;

"(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the performance management system; and

"(I) a pay-for-performance evaluation system to better link individual pay to performance, and provide an equitable method for appraising and compensating employees.

"(c) PERSONNEL MANAGEMENT AT DEFENSE LABORATORIES.—(1) The National Security Personnel System shall not apply with respect to a laboratory under paragraph (2) before October 1, 2008, and shall apply on or after October 1, 2008, only to the extent that the Secretary determines that the flexibilities provided by the National Security Personnel System are greater than the flexibilities provided to those laboratories pursuant to section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2721) and section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note), respectively.

"(2) The laboratories to which this subsection applies are—

"(A) the Aviation and Missile Research Development and Engineering Center;

"(B) the Army Research Laboratory;

"(C) the Medical Research and Materiel Command;

"(D) the Engineer Research and Development Command;

"(E) the Communications-Electronics Command;

"(F) the Soldier and Biological Chemical Command;

"(G) the Naval Sea Systems Command Centers;

"(H) the Naval Research Laboratory;

"(I) the Office of Naval Research; and

"(J) the Air Force Research Laboratory.

"(d) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part referred to in subsection (b)(3)(D) are (to the extent not otherwise specified in this title)—

"(1) subparts A, B, E, G, and H of this part; and

"(2) chapters 41, 45, 47, 55 (except subchapter V thereof, apart from section 5545b), 57, 59, 71, 72, 73, and 79, and this chapter.

"(e) LIMITATIONS RELATING TO PAY.—(1) Nothing in this section shall constitute authority to modify the pay of any employee who serves in an Executive Schedule position under subchapter II of chapter 53.

"(2) Except as provided for in paragraph (1), the total amount in a calendar year of allowances, differentials, bonuses, awards, or other similar cash payments paid under this title to any employee who is paid under section 5376 or 5383 or under title 10 or under other comparable pay authority established for payment of Department of Defense senior executive or equivalent employees may not exceed the total annual compensation payable to the Vice President under section 104 of title 3.

"(3) To the maximum extent practicable, the rates of compensation for civilian employees at the Department of Defense shall be adjusted at the same rate, and in the same proportion, as are rates of compensation for members of the uniformed services.

"(4) To the maximum extent practicable, for fiscal years 2004 through 2008, the overall amount allocated for compensation of the civilian employees of an organizational or functional unit of the Department of Defense that is included in the National Security Personnel System shall not be less than the amount that would have been allocated for compensation of such employees for such fiscal year if they had not been converted to the National Security Personnel System, based on, at a minimum—

"(A) the number and mix of employees in such organizational or functional unit prior to the conversion of such employees to the National Security Personnel System; and

"(B) adjusted for normal step increases and rates of promotion that would have been expected, had such employees remained in their previous pay schedule.

"(5) To the maximum extent practicable, the regulations implementing the National Security Personnel System shall provide a formula for calculating the overall amount to be allocated for fiscal years after fiscal year 2008 for compensation of the civilian employees of an organization or functional unit of the Department of Defense that is included in the National Security Personnel System. The formula shall ensure that in the aggregate, employees are not disadvantaged in terms of the overall amount of pay available as a result of conversion to the National Security Personnel System, while providing flexibility to accommodate changes in the function of the organization, changes in the mix of employees performing those functions, and other changed circumstances that might impact pay levels.

"(f) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—(1) In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of, employee representatives in the planning, development, and implementation of the National Security Personnel System, the Secretary and the Director shall provide for the following:

"(A) The Secretary and the Director shall, with respect to any proposed system—

"(i) provide to the employee representatives representing any employees who might be affected a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

"(ii) give such representatives at least 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

"(iii) give any recommendations received from such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

"(B) Following receipt of recommendations, if any, from such employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) notify Congress of those parts of the proposal, together with the recommendations of the employee representatives;

"(ii) meet and confer for not less than 30 calendar days with the employee representatives, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(iii) at the Secretary's option, or if requested by a majority of the employee representatives participating, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C)(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which the recommendations are accepted by the Secretary and the Director, may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary, in his discretion, determines that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts (including any modifications made in response to the recommendations as the Secretary determines advisable), but only after 30 days have elapsed after notifying Congress of the decision to implement the part or parts involved (as so modified, if applicable).

"(iii) The Secretary shall notify Congress promptly of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from the employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

"(D) If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

"(i) develop a method for the employee representatives to participate in any further planning or development which might become necessary; and

"(ii) give the employee representatives adequate access to information to make that participation productive.

"(2) The Secretary may, at the Secretary's discretion, engage in any and all collaboration activities described in this subsection at an organizational level above the level of exclusive recognition.

"(3) In the case of any employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary and the Director may develop procedures for representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of this subsection.

"(4) The procedures under this subsection are the exclusive procedures for the participation of employee representatives in the planning, development, implementation, or adjustment of the National Security Personnel System.

"(g) PROVISIONS REGARDING NATIONAL LEVEL BARGAINING.—(1) The National Security Personnel System implemented or modified under this chapter may include employees of the Department of Defense from any bargaining unit with respect to which a labor organization has been accorded exclusive recognition under chapter 71.

"(2) For any bargaining unit so included under paragraph (1), the Secretary may bargain with a labor organization at an organizational level above the level of exclusive recognition. The decision to bargain at a level above the level of exclusive recognition shall not be subject to review or to statutory third-party dispute resolution procedures outside the Department of Defense. Any such bargaining shall—

"(A) be binding on all subordinate bargaining units of the labor organization at the level of recognition and their exclusive representatives, and the Department of Defense and its subcomponents, without regard to levels of recognition;

"(B) supersede all other collective bargaining agreements of the labor organization, including collective bargaining agreements negotiated with an exclusive representative at the level of recognition, except as otherwise determined by the Secretary;

"(C) not be subject to further negotiations with the labor organizations for any purpose, including bargaining at the level of recognition, except as provided for by the Secretary; and

"(D) be subject to review by an independent third party only to the extent provided and pursuant to procedures established under paragraph (6) of subsection (m).

"(3) The National Guard Bureau and the Army and Air Force National Guard are excluded from coverage under this subsection.

"(4) Any bargaining completed pursuant to this subsection with a labor organization not otherwise having national consultation rights with the Department of Defense or its subcomponents shall not create any obligation on the Department of Defense or its subcomponents to confer national consultation rights on such a labor organization.

"(h) PROVISIONS RELATING TO APPELLATE PROCEDURES.—(1) The Secretary—

"(A) may establish an appeals process that provides employees of the Department of Defense organizational and functional units that are included in the National Security Personnel System fair treatment in any appeals that they bring in decisions relating to their employment; and

"(B) shall in prescribing regulations for any such appeals process—

"(i) ensure that employees in the National Security Personnel System are afforded the protections of due process; and

"(ii) toward that end, be required to consult with the Merit Systems Protection Board before issuing any such regulations.

"(2) Regulations implementing the appeals process may establish legal standards and procedures for personnel actions, including standards for applicable relief, to be taken on the basis of employee misconduct or performance that fails to meet expectations. Such standards shall be consistent with the public employment principles of merit and fitness set forth in section 2301.

"(3) Legal standards and precedents applied before the effective date of this section by the Merit Systems Protection Board and the courts under chapters 43, 75, and 77 of this title shall apply to employees of organizational and functional units included in the National Security Personnel System, unless such standards and precedents are inconsistent with legal standards established under this subsection.

"(4) An employee who—

"(A) is removed, suspended for more than 14 days, furloughed for 30 days or less, reduced in pay, or reduced in pay band (or comparable reduction) by a final decision under the appeals process established under paragraph (1);

"(B) is not serving under probationary period as defined under regulations established under paragraph (2); and

"(C) would otherwise be eligible to appeal a performance-based or adverse action under chapter 43 or 75, as applicable, to the Merit Systems Protection Board,

shall have the right to petition the full Merit Systems Protection Board for review of the record of that decision pursuant to regulations established under paragraph (2). The Board may dismiss any petition that, in the view of the Board, does not raise substantial questions of fact or law. No personnel action shall be stayed and no interim relief shall be granted during the pendency of the Board's review unless specifically ordered by the Board.

"(5) The Board may order such corrective action as the Board considers appropriate only if the Board determines that the decision was—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) obtained without procedures required by law, rule, or regulation having been followed; or

"(C) unsupported by substantial evidence.

"(6) An employee who is adversely affected by a final order or decision of the Board may obtain judicial review of the order or decision as provided in section 7703. The Secretary of Defense, after notifying the Director, may obtain judicial review of any final order or decision of the Board under the same terms and conditions as provided an employee.

"(7) Nothing in this subsection shall be construed to authorize the waiver of any provision of law, including an appeals provision providing a right or remedy under section 2302(b) (1), (8) or (9), that is not otherwise waivable under subsection (a).

"(8) The right of an employee to petition the Merit Systems Protection Board of the Department's final decision on an action covered by paragraph (4) of this subsection, and the right of the Merit Systems Protection Board to review such action or to order corrective action pursuant to paragraph (5), is provisional for 7 years after the date of the enactment of this chapter, and shall become permanent unless Congress acts to revise such provisions.

"(i) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

"(2)(A) The Secretary may not authorize the payment of voluntary separation incentive pay under paragraph (1) to more than 25,000 employees in any fiscal year, except that employees who receive voluntary separation incentive pay as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) shall not be included in that number.

"(B) The Secretary shall prepare a report each fiscal year setting forth the number of employees who received such pay as a result of a closure or realignment of a military base as described under subparagraph (A).

"(C) The Secretary shall submit the report under subparagraph (B) to the Committee on Armed Services and the Committee on Governmental Affairs of the Senate, and the Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

"(3) For purposes of this section, the term 'employee' means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

"(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84, or another retirement system for employees of the Federal Government;

"(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A); or

"(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

"(4) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved.

"(5)(A) Separation pay shall be paid in a lump sum or in installments and shall be equal to the lesser of—

"(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c), if the employee were entitled to payment under such section; or

"(ii) $25,000.

"(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595, based on any other separation.

"(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (6).

"(6)(A) An employee who receives separation pay under such program may not be reemployed by the Department of Defense for a 12-month period beginning on the effective date of the employee's separation, unless this prohibition is waived by the Secretary on a case-by-case basis.

"(B) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–236; 108 Stat. 111) and accepts employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

"(7) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

"(j) Provisions Relating to Reemployment.—If an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Department of Defense, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

"(k) Additional Provisions Relating to Personnel Management.—(1) Notwithstanding subsection (d), the Secretary of Defense, in establishing and implementing the National Security Personnel System under subsection (a), shall not be limited by any provision of this title or any rule or regulation prescribed under this title in establishing and implementing regulations relating to—

"(A) the methods of establishing qualification requirements for, recruitment for, dnd appointments to positions;

"(B) the methods of assigning, reassigning, detailing, transferring, or promoting employees; and

"(C) the methods of reducing overall agency staff and grade levels, except that performance, veterans' preference, tenure of employment, length of service, and such other factors as the Secretary considers necessary and appropriate shall be considered in decisions to realign or reorganize the Department's workforce.

"(2) In implementing this subsection, the Secretary shall comply with the provisions of section 2302(b)(11), regarding veterans' preference requirements, as provided for in subsection (b)(3).

"(l) Phase-In.—The Secretary may apply the National Security Personnel System—

"(1) to an organizational or functional unit that includes up to 300,000 civilian employees of the Department of Defense, without having to make a determination described in paragraph (2); and

"(2) to an organizational or functional unit that includes more than 300,000 civilian employees of the Department of Defense, if the Secretary determines in accordance with subsection (a) that the Department has in place a performance management system that meets the criteria specified in subsection (b).

"(m) Labor Management Relations in the Department of Defense.—(1) Notwithstanding section 9902(d)(2), the Secretary, together with the Director, may establish and from time to time adjust a labor relations system for the Department of Defense to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission.

"(2) The system developed or adjusted under paragraph (1) would allow for a collaborative issue-based approach to labor management relations.

"(3) In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of, employee representatives in the development and implementation of the labor management relations system or adjustments to such system under this section, the Secretary shall provide for the following:

"(A) The Secretary and the Director shall, with respect to any proposed system or adjustment—

"(i) afford employee representatives and management the opportunity to have meaningful discussions concerning the development of the new system;

"(ii) give such representatives at least 30 calendar days (unless extraordinary circumstances require earlier action) to review the proposal for the system and make recommendations with respect to it; and

"(iii) give any recommendations received from such representatives under clause (ii) full and fair consideration.

"(B) Following receipt of recommendations, if any, from such employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as are determined advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

"(i) meet and confer for not less than 30 calendar days with the employee representatives, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

"(ii) at the Secretary's option, or if requested by a majority of the employee representatives participating, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

"(C)(i) Any part of the proposal described in subparagraph (A) as to which employee representatives do not make a recommendation, or as to which the recommendations are accepted under subparagraph (B), may be implemented immediately.

"(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted, at any time after 30 calendar days have elapsed since the consultation and mediation procedures set forth in subparagraph (B), if the Secretary, in his discretion, determines that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts (including any modifications made in response to the recommendations as the Secretary determines advisable), but only after 30 days have elapsed after notifying Congress of the decision to implement the part or parts involved (as so modified, if applicable).

"(D) The process for collaborating with employee representatives provided for under this subsection shall begin no later than 60 calendar days after the date of enactment of this subsection.

"(4) The Secretary may engage in any and all collaboration activities described in this subsection at an organizational level above the level of exclusive recognition.

"(5) The system developed or adjusted under this subsection may incorporate the authority to *bargain at a level above the level of exclusion recognition provided for in subsection (g) of this section, but may not abrogate or modify the authority provided for in that subsection. Notwithstanding this subsection, the Secretary may, at his discretion, implement the authority in subsection (g) immediately upon enactment of this subsection.*

"(6) The labor relations system developed or adjusted under this subsection shall provide for independent third party review of decisions, including defining what decisions are reviewable by the third party, what third party would conduct the review, and the standard or standards for that review.

"(7) Nothing in this section, including the authority provided to waive, modify, or otherwise affect provisions of law not listed in subsections (b) and (c) as nonwaivable, shall be construed to expand the scope of bargaining under chapter 71 or this subsection with respect to any provision of this title that may be waived, modified, or otherwise affected under this section.

"(8) The labor relations system developed or adjusted under this subsection shall be binding on all bargaining units within the Department of Defense, all employee representatives of such units, and the Department of Defense and its subcomponents, and shall supersede all other collective bargaining agreements for bargaining units in the Department of Defense, including collective bargaining agreements negotiated with employee representatives at the level of recognition, except as otherwise determined by the Secretary.

"(9) Unless it is extended or otherwise provided for in law, the authority to establish, implement and adjust the labor relations system developed under this subsection shall expire six years after the date of enactment of this subsection, at which time the provisions of chapter 71 will apply.

"§9903. Attracting highly qualified experts

"(a) IN GENERAL.—The Secretary may carry out a program using the authority provided in subsection (b) in order to attract highly qualified experts in needed occupations, as determined by the Secretary.

"(b) AUTHORITY.—Under the program, the Secretary may—

"(1) appoint personnel from outside the civil service and uniformed services (as such terms are defined in section 2101) to positions in the Department of Defense without regard to any provision of this title governing the appointment of employees to positions in the Department of Defense;

"(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376, as increased by locality-based comparability payments under section 5304, notwithstanding any provision of this title governing the rates of pay or classification of employees in the executive branch; and

"(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limits applicable to the employee under subsection (d).

"(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Except as provided in paragraph (2), the service of an employee under an appointment made pursuant to this section may not exceed 5 years.

"(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to 1 additional year if the Secretary determines that such action is necessary to promote the Department of Defense's national security missions.

"(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The total amount of the additional payments paid to an employee under this section for any 12-month period may not exceed the lesser of the following amounts:

"(A) $50,000 in fiscal year 2004, which may be adjusted annually thereafter by the Secretary, with a percentage increase equal to one-half of 1 percentage point less than the percentage by which the Employment Cost Index, published quarterly by the Bureau of Labor Statistics, for the base quarter of the year before the preceding calendar year exceeds the Employment Cost Index for the base quarter of the second year before the preceding calendar year.

"(B) The amount equal to 50 percent of the employee's annual rate of basic pay.

For purposes of this paragraph, the term 'base quarter' has the meaning given such term by section 5302(3).

"(2) An employee appointed under this section is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under this section.

"(3) Notwithstanding any other provision of this subsection or of section 5307, no additional payments may be paid to an employee under this section in any calendar year if, or to the extent that, the employee's total annual compensation will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

"(e) LIMITATION ON NUMBER OF HIGHLY QUALIFIED EXPERTS.—The number of highly qualified experts appointed and retained by the Secretary under subsection (b)(1) shall not exceed 2,500 at any time.

"(f) SAVINGS PROVISIONS.—In the event that the Secretary terminates this program, in the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under this section—

"(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

"(A) the period for which the employee was appointed; or

"(B) the period to which the employee's service is limited under subsection (c), including any extension made under this section before the termination of the program; and

"(2) the rate of basic pay prescribed for the position under this section may not be reduced as long as the employee continues to serve in the position without a break in service.

"§9904. Special pay and benefits for certain employees outside the United States

"The Secretary may provide to certain civilian employees of the Department of Defense assigned to activities outside the United States as determined by the Secretary to be in support of Department of Defense activities abroad hazardous to life or health or so specialized because of security requirements as to be clearly distinguishable from normal Government employment—

"(1) allowances and benefits—

"(A) comparable to those provided by the Secretary of State to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (Public Law 96–465, 22 U.S.C. 4081 et seq.) or any other provision of law; or

"(B) comparable to those provided by the Director of Central Intelligence to personnel of the Central Intelligence Agency; and

"(2) special retirement accrual benefits and disability in the same manner provided for by the Central Intelligence Agency Retirement Act (50 U.S.C. 2001 et seq.) and in section 18 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403r).".

(2) The table of chapters for part III of such title is amended by adding at the end of subpart I the following new item:

"99. Department of Defense National Security Personnel System .... 9901".

(b) IMPACT ON DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL.—(1) Any exercise of authority under chapter 99 of such title (as added by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

(2) No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

Subtitle B—Department of Defense Civilian Personnel Generally

SEC. 1111. PILOT PROGRAM FOR IMPROVED CIVILIAN PERSONNEL MANAGEMENT.

(a) PILOT PROGRAM.—The Secretary of Defense may carry out a pilot program using an automated workforce management system to demonstrate improved efficiency in the performance of civilian personnel management. The automated workforce management system used for the pilot program shall be capable of automating the following workforce management functions:

(1) Job definition.

(2) Position management.

(3) Recruitment.

(4) Staffing.

(5) Performance management.

(b) AUTHORITIES UNDER PILOT PROGRAM.—Under the pilot program, the Secretary of Defense shall provide the Secretary of each military department with the authority for the following:

(1) To use an automated workforce management system for the civilian workforce of that military department to assess the potential of such a system to do the following:

(A) Substantially reduce hiring cycle times.

(B) Lower labor costs.

(C) Increase efficiency.

(D) Improve performance management.

(E) Provide better management reporting.

(F) Enable that system to make operational new personnel management flexibilities granted under the civilian personnel transformation program.

(2) Identify at least one regional civilian personnel center (or equivalent) in that military department for participation in the pilot program.

(c) DURATION OF PILOT PROGRAM.—The Secretary of Defense may carry out the pilot program under this section at each selected regional civilian personnel center for a period of two years beginning not later than March 1, 2004.

SEC. 1112. CLARIFICATION AND REVISION OF AUTHORITY FOR DEMONSTRATION PROJECT RELATING TO CERTAIN ACQUISITION PERSONNEL MANAGEMENT POLICIES AND PROCEDURES.

Section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (10 U.S.C. 1701 note) is amended—

(1) in subsection (b), by striking paragraph (3) and inserting the following:

"(3) CONDITIONS.—Paragraph (2) shall not apply with respect to a demonstration project unless—

"(A) for each organization or team participating in the demonstration project—

"(i) at least one-third of the workforce participating in the demonstration project consists of members of the acquisition workforce; and

"(ii) at least two-thirds of the workforce participating in the demonstration project consists of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; and

"(B) the demonstration project commences before October 1, 2007.";

(2) in subsection (d), by striking "95,000" and inserting "120,000";

(3) by redesignating subsection (e) as subsection (f); and

(4) by inserting after subsection (d) the following:

"(e) Effect of Reorganizations.—The applicability of paragraph (2) of subsection (b) to an organization or team shall not terminate by reason that the organization or team, after having satisfied the conditions in paragraph (3) of such subsection when it began to participate in a demonstration project under this section, ceases to meet one or both of the conditions set forth in subparagraph (A) of such paragraph (3) as a result of a reorganization, restructuring, realignment, consolidation, or other organizational change.".

SEC. 1113. MILITARY LEAVE FOR MOBILIZED FEDERAL CIVILIAN EMPLOYEES.

(a) In General.—Subsection (b) of section 6323 of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and at the end of clause (ii), as so redesignated, by inserting "or"; and

(B) by inserting "(A)" after "(2)"; and

(2) by inserting the following before the text beginning with "is entitled":

"(B) performs full-time military service as a result of a call or order to active duty in support of a contingency operation as defined in section 101(a)(13) of title 10;".

(b) Effective Date.—The amendments made by subsection (a) shall apply to military service performed on or after the date of the enactment of this Act.

SEC. 1114. RESTORATION OF ANNUAL LEAVE FOR CERTAIN DEPARTMENT OF DEFENSE EMPLOYEES.

(a) Restoration of Annual Leave.—During the period October 1, 1992, through December 31, 1997, all employees transferring from a closing or realigning Department of Defense installation or activity as defined under section 6304(d)(3) of title 5, United States Code, to another Department of Defense installation or activity—

(1) may be deemed eligible by the Secretary of Defense for automatic restoration of forfeited annual leave under section 6304(d)(3) of title 5, United States Code, during the year of transfer; and

(2) may be deemed by the Secretary of Defense to have used all forfeited annual leave properly restored under section 6304(d)(3) of title 5, United States Code, within the appropriate time limits, only if such restored annual leave was used by the employee or paid to the employee in the form of a lump sum payment under section 5551(a) of title 5, United States Code, by the last day of the 2001 leave year.

(b) Payment of Restored Annual Leave.—(1) On or after September 23, 1996, all employees transferring from a closing or realigning Department of Defense installation or activity as defined under section 6304(d)(3)(A) of title 5, United States Code, to another Department of Defense installation or activity who, upon transfer, were entitled to payment of a lump sum payment under section 5551(c) of title 5, United States Code, for forfeited annual leave properly restored under section 6304(d)(3) of title 5, United States Code—

(A) may be paid only for any such restored annual leave currently remaining to their credit at the hourly rate payable on the date of transfer with appropriate back pay interest; and

(B) shall be deemed paid for all such restored annual leave to which that employee was entitled to payment upon transfer, but subsequently used or was otherwise paid for upon separation.

(2) This subsection shall take effect on the date of the enactment of this Act.

SEC. 1115. AUTHORITY TO EMPLOY CIVILIAN FACULTY MEMBERS AT THE WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

Section 1595(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) The Western Hemisphere Institute for Security Cooperation.".

SEC. 1116. EXTENSION OF AUTHORITY FOR EXPERIMENTAL PERSONNEL PROGRAM FOR SCIENTIFIC AND TECHNICAL PERSONNEL.

(a) Extension of Program.—Subsection (e)(1) of section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2139; 5 U.S.C. 3104 note) is amended by striking "October 16, 2005" and inserting "September 30, 2008".

(b) Commensurate Extension of Requirement for Annual Report.—Subsection (g) of such section is amended by striking "2006" and inserting "2009".

Subtitle C—Other Federal Government Civilian Personnel Matters

SEC. 1121. MODIFICATION OF THE OVERTIME PAY CAP.

Section 5542(a)(2) of title 5, United States Code, is amended—

(1) by inserting "the greater of" before "one and one-half"; and

(2) by inserting "or the hourly rate of basic pay of the employee" after "law)" the second place it appears.

SEC. 1122. COMMON OCCUPATIONAL AND HEALTH STANDARDS FOR DIFFERENTIAL PAYMENTS AS A CONSEQUENCE OF EXPOSURE TO ASBESTOS.

(a) Prevailing Rate Systems.—Section 5343(c)(4) of title 5, United States Code, is amended by inserting before the semicolon at the end the following: ", and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970".

(b) General Schedule Pay Rates.—Section 5545(d) of such title is amended by inserting before the period at the end of the first sentence the following: ", and for any hardship or hazard related to asbestos, such differentials shall be determined by applying occupational safety and health standards consistent with the permissible exposure limit promulgated by the Secretary of Labor under the Occupational Safety and Health Act of 1970".

(c) Applicability.—Subject to any vested constitutional property rights, any administrative or judicial determination after the date of enactment of this Act concerning backpay for a differential established under sections 5343(c)(4) or 5545(d) of such title shall be based on occupational safety and health standards described in the amendments made by subsections (a) and (b).

SEC. 1123. INCREASE IN ANNUAL STUDENT LOAN REPAYMENT AUTHORITY.

(a) Increase.—Section 5379(b)(2)(A) of title 5, United States Code, is amended by striking "$6,000" and inserting "$10,000".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 2004.

SEC. 1124. AUTHORIZATION FOR CABINET SECRETARIES, SECRETARIES OF MILITARY DEPARTMENTS, AND HEADS OF EXECUTIVE AGENCIES TO BE PAID ON A BIWEEKLY BASIS.

(a) Authorization.—Section 5504 of title 5, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by striking the last sentence of both subsection (a) and subsection (b); and

(3) by inserting after subsection (b) the following:

"(c) For the purposes of this section:

"(1) The term 'employee' means—

"(A) an employee in or under an Executive agency;

"(B) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

"(C) an individual employed by the government of the District of Columbia.

"(2) The term 'employee' does not include—

"(A) an employee on the Isthmus of Panama in the service of the Panama Canal Commission; or

"(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title other than an employee or individual excluded by clauses (ii), (iii), and (xiv) through (xvii) of such section.

"(3) Notwithstanding paragraph (2); an individual who otherwise would be excluded from the definition of employee shall be deemed to be an employee for purposes of this section if the individual's employing agency so elects, under guidelines in regulations promulgated by the Office of Personnel Management under subsection (d)(2).".

(b) Guidelines.—Subsection (d) of section 5504 of such title, as redesignated by subsection (a), is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) The Office of Personnel Management shall provide guidelines by regulation for exemptions to be made by the heads of agencies under subsection (c)(3). Such guidelines shall provide for such exemptions only under exceptional circumstances.".

SEC. 1125. SENIOR EXECUTIVE SERVICE AND PERFORMANCE.

(a) Senior Executive Pay.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5304—

(A) in subsection (g)(2)—

(i) in subparagraph (A) by striking "subparagraphs (A)–(E)" and inserting "subparagraphs (A)–(D)"; and

(ii) in subparagraph (B) by striking "subsection (h)(1)(F)" and inserting "subsection (h)(1)(D)";

(B) in subsection (h)(1)—

(i) by striking subparagraphs (B) and (C);

(ii) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (B), (C), and (D), respectively;

(iii) in clause (ii) by striking "or" at the end;

(iv) in clause (iii) by striking the period and inserting a semicolon; and

(v) by adding at the end the following new clauses:

"(iv) a Senior Executive Service position under section 3132;

"(v) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151; or

"(vi) a position in a system equivalent to the system in clause (iv), as determined by the President's Pay Agent designated under subsection (d)."; and

(C) in subsection (h)(2)(B)—

(i) in clause (i)—

(I) by striking "subparagraphs (A) through (E)" and inserting "subparagraphs (A) through (C)"; and

(II) by striking "clause (i) or (ii)" and inserting "clause (i), (ii), (iii), (iv), (v), or (vii)"; and

(ii) in clause (ii)—

(I) by striking "paragraph (1)(F)" and inserting "paragraph (1)(D)"; and

(II) by striking "clause (i) or (ii)" and inserting "clause (i), (ii), (iii), (iv), (v), or (vi)";

(2) by amending section 5382 to read as follows:

"§5382. Establishment of rates of pay for the Senior Executive Service

"(a) Subject to regulations prescribed by the Office of Personnel Management, there shall be established a range of rates of basic pay for the Senior Executive Service, and each senior executive shall be paid at one of the rates within the range, based on individual performance, contribution to the agency's performance, or both, as determined under a rigorous performance management system. The lowest rate of the range shall not be less than the minimum rate of basic pay payable under section 5376, and the highest rate, for any position under this system or an equivalent system as determined by the President's Pay Agent designated under section 5304(d), shall not exceed the rate for level III of the Executive Schedule. The payment of the rates shall not be subject to the pay limitation of section 5306(e) or 5373.

"(b) Notwithstanding the provisions of subsection (a), the applicable maximum shall be level II of the Executive Schedule for any agency that is certified under section 5307 as having a performance appraisal system which, as designed and applied, makes meaningful distinctions based on relative performance.

"(c) No employee may suffer a reduction in pay by reason of transfer from an agency with an applicable maximum rate of pay prescribed under subsection (b) to an agency with an applicable maximum rate of pay prescribed under subsection (a)."; and

(3) in section 5383—

(A) in subsection (a) by striking "which of the rates established under section 5382 of this title" and inserting "which of the rates within a range established under section 5382"; and

(B) in subsection (c) by striking "for any pay adjustment under section 5382 of this title" and inserting "as provided in regulations prescribed by the Office under section 5385".

(b) POST-EMPLOYMENT RESTRICTIONS.—(1) Clause (ii) of section 207(c)(2)(A) of title 18, United States Code is amended to read as follows:

"(ii) employed in a position which is not referred to in clause (i) and for which that person is paid at a rate of basic pay which is equal to or greater than 86.5 percent of the rate of basic pay for level II of the Executive Schedule, or, for a period of 2 years following the enactment of the National Defense Authorization Act for Fiscal Year 2004, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,".

(2) Subchapter I of chapter 73 of title 5, United States Code, is amended by inserting at the end the following new section:

"§7302. Post-employment notification

"(a) Not later than the effective date of the amendments made by section 1106 of the National Defense Authorization Act for Fiscal Year 2004, or 180 days after the date of enactment of that Act, whichever is later, the Office of Personnel Management shall, in consultation with the Attorney General and the Office of Government Ethics, promulgate regulations requiring that each Executive branch agency notify any employee of that agency who is subject to the provisions of section 207(c)(1) of title 18, as a result of the amendment to section 207(c)(2)(A)(ii) of that title by that Act.

"(b) The regulations shall require that notice be given before, or as part of, the action that affects the employee's coverage under section 207(c)(1) of title 18, by virtue of the provisions of section 207(c)(2)(A)(ii) of that title, and again when employment or service in the covered position is terminated.".

(3) The table of sections for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7301 the following:

"7302. Post-employment notification.".

(c) EFFECTIVE DATE AND APPLICABILITY.—(1) The amendments made by this section shall take effect on the first day of the first pay period beginning on or after the first January 1 following the date of enactment of this section.

(2) The amendments made by subsection (a) may not result in a reduction in the rate of basic pay for any senior executive during the first year after the effective date of those amendments.

(3) For the purposes of paragraph (2), the rate of basic pay for a senior executive shall be deemed to be the rate of basic pay set for the senior executive under section 5383 of title 5, United States Code, plus applicable locality pay paid to that senior executive, as of the date of enactment of this Act.

(4) Until otherwise provided by law, or except as otherwise provided by this section, any reference in a provision of law to a rate of basic pay that is above the minimum payable and below the maximum payable to a member of the Senior Executive Service shall be considered a reference to the rate of basic pay payable for level IV of the Executive Schedule.

SEC. 1126. DESIGN ELEMENTS OF PAY-FOR-PERFORMANCE SYSTEMS IN DEMONSTRATION PROJECTS.

A pay-for-performance system may not be initiated under chapter 47 of title 5, United States Code, after the date of enactment of this Act, unless it incorporates the following elements:

(1) Adherence to merit principles set forth in section 2301 of such title.

(2) A fair, credible, and transparent employee performance appraisal system.

(3) A link between elements of the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan.

(4) A means for ensuring employee involvement in the design and implementation of the system.

(5) Adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system.

(6) A process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review.

(7) Effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance.

(8) A means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system.

SEC. 1127. FEDERAL FLEXIBLE BENEFITS PLAN ADMINISTRATIVE COSTS.

(a) IN GENERAL.—Notwithstanding any other provision of law, an agency or other employing entity of the Government which provides or plans to provide a flexible spending account option for its employees shall not impose any fee with respect to any of its employees in order to defray the administrative costs associated therewith.

(b) OFFSET OF ADMINISTRATIVE COSTS.—Each such agency or employing entity that offers a flexible spending account option under a program established or administered by the Office of Personnel Management shall periodically forward to such Office, or entity designated by such Office, the amount necessary to offset the administrative costs of such program which are attributable to such agency.

(c) REPORTS.—(1) The Office shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate no later than March 31, 2004, specifying the administrative costs associated with the Governmentwide program (referred to in subsection (b)) for fiscal year 2003, as well as the projected administrative costs of such program for each of the 5 fiscal years thereafter.

(2) At the end of each of the first 3 calendar years in which an agency or other employing entity offers a flexible spending account option under this section, such agency or entity shall submit a report to the Office of Management and Budget showing the amount of its employment tax savings in such year which are attributable to such option, net of administrative fees paid under subsection (b).

SEC. 1128. EMPLOYEE SURVEYS.

(a) IN GENERAL.—Each agency shall conduct an annual survey of its employees (including survey questions unique to the agency and questions prescribed under subsection (b)) to assess—

(1) leadership and management practices that contribute to agency performance; and

(2) employee satisfaction with—

(A) leadership policies and practices;

(B) work environment;

(C) rewards and recognition for professional accomplishment and personal contributions to achieving organizational mission;

(D) opportunity for professional development and growth; and

(E) opportunity to contribute to achieving organizational mission.

(b) REGULATIONS.—The Office of Personnel Management shall issue regulations prescribing survey questions that should appear on all agency surveys under subsection (a) in order to allow a comparison across agencies.

(c) AVAILABILITY OF RESULTS.—The results of the agency surveys under subsection (a) shall be made available to the public and posted on the website of the agency involved, unless the head of such agency determines that doing so would jeopardize or negatively impact national security.

(d) AGENCY DEFINED.—For purposes of this section, the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code).

SEC. 1129. HUMAN CAPITAL PERFORMANCE FUND.

(a) IN GENERAL.—Subpart D of part III of title 5, United States Code, is amended by inserting after chapter 53 the following:

"CHAPTER 54—HUMAN CAPITAL PERFORMANCE FUND

"Sec.
"5401. Purpose.
"5402. Definitions.
"5403. Human Capital Performance Fund.
"5404. Human capital performance payments.
"5405. Regulations.
"5406. Agency plan.
"5407. Nature of payment.
"5408. Appropriations.

"§5401. Purpose

"The purpose of this chapter is to promote, through the creation of a Human Capital Performance Fund, greater performance in the Federal Government. Monies from the Fund will be used to reward agencies' highest performing and most valuable employees. This Fund will offer Federal managers a new tool to recognize employee performance that is critical to the achievement of agency missions.

“§5402. Definitions

“For the purpose of this chapter—

“(1) ‘agency’ means an Executive agency under section 105, but does not include the General Accounting Office;

“(2) ‘employee’ includes—

“(A) an individual paid under a statutory pay system defined in section 5302(1);

“(B) a prevailing rate employee, as defined in section 5342(a)(2); and

“(C) a category of employees included by the Office of Personnel Management following the review of an agency plan under section 5403(b)(1);

but does not include—

“(i) an individual paid at an annual rate of basic pay for a level of the Executive Schedule, under subchapter II of chapter 53, or at a rate provided for one of those levels under another provision of law;

“(ii) a member of the Senior Executive Service paid under subchapter VIII of chapter 53, or an equivalent system;

“(iii) an administrative law judge paid under section 5372;

“(iv) a contract appeals board member paid under section 5372a;

“(v) an administrative appeals judge paid under section 5372b; and

“(vi) an individual in a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; and

“(3) ‘Office’ means the Office of Personnel Management.

“§5403. Human Capital Performance Fund

“(a) There is hereby established the Human Capital Performance Fund, to be administered by the Office for the purpose of this chapter.

“(b)(1)(A) An agency shall submit a plan as described in section 5406 to be eligible for consideration by the Office for an allocation under this section. An allocation shall be made only upon approval by the Office of an agency's plan.

“(B)(i) After the reduction for training required under section 5408, ninety percent of the remaining amount appropriated to the Fund may be allocated by the Office to the agencies. Of the amount to be allocated, an agency's pro rata distribution may not exceed its pro rata share of Executive branch payroll.

“(ii) If the Office does not allocate an agency's full pro rata share, the undistributed amount remaining from that share will become available for distribution to other agencies, as provided in subparagraph (C).

“(C)(i) After the reduction for training under section 5408, ten percent of the remaining amount appropriated to the Fund, as well as the amount of the pro rata share not distributed because of an agency's failure to submit a satisfactory plan, shall be allocated among agencies with exceptionally high-quality plans.

“(ii) An agency with an exceptionally high-quality plan is eligible to receive an additional distribution in addition to its full pro rata distribution.

“(2) Each agency is required to provide to the Office such payroll information as the Office specifies necessary to determine the Executive branch payroll.

“§5404. Human capital performance payments

“(a)(1) Notwithstanding any other provision of law, the Office may authorize an agency to provide human capital performance payments to individual employees based on exceptional performance contributing to the achievement of the agency mission.

“(2) The number of employees in an agency receiving payments from the Fund, in any year, shall not be more than the number equal to 15 percent of the agency's average total civilian full- and part-time permanent employment for the previous fiscal year.

“(b)(1) A human capital performance payment provided to an individual employee from the Fund, in any year, shall not exceed 10 percent of the employee's rate of basic pay.

“(2) The aggregate of an employee's rate of basic pay, adjusted by any locality-based comparability payments, and human capital performance pay, as defined by regulation, may not exceed the rate of basic pay for Executive Level IV in any year.

“(3) Any human capital performance payment provided to an employee from the Fund is in addition to any annual pay adjustment (under section 5303 or any similar provision of law) and any locality-based comparability payment that may apply.

“(c) No monies from the Human Capital Performance Fund may be used to pay for a new position, for other performance-related payments, or for recruitment or retention incentives paid under sections 5753 and 5754.

“(d)(1) An agency may finance initial human capital performance payments using monies from the Human Capital Performance Fund, as available.

“(2) In subsequent years, continuation of previously awarded human capital performance payments shall be financed from other agency funds available for salaries and expenses.

“§5405. Regulations

“The Office shall issue such regulations as it determines to be necessary for the administration of this chapter, including the administration of the Fund. The Office's regulations shall include criteria governing—

“(1) an agency plan under section 5406;

“(2) the allocation of monies from the Fund to agencies;

“(3) the nature, extent, duration, and adjustment of, and approval processes for, payments to individual employees under this chapter;

“(4) the relationship to this chapter of agency performance management systems;

“(5) training of supervisors, managers, and other individuals involved in the process of making performance distinctions; and

“(6) the circumstances under which funds may be allocated by the Office to an agency in amounts below or in excess of the agency's pro rata share.

“§5406. Agency plan

“(a) To be eligible for consideration by the Office for an allocation under this section, an agency shall—

“(1) develop a plan that incorporates the following elements:

“(A) adherence to merit principles set forth in section 2301;

“(B) a fair, credible, and transparent employee performance appraisal system;

“(C) a link between the pay-for-performance system, the employee performance appraisal system, and the agency's strategic plan;

“(D) a means for ensuring employee involvement in the design and implementation of the system;

“(E) adequate training and retraining for supervisors, managers, and employees in the implementation and operation of the pay-for-performance system;

“(F) a process for ensuring ongoing performance feedback and dialogue between supervisors, managers, and employees throughout the appraisal period, and setting timetables for review;

“(G) effective safeguards to ensure that the management of the system is fair and equitable and based on employee performance; and

“(H) a means for ensuring that adequate agency resources are allocated for the design, implementation, and administration of the pay-for-performance system;

“(2) upon approval, receive an allocation of funding from the Office;

“(3) make payments to individual employees in accordance with the agency's approved plan; and

“(4) provide such information to the Office regarding payments made and use of funds received under this section as the Office may specify.

“(b) The Office, in consultation with the Chief Human Capital Officers Council, shall review and approve an agency's plan before the agency is eligible to receive an allocation of funding from the Office.

“(c) The Chief Human Capital Officers Council shall include in its annual report to Congress under section 1303(d) of the Homeland Security Act of 2002 an evaluation of the formulation and implementation of agency performance management systems.

“§5407. Nature of payment

“Any payment to an employee under this section shall be part of the employee's basic pay for the purposes of subchapter III of chapter 83, and chapters 84 and 87, and for such other purposes (other than chapter 75) as the Office shall determine by regulation.

“§5408. Appropriations

“There is authorized to be appropriated $500,000,000 for fiscal year 2004, and, for each subsequent fiscal year, such sums as may be necessary to carry out the provisions of this chapter. In the first year of implementation, up to 10 percent of the amount appropriated to the Fund shall be available to participating agencies to train supervisors, managers, and other individuals involved in the appraisal process on using performance management systems to make meaningful distinctions in employee performance and on the use of the Fund.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 53 the following:

“54. Human Capital Performance Fund ... 5401”.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq

Sec. 1201. Medical assistance to Iraqi children injured during Operation Iraqi Freedom.
Sec. 1202. Report on the conduct of Operation Iraqi Freedom.
Sec. 1203. Report on Department of Defense security and reconstruction activities in Iraq.
Sec. 1204. Report on acquisition by Iraq of advanced weapons.
Sec. 1205. Sense of Congress on use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq.

Subtitle B—Matters Relating to Export Protections

Sec. 1211. Review of export protections for military superiority resources.
Sec. 1212. Report on Department of Defense costs relating to national security controls on satellite exports.

Subtitle C—Administrative Requirements and Authorities

Sec. 1221. Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.
Sec. 1222. Recognition of superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals.

Sec. 1223. Expansion of authority to waive charges for costs of attendance at George C. Marshall European Center for Security Studies.
Sec. 1224. Authority for check cashing and currency exchange services to be provided to foreign military members participating in certain activities with United States forces.
Sec. 1225. Depot maintenance and repair work on certain types of trainer aircraft to be transferred to foreign countries as excess aircraft.

Subtitle D—Other Reports and Sense of Congress Statements

Sec. 1231. Annual report on the NATO Prague Capabilities Commitment and the NATO Response Force.
Sec. 1232. Report on actions that could be taken regarding countries that initiate certain legal actions against United States officials or members of the Armed Forces.
Sec. 1233. Sense of Congress on redeployment of United States forces in Europe.
Sec. 1234. Sense of Congress concerning Navy port calls in Israel.

Subtitle A—Matters Relating to Iraq

SEC. 1201. MEDICAL ASSISTANCE TO IRAQI CHILDREN INJURED DURING OPERATION IRAQI FREEDOM.

(a) Assistance.—Subject to subsections (c) and (d), the Secretary of Defense shall, to the maximum extent practicable, provide all necessary health care and related support to provide needed medical assistance to Iraqi children who, as determined by the Secretary of Defense, were injured during and as a result of Operation Iraqi Freedom. Such assistance shall be provided in an expeditious manner.

(b) Related Support.—Related support under subsection (a) includes transportation on aeromedical evacuation aircraft of the Department of Defense on a space-available basis.

(c) Limitations Relating to Medical Care.—Assistance may be provided to a child under subsection (a)—

(1) only if adequate treatment from other sources in Iraq or neighboring countries is not available; and

(2) only after completion of an evaluation by a physician or other appropriate medical personnel of the United States Armed Forces.

(d) Limitation Relating to United States Military Operations.—Assistance may be provided to a child under subsection (a) only if the provision of such assistance would not adversely affect military operations of the United States.

SEC. 1202. REPORT ON THE CONDUCT OF OPERATION IRAQI FREEDOM.

(a) Report Required.—(1) Not later than March 31, 2004, the Secretary of Defense shall submit to the congressional defense committees and the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report on the preparation for and conduct of military operations under Operation Iraqi Freedom from March 19, 2003, to May 1, 2003.

(2) The report shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, and such other officers and officials as the Secretary considers appropriate.

(b) Content.—The report shall include a discussion, with a particular emphasis on accomplishments and shortcomings and on near-term and long-term corrective actions to address those shortcomings, of the following:

(1) The military objectives of the international coalition conducting Operation Iraqi Freedom, the military strategy selected to achieve the objectives, and an assessment of the execution of the military strategy.

(2) The deployment process, including the adaptability of the process to unforeseen contingencies and changing requirements.

(3) The effectiveness of the reserve component forces used in Operation Iraqi Freedom, including the reserve component mobilization process, the timeliness of mobilization notification, training, operational effectiveness in theater, and subsequent demobilization.

(4) The use and performance of major items of United States military equipment, weapon systems, and munitions (including items classified under special access procedures and items drawn from prepositioned stocks) and any expected effects of the experience with the use and performance of those items on the doctrinal and tactical employment of such items and on plans for continuing the acquisition of such items.

(5) The effectiveness of joint air operations, including the doctrine for the employment of close air support in the varied environments of Operation Iraqi Freedom, and the effectiveness of attack helicopter operations.

(6) The use of special operations forces, including operational and intelligence uses classified under special access procedures.

(7) The scope of logistics support, including support from other nations.

(8) The incidence of accidental fratricide, together with a discussion of the effectiveness of the tracking of friendly forces and of the combat identification systems in mitigating friendly fire incidents.

(9) The adequacy of spectrum and bandwidth to transmit all necessary information to operational forces and assets, including unmanned aerial vehicles, ground vehicles, and individual soldiers.

(10) The effectiveness of information operations, including the effectiveness of Commando Solo and other psychological operations assets, in achieving established objectives, together with a description of technological and other restrictions on the use of psychological operations capabilities.

(11) The adequacy of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs and the Joint Military Intelligence Program (JMIP), as well as the adequacy of such support to facilitate searches for weapons of mass destruction.

(12) The rapid insertion and integration, if any, of developmental but mission-essential equipment during all phases of the operation.

(13) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes (including new equipment, weapons systems, and munitions) and the probable effects that an implementation of those changes would have on current visions, goals, and plans for transformation of the Armed Forces and for joint and combined operations.

(14) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict.

(15) The policies and procedures relating to the media, including the use of embedded media.

(16) The results of a study, carried out by the Secretary of Defense, regarding the availability of family support services provided for the dependents of members of the National Guard and other reserve components of the Armed Forces who are called or ordered to active duty.

(17) The direct and indirect cost of military operations, including an assessment of the total incremental expenditures made by the Department of Defense as a result of Operation Iraqi Freedom.

(c) Forms of Report.—The report shall be submitted in unclassified form with a classified annex, if necessary.

SEC. 1203. REPORT ON DEPARTMENT OF DEFENSE SECURITY AND RECONSTRUCTION ACTIVITIES IN IRAQ.

(a) Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the security and reconstruction activities of the Department of Defense in Iraq.

(b) Report Elements.—The report shall discuss the range of infrastructure reconstruction, civil administration, humanitarian assistance, interim governance, and political development activities undertaken in Iraq by officials of the Department and by those civilians reporting to the Secretary of Defense and the missions undertaken in Iraq by United States military forces. In particular, the report shall include a discussion of the following:

(1) The evolution of the organizational structure of the civilian groups reporting to the Secretary, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, on issues of Iraqi administration and reconstruction and the factors influencing that evolution.

(2) The relationship of the Department of Defense with other United States departments and agencies involved in administration and reconstruction planning and execution in Iraq.

(3) The relationship of Department of Defense entities, including the Office of Reconstruction and Humanitarian Assistance and the Office of the Coalition Provisional Authority, with intergovernmental and nongovernmental organizations contributing to the reconstruction and governance efforts.

(4) Progress made to the date of the report in—

(A) rebuilding Iraqi infrastructure;

(B) providing for the humanitarian needs of the Iraqi people;

(C) reconstituting the Iraqi governmental bureaucracy and its provision of services;

(D) developing mechanisms of fully transitioning Iraq to representative self-government; and

(E) recruiting, training, and fielding Iraqi police and military forces.

(5) Progress made to the date of the report by Department of Defense civilians and military personnel in accounting for any Iraqi weapons of mass destruction and associated weapons capabilities.

(6) Progress made to the date of the report by United States military personnel in providing security in Iraq and in transferring security functions to a reconstituted Iraqi police force and military.

(7) The Secretary's assessment of the scope of the ongoing needed commitment of United States military forces and of the remaining tasks to be completed by Department of Defense civilian personnel in the governance and reconstruction areas, including an estimate of the total expenditures the Department of Defense expects to make for security and reconstruction activities in Iraq.

(8) The Secretary's assessment of the effect that the United States military presence in Iraq will have on replacement and unit rotation policies, including the overall effect on global United States military deployments.

SEC. 1204. REPORT ON ACQUISITION BY IRAQ OF ADVANCED WEAPONS.

(a) Report.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives a report on the acquisition by

Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

(b) Matters To Be Included.—The report shall include the following:

(1) A description of any materials, technology, and know-how that Iraq was able to obtain for its nuclear, chemical, biological, ballistic missile, and unmanned aerial vehicle programs, and advanced conventional weapons programs, from 1979 through April 2003 from entities (including Iraqi citizens) outside of Iraq, as well as a description of how Iraq obtained these capabilities from those entities.

(2) An assessment of the degree to which United States, foreign, and multilateral export control regimes prevented acquisition by Iraq of weapons of mass destruction-related technology and materials and advanced conventional weapons and delivery systems since the commencement of international inspections in Iraq.

(3) An assessment of the effectiveness of United Nations sanctions at halting the flow of militarily-useful contraband to Iraq from 1991 until the end of Operation Iraqi Freedom.

(4) An assessment of how Iraq was able to evade International Atomic Energy Agency and United Nations inspections regarding chemical, nuclear, biological, and missile weapons and related capabilities.

(5) Identification and a catalog of the entities and countries that transferred militarily useful contraband and items described pursuant to paragraph (1) to Iraq between 1991 and the end of major combat operations of Operation Iraqi Freedom on May 1, 2003, and the nature of that contraband and of those items.

(c) Form of Report.—The report shall be submitted in unclassified form with a classified annex, if necessary.

SEC. 1205. SENSE OF CONGRESS ON USE OF SMALL BUSINESSES, MINORITY-OWNED BUSINESSES, AND WOMEN-OWNED BUSINESSES IN EFFORTS TO REBUILD IRAQ.

It is the sense of Congress that the Secretary of Defense should ensure that outreach procedures are in place to provide information to small businesses, minority-owned businesses, and women-owned businesses regarding Department of Defense requirements and contract opportunities for the rebuilding of Iraq.

Subtitle B—Matters Relating to Export Protections

SEC. 1211. REVIEW OF EXPORT PROTECTIONS FOR MILITARY SUPERIORITY RESOURCES.

(a) Review Required.—The Secretary of Defense shall carry out a review—

(1) to identify goods or technology (as defined in section 16 of the Export Administration Act of 1979 (50 U.S.C. App. 2415)) that, if obtained by a potential adversary, could significantly undermine the military superiority or qualitative military advantage of the United States over potential adversaries or otherwise contribute to the acquisition of weapons of mass destruction and their delivery systems; and

(2) to determine whether any of the items or technologies identified under paragraph (1) are not currently controlled for export purposes on either the Commerce Control List or the United States Munitions List.

(b) Annual Reports.—(1) Not later than March 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives an unclassified report, with a classified annex as necessary, on the results of the review under subsection (a).

(2) For each of the next two years after the submission of the report under paragraph (1), the Secretary shall submit to those committees an update on that report. Such updates shall be submitted not later than March 1, 2005, and not later than March 1, 2006.

SEC. 1212. REPORT ON DEPARTMENT OF DEFENSE COSTS RELATING TO NATIONAL SECURITY CONTROLS ON SATELLITE EXPORTS.

(a) Study.—The Inspector General of the Department of Defense shall conduct a study of the costs incurred by the Department of Defense for each fiscal year from fiscal year 1999 through fiscal year 2003 relating to national security controls on satellite exports. As part of such study, the Inspector General shall identify for each such fiscal year the amounts expended by the Department of Defense (1) for the monitoring of launches of satellites and related items in a foreign country pursuant to section 1514 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 22 U.S.C. 2778 note), and (2) in connection with applications for licenses for the export of satellites and related items (as that term is defined in section 1516 of that Act).

(b) Report.—Not later than April 1, 2004, the Inspector General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the study under subsection (a). The report shall include the following:

(1) An identification and assessment of the costs referred to in subsection (a), shown in the aggregate and separately, by fiscal year and by clauses (1) and (2) of that subsection.

(2) A review of the costs referred to in clause (1) of subsection (a) for which the Department of Defense has been reimbursed by the person or entity receiving the satellite launch monitoring services involved, including the extent to which indirect costs were included in such reimbursement.

Subtitle C—Administrative Requirements and Authorities

SEC. 1221. AUTHORITY TO USE FUNDS FOR PAYMENT OF COSTS OF ATTENDANCE OF FOREIGN VISITORS UNDER REGIONAL DEFENSE COUNTERTERRORISM FELLOWSHIP PROGRAM.

(a) Authority To Use Funds.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program

"(a) Authority To Use Funds.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs.

"(b) Limitation.—The total amount of funds used under the authority in subsection (a) in any fiscal year may not exceed $20,000,000.

"(c) Annual Report.—Not later than December 1 of each year, the Secretary of Defense shall submit to Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:

"(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—

"(A) the countries of the foreign officers and officials for whom costs were paid; and

"(B) for each such country, the total amount of the costs paid.

"(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.

"(3) An assessment of the effectiveness of the Regional Defense Counterterrorism Fellowship Program in increasing the cooperation of the governments of foreign countries with the United States in the global war on terrorism.

"(4) A discussion of any actions being taken to improve the program.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2249c. Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program.".

(b) Notification of Congress.—Not later than December 1, 2003, the Secretary of Defense shall—

(1) prescribe the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and

(2) notify the congressional defense committees of the prescription of such regulations.

SEC. 1222. RECOGNITION OF SUPERIOR NONCOMBAT ACHIEVEMENTS OR PERFORMANCE BY MEMBERS OF FRIENDLY FOREIGN FORCES AND OTHER FOREIGN NATIONALS.

(a) Authority.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1051a the following new section:

"§1051b. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance

"(a) General Authority.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

"(b) Activities That May Be Recognized.—Activities that may be recognized under subsection (a) include superior achievement or performance that—

"(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

"(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

"(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

"(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

"(c) Limitation.—Expenditures for the purchase or production of mementos for award under this section may not exceed the minimal value in effect under section 7342(a)(5) of title 5.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051a the following new item:

"1051b. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance.".

SEC. 1223. EXPANSION OF AUTHORITY TO WAIVE CHARGES FOR COSTS OF ATTENDANCE AT GEORGE C. MARSHALL EUROPEAN CENTER FOR SECURITY STUDIES.

Section 1306(b)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892) is amended by striking "of cooperation partner states of the North Atlantic Council or the Partnership for Peace" and inserting "from states located in Europe or the territory of the former Soviet Union".

SEC. 1224. AUTHORITY FOR CHECK CASHING AND CURRENCY EXCHANGE SERVICES TO BE PROVIDED TO FOREIGN MILITARY MEMBERS PARTICIPATING IN CERTAIN ACTIVITIES WITH UNITED STATES FORCES.

(a) AUTHORITY.—Subsection (b) of section 3342 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(8) A member of the military forces of an allied or coalition nation who is participating in a combined operation, combined exercise, or combined humanitarian or peacekeeping mission with the Armed Forces of the United States, but—

"(A) only if—

"(i) such disbursing official action for members of the military forces of that nation is approved by the senior United States military commander assigned to that operation, exercise, or mission; and

"(ii) that nation has guaranteed payment for any deficiency resulting from such disbursing official action; and

"(B) in the case of negotiable instruments, only for a negotiable instrument drawn on a financial institution located in the United States or on a foreign branch of such an institution.".

(b) TECHNICAL AMENDMENTS.—That subsection is further amended—

(1) by striking "only for—" in the matter preceding paragraph (1) and inserting "only for the following:";

(2) by striking "an" at the beginning of paragraph (1) and inserting "An";

(3) by striking "personnel" in paragraphs (2) and (6) and inserting "Personnel";

(4) by striking "a" at the beginning of paragraphs (3), (4), (5), and (7) and inserting "A";

(5) by striking the semicolon at the end of paragraphs (1) through (5) and inserting a period;

(6) by striking "; or" at the end of paragraph (6) and inserting a period; and

(7) by striking "1752(1))" in paragraph (7) and inserting "1752(1)))".

SEC. 1225. DEPOT MAINTENANCE AND REPAIR WORK ON CERTAIN TYPES OF TRAINER AIRCRAFT TO BE TRANSFERRED TO FOREIGN COUNTRIES AS EXCESS AIRCRAFT.

(a) DEPOT MAINTENANCE AND REPAIR WORK BEFORE TRANSFER.—Before an excess trainer aircraft of a type specified in subsection (b) is transferred to a foreign country for the purpose of flight operations by that country, the Secretary of Defense shall make all reasonable efforts to ensure that the aircraft receives necessary depot maintenance and repair work and that such work is performed in the United States.

(b) COVERED TYPES OF AIRCRAFT.—Subsection (a) applies to the following types of trainer aircraft:

(1) T–2 Buckeye aircraft.

(2) T–37 Tweet aircraft.

(c) WORK TO BE PERFORMED AT NO COST TO DOD.—Any work referred to in subsection (a) shall be performed at no cost to the Department of Defense.

Subtitle D—Other Reports and Sense of Congress Statements

SEC. 1231. ANNUAL REPORT ON THE NATO PRAGUE CAPABILITIES COMMITMENT AND THE NATO RESPONSE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) At the meeting of the North Atlantic Council held in Prague in November 2002, the heads of states and governments of the North Atlantic Treaty Organization (NATO) launched a Prague Capabilities Commitment and decided to create a NATO Response Force.

(2) The Prague Capabilities Commitment is part of the continuing NATO effort to improve and develop new military capabilities for modern warfare in a high-threat environment. As part of this commitment, individual NATO allies have made firm and specific political commitments to improve their capabilities in the areas of—

(A) chemical, biological, radiological, and nuclear defense;

(B) intelligence, surveillance, and target acquisition;

(C) air-to-ground surveillance;

(D) command, control, and communications;

(E) combat effectiveness, including precision guided munitions and suppression of enemy air defenses;

(F) strategic air and sea lift;

(G) air-to-air refueling; and

(H) deployable combat support and combat service support units.

(3) The NATO Response Force is envisioned to be a technologically advanced, flexible, deployable, interoperable, and sustainable force that includes land, sea, and air elements ready to move quickly to wherever needed, as determined by the North Atlantic Council. The NATO Response Force is also intended to be a catalyst for focusing and promoting improvements in NATO's military capabilities. It is expected to have initial operational capability by October 2004, and full operational capability by October 2006.

(b) ANNUAL REPORT.—(1) Not later than January 31 of each year through 2008, the Secretary of Defense shall submit to the congressional committees specified in paragraph (5) a report, to be prepared in consultation with the Secretary of State, on implementation of the Prague Capabilities Commitment and development of the NATO Response Force by the member nations of the North Atlantic Treaty Organization (NATO).

(2) The annual report under this subsection shall include the following matters:

(A) A description of the actions taken by NATO as a whole and by each member nation of NATO other than the United States to further the Prague Capabilities Commitment, including any actions taken to improve capability shortfalls in the areas identified for improvement.

(B) A description of the actions taken by NATO as a whole and by each member nation of NATO, including the United States, to create the NATO Response Force.

(C) A discussion of the relationship between NATO's efforts to improve capabilities through the Prague Capabilities Commitment and those of the European Union to enhance European capabilities through the European Capabilities Action Plan, including the extent to which they are mutually reinforcing.

(D) A discussion of NATO decisionmaking on the implementation of the Prague Capabilities Commitment and the development of the NATO Response Force, including—

(i) an assessment of whether the Prague Capabilities Commitment and the NATO Response Force are the sole jurisdiction of the Defense Planning Committee, the North Atlantic Council, or the Military Committee;

(ii) a description of the circumstances which led to the defense, military, security, and nuclear decisions of NATO on matters such as the Prague Capabilities Commitment and the NATO Response Force being made in bodies other than the Defense Planning Committee;

(iii) a description of the extent to which any member that does not participate in the integrated military structure of NATO contributes to each of the component committees of NATO, including any and all committees relevant to the Prague Capabilities Commitment and the NATO Response Force;

(iv) a description of the extent to which any member that does not participate in the integrated military structure of NATO participates in deliberations and decisions of NATO on resource policy, contribution ceilings, infrastructure, force structure, modernization, threat assessments, training, exercises, deployments, and other issues related to the Prague Capabilities Commitment or the NATO Response Force;

(v) a description and assessment of the impediments, if any, that would preclude or limit NATO from conducting deliberations and making decisions on matters such as the Prague Capabilities Commitment or the NATO Response Force solely in the Defense Planning Committee; and

(vi) the recommendations of the Secretary of Defense on streamlining defense, military, and security decisionmaking within NATO relating to the Prague Capabilities Commitment, the NATO Response Force, and other matters, including an assessment of the feasibility and advisability of the greater utilization of the Defense Planning Committee for such purposes.

(3) In the case of a report under this subsection after the first such report, the information submitted in such report under any of clauses (i) through (vi) of subparagraph (D) of paragraph (2) may consist solely of an update of any information previously submitted under that clause in a preceding report under this subsection.

(4) Each report under this subsection shall be submitted in unclassified form, but may also be submitted in classified form if necessary.

(5) The committees specified in this paragraph are—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SEC. 1232. REPORT ON ACTIONS THAT COULD BE TAKEN REGARDING COUNTRIES THAT INITIATE CERTAIN LEGAL ACTIONS AGAINST UNITED STATES OFFICIALS OR MEMBERS OF THE ARMED FORCES.

(a) FINDING.—Congress finds that actions for or on behalf of a foreign government that constitute attempts to commence legal proceedings against, or attempts to compel the appearance of or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties, other than pursuant to a status of forces agreement or other international agreement to which the United States is a party, may have a negative effect on the ability of the United States to take necessary and timely military action.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on appropriate steps that could be taken by the Department of Defense (such as restrictions on military travel, limitations on military support and exchange programs, and consideration of relocating, or limiting funding for, United States or allied military commands, headquarters, or

organizations) to respond to an action by a foreign government described in subsection (a).

SEC. 1233. SENSE OF CONGRESS ON REDEPLOYMENT OF UNITED STATES FORCES IN EUROPE.

(a) FINDINGS.—Congress makes the following findings:

(1) In March 1999, in its initial round of expansion, the North Atlantic Treaty Organization (NATO) admitted Poland, the Czech Republic, and Hungary to the Alliance.

(2) At the Prague Summit on November 21–22, 2002, the NATO heads of state and government invited the countries of Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia to join the Alliance.

(3) The countries admitted in the initial round of expansion referred to in paragraph (1) and the seven new invitee nations referred to in paragraph (2) will in combination significantly alter the nature of the Alliance.

(4) During the first 50 years of the Alliance, NATO materially contributed to the security and stability of Western Europe, bringing peace and prosperity to the member nations.

(5) The expansion of NATO is an opportunity to assist the invitee nations in gaining the capabilities to ensure peace, prosperity, and democracy for themselves during the next 50 years of the Alliance.

(6) The military structure and mission of NATO has changed, no longer being focused on the threat of a Soviet invasion, but evolving to handle new threats and new missions in the area of crisis management, peacekeeping, and peace-support in and beyond the Euro-Atlantic area of operations.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) the expansion of the North Atlantic Treaty Organization Alliance and the evolution of the military mission of that Alliance requires a fundamental reevaluation of the current posture of United States forces stationed in Europe; and

(2) the Secretary of Defense, in consultation with the Secretary of State, should—

(A) initiate a reevaluation referred to in paragraph (1); and

(B) in carrying out such a reevaluation, consider a military posture that takes maximum advantage of basing and training opportunities in the newly admitted and invitee states referred to in paragraphs (1) and (2), respectively, of subsection (a).

SEC. 1234. SENSE OF CONGRESS CONCERNING NAVY PORT CALLS IN ISRAEL.

It is the sense of Congress that—

(1) the United States has invested significant amounts of funds in expanding the capacity and security of the port of Haifa, Israel, and the United States Navy should be able to implement the necessary force protection measures that would enable it to take advantage of the repair, replenishment, and communications links available at that port;

(2) the Secretary of Defense and the Secretary of the Navy should conclude discussions with the Government of Israel and the Israel Defense Forces to establish appropriate and effective arrangements to ensure the safety of United States Navy vessels and personnel during port visits to Haifa, Israel; and

(3) upon such arrangements being made, the United States Navy should consider resumption of regular port visits to Haifa, Israel.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
Sec. 1302. Funding allocations.
Sec. 1303. Limitation on use of funds until certain permits obtained.
Sec. 1304. Limitation on use of funds for biological research in the former Soviet Union.
Sec. 1305. Requirement for on-site managers.
Sec. 1306. Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia.
Sec. 1307. Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities.
Sec. 1308. Authority to use Cooperative Threat Reduction funds outside the former Soviet Union.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

(a) SPECIFICATION OF CTR PROGRAMS.—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) FISCAL YEAR 2004 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.—As used in this title, the term "fiscal year 2004 Cooperative Threat Reduction funds" means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) FUNDING FOR SPECIFIC PURPOSES.—Of the $450,800,000 authorized to be appropriated to the Department of Defense for fiscal year 2004 in section 301(19) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, $57,600,000.

(2) For strategic nuclear arms elimination in Ukraine, $3,900,000.

(3) For nuclear weapons transportation security in Russia, $23,200,000.

(4) For nuclear weapons storage security in Russia, $48,000,000.

(5) For activities designated as Other Assessments/Administrative Support, $13,100,000.

(6) For defense and military contacts, $11,100,000.

(7) For chemical weapons destruction in Russia, $200,300,000.

(8) For biological weapons proliferation prevention in the former Soviet Union, $54,200,000.

(9) For weapons of mass destruction proliferation prevention in the states of the former Soviet Union, $39,400,000.

(b) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2004 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (9) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2004 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(c) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2004 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (8) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

SEC. 1303. LIMITATION ON USE OF FUNDS UNTIL CERTAIN PERMITS OBTAINED.

(a) IN GENERAL.—The Secretary of Defense shall seek to obtain all the permits required to complete each phase of construction of a project under Cooperative Threat Reduction programs before obligating significant amounts of funding for that phase of the project.

(b) USE OF FUNDS FOR NEW CONSTRUCTION PROJECTS.—Except as provided in subsection (e), with respect to a new construction project to be carried out by the Department of Defense under Cooperative Threat Reduction programs, not more than 40 percent of the total costs of the project may be obligated from Cooperative Threat Reduction funds for any fiscal year until the Secretary of Defense—

(1) determines the number and type of permits that may be required for the lifetime of the project in the proposed location or locations of the project; and

(2) obtains from the state in which the project is to be located any permits that may be required to begin construction.

(c) IDENTIFICATION OF REQUIRED PERMITS FOR ONGOING INCOMPLETE CONSTRUCTION PROJECTS.—With respect to an incomplete construction project carried out by the Department of Defense under Cooperative Threat Reduction programs, the Secretary shall identify all the permits that are required for the lifetime of the project not later than 120 days after the date of the enactment of this Act.

(d) USE OF FUNDS FOR CERTAIN INCOMPLETE CONSTRUCTION PROJECTS.—Except as provided in subsection (e), with respect to an incomplete construction project carried out by the Department of Defense under Cooperative Threat Reduction programs for which construction has not yet commenced as of the date of the enactment of this Act, not more than 40 percent of the total costs of the project may be obligated from Cooperative Threat Reduction funds for any fiscal year until the Secretary obtains from the state in which the project is located the permits required to commence construction on the project.

(e) EXCEPTION TO LIMITATIONS ON USE OF FUNDS.—The limitation in subsection (b) or (d) on the obligation of funds for a construction project otherwise covered by such subsection shall not apply with respect to the obligation of funds for a particular project if the Secretary—

(1) determines that it is necessary in the national interest to obligate funds for such project; and

(2) submits to the congressional defense committees a notification of the intent to obligate funds for such project, together with a complete discussion of the justification for doing so.

(f) DEFINITIONS.—In this section, with respect to a project under Cooperative Threat Reduction programs:

(1) INCOMPLETE CONSTRUCTION PROJECT.—The term "incomplete construction project" means a construction project for which funds have been obligated or expended before the date of the enactment of this Act and which is not completed as of such date.

(2) NEW CONSTRUCTION PROJECT.—The term "new construction project" means a construction project for which no funds have been obligated or expended as of the date of the enactment of this Act.

(3) PERMIT.—The term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required for purposes of major construction in a state of the former Soviet Union in which the construction project is being or is proposed to be carried out.

SEC. 1304. LIMITATION ON USE OF FUNDS FOR BIOLOGICAL RESEARCH IN THE FORMER SOVIET UNION.

(a) LIMITATION ON USE OF FUNDS.—Except as provided in subsection (b), none of the funds authorized to be appropriated pursuant to section 1302 for biological weapons proliferation prevention may be obligated to begin any collaborative biodefense research or bioattack early warning and preparedness project under a Cooperative Threat Reduction program at a facility in a state of the former Soviet Union until the Secretary of Defense notifies Congress that the Secretary—

(1) has determined, through access to the facility, that no offensive biological weapons research prohibited by international law is being conducted at the facility; and

(2) has determined that appropriate security measures have begun to be, or will be, put in place at the facility to prevent theft of dangerous pathogens from the facility.

(b) AVAILABILITY OF FUNDS FOR DETERMINATIONS.—Of the funds referred to in subsection (a) that are available for projects referred to in that subsection, up to 25 percent of such funds may be obligated and expended for purposes of making determinations referred to in that subsection.

(c) FACILITY DEFINED.—In this section, the term "facility" means the buildings and areas at a location in which Cooperative Threat Reduction program work is actually being conducted.

SEC. 1305. REQUIREMENT FOR ON-SITE MANAGERS.

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any Cooperative Threat Reduction funds for a project described in subsection (b), the Secretary of Defense shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Defense is expected to exceed $50,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Defense to resume United States participation.

(d) AUTHORITY TO MANAGE MORE THAN ONE PROJECT.—(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in section 1303).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(f) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Defense directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

SEC. 1306. TEMPORARY AUTHORITY TO WAIVE LIMITATION ON FUNDING FOR CHEMICAL WEAPONS DESTRUCTION FACILITY IN RUSSIA.

(a) TEMPORARY AUTHORITY.—The conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 22 U.S.C. 5952 note) shall not apply to the obligation and expenditure of funds available for obligation during fiscal year 2004 for the planning, design, or construction of a chemical weapons destruction facility in Russia if the President submits to Congress a written certification that includes—

(1) a statement as to why the waiver of the conditions is important to the national security interests of the United States;

(2) a full and complete justification for the waiver of the conditions; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION.—The authority in subsection (a) shall expire on September 30, 2004.

SEC. 1307. ANNUAL CERTIFICATIONS ON USE OF FACILITIES BEING CONSTRUCTED FOR COOPERATIVE THREAT REDUCTION PROJECTS OR ACTIVITIES.

(a) CERTIFICATION ON USE OF FACILITIES BEING CONSTRUCTED.—Not later than the first Monday of February each year, the Secretary of Defense shall submit to the congressional defense committees a certification for each facility for a Cooperative Threat Reduction project or activity for which construction occurred during the preceding fiscal year on matters as follows:

(1) Whether or not such facility will be used for its intended purpose by the government of the state of the former Soviet Union in which the facility is constructed.

(2) Whether or not the government of such state remains committed to the use of such facility for its intended purpose.

(3) Whether those actions needed to ensure security at the facility, including secure transportation of any materials, substances, or weapons to, from, or within the facility, have been taken.

(b) APPLICABILITY.—Subsection (a) shall apply to—

(1) any facility the construction of which commences on or after the date of the enactment of this Act; and

(2) any facility the construction of which is ongoing as of that date.

SEC. 1308. AUTHORITY TO USE COOPERATIVE THREAT REDUCTION FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) AUTHORITY.—Subject to the provisions of this section, the President may obligate and expend Cooperative Threat Reduction funds for a fiscal year, and any Cooperative Threat Reduction funds for a fiscal year before such fiscal year that remain available for obligation, for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the President determines each of the following:

(1) That such project or activity will—

(A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Defense is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.

(d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(e) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of Cooperative Threat Reduction funds or on Cooperative Threat Reduction projects or activities.

(2) Any limitation on the obligation or expenditure of Cooperative Threat Reduction funds.

(3) Any limitation on Cooperative Threat Reduction projects or activities.

TITLE XIV—SERVICES ACQUISITION REFORM

Sec. 1401. Short title.

Subtitle A—Acquisition Workforce and Training

Sec. 1411. Definition of acquisition.
Sec. 1412. Acquisition workforce training fund.
Sec. 1413. Acquisition workforce recruitment program.
Sec. 1414. Architectural and engineering acquisition workforce.

Subtitle B—Adaptation of Business Acquisition Practices

PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES

Sec. 1421. Chief Acquisition Officers.
Sec. 1422. Chief Acquisition Officers Council.
Sec. 1423. Statutory and regulatory review.

PART II—OTHER ACQUISITION IMPROVEMENTS

Sec. 1426. Extension of authority to carry out franchise fund programs.
Sec. 1427. Improvements in contracting for architectural and engineering services.
Sec. 1428. Authorization of telecommuting for Federal contractors.

Subtitle C—Acquisitions of Commercial Items

Sec. 1431. Additional incentive for use of performance-based contracting for services.
Sec. 1432. Authorization of additional commercial contract types.
Sec. 1433. Clarification of commercial services definition.

Subtitle D—Other Matters

Sec. 1441. Authority to enter into certain transactions for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.
Sec. 1442. Public disclosure of noncompetitive contracting for the reconstruction of infrastructure in Iraq.
Sec. 1443. Special emergency procurement authority.

SEC. 1401. SHORT TITLE.

This title may be cited as the "Services Acquisition Reform Act of 2003".

Subtitle A—Acquisition Workforce and Training

SEC. 1411. DEFINITION OF ACQUISITION.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended by adding at the end the following:

"(16) The term 'acquisition'—

"(A) means the process of acquiring, with appropriated funds, by contract for purchase or lease, property or services (including construction) that support the missions and goals of an executive agency, from the point at which the requirements of the executive agency are established in consultation with the chief acquisition officer of the executive agency; and

"(B) includes—

"(i) the process of acquiring property or services that are already in existence, or that must be created, developed, demonstrated, and evaluated;

"(ii) the description of requirements to satisfy agency needs;

"(iii) solicitation and selection of sources;

"(iv) award of contracts;

"(v) contract performance;

"(vi) contract financing:

"(vii) management and measurement of contract performance through final delivery and payment; and

"(viii) technical and management functions directly related to the process of fulfilling agency requirements by contract.".

SEC. 1412. ACQUISITION WORKFORCE TRAINING FUND.

(a) PURPOSES.—The purposes of this section are to ensure that the Federal acquisition workforce—

(1) adapts to fundamental changes in the nature of Federal Government acquisition of property and services associated with the changing roles of the Federal Government; and

(2) acquires new skills and a new perspective to enable it to contribute effectively in the changing environment of the 21st century.

(b) ESTABLISHMENT OF FUND.—Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end of subsection (h) the following new paragraph:

"(3) ACQUISITION WORKFORCE TRAINING FUND.—(A) The Administrator of General Services shall establish an acquisition workforce training fund. The Administrator shall manage the fund through the Federal Acquisition Institute to support the training of the acquisition workforce of the executive agencies other than the Department of Defense. The Administrator shall consult with the Administrator for Federal Procurement Policy in managing the fund.

"(B) There shall be credited to the acquisition workforce training fund 5 percent of the fees collected by executive agencies (other than the Department of Defense) under the following contracts:

"(i) Governmentwide task and delivery-order contracts entered into under sections 303H and 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h and 253i).

"(ii) Governmentwide contracts for the acquisition of information technology as defined in section 11101 of title 40, United States Code, and multiagency acquisition contracts for such technology authorized by section 11314 of such title.

"(iii) Multiple-award schedule contracts entered into by the Administrator of General Services.

"(C) The head of an executive agency that administers a contract described in subparagraph (B) shall remit to the General Services Administration the amount required to be credited to the fund with respect to such contract at the end of each quarter of the fiscal year.

"(D) The Administrator of General Services, through the Office of Federal Acquisition Policy, shall ensure that funds collected for training under this section are not used for any purpose other than the purpose specified in subparagraph (A).

"(E) Amounts credited to the fund shall be in addition to funds requested and appropriated for education and training referred to in paragraph (1).

"(F) Amounts credited to the fund shall remain available to be expended only in the fiscal year for which credited and the two succeeding fiscal years.

"(G) This paragraph shall cease to be effective five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2004.".

(c) EXCEPTION.—This section and the amendments made by this section shall not apply to the acquisition workforce of the Department of Defense. Fees charged to the Department of Defense under contracts covered by section 37(h)(3) of the Office of Federal Procurement Policy Act, as added by subsection (b), shall be reduced by 5 percent to reflect the Department's nonparticipation in the acquisition workforce training fund established by such section.

SEC. 1413. ACQUISITION WORKFORCE RECRUITMENT PROGRAM.

(a) DETERMINATION OF SHORTAGE CATEGORY POSITIONS.—For purposes of sections 3304, 5333, and 5753 of title 5, United States Code, the head of a department or agency of the United States (other than the Secretary of Defense) may determine, under regulations prescribed by the Office of Personnel Management, that certain Federal acquisition positions (as described in section 37(g)(1)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 433(g)(1)(A)) are shortage category positions in order to use the authorities in those sections to recruit and appoint highly qualified persons directly to such positions in the department or agency.

(b) TERMINATION OF AUTHORITY.—The head of a department or agency may not appoint a person to a position of employment under this section after September 30, 2007.

(c) REPORT.—Not later than March 31, 2007, the Director of the Office of Personnel Management, in consultation with the Administrator for Federal Procurement Policy, shall submit to Congress a report on the implementation of this section. The report shall include—

(1) a list of the departments and agencies that exercised the authority provided in this section, and whether the exercise of the authority was carried out in accordance with the regulations prescribed by the Office of Personnel Management;

(2) the Director's assessment of the efficacy of the exercise of the authority provided in this section in attracting employees with unusually high qualifications to the acquisition workforce; and

(3) any recommendations considered appropriate by the Director on whether the authority to carry out the program should be extended.

SEC. 1414. ARCHITECTURAL AND ENGINEERING ACQUISITION WORKFORCE.

The Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, shall develop and implement a plan to ensure that the Federal Government maintains the necessary capability with respect to the acquisition of architectural and engineering services to—

(1) ensure that Federal Government employees have the expertise to determine agency requirements for such services;

(2) establish priorities and programs (including acquisition plans);

(3) establish professional standards;

(4) develop scopes of work; and

(5) award and administer contracts for such services.

Subtitle B—Adaptation of Business Acquisition Practices

PART I—ADAPTATION OF BUSINESS MANAGEMENT PRACTICES

SEC. 1421. CHIEF ACQUISITION OFFICERS.

(a) APPOINTMENT OF CHIEF ACQUISITION OFFICERS.—(1) Section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) is amended to read as follows:

"SEC. 16. CHIEF ACQUISITION OFFICERS AND SENIOR PROCUREMENT EXECUTIVES.

"(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICERS.—(1) The head of each executive agency described in section 901(b)(1) (other than the Department of Defense) or section 901(b)(2)(C) of title 31, United States Code, with a Chief Financial Officer appointed or designated under section 901(a) of such title shall appoint or designate a non-career employee as Chief Acquisition Officer for the agency, who shall—

"(A) have acquisition management as that official's primary duty; and

"(B) advise and assist the head of the executive agency and other agency officials to ensure that the mission of the executive agency is achieved through the management of the agency's acquisition activities.

"(b) AUTHORITY AND FUNCTIONS OF AGENCY CHIEF ACQUISITION OFFICERS.—The functions of each Chief Acquisition Officer shall include—

"(1) monitoring the performance of acquisition activities and acquisition programs of the executive agency, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the head of the executive agency regarding the appropriate business strategy to achieve the mission of the executive agency;

"(2) increasing the use of full and open competition in the acquisition of property and services by the executive agency by establishing *policies, procedures, and practices that ensure that the executive agency receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;*

"(3) increasing appropriate use of performance-based contracting and performance specifications;

"(4) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the executive agency;

"(5) managing the direction of acquisition policy for the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency;

"(6) developing and maintaining an acquisition career management program in the executive agency to ensure that there is an adequate professional workforce; and

"(7) as part of the strategic planning and performance evaluation process required under section 306 of title 5, United States Code, and sections 1105(a)(28), 1115, 1116, and 9703 of title 31, United States Code—

"(A) assessing the requirements established for agency personnel regarding knowledge and skill in acquisition resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

"(B) in order to rectify any deficiency in meeting such requirements, developing strategies and specific plans for hiring, training, and professional development; and

"(C) reporting to the head of the executive agency on the progress made in improving acquisition management capability.

"(c) Senior Procurement Executive.—(1) The head of each executive agency shall designate a senior procurement executive who shall be responsible for management direction of the procurement system of the executive agency, including implementation of the unique procurement policies, regulations, and standards of the executive agency.

"(2) In the case of an executive agency for which a Chief Acquisition Officer has been appointed or designated under subsection (a), the head of such executive agency shall either—

"(A) designate the Chief Acquisition Officer as the senior procurement executive for the executive agency; or

"(B) ensure that the senior procurement executive designated for the executive agency under paragraph (1) reports directly to the Chief Acquisition Officer without intervening authority.".

(2) The item relating to section 16 in the table of contents in section 1(b) of such Act is amended to read as follows:

"Sec. 16. Chief Acquisition Officers and senior procurement executives.".

(b) Technical Correction.—Section 1115(a) of title 31, United States Code, is amended by striking "section 1105(a)(29)" and inserting "section 1105(a)(28)".

SEC. 1422. CHIEF ACQUISITION OFFICERS COUNCIL.

(a) Establishment of Council.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by inserting after section 16 the following new section:

"SEC. 16A. CHIEF ACQUISITION OFFICERS COUNCIL.

"(a) Establishment.—There is established in the executive branch a Chief Acquisition Officers Council.

"(b) Membership.—The members of the Council shall be as follows:

"(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as Chairman of the Council.

"(2) The Administrator for Federal Procurement Policy.

"(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

"(4) The chief acquisition officer of each executive agency that is required to have a chief acquisition officer under section 16 and the senior procurement executive of each military department.

"(5) Any other senior agency officer of each executive agency, appointed by the head of the agency in consultation with the Chairman, who can effectively assist the Council in performing the functions set forth in subsection (e) and supporting the associated range of acquisition activities.

"(c) Leadership; Support.—(1) The Administrator for Federal Procurement Policy shall lead the activities of the Council on behalf of the Deputy Director for Management.

"(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

"(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

"(3) The Administrator of General Services shall provide administrative and other support for the Council.

"(d) Principal Forum.—The Council is designated the principal interagency forum for monitoring and improving the Federal acquisition system.

"(e) Functions.—The Council shall perform functions that include the following:

"(1) Develop recommendations for the Director of the Office of Management and Budget on Federal acquisition policies and requirements.

"(2) Share experiences, ideas, best practices, and innovative approaches related to Federal acquisition.

"(3) Assist the Administrator in the identification, development, and coordination of multi-agency projects and other innovative initiatives to improve Federal acquisition.

"(4) Promote effective business practices that ensure the timely delivery of best value products to the Federal Government and achieve appropriate public policy objectives.

"(5) Further integrity, fairness, competition, openness, and efficiency in the Federal acquisition system.

"(6) Work with the Office of Personnel Management to assess and address the hiring, training, and professional development needs of the Federal Government related to acquisition.

"(7) Work with the Administrator and the Federal Acquisition Regulatory Council to promote the business practices referred to in paragraph (4) and other results of the functions carried out under this subsection.".

(b) Clerical Amendment.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 16 the following new item:

"Sec. 16A. Chief Acquisition Officers Council.".

SEC. 1423. STATUTORY AND REGULATORY REVIEW.

(a) Establishment.—Not later than 90 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall establish an advisory panel to review laws and regulations regarding the use of commercial practices, performance-based contracting, the performance of acquisition functions across agency lines of responsibility, and the use of Governmentwide contracts.

(b) Membership.—The panel shall be composed of at least nine individuals who are recognized experts in acquisition law and Government acquisition policy. In making appointments to the panel, the Administrator shall—

(1) consult with the Secretary of Defense, the Administrator of General Services, the Committees on Armed Services and Government Reform of the House of Representatives, and the Committees on Armed Services and Governmental Affairs of the Senate; and

(2) ensure that the members of the panel reflect the diverse experiences in both the public and private sectors, including academia.

(c) Duties.—The panel shall—

(1) review all Federal acquisition laws and regulations, and, to the extent practicable, government-wide acquisition policies, with a view toward ensuring effective and appropriate use of commercial practices and performance-based contracting; and

(2) make any recommendations for the modification of such laws, regulations, or policies that are considered necessary as a result of such review—

(A) to protect the best interests of the Federal Government;

(B) to ensure the continuing financial and ethical integrity of acquisitions by the Federal Government; and

(C) to amend or eliminate any provisions in such laws, regulations, or policies that are unnecessary for the effective, efficient, and fair award and administration of contracts for the acquisition by the Federal Government of goods and services.

(d) Report.—Not later than one year after the establishment of the panel, the panel shall submit to the Administrator and to the Committees on Armed Services and Government Reform of the House of Representatives and the Committees on Armed Services and Governmental Affairs of the Senate a report containing a detailed statement of the findings, conclusions, and recommendations of the panel.

PART II—OTHER ACQUISITION IMPROVEMENTS

SEC. 1426. EXTENSION OF AUTHORITY TO CARRY OUT FRANCHISE FUND PROGRAMS.

Section 403(f) of the Federal Financial Management Act of 1994 (Public Law 103–356; 31 U.S.C. 501 note) is amended by striking "October 1, 2003" and inserting "December 31, 2004".

SEC. 1427. IMPROVEMENTS IN CONTRACTING FOR ARCHITECTURAL AND ENGINEERING SERVICES.

(a) Title 10.—Section 2855(b) of title 10, United States Code, is amended in paragraph (2), by striking "$85,000" and inserting "$300,000".

(b) Architectural and Engineering Services.—Architectural and engineering services (as defined in section 1102 of title 40, United States Code) shall not be offered under multiple-award schedule contracts entered into by the Administrator of General Services or under Governmentwide task and delivery order contracts entered into under sections 2304a and 2304b of title 10, United States Code, or sections 303H and 303I of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h and 253i) unless such services—

(1) are performed under the direct supervision of a professional architect or engineer licensed, registered, or certified in the State, territory (including the Commonwealth of Puerto Rico), possession, or Federal District in which the services are to be performed; and

(2) are awarded in accordance with the selection procedures set forth in chapter 11 of title 40, United States Code.

SEC. 1428. AUTHORIZATION OF TELECOMMUTING FOR FEDERAL CONTRACTORS.

(a) Amendment to the Federal Acquisition Regulation.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of

Federal Procurement Policy Act (41 U.S.C. 405 and 421) to permit telecommuting by employees of Federal Government contractors in the performance of contracts entered into with executive agencies.

(b) Content of Amendment.—The regulation issued pursuant to subsection (a) shall, at a minimum, provide that solicitations for the acquisition of property or services may not set forth any requirement or evaluation criteria that would—

(1) render an offeror ineligible to enter into a contract on the basis of the inclusion of a plan of the offeror to permit the offeror's employees to telecommute, unless the contracting officer concerned first determines that the requirements of the agency, including security requirements, cannot be met if the telecommuting is permitted and documents in writing the basis for that determination; or

(2) reduce the scoring of an offer on the basis of the inclusion in the offer of a plan of the offeror to permit the offeror's employees to telecommute, unless the contracting officer concerned first determines that the requirements of the agency, including security requirements, would be adversely impacted if telecommuting is permitted and documents in writing the basis for that determination.

(c) Definition.—In this section, the term "executive agency" has the meaning given that term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

Subtitle C—Acquisitions of Commercial Items

SEC. 1431. ADDITIONAL INCENTIVE FOR USE OF PERFORMANCE-BASED CONTRACTING FOR SERVICES.

(a) In General.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"SEC. 41. INCENTIVES FOR EFFICIENT PERFORMANCE OF SERVICES CONTRACTS.

"(a) Incentive for Use of Performance-Based Services Contracts.— A performance-based contract for the procurement of services entered into by an executive agency or a performance-based task order for services issued by an executive agency may be treated as a contract for the procurement of commercial items if—

"(1) the value of the contract or task order is estimated not to exceed $25,000,000;

"(2) the contract or task order sets forth specifically each task to be performed and, for each task—

"(A) defines the task in measurable, mission-related terms;

"(B) identifies the specific end products or output to be achieved; and

"(C) contains firm, fixed prices for specific tasks to be performed or outcomes to be achieved; and

"(3) the source of the services provides similar services to the general public under terms and conditions similar to those offered to the Federal Government.

"(b) Regulations.—The regulations implementing this section shall require agencies to collect and maintain reliable data sufficient to identify the contracts or task orders treated as contracts for commercial items using the authority of this section. The data may be collected using the Federal Procurement Data System or other reporting mechanism.

"(c) Report.—Not later than two years after the date of the enactment of this section, the Director of the Office of Management and Budget shall prepare and submit to the Committees on Governmental Affairs and on Armed Services of the Senate and the Committees on Government Reform and on Armed Services of the House of Representatives a report on the contracts or task orders treated as contracts for commercial items using the authority of this section. The report shall include data on the use of such authority both government-wide and for each department and agency.

"(d) Expiration.—The authority under this section shall expire 10 years after the date of the enactment of this section.".

(b) Center of Excellence in Service Contracting.—Not later than 180 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall establish a center of excellence in contracting for services. The center of excellence shall assist the acquisition community by identifying, and serving as a clearinghouse for, best practices in contracting for services in the public and private sectors.

(c) Repeal of Superseded Provision.—Subsection (b) of section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–218; 10 U.S.C. 2302 note) is repealed.

(d) Clerical and Technical Amendments.—(1) The table of contents in section 1(b) of such Act is amended by striking the last item and inserting the following:

"Sec. 40. Protection of constitutional rights of contractors.
"Sec. 41. Incentives for efficient performance of services contracts.".

(2) The section before section 41 of such Act (as added by subsection (a)) is redesignated as section 40.

SEC. 1432. AUTHORIZATION OF ADDITIONAL COMMERCIAL CONTRACT TYPES.

Section 8002(d) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3387; 41 U.S.C. 264 note) is amended—

(1) by redesignating paragraph (1) as subparagraph (A) and in that subparagraph by striking "and";

(2) by redesignating paragraph (2) as subparagraph (B) and in that subparagraph by striking the period at the end and inserting "; and";

(3) by adding after subparagraph (B) (as so redesignated) the following new subparagraph:

"(C) subject to paragraph (2), authority for use of a time-and-materials contract or a labor-hour contract for the procurement of commercial services that are commonly sold to the general public through such contracts and are purchased by the procuring agency on a competitive basis.";

(4) by striking "Use of Firm, Fixed Price Contracts.—The" and inserting "Provisions Relating to Types of Contracts for Commercial Items.—(1)"; and

(5) by adding at the end the following new paragraphs:

"(2) A time-and-materials contract or a labor-hour contract may be used pursuant to the authority referred to in paragraph (1)(C)—

"(A) only for a procurement of commercial services in a category of commercial services described in paragraph (3); and—

"(B) only if the contracting officer for such procurement—

"(i) executes a determination and findings that no other contract type is suitable;

"(ii) includes in the contract a ceiling price that the contractor exceeds at its own risk; and

"(iii) authorizes any subsequent change in the ceiling price only upon a determination, documented in the contract file, that it is in the best interest of the procuring agency to change such ceiling price.

"(3) The categories of commercial services referred to in paragraph (2) are as follows:

"(A) Commercial services procured for support of a commercial item, as described in section 4(12)(E) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(E)).

"(B) Any other category of commercial services that is designated by the Administrator for Federal Procurement Policy in the Federal Acquisition Regulation for the purposes of this paragraph on the basis that—

"(i) the commercial services in such category are of a type of commercial services that are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

'(ii) it would be in the best interests of the Federal Government to authorize use of time-and-materials or labor-hour contracts for purchases of the commercial services in such category.".

SEC. 1433. CLARIFICATION OF COMMERCIAL SERVICES DEFINITION.

Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended in paragraph (12)(F) by inserting "or specific outcomes to be achieved" after "performed".

Subtitle D—Other Matters

SEC. 1441. AUTHORITY TO ENTER INTO CERTAIN TRANSACTIONS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

(a) Authority.—

(1) In general.—The head of an executive agency who engages in basic research, applied research, advanced research, and development projects that—

(A) are necessary to the responsibilities of such official's executive agency in the field of research and development, and

(B) have the potential to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack,

may exercise the same authority (subject to the same restrictions and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code, except for subsections (b) and (f) of such section 2371.

(2) Prototype projects.—The head of an executive agency may, under the authority of paragraph (1), carry out prototype projects that meet the requirements of subparagraphs (A) and (B) of paragraph (1) in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note), including that, to the maximum extent practicable, competitive procedures shall be used when entering into agreements to carry out projects under subsection (a) of that section and that the period of authority to carry out projects under such subsection (a) terminates as provided in subsection (g) of that section.

(3) Application of requirements and conditions.—In applying the requirements and conditions of section 845 of the National Defense Authorization Act for Fiscal Year 1994 under this subsection—

(A) subsection (c) of that section shall apply with respect to prototype projects carried out under this paragraph; and

(B) the Director of the Office of Management and Budget shall perform the functions of the Secretary of Defense under subsection (d) of that section.

(4) Applicability to selected executive agencies.—

(A) OMB authorization required.—The head of an executive agency may exercise authority under this subsection for a project only if authorized by the Director of the Office of Management and Budget to use the authority for such project.

(B) Relationship to authority of Department of Homeland Security.—The authority under this subsection shall not apply to the Secretary of Homeland Security while section 831 of the Homeland Security Act of 2002 (Public Law 107–296; 116 Stat. 2224) is in effect.

(b) ANNUAL REPORT.—The annual report of the head of an executive agency that is required under subsection (h) of section 2371 of title 10, United States Code, as applied to the head of the executive agency by subsection (a), shall be submitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(c) REGULATIONS.—The Director of the Office of Management and Budget shall prescribe regulations to carry out this section. No transaction may be conducted under the authority of this section before the date on which such regulations take effect.

(d) TERMINATION OF AUTHORITY.—The authority to carry out transactions under subsection (a) shall terminate on September 30, 2008.

SEC. 1442. PUBLIC DISCLOSURE OF NONCOMPETITIVE CONTRACTING FOR THE RECONSTRUCTION OF INFRASTRUCTURE IN IRAQ.

(a) DISCLOSURE REQUIRED.—

(1) PUBLICATION AND PUBLIC AVAILABILITY.—The head of an executive agency of the United States that enters into a contract for the repair, maintenance, or construction of infrastructure in Iraq without full and open competition shall publish in the Federal Register or Commerce Business Daily and otherwise make available to the public, not later than 30 days after the date on which the contract is entered into, the following information:

(A) The amount of the contract.

(B) A brief description of the scope of the contract.

(C) A discussion of how the executive agency identified, and solicited offers from, potential contractors to perform the contract, together with a list of the potential contractors that were issued solicitations for the offers.

(D) The justification and approval documents on which was based the determination to use procedures other than procedures that provide for full and open competition.

(2) INAPPLICABILITY TO CONTRACTS AFTER FISCAL YEAR 2005.—Paragraph (1) does not apply to a contract entered into after September 30, 2005.

(b) CLASSIFIED INFORMATION.—

(1) AUTHORITY TO WITHHOLD.—The head of an executive agency may—

(A) withhold from publication and disclosure under subsection (a) any document that is classified for restricted access in accordance with an Executive order in the interest of national defense or foreign policy; and

(B) redact any part so classified that is in a document not so classified before publication and disclosure of the document under subsection (a).

(2) AVAILABILITY TO CONGRESS.—In any case in which the head of an executive agency withholds information under paragraph (1), the head of such executive agency shall make available an unredacted version of the document containing that information to the chairman and ranking member of each of the following committees of Congress:

(A) The Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(B) The Committees on Appropriations of the Senate and House of Representatives.

(C) Each committee that the head of the executive agency determines has legislative jurisdiction for the operations of such department or agency to which the information relates.

(c) FISCAL YEAR 2003 CONTRACTS.—This section shall apply to contracts entered into on or after October 1, 2002, except that, in the case of a contract entered into before the date of the enactment of this Act, subsection (a) shall be applied as if the contract had been entered into on the date of the enactment of this Act.

(d) RELATIONSHIP TO OTHER DISCLOSURE LAWS.—Nothing in this section shall be construed as affecting obligations to disclose United States Government information under any other provision of law.

(e) DEFINITIONS.—In this section, the terms "executive agency" and "full and open competition" have the meanings given such terms in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 1443. SPECIAL EMERGENCY PROCUREMENT AUTHORITY.

(a) PERMANENT AUTHORITY.—(1) The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by inserting after section 32 the following new section:

"SEC. 32A. SPECIAL EMERGENCY PROCUREMENT AUTHORITY.

"(a) APPLICABILITY.—The authorities provided in this section apply with respect to any procurement of property or services by or for an executive agency that, as determined by the head of such executive agency, are to be used—

"(1) in support of a contingency operation; or

"(2) to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States.

"(b) INCREASED THRESHOLDS.—For a procurement to which this section applies under subsection (a)—

"(1) the amount specified in subsections (c), (d), and (f) of section 32 shall be deemed to be $15,000; and

"(2) the term 'simplified acquisition threshold' means—

"(A) $250,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

"(B) $500,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States.

"(c) INCREASED LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.—For a procurement to which this section applies under subsection (a), the $5,000,000 limitation in the following provisions of law shall be deemed to be $10,000,000:

"(1) Section 31(a)(2) of this Act.

"(2) Section 2304(g)(1)(B) of title 10, United States Code.

"(3) Section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)).

"(d) COMMERCIAL ITEMS AUTHORITY.—(1) The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat such property or service as a commercial item for the purpose of carrying out such procurement.

"(2) A contract in an amount greater than $15,000,000 that is awarded on a sole source basis for an item or service treated as a commercial item under paragraph (1) shall not be exempt from—

"(A) cost accounting standards promulgated pursuant to section 26 of this Act; or

"(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under section 2306a of title 10, United States Code, and section 304A of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b).

"(e) CONTINGENCY OPERATION DEFINED.—In this section, the term 'contingency operation' has the meaning given such term in section 101(a)(13) of title 10, United States Code.".

(2) The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 32 the following new item:

"Sec. 32A. Special emergency procurement authority.".

(b) CONTINUATION OF AUTHORITY FOR USE OF SIMPLIFIED ACQUISITION PROCEDURES.—Section 4202(e) of the Clinger-Cohen Act (division D of Public Law 104–106; 110 Stat. 652; 10 U.S.C. 2304 note) is amended by striking "January 1, 2004" and inserting "January 1, 2006".

TITLE XV—VETERANS' DISABILITY BENEFITS COMMISSION

Sec. 1501. Establishment of commission.
Sec. 1502. Duties of the commission.
Sec. 1503. Report.
Sec. 1504. Powers of the commission.
Sec. 1505. Personnel matters.
Sec. 1506. Termination of commission.
Sec. 1507. Funding.

SEC. 1501. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Disability Benefits Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of 13 members, appointed as follows:

(A) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(B) Two members appointed by the minority leader of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(C) Two members appointed by the majority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(D) Two members appointed by the minority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

(E) Five members appointed by the President, at least three of whom shall be veterans who were awarded a decoration specified in paragraph (2).

(2) A decoration specified in this paragraph is any of the following:

(A) The Medal of Honor.

(B) The Distinguished Service Cross, the Navy Cross, or the Air Force Cross.

(C) The Silver Star.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) The appointment of members of the commission under this subsection shall be made not later than 60 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which a majority of the members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The President shall designate a member of the commission to be chairman of the commission.

SEC. 1502. DUTIES OF THE COMMISSION.

(a) STUDY.—The commission shall carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

(b) SCOPE OF STUDY.—In carrying out the study, the commission shall examine and make recommendations concerning the following:

(1) The appropriateness of such benefits under the laws in effect on the date of the enactment of this Act.

(2) The appropriateness of the level of such benefits.

(3) The appropriate standard or standards for determining whether a disability or death of a veteran should be compensated.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section shall be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service, together with any related issues that the commission determines are relevant to the purposes of the study. The study shall include an evaluation and assessment of the following:

(1) The laws and regulations which determine eligibility for disability and death benefits, and other assistance for veterans and their survivors.

(2) The rates of such compensation, including the appropriateness of a schedule for rating disabilities based on average impairment of earning capacity.

(3) Comparable disability benefits provided to individuals by the Federal Government, State governments, and the private sector.

(d) CONSULTATION WITH INSTITUTE OF MEDICINE.—In carrying out the study under this section, the commission shall consult with the Institute of Medicine of the National Academy of Sciences with respect to the medical aspects of contemporary disability compensation policies.

SEC. 1503. REPORT.

Not later than 15 months after the date on which the commission first meets, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

(1) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in section 1502(c).

(2) The recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

(3) Other information and recommendations with respect to such benefits as the commission considers appropriate.

SEC. 1504. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 1502(c), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 1505. PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 1506. TERMINATION OF COMMISSION.

The commission shall terminate 60 days after the date on which the commission submits its report under section 1503.

SEC. 1507. FUNDING.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall, upon the request of the chairman of the commission, make available to the commission such amounts as the commission may require to carry out its duties under this title.

(b) AVAILABILITY.—Any sums made available to the commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the commission.

TITLE XVI—DEFENSE BIOMEDICAL COUNTERMEASURES

Sec. 1601. Research and development of defense biomedical countermeasures.
Sec. 1602. Procurement of defense biomedical countermeasures.
Sec. 1603. Authorization for medical products for use in emergencies.

SEC. 1601. RESEARCH AND DEVELOPMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) IN GENERAL.—The Secretary of Defense (in this section referred to as the "Secretary") shall carry out a program to accelerate the research, development and procurement of biomedical countermeasures, including but not limited to therapeutics and vaccines, for the protection of the Armed Forces from attack by one or more biological, chemical, radiological, or nuclear agents.

(b) INTERAGENCY COOPERATION.—(1) In carrying out the program under subsection (a), the Secretary may enter into interagency agreements and other collaborative undertakings with other Federal agencies.

(2) The Secretary, through regular, structured, and close consultation with the Secretary of Health and Human Services and the Secretary of Homeland Security, shall ensure that the activities of the Department of Defense in carrying out the program are coordinated with, complement, and do not unnecessarily duplicate activities of the Department of Health and Human Services or the Department of Homeland Security.

(c) EXPEDITED PROCUREMENT AUTHORITY.—(1) For any procurement of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research and development, the Secretary may, when appropriate, use streamlined acquisition procedures and other expedited procurement procedures authorized in—

(A) section 32A of the Office of Federal Procurement Policy Act, as added by section 1443 of this Act; and

(B) section 2371 of title 10, United States Code, and section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

(2) Notwithstanding paragraph (1) and the provisions of law referred to in such paragraph, each of the following provisions shall apply to the procurements described in this subsection to the same extent that such provisions would apply to such procurements in the absence of paragraph (1):

(A) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

(B) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

(C) Section 2313 of title 10, United States Code (relating to the examination of contractor records).

(3) The Secretary shall institute appropriate internal controls for use of the authority under paragraph (1), including requirements for documenting the justification for each use of such authority.

(d) DEPARTMENT OF DEFENSE FACILITIES AUTHORITY.—(1) If the Secretary determines that it is necessary to acquire, lease, construct, or improve laboratories, research facilities, and other real property of the Department of Defense in order to carry out the program under this section, the Secretary may do so using the procedures set forth in paragraphs (2), (3), (4), and (5).

(2) The Secretary shall use existing construction authorities provided by subchapter I of chapter 169 of title 10, United States Code to the maximum extent possible.

(3)(A) If the Secretary determines that use of authorities in paragraph (2) would prevent the Department from meeting a specific facility requirement for the program, the Secretary shall submit to the congressional defense committees advance notification, which shall include the following:

(i) Certification by the Secretary that use of existing construction authorities would prevent the Department from meeting the specific facility requirement.

(ii) A detailed explanation of the reasons why existing authorities cannot be used.

(iii) A justification of the facility requirement.

(iv) Construction project data and estimated cost.

(v) Identification of the source or sources of the funds proposed to be expended.

(B) The facility project may be carried out only after the end of the 21-day period beginning on the date the notification is received by the congressional defense committees.

(4) If the Secretary determines (A) that the facility is vital to national security or to the protection of health, safety, or the quality of the

environment, and (B) the requirement for the facility is so urgent that the advance notification in paragraph (3) and the subsequent 21-day deferral of the facility project would threaten the life, health, or safety of personnel, or would otherwise jeopardize national security, the Secretary may obligate funds for the facility and notify the congressional defense committees within seven days after the date on which appropriated funds are obligated with the information required in paragraph (3).

(5) The Secretary shall submit to the congressional defense committees a quarterly report detailing any use of the authority provided by paragraph (4), including costs incurred or to be incurred by the United States as a result of the use of the authority.

(6) Nothing in this section shall be construed to authorize the Secretary to acquire, construct, lease, or improve a facility having general utility beyond the specific purposes of the program.

(7) In this subsection, the term "facility" has the meaning given the term in section 2801(c) of title 10, United States Code.

(e) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) Subject to paragraph (2), the authority provided by section 1091 of title 10, United States Code, for personal services contracts to carry out health care responsibilities in medical treatment facilities of the Department of Defense shall also be available, subject to the same terms and conditions, for personal services contracts to carry out research and development activities under this section. The number of individuals whose personal services are obtained under this subsection may not exceed 30 at any time.

(2) The authority provided by such section 1091 may not be used for a personal services contract unless the contracting officer for the contract ensures that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department of Defense to obtain such services by other measures.

(f) STREAMLINED PERSONNEL AUTHORITY.—(1) The Secretary may appoint highly qualified experts, including scientific and technical personnel, to carry out research and development under this section in accordance with the authorities provided in section 342 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261), and section 1101 of this Act.

(2) The Secretary may use the authority under paragraph (1) only upon a determination by the Secretary that use of such authority is necessary to accelerate the research and development under the program.

(3) The Secretary shall institute appropriate internal controls for each use of the authority under paragraph (1).

SEC. 1602. PROCUREMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) DETERMINATION OF MATERIAL THREATS.—(1) The Secretary of Defense (in this section referred to as the "Secretary") shall on an ongoing basis—

(A) assess current and emerging threats of use of biological, chemical, radiological, and nuclear agents; and

(B) identify, on the basis of such assessment, those agents that present a material risk of use against the Armed Forces.

(2) The Secretary shall on an ongoing basis—

(A) assess the potential consequences to the health of members of the Armed Forces of use against the Armed Forces of the agents identified under paragraph (1)(B); and

(B) identify, on the basis of such assessment, those agents for which countermeasures are necessary to protect the health of members of the Armed Forces.

(b) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary shall on an ongoing basis assess the availability and appropriateness of specific countermeasures to address specific threats identified under subsection (a).

(c) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR PROCUREMENT.—(1) The Secretary, in accordance with paragraph (2), shall on an ongoing basis identify specific countermeasures that the Secretary determines to be appropriate for procurement for the Department of Defense stockpile of biomedical countermeasures.

(2) The Secretary may not identify a specific countermeasure under paragraph (1) unless the Secretary determines that—

(A) the countermeasure is a qualified countermeasure; and

(B) it is reasonable to expect that producing and delivering, within 5 years, the quantity of that countermeasure required to meet the needs of the Department (as determined by the Secretary) is feasible.

(d) INTERAGENCY COOPERATION.—(1) Activities of the Secretary under this section shall be carried out in regular, structured, and close consultation and coordination with the Secretaries of Homeland Security and Health and Human Services, including the activities described in subsections (a), (b), and (c) and those activities with respect to interagency agreements described in paragraph (2).

(2) The Secretary may enter into an interagency agreement with the Secretaries of Homeland Security and Health and Human Services to provide for acquisition by the Secretary of Defense for use by the Armed Forces of biomedical countermeasures procured for the Strategic National Stockpile by the Secretary of Health and Human Services. The Secretary may transfer such funds to the Secretary of Health and Human Services as are necessary to carry out such agreements (including administrative costs of the Secretary of Health and Human Services), and the Secretary of Health and Human Services may expend any such transferred funds to procure such countermeasures for use by the Armed Forces, or to replenish the stockpile. The Secretaries are authorized to establish such terms and conditions for such agreements as the Secretaries determine to be in the public interest. The transfer authority provided under this paragraph is in addition to any other transfer authority available to the Secretary.

(e) DEFINITIONS.—In this section:

(1) The term "qualified countermeasure" means a biomedical countermeasure—

(A) that is approved under section 505(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or licensed under section 351 of the Public Health Service Act (42 U.S.C. 262), or that is approved under section 515 or cleared under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e and 360) for use as such a countermeasure to a biological, chemical, radiological, or nuclear agent identified as a material threat under subsection (a); or

(B) with respect to which the Secretary of Health and Human Services makes a determination that sufficient and satisfactory clinical experience or research data (including data, if available, from preclinical and clinical trials) exists to support a reasonable conclusion that the product will qualify for such approval or licensing for use as such a countermeasure.

(2) The term "biomedical countermeasure" means a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), device (as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))), or biological product (as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)) that is—

(A) used to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a military health emergency affecting the Armed Forces; or

(B) used to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug or biological product that is used as described in subparagraph (A).

(3) The term "Strategic National Stockpile" means the stockpile established under section 121(a) of the Public Health and Bioterrorism Preparedness and Response Act of 2002 (42 U.S.C. 300hh–12(a)).

(f) FUNDING.—Of the amount authorized to be appropriated for the Department of Defense and available within the transfer authority established under section 1001 of this Act for fiscal year 2004 and for each fiscal year thereafter, such sums are authorized as may be necessary for the costs incurred by the Secretary in the procurement of countermeasures under this section.

SEC. 1603. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following section:

"SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

"(a) IN GENERAL.—

"(1) EMERGENCY USES.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in this section as an 'emergency use').

"(2) APPROVAL STATUS OF PRODUCT.—An authorization under paragraph (1) may authorize an emergency use of a product that—

"(A) is not approved, licensed, or cleared for commercial distribution under a provision of law referred to in such paragraph (referred to in this section as an 'unapproved product'); or

"(B) is approved, licensed, or cleared under such a provision, but which use is not under such provision an approved, licensed, or cleared use of the product (referred to in this section as an 'unapproved use of an approved product').

"(3) RELATION TO OTHER USES.—An emergency use authorized under paragraph (1) for a product is in addition to any other use that is authorized for the product under a provision of law referred to in such paragraph.

"(4) DEFINITIONS.—For purposes of this section:

"(A) The term 'biological product' has the meaning given such term in section 351 of the Public Health Service Act.

"(B) The term 'emergency use' has the meaning indicated for such term in paragraph (1).

"(C) The term 'product' means a drug, device, or biological product.

"(D) The term 'unapproved product' has the meaning indicated for such term in paragraph (2)(A).

"(E) The term 'unapproved use of an approved product' has the meaning indicated for such term in paragraph (2)(B).

"(b) DECLARATION OF EMERGENCY.—

"(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization under this subsection for a product on the basis of a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military

forces of attack with a specified biological, chemical, radiological, or nuclear agent or agents.

"(2) TERMINATION OF DECLARATION.—

"(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

"(i) a determination by the Secretary, in consultation with the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

"(ii) the expiration of the one-year period beginning on the date on which the declaration is made.

"(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

"(C) DISPOSITION OF PRODUCT.—If an authorization under this section with respect to an unapproved product ceases to be effective as a result of a termination under subparagraph (A) of this paragraph, the Secretary shall consult with the manufacturer of such product with respect to the appropriate disposition of the product.

"(3) ADVANCE NOTICE OF TERMINATION.—The Secretary shall provide advance notice that a declaration under this subsection will be terminated. The period of advance notice shall be a period reasonably determined to provide—

"(A) in the case of an unapproved product, a sufficient period for disposition of the product, including the return of such product (except such quantities of product as are necessary to provide for continued use consistent with subsection (f)(2)) to the manufacturer (in the case of a manufacturer that chooses to have such product returned); and

"(B) in the case of an unapproved use of an approved product, a sufficient period for the disposition of any labeling, or any information under subsection (e)(2)(B)(ii), as the case may be, that was provided with respect to the emergency use involved.

"(4) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, advance notice of termination, and renewal under this subsection.

"(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Director of the National Institutes of Health and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the circumstances of the emergency involved), the Secretary concludes—

"(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

"(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

"(A) the product may be effective in diagnosing, treating, or preventing—

"(i) such disease or condition; or

"(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this Act, or licensed under section 351 of the Public Health Service Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

"(B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

"(3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and

"(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

"(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

"(1) each disease or condition that the product may be used to diagnose, prevent, or treat within the scope of the authorization;

"(2) the Secretary's conclusions, made under subsection (c)(2)(B), that the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product; and

"(3) the Secretary's conclusions, made under subsection (c), concerning the safety and potential effectiveness of the product in diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

"(e) CONDITIONS OF AUTHORIZATION.—

"(1) UNAPPROVED PRODUCT.—

"(A) REQUIRED CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary, to the extent practicable given the circumstances of the emergency, shall, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

"(i) Appropriate conditions designed to ensure that health care professionals administering the product are informed—

"(I) that the Secretary has authorized the emergency use of the product;

"(II) of the significant known and potential benefits and risks of the emergency use of the product; and of the extent to which such benefits and risks are unknown; and

"(III) of the alternatives to the product that are available, and of their benefits and risks.

"(ii) Appropriate conditions designed to ensure that individuals to whom the product is administered are informed—

"(I) that the Secretary has authorized the emergency use of the product;

"(II) of the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and

"(III) of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

"(iii) Appropriate conditions for the monitoring and reporting of adverse events associated with the emergency use of the product.

"(iv) For manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

"(B) AUTHORITY FOR ADDITIONAL CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary may, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

"(i) Appropriate conditions on which entities may distribute the product with respect to the emergency use of the product (including limitation to distribution by government entities), and on how distribution is to be performed.

"(ii) Appropriate conditions on who may administer the product with respect to the emergency use of the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered with respect to such use.

"(iii) Appropriate conditions with respect to the collection and analysis of information, during the period when the authorization is in effect, concerning the safety and effectiveness of the product with respect to the emergency use of such product.

"(iv) For persons other than manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

"(2) UNAPPROVED USE.—With respect to the emergency use of a product that is an unapproved use of an approved product:

"(A) For a manufacturer of the product who carries out any activity for which the authorization is issued, the Secretary shall, to the extent practicable given the circumstances of the emergency, establish conditions described in clauses (i) and (ii) of paragraph (1)(A), and may establish conditions described in clauses (iii) and (iv) of such paragraph.

"(B)(i) If the authorization under this section regarding the emergency use authorizes a change in the labeling of the product, but the manufacturer of the product chooses not to make such change, such authorization may not authorize distributors of the product or any other person to alter or obscure the labeling provided by the manufacturer.

"(ii) In the circumstances described in clause (i), for a person who does not manufacture the product and who chooses to act under this clause, an authorization under this section regarding the emergency use shall, to the extent practicable given the circumstances of the emergency, authorize such person to provide appropriate information with respect to such product in addition to the labeling provided by the manufacturer, subject to compliance with clause (i). While the authorization under this section is effective, such additional information shall not be considered labeling for purposes of section 502.

"(C) The Secretary may establish with respect to the distribution and administration of the product for the unapproved use conditions no more restrictive than those established by the Secretary with respect to the distribution and administration of the product for the approved use.

"(3) GOOD MANUFACTURING PRACTICE.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the circumstances of the emergency, requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501.

"(4) ADVERTISING.—The Secretary may establish conditions on advertisements and other promotional descriptive printed matter that relate to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), including, as appropriate—

"(A) with respect to drugs and biological products, requirements applicable to prescription drugs pursuant to section 502(n); or

"(B) with respect to devices, requirements applicable to restricted devices pursuant to section 502(r).

"(f) DURATION OF AUTHORIZATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

"(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—Notwithstanding the termination of the declaration under subsection (b) or a revocation under subsection (g), an authorization

shall continue to be effective to provide for continued use of an unapproved product with respect to a patient to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patient's attending physician.

"(g) REVOCATION OF AUTHORIZATION.—

"(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

"(2) REVOCATION.—The Secretary may revoke an authorization under this section if the criteria under subsection (c) for issuance of such authorization are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

"(h) PUBLICATION; CONFIDENTIAL INFORMATION.—

"(1) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization under this section, and an explanation of the reasons therefor (which may include a summary of data or information that has been submitted to the Secretary in an application under section 505(i) or section 520(g), even if such summary may indirectly reveal the existence of such application).

"(2) CONFIDENTIAL INFORMATION.—Nothing in this section alters or amends section 1905 of title 18, United States Code, or section 552(b)(4) of title 5 of such Code.

"(i) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary or by the Secretary of Defense are committed to agency discretion.

"(j) RULES OF CONSTRUCTION.—The following applies with respect to this section:

"(1) Nothing in this section impairs the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution.

"(2) Nothing in this section impairs the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

"(3) Nothing in this section (including any exercise of authority by a manufacturer under subsection (e)(2)) impairs the authority of the United States to use or manage quantities of a product that are owned or controlled by the United States (including quantities in the stockpile maintained under section 319F–2 of the Public Health Service Act).

"(k) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization shall not be considered to constitute a clinical investigation for purposes of section 505(i), section 520(g), or any other provision of this Act or section 351 of the Public Health Service Act.

"(l) OPTION TO CARRY OUT AUTHORIZED ACTIVITIES.—Nothing in this section provides the Secretary any authority to require any person to carry out any activity that becomes lawful pursuant to an authorization under this section, and no person is required to inform the Secretary that the person will not be carrying out such activity, except that a manufacturer of a sole-source unapproved product authorized for emergency use shall report to the Secretary within a reasonable period of time after the issuance by the Secretary of such authorization if such manufacturer does not intend to carry out any activity under the authorization. This section only has legal effect on a person who carries out an activity for which an authorization under this section is issued. This section does not modify or affect activities carried out pursuant to other provisions of this Act or section 351 of the Public Health Service Act. Nothing in this subsection may be construed as restricting the Secretary from imposing conditions on persons who carry out any activity pursuant to an authorization under this section.".

(b) EMERGENCY USE PRODUCTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1107 the following new section:

"§ 1107a. Emergency use products

"(a) WAIVER BY THE PRESIDENT.—In the case of the administration of a product authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act to members of the armed forces, the condition described in section 564(e)(1)(A)(ii)(III) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), designed to ensure that individuals are informed of an option to accept or refuse administration of a product, may be waived only by the President only if the President determines, in writing, that complying with such requirement is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security.

"(b) PROVISION OF INFORMATION.—If the President, under subsection (a), waives the condition described in section 564(e)(1)(A)(ii)(III) of the Federal Food, Drug, and Cosmetic Act, and if the Secretary of Defense, in consultation with the Secretary of Health and Human Services, makes a determination that it is not feasible based on time limitations for the information described in section 564(e)(1)(A)(ii)(I) or (II) of such Act and required under paragraph (1)(A) or (2)(A) of such section 564(e), to be provided to a member of the armed forces prior to the administration of the product, such information shall be provided to such member of the armed forces (or next-of-kin in the case of the death of a member) to whom the product was administered as soon as possible, but not later than 30 days, after such administration. The authority provided for in this subsection may not be delegated. Information concerning the administration of the product shall be recorded in the medical record of the member.

"(c) APPLICABILITY OF OTHER PROVISIONS.—In the case of an authorization by the Secretary of Health and Human Services under section 564(a)(1) of the Federal Food, Drug, and Cosmetic Act based on a determination by the Secretary of Defense under section 564(b)(1)(B) of such Act, subsections (a) through (f) of section 1107 shall not apply to the use of a product that is the subject of such authorization, within the scope of such authorization and while such authorization is effective.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1107 the following new item:

"1107a. Emergency use products.".

(c) ENFORCEMENT.—Section 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(d)) is amended by striking "section 404 or 505" and inserting "section 404, 505, or 564". Section 301(e) of such Act is amended by inserting "564," after "504," the first place such term appears, and by striking "or 519" and inserting "519, or 564".

(d) TERMINATION.—This section shall not be in effect (and the law shall read as if this section were never enacted) as of the date on which, following enactment of the Project Bioshield Act of 2003, the President submits to Congress a notification that the Project Bioshield Act of 2003 provides an effective emergency use authority with respect to members of the Armed Forces.

TITLE XVII—NATURALIZATION AND OTHER IMMIGRATION BENEFITS FOR MILITARY PERSONNEL AND FAMILIES

Sec. 1701. Requirements for naturalization through service in the Armed Forces of the United States.
Sec. 1702. Naturalization benefits for members of the Selected Reserve of the Ready Reserve.
Sec. 1703. Extension of posthumous benefits to surviving spouses, children, and parents.
Sec. 1704. Expedited process for granting posthumous citizenship to members of the Armed Forces.
Sec. 1705. Effective date.

SEC. 1701. REQUIREMENTS FOR NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES.

(a) REDUCTION OF PERIOD FOR REQUIRED SERVICE.—Section 328(a) of the Immigration and Nationality Act (8 U.S.C. 1439(a)) is amended by striking "three years," and inserting "one year,".

(b) PROHIBITION ON IMPOSITION OF FEES RELATING TO NATURALIZATION.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(1) in section 328(b)—

(A) in paragraph (3)—

(i) by striking "honorable. The" and inserting "honorable (the"; and

(ii) by striking "discharge." and inserting "discharge); and"; and

(B) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing the application, or for the issuance of a certificate of naturalization upon being granted citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected."; and

(2) in section 329(b)—

(A) in paragraph (2), by striking "and" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(4) notwithstanding any other provision of law, no fee shall be charged or collected from the applicant for filing a petition for naturalization or for the issuance of a certificate of naturalization upon citizenship being granted to the applicant, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected.".

(c) REVOCATION OF CITIZENSHIP FOR SEPARATION FROM MILITARY SERVICE UNDER OTHER THAN HONORABLE CONDITIONS.—

(1) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

(A) by adding at the end of section 328 the following:

"(f) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under

which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service."; and

(B) by amending section 329(c) to read as follows:

"(c) Citizenship granted pursuant to this section may be revoked in accordance with section 340 if the person is separated from the Armed Forces under other than honorable conditions before the person has served honorably for a period or periods aggregating five years. Such ground for revocation shall be in addition to any other provided by law, including the grounds described in section 340. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. Any period or periods of service shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service.".

(2) Effective date.—The amendments made by paragraph (1) shall apply to citizenship granted on or after the date of the enactment of this Act.

(d) Naturalization Proceedings Overseas for Members of the Armed Forces.—Notwithstanding any other provision of law, the Secretary of Homeland Security, the Secretary of State, and the Secretary of Defense shall ensure that any applications, interviews, filings, oaths, ceremonies, or other proceedings under title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) relating to naturalization of members of the Armed Forces are available through United States embassies, consulates, and as practicable, United States military installations overseas.

(e) Finalization of Naturalization Proceedings for Members of the Armed Forces.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe a policy that facilitates the opportunity for a member of the Armed Forces to finalize naturalization for which the member has applied. The policy shall include, for such purpose, the following:

(1) A high priority for grant of emergency leave.

(2) A high priority for transportation on aircraft of, or chartered by, the Armed Forces.

(f) Technical and Conforming Amendment.—Section 328(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1439(b)(3)) is amended by striking "Attorney General" and inserting "Secretary of Homeland Security".

SEC. 1702. NATURALIZATION BENEFITS FOR MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE.

Section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) is amended by inserting "as a member of the Selected Reserve of the Ready Reserve or" after "has served honorably".

SEC. 1703. EXTENSION OF POSTHUMOUS BENEFITS TO SURVIVING SPOUSES, CHILDREN, AND PARENTS.

(a) Treatment as Immediate Relatives.—

(1) Spouses.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien (and each child of the alien) shall be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death, but only if the alien files a petition under section 204(a)(1)(A)(ii) of such Act within 2 years after such date and only until the date the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under the preceding sentence shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) Children.—

(A) In general.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) Petitions.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(3) Parents.—

(A) In general.—In the case of an alien who was the parent of a citizen of the United States at the time of the citizen's death, if the citizen served honorably in an active duty status in the military, air, or naval forces of the United States and died as a result of injury or disease incurred in or aggravated by combat, the alien shall be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of changes in age or marital status thereafter), but only if the alien files a petition under subparagraph (B) within 2 years after such date.

(B) Petitions.—An alien described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(C) Exception.—Notwithstanding section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), for purposes of this paragraph, a citizen described in subparagraph (A) does not have to be 21 years of age for a parent to benefit under this paragraph.

(b) Applications for Adjustment of Status by Surviving Spouses, Children, and Parents.—

(1) In general.—Notwithstanding subsections (a) and (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), any alien who was the spouse, child, or parent of an alien described in paragraph (2), and who applied for adjustment of status prior to the death described in paragraph (2)(B), may have such application adjudicated as if such death had not occurred.

(2) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(c) Spouses and Children of Lawful Permanent Resident Aliens.—

(1) Treatment as immediate relatives.—

(A) In general.—A spouse or child of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien, shall be considered (if the spouse or child has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for immediate relative status under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(B) Petitions.—An alien spouse or child described in subparagraph (A) may file a petition with the Secretary of Homeland Security for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)). For purposes of such Act, such a petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(2) Self-petitions.—Any spouse or child of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant may file a petition for such classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) with the Secretary of Homeland Security, but only if the spouse or child files a petition within 2 years after such date. Such spouse or child shall be eligible for deferred action, advance parole, and work authorization.

(3) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(d) Parents of Lawful Permanent Resident Aliens.—

(1) Self-petitions.—Any parent of an alien described in paragraph (2) may file a petition for classification under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), but only if the parent files a petition within 2 years after such date. For purposes of such Act, such petition shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)). Such parent shall be eligible for deferred action, advance parole, and work authorization.

(2) Alien described.—An alien is described in this paragraph if the alien—

(A) served honorably in an active duty status in the military, air, or naval forces of the United States;

(B) died as a result of injury or disease incurred in or aggravated by combat; and

(C) was granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1).

(e) Waiver of Ground for Inadmissibility.—In determining the admissibility of any alien accorded an immigration benefit under this section for purposes of the Immigration and Nationality Act, the ground for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(f) Naturalization for Surviving Spouses.—

(1) In general.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended by adding at the end the following: "For purposes of this subsection, the terms

'United States citizen' and 'citizen spouse' include a person granted posthumous citizenship under section 329A.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to persons granted posthumous citizenship under section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) due to death on or after September 11, 2001.

(g) BENEFITS TO SURVIVORS; TECHNICAL AMENDMENT.—Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (e); and

(2) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security''.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—Section 319(d) of the Immigration and Nationality Act (8 U.S.C. 1430(d)) is amended—

(1) by inserting '', child, or parent'' after ''surviving spouse'';

(2) by inserting '', parent, or child'' after ''whose citizen spouse''; and

(3) by striking ''who was living'' and inserting ''who, in the case of a surviving spouse, was living''.

SEC. 1704. EXPEDITED PROCESS FOR GRANTING POSTHUMOUS CITIZENSHIP TO MEMBERS OF THE ARMED FORCES.

Section 329A of the Immigration and Nationality Act (8 U.S.C. 1440–1) is amended—

(1) by striking subsection (c) and inserting the following:

''(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—

''(1) IN GENERAL.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of that person—

''(A) upon locating the next-of-kin, and if so requested by the next-of-kin, by the Secretary of Defense or the Secretary's designee with the Bureau of Citizenship and Immigration Services in the Department of Homeland Security immediately upon the death of that person; or

''(B) by the next-of-kin.

''(2) APPROVAL.—The Director of the Bureau of Citizenship and Immigration Services shall approve a request for posthumous citizenship filed by the next-of-kin in accordance with paragraph (1)(B) if—

''(A) the request is filed not later than 2 years after—

''(i) the date of enactment of this section; or

''(ii) the date of the person's death;

whichever date is later;

''(B) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

''(C) the Director finds that the person satisfied the requirement of subsection (b)(3).''; and

(2) by striking subsection (d) and inserting the following:

''(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the Director of the Bureau of Citizenship and Immigration Services approves the request referred to in subsection (c), the Director shall send to the next-of-kin of the person who is granted citizenship, a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.''.

SEC. 1705. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect as if enacted on September 11, 2001.

(b) EXCEPTION.—The amendments made by sections 1701(b) (relating to naturalization fees) and 1701(d) (relating to naturalization proceedings overseas) shall take effect on October 1, 2004.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the ''Military Construction Authorization Act for Fiscal Year 2004''.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Termination or modification of authority to carry out certain fiscal year 2003 projects.
Sec. 2106. Modification of authority to carry out certain fiscal year 2002 projects.
Sec. 2107. Termination or modification of authority to carry out certain fiscal year 2001 projects.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Redstone Arsenal	$5,500,000
Alaska	Fort Richardson	$2,500,000
	Fort Wainwright	$138,800,000
Colorado	Fort Carson	$2,150,000
Georgia	Fort Benning	$34,500,000
	Fort Gordon	$4,350,000
	Fort Stewart/Hunter Army Air Field	$113,500,000
Hawaii	Helemano Military Reservation	$1,400,000
	Schofield Barracks	$128,100,000
Kansas	Fort Leavenworth	$115,000,000
	Fort Riley	$40,000,000
Kentucky	Fort Knox	$13,500,000
Louisiana	Fort Polk	$72,000,000
Maryland	Fort Meade	$9,600,000
Massachusetts	Soldier Systems Center, Natick	$5,500,000
New Jersey	Naval Air Engineering Center, Lakehurst	$2,250,000
	Picatinny Arsenal	$8,000,000
New York	Fort Drum	$130,700,000
North Carolina	Fort Bragg	$125,400,000
Oklahoma	Fort Sill	$5,500,000
Texas	Fort Bliss	$5,400,000
	Fort Hood	$49,800,000
Virginia	Fort Belvoir	$7,000,000
	Fort Lee	$3,850,000
	Fort Myer	$9,000,000
Washington	Fort Lewis	$3,900,000
	Total	$1,037,200,000

(b) OUTSIDE THE UNITED STATES.—Subject to subsection (c), using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	$76,000,000

Army: Outside the United States—Continued

Country	Installation or location	Amount
	Vilseck	$31,000,000
Italy	Aviano Air Base	$28,500,000
	Livorno	$22,000,000
Korea	Camp Humphreys	$65,000,000
Kwajalein	Kwajalein	$9,400,000
	Total	$231,900,000

SEC. 2102. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	140 Units	$64,000,000
Arizona	Fort Huachuca	220 Units	$41,000,000
Kansas	Fort Riley	62 Units	$16,700,000
Kentucky	Fort Knox	178 Units	$41,000,000
New Mexico	White Sands Missile Range	58 Units	$14,600,000
Oklahoma	Fort Sill	120 Units	$25,373,000
Virginia	Fort Lee	90 Units	$18,000,000
		Total:	$220,673,000

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $34,488,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $130,430,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,874,856,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $825,200,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $213,000,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $32,606,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $126,833,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $383,591,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,043,026,000.

(6) For the construction of phase 3 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2107 of this Act, $17,000,000.

(7) For the construction of phase 4 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106–398; 114 Stat. 1654A–389), as amended by section 2107 of this Act, $38,000,000.

(8) For the construction of phase 3 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), as amended by section 2106 of this Act, $33,000,000.

(9) For the construction of phase 3 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1280), $48,000,000.

(10) For the construction of phase 2 of a barracks complex, Capron Road, at Schofield Barracks, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(11) For the construction of phase 2 of a combined arms collective training facility at Fort Riley, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), as amended by section 2105 of this Act, $13,600,000.

(12) For the construction of phase 2 of a barracks complex, Range Road, at Fort Campbell, Kentucky, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $49,000,000.

(13) For the construction of phase 2 of a consolidated maintenance complex at Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681), $13,000,000.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $32,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks, Fort Stewart/Hunter Army Airfield, Georgia).

(3) $87,000,000 (the balance of the amount authorized under section 2101(a) for construction of the Lewis and Clark Instructional Facility, Fort Leavenworth, Kansas).

(4) $43,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Wheeler Army Airfield, Fort Drum, New York).

(5) $50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Bastogne Drive, Fort Bragg, North Carolina).

(6) $18,900,000 (the balance of the amount authorized under section 2101(b) for construction of a barracks complex, Vilseck, Germany).

(c) Adjustment.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (13) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $10,000,000, which represents corrections to Department of the Army estimates for military family housing support.

SEC. 2105. TERMINATION OR MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) Modification of Inside the United States Project.—The table in subsection (a) of section 2101 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2681) is amended—

(1) in the item relating to Fort Riley, Kansas, by striking "$81,095,000" in the amount column and inserting "$81,495,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,156,167,000".

(b) Termination of Outside the United States Projects.—(1) The table in subsection (b) of such section is amended—

(A) by striking the item relating to Area Support Group, Bamberg, Germany;

(B) by striking the item relating to Coleman Barracks, Germany;

(C) by striking the item relating to Darmstadt, Germany;

(D) by striking the item relating to Mannheim, Germany;

(E) by striking the item relating to Schweinfurt, Germany;

(F) by striking the item relating to Camp Castle, Korea;

(G) by striking the item relating to Camp Hovey, Korea;

(H) by striking the item relating to K16 Airfield, Korea; and

(I) by striking the amount identified as the total in the amount column and inserting "$216,266,000".

(2) The authorization to carry out a military construction project at Camp Bonifas, Korea, provided by section 130 of the Military Construction Appropriation Act, 2003 (Public Law 107–249; 116 Stat. 1586), using funds originally appropriated for a military construction project at Camp Kyle, Korea, is hereby rescinded.

(c) Termination of Family Housing Project Outside the United States.—The table in section 2102(a) of the Military Construction Authorization Act for Fiscal Year 2003 (116 Stat. 2683) is amended—

(1) by striking the item relating to Yongsan, Korea; and

(2) by striking the amount identified as the total in the amount column and inserting "$23,852,000".

(d) Improvements to Military Family Housing Units.—Section 2103 of that Act (116 Stat. 2683) is amended by striking "$239,751,000" and inserting "$178,400,000".

(e) Conforming Amendments.—Section 2104 of that Act (116 Stat. 2683) is amended—

(1) subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$3,104,176,000" and inserting "$2,901,875,000";

(B) in paragraph (2), by striking "$354,116,000" and inserting "$216,266,000"; and

(C) in paragraph (6)(A), by striking "$282,356,000" and inserting "$217,905,000"; and

(2) in subsection (b)(4), by striking "$13,200,000" and inserting "$13,600,000".

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) Modification of Inside the United States Project.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1281), as amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2685), is further amended—

(1) in the item relating to Fort Richardson, Alaska, by striking "$115,000,000" in the amount column and inserting "$117,000,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,364,750,000".

(b) Modification of Outside the United States Projects.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2002 (115 Stat. 1282) is amended—

(1) in the item relating to Camp Hovey, Korea, by striking "$35,750,000" in the amount column and inserting "$24,980,000";

(2) in the item relating to Camp Stanley, Korea, by striking "$28,000,000" in the amount column and inserting "$14,770,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$236,343,000".

(c) Conforming Amendments.—Section 2104 of that Act (115 Stat. 1283) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$3,155,594,000" and inserting "$3,131,594,000"; and

(B) in paragraph (2), by striking "$260,343,000" and inserting "$236,343,000"; and

(2) in subsection (b)(2), by striking "$52,000,000" and inserting "$54,000,000".

SEC. 2107. TERMINATION OR MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) Modification of Inside the United States Projects.—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–389)), as amended by section 2105(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1285), is further amended—

(1) in the item relating to Pohakoula Training Facility, Hawaii, by striking "$32,000,000" in the amount column and inserting "$42,000,000";

(2) in the item relating to Fort Bragg, North Carolina, by striking "$222,200,000" in the amount column and inserting "$255,200,000"; and

(3) by striking the amount identified as the total in the amount column and inserting "$669,374,000".

(b) Termination of Outside the United States Project.—The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2001 (114 Stat. 1654A–390), as amended by section 2106 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2685), is further amended—

(1) by striking the item relating to Camp Stanley, Korea; and

(2) by striking the amount identified as the total in the amount column and inserting "$100,350,000".

(c) Conforming Amendments.—Section 2104 of the Military Construction Authorization Act for Fiscal Year 2001 (114 Stat. 1654A–391), as amended by section 2105(b) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1285), is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$1,935,744,000" and inserting "$1,916,244,000"; and

(B) in paragraph (2), by striking "$119,850,000" and inserting "$100,350,000"; and

(2) in subsection (b)—

(A) in paragraph (5), by striking "$104,000,000" and inserting "$137,000,000"; and

(B) in paragraph (7), by striking "$20,000,000" and inserting "$30,000,000".

TITLE XXI—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Termination of authority to carry out certain fiscal year 2003 projects.
Sec. 2206. Termination or modification of authority to carry out certain fiscal year 2002 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$22,230,000
California	Marine Corps Air-Ground Task Force Training Center, Twentynine Palms	$42,090,000
	Marine Corps Air Station, Miramar	$7,640,000
	Marine Corps Base, Camp Pendleton	$73,580,000
	Naval Air Facility, San Clemente Island	$18,940,000
	Naval Air Station, Lemoore	$34,510,000
	Naval Air Station, North Island	$49,240,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	$6,150,000
	Naval Postgraduate School, Monterey	$42,560,000
	Naval Station, San Diego	$49,710,000
Connecticut	Naval Submarine Base, New London	$3,120,000
District of Columbia	Marine Corps Barracks	$1,550,000
Florida	Blount Island (Jacksonville)	$115,711,000
	Naval Air Station, Jacksonville	$9,190,000
	Naval Air Station, Whiting Field, Milton	$4,830,000
	Naval Surface Warfare Center, Coastal Systems Station, Panama City	$9,550,000
Georgia	Strategic Weapons Facility Atlantic, Kings Bay	$11,510,000
Hawaii	Fleet and Industrial Supply Center, Pearl Harbor	$32,180,000
	Naval Magazine, Lualualei	$6,320,000
	Naval Shipyard, Pearl Harbor	$7,010,000
Illinois	Naval Training Center, Great Lakes	$137,120,000
Indiana	Naval Surface Warfare Center, Crane	$11,400,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Maryland	*Naval Air Warfare Center, Patuxent River*	*$28,270,000*
	Naval Surface Warfare Center, Indian Head	*$14,850,000*
Mississippi	*Naval Air Station, Meridian*	*$4,570,000*
New Jersey	*Naval Air Warfare Center, Lakehurst*	*$20,681,000*
	Naval Weapons Station, Earle	*$123,720,000*
North Carolina	*Marine Corps Air Station, New River*	*$6,240,000*
	Marine Corps Base, Camp Lejeune	*$29,450,000*
Rhode Island	*Naval Station, Newport*	*$18,690,000*
	Naval Undersea Warfare Center, Newport	*$10,890,000*
South Carolina	*Naval Weapons Station, Charleston*	*$2,350,000*
Texas	*Naval Air Station, Corpus Christi*	*$5,400,000*
	Naval Station, Ingleside	*$7,070,000*
Virginia	*Henderson Hall, Arlington*	*$1,970,000*
	Marine Corps Combat Development Command, Quantico	*$18,120,000*
	Naval Air Station, Oceana	*$10,000,000*
	Naval Amphibious Base, Little Creek	*$3,810,000*
	Naval Space Command Center, Dahlgren	*$24,020,000*
	Naval Station, Norfolk	*$182,240,000*
	Norfolk Naval Shipyard, Portsmouth	*$17,770,000*
Washington	*Naval Air Station, Whidbey Island*	*$4,650,000*
	Naval Magazine, Indian Island	*$2,240,000*
	Naval Shipyard, Puget Sound	*$6,020,000*
	Naval Submarine Base, Bangor	*$33,820,000*
	Strategic Weapons Facility Pacific, Bangor	*$6,530,000*
Various Locations	*Various Locations, CONUS*	*$56,360,000*
	Total	*$1,335,872,000*

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	*Naval Support Activity, Bahrain*	*$18,030,000*
Guam	*Commander, United States Naval Forces, Marianas*	*$1,700,000*
Italy	*Naval Air Station, Sigonella*	*$34,070,000*
	Naval Support Activity, La Maddalena	*$39,020,000*
	Total	*$92,820,000*

SEC. 2202. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	*Naval Air Station, Lemoore*	*187 Units*	*$41,585,000*
Florida	*Naval Air Station, Pensacola*	*25 Units*	*$4,447,000*
North Carolina	*Marine Corps Air Station, Cherry Point*	*339 Units*	*$42,803,000*
	Marine Corps Base, Camp Lejeune	*519 Units*	*$68,531,000*
		Total	*$157,366,000*

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $8,381,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $20,446,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,267,729,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,001,092,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $92,820,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $14,585,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $71,001,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $184,193,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $845,078,000.

(6) For construction of a bachelors enlisted quarters shipboard ashore at Naval Shipyard Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107-314; 116 Stat. 2687), $46,730,000.

(7) For construction of phase III of a combined propulsion and explosives lab at Naval Air

Warfare Center, China Lake, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1289), as amended by section 2206 of this Act, $12,230,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the sum of the following:

(1) The total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(2) $25,690,000 (the balance of the amount authorized under section 2101(a) for construction of a tertiary sewage treatment facility, Marine Corp Base, Camp Pendleton, California).

(3) $58,190,000 (the balance of the amount authorized under section 2101(a) for construction of a battle station training facility, Naval Training Center, Great Lakes, Illinois).

(4) $96,980,000 (the balance of the amount authorized under section 2101(a) for construction of a general purpose berthing pier, Naval Weapons Station Earle, New Jersey).

(5) $118,170,000 (the balance of the amount authorized under section 2101(a) for construction of the Pier 11 replacement, Naval Station, Norfolk, Virginia).

(6) $28,750,000 (the balance of the amount authorized under section 2101(a) for construction of outlying landing field facilities, various locations in the continental United States).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (7) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $10,000,000, which represents corrections to Department of the Navy estimates for military family housing support.

SEC. 2205. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) TERMINATION OF INSIDE THE UNITED STATES PROJECTS.—The table in subsection (a) of section 2201 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2686) is amended—

(1) by striking the item relating to Naval Air Warfare Center, China Lake, California;

(2) by striking the item relating to Marine Corps Air Station, Cherry Point, North Carolina; and

(3) by striking the amount identified as the total in the amount column and inserting "$1,068,223,000".

(b) TERMINATION OF OUTSIDE THE UNITED STATES PROJECTS.—The table in subsection (b) of such section is amended—

(1) by striking the item relating to Naval Support Activity, Joint Headquarters Command, Larissa, Greece;

(2) by striking the item relating to Naval Air Station, Keflavik, Iceland; and

(3) by striking the amount identified as the total in the amount column and inserting "$129,100,000".

(c) TERMINATION OF MILITARY FAMILY HOUSING PROJECT.—The table in section 2202(a) of that Act (116 Stat. 2688) is amended—

(1) by striking the item relating to the Joint Maritime Facility, St. Mawgan, United Kingdom; and

(2) by striking the amount identified as the total in the amount column and inserting "$210,195,000".

(d) CONFORMING AMENDMENTS.—Section 2204 of that Act (116 Stat. 2688) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$2,576,381,000" and inserting "$2,530,097,000";

(B) in paragraph (1), by striking "$1,025,598,000" and inserting "$1,009,458,000";

(C) in paragraph (2), by striking "$148,250,000" and inserting "$126,530,000";

(D) in paragraph (5)(A), by striking "$379,468,000" and inserting "$360,944,000"; and

(E) by adding at the end the following new paragraph:

"(7) For construction of phase II of a combined propulsion and explosives lab at Naval Air Warfare Center, China Lake, California, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1289), as amended by section 2206 of the Military Construction Authorization Act for Fiscal Year 2004, $10,100,000."; and

(2) in subsection (c), by striking "through (6)" and inserting "through (7)".

SEC. 2206. TERMINATION OR MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MODIFICATION OF INSIDE THE UNITED STATES PROJECT.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1286), as amended by section 2205 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 108–314; 116 Stat. 2689), is amended—

(1) in the item relating to Naval Air Warfare Center, China Lake, California, by striking "$30,200,000" in the amount column and inserting "$32,391,000"; and

(2) by striking the amount identified as the total in the amount column and inserting "$1,061,221,000".

(b) TERMINATION OF OUTSIDE THE UNITED STATES PROJECT.—The table in section 2201(b) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1287) is amended—

(1) by striking the item relating to Naval Support Activity, Joint Headquarters Command, Larissa, Greece; and

(2) by striking the amount identified as the total in the amount column and inserting "$35,430,000".

(c) CONFORMING AMENDMENTS.—Section 2204 of that Act (115 Stat. 1288) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "$2,366,742,000" and inserting "$2,354,502,000"; and

(B) in paragraph (2), by striking "$47,670,000" and inserting "$35,430,000"; and

(2) in subsection (b)(3), by striking "$20,100,000" and inserting "$22,291,000".

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Termination or modification of authority to carry out certain fiscal year 2003 projects.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$26,000,000
Alaska	Eielson Air Force Base	$49,061,000
	Elmendorf Air Force Base	$2,000,000
Arizona	Davis-Monthan Air Force Base	$10,062,000
	Luke Air Force Base	$14,300,000
Arkansas	Little Rock Air Force Base	$3,695,000
California	Beale Air Force Base	$22,750,000
	Edwards Air Force Base	$26,744,000
	Los Angeles Air Force Base	$5,000,000
Colorado	Buckley Air Force Base	$7,019,000
	Peterson Air Force Base	$10,200,000
Florida	Hurlburt Field	$27,200,000
	Tyndall Air Force Base	$15,820,000
Georgia	Robins Air Force Base	$37,164,000
Hawaii	Hickam Air Force Base	$80,096,000
Idaho	Mountain Home Air Force Base	$15,245,000
Illinois	Scott Air Force Base	$1,900,000
Mississippi	Columbus Air Force Base	$7,700,000
	Keesler Air Force Base	$2,900,000
Missouri	Whiteman Air Force Base	$11,600,000
Nevada	Nellis Air Force Base	$11,800,000
New Jersey	McGuire Air Force Base	$11,861,000
New Mexico	Cannon Air Force Base	$9,000,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Kirtland Air Force Base	$11,247,000
	Tularosa Radar Test Site	$3,600,000
North Carolina	Pope Air Force Base	$24,499,000
	Seymour Johnson Air Force Base	$22,622,000
North Dakota	Minot Air Force Base	$12,690,000
Ohio	Wright-Patterson Air Force Base	$21,100,000
Oklahoma	Altus Air Force Base	$1,167,000
	Tinker Air Force Base	$19,444,000
	Vance Air Force Base	$15,000,000
South Carolina	Charleston Air Force Base	$9,042,000
	Shaw Air Force Base	$8,500,000
South Dakota	Ellsworth Air Force Base	$9,300,000
Texas	Goodfellow Air Force Base	$20,335,000
	Lackland Air Force Base	$57,360,000
	Laughlin Air Force Base	$12,400,000
	Randolph Air Force Base	$13,600,000
	Sheppard Air Force Base	$38,167,000
Utah	Hill Air Force Base	$21,748,000
Virginia	Langley Air Force Base	$25,474,000
Washington	McChord Air Force Base	$19,000,000
	Total	$775,412,000

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Ramstein Air Base	$35,616,000
	Spangdahlem Air Base	$5,411,000
Italy	Aviano Air Base	$14,025,000
Korea	Kunsan Air Base	$7,059,000
	Osan Air Base	$16,638,000
Portugal	Lajes Field, Azores	$4,086,000
United Kingdom	Royal Air Force, Lakenheath	$42,487,000
	Royal Air Force, Mildenhall	$10,558,000
Wake Island	Wake Island	$24,000,000
	Total	$159,880,000

(c) Unspecified Worldwide.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation or location	Amount
Unspecified Worldwide	Classified Location	$29,501,000
	Total	$29,501,000

SEC. 2302. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Davis-Monthan Air Force Base	93 Units	$19,357,000
California	Travis Air Force Base	56 Units	$12,723,000
Delaware	Dover Air Force Base	112 Units	$19,601,000
Florida	Eglin Air Force Base	279 Units	$32,165,000
Idaho	Mountain Home Air Force Base	186 Units	$37,126,000
Maryland	Andrews Air Force Base	50 Units	$20,233,000
Missouri	Whiteman Air Force Base	100 Units	$18,221,000
Montana	Malmstrom Air Force Base	94 Units	$19,368,000
North Carolina	Seymour Johnson Air Force Base	138 Units	$18,336,000
North Dakota	Grand Forks Air Force Base	144 Units	$29,550,000
	Minot Air Force Base	200 Units	$41,117,000
South Dakota	Ellsworth Air Force Base	75 Units	$16,240,000
Texas	Dyess Air Force Base	116 Units	$19,973,000
	Randolph Air Force Base	96 Units	$13,754,000
Korea	Osan Air Base	111 Units	$44,765,000

Air Force: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
Portugal	*Lajes Field, Azores*	*42 Units*	*$13,428,000*
United Kingdom	*Royal Air Force, Lakenheath*	*89 Units*	*$23,640,000*
		Total	*$399,598,000*

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $33,488,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $227,979,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,550,890,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $766,932,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $159,880,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), $28,981,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $16,180,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,778,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $657,065,000..

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $826,074,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by $10,000,000, which represents corrections to Department of the Air Force estimates for military family housing support.

SEC. 2305. TERMINATION OR MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) TERMINATION OF CLASSIFIED LOCATION PROJECT.—Section 2301(c) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2691) is amended by striking "$24,993,000" both places it appears and inserting "$1,993,000".

(b) IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.—Section 2303 of that Act (116 Stat. 2693) is amended by striking "$226,068,000" and inserting "$206,721,000".

(c) CONFORMING AMENDMENTS.—Section 2304(a) of that Act (116 Stat. 2693) is amended—

(1) in the matter preceding paragraph (1), by striking "$2,633,738,000" and inserting "$2,591,391,000";

(2) in paragraph (3), by striking "$24,993,000" and inserting "$1,993,000"; and

(3) in paragraph (6)(A), by striking "$689,824,000" and inserting "$670,477,000".

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Family housing.
Sec. 2403. Improvements to military family housing units.
Sec. 2404. Energy conservation projects.
Sec. 2405. Authorization of appropriations, Defense Agencies.
Sec. 2406. Termination of authority to carry out certain fiscal year 2003 projects.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Education Activity	*Marine Corps Base, Camp Lejeune, North Carolina*	*$15,259,000*
Defense Logistics Agency	*Defense Distribution Depot, New Cumberland, Pennsylvania*	*$27,700,000*
	Eglin Air Force Base, Florida	*$4,800,000*
	Eielson Air Force Base, Alaska	*$17,000,000*
	Hickam Air Force Base, Hawaii	*$14,100,000*
	Hurlburt Field, Florida	*$4,100,000*
	Offutt Air Force Base, Nebraska	*$13,400,000*
	Langley Air Force Base, Virginia	*$13,000,000*
	Laughlin Air Force Base, Texas	*$4,688,000*
	McChord Air Force Base, Washington	*$8,100,000*
	Naval Air Station, Kingsville, Texas	*$9,200,000*
	Nellis Air Force Base, Nevada	*$12,800,000*
Missile Defense Agency	*Redstone Arsenal, Alabama*	*$20,000,000*
National Security Agency	*Fort Meade, Maryland*	*$1,842,000*
Special Operations Command	*Dam Neck, Virginia*	*$15,281,000*
	Fort Bragg, North Carolina	*$36,300,000*
	Fort Campbell, Kentucky	*$7,800,000*
	Harrisburg International Airport, Pennsylvania	*$3,000,000*
	Hurlburt Field, Florida	*$6,000,000*
	MacDill Air Force Base, Florida	*$25,500,000*
	Naval Amphibious Base, Coronado, California	*$2,800,000*
TRICARE Management Activity	*Fort Hood, Texas*	*$9,400,000*
	Naval Station, Anacostia, District of Columbia	*$15,714,000*
	Naval Submarine Base, New London, Connecticut	*$6,700,000*
	United States Air Force Academy, Colorado	*$22,100,000*
	Walter Reed Medical Center, District of Columbia	*$9,000,000*
Washington Headquarters Services	*Arlington, Virginia*	*$38,086,000*
	Total	*$363,670,000*

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Education Activity	Sigonella, Italy	$30,234,000
	Vicenza, Italy	$16,374,000
TRICARE Management Activity	Anderson Air Force Base, Guam	$26,000,000
	Total	$72,608,000

SEC. 2402. FAMILY HOUSING.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $300,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $50,000.

SEC. 2404. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2405(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of $50,000,000.

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $1,222,388,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $361,470,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $55,243,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $15,553,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,960,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,130,000.

(6) For energy conservation projects authorized by section 2404, $50,000,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $370,427,000.

(8) For military family housing functions:

(A) For planning, design, and improvement of military family housing and facilities, $350,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), $49,440,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $300,000.

(9) For construction of the Defense Threat Reduction Center at Fort Belvoir, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695), $25,700,000.

(10) For the construction of phase 5 of an ammunition demilitarization facility at Pueblo Depot Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $88,388,000.

(11) For the construction of phase 6 of an ammunition demilitarization facility at Newport Army Ammunition Plant, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105–261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $15,207,000.

(12) For the construction of phase 4 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), $16,220,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2406. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2003 PROJECTS.

(a) TERMINATION.—The table in section 2401(b) of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2695) is amended—

(1) in the matter relating to Department of Defense Dependents Schools—

(A) by striking the item relating to Seoul, Korea; and

(B) by striking the item relating to Spangdahlem Air Base, Germany;

(2) in the matter relating to TRICARE Management Activity, by striking the item relating to Spangdahlem Air Base, Germany; and

(3) by striking the amount identified as the total in the amount column and inserting "$134,274,000".

(b) CONFORMING AMENDMENTS.—Section 2404(a) of that Act (116 Stat. 2696) is amended—

(1) in the matter preceding paragraph (1), by striking "$1,434,795,000" and inserting "$1,362,486,000"; and

(2) in paragraph (2), by striking "$206,583,000" and inserting "$134,274,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2003, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $169,300,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 2003, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $311,592,000; and

(B) for the Army Reserve, $88,451,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $45,498,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $222,908,000; and

(B) for the Air Force Reserve, $62,032,000.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 2001 projects.
Sec. 2703. Extension of authorizations of certain fiscal year 2000 projects.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2007.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2006; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2007 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2001 PROJECTS.

(a) EXTENSION OF CERTAIN PROJECTS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–407)), authorizations set forth in the tables in subsection (b), as provided in section 2102 or 2601 of that Act, shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Army: Extension of 2001 Project Authorization

State	Installation or location	Project	Amount
South Carolina	Fort Jackson	New Construction—Family Housing (1 Unit)	$250,000

Army National Guard: Extension of 2001 Project Authorizations

State	Installation or location	Project	Amount
Arizona	Papago Park	Add/Alter Readiness Center	$2,265,000
Pennsylvania	Mansfield	Readiness Center	$3,100,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 841), the authorizations set forth in the tables in subsection (b), as provided in section 2302 or 2601 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2700), shall remain in effect until October 1, 2004, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2005, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	$6,000,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-purpose Range-Heavy	$13,500,000

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Modification of general definitions relating to military construction.

Sec. 2802. Increase in maximum amount of authorized annual emergency construction.

Sec. 2803. Increase in number of family housing units in Italy authorized for lease by the Navy.

Sec. 2804. Increase in authorized maximum lease term for family housing and other facilities in certain foreign countries.

Sec. 2805. Conveyance of property at military installations closed or realigned to support military construction.

Sec. 2806. Inapplicability of space limitations to military unaccompanied housing units acquired or constructed under alternative authority.

Sec. 2807. Additional material for reports on housing privatization program.

Sec. 2808. Temporary, limited authority to use operation and maintenance funds for construction projects outside the United States.

Sec. 2809. Report on military construction requirements to support new homeland defense missions of the Armed Forces.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Enhancement of authority to acquire low-cost interests in land.

Sec. 2812. Retention and availability of amounts realized from energy cost savings.

Sec. 2813. Acceptance of in-kind consideration for easements.

Subtitle C—Base Closure and Realignment

Sec. 2821. Consideration of public-access-road issues related to base closure, realignment, or placement in inactive status.

Sec. 2822. Consideration of surge requirements in 2005 round of base realignments and closures.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Sec. 2831. Termination of lease and conveyance of Army Reserve facility, Conway, Arkansas.

Sec. 2832. Land conveyance, Fort Campbell, Kentucky and Tennessee.

Sec. 2833. Land conveyance, Fort Knox, Kentucky.

Sec. 2834. Army National Guard Armory, Pierce City, Missouri.

Sec. 2835. Land exchange, Fort Belvoir, Virginia.

PART II—NAVY CONVEYANCES

Sec. 2841. Land conveyance, Navy property, Dixon, California.

Sec. 2842. Land conveyance, Marine Corps Logistics Base, Albany, Georgia.

Sec. 2843. Land exchange, Naval and Marine Corps Reserve Center, Portland, Oregon.

Sec. 2844. Land conveyance, Naval Reserve Center, Orange, Texas.
Sec. 2845. Land conveyance, Puget Sound Naval Shipyard, Bremerton, Washington.

Part III—Air Force Conveyances

Sec. 2851. Land exchange, March Air Reserve Base, California.
Sec. 2852. Actions to quiet title, Fallin Waters Subdivision, Eglin Air Force Base, Florida.
Sec. 2853. Modification of land conveyance, Eglin Air Force Base, Florida.

Part IV—Other Conveyances

Sec. 2861. Land conveyance, Air Force and Army Exchange Service property, Dallas, Texas.
Sec. 2862. Land conveyance, Umnak Island, Alaska.

Subtitle E—Other Matters

Sec. 2871. Authority to accept guarantees with gifts in development of Marine Corps Heritage Center, Marine Corps Base, Quantico, Virginia.
Sec. 2872. Redesignation of Yuma Training Range Complex as Bob Stump Training Range Complex.
Sec. 2873. Feasibility study regarding conveyance of Louisiana Army Ammunition Plant, Doyline, Louisiana.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF GENERAL DEFINITIONS RELATING TO MILITARY CONSTRUCTION.

(a) Military Construction.—Subsection (a) of section 2801 of title 10, United States Code, is amended by inserting before the period the following: ", whether to satisfy temporary or permanent requirements".

(b) Military Installation.—Subsection (c)(2) of such section is amended by inserting before the period the following: ", without regard to the duration of operational control".

SEC. 2802. INCREASE IN MAXIMUM AMOUNT OF AUTHORIZED ANNUAL EMERGENCY CONSTRUCTION.

Section 2803(c)(1) of title 10, United States Code, is amended by striking "$30,000,000" and inserting "$45,000,000".

SEC. 2803. INCREASE IN NUMBER OF FAMILY HOUSING UNITS IN ITALY AUTHORIZED FOR LEASE BY THE NAVY.

Section 2828(e)(2) of title 10, United States Code, is amended by striking "2,000" and inserting "2,800".

SEC. 2804. INCREASE IN AUTHORIZED MAXIMUM LEASE TERM FOR FAMILY HOUSING AND OTHER FACILITIES IN CERTAIN FOREIGN COUNTRIES.

(a) Lease of Military Family Housing.—Section 2828(d)(1) of title 10, United States Code, is amended by striking "ten years," and inserting "10 years, or 15 years in the case of leases in Korea,".

(b) Lease of Other Facilities.—Section 2675 of such title is amended by inserting after "five years," the following: "or 15 years in the case of a lease in Korea,".

SEC. 2805. CONVEYANCE OF PROPERTY AT MILITARY INSTALLATIONS CLOSED OR REALIGNED TO SUPPORT MILITARY CONSTRUCTION.

(a) In General.—(1) Subchapter III of chapter 169 of title 10, United States Code, is amended by adding at the end the following new section:

"§2869. Conveyance of property at military installations closed or realigned to support military construction

"(a) Conveyance Authorized; Consideration.—The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, located on a military installation that is closed or realigned under a base closure law to any person who agrees, in exchange for the real property—

"(1) to carry out a military construction project or land acquisition; or

"(2) to transfer to the Secretary concerned housing that is constructed or provided by the person and located at or near a military installation at which there is a shortage of suitable military family housing, military unaccompanied housing, or both.

"(b) Conditions on Conveyance Authority.—The fair market value of the military construction, military family housing, or military unaccompanied housing to be obtained by the Secretary concerned under subsection (a) in exchange for the conveyance of real property by the Secretary under such subsection shall be at least equal to the fair market value of the conveyed real property, as determined by the Secretary. If the fair market value of the military construction, military family housing, or military unaccompanied housing is less than the fair market value of the real property to be conveyed, the recipient of the property shall pay to the United States an amount equal to the difference in the fair market values.

"(c) Pilot Program for Use of Authority.—(1) To the maximum extent practicable, the Secretary of each military department shall use the conveyance authority provided by subsection (a) at least once before December 31, 2004, for the purposes specified in such subsection.

"(2) The value of the consideration received by the Secretary concerned in a conveyance carried out under this subsection shall not be less than $1,000,000.

"(3) In the case of the report required under subsection (f) to be submitted in 2005, the Secretary of Defense shall include the following:

"(A) A description of the conveyances carried out or proposed under this subsection.

"(B) A description of the procedures utilized to enter into any agreements for the conveyance of property under this subsection.

"(C) An assessment of the utility of such procedures for the disposal of property at military installations closed or realigned under the base closure laws, and for securing services described in subsection (a), including an assessment of any time saved and cost-savings achieved as a result of the use of the conveyance authority provided by this section.

"(D) An assessment of private sector interest in the use of the conveyance authority provided by this section.

"(E) A description of the projects for which the Secretary concerned considered using the conveyance authority provided by this section, but did not do so, and an explanation of the decision.

"(d) Advance Notice of Use of Authority.—(1) Notice of the proposed use of the conveyance authority provided by subsection (a) shall be provided in such manner as the Secretary of Defense may prescribe, including publication in the Federal Register and otherwise. When real property located at a military installation closed or realigned under the base closure laws is to be conveyed by means of a public sale, the Secretary concerned may notify prospective purchasers that consideration for the property may be provided in the manner authorized by such subsection.

"(2) The Secretary concerned may not enter into an agreement under subsection (a) for the conveyance of real property until—

"(A) the Secretary submits to Congress notice of the conveyance, including the military construction activities, military family housing, or military unaccompanied housing to be obtained in exchange for the conveyance; and

"(B) a period of 14 days expires beginning on the date on which the notice is submitted.

"(e) Deposit of Funds.—The Secretary concerned may deposit funds received under subsection (b) in the Department of Defense housing funds established under section 2883(a) of this title.

"(f) Annual Report.—In the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, the Secretary of Defense shall include a report detailing the following:

"(1) The extent to which the Secretaries concerned used the authority provided by subsection (a) during the preceding fiscal year to convey real property in exchange for military construction and military housing, including the total value of the real property that was actually conveyed during such fiscal year using such authority and the total value of the military construction and military housing services obtained in exchange.

"(2) The plans for the use of such authority for the current fiscal year, the fiscal year covered by the budget, and the period covered by the current future-years defense program under section 221 of this title.

"(3) The current inventory of unconveyed lands at military installations closed or realigned under a base closure law.

"(g) Description of Property.—The exact acreage and legal description of real property conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary concerned.

"(h) Additional Terms and Conditions.—The Secretary concerned may require such additional terms and conditions in connection with a conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2869. Conveyance of property at military installations closed or realigned to support military construction.".

(b) Exception to Requirement for Authorization of Number of Housing Units.—Section 2822(b) of such title is amended by adding at the end the following new paragraph:

"(6) Housing units constructed or provided under section 2869 of this title.".

(c) Conforming Amendment to Department of Defense Housing Funds.—Section 2883(c) of such title is amended—

(1) in paragraph (1), by adding at the end the following new subparagraph:

"(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title."; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

"(F) Any amounts that the Secretary concerned transfers to that Fund pursuant to section 2869 of this title.".

(d) Conforming Repeals to Base Closure Laws.—(1) Section 204(e) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is repealed.

(2) Section 2905(f) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is repealed.

SEC. 2806. INAPPLICABILITY OF SPACE LIMITATIONS TO MILITARY UNACCOMPANIED HOUSING UNITS ACQUIRED OR CONSTRUCTED UNDER ALTERNATIVE AUTHORITY.

Section 2880(b)(2) of title 10, United States Code, is amended by striking "unless the unit is located on a military installation".

SEC. 2807. ADDITIONAL MATERIAL FOR REPORTS ON HOUSING PRIVATIZATION PROGRAM.

(a) REPORTS ON SPECIFIC PROJECTS.—Subsection (a) of section 2884 of title 10, United States Code, is amended—

(1) by designating the second sentence of paragraph (2) as paragraph (4); and

(2) by inserting after the first sentence in paragraph (2) the following new paragraph:

"(3)(A) In the case of a contract described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of—

"(i) the closure or realignment of the installation for which housing will be provided under the contract;

"(ii) a reduction in force of units stationed at such installation; or

"(iii) the extended deployment of units stationed at such installation.

"(B) If the contract will or may include such a guarantee, the report shall also—

"(i) describe the nature of the guarantee; and

"(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.".

(b) ANNUAL REPORTS.—Subsection (b) of such section is amended—

(1) in paragraph (2), by inserting before the period at the end the following: ", and such recommendations as the Secretary considers necessary for improving the extent and effectiveness of the use of such authorities in the future"; and

(2) by striking paragraph (3) and inserting the following new paragraphs:

"(3) A review of activities of the Secretary under this subchapter during such preceding fiscal year, shown for military family housing, military unaccompanied housing, dual military family housing and military unaccompanied housing, and ancillary supporting facilities.

"(4) If a contract for the acquisition or construction of military family housing, military unaccompanied housing, or dual military family housing and military unaccompanied housing entered into during the preceding fiscal year did not include the acquisition or construction of the types of ancillary supporting facilities specifically referred to in section 2871(1) of this title, a explanation of the reasons why such ancillary supporting facilities were not included.

"(5) A description of the Secretary's plans for housing privatization activities under this subchapter (A) during the fiscal year for which the budget is submitted, and (B) during the period covered by the then-current future-years defense plan under section 221 of this title.".

SEC. 2808. TEMPORARY, LIMITED AUTHORITY TO USE OPERATION AND MAINTENANCE FUNDS FOR CONSTRUCTION PROJECTS OUTSIDE THE UNITED STATES.

(a) TEMPORARY AUTHORITY.—During fiscal year 2004, the Secretary of Defense may use this section as authority to obligate appropriated funds available for operation and maintenance to carry out a construction project outside the United States that the Secretary determines meets each of the following conditions:

(1) The construction is necessary to meet urgent military operational requirements of a temporary nature involving the use of the Armed Forces in support of a declaration of war, the declaration by the President of a national emergency under section 201 of the National Emergencies Act (50 U.S.C. 1621), or a contingency operation.

(2) The construction is not carried out at a military installation where the United States is reasonably expected to have a long-term presence.

(3) The United States has no intention of using the construction after the operational requirements have been satisfied.

(4) The level of construction is the minimum necessary to meet the temporary operational requirements.

(b) NOTIFICATION OF OBLIGATION OF FUNDS.—Within seven days after the date on which appropriated funds available for operation and maintenance are first obligated for a construction project under subsection (a), the Secretary of Defense shall submit to the congressional committees specified in subsection (f) notice of the obligation of the funds and the construction project. The notice shall include the following:

(1) Certification that the conditions specified in subsection (a) are satisfied with regard to the construction project.

(2) A description of the purpose for which appropriated funds available for operation and maintenance are being obligated.

(3) All relevant documentation detailing the construction project.

(4) An estimate of the total amount obligated for the construction.

(c) LIMITATION ON USE OF AUTHORITY.—(1) The total cost of the construction projects carried out under the authority of this section using, in whole or in part, appropriated funds available for operation and maintenance shall not exceed $200,000,000 in fiscal year 2004.

(2) The Secretary of Defense may waive the limitation imposed by paragraph (1) if the Secretary determines that the obligation of operation and maintenance funds for construction projects in excess of the amount specified in such subsection is vital to the national security.

(3) Not later than five days after the date on which a waiver is granted under paragraph (2), the Secretary of Defense shall submit to the congressional committees specified in subsection (f) notice containing the reasons for the waiver.

(d) QUARTERLY REPORT.—Not later than 30 days after the end of each fiscal-year quarter of fiscal year 2004, the Secretary of Defense shall submit to the congressional committees specified in subsection (f) a report on the worldwide obligation and expenditure during that quarter of appropriated funds available for operation and maintenance for construction projects.

(e) RELATION TO OTHER AUTHORITIES.—The temporary authority provided by this section, and the limited authority provided by section 2805(c) of title 10, United States Code, to use appropriated funds available for operation and maintenance to carry out a construction project are the only authorities available to the Secretary of Defense and the Secretaries of the military departments to use appropriated funds available for operation and maintenance to carry out construction projects.

(f) CONGRESSIONAL COMMITTEES.—The congressional committees referred to in this section are the following:

(1) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Subcommittees on Defense and Military Construction of the Committee on Appropriations of the House of Representatives.

SEC. 2809. REPORT ON MILITARY CONSTRUCTION REQUIREMENTS TO SUPPORT NEW HOMELAND DEFENSE MISSIONS OF THE ARMED FORCES.

Not later than February 15, 2004, the Secretary of Defense shall submit to Congress a report describing all military construction projects carried out to support new homeland defense missions of the Armed Forces undertaken since September 11, 2001, and containing an assessment of the military construction requirements anticipated to be necessary during fiscal years 2005, 2006, and 2007 to support such missions.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. ENHANCEMENT OF AUTHORITY TO ACQUIRE LOW-COST INTERESTS IN LAND.

(a) INCREASE IN ACQUISITION THRESHOLD.—Section 2672 of title 10, United States Code, is amended—

(1) by redesignating subsections (a)(2) and (b) as subsections (b) and (c), respectively;

(2) in subsection (a)—

(A) in paragraph (1)(B), by striking "$500,000" and inserting "$750,000"; and

(B) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of a military department may acquire any interest in land that—

"(A) the Secretary determines is needed solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening; and

"(B) does not cost more than $1,500,000, exclusive of administrative costs and the amounts of any deficiency judgments."; and

(3) in subsection (b), as so redesignated, by striking "$500,000" and inserting "$750,000, in the case of an acquisition under subsection (a)(1), or $1,500,000, in the case of an acquisition under subsection (a)(2)".

(b) CLERICAL AMENDMENTS.—(1) Such section is further amended—

(A) in subsection (a), by inserting "ACQUISITION AUTHORITY.—" before "(1)";

(B) in subsection (b), as redesignated by subsection (a)(1), by inserting "ACQUISITION OF MULTIPLE PARCELS.—" before "This section"; and

(C) in subsection (c), as redesignated by subsection (a)(1), by inserting "SURVEY AND ACQUISITION METHODS.—" before "The authority".

(2) The heading of such section is amended to read as follows:

"§2672. Authority to acquire low-cost interests in land".

(3) The item relating to section 2672 in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2672. Authority to acquire low-cost interests in land.".

SEC. 2812. RETENTION AND AVAILABILITY OF AMOUNTS REALIZED FROM ENERGY COST SAVINGS.

(a) IN GENERAL.—Section 2865(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking "Two-thirds of the portion of the funds appropriated" and inserting "An amount of the funds appropriated";

(2) in paragraph (2), by striking "The Secretary" and inserting "The Secretary of Defense"; and

(3) by adding at the end the following new paragraph:

"(4) The Secretary of Defense shall include in the budget material submitted to Congress in connection with the submission of the budget for a fiscal yea, pursuant to section 1105 of title 31 a separate statement of the amounts available for obligation under this subsection in such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall not apply to funds appropriated for a fiscal year before fiscal year 2004.

SEC. 2813. ACCEPTANCE OF IN-KIND CONSIDERATION FOR EASEMENTS.

(a) EASEMENTS FOR RIGHTS-OF-WAY.—Section 2668(e) of title 10, United States Code, is amended—

(1) by striking "Subsection (d)" and inserting "Subsections (c) and (d)";

(2) by inserting "in-kind consideration and" before "proceeds"; and

(3) by striking "subsection applies to" and inserting "subsections apply to in-kind consideration and".

(b) EASEMENTS FOR UTILITY LINES.—Section 2669(e) of such title is amended—

(1) by striking "Subsection (d)" and inserting "Subsections (c) and (d)";

(2) by inserting "in-kind consideration and" before "proceeds"; and

(3) by striking "subsection applies to" and inserting "subsections apply to in-kind consideration and".

Subtitle C—Base Closure and Realignment

SEC. 2821. CONSIDERATION OF PUBLIC-ACCESS-ROAD ISSUES RELATED TO BASE CLOSURE, REALIGNMENT, OR PLACEMENT IN INACTIVE STATUS.

Section 2905(b)(2) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subparagraph:

"(E) If a military installation to be closed, realigned, or placed in an inactive status under this part includes a road used for public access through, into, or around the installation, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering the continued availability of the road for public use after the installation is closed, realigned, or placed in an inactive status.".

SEC. 2822. CONSIDERATION OF SURGE REQUIREMENTS IN 2005 ROUND OF BASE REALIGNMENTS AND CLOSURES.

(a) DETERMINATION OF SURGE REQUIREMENTS.—The Secretary of Defense shall assess the probable threats to national security and, as part of such assessment, determine the potential, prudent, surge requirements to meet those threats.

(b) USE OF DETERMINATION.—The Secretary shall use the surge requirements determination made under subsection (a) in the base realignment and closure process under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), as amended by title XXX of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1342).

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

SEC. 2831. TERMINATION OF LEASE AND CONVEYANCE OF ARMY RESERVE FACILITY, CONWAY, ARKANSAS.

(a) TERMINATION OF LEASE.—Upon the completion of the replacement facility authorized for the Army Reserve facility located in Conway, Arkansas, the Secretary of the Army may terminate the 99-year lease between the Secretary and the University of Central Arkansas for the property on which the old facility is located.

(b) CONVEYANCE OF FACILITY.—As part of the termination of the lease under subsection (a), the Secretary may convey, without consideration, to the University of Central Arkansas all right, title, and interest of the United States in and to the Army Reserve facility located on the leased property.

(c) ASSUMPTION OF LIABILITY.—The University of Central Arkansas shall expressly accept any and all liability pertaining to the physical condition of the Army Reserve facility conveyed under subsection (b) and shall hold the United States harmless from any and all liability arising from the facility's physical condition.

SEC. 2832. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY AND TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the department of transportation of the State of Tennessee all right, title, and interest of the United States in and to a parcel of real property (right-of-way), including any improvements thereon, located at Fort Campbell, Kentucky and Tennessee, for the purpose of realigning and upgrading United States Highway 79 from a two-lane highway to a four-lane highway.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the department of transportation of the State of Tennessee shall pay from any source (including Federal funds made available to the State from the Highway Trust Fund) all of the costs of the Secretary incurred—

(A) to convey the property, including costs related to the preparation of documents under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), surveys (including all surveys required under subsection (c)), cultural reviews, and administrative oversight;

(B) to relocate a cemetery to permit the highway realignment and upgrading;

(C) to acquire approximately 200 acres of mission-essential replacement property required to support the training mission at Fort Campbell; and

(D) to dispose of residual Federal property located south of the realigned highway.

(2) The Secretary of the Army may accept funds under this subsection from the State of Tennessee or transferred by the Secretary of Transportation at the request of the State from Federal-aid highway funds made available to the State to pay costs described in paragraph (1) and credit them to the appropriate Department of the Army accounts for the purpose of paying such costs.

(3) All funds made available from the Highway Trust Fund to pay costs described in paragraph (1) shall be provided subject to the requirements of section 120(b) of title 23, United States Code, relating to the Federal share payable on account of a project or activity.

(4) All funds accepted by the Secretary under this subsection shall remain available until expended.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) or acquired and disposed of under section (b) shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, FORT KNOX, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Department of Veterans Affairs of the Commonwealth of Kentucky (in this section referred to as the "Department") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 93 acres at Fort Knox, Kentucky, for the purpose of permitting the Department to establish and operate a State-run cemetery for veterans of the Armed Forces.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Department shall reimburse the Secretary for any costs incurred by the Secretary in making the conveyance under subsection (a), including costs related to environmental documentation and other administrative costs. This paragraph does not apply to costs associated with the environmental remediation of the property to be conveyed.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. ARMY NATIONAL GUARD ARMORY, PIERCE CITY, MISSOURI.

(a) CONTRIBUTION AUTHORIZED.—The Secretary of the Army may make a contribution under section 18233(a) of title 10, United States Code, for a facility for a new Army National Guard armory in Pierce City, Missouri, in excess of the contribution otherwise authorized by section 18236(b)(2) of such title, if the Secretary determines that—

(1) there is a compelling and immediate need for the construction of the facility;

(2) the requirement for the facility was unanticipated and results from a natural disaster;

(3) failure to construct the facility immediately would have an adverse impact on the mission of the unit assigned to the facility; and

(4) the real property for the facility will be provided by the State of Missouri.

(b) LIMITATION.—The amount of the additional contribution provided pursuant to subsection (a), which would otherwise be required by section 18236(b)(2) of title 10, United States Code, from the State of Missouri for the construction of the facility, may not exceed the amount specified in section 18233a(a)(1) of such title.

(c) AUTHORITY TO ACCEPT REAL PROPERTY FROM STATE.—The Secretary may accept from the State of Missouri the donation of real property, in addition to the real property required to be contributed by the State under subsection (a)(4), that is acceptable to the Secretary and has a market value not in excess of the amount of the additional contribution provided pursuant to subsection (a).

SEC. 2835. LAND EXCHANGE, FORT BELVOIR, VIRGINIA.

(a) LAND EXCHANGE AUTHORIZED.—Upon receipt of the consideration referred to in subsection (b), the Secretary of the Army may convey to the Fairfax County Park Authority of Fairfax County, Virginia (in this section referred to as the "Authority"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 12 acres at Fort Belvoir, Virginia.

(b) CONSIDERATION.—As consideration for the conveyance of the property under subsection (a), the Authority shall convey to the United States all right, title, and interest of the Authority in and to a parcel of real property acceptable to the Secretary. The Secretary shall have administrative jurisdiction over the real property received under this subsection.

(c) COSTS OF CONVEYANCE.—(1) The Secretary may collect funds from the Authority to cover costs incurred or to be incurred by the Secretary to carry out a conveyance under this section, including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Authority.

(2) Amounts collected under paragraph (1) to cover costs previously incurred by the Secretary shall be credited to the fund or account that was used to cover the costs. Amounts so credited

shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2841. LAND CONVEYANCE, NAVY PROPERTY, DIXON, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without consideration, to the Housing Authority of the City of Dixon, California, (in this section referred to as the "Housing Authority"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that consists of approximately 40.41 acres located at 7290 Radio Station Road in Dixon, California, and is currently used by the Housing Authority as the site for the Fred H. Rehman Dixon Migrant Center for the purpose of permitting the Housing Authority to continue to provide suitable housing and support services to migrant workers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the Housing Authority to cover costs to be incurred by the Secretary after the date of the enactment of this Act, or to reimburse the Secretary for costs incurred by the Secretary after such date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Housing Authority in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Housing Authority.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. LAND CONVEYANCE, MARINE CORPS LOGISTICS BASE, ALBANY, GEORGIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey through negotiated sale to the Preferred Development Group Corporation, a corporation incorporated in the State of Georgia and authorized to do business in the State of Georgia (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 10.44 acres located at Turner Field Road and McAdams Road in Albany, Georgia, for the purpose of permitting the Corporation to use the property for economic development.

(b) CONDITIONS OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the Corporation accept the real property in its condition at the time of the conveyance, commonly known as conveyance "as is".

(2) That the Corporation bear all costs related to the use and redevelopment of the real property.

(c) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the Corporation shall pay to the United States an amount, determined pursuant to negotiations between the Secretary and the Corporation and based upon the fair market value of the property (as determined pursuant to an appraisal acceptable to the Secretary), that is appropriate for the property.

(2) The consideration received under this subsection shall be deposited in the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(d) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the Corporation to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the Corporation in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the Corporation.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance under subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND EXCHANGE, NAVAL AND MARINE CORPS RESERVE CENTER, PORTLAND, OREGON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the United Parcel Service, Inc. (in this section referred to as "UPS"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 14 acres in Portland, Oregon, and comprising the Naval and Marine Corps Reserve Center for the purpose of facilitating the expansion of the UPS main distribution complex in Portland.

(b) PROPERTY RECEIVED IN EXCHANGE.—(1) As consideration for the conveyance under subsection (a), UPS shall—

(A) convey to the United States a parcel of real property determined to be suitable by the Secretary; and

(B) design, construct, and convey to the United States such replacement facilities on that property as the Secretary considers appropriate.

(2) The value of the real property and replacement facilities received by the Secretary under this subsection shall be at least equal to the fair market value of the real property conveyed under subsection (a), as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require UPS to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, relocation expenses incurred under subsection (b), and other administrative costs related to the conveyance. If amounts are collected from UPS in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry cut the conveyance, the Secretary shall refund the excess amount to UPS.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) CONDITION OF CONVEYANCE.—The Secretary may not make the conveyance authorized by subsection (a) until the Secretary determines that the replacement facilities required by subsection (b) are suitable and available for the relocation of the operations of the Naval and Marine Corps Reserve Center.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. LAND CONVEYANCE, NAVAL RESERVE CENTER, ORANGE, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Orange, Texas (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of unimproved real property consisting of approximately 2.5 acres at Naval Reserve Center, Orange, Texas, for the purpose of permitting the City to use the property for road construction, economic development, and other public purposes.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and

other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2845. LAND CONVEYANCE, PUGET SOUND NAVAL SHIPYARD, BREMERTON, WASHINGTON.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the City of Bremerton, Washington (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 2.8 acres at the eastern end of the Puget Sound Naval Shipyard, Bremerton, Washington, immediately adjacent to the Bremerton Transportation Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City, directly or through an agreement with another entity, shall replace administrative space on the parcel to be conveyed by renovating for new occupancy approximately 7,500 square feet of existing space in Building 433 at Naval Station, Bremerton, Washington, at no cost to the United States, in accordance with plans and specifications acceptable to the Secretary. In lieu of any portion of such renovation, the Secretary may accept other facility alteration or repair of not less than equal value.

(c) PAYMENT OF COSTS OF CONVEYANCE.—(1) The Secretary shall require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) ENVIRONMENTAL CONDITIONS.—The Secretary may use funds available in the Environmental Restoration Account, Navy to carry out the environmental remediation of the real property to be conveyed under subsection (a). Such environmental remediation shall be conducted in a manner consistent with section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620), including the requirement to consider the anticipated future land use of the parcel.

(e) EXEMPTION FROM FEDERAL SCREENING.—The conveyance authorized by subsection (a) is exempt from the requirement to screen the property for other Federal use pursuant to sections 2693 and 2696 of title 10, United States Code.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SEC. 2851. LAND EXCHANGE, MARCH AIR RESERVE BASE, CALIFORNIA.

(a) EXCHANGE AUTHORIZED.—(1) The Secretary of the Army may convey to the March Joint Powers Authority of Moreno Valley, California (in this section referred to as the "JPA"), all right, title, and interest of the United States in and to five parcels of real property, including any improvements thereon, located at March Air Reserve Base, California (former March Air Force Base), and consisting of approximately 36.74 total acres.

(2) The Secretary of the Navy may convey to JPA all right, title, and interest of the United States in and to two parcels of real property, including any improvements thereon, located at March Air Reserve Base and consisting of approximately 10.181 total acres.

(b) CONSIDERATION.—As consideration for the conveyances under subsection (a), JPA shall release any interest it may have in two contiguous parcels of real property located at March Air Reserve Base and consisting of approximately 20 acres and 28 acres, respectively.

(c) TRANSFER OF JURISDICTION.—The Secretary of the Air Force shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Army the parcels of real property described in subsection (b).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretaries concerned.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretaries concerned may require such additional terms and conditions in connection with the conveyances under this section as the Secretaries consider appropriate to protect the interests of the United States.

SEC. 2852. ACTIONS TO QUIET TITLE, FALLIN WATERS SUBDIVISION, EGLIN AIR FORCE BASE, FLORIDA.

(a) AUTHORITY TO QUIET TITLE.—(1) Notwithstanding the restoration provisions under the heading "QUARTERMASTER CORPS" in the Second Deficiency Appropriation Act, 1940 (Act of June 27, 1940; chapter 437; 54 Stat. 655), the Secretary of the Air Force may take appropriate action to quiet title to tracts of land referred to in paragraph (2) on, at, adjacent to, adjoining, or near Eglin Air Force Base, Florida. The Secretary may take such action in order to resolve encroachments upon private property by the United States and upon property of the United States by private parties, which resulted from reliance on inaccurate surveys.

(2) The tracts of land referred to in paragraph (1) are generally described as south of United States Highway 98 and bisecting the north/south section line of sections 13 and 14, township 2 south, range 25 west, located in the platted subdivision of Fallin Waters, Okaloosa County, Florida. The exact acreage and legal description of such tracts of land shall be determined by a survey satisfactory to the Secretary.

(b) AUTHORIZED ACTIONS.—In carrying out subsection (a), appropriate action by the Secretary may include any of the following:

(1) Disclaiming, on behalf of the United States, any intent by the United States to acquire by prescription any property at or in the vicinity of Eglin Air Force Base.

(2) Disposing of tracts of land owned by the United States.

(3) Acquiring tracts of land by purchase, by donation, or by exchange for tracts of land owned by the United States at or adjacent to Eglin Air Force Base.

(c) ACREAGE LIMITATIONS.—Individual tracts of land acquired or conveyed by the Secretary under paragraph (2) or (3) of subsection (b) may not exceed .10 acres. The total acreage so acquired may not exceed two acres.

(d) CONSIDERATION.—Any conveyance by the Secretary under this section may be made, at the discretion of the Secretary, without consideration, or by exchange for tracts of land adjoining Eglin Air Force Base in possession of private parties who mistakenly believed that they had acquired title to such tracts.

SEC. 2853. MODIFICATION OF LAND CONVEYANCE, EGLIN AIR FORCE BASE, FLORIDA.

(a) MODIFICATION.—Public Law 91–347 (84 Stat. 447) is amended—

(1) in the first section, by inserting "or for other public purposes" before the period at the end; and

(2) in section 3(1)—

(A) by inserting "or for other public purposes" after "schools"; and

(B) by striking "such purpose" and inserting "such a purpose".

(b) ALTERATION OF LEGAL INSTRUMENT.—The Secretary of the Air Force shall execute and file in the appropriate office an amended deed or other appropriate instrument effectuating the modification of the reversionary interest retained by the United States in connection with the conveyance made pursuant to Public Law 91–347.

PART IV—OTHER CONVEYANCES

SEC. 2861. LAND CONVEYANCE, AIR FORCE AND ARMY EXCHANGE SERVICE PROPERTY, DALLAS, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Defense may authorize the Army and Air Force Exchange Service, a nonappropriated fund instrumentality of the United States, to convey, by sale, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 7.5 acres located at 1515 Roundtable Drive in Dallas, Texas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the purchaser shall pay the United States, in a single lump sum payment, an amount equal to the fair market value of the real property, determined pursuant to an appraisal acceptable to the Secretary.

(c) TREATMENT OF CONSIDERATION.—Section 574(a) of title 40, United States Code, shall apply to the consideration received under subsection (b), except that in the application of such section, all of the proceeds shall be credited to the Army and Air Force Exchange Service.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2862. LAND CONVEYANCE, UMNAK ISLAND, ALASKA.

(a) DEFINITIONS.—In this section—

(1) The term "Aleut Corporation" means the regional corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the region in which the Native Village of Nikolski, Alaska, is located.

(2) The term "Chaluka Corporation" means the village corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) for the Native Village of Nikolski, Alaska.

(3) The term "former Nikolski Radio Relay Site" means the portions of Tracts A, B, and C of Public Land Order 2374 that are surveyed as Tracts 37, 37A, 38, 39, 39A, and 40 of township 83 south, range 136 west, Seward meridian, Alaska, and Tract B of United States Survey 4904, Alaska, except—

(A) lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904; and

(B) the Nikolski powerhouse land.

(4) The term "Nikolski powerhouse land" means the parcel of land upon which is located the power generation building for supplying power to the Native Village of Nikolski, the boundaries of which are described generally as follows:

(A) Beginning at the point at which the southerly boundary of Tract 39 of township 83 south, range 136 west, Seward meridian, Alaska, intersects the easterly boundary of the road that connects the Native Village of Nikolski and the airfield at Nikolski.

(B) Then meandering in a northeasterly direction along the easterly boundary of that road until the road intersects the westerly boundary of the road that connects Umnak Lake and the airfield.

(C) Then meandering in a southerly direction along the western boundary of that Umnak Lake road until that western boundary intersects the southern boundary of such Tract 39.

(D) Then proceeding eastward along the southern boundary of such Tract 39 to the beginning point.

(5) The term "Phase I lands" means Tract 39 of township 83 south, range 136 west, Seward meridian, excluding the Nikolski powerhouse land.

(6) The term "Phase II lands" means the portion of the former Nikolski Radio Relay Site not conveyed as Phase I lands.

(7) The term "Public Land Order 2374" refers to the Public Land Order issued in 1961 under which the Department of the Interior withdrew public domain lands in the vicinity of the Native Village of Nikolski on Umnak Island, Alaska, for use by the Department of the Air Force as a radio relay site.

(b) OFFER OF CONVEYANCE.—Subject to the requirements of this section, the Chaluka Corporation is hereby offered ownership of the surface estate in the former Nikolski Radio Relay Site on Umnak Island, Alaska, and the Aleut Corporation is hereby offered the subsurface estate of the former Nikolski Radio Relay Site, in exchange for relinquishment by the Chaluka Corporation and the Aleut Corporation of lot 1, section 14, township 81 south, range 133 west, Seward meridian, Alaska.

(c) ACCEPTANCE AND RELINQUISHMENT.—(1) The Secretary of the Interior shall convey the former Nikolski Radio Relay Site as provided in subsection (d), if the Chaluka Corporation takes the actions specified in paragraph (2) and the Aleut Corporation takes the actions specified in paragraph (3).

(2) As a condition for conveyance under subsection (d), the Chaluka Corporation shall notify the Secretary of the Interior, within 180 days after the date of the enactment of this Act, that, by means of a legally binding resolution of its board of directors (accompanied by the written legal opinion of counsel as to the legal sufficiency of the board of directors' action), the Chaluka Corporation—

(A) accepts the offer under subsection (b);

(B) confirms that the area surveyed by the Bureau of Land Management for the purpose of fulfilling the Chaluka Corporation's final entitlements under section 12(a) and (b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a) and (b)), identified as Group Survey Number 773, accurately represents the Chaluka Corporation's final, irrevocable Alaska Native Claims Settlement Act priorities and entitlements, unless any tract in Group Survey Number 773 is ultimately not conveyed as the result of an appeal; and

(C) relinquishes lot 1, section 14, township 81 south, range 133 west, Seward meridian, Alaska, which will be charged against the Chaluka Corporation's final entitlement under section 12(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(b)).

(3) As a condition for the conveyance under subsection (d), the Aleut Corporation shall notify the Secretary of the Interior, within 180 days after the date of the enactment of this Act, that, by means of a legally binding resolution of its board of directors (accompanied by the written legal opinion of counsel as to the legal sufficiency of the board of directors' action), the Aleut Corporation—

(A) accepts the offer under subsection (b); and

(B) relinquishes all rights to lot 1, section 14, township 81 south, range 133 west, Seward meridian, Alaska.

(d) CONVEYANCE.—(1) Upon receipt from the Chaluka Corporation and from the Aleut Corporation of their acceptances and relinquishments under subsection (c), the Secretary of the Interior shall convey to the Chaluka Corporation the surface estate, and to the Aleut Corporation the subsurface estate, of—

(A) Phase I lands as soon as practicable; and

(B) each parcel of Phase II lands upon completion by the Department of the Air Force of environmental restoration of Phase II lands in accordance with applicable law.

(2) Upon conveyance of a parcel of land under this section, the Secretary of the Interior shall terminate the corresponding portion of Public Land Order 2374 relating to that parcel. Upon conveyance of all Phase I and Phase II lands under this section, the Secretary of the Interior shall terminate all remaining portions of Public Land Order 2374 as it pertains to Umnak Island, Alaska.

(e) ENVIRONMENTAL RESTORATION.—Nothing in this section affects the requirements and responsibilities of the United States under section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) or other applicable law. If a hazardous substance, as that term is defined in section 101 of such Act (42 U.S.C. 9601), is discovered on the Phase I lands subsequent to transfer, but the hazardous substance was present on the lands before transfer and the presence of the hazardous substance on the lands was not the result of actions by the Chaluka Corporation or the Aleut Corporation, the United States shall perform such response action as is required by such Act with regard to that hazardous substance.

(f) TREATMENT AS ANCSA LANDS.—The conveyances made under subsection (d) shall be considered to be conveyances under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and are subject to the provisions of that Act, except paragraphs (3) and (4) of section 14(c) and section 17(b)(3) (43 U.S.C. 1613(c) and 1616(b)(3)).

(g) CONVEYANCE OF EXCLUDED TRACT B LOTS.—The Secretary of the Interior shall convey, without consideration, an estate in fee simple in—

(1) each of lots 1, 2, 5, 6, and 9 of Tract B of Amended United States Survey 4904 that is the subject of an Aleutian Housing Authority mutual help occupancy agreement, to the Aleutian Housing Authority; and

(2) the remainder of such lots to the occupants of such lots as of the date of the enactment of this Act.

(h) CONVEYANCE OF NIKOLSKI POWERHOUSE LAND.—The Secretary of the Interior shall convey, without consideration, an estate in fee simple in the Nikolski powerhouse land—

(1) to the Indian Reorganization Act Tribal Government for the Native Village of Nikolski, upon completion of the environmental restoration referred to in subsection (k)(2), if after the restoration the powerhouse continues to be located on the Nikolski powerhouse land; or

(2) the surface estate to the Chaluka Corporation and the subsurface estate to the Aleut Corporation, if after the restoration, the Nikolski powerhouse is no longer located on the Nikolski powerhouse land.

(i) ACCESS.—(1) As a condition of the conveyance of land under subsection (d), the Chaluka Corporation shall permit the United States, and its agents, employees, and contractors, to have unrestricted access to the airfield at Nikolski in perpetuity for site investigation, restoration, remediation, and environmental monitoring of the former Nikolski Radio Relay Site and reasonable access to that airfield, and to other land conveyed under this section, for any activity associated with management of lands owned by the United States and for other governmental purposes without cost to the United States.

(2) The surface estate conveyed under subsection (d) shall be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

(j) SURVEY REQUIREMENTS.—The Bureau of Land Management is not required to conduct additional on-the-ground surveys as a result of conveyances under this section. The patent to the Chaluka Corporation may be based on protracted section lines and lotting where relinquishment under subsection (c)(2)(C) results in a change to the Chaluka Corporation's final boundaries. No additional monumentation is required to complete those final boundaries.

(k) AUTHORIZATION OF APPROPRIATIONS; TRANSFER OF FUNDS.—(1) There are authorized to be appropriated to the Department of the Interior and other appropriate agencies such sums as are necessary to carry out this section.

(2) Using the funds identified for Nikolski Power House Clean-up under Budget Activity 4 on page 116 of the Conference Report to accompany H.R. 2658 of the 108th Congress (House Report 108–283), the Secretary of the Air Force shall make a direct lump sum payment, in an amount equal to $1,700,000, to the fund for pollution cleanup managed by the Alaska Energy Authority for the purpose of assisting the Authority to perform environmental restoration of the Nikolski powerhouse land.

(l) TERMINATION.—This section (other than subsection (g)) shall cease to be effective if—

(1) either the Chaluka Corporation or the Aleut Corporation affirmatively rejects the offer under subsection (b); or

(2) the legally binding resolutions required by paragraphs (2) and (3) of subsection (c) are not submitted to the Secretary of the Interior before the end of the 180-day period specified in such paragraphs.

Subtitle E—Other Matters

SEC. 2871. AUTHORITY TO ACCEPT GUARANTEES WITH GIFTS IN DEVELOPMENT OF MARINE CORPS HERITAGE CENTER, MARINE CORPS BASE, QUANTICO, VIRGINIA.

Section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–440)) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) ACCEPTANCE OF GUARANTEES WITH GIFTS.—(1) The authority available to the Secretary under section 6975 of title 10, United States Code, to accept a qualified guarantee for purposes of projects at the Naval Academy shall be available to the Secretary for the project to develop the Marine Corps Heritage Center.

"(2) The authority available to the Secretary under this subsection shall expire on December 31, 2006.".

SEC. 2872. REDESIGNATION OF YUMA TRAINING RANGE COMPLEX AS BOB STUMP TRAINING RANGE COMPLEX.

The military aviation training facility located in southwestern Arizona and southeastern California and known as the Yuma Training Range Complex shall be known and designated as the "Bob Stump Training Range Complex". Any reference to such training range complex in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Bob Stump Training Range Complex.

SEC. 2873. FEASIBILITY STUDY REGARDING CONVEYANCE OF LOUISIANA ARMY AMMUNITION PLANT, DOYLINE, LOUISIANA.

(a) STUDY REQUIRED.—The Secretary of the Army shall conduct a study of—

(1) the feasibility of using the conveyance of the Louisiana Army Ammunition Plant in Doyline, Louisiana, as a model for a public-private partnership for the utilization and development of the Plant and similar parcels of real property; and

(2) the costs and benefits to the United States of such a conveyance.

(b) ELEMENTS OF STUDY.—In conducting the study, the Secretary shall consider the following:

(1) The feasibility and advisability of entering into negotiations with the State of Louisiana or the Louisiana National Guard for the conveyance of the Louisiana Army Ammunition Plant.

(2) The means by which the conveyance of the Plant could—

(A) facilitate the execution by the Department of Defense of its national security mission; and

(B) facilitate the continued use of the Plant by the Louisiana National Guard and the execution by the Louisiana National Guard of its national security mission.

(3) The evidence presented by the State of Louisiana of the means by which the conveyance of the Plant could benefit current and potential private sector and governmental tenants of the Plant and facilitate the contribution of such tenants to economic development in Northwestern Louisiana.

(4) The amount and type of consideration that is appropriate for the conveyance of the Plant.

(5) The evidence presented by the State of Louisiana of the extent to which the conveyance of the Plant to a public-private partnership will contribute to economic growth in the State of Louisiana, and in Northwestern Louisiana in particular.

(6) The value of any mineral rights in the lands of the Plant.

(7) The costs and benefits to the United States of sharing revenues and rents paid by current and potential tenants of the Plant as a result of the Armament Retooling and Manufacturing Support Program.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of the study and any other matters in light of the study that the Secretary considers appropriate.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental management.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. Energy supply.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Sec. 3111. Termination of requirement for annual updates of long-term plan for nuclear weapons stockpile life extension program.
Sec. 3112. Department of Energy project review groups not subject to Federal Advisory Committee Act by reason of inclusion of employees of Department of Energy management and operating contractors.
Sec. 3113. Readiness posture for resumption by the United States of underground nuclear weapons tests.
Sec. 3114. Technical base and facilities maintenance and recapitalization activities.
Sec. 3115. Continuation of processing, treatment, and disposition of legacy nuclear materials.
Sec. 3116. Repeal of prohibition on research and development of low-yield nuclear weapons.
Sec. 3117. Requirement for specific authorization of Congress for commencement of engineering development phase or subsequent phase of Robust Nuclear Earth Penetrator.

Subtitle C—Proliferation Matters

Sec. 3121. Semiannual financial reports on defense nuclear nonproliferation programs.
Sec. 3122. Report on reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities.
Sec. 3123. Study and report relating to weapons-grade uranium and plutonium of the independent states of the former Soviet Union.
Sec. 3124. Authority to use international nuclear materials protection and cooperation program funds outside the former Soviet Union.
Sec. 3125. Requirement for on-site managers.

Subtitle D—Other Matters

Sec. 3131. Performance of personnel security investigations of certain Department of Energy and Nuclear Regulatory Commission employees in sensitive programs.
Sec. 3132. Policy of Department of Energy regarding future defense environmental management matters.
Sec. 3133. Inclusion in 2005 stockpile stewardship plan of certain information relating to stockpile stewardship criteria.
Sec. 3134. Progress reports on Energy Employees Occupational Illness Compensation Program.
Sec. 3135. Report on integration activities of Department of Defense and Department of Energy with respect to Robust Nuclear Earth Penetrator.

Subtitle E—Consolidation of National Security Provisions

Sec. 3141. Transfer and consolidation of recurring and general provisions on Department of Energy national security programs.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of $8,877,347,000, to be allocated as follows:

(1) For weapons activities, $6,434,772,000.

(2) For defense nuclear nonproliferation activities, $1,332,195,000.

(3) For naval reactors, $768,400,000.

(4) For the Office of the Administrator for Nuclear Security, $341,980,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for weapons activities, the following new plant projects:

Project 04–D–101, test capabilities revitalization, Sandia National Laboratories, Albuquerque, New Mexico, $36,450,000.

Project 04–D–102, exterior communications infrastructure modernization, Sandia National Laboratories, Albuquerque, New Mexico, $20,000,000.

Project 04–D–103, project engineering and design, various locations, $2,000,000.

Project 04–D–125, chemistry and metallurgy facility replacement project, Los Alamos National Laboratory, Los Alamos, New Mexico, $20,500,000.

Project 04–D–126, Building 12-44 production cells upgrade, Pantex plant, Amarillo, Texas, $8,780,000.

Project 04–D–127, cleaning and loading modifications, Savannah River Site, Aiken, South Carolina, $2,750,000.

Project 04–D–128, TA–18 Mission relocation project, Los Alamos National Laboratory, Los Alamos, New Mexico, $8,820,000.

Project 04–D–203, facilities and infrastructure recapitalization program, project engineering and design, various locations, $3,719,000.

Project 03–D–102, SM–43 replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $38,000,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for environmental management activities in carrying out programs necessary for national security in the amount of $6,809,814,000, to be allocated as follows:

(1) For defense site acceleration completion, $5,814,635,000.

(2) For defense environmental services, $995,179,000.

(b) AUTHORIZATION OF NEW PLANT PROJECTS.—From funds referred to in subsection

(a) that are available for carrying out plant projects, the Secretary of Energy may carry out, for defense site acceleration completion, the following new plant projects:

Project 04–D–408, glass waste storage building #2, Savannah River Site, Aiken, South Carolina, $20,259,000.

Project 04–D–414, project engineering and design, various locations, $23,500,000.

Project 04–D–423, 3013 container surveillance capability in 235-F, Savannah River Site, Aiken, South Carolina, $1,134,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for other defense activities in carrying out programs necessary for national security in the amount of $489,059,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $392,500,000.

SEC. 3105. ENERGY SUPPLY.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2004 for energy supply activities in carrying out programs necessary for national security in the amount of $110,473,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

SEC. 3111. TERMINATION OF REQUIREMENT FOR ANNUAL UPDATES OF LONG-TERM PLAN FOR NUCLEAR WEAPONS STOCKPILE LIFE EXTENSION PROGRAM.

Effective December 31, 2004, section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 926; 42 U.S.C. 2121 note), as transferred and redesignated as section 4204 of the Atomic Energy Defense Act by section 3141(e)(5) of this Act, is further amended by striking subsections (c) through (f).

SEC. 3112. DEPARTMENT OF ENERGY PROJECT REVIEW GROUPS NOT SUBJECT TO FEDERAL ADVISORY COMMITTEE ACT BY REASON OF INCLUSION OF EMPLOYEES OF DEPARTMENT OF ENERGY MANAGEMENT AND OPERATING CONTRACTORS.

An officer or employee of a management and operating contractor of the Department of Energy, when serving as a member of a group reviewing or advising on matters related to any one or more management and operating contracts of the Department, shall be treated as an officer or employee of the Department for purposes of determining whether the group is an advisory committee within the meaning of section 3 of the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 3113. READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) READINESS POSTURE REQUIRED.—Commencing not later than October 1, 2006, the Secretary of Energy shall achieve, and thereafter maintain, a readiness posture of not more than 18 months for resumption by the United States of underground tests of nuclear weapons.

(b) DESCRIPTION OF REQUIREMENT.—For purposes of this section, a readiness posture of not more than 18 months for resumption by the United States of underground tests of nuclear weapons is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than 18 months after the date on which the President so directs.

SEC. 3114. TECHNICAL BASE AND FACILITIES MAINTENANCE AND RECAPITALIZATION ACTIVITIES.

(a) DEADLINE FOR INCLUSION OF PROJECTS IN FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—(1) The Administrator for Nuclear Security shall complete the selection of projects for inclusion in the Facilities and Infrastructure Recapitalization Program of the National Nuclear Security Administration not later than December 31, 2004.

(2) No project may be included in the Facilities and Infrastructure Recapitalization Program after December 31, 2004, unless such project has been selected for inclusion in that program as of that date.

(b) TERMINATION OF FACILITIES AND INFRASTRUCTURE RECAPITALIZATION PROGRAM.—The Administrator shall terminate the Facilities and Infrastructure Recapitalization Program not later than September 30, 2011.

(c) READINESS IN TECHNICAL BASE AND FACILITIES PROGRAM.—(1) Not later than September 30, 2004, the Administrator shall submit to the congressional defense committees a report setting forth guidelines on the conduct of the Readiness in Technical Base and Facilities program of the National Nuclear Security Administration.

(2) Such guidelines shall include the following:

(A) Criteria for the inclusion of projects in the program, and for establishing priorities among projects included in the program.

(B) Mechanisms for the management of facilities under the program, including maintenance activities referred to in subparagraph (C).

(C) A description of the scope of maintenance activities under the program, including recurring maintenance, construction of facilities, recapitalization of facilities, and decontamination and decommissioning of facilities.

(3) Such guidelines shall ensure that the maintenance activities referred to in paragraph (2)(C) are carried out in a timely and efficient manner designed to avoid maintenance backlogs.

(d) OPERATIONS OF FACILITIES PROGRAM.—(1) The Administrator shall continue the Operations of Facilities program of the National Nuclear Security Administration as a subprogram within the Readiness in Technical Base and Facilities program.

(2) The Deputy Administrator for Defense Programs shall designate a single manager to be responsible for overseeing the operations of the Operations of Facilities subprogram within the Readiness in Technical Base and Facilities program.

(3) For fiscal year 2005, and for each fiscal year thereafter, the Secretary of Energy shall submit to the congressional defense committees, together with the budget justification materials submitted to Congress in support of the National Nuclear Security Administration budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code), a separate statement of the amounts requested for such fiscal year for each element of the Operations of Facilities subprogram, as follows:

(A) Maintenance.

(B) Facilities management and support.

(C) Utilities.

(D) Environment, safety, and health.

(E) Each other element of the subprogram.

SEC. 3115. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.

(a) CONTINUATION OF H–CANYON FACILITY.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is amended—

(1) by striking "F–canyon and H–canyon facilities" and inserting "H–canyon facility"; and

(2) by striking "such facilities" and inserting "such facility".

(b) MODIFICATION OF LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—Subsection (b) of such section is amended—

(1) by striking "and the Defense Nuclear Facilities Safety Board" and all that follows through "House of Representatives" and inserting "submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, and the Defense Nuclear Facilities Safety Board,"; and

(2) by striking "the following:" and all that follows and inserting "a report setting forth—

"(1) an assessment whether or not all materials present in the F–canyon facility as of the date of the report that required stabilization have been safely stabilized as of that date;

"(2) an assessment whether or not the requirements applicable to the F–canyon facility to meet the future needs of the United States for fissile materials disposition can be met through full use of the H–canyon facility at the Savannah River Site; and

"(3) if it appears that one or more of the requirements described in paragraph (2) cannot be met through full use of the H–canyon facility—

"(A) an identification by the Secretary of each such requirement that cannot be met through full use of the H–canyon facility; and

"(B) for each requirement so identified, the reasons why such requirement cannot be met through full use of the H–canyon facility and a description of the alternative capability for fissile materials disposition that is needed to meet such requirement.".

(c) REPEAL OF SUPERSEDED PLAN REQUIREMENT.—Subsection (c) of such section is repealed.

SEC. 3116. REPEAL OF PROHIBITION ON RESEARCH AND DEVELOPMENT OF LOW-YIELD NUCLEAR WEAPONS.

(a) REPEAL.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note) is repealed.

(b) CONSTRUCTION.—Nothing in the repeal made by subsection (a) shall be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon.

(c) LIMITATION.—The Secretary of Energy may not commence the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon unless specifically authorized by Congress.

(d) REPORT.—(1) Not later than March 1, 2004, the Secretary of State, the Secretary of Defense and the Secretary of Energy shall jointly submit to Congress a report assessing whether or not the repeal of section 3136 of the National Defense Authorization Act for Fiscal Year 1994 will affect the ability of the United States to achieve its nonproliferation objectives and whether or not any changes in programs and activities would be required to achieve those objectives.

(2) The report shall be submitted in unclassified form, but may include a classified annex if necessary.

SEC. 3117. REQUIREMENT FOR SPECIFIC AUTHORIZATION OF CONGRESS FOR COMMENCEMENT OF ENGINEERING DEVELOPMENT PHASE OR SUBSEQUENT PHASE OF ROBUST NUCLEAR EARTH PENETRATOR.

The Secretary of Energy may not commence the engineering development phase (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a Robust Nuclear Earth Penetrator weapon unless specifically authorized by Congress.

Subtitle C—Proliferation Matters

SEC. 3121. SEMIANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.

(a) IN GENERAL.—Subtitle D of the National Nuclear Security Administration Act is amended by inserting after section 3253 (50 U.S.C. 2453) the following new section:

"SEC. 3254. SEMIANNUAL FINANCIAL REPORTS ON DEFENSE NUCLEAR NONPROLIFERATION PROGRAMS.

"(a) SEMIANNUAL REPORTS REQUIRED.—The Administrator shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the amounts available for the defense nuclear nonproliferation programs of the Administration. Each such report shall cover a half of a fiscal year (in this section referred to as a 'fiscal half') and shall be submitted not later than 30 days after the end of that fiscal half.

"(b) CONTENTS.—Each report for a fiscal half shall, for each such defense nuclear nonproliferation program for which amounts are available for the fiscal year that includes that fiscal half, set forth the following:

"(1) The aggregate amount available for such program as of the beginning of such fiscal half and, within such amount, the uncommitted balances, the unobligated balances, and the unexpended balances.

"(2) The aggregate amount newly made available for such program during such fiscal half and, within such amount, the amount made available by appropriations, by transfers, by reprogrammings, and by other means.

"(3) The aggregate amount available for such program as of the end of such fiscal half and, within such amount, the uncommitted balances, the unobligated balances, and the unexpended balances.".

(b) FIRST REPORT.—The first report required to be submitted by section 3254 of the National Nuclear Security Administration Act (as added by subsection (a)) shall be the report covering the first half of fiscal year 2004.

SEC. 3122. REPORT ON REDUCTION OF EXCESSIVE UNOBLIGATED OR UNEXPENDED BALANCES FOR DEFENSE NUCLEAR NONPROLIFERATION ACTIVITIES.

(a) CONTINGENT REQUIREMENT FOR REPORT.—If as of September 30, 2004, the aggregate amount unobligated, or obligated but not expended, for defense nuclear nonproliferation activities from amounts appropriated for such activities in fiscal year 2004 exceeds an amount equal to 20 percent of the aggregate amount appropriated for such activities in fiscal year 2004, the Administrator for Nuclear Security shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an aggressive plan to provide for the timely expenditure of amounts remaining unobligated, or obligated but not expended.

(b) SUBMITTAL DATE.—If required to be submitted under subsection (a), the submittal date for the report under that subsection shall be November 30, 2004.

SEC. 3123. STUDY AND REPORT RELATING TO WEAPONS-GRADE URANIUM AND PLUTONIUM OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) STUDY REQUIRED.—The Secretary of Energy shall carry out a study on the feasibility, costs, and benefits of—

(1) purchasing, from the independent states of the former Soviet Union, weapons-grade uranium and plutonium excess to the defense needs of those states; and

(2) safeguarding the uranium and plutonium so purchased until rendered unusable for nuclear weapons.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study required by subsection (a).

SEC. 3124. AUTHORITY TO USE INTERNATIONAL NUCLEAR MATERIALS PROTECTION AND COOPERATION PROGRAM FUNDS OUTSIDE THE FORMER SOVIET UNION.

(a) AUTHORITY.—Subject to the provisions of this section, the President may obligate and expend international nuclear materials protection and cooperation program funds for a fiscal year, and any such funds for a fiscal year before such fiscal year that remain available for obligation, for a defense nuclear nonproliferation project or activity outside the states of the former Soviet Union if the President determines each of the following:

(1) That such project or activity will—

(A)(i) assist the United States in the resolution of a critical emerging proliferation threat; or

(ii) permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; and

(B) be completed in a short period of time.

(2) That the Department of Energy is the entity of the Federal Government that is most capable of carrying out such project or activity.

(b) SCOPE OF AUTHORITY.—The authority in subsection (a) to obligate and expend funds for a project or activity includes authority to provide equipment, goods, and services for such project or activity utilizing such funds, but does not include authority to provide cash directly to such project or activity.

(c) LIMITATION ON TOTAL AMOUNT OF OBLIGATION.—The amount that may be obligated in a fiscal year under the authority in subsection (a) may not exceed $50,000,000.

(d) LIMITATION ON AVAILABILITY OF FUNDS.—(1) The President may not obligate funds for a project or activity under the authority in subsection (a) until the President makes each determination specified in that subsection with respect to such project or activity.

(2) Not later than 10 days after obligating funds under the authority in subsection (a) for a project or activity, the President shall notify Congress in writing of the determinations made under paragraph (1) with respect to such project or activity, together with—

(A) a justification for such determinations; and

(B) a description of the scope and duration of such project or activity.

(e) ADDITIONAL LIMITATIONS AND REQUIREMENTS.—Except as otherwise provided in subsections (a) and (b), the exercise of the authority in subsection (a) shall be subject to any requirement or limitation under another provision of law as follows:

(1) Any requirement for prior notice or other reports to Congress on the use of international nuclear materials protection and cooperation program funds or on international nuclear materials protection and cooperation program projects or activities.

(2) Any limitation on the obligation or expenditure of international nuclear materials protection and cooperation program funds.

(3) Any limitation on international nuclear materials protection and cooperation program projects or activities.

(f) FUNDS.—As used in this section, the term "international nuclear materials protection and cooperation program funds" means the funds appropriated pursuant to the authorization of appropriations in section 3101(a)(2) for such program.

SEC. 3125. REQUIREMENT FOR ON-SITE MANAGERS.

(a) ON-SITE MANAGER REQUIREMENT.—Before obligating any defense nuclear nonproliferation funds for a project described in subsection (b), the Secretary of Energy shall appoint one on-site manager for that project. The manager shall be appointed from among employees of the Federal Government.

(b) PROJECTS COVERED.—Subsection (a) applies to a project—

(1) to be located in a state of the former Soviet Union;

(2) which involves dismantlement, destruction, or storage facilities, or construction of a facility; and

(3) with respect to which the total contribution by the Department of Energy is expected to exceed $50,000,000.

(c) DUTIES OF ON-SITE MANAGER.—The on-site manager appointed under subsection (a) shall—

(1) develop, in cooperation with representatives from governments of countries participating in the project, a list of those steps or activities critical to achieving the project's disarmament or nonproliferation goals;

(2) establish a schedule for completing those steps or activities;

(3) meet with all participants to seek assurances that those steps or activities are being completed on schedule; and

(4) suspend United States participation in a project when a non-United States participant fails to complete a scheduled step or activity on time, unless directed by the Secretary of Energy to resume United States participation.

(d) AUTHORITY TO MANAGE MORE THAN ONE PROJECT.—(1) Subject to paragraph (2), an employee of the Federal Government may serve as on-site manager for more than one project, including projects at different locations.

(2) If such an employee serves as on-site manager for more than one project in a fiscal year, the total cost of the projects for that fiscal year may not exceed $150,000,000.

(e) STEPS OR ACTIVITIES.—Steps or activities referred to in subsection (c)(1) are those activities that, if not completed, will prevent a project from achieving its disarmament or nonproliferation goals, including, at a minimum, the following:

(1) Identification and acquisition of permits (as defined in subsection (g)).

(2) Verification that the items, substances, or capabilities to be dismantled, secured, or otherwise modified are available for dismantlement, securing, or modification.

(3) Timely provision of financial, personnel, management, transportation, and other resources.

(f) NOTIFICATION TO CONGRESS.—In any case in which the Secretary of Energy directs an on-site manager to resume United States participation in a project under subsection (c)(4), the Secretary shall concurrently notify Congress of such direction.

(g) PERMIT DEFINED.—In this section, the term "permit" means any local or national permit for development, general construction, environmental, land use, or other purposes that is required in the state of the former Soviet Union in which the project is being or is proposed to be carried out.

(h) EFFECTIVE DATE.—This section shall take effect six months after the date of the enactment of this Act.

Subtitle D—Other Matters

SEC. 3131. PERFORMANCE OF PERSONNEL SECURITY INVESTIGATIONS OF CERTAIN DEPARTMENT OF ENERGY AND NUCLEAR REGULATORY COMMISSION EMPLOYEES IN SENSITIVE PROGRAMS.

(a) PERFORMANCE BY FBI AT DIRECTION OF DOE OR NRC.—Subsection f. of section 145 of the Atomic Energy Act of 1954 (42 U.S.C. 2165) is amended to read as follows:

"f. (1) Notwithstanding the provisions of subsections a., b., and c. of this section, but subject to subsection e. of this section, a majority of the *members of the Commission may direct that an investigation required by such provisions on an individual described in paragraph (2) be carried out by the Federal Bureau of Investigation rather than by the Civil Service Commission.*

"(2) An individual described in this paragraph is an individual who is employed—

"(A) in a program certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity; or

"(B) in any other specific position certified by a majority of the members of the Commission to be of a high degree of importance or sensitivity.".

(b) Repeal of Requirement for Performance by FBI for Personnel Security and Assurance Programs.—Subsection e.(2) of such section is amended by striking "or a Personnel Security and Assurance Program".

SEC. 3132. POLICY OF DEPARTMENT OF ENERGY REGARDING FUTURE DEFENSE ENVIRONMENTAL MANAGEMENT MATTERS.

(a) Policy Required.—(1) Commencing not later than October 1, 2005, the Secretary of Energy shall have in effect a policy for carrying out future defense environmental management matters of the Department of Energy. The policy shall specify each officer within the Department with responsibilities for carrying out that policy and, for each such officer, the nature and extent of those responsibilities.

(2) In paragraph (1), the term "future defense environmental management matter" means any environmental cleanup project, decontamination and decommissioning project, waste management project, or related activity that arises out of the activities of the Department in carrying out programs necessary for national security and is to be commenced after the date of the enactment of this Act. However, such term does not include any such project or activity the responsibility for which has been assigned, as of the date of the enactment of this Act, to the Environmental Management program of the Department.

(b) Reflection in Budget.—For fiscal year 2006 and each fiscal year thereafter, the Secretary shall ensure that the budget justification materials submitted to Congress in support of the Department of Energy budget for such fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) reflect the policy required by subsection (a).

(c) Consultation.—The Secretary shall carry out this section in consultation with the Administrator for Nuclear Security and the Under Secretary of Energy for Energy, Science, and Environment.

(d) Report.—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2005 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the policy that the Secretary plans to have in effect under subsection (a) as of October 1, 2005. The report shall specify the officers and responsibilities referred to in subsection (a).

SEC. 3133. INCLUSION IN 2005 STOCKPILE STEWARDSHIP PLAN OF CERTAIN INFORMATION RELATING TO STOCKPILE STEWARDSHIP CRITERIA.

(a) Inclusion in 2005 Stockpile Stewardship Plan.—In submitting to Congress the updated version of the 2005 stockpile stewardship plan, the Secretary of Energy shall include the matters specified in subsection (b).

(b) Matters Included.—The matters referred to in subsection (a) are the following:

(1) An update of any information or criteria described in the report on stockpile stewardship criteria submitted under section 4202 of the Atomic Energy Defense Act (as transferred and redesignated by section 3161(e)(3) of this Act).

(2) A description of any additional information identified, or criteria established, on matters covered by such section 4202 during the period beginning on the date of the submittal of the report under such section 4202 and ending on the date of the submittal of the updated version of the plan under subsection (a) of this section.

(3) For each science-based tool developed by the Department of Energy during such period—

(A) a description of the relationship of such science-based tool to the collection of information needed to determine that the nuclear weapons stockpile is safe and reliable; and

(B) a description of the criteria for judging whether or not such science-based tool provides for the collection of such information.

(c) 2005 Stockpile Stewardship Plan Defined.—In this section, the term "2005 stockpile stewardship plan" means the updated version of the plan for maintaining the nuclear weapons stockpile developed under section 4203 of the Atomic Energy Defense Act (as transferred and redesignated by section 3161(e)(4) of this Act) that is required to be submitted to Congress not later than March 15, 2005.

SEC. 3134. PROGRESS REPORTS ON ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM.

(a) Report on Access to Information for Performance of Radiation Dose Reconstructions.—(1) Not later than 90 days after the date of the enactment of this Act, the National Institute for Occupational Safety and Health shall submit to Congress a report on the ability of the Institute to obtain, in a timely, accurate, and complete manner, information necessary for the purpose of carrying out radiation dose reconstructions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384 et seq.), including information requested from any element of the Department of Energy.

(2) The report shall include the following:

(A) An identification of each matter adversely affecting the ability of the Institute to obtain information described in paragraph (1) in a timely, accurate, and complete manner.

(B) For each facility with respect to which the Institute is carrying out one or more dose reconstructions described in paragraph (1)—

(i) a specification of the total number of claims requiring dose reconstruction;

(ii) a specification of the number of claims for which dose reconstruction has been adversely affected by any matter identified under paragraph (1); and

(iii) a specification of the number of claims requiring dose reconstruction for which, because of any matter identified under paragraph (1), dose reconstruction has not been completed within 150 days after the date on which the Secretary of Labor submitted the claim to the Secretary of Health and Human Services.

(b) Report on Denial of Claims.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report on the denial of claims under the Energy Employees Occupational Illness Compensation Program Act of 2000 as of the date of such report.

(2) The report shall include for each facility with respect to which the Secretary has received one or more claims under that Act the following:

(A) The number of claims received with respect to such facility that have been denied, including the percentage of total number of claims received with respect to such facility that have been denied.

(B) The reasons for the denial of such claims, including the number of claims denied for each such reason.

SEC. 3135. REPORT ON INTEGRATION ACTIVITIES OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY WITH RESPECT TO ROBUST NUCLEAR EARTH PENETRATOR.

Section 1032 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2643; 10 U.S.C. 2358 note) is amended by adding at the end the following new subsection:

"(e) Integration Activities in Fiscal Year 2003 With Respect to RNEP.—The report under subsection (a) that is due on April 1, 2004, shall include, in addition to the elements specified in subsection (b), a description of the integration and interoperability of the research and development, procurement, and other activities undertaken during fiscal year 2003 by the Department of Defense and the Department of Energy with respect to the Robust Nuclear Earth Penetrator.".

Subtitle E—Consolidation of National Security Provisions

SEC. 3141. TRANSFER AND CONSOLIDATION OF RECURRING AND GENERAL PROVISIONS ON DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS.

(a) Purpose.—

(1) In General.—The purpose of this section is to assemble together, without substantive amendment but with technical and conforming amendments of a non-substantive nature, recurring and general provisions of law on Department of Energy national security programs that remain in force in order to consolidate and organize such provisions of law into a single Act intended to comprise general provisions of law on such programs.

(2) Construction of Transfers.—The transfer of a provision of law by this section shall not be construed as amending, altering, or otherwise modifying the substantive effect of such provision.

(3) Treatment of Satisfied Requirements.—Any requirement in a provision of law transferred under this section (including a requirement that an amendment to law be executed) that has been fully satisfied in accordance with the terms of such provision of law as of the date of transfer under this section shall be treated as so fully satisfied, and shall not be treated as being revived solely by reason of transfer under this section.

(4) Classification.—The provisions of the Atomic Energy Defense Act, as amended by this section, shall be classified to the United States Code as a new chapter of title 50, United States Code.

(b) Division Heading.—The Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) is amended by adding at the end the following new division heading:

"DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS".

(c) Short Title; Table of Contents; Definition.—

(1) Short Title; Table of Contents.—Section 3601 of the Atomic Energy Defense Act (title XXXVI of Public Law 107–314; 116 Stat. 2756) is—

(A) transferred to the end of the Bob Stump National Defense Authorization Act for Fiscal Year 2003;

(B) redesignated as section 4001;

(C) inserted after the heading for division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by subsection (b); and

(D) amended—

(i) by amending the heading to read as follows:

"SEC. 4001. SHORT TITLE; TABLE OF CONTENTS.";

(ii) by striking "This title" and inserting "(a) Short Title.—This division"; and

(iii) by adding at the end the following:

"(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

"DIVISION D—ATOMIC ENERGY DEFENSE PROVISIONS

"Sec. 4001. Short title; table of contents.
"Sec. 4002. Definition.

"TITLE XLI—ORGANIZATIONAL MATTERS

"Sec. 4101. Naval Nuclear Propulsion Program.
"Sec. 4102. Management structure for nuclear weapons production facilities and nuclear weapons laboratories.
"Sec. 4103. Restriction on licensing requirement for certain defense activities and facilities.

"TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

"Subtitle A—Stockpile Stewardship and Weapons Production

"Sec. 4201. Stockpile stewardship program.
"Sec. 4202. Report on stockpile stewardship criteria.
"Sec. 4203. Plan for stewardship, management, and certification of warheads in the nuclear weapons stockpile.
"Sec. 4204. Nuclear weapons stockpile life extension program.
"Sec. 4205. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
"Sec. 4206. Form of certifications regarding the safety or reliability of the nuclear weapons stockpile.
"Sec. 4207. Nuclear test ban readiness program.
"Sec. 4208. Study on nuclear test readiness postures.
"Sec. 4209. Requirements for specific request for new or modified nuclear weapons.
"Sec. 4210. Limitation on underground nuclear weapons tests.
"Sec. 4211. Testing of nuclear weapons.
"Sec. 4212. Manufacturing infrastructure for refabrication and certification of nuclear weapons stockpile.
"Sec. 4213. Reports on critical difficulties at nuclear weapons laboratories and nuclear weapons production plants.

"Subtitle B—Tritium

"Sec. 4231. Tritium production program.
"Sec. 4232. Tritium recycling.
"Sec. 4233. Tritium production.
"Sec. 4234. Modernization and consolidation of tritium recycling facilities.
"Sec. 4235. Procedures for meeting tritium production requirements.

"TITLE XLIII—PROLIFERATION MATTERS

"Sec. 4301. International cooperative stockpile stewardship.
"Sec. 4302. Nonproliferation initiatives and activities.
"Sec. 4303. Annual report on status of Nuclear Materials Protection, Control, and Accounting Program.
"Sec. 4304. Nuclear Cities Initiative.
"Sec. 4305. Authority to conduct program relating to fissile materials.
"Sec. 4306. Disposition of weapons-usable plutonium at Savannah River Site.
"Sec. 4306A. Disposition of surplus defense plutonium at Savannah River Site, Aiken, South Carolina.

"TITLE XLIV—ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS

"Subtitle A—Environmental Restoration and Waste Management

"Sec. 4401. Defense Environmental Restoration and Waste Management Account.
"Sec. 4402. Requirement to develop future use plans for environmental management program.
"Sec. 4403. Integrated fissile materials management plan.
"Sec. 4404. Baseline environmental management reports.
"Sec. 4405. Accelerated schedule for environmental restoration and waste management activities.
"Sec. 4406. Defense waste cleanup technology program.
"Sec. 4407. Report on environmental restoration expenditures.
"Sec. 4408. Public participation in planning for environmental restoration and waste management at defense nuclear facilities.

"Subtitle B—Closure of Facilities

"Sec. 4421. Projects to accelerate closure activities at defense nuclear facilities.
"Sec. 4422. Reports in connection with permanent closures of Department of Energy defense nuclear facilities.

"Subtitle C—Privatization

"Sec. 4431. Defense environmental management privatization projects.

"Subtitle D—Hanford Reservation, Washington

"Sec. 4441. Safety measures for waste tanks at Hanford nuclear reservation.
"Sec. 4442. Hanford waste tank cleanup program reforms.
"Sec. 4443. River Protection Project.
"Sec. 4444. Funding for termination costs of River Protection Project, Richland, Washington.

"Subtitle E—Savannah River Site, South Carolina

"Sec. 4451. Accelerated schedule for isolating high-level nuclear waste at the defense waste processing facility, Savannah River Site.
"Sec. 4452. Multi-year plan for clean-up.
"Sec. 4453. Continuation of processing, treatment, and disposal of legacy nuclear materials.
"Sec. 4453A. Continuation of processing, treatment, and disposition of legacy nuclear materials.
"Sec. 4453B. Continuation of processing, treatment, and disposition of legacy nuclear materials.
"Sec. 4453C. Continuation of processing, treatment, and disposal of legacy nuclear materials.
"Sec. 4453D. Continuation of processing, treatment, and disposal of legacy nuclear materials.
"Sec. 4454. Limitation on use of funds for decommissioning F-canyon facility.

"TITLE XLV—SAFEGUARDS AND SECURITY MATTERS

"Subtitle A—Safeguards and Security

"Sec. 4501. Prohibition on international inspections of Department of Energy facilities unless protection of Restricted Data is certified.
"Sec. 4502. Restrictions on access to national laboratories by foreign visitors from sensitive countries.
"Sec. 4503. Background investigations of certain personnel at Department of Energy facilities.
"Sec. 4504. Department of Energy counterintelligence polygraph program.
"Sec. 4504A. Counterintelligence polygraph program.
"Sec. 4505. Notice to congressional committees of certain security and counterintelligence failures within nuclear energy defense programs.
"Sec. 4506. Submittal of annual report on status of security functions at nuclear weapons facilities.
"Sec. 4507. Report on counterintelligence and security practices at national laboratories.
"Sec. 4508. Report on security vulnerabilities of national laboratory computers.

"Subtitle B—Classified Information

"Sec. 4521. Review of certain documents before declassification and release.
"Sec. 4522. Protection against inadvertent release of Restricted Data and Formerly Restricted Data.
"Sec. 4523. Supplement to plan for declassification of Restricted Data and Formerly Restricted Data.
"Sec. 4524. Protection of classified information during laboratory-to-laboratory exchanges.
"Sec. 4525. Identification in budget materials of amounts for declassification activities and limitation on expenditures for such activities.

"Subtitle C—Emergency Response

"Sec. 4541. Responsibility for Defense Programs Emergency Response Program.

"TITLE XLVI—PERSONNEL MATTERS

"Subtitle A—Personnel Management

"Sec. 4601. Authority for appointment of certain scientific, engineering, and technical personnel.
"Sec. 4602. Whistleblower protection program.
"Sec. 4603. Employee incentives for employees at closure project facilities.
"Sec. 4604. Department of Energy defense nuclear facilities workforce restructuring plan.
"Sec. 4605. Authority to provide certificate of commendation to Department of Energy and contractor employees for exemplary service in stockpile stewardship and security.

"Subtitle B—Education and Training

"Sec. 4621. Executive management training in the Department of Energy.
"Sec. 4622. Stockpile stewardship recruitment and training program.
"Sec. 4623. Fellowship program for development of skills critical to the Department of Energy nuclear weapons complex.

"Subtitle C—Worker Safety

"Sec. 4641. Worker protection at nuclear weapons facilities.
"Sec. 4642. Safety oversight and enforcement at defense nuclear facilities.
"Sec. 4643. Program to monitor Department of Energy workers exposed to hazardous and radioactive substances.
"Sec. 4644. Programs for persons who may have been exposed to radiation released from Hanford nuclear reservation.

"TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

"Subtitle A—Recurring National Security Authorization Provisions

"Sec. 4701. Definitions.
"Sec. 4702. Reprogramming.
"Sec. 4703. Minor construction projects.
"Sec. 4704. Limits on construction projects.
"Sec. 4705. Fund transfer authority.
"Sec. 4706. Conceptual and construction design.
"Sec. 4707. Authority for emergency planning, design, and construction activities.
"Sec. 4708. Scope of authority to carry out plant projects.
"Sec. 4709. Availability of funds.

"Sec. 4710. Transfer of defense environmental management funds.
"Sec. 4711. Transfer of weapons activities funds.
"Sec. 4712. Funds available for all national security programs of the Department of Energy.

"Subtitle B—Penalties

"Sec. 4721. Restriction on use of funds to pay penalties under environmental laws.
"Sec. 4722. Restriction on use of funds to pay penalties under Clean Air Act.

"Subtitle C—Other Matters

"Sec. 4731. Single request for authorization of appropriations for common defense and security programs.

"TITLE XLVIII—ADMINISTRATIVE MATTERS

"Subtitle A—Contracts

"Sec. 4801. Costs not allowed under covered contracts.
"Sec. 4802. Prohibition and report on bonuses to contractors operating defense nuclear facilities.
"Sec. 4803. Contractor liability for injury or loss of property arising out of atomic weapons testing programs.

"Subtitle B—Research and Development

"Sec. 4811. Laboratory-directed research and development programs.
"Sec. 4812. Limitations on use of funds for laboratory directed research and development purposes.
"Sec. 4812A. Limitation on use of funds for certain research and development purposes.
"Sec. 4813. Critical technology partnerships.
"Sec. 4814. University-based research collaboration program.

"Subtitle C—Facilities Management

"Sec. 4831. Transfers of real property at certain Department of Energy facilities.
"Sec. 4832. Engineering and manufacturing research, development, and demonstration by plant managers of certain nuclear weapons production plants.
"Sec. 4833. Pilot program relating to use of proceeds of disposal or utilization of certain Department of Energy assets.

"Subtitle D—Other Matters

"Sec. 4851. Semiannual reports on local impact assistance.
"Sec. 4852. Payment of costs of operation and maintenance of infrastructure at Nevada Test Site.".

(2) DEFINITION.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new section:

"SEC. 4002. DEFINITION.

"In this division, the term 'congressional defense committees' means—

"(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

"(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.".

(d) ORGANIZATIONAL MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following:

"TITLE XLI—ORGANIZATIONAL MATTERS".

(2) NAVAL NUCLEAR PROPULSION PROGRAM.—Section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98–525; 98 Stat. 2649) is—

(A) transferred to title XLI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) inserted after the title heading for such title, as so added; and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

"SEC. 4101. NAVAL NUCLEAR PROPULSION PROGRAM.";

and

(ii) by striking "SEC. 1634.".

(3) MANAGEMENT STRUCTURE FOR FACILITIES AND LABORATORIES.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2833) is—

(A) transferred to title XLI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4102;

(C) inserted after section 4101, as added by paragraph (2); and

(D) amended in subsection (d)(2), by striking "120 days after the date of the enactment of this Act," and inserting "January 21, 1997,".

(4) RESTRICTION ON LICENSING REQUIREMENTS FOR CERTAIN ACTIVITIES AND FACILITIES.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3202) is—

(A) transferred to title XLI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4102, as added by paragraph (3); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

"SEC. 4103. RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES.";

(ii) by striking "SEC. 210."; and

(iii) by striking "this or any other Act" and inserting "the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act".

(e) NUCLEAR WEAPONS STOCKPILE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLII—NUCLEAR WEAPONS STOCKPILE MATTERS

"Subtitle A—Stockpile Stewardship and Weapons Production".

(2) STOCKPILE STEWARDSHIP PROGRAM.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946), as amended by section 3152(e) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2042), is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4201; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) STOCKPILE STEWARDSHIP CRITERIA.—Section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2257), as amended, is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4202; and

(C) inserted after section 4201, as added by paragraph (2).

(4) PLAN FOR STEWARDSHIP, MANAGEMENT, AND CERTIFICATION OF WARHEADS IN STOCKPILE.—Section 3151 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2041) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4203; and

(C) inserted after section 4202, as added by paragraph (3).

(5) STOCKPILE LIFE EXTENSION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 926) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4204;

(C) inserted after section 4203, as added by paragraph (4); and

(D) amended in subsection (c)(1) by striking "the date of the enactment of this Act" and inserting "October 5, 1999".

(6) ANNUAL ASSESSMENTS AND REPORTS ON CONDITION OF STOCKPILE.—Section 3141 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2730) is—

(A) transferred to title XLII of such Act, as amended by this subsection;

(B) redesignated as section 4205;

(C) inserted after section 4204, as added by paragraph (5); and

(D) amended in subsection (d)(3)(B) by striking "section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note)" and inserting "section 4212".

(7) FORM OF CERTAIN CERTIFICATIONS REGARDING STOCKPILE.—Section 3194 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4206; and

(C) inserted after section 4205, as added by paragraph (6).

(8) NUCLEAR TEST BAN READINESS PROGRAM.—Section 1436 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2075) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4207;

(C) inserted after section 4206, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STUDY ON NUCLEAR TEST READINESS POSTURES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 623), as amended by section 3192 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4208; and

(C) inserted after section 4207, as added by paragraph (8).

(10) REQUIREMENTS FOR REQUESTS FOR NEW OR MODIFIED NUCLEAR WEAPONS.—Section 3143 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2733) is—

(A) transferred to title XLII of such Act, as amended by this subsection;

(B) redesignated as section 4209; and

(C) inserted after section 4208, as added by paragraph (9).

(11) LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.—Subsection (f) of section 507 of the Energy and Water Development Appropriations Act, 1993 (Public Law 102–337; 106 Stat. 1345) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4209, as added by paragraph (10); and

(C) amended—

(i) by inserting before the text the following new section heading:

“SEC. 4210. LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.”;

and

(ii) by striking “(f)”.

(12) TESTING OF NUCLEAR WEAPONS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4211;

(C) inserted after section 4210, as added by paragraph (11); and

(D) amended—

(i) in subsection (a), by inserting “of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160)” after “section 3101(a)(2)”; and

(ii) in subsection (b), by striking “this Act” and inserting “the National Defense Authorization Act for Fiscal Year 1994”.

(13) MANUFACTURING INFRASTRUCTURE FOR STOCKPILE.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620), as amended by section 3132 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2829), is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4212;

(C) inserted after section 4211, as added by paragraph (12); and

(D) amended in subsection (d) by inserting “of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)” after “section 3101(b)”.

(14) REPORTS ON CRITICAL DIFFICULTIES AT LABORATORIES AND PLANTS.—Section 3159 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2842), as amended by section 1305 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1954) and section 3163 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 944), is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4213; and

(C) inserted after section 4212, as added by paragraph (13).

(15) SUBTITLE HEADING ON TRITIUM.—Title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

“Subtitle B—Tritium”.

(16) TRITIUM PRODUCTION PROGRAM.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 618) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4231;

(C) inserted after the heading for subtitle B of such title XLII, as added by paragraph (15); and

(D) amended—

(i) by striking “the date of the enactment of this Act” each place it appears and inserting “February 10, 1996”; and

(ii) in subsection (b), by inserting “of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106)” after “section 3101”.

(17) TRITIUM RECYCLING.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 620) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4232; and

(C) inserted after section 4231, as added by paragraph (16).

(18) TRITIUM PRODUCTION.—Subsections (c) and (d) of section 3133 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) are—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4232, as added by paragraph (17); and

(C) amended—

(i) by inserting before the text the following new section heading:

“SEC. 4233. TRITIUM PRODUCTION.”;

(ii) by redesignating such subsections as subsections (a) and (b), respectively; and

(iii) in subsection (a), as so redesignated, by inserting “of Energy” after “The Secretary”.

(19) MODERNIZATION AND CONSOLIDATION OF TRITIUM RECYCLING FACILITIES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4234;

(C) inserted after section 4233, as added by paragraph (18); and

(D) amended in subsection (b) by inserting “of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)” after “section 3101”.

(20) PROCEDURES FOR MEETING TRITIUM PRODUCTION REQUIREMENTS.—Section 3134 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4235; and

(C) inserted after section 4234, as added by paragraph (19).

(f) PROLIFERATION MATTERS.—

(1) TITLE HEADING.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new title heading:

“TITLE XLIII—PROLIFERATION MATTERS”.

(2) INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.—Section 3133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2036), as amended by sections 1069 and 3131 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2136, 2246), is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4301;

(C) inserted after the heading for such title, as so added; and

(D) amended in subsection (b)(3) by striking “this Act” and inserting “the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)”.

(3) NONPROLIFERATION INITIATIVES AND ACTIVITIES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 927) is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4302;

(C) inserted after section 4301, as added by paragraph (2); and

(D) amended in subsection (b)(1) by striking “this title” and inserting “title XXXI of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65)”.

(4) ANNUAL REPORT ON MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM.—Section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–475) is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4303;

(C) inserted after section 4302, as added by paragraph (3); and

(D) amended in subsection (c)(1) by striking “this Act” and inserting “the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)”.

(5) NUCLEAR CITIES INITIATIVE.—Section 3172 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1645A–476) is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4304; and

(C) inserted after section 4303, as added by paragraph (4).

(6) PROGRAMS ON FISSILE MATERIALS.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 617), as amended by section 3152 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2738), is—

(A) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4305; and

(C) inserted after section 4304, as added by paragraph (5).

(7) DISPOSITION OF PLUTONIUM.—

(A) DISPOSITION OF WEAPONS USABLE PLUTONIUM.—Section 3182 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2747) is—

(i) transferred to title XLIII of such Act, as amended by this subsection;

(ii) redesignated as section 4306; and

(iii) inserted after section 4305, as added by paragraph (6).

(B) DISPOSITION OF SURPLUS DEFENSE PLUTONIUM.—Section 3155 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1378) is—

(i) transferred to title XLIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4306A; and

(iii) inserted after section 4306, as added by subparagraph (A).

(g) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLIV—ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT MATTERS

"Subtitle A—Environmental Restoration and Waste Management".

(2) DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACCOUNT.—Section 3134 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1575) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4401; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) FUTURE USE PLANS FOR ENVIRONMENTAL MANAGEMENT PROGRAM.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4402;

(C) inserted after section 4401, as added by paragraph (2); and

(D) amended—

(i) in subsection (d), by striking "the date of the enactment of this Act" and inserting "September 23, 1996,"; and

(ii) in subsection (h)(1), by striking "the date of the enactment of this Act" and inserting "September 23, 1996".

(4) INTEGRATED FISSILE MATERIALS MANAGEMENT PLAN.—Section 3172 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 948) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4403; and

(C) inserted after section 4402, as added by paragraph (3).

(5) BASELINE ENVIRONMENTAL MANAGEMENT REPORTS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1950), as amended by section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3094), section 3152 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2839), and section 3160 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048), is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4404; and

(C) inserted after section 4403, as added by paragraph (4).

(6) ACCELERATED SCHEDULE FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3156 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4405;

(C) inserted after section 4404, as added by paragraph (5); and

(D) amended in subsection (b)(2) by inserting before the period the following: ", the predecessor provision to section 4404 of this Act".

(7) DEFENSE WASTE CLEANUP TECHNOLOGY PROGRAM.—Section 3141 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1679) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4406;

(C) inserted after section 4405, as added by paragraph (6); and

(D) amended in the section heading by adding a period at the end.

(8) REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES.—Section 3134 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4407;

(C) inserted after section 4406, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Subsection (e) of section 3160 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4407, as added by paragraph (8); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4408. PUBLIC PARTICIPATION IN PLANNING FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT AT DEFENSE NUCLEAR FACILITIES.";

and

(ii) by striking "(e) PUBLIC PARTICIPATION IN PLANNING.—".

(10) SUBTITLE HEADING ON CLOSURE OF FACILITIES.—Title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Closure of Facilities".

(11) PROJECTS TO ACCELERATE CLOSURE ACTIVITIES AT DEFENSE NUCLEAR FACILITIES.—Section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4421;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10); and

(D) amended in subsection (i) by striking "the expiration of the 15-year period beginning on the date of the enactment of this Act" and inserting "September 23, 2011".

(12) REPORTS IN CONNECTION WITH PERMANENT CLOSURE OF DEFENSE NUCLEAR FACILITIES.—Section 3156 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1683) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4422;

(C) inserted after section 4421, as added by paragraph (11); and

(D) amended in the section heading by adding a period at the end.

(13) SUBTITLE HEADING ON PRIVATIZATION.—Title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Privatization".

(14) DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION PROJECTS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2034) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4431;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (13); and

(D) amended—

(i) in subsections (a), (c)(1)(B)(i), and (d), by inserting "of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)" after "section 3102(i)"; and

(ii) in subsections (c)(1)(B)(ii) and (f), by striking "the date of enactment of this Act" and inserting "November 18, 1997".

(15) SUBTITLE HEADING ON HANFORD RESERVATION.—Title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle D—Hanford Reservation, Washington".

(16) SAFETY MEASURES FOR WASTE TANKS.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1833) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4441;

(C) inserted after the heading for subtitle D of such title, as added by paragraph (15); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking "Within 90 days after the date of the enactment of this Act," and inserting "Not later than February 3, 1991,";

(iii) in subsection (b), by striking "Within 120 days after the date of the enactment of this Act," and inserting "Not later than March 5, 1991,";

(iv) in subsection (c), by striking "Beginning 120 days after the date of the enactment of this Act," and inserting "Beginning March 5, 1991,"; and

(v) in subsection (d), by striking "Within six months after the date of the enactment of this Act," and inserting "Not later than May 5, 1991,".

(17) WASTE TANK CLEANUP PROGRAM.—Section 3139 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2250), as amended by section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–463) and section 3135 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368), is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4442;

(C) inserted after section 4441, as added by paragraph (16); and

(D) amended in subsection (d) by striking "30 days after the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001," and inserting "November 29, 2000,".

(18) RIVER PROTECTION PROJECT.—Subsection (a) of section 3141 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–462) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4442, as added by paragraph (17); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4443. RIVER PROTECTION PROJECT.";

and

(ii) by striking "(a) REDESIGNATION OF PROJECT.—".

(19) FUNDING FOR TERMINATION COSTS OF RIVER PROTECTION PROJECT.—Section 3131 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–454) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4444;

(C) inserted after section 4443, as added by paragraph (18); and

(D) amended—

(i) by striking "section 3141" and inserting "section 4443"; and

(ii) by striking "the date of the enactment of this Act" and inserting "October 30, 2000".

(20) SUBTITLE HEADING ON SAVANNAH RIVER SITE, SOUTH CAROLINA.—Title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle E—Savannah River Site, South Carolina".

(21) ACCELERATED SCHEDULE FOR ISOLATING HIGH-LEVEL NUCLEAR WASTE AT DEFENSE WASTE PROCESSING FACILITY.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as 4451; and

(C) inserted after the heading for subtitle E of such title, as added by paragraph (20).

(22) MULTI-YEAR PLAN FOR CLEAN-UP.—Subsection (e) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2834) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4451, as added by paragraph (21); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4452. MULTI-YEAR PLAN FOR CLEAN-UP.";

and

(ii) by striking "(e) MULTI-YEAR PLAN FOR CLEAN-UP AT SAVANNAH RIVER SITE.—The Secretary" and inserting "The Secretary of Energy".

(23) CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.—

(A) FISCAL YEAR 2001.—Subsection (a) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4452, as added by paragraph (22); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4453. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";

and

(II) by striking "(a) CONTINUATION.—".

(B) FISCAL YEAR 2000.—Section 3132 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 924) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4453A; and

(iii) inserted after section 4453, as added by subparagraph (A).

(C) FISCAL YEAR 1999.—Section 3135 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2248) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4453B; and

(iii) inserted after section 4453A, as added by subparagraph (B).

(D) FISCAL YEAR 1998.—Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4453B, as added by subparagraph (C); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4453C. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";

and

(II) by striking "(b) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—".

(E) FISCAL YEAR 1997.—Subsection (f) of section 3142 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836) is—

(i) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) inserted after section 4453C, as added by subparagraph (D); and

(iii) amended—

(I) by inserting before the text the following new section heading:

"SEC. 4453D. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSAL OF LEGACY NUCLEAR MATERIALS.";

(II) by striking "(f) REQUIREMENT FOR CONTINUING OPERATIONS AT SAVANNAH RIVER SITE.—The Secretary" and inserting "The Secretary of Energy"; and

(III) by striking "subsection (e)" and inserting "section 4452".

(24) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—Subsection (b) of section 3137 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–460) is—

(A) transferred to title XLIV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4453D, as added by paragraph (23)(E); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4454. LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.";

(ii) by striking "(b) LIMITATION ON USE OF FUNDS FOR DECOMMISSIONING F–CANYON FACILITY.—";

(iii) by striking "this or any other Act" and inserting "the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) or any other Act"; and

(iv) by striking "the Secretary" in the matter preceding paragraph (1) and inserting "the Secretary of Energy".

(h) SAFEGUARDS AND SECURITY MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLV—SAFEGUARDS AND SECURITY MATTERS

"Subtitle A—Safeguards and Security".

(2) PROHIBITION ON INTERNATIONAL INSPECTIONS OF FACILITIES WITHOUT PROTECTION OF RESTRICTED DATA.—Section 3154 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 624) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4501;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) by striking "(1) The" and inserting "The"; and

(ii) by striking "(2) For purposes of paragraph (1)," and inserting "(c) RESTRICTED DATA DEFINED.—In this section,".

(3) RESTRICTIONS ON ACCESS TO LABORATORIES BY FOREIGN VISITORS FROM SENSITIVE COUNTRIES.—Section 3146 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4502;

(C) inserted after section 4501, as added by paragraph (2); and

(D) amended—

(i) in subsection (b)(2)—

(I) in the matter preceding subparagraph (A), by striking "30 days after the date of the enactment of this Act" and inserting "on November 4, 1999,"; and

(II) in subparagraph (A), by striking "The date that is 90 days after the date of the enactment of this Act" and inserting "January 3, 2000";

(ii) in subsection (d)(1), by striking "the date of the enactment of this Act," and inserting "October 5, 1999,"; and

(iii) in subsection (g), by adding at the end the following new paragraphs:

"(3) The term 'national laboratory' means any of the following:

"(A) Lawrence Livermore National Laboratory, Livermore, California.

"(B) Los Alamos National Laboratory, Los Alamos, New Mexico.

"(C) Sandia National Laboratories, Albuquerque, New Mexico and Livermore, California.

"(4) The term 'Restricted Data' has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).".

(4) BACKGROUND INVESTIGATIONS ON CERTAIN PERSONNEL.—Section 3143 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 934) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4503;

(C) inserted after section 4502, as added by paragraph (3); and

(D) amended—

(i) in subsection (b), by striking "the date of the enactment of this Act" and inserting "October 5, 1999,"; and

(ii) by adding at the end the following new subsection:

"(c) DEFINITIONS.—In this section, the terms 'national laboratory' and 'Restricted Data' have the meanings given such terms in section 4502(g).".

(5) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—

(A) DEPARTMENT OF ENERGY COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3152 of

the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1376) is—

(i) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504;

(iii) inserted after section 4503, as added by paragraph (4); and

(iv) amended in subsection (c) by striking "section 3154 of the Department of Energy Facilities Safeguards, Security, and Counterintelligence Enhancement Act of 1999 (subtitle D of title XXXI of Public Law 106–65; 42 U.S.C. 7383h)" and inserting "section 4504A".

(B) COUNTERINTELLIGENCE POLYGRAPH PROGRAM.—Section 3154 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 941), as amended by section 3135 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–456), is—

(i) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4504A;

(iii) inserted after section 4504, as added by subparagraph (A); and

(iv) amended in subsection (h) by striking "180 days after the date of the enactment of this Act," and inserting "April 5, 2000,".

(6) NOTICE OF SECURITY AND COUNTERINTELLIGENCE FAILURES.—Section 3150 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 939) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4505; and

(C) inserted after section 4504A, as added by paragraph (5)(B).

(7) ANNUAL REPORT ON SECURITY FUNCTIONS AT NUCLEAR WEAPONS FACILITIES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2049) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4506;

(C) inserted after section 4505, as added by paragraph (6); and

(D) amended in subsection (b) by inserting "of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2048; 42 U.S.C. 7251 note)" after "section 3161".

(8) REPORT ON COUNTERINTELLIGENCE AND SECURITY PRACTICES AT LABORATORIES.—Section 3152 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4507;

(C) inserted after section 4506, as added by paragraph (7); and

(D) amended by adding at the end the following new subsection:

"(c) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).".

(9) REPORT ON SECURITY VULNERABILITIES OF NATIONAL LABORATORY COMPUTERS.—Section 3153 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 940) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4508;

(C) inserted after section 4507, as added by paragraph (8); and

(D) amended by adding at the end the following new subsection:

"(f) NATIONAL LABORATORY DEFINED.—In this section, the term 'national laboratory' has the meaning given that term in section 4502(g)(3).".

(10) SUBTITLE HEADING ON CLASSIFIED INFORMATION.—Title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Classified Information".

(11) REVIEW OF CERTAIN DOCUMENTS BEFORE DECLASSIFICATION AND RELEASE.—Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 625) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4521; and

(C) inserted after the heading for subtitle B of such title, as added by paragraph (10).

(12) PROTECTION AGAINST INADVERTENT RELEASE OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2259), as amended by section 1067(3) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 774) and section 3193 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4522;

(C) inserted after section 4521, as added by paragraph (11); and

(D) amended—

(i) in subsection (c)(1), by striking "the date of the enactment of this Act" and inserting "October 17, 1998,";

(ii) in subsection (f)(1), by striking "the date of the enactment of this Act" and inserting "October 17, 1998"; and

(iii) in subsection (f)(2), by striking "The Secretary" and inserting "Commencing with inadvertent releases discovered on or after October 30, 2000, the Secretary".

(13) SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.—Section 3149 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 938) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4523;

(C) inserted after section 4522, as added by paragraph (12); and

(D) amended—

(i) in subsection (a), by striking "subsection (a) of section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2260; 50 U.S.C. 435 note)" and inserting "subsection (a) of section 4522";

(ii) in subsection (b)—

(I) by striking "section 3161(b)(1) of that Act" and inserting "subsection (b)(1) of section 4522"; and

(II) by striking "the date of the enactment of that Act" and inserting "October 17, 1998,";

(iii) in subsection (c)—

(I) by striking "section 3161(c) of that Act" and inserting "subsection (c) of section 4522"; and

(II) by striking "section 3161(a) of that Act" and inserting "subsection (a) of such section"; and

(iv) in subsection (d), by striking "section 3161(d) of that Act" and inserting "subsection (d) of section 4522".

(14) PROTECTION OF CLASSIFIED INFORMATION DURING LABORATORY-TO-LABORATORY EXCHANGES.—Section 3145 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 935) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4524; and

(C) inserted after section 4523, as added by paragraph (13).

(15) IDENTIFICATION IN BUDGETS OF AMOUNT FOR DECLASSIFICATION ACTIVITIES.—Section 3173 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 949) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4525;

(C) inserted after section 4524, as added by paragraph (14); and

(D) amended in subsection (b) by striking "the date of the enactment of this Act" and inserting "October 5, 1999,".

(16) SUBTITLE HEADING ON EMERGENCY RESPONSE.—Title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Emergency Response".

(17) RESPONSIBILITY FOR DEFENSE PROGRAMS EMERGENCY RESPONSE PROGRAM.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 626) is—

(A) transferred to title XLV of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4541; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (16).

(i) PERSONNEL MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLVI—PERSONNEL MATTERS

"Subtitle A—Personnel Management".

(2) AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3095), as amended by section 3139 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2040), sections 3152 and 3155 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2253, 2257), and section 3191 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–480), is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4601; and

(C) inserted after the heading for subtitle A of such title, as so added.

(3) WHISTLEBLOWER PROTECTION PROGRAM.—Section 3164 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 946) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4602;

(C) inserted after section 4601, as added by paragraph (2); and

(D) amended in subsection (n) by striking "60 days after the date of the enactment of this Act," and inserting "December 5, 1999,".

(4) EMPLOYEE INCENTIVES FOR WORKERS AT CLOSURE PROJECT FACILITIES.—Section 3136 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–458) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4603;

(C) inserted after section 4602, as added by paragraph (3); and

(D) amended—

(i) in subsections (c) and (i)(1)(A), by striking "section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)" and inserting "section 4421"; and

(ii) in subsection (g), by striking "section 3143(h) of the National Defense Authorization Act for Fiscal Year 1997" and inserting "section 4421(h)".

(5) DEFENSE NUCLEAR FACILITY WORKFORCE RESTRUCTURING PLAN.—Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2644), as amended by section 1070(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2857), Public Law 105–277 (112 Stat. 2681–419, 2681–430), and section 1048(h)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1229), is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4604;

(C) inserted after section 4603, as added by paragraph (4); and

(D) amended—

(i) in subsection (a), by striking "(hereinafter in this subtitle referred to as the 'Secretary')"; and

(ii) by adding at the end the following new subsection:

"(g) DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITY DEFINED.—In this section, the term 'Department of Energy defense nuclear facility' means—

"(1) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

"(2) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

"(3) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);

"(4) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

"(5) any facility described in paragraphs (1) through (4) that—

"(A) is no longer in operation;

"(B) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

"(C) was operated for national security purposes.".

(6) AUTHORITY TO PROVIDE CERTIFICATE OF COMMENDATION TO EMPLOYEES.—Section 3195 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–481) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4605; and

(C) inserted after section 4604, as added by paragraph (5).

(7) SUBTITLE HEADING ON EDUCATION AND TRAINING.—Title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Education and Training".

(8) EXECUTIVE MANAGEMENT TRAINING.—Section 3142 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1680) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4621;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (7); and

(D) amended in the section heading by adding a period at the end.

(9) STOCKPILE STEWARDSHIP RECRUITMENT AND TRAINING PROGRAM.—Section 3131 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3085) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4622;

(C) inserted after section 4621, as added by paragraph (8); and

(D) amended—

(i) in subsection (a)(1), by striking "section 3138 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1946; 42 U.S.C. 2121 note)" and inserting "section 4201"; and

(ii) in subsection (b)(2), by inserting "of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337)" after "section 3101(a)(1)".

(10) FELLOWSHIP PROGRAM FOR DEVELOPMENT OF SKILLS CRITICAL TO NUCLEAR WEAPONS COMPLEX.—Section 3140 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat 621), as amended by section 3162 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 943), is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4623; and

(C) inserted after section 4622, as added by paragraph (9).

(11) SUBTITLE HEADING ON WORKER SAFETY.—Title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Worker Safety".

(12) WORKER PROTECTION AT NUCLEAR WEAPONS FACILITIES.—Section 3131 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1571) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4641;

(C) inserted after the heading for subtitle C of such title, as added by paragraph (11); and

(D) amended in subsection (e) by inserting "of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190)" after "section 3101(9)(A)".

(13) SAFETY OVERSIGHT AND ENFORCEMENT AT DEFENSE NUCLEAR FACILITIES.—Section 3163 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3097) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4642;

(C) inserted after section 4641, as added by paragraph (12); and

(D) amended in subsection (b) by striking "90 days after the date of the enactment of this Act," and inserting "January 5, 1995,".

(14) PROGRAM TO MONITOR WORKERS AT DEFENSE NUCLEAR FACILITIES EXPOSED TO HAZARDOUS OR RADIOACTIVE SUBSTANCES.—Section 3162 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2646) is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4643;

(C) inserted after section 4642, as added by paragraph (13); and

(D) amended—

(i) in subsection (b)(6), by striking "1 year after the date of the enactment of this Act" and inserting "October 23, 1993";

(ii) in subsection (c), by striking "180 days after the date of the enactment of this Act," and inserting "April 23, 1993,"; and

(iii) by adding at the end the following new subsection:

"(d) DEFINITIONS.—In this section:

"(1) The term 'Department of Energy defense nuclear facility' has the meaning given that term in section 4604(g).

"(2) The term 'Department of Energy employee' means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.".

(15) PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD RESERVATION.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087), is—

(A) transferred to title XLVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4644;

(C) inserted after section 4643, as added by paragraph (14); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking "this title" and inserting "title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510)"; and

(iii) in subsection (c)—

(I) in paragraph (2), by striking "six months after the date of the enactment of this Act," and inserting "May 5, 1991,"; and

(II) in paragraph (3), by striking "18 months after the date of the enactment of this Act," and inserting "May 5, 1992,".

(j) BUDGET AND FINANCIAL MANAGEMENT MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLVII—BUDGET AND FINANCIAL MANAGEMENT MATTERS

"Subtitle A—Recurring National Security Authorization Provisions".

(2) RECURRING NATIONAL SECURITY AUTHORIZATION PROVISIONS.—Sections 3620 through 3631 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2756) are—

(A) transferred to title XLVII of such Act, as added by paragraph (1);

(B) redesignated as sections 4701 through 4712, respectively;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in section 4702, as so redesignated, by striking "sections 3629 and 3630" and inserting "sections 4710 and 4711";

(ii) in section 4706(a)(3)(B), as so redesignated, by striking "section 3626" and inserting "section 4707";

(iii) in section 4707(c), as so redesignated, by striking "section 3625(b)(2)" and inserting "section 4706(b)(2)";

(iv) in section 4710(c), as so redesignated, by striking "section 3621" and inserting "section 4702";

(v) in section 4711(c), as so redesignated, by striking "section 3621" and inserting "section 4702"; and

(vi) in section 4712, as so redesignated, by striking "section 3621" and inserting "section 4702".

(3) SUBTITLE HEADING ON PENALTIES.—Title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Penalties".

(4) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER ENVIRONMENTAL LAWS.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 4063) is—

(A) transferred to title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4721;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (3); and

(D) amended in the section heading by adding a period at the end.

(5) RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.—Section 211 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540; 94 Stat. 3203) is—

(A) transferred to title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after section 4721, as added by paragraph (4); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

"SEC. 4722. RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT.";

(ii) by striking "SEC. 211."; and

(iii) by striking "this or any other Act" and inserting "the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96–540) or any other Act".

(6) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Other Matters".

(7) SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.—Section 208 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1979 (Public Law 95–509; 92 Stat. 1779) is—

(A) transferred to title XLVII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle C of such title, as added by paragraph (6); and

(C) amended—

(i) by striking the section heading and inserting the following new section heading:

"SEC. 4731. SINGLE REQUEST FOR AUTHORIZATION OF APPROPRIATIONS FOR COMMON DEFENSE AND SECURITY PROGRAMS.";

and

(ii) by striking "SEC. 208.".

(k) ADMINISTRATIVE MATTERS.—

(1) HEADINGS.—Division D of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this section, is further amended by adding at the end the following new headings:

"TITLE XLVIII—ADMINISTRATIVE MATTERS

"Subtitle A—Contracts".

(2) COSTS NOT ALLOWED UNDER CERTAIN CONTRACTS.—Section 1534 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 99 Stat. 774), as amended by section 3131 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1238), is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as added by paragraph (1);

(B) redesignated as section 4801;

(C) inserted after the heading for subtitle A of such title, as so added; and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (b)(1), by striking "the date of the enactment of this Act," and inserting "November 8, 1985,".

(3) PROHIBITION ON BONUSES TO CONTRACTORS OPERATING DEFENSE NUCLEAR FACILITIES.—Section 3151 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4802;

(C) inserted after section 4801, as added by paragraph (2); and

(D) amended—

(i) in the section heading, by adding a period at the end;

(ii) in subsection (a), by striking "the date of the enactment of this Act" and inserting "November 29, 1989";

(iii) in subsection (b), by striking "6 months after the date of the enactment of this Act," and inserting "May 29, 1990,"; and

(iv) in subsection (d), by striking "90 days after the date of the enactment of this Act" and inserting "March 1, 1990".

(4) CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING FROM ATOMIC WEAPONS TESTING PROGRAMS.—Section 3141 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1837) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4803;

(C) inserted after section 4802, as added by paragraph (3); and

(D) amended—

(i) in the section heading, by adding a period at the end; and

(ii) in subsection (d), by striking "the date of the enactment of this Act" each place it appears and inserting "November 5, 1990,".

(5) SUBTITLE HEADING ON RESEARCH AND DEVELOPMENT.—Title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle B—Research and Development".

(6) LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT.—Section 3132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1832) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4811;

(C) inserted after the heading for subtitle B of such title, as added by paragraph (5); and

(D) amended in the section heading by adding a period at the end.

(7) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—

(A) LIMITATIONS ON USE OF FUNDS FOR LABORATORY DIRECTED RESEARCH AND DEVELOPMENT.—Section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038) is—

(i) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812;

(iii) inserted after section 4811, as added by paragraph (6);

(iv) amended in subsection (b) by striking "section 3136(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2831; 42 U.S.C. 7257b)" and inserting "section 4812A(b)";

(v) amended in subsection (d)—

(I) by striking "section 3136(b)(1)" and inserting "section 4812A(b)(1)"; and

(II) by striking "section 3132(c) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(c))" and inserting "section 4811(c)"; and

(vi) amended in subsection (e) by striking "section 3132(d) of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 7257a(d))" and inserting "section 4811(d)".

(B) LIMITATION ON USE OF FUNDS FOR CERTAIN RESEARCH AND DEVELOPMENT PURPOSES.—Section 3136 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2830), as amended by section 3137 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2038), is—

(i) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(ii) redesignated as section 4812A;

(iii) inserted after section 4812, as added by subparagraph (A); and

(iv) amended in subsection (a) by inserting "of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201)" after "section 3101".

(8) CRITICAL TECHNOLOGY PARTNERSHIPS.—Section 3136 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1577), as amended by section 203(b)(3) of Public Law 103–35 (107 Stat. 102), is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4813; and

(C) inserted after section 4812A, as added by paragraph (7)(B).

(9) UNIVERSITY-BASED RESEARCH COLLABORATION PROGRAM.—Section 3155 of the National

Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4814;

(C) inserted after section 4813, as added by paragraph (8); and

(D) amended in subsection (c) by striking "this title" and inserting "title XXXI of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85)".

(10) SUBTITLE HEADING ON FACILITIES MANAGEMENT.—Title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle C—Facilities Management".

(11) TRANSFERS OF REAL PROPERTY AT CERTAIN FACILITIES.—Section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2046) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4831; and

(C) inserted after the heading for subtitle C of such title, as added by paragraph (10).

(12) ENGINEERING AND MANUFACTURING RESEARCH, DEVELOPMENT, AND DEMONSTRATION AT CERTAIN NUCLEAR WEAPONS PRODUCTION PLANTS.—Section 3156 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–467) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4832; and

(C) inserted after section 4831, as added by paragraph (11).

(13) PILOT PROGRAM ON USE OF PROCEEDS OF DISPOSAL OR UTILIZATION OF CERTAIN ASSETS.—Section 3138 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2039) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) redesignated as section 4833;

(C) inserted after section 4832, as added by paragraph (12); and

(D) amended in subsection (d) by striking "sections 202 and 203(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483 and 484(j))" and inserting "subchapter II of chapter 5 and section 549 of title 40, United States Code,".

(14) SUBTITLE HEADING ON OTHER MATTERS.—Title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection, is further amended by adding at the end the following new subtitle heading:

"Subtitle D—Other Matters".

(15) SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.—Subsection (f) of section 3153 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2044) is—

(A) transferred to title XLVIII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, as amended by this subsection;

(B) inserted after the heading for subtitle D of such title, as added by paragraph (14); and

(C) amended—

(i) by inserting before the text the following new section heading:

"SEC. 4851. SEMIANNUAL REPORTS ON LOCAL IMPACT ASSISTANCE.";

(ii) by striking "(f) SEMIANNUAL REPORTS TO CONGRESS OF LOCAL IMPACT ASSISTANCE.—"; and

(iii) by striking "section 3161(c)(6) of the National Defense Authorization Act of 1993 (42 U.S.C. 7274h(c)(6))" and inserting "section 4604(c)(6)".

(16) PAYMENT OF COSTS OF OPERATION AND MAINTENANCE OF INFRASTRUCTURE AT NEVADA TEST SITE.—Section 3144 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2838) is—

(A) transferred to title XLVIII of such Act, as amended by this subsection;

(B) redesignated as section 4852; and

(C) inserted after section 4851, as added by paragraph (15).

(m) CONFORMING AMENDMENTS.—(1) Title XXXVI of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 1756) is repealed.

(2) Subtitle E of title XXXI of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h et seq.) is repealed.

(3) Section 8905a(d)(5)(A) of title 5, United States Code, is amended by striking "section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (42 U.S.C. 7274n)" and inserting "section 4421 of the Atomic Energy Defense Act".

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2004, $19,559,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.
Sec. 3302. Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2004, the National Defense Stockpile Manager may obligate up to $69,701,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3302. REVISIONS TO REQUIRED RECEIPT OBJECTIVES FOR PREVIOUSLY AUTHORIZED DISPOSALS FROM NATIONAL DEFENSE STOCKPILE.

Section 3402 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 972; 50 U.S.C. 98d note) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (2); and

(B) by striking paragraph (3) and inserting the following new paragraphs:

"(3) $340,000,000 before the end of fiscal year 2005; and

"(4) $450,000,000 before the end of fiscal year 2013."; and

(2) in subsection (e), by adding at the end the following new sentence: "The disposal of materials under this section to achieve the receipt levels specified in subsection (b), within the time periods specified in subsection, shall be in addition to any routine and on-going disposals used to fund operations of the National Defense Stockpile.".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy $16,500,000 for fiscal year 2004 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Short title.

Subtitle A—Maritime Administration Reauthorization

Sec. 3511. Authorization of appropriations for fiscal years 2004, 2005, 2006, 2007, and 2008.
Sec. 3512. Conveyance of obsolete vessels under title V, Merchant Marine Act, 1936.
Sec. 3513. Authority to convey vessel USS HOIST (ARS–40).
Sec. 3514. Cargo preference.
Sec. 3515. Maritime education and training.
Sec. 3516. Authority to convey obsolete vessels to U.S. territories and foreign countries for reefing.
Sec. 3517. Maintenance and repair reimbursement pilot program.

Subtitle B—Amendments to Title XI Loan Guarantee Program

Sec. 3521. Equity payments by obligor for disbursement prior to termination of escrow agreement.
Sec. 3522. Waivers of program requirements.
Sec. 3523. Project monitoring.
Sec. 3524. Defaults.
Sec. 3525. Decision period.
Sec. 3526. Loan guarantees.
Sec. 3527. Annual report on program.
Sec. 3528. Review of program.

Subtitle C—Maritime Security Fleet

Sec. 3531. Establishment of Maritime Security Fleet.
Sec. 3532. Related amendments to existing law.
Sec. 3533. Interim rules.
Sec. 3534. Repeals and conforming amendments.
Sec. 3535. GAO study of adjustment of operating agreement payment criteria.
Sec. 3536. Definitions.
Sec. 3537. Effective dates.

Subtitle D—National Defense Tank Vessel Construction Assistance

Sec. 3541. National defense tank vessel construction program.
Sec. 3542. Application procedure.
Sec. 3543. Award of assistance.
Sec. 3544. Priority for title XI assistance.
Sec. 3545. Definitions.
Sec. 3546. Authorization of appropriations.

SEC. 3501. SHORT TITLE.

This title may be cited as the "Maritime Security Act of 2003".

Subtitle A—Maritime Administration Reauthorization

SEC. 3511. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2004, 2005, 2006, 2007, AND 2008.

There are authorized to be appropriated to the Secretary of Transportation for the Maritime Administration—

(1) for expenses necessary for operations and training activities, not to exceed $104,400,000 for the fiscal year ending September 30, 2004, $106,000,000 for the fiscal year ending September 2005, and $109,000,000 for the fiscal year ending September 30, 2006, $111,000,000 for the fiscal year ending September 30, 2007, and $113,000,000 for the fiscal year ending September 30, 2008;

(2) for expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et. seq.), $36,000,000 for each of fiscal years 2004, 2005, 2006, 2007, and 2008 of which—

(A) $30,000,000 shall be for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) $6,000,000 shall be for administrative expenses related to loan guarantee commitments under the program; and

(3) for ship disposal, $18,422,000 for fiscal year 2004, $11,422,000 for each of fiscal years 2005 and 2006, and $12,000,000 for each of fiscal years 2007 and 2008.

SEC. 3512. CONVEYANCE OF OBSOLETE VESSELS UNDER TITLE V, MERCHANT MARINE ACT, 1936.

Section 508 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1158) is amended—

(1) by inserting "(a) Authority To Scrap or Sell Obsolete Vessels.—" before "If"; and

(2) by adding at the end the following:

"(b) Authority To Convey Vessels.—

"(1) In general.—Notwithstanding section 510(j) of this Act, the Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if—

"(A) the recipient is a non-profit organization, a State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof, or the District of Columbia;

"(B) the recipient agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

"(C) the recipient agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

"(D) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

"(E) the recipient has a conveyance plan and a business plan that describes the intended use of the vessel, each of which have been submitted to and approved by the Secretary;

"(F) the recipient has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

"(G) the recipient agrees that when the recipient no longer requires the vessel for use as described in the business plan required under subparagraph (E)—

"(i) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

"(ii) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

"(I) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

"(II) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

"(2) Other equipment.—At the Secretary's discretion, additional equipment from other obsolete vessels of the National Defense Reserve Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

"(3) Additional terms.—The Secretary may require any additional terms the Secretary considers appropriate.

"(4) Delivery of vessel.—If conveyance is made under this subsection the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

"(5) Limitations.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of a vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

"(6) Reversion.—The Secretary shall include in any conveyance under this subsection terms under which all right, title, and interest conveyed by the Secretary shall revert to the United States if the Secretary determines the vessel has been used other than as described in the business plan required under paragraph (1)(E).".

SEC. 3513. AUTHORITY TO CONVEY VESSEL USS HOIST (ARS-40).

(a) In General.—Notwithstanding section 510(j) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(j)), the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS HOIST (ARS-40), to the Last Patrol Museum, located in Toledo, Ohio (a not-for-profit corporation, in this section referred to as the "recipient"), for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the recipient agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000; and

(7) the recipient has a conveyance plan and a business plan that describes the intended use of the vessel, each of which have been submitted to and approved by the Secretary.

(b) Delivery of Vessel.—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) Other Unneeded Equipment.—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS HOIST (ARS-40) to museum quality.

(d) Retention of Vessel in NDRF.—

(1) In general.—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(A) 2 years after the date of the enactment of this Act; or

(B) the date of conveyance of the vessel under subsection (a).

(2) Limitation.—Paragraph (1) does not require the Secretary to retain the vessel in the National Defense Reserve Fleet if the Secretary determines that retention of the vessel in the fleet will pose an unacceptable risk to the marine environment.

SEC. 3514. CARGO PREFERENCE.

Section 901b(c)(2) of the Merchant Marine Act, 1936 (46 U.S.C App. 1241f(c)(2)) is amended by striking "1986." and inserting "1986, the 18-month period beginning April 1, 2002, and the 12-month period beginning October 1, 2003, and each year thereafter.".

SEC. 3515. MARITIME EDUCATION AND TRAINING.

(a) Cost of Education Defined.—Section 1302 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295a) is amended—

(1) by striking "and" after the semicolon in paragraph (3);

(2) by striking "States." in paragraph (4)(B) and inserting "States; and"; and

(3) by adding at the end the following:

"(5) the term 'cost of education provided' means the financial costs incurred by the Federal Government for providing training or financial assistance to students at the United States Merchant Marine Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.".

(b) Commitment Agreements.—Section 1303(e) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(e)) is amended—

(1) by striking "Academy, unless the individual is separated from the" in paragraph (1)(A);

(2) by striking paragraph (1)(C) and inserting the following:

"(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from the Academy of such individual, accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages;";

(3) by striking paragraph (1)(E)(iii) and inserting the following:

"(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or other maritime-related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary; or";

(4) by striking paragraph (2) and inserting the following:

"(2)(A) If the Secretary determines that any individual who has attended the Academy for not less than 2 years has failed to fulfill the part of the agreement required by paragraph (1)(A), such individual may be ordered by the Secretary of Defense to active duty in one of the armed forces of the United States to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided by the Federal Government.";

(5) by striking paragraph (3) and inserting the following:

"(3)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in subparagraphs (1)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than 3 years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (1)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary may recover from the individual the cost of education provided and may reduce the amount to be recovered from such individual to reflect partial performance of service obligations and such other factors as the Secretary determines merit such a reduction."; and

(6) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3) the following:

"(4) To aid in the recovery of the cost of education provided by the Federal Government pursuant to a commitment agreement under this section, the Secretary may request the Attorney General to begin court proceedings, and the Secretary may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, or other applicable administrative remedies.".

(c) DEGREES AWARDED.—Section 1303(g) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295b(g)) is amended to read as follows:

"(g) DEGREES AWARDED.—

"(1) BACHELOR'S DEGREE.—The Superintendent of the Academy may confer the degree of bachelor of science upon any individual who has met the conditions prescribed by the Secretary and who, if a citizen of the United States, has passed the examination for a merchant marine officer's license. No individual may be denied a degree under this subsection because the individual is not permitted to take such examination solely because of physical disqualification.

"(2) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree upon any individual who has met the conditions prescribed by the Secretary. Any master's degree program may be funded through non-appropriated funds. In order to maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may make regulations necessary to administer such a program.".

(d) STUDENT INCENTIVE PAYMENTS.—Section 1304(g) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c(g)) is amended—

(1) by striking "$3,000" in paragraph (1) and inserting "$4,000";

(2) in paragraph (3)(A) by striking "attending, unless the individual is separated by such academy;" and inserting "attending;";

(3) by striking paragraph (3)(C) and inserting the following:

"(C) to maintain a valid license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual, accompanied by the appropriate national and international endorsements and certification as required by the United States Coast Guard for service aboard vessels on domestic and international voyages;";

(4) by striking paragraph (3)(E)(iii) and inserting the following:

"(iii) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related employment with the Federal Government which serves the national security interests of the United States, as determined by the Secretary; or";

(5) by striking paragraph (4) and inserting the following:

"(4)(A) If the Secretary determines that an individual who has accepted the payment described in paragraph (1) for a minimum of 2 academic years has failed to fulfill the part of the agreement required by paragraph (1) and described in paragraph (3)(A), such individual may be ordered by the Secretary of Defense to active duty in the Armed Forces of the United States to serve for a period of time not to exceed 2 years. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary—

"(i) subject to clause (ii), may recover from the individual the amount of student incentive payments, plus interest and attorneys fees; and

"(ii) may reduce the amount to be recovered from such individual to reflect partial performance of service obligations and such other factors as the Secretary determines merit such reduction.";

(6) by striking paragraph (5) and inserting the following:

"(5)(A) If the Secretary determines that an individual has failed to fulfill any part of the agreement required by paragraph (1), as described in paragraphs (3)(B), (C), (D), (E), or (F), such individual may be ordered to active duty to serve a period of time not less than 2 years and not more than the unexpired portion, as determined by the Secretary, of the service required by paragraph (3)(E). The Secretary, in consultation with the Secretary of Defense, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship, as determined by the Secretary, the Secretary may waive this provision in whole or in part.

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary—

"(i) subject to clause (ii), may recover from the individual the amount of student incentive payments, plus interest and attorneys fees; and

"(ii) may reduce the amount to be recovered from such individual to reflect partial performance of service obligations and such other factors as the Secretary determines merit such reduction."; and

(7) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and inserting after paragraph (5) the following:

"(6) To aid in the recovery of student incentive payments plus interest and attorneys fees the Secretary may request the Attorney General to begin court proceedings, and the Secretary may make use of the Federal debt collection procedures in chapter 176 of title 28, United States Code, and other applicable administrative remedies.".

(e) AWARDS AND MEDALS.—Section 1306 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295e) is amended by adding at the end the following:

"(d) AWARDS AND MEDALS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the United States Maritime Service.".

SEC. 3516. AUTHORITY TO CONVEY OBSOLETE VESSELS TO U.S. TERRITORIES AND FOREIGN COUNTRIES FOR REEFING.

(a) DEADLINE FOR PREPARATION.—Paragraph (1) of section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2754; 16 U.S.C. 1220 note) is amended by striking "September 30, 2003," and inserting "March 31, 2004,".

(b) GUIDANCE ON PRACTICES.—Such section is further amended—

(1) in paragraph (1), by inserting "guidance recommending" after "jointly develop";

(2) in paragraph (2), by inserting "guidance recommending" before "environmental best management practices";

(3) in paragraph (3)—

(A) in subparagraph (A), by inserting "recommended" after "include";

(B) by striking subparagraph (B) and inserting the following new subparagraph (B)

"(B) promote consistent use of such practices nationwide;"; and

(C) in subparagraph (C), by striking "establish baselines" and inserting "provide a basis"; and

(4) in paragraph (4), by striking "guidelines to be used by" and inserting "guidance for".

(c) APPLICATIONS FOR PREPARATION OF VESSELS AS REEFS.—Such section is further amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) Not later than March 31, 2004, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly establish an application process for governments of States, commonwealths, and United

States territories and possession, and foreign governments, for the preparation of vessels for use as artificial reefs, including documentation and certification requirements for that application process.''.

SEC. 3517. MAINTENANCE AND REPAIR REIMBURSEMENT PILOT PROGRAM.

(a) AUTHORITY TO ENTER AGREEMENTS.—

(1) IN GENERAL.—The Secretary of Transportation may carry out a pilot program under which the Secretary may enter into an agreement with a contractor under chapter 531 of title 46, United States Code, as amended by this Act, regarding maintenance and repair of a vessel that is subject to an operating agreement under that chapter.

(2) LIMITATION.—The Secretary may not require a person to enter into an agreement under this section, including as a condition of awarding an operating agreement to the person under chapter 531 of title 46, United States Code, as amended by this Act.

(b) TERMS OF AGREEMENT.—An agreement under this section—

(1) shall require that except as provided in subsection (c), all qualified maintenance or repair on the vessel shall be performed in the United States;

(2) shall require that the Secretary shall reimburse the contractor in accordance with subsection (d) for the costs of qualified maintenance or repair performed in the United States; and

(3) shall apply to maintenance and repair performed during the 5-year period beginning on the date the vessel begins operating under the operating agreement under chapter 531 of title 46, United States Code.

(c) EXCEPTION TO REQUIREMENT TO PERFORM WORK IN THE UNITED STATES.—A contractor shall not be required to have qualified maintenance or repair work performed in the United States under this section, if the Secretary determines that—

(1) there is no facility in the United States available to perform the work; or

(2) there is not available to the Secretary sufficient funds to pay reimbursement under subsection (d) with respect to the work.

(d) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary shall, subject to the availability of appropriations, reimburse a contractor for costs incurred by the contractor for qualified maintenance or repair performed in the United States under this section.

(2) AMOUNT.—The amount of reimbursement shall be equal to 80 percent of the difference between—

(A) the fair and reasonable cost of obtaining the qualified maintenance or repair in the United States; and

(B) the fair and reasonable cost of obtaining the qualified maintenance or repair outside the United States, in the geographic region in which the vessel generally operates.

(3) DETERMINATION OF FAIR AND REASONABLE COSTS.—The Secretary shall determine fair and reasonable costs for purposes of paragraph (2).

(e) NOTIFICATION REQUIREMENTS.—

(1) NOTIFICATION BY CONTRACTOR.—The Secretary is not required to pay reimbursement to a contractor under this section for qualified maintenance or repair, unless the contractor—

(A) notifies the Secretary of the intent of the contractor to obtain the qualified maintenance or repair, by not later than 180 days before the date of the performance of the qualified maintenance or repair; and

(B) includes in such notification—

(i) a description of all qualified maintenance or repair that the contractor should reasonably expect may be performed;

(ii) an estimate of the cost of obtaining such qualified maintenance or repair in the United States; and

(iii) an estimate of the cost of obtaining such qualified maintenance or repair outside the United States, in the geographic region in which the vessel generally operates.

(2) CERTIFICATION BY SECRETARY.—Not later than 60 days after the date of receipt of notification under paragraph (1), the Secretary shall certify to the contractor—

(A) whether there is a facility in the United States available to perform the qualified maintenance or repair described in the notification by the contractor under paragraph (1); and

(B) whether there is available to the Secretary sufficient funds to pay reimbursement under subsection (d) with respect to such work.

(f) QUALIFIED MAINTENANCE OR REPAIR DEFINED.—In this section the term ''qualified maintenance or repair''—

(1) except as provided in paragraph (2), means—

(A) any inspection of a vessel that is—

(i) required under chapter 33 of title 46, United States Code; and

(ii) performed in the period in which the vessel is subject to an agreement under this section; and

(B) any maintenance or repair of a vessel that is determined, in the course of an inspection referred to in subparagraph (A), to be necessary to comply with the laws of the United States; and

(2) does not include—

(A) routine maintenance or repair; or

(B) any emergency work that is necessary to enable a vessel to return to a port in the United States.

(g) ANALYSIS.—

(1) IN GENERAL.—Not later than October 1, 2004, the Secretary of Transportation shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate, an analysis of the need for agreements authorized by this section.

(2) CONDUCT AND CONSIDERATIONS.—In conducting the analysis, the Secretary shall consider the overall costs and benefits of the pilot program, including the following:

(A) The impact on operations of vessels in the program.

(B) The availability of repair shipyards and drydocks in the various regions of the United States (as that term is defined in such chapter) that are capable of handling such vessels that are ocean-going vessels.

(C) The experience of such shipyards in repairing the types of such vessels.

(D) A comparison of drydock and repair costs between available United States and foreign shipyards located within the geographic range of the trading area of such vessels.

(E) A comparison of the time period required for the drydocking and repair of such vessels between available United States shipyards and foreign shipyards.

(F) The impact of the voyage deviation of such vessels to United States shipyards.

(G) The benefits to the Department of Defense of having a vessel repair base in the United States to accelerate the activation of the Ready Reserve Fleet.

(H) The benefits of extending the program to all vessels that are subject to operating agreements under chapter 531 of title 46 United States Code, as amended by this Act.

(3) RECOMMENDATIONS.—The Secretary shall include in the analysis recommendations of any additional incentives that are necessary to encourage participation in the program.

(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the other amounts authorized by this subtitle, for reimbursement of costs of qualified maintenance or repair under this section there is authorized to be appropriated to the Secretary of Transportation $19,500,000 for each of fiscal years 2006 through 2011.

Subtitle B—Amendments to Title XI Loan Guarantee Program

SEC. 3521. EQUITY PAYMENTS BY OBLIGOR FOR DISBURSEMENT PRIOR TO TERMINATION OF ESCROW AGREEMENT.

(a) IN GENERAL.—Section 1108 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279a) is amended by adding at the end the following:

''(g) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

''(1) IN GENERAL.—No disbursement shall be made under subsection (b) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12½ percent, whichever is applicable under section 1104A, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (b) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12½ percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. Nothing in this paragraph shall require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this title or other applicable law.

''(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.''.

(b) DEFINITION OF ACTUAL COST.—Section 1101(f) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271(f)) is amended to read as follows:

''(f) ACTUAL COST DEFINED.—The term 'actual cost' means the sum of—

''(1) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 1108(g)(1); and

''(2) all amounts that the Secretary reasonably estimates that the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 1104A(e) in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.''.

SEC. 3522. WAIVERS OF PROGRAM REQUIREMENTS.

Section 1104A(d) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274(d)) is amended by redesignating paragraph (4) as paragraph (5), and inserting after paragraph (3) the following:

''(4) The Secretary shall promulgate regulations concerning circumstances under which waivers of or exceptions to otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

''(A) the economic soundness requirements set forth in paragraph (1)(A) of this subsection are *met after the waiver of the financial condition requirement; and*

"(B) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.".

SEC. 3523. PROJECT MONITORING.

(a) PROJECT MONITORING.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended by adding at the end the following:

"(k) MONITORING.— The Secretary shall monitor the financial conditions and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending upon the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, then the Secretary shall take appropriate action under subsection (m) of this section. If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of obligations by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (m) should be taken to protect the interests of the Secretary while insuring that program objectives are met.".

(b) SEPARATION OF DUTIES AND OTHER REQUIREMENTS.—Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274), as amended by subsection (a), is further amended by adding at the end the following:

"(l) REVIEW OF APPLICATIONS.—No commitment to guarantee, or guarantee of, an obligation shall be made by the Secretary unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to obligors and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application has been made.

"(m) AGREEMENT WITH OBLIGOR.—The Secretary shall include provisions in loan agreements with obligors that provide additional authority to the Secretary to take action to limit potential losses in connection with defaulted loans or loans that are in jeopardy due to the deteriorating financial condition of obligors. Provisions that the Secretary shall include in loan agreements include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligors financial condition or the status of the vessel or shipyard project.".

SEC. 3524. DEFAULTS.

Section 1105 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1275) is amended by adding at the end the following:

"(f) DEFAULT RESPONSE.—In the event of default on a obligation, the Secretary shall conduct operations under this title in a manner which—

"(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

"(2) minimizes the amount of any loss realized in the resolution of the guarantee;

"(3) ensures adequate competition and fair and consistent treatment of offerors; and

"(4) requires appraisal of assets by an independent appraiser.".

SEC. 3525. DECISION PERIOD.

Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274), as amended by section 3523, is amended by adding at the end the following:

"(n) DECISION PERIOD.—

"(1) IN GENERAL.—The Secretary of Transportation shall approve or deny an application for a loan guarantee under this title within 270 days after the date on which the signed application is received by the Secretary.

"(2) EXTENSION.—Upon request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application for the loan guarantee was received by the Secretary.".

SEC. 3526. LOAN GUARANTEES.

Section 1104A of the Merchant Marine Act, 1936 (46 U.S.C. App. 1274) is amended—

(1) by striking subsection (d); and

(2) in subsection (f)—

(A) by striking "(including for obtaining independent analysis under subsection (d)(4))";

(B) by inserting "(1)" after "(f)"; and

(C) by adding at the end the following:

"(2) The Secretary may make a determination that aspects of an application under this title require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted pursuant to this provision shall be performed by a party chosen by the Secretary.

"(3) Notwithstanding any other provision of this title, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

"(4) The Secretary may charge and collect fees to cover the costs of independent analysis under paragraph (2). Notwithstanding section 3302 of title 31, United States Code, any fee collected under this paragraph shall—

"(A) be credit as an offsetting collection to the account that finances the administration of the loan guarantee program;

"(B) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(C) shall remain available until expended.".

SEC. 3527. ANNUAL REPORT ON PROGRAM.

The Secretary of Transportation shall report to Congress annually on the loan guarantee program under title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). The reports shall include—

(1) the size, in dollars, of the portfolio of loans guaranteed;

(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

(3) the number and type of projects covered;

(4) a profile of pending loan applications;

(5) the amount of appropriations available for new guarantees;

(6) a profile of each project approved since the last report; and

(7) a profile of any defaults since the last report.

SEC. 3528. REVIEW OF PROGRAM.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a comprehensive assessment of the human capital and other resource needs in connection with the title XI loan guarantee program under the Merchant Marine Act, 1936 (46 U.S.C. App. 1271 et seq.). In connection with this assessment, the Secretary shall develop an organizational framework for the program offices that insures that a clear separation of duties is established among the loan application, project monitoring, and default management functions.

(b) PROGRAM ENHANCEMENTS.—

(1) Section 1103(h)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1273(h)(1)) is amended—

(A) by striking "subsection" in subparagraph (A) and inserting "subsection, and update annually,";

(B) by inserting "annually" before "determine" in subparagraph (B);

(C) by striking "and" after the semicolon in subparagraph (A);

(D) by striking "category." in subparagraph (B) and inserting "category; and"; and

(E) by adding at the end the following:

"(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that expected to be associated with the loans in the category.".

(2) Section 1103(h)(2)(A) of that Act (46 U.S.C. App. 1273(h)(2)(A)) is amended by inserting "and annually for projects subject to a guarantee," after "obligation,".

(3) Section 1103(h)(3) of that Act (46 U.S.C. App. 1273(h)(3)) is amended by adding at the end the following:

"(K) A risk factor for concentration risk reflecting the risk presented by an unduly large percentage of loans outstanding by any 1 borrower or group of affiliated borrowers.".

(c) REPORT.—The Secretary shall report to the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives on the results of the development of an organizational framework under subsection (a) by January 2, 2004.

Subtitle C—Maritime Security Fleet

SEC. 3531. ESTABLISHMENT OF MARITIME SECURITY FLEET.

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting before subtitle VI the following new subtitle:

"Subtitle V—Merchant Marine

"Chap. Sec.
"531. Maritime Security Fleet 53101

"CHAPTER 531—MARITIME SECURITY FLEET

"Sec.
"53101. Definitions.
"53102. Establishment of Maritime Security Fleet.
"53103. Award of operating agreements.
"53104. Effectiveness of operating agreements.
"53105. Obligations and rights under operating agreements.
"53106. Payments.
"53107. National security requirements.
"53108. Regulatory relief.
"53109. Special rule regarding age of participating fleet vessel.
"53110. Regulations
"53111. Authorization of appropriations.

"§53101. Definitions

"In this chapter:

"(1) BULK CARGO.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

"(2) CONTRACTOR.—The term 'contractor' means an owner or operator of a vessel that enters into an operating agreement for the vessel with the Secretary under section 53103.

"(3) FLEET.—The term 'Fleet' means the Maritime Security Fleet established under section 53102(a).

"(4) FOREIGN COMMERCE.—The term 'foreign commerce'—

"(A) subject to subparagraph (B), means—

"(i) commerce or trade between the United States, its territories or possessions, or the District of Columbia, and a foreign country; and

"(ii) commerce or trade between foreign countries; and

"(B) includes, in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in such manner as will permit United States-documented vessels freely to compete with foreign-flag bulk carrying vessels in their operation or in competing for charters, subject to rules and regulations promulgated by the Secretary of Transportation pursuant to this chapter or subtitle D of the Maritime Security Act of 2003.

"(5) LASH VESSEL.—The term 'LASH vessel' means a lighter aboard ship vessel.

"(6) PARTICIPATING FLEET VESSEL.—The term 'participating fleet vessel' means any vessel that—

"(A) on October 1, 2005—

"(i) meets the requirements of paragraph (1), (2), (3), or (4) of section 53102(c); and

"(ii) is less than 25 years of age, or less than 30 years of age in the case of a LASH vessel; and

"(B) on December 31, 2004, is covered by an operating agreement under subtitle B of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1187 et seq.).

"(7) PERSON.—The term 'person' includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof, or of any foreign country.

"(8) PRODUCT TANK VESSEL.—The term 'product tank vessel' means a double hulled tank vessel capable of carrying simultaneously more than 2 separated grades of refined petroleum products.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(10) TANK VESSEL.—The term 'tank vessel' has the meaning that term has under section 2101 of this title.

"(11) UNITED STATES.—The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands.

"(12) UNITED STATES CITIZEN TRUST.—(A) Subject to subparagraph (C), the term 'United States citizen trust' means a trust that is qualified under this paragraph.

"(B) A trust is qualified under this paragraph with respect to a vessel only if—

"(i) each of the trustees is a citizen of the United States; and

"(ii) the application for documentation of the vessel under chapter 121 of this title includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

"(C) If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

"(D) This paragraph shall not be considered to prohibit a person who is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

"(13) UNITED STATES-DOCUMENTED VESSEL.—The term 'United States-documented vessel' means a vessel documented under chapter 121 of this title.

"§ 53102. Establishment of Maritime Security Fleet

"(a) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Defense, shall establish a fleet of active, commercially viable, militarily useful, privately owned vessels to meet national defense and other security requirements and maintain a United States presence in international commercial shipping. The Fleet shall consist of privately owned, United States-documented vessels for which there are in effect operating agreements under this chapter, and shall be known as the Maritime Security Fleet.

"(b) VESSEL ELIGIBILITY.—A vessel is eligible to be included in the Fleet if—

"(1) the vessel meets the requirements of paragraph (1), (2), (3), or (4) of subsection (c);

"(2) the vessel is operated (or in the case of a vessel to be constructed, will be operated) in providing transportation in foreign commerce;

"(3) the vessel is self-propelled and is—

"(A) a roll-on/roll-off vessel with a carrying capacity of at least 80,000 square feet or 500 twenty-foot equivalent units and that is 15 years of age or less on the date the vessel is included in the Fleet;

"(B) a tank vessel that is constructed in the United States after the date of the enactment of this chapter;

"(C) a tank vessel that is 10 years of age or less on the date the vessel is included in the Fleet;

"(D) a LASH vessel that is 25 years of age or less on the date the vessel is included in the Fleet; or

"(E) any other type of vessel that is 15 years of age or less on the date the vessel is included in the Fleet;

"(4) the vessel is—

"(A) determined by the Secretary of Defense to be suitable for use by the United States for national defense or military purposes in time of war or national emergency; and

"(B) determined by the Secretary to be commercially viable; and

"(5) the vessel—

"(A) is a United States-documented vessel; or

"(B) is not a United States-documented vessel, but—

"(i) the owner of the vessel has demonstrated an intent to have the vessel documented under chapter 121 of this title if it is included in the Fleet; and

"(ii) at the time an operating agreement for the vessel is entered into under this chapter, the vessel is eligible for documentation under chapter 121 of this title.

"(c) REQUIREMENTS REGARDING CITIZENSHIP OF OWNERS, CHARTERERS, AND OPERATORS.—

"(1) VESSEL OWNED AND OPERATED BY SECTION 2 CITIZENS.—A vessel meets the requirements of this paragraph if, during the period of an operating agreement under this chapter that applies to the vessel, the vessel will be owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

"(2) VESSEL OWNED BY SECTION 2 CITIZEN OR UNITED STATES CITIZEN TRUST, AND CHARTERED TO DOCUMENTATION CITIZEN.—A vessel meets the requirements of this paragraph if—

"(A) during the period of an operating agreement under this chapter that applies to the vessel, the vessel will be—

"(i) owned by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802) or that is a United States citizen trust; and

"(ii) demise chartered to a person—

"(I) that is eligible to document the vessel under chapter 121 of this title;

"(II) the chairman of the board of directors, chief executive officer, and a majority of the members of the board of directors of which are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), and are appointed and subjected to removal only upon approval by the Secretary; and

"(III) that certifies to the Secretary that there are no treaties, statutes, regulations, or other laws that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this chapter;

"(B) in the case of a vessel that will be demise chartered to a person that is owned or controlled by another person that is not a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), the other person enters into an agreement with the Secretary not to influence the operation of the vessel in a manner that will adversely affect the interests of the United States; and

"(C) the Secretary and the Secretary of Defense notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that they concur with the certification required under subparagraph (A)(ii)(III), and have reviewed and agree that there are no other legal, operational, or other impediments that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this chapter.

"(3) VESSEL OWNED AND OPERATED BY DEFENSE CONTRACTOR.—A vessel meets the requirements of this paragraph if—

"(A) during the period of an operating agreement under this chapter that applies to the vessel, the vessel will be owned and operated by a person that—

"(i) is eligible to document a vessel under chapter 121 of this title;

"(ii) operates or manages other United States-documented vessels for the Secretary of Defense, or charters other vessels to the Secretary of Defense;

"(iii) has entered into a special security agreement for purposes of this paragraph with the Secretary of Defense;

"(iv) makes the certification described in paragraph (2)(A)(ii)(III); and

"(v) in the case of a vessel described in paragraph (2)(B), enters into an agreement referred to in that paragraph; and

"(B) the Secretary and the Secretary of Defense notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that they concur with the certification required under subparagraph (A)(iv), and have reviewed and agree that there are no other legal, operational, or other impediments that would prohibit the contractor for the vessel from performing its obligations under an operating agreement under this chapter.

"(4) VESSEL OWNED BY DOCUMENTATION CITIZEN AND CHARTERED TO SECTION 2 CITIZEN.—A vessel meets the requirements of this paragraph if, during the period of an operating agreement under this chapter that applies to the vessel, the vessel will be—

"(A) owned by a person that is eligible to document a vessel under chapter 121 of this title; and

"(B) demise chartered to a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

"(d) REQUEST BY SECRETARY OF DEFENSE.—The Secretary of Defense shall request the Secretary of Homeland Security to issue any waiver *under the first section of Public Law 81–891 (64 Stat. 1120; 46 App. U.S.C. note prec. 3) that is necessary for purposes of this chapter.*

"(e) VESSEL STANDARDS.—

"(1) CERTIFICATE OF INSPECTION.—A vessel used to provide oceangoing transportation which the Secretary of the department in which the Coast Guard is operating determines meets the criteria of subsection (b) of this section but which, on the date of enactment of the Maritime Security Act of 2003, is not a documented vessel (as that term is defined in section 12101 of this title) shall be eligible for a certificate of inspection if the Secretary determines that—

"(A) the vessel is classed by and designed in accordance with the rules of the American Bureau of Shipping, or another classification society accepted by the Secretary;

"(B) the vessel complies with applicable international agreements and associated guidelines, as determined by the country in which the vessel was documented immediately before becoming a documented vessel (as defined in that section); and

"(C) that country has not been identified by the Secretary as inadequately enforcing international vessel regulations as to that vessel.

"(2) CONTINUED ELIGIBILITY FOR CERTIFICATE.—Paragraph (1) does not apply to a vessel after any date on which the vessel fails to comply with the applicable international agreements and associated guidelines referred to in paragraph (1)(B).

"(3) RELIANCE ON CLASSIFICATION SOCIETY.—

"(A) IN GENERAL.—The Secretary may rely on a certification from the American Bureau of Shipping or, subject to subparagraph (B), another classification society accepted by the Secretary to establish that a vessel is in compliance with the requirements of paragraphs (1) and (2).

"(B) FOREIGN CLASSIFICATION SOCIETY.—The Secretary may accept certification from a foreign classification society under subparagraph (A) only—

"(i) to the extent that the government of the foreign country in which the society is headquartered provides access on a reciprocal basis to the American Bureau of Shipping; and

"(ii) if the foreign classification society has offices and maintains records in the United States.

"(f) WAIVER OF AGE RESTRICTION.—The Secretary of Defense, in conjunction with the Secretary of Transportation, may waive the application of an age restriction under subsection (b)(3) if the Secretaries jointly determine that the waiver—

"(1) is in the national interest;

"(2) is appropriate to allow the maintenance of the economic viability of the vessel and any associated operating network; and

"(3) is necessary due to the lack of availability of other vessels and operators that comply with the requirements of this chapter.

"§53103. Award of operating agreements

"(a) IN GENERAL.—The Secretary shall require, as a condition of including any vessel in the Fleet, that the person that is the owner or operator of the vessel for purposes of section 53102(c) enter into an operating agreement with the Secretary under this section.

"(b) PROCEDURE FOR APPLICATIONS.—

"(1) ACCEPTANCE OF APPLICATIONS.—Beginning no later than 30 days after the effective date of this chapter, the Secretary shall accept applications for enrollment of vessels in the Fleet.

"(2) ACTION ON APPLICATIONS.—Within 90 days after receipt of an application for enrollment of a vessel in the Fleet, the Secretary shall approve the application in conjunction with the Secretary of Defense, and shall enter into an operating agreement with the applicant, or provide in writing the reason for denial of that application.

"(3) PARTICIPATING FLEET VESSELS.—

"(A) IN GENERAL.—The Secretary shall accept an application for an operating agreement for a participating fleet vessel under the priority under subsection (c)(1)(B) only from a person that has authority to enter into an operating agreement for the vessel with respect to the full term of the operating agreement.

"(B) VESSEL UNDER DEMISE CHARTER.—For purposes of subparagraph (A), in the case of a vessel that is subject to a demise charter that terminates by its terms on September 30, 2005 (without giving effect to any extension provided therein for completion of a voyage or to effect the actual redelivery of the vessel), or that is terminable at will by the owner of the vessel after such date, only the owner of the vessel shall be treated as having the authority referred to in paragraph (1).

"(C) VESSEL OWNED BY UNITED STATES CITIZEN TRUST.—For purposes of subparagraph (B), in the case of a vessel owned by a United States citizen trust, the term 'owner of the vessel' includes a beneficial owner of the vessel with respect to such trust. '

"(c) PRIORITY FOR AWARDING AGREEMENTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall enter into operating agreements according to the following priority:

"(A) NEW TANK VESSELS.—First, for any tank vessel that—

"(i) is constructed in the United States after the effective date of this chapter;

"(ii) is eligible to be included in the Fleet under section 53102(b); and

"(iii) during the period of an operating agreement under this chapter that applies to the vessel, will be owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), except that the Secretary shall not enter into operating agreements under this subparagraph for more than 5 such vessels.

"(B) PARTICIPATING FLEET VESSELS.—Second, to the extent amounts are available after applying subparagraphs (A), for any participating fleet vessel, except that the Secretary shall not enter into operating agreements under this subparagraph for more than 47 vessels.

"(C) CERTAIN VESSELS OPERATED BY SECTION 2 CITIZENS.—Third, to the extent amounts are available after applying subparagraphs (A) and (B), for any other vessel that is eligible to be included in the Fleet under section 53102(b), and that, during the period of an operating agreement under this chapter that applies to the vessel, will be—

"(i) owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(ii) owned by a person that is eligible to document the vessel under chapter 121 of this title, and operated by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

"(D) OTHER ELIGIBLE VESSELS.—Fourth, to the extent amounts are available after applying subparagraphs (A), (B), and (C), for any other vessel that is eligible to be included in the Fleet under section 53102(b).

"(2) REDUCTION IN NUMBER OF SLOTS FOR PARTICIPATING FLEET VESSELS.—The number in paragraph (1)(B) shall be reduced by 1—

"(A) for each participating fleet vessel for which an application for enrollment in the Fleet is not received by the Secretary within the 90-day period beginning on the effective date of this chapter; and

"(B) for each participating fleet vessel for which an application for enrollment in the Fleet received by the Secretary is not approved by the Secretary and the Secretary of Defense within the 90-day period beginning on the date of such receipt.

"(3) DISCRETION WITHIN PRIORITY.—The Secretary—

"(A) subject to subparagraph (B), may award operating agreements within each priority under paragraph (1) as the Secretary considers appropriate; and

"(B) shall award operating agreement within a priority—

"(i) in accordance with operational requirements specified by the Secretary of Defense;

"(ii) in the case of operating agreements awarded under subparagraph (C) or (D) of paragraph (1), according to applicants' records of owning and operating vessels; and

"(iii) subject to the approval of the Secretary of Defense.

"(4) TREATMENT OF TANK VESSEL TO BE REPLACED.—(A) For purposes of the application of paragraph (1)(A) with respect to the award of an operating agreement, the Secretary may treat an existing tank vessel that is eligible to be included in the Fleet under section 53102(b) as a vessel that is constructed in the United States after the effective date of this chapter, if—

"(i) a binding contract for construction in the United States of a replacement vessel to be operated under the operating agreement is executed by not later than 9 months after the first date amounts are available to carry out this chapter; and

"(ii) the replacement vessel is eligible to be included in the Fleet under section 53102(b).

"(B) No payment under this chapter may be made for an existing tank vessel for which an operating agreement is awarded under this paragraph after the earlier of—

"(i) 4 years after the first date amounts are available to carry out this chapter; or

"(ii) the date of delivery of the replacement tank vessel.

"(d) LIMITATION.—The Secretary may not award operating agreements under this chapter that require payments under section 53106 for a fiscal year for more than 60 vessels.

"§53104. Effectiveness of operating agreements

"(a) EFFECTIVENESS, GENERALLY.—The Secretary may enter into an operating agreement under this chapter for fiscal year 2006. Except as provided in subsection (b), the agreement shall be effective only for 1 fiscal year, but shall be renewable, subject to the availability of appropriations, for each subsequent fiscal year through the end of fiscal year 2015.

"(b) VESSELS UNDER CHARTER TO U.S.—Unless an earlier date is requested by the applicant, the effective date for an operating agreement with respect to a vessel that is, on the date of entry into an operating agreement, on charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 53107, shall be the expiration or termination date of the Government charter covering the vessel, or any earlier date the vessel is withdrawn from that charter.

"(c) TERMINATION.—

"(1) TERMINATION BY SECRETARY.—If the contractor with respect to an operating agreement materially fails to comply with the terms of the agreement—

"(A) the Secretary shall notify the contractor and provide a reasonable opportunity to comply with the operating agreement;

"(B) the Secretary shall terminate the operating agreement if the contractor fails to achieve such compliance; and

"(C) upon such termination, any funds obligated by the agreement shall be available to the Secretary to carry out this chapter.

"(2) EARLY TERMINATION BY CONTRACTOR, GENERALLY.—An operating agreement under this chapter shall terminate on a date specified by the contractor if the contractor notifies the

Secretary, by not later than 60 days before the effective date of the termination, that the contractor intends to terminate the agreement.

"(3) EARLY TERMINATION BY CONTRACTOR, WITH AVAILABLE REPLACEMENT.—An operating agreement under this chapter shall terminate upon the expiration of the 3-year period beginning on the date a vessel begins operating under the agreement, if—

"(A) the contractor notifies the Secretary, by not later than 2 years after the date the vessel begins operating under the agreement, that the contractor intends to terminate the agreement under this paragraph; and

"(B) the Secretary, in conjunction with the Secretary of Defense, determines that—

"(i) an application for an operating agreement under this chapter has been received for a replacement vessel that is acceptable to the Secretaries; and

"(ii) during the period of an operating agreement under this chapter that applies to the replacement vessel, the replacement vessel will be—

"(I) owned and operated by one or more persons that are citizens of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(II) owned by a person that is eligible to document the vessel under chapter 121 of this title, and operated by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802).

"(d) NONRENEWAL FOR LACK OF FUNDS.—If, by the first day of a fiscal year, sufficient funds have not been appropriated under the authority provided by this chapter for that fiscal year, then the Secretary shall notify the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives that operating agreements authorized under this chapter for which sufficient funds are not available will not be renewed for that fiscal year if sufficient funds are not appropriated by the 60th day of that fiscal year.

"(e) RELEASE OF VESSELS FROM OBLIGATIONS.—If an operating agreement under this chapter is terminated under subsection (c)(3), or if funds are not appropriated for payments under an operating agreement under this chapter for any fiscal year by the 60th day of that fiscal year, then—

"(1) each vessel covered by the operating agreement is thereby released from any further obligation under the operating agreement;

"(2) the owner or operator of the vessel may transfer and register such vessel under a foreign registry that is acceptable to the Secretary of Transportation and the Secretary of Defense, notwithstanding section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808); and

"(3) if section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242) is applicable to such vessel after registration of the vessel under such a registry, then the vessel is available to be requisitioned by the Secretary of Transportation pursuant to section 902 of such Act.

"§53105. Obligations and rights under operating agreements

"(a) OPERATION OF VESSEL.—An operating agreement under this chapter shall require that, during the period a vessel is operating under the agreement—

"(1) the vessel—

"(A) shall be operated exclusively in the foreign commerce or in mixed foreign commerce and domestic trade allowed under a registry endorsement issued under section 12105 of this title; and

"(B) shall not otherwise be operated in the coastwise trade; and

"(2) the vessel shall be documented under chapter 121 of this title.

"(b) ANNUAL PAYMENTS BY SECRETARY.—

"(1) IN GENERAL.—An operating agreement under this chapter shall require, subject to the availability of appropriations, that the Secretary make a payment each fiscal year to the contractor in accordance with section 53106.

"(2) OPERATING AGREEMENT IS OBLIGATION OF UNITED STATES GOVERNMENT.—An operating agreement under this chapter constitutes a contractual obligation of the United States Government to pay the amounts provided for in the agreement to the extent of actual appropriations.

"(c) DOCUMENTATION REQUIREMENT.—Each vessel covered by an operating agreement (including an agreement terminated under section 53104(c)(2)) shall remain documented under chapter 121 of this title, until the date the operating agreement would terminate according to its terms.

"(d) NATIONAL SECURITY REQUIREMENTS.—

"(1) IN GENERAL.—A contractor with respect to an operating agreement (including an agreement terminated under section 53104(c)(2)) shall continue to be bound by the provisions of section 53107 until the date the operating agreement would terminate according to its terms.

"(2) EMERGENCY PREPAREDNESS AGREEMENT.—All terms and conditions of an Emergency Preparedness Agreement entered into under section 53107 shall remain in effect until the date the operating agreement would terminate according to its terms, except that the terms of such Emergency Preparedness Agreement may be modified by the mutual consent of the contractor, the Secretary of Transportation, and the Secretary of Defense.

"(e) TRANSFER OF OPERATING AGREEMENTS.—A contractor under an operating agreement may transfer the agreement (including all rights and obligations under the agreement) to any person that is eligible to enter into that operating agreement under this chapter, if the transfer is approved by the Secretary and the Secretary of Defense.

"(f) REPLACEMENT VESSEL.—A contractor may replace a vessel under an operating agreement with another vessel that is eligible to be included in the Fleet under section 53102(b), if the Secretary, in conjunction with the Secretary of Defense, approve replacement of the vessel.

"§53106. Payments

"(a) ANNUAL PAYMENT.—

"(1) IN GENERAL.—The Secretary, subject to the availability of appropriations and the other provisions of this section, shall pay to the contractor for an operating agreement, for each vessel that is covered by the operating agreement, an amount equal to—

"(A) $2,600,000 for each of fiscal years 2006, 2007, and 2008;

"(B) $2,900,000, for each of fiscal years 2009, 2010, and 2011; and

"(C) $3,100,000 for each fiscal years 2012, 2013, 2014, and 2015.

"(2) TIMING.—The amount shall be paid in equal monthly installments at the end of each month. The amount shall not be reduced except as provided by this section.

"(b) CERTIFICATION REQUIRED FOR PAYMENT.—As a condition of receiving payment under this section for a fiscal year for a vessel, the contractor for the vessel shall certify, in accordance with regulations issued by the Secretary, that the vessel has been and will be operated in accordance with section 53105(a)(1) for at least 320 days in the fiscal year. Days during which the vessel is drydocked, surveyed, inspected, or repaired shall be considered days of operation for purposes of this subsection.

"(c) GENERAL LIMITATIONS.—The Secretary of Transportation shall not make any payment under this chapter for a vessel with respect to any days for which the vessel is—

"(1) under a charter to the United States Government, other than a charter pursuant to an Emergency Preparedness Agreement under section 53107;

"(2) not operated or maintained in accordance with an operating agreement under this chapter; or

"(3) more than—

"(A) 25 years of age, except as provided in subparagraph (B) or (C);

"(B) 20 years of age, in the case of a tank vessel; or

"(C) 30 years of age, in the case of a LASH vessel.

"(d) REDUCTIONS IN PAYMENTS.—With respect to payments under this chapter for a vessel covered by an operating agreement, the Secretary—

"(1) except as provided in paragraph (2), shall not reduce any payment for the operation of the vessel to carry military or other preference cargoes under section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), or any other cargo preference law of the United States;

"(2) shall not make any payment for any day that the vessel is engaged in transporting more than 7,500 tons of civilian bulk preference cargoes pursuant to section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), that is bulk cargo; and

"(3) shall make a pro rata reduction in payment for each day less than 320 in a fiscal year that the vessel is not operated in accordance with section 53105(a)(1), with days during which the vessel is drydocked or undergoing survey, inspection, or repair considered to be days on which the vessel is operated.

"(e) LIMITATION REGARDING NONCONTIGUOUS DOMESTIC TRADE.—

"(1) IN GENERAL.—No contractor shall receive payments pursuant to this chapter during a period in which it participates in noncontiguous domestic trade.

"(2) LIMITATION ON APPLICATION.—Paragraph (1) shall not apply to any person that is a citizen of the United States within the meaning of section 2(c) of the Shipping Act, 1916 (46 App. U.S.C. 802(c)).

"(3) PARTICIPATES IN A NONCONTIGUOUS DOMESTIC TRADE DEFINED.—In this subsection the term 'participates in a noncontiguous domestic trade' means directly or indirectly owns, charters, or operates a vessel engaged in transportation of cargo between a point in the contiguous 48 States and a point in Alaska, Hawaii, or Puerto Rico, other than a point in Alaska north of the Arctic Circle.

"§53107. National security requirements

"(a) EMERGENCY PREPAREDNESS AGREEMENT REQUIRED.—The Secretary shall establish an Emergency Preparedness Program under this section that is approved by the Secretary of Defense. Under the program, the Secretary, in conjunction with the Secretary of Defense, shall include in each operating agreement under this chapter a requirement that the contractor enter into an Emergency Preparedness Agreement under this section with the Secretary. The Secretary shall negotiate and enter into an Emergency Preparedness Agreement with each contractor as promptly as practicable after the contractor has entered into an operating agreement under this chapter.

"(b) TERMS OF AGREEMENT.—

"(1) IN GENERAL.—An Emergency Preparedness Agreement under this section shall require that upon a request by the Secretary of Defense during time of war or national emergency, or whenever determined by the Secretary of Defense to be necessary for national security or contingency operation (as that term is defined

in section 101 of title 10, United States Code), a contractor for a vessel covered by an operating agreement under this chapter shall make available commercial transportation resources (including services).

"(2) BASIC TERMS.—(A) The basic terms of the Emergency Preparedness Agreement shall be established (subject to subparagraph (B)) by the Secretary and the Secretary of Defense.

"(B) In any Emergency Preparedness Agreement, the Secretary and a contractor may agree to additional or modifying terms appropriate to the contractor's circumstances if those terms have been approved by the Secretary of Defense.

"(c) PARTICIPATION AFTER EXPIRATION OF OPERATING AGREEMENT.—Except as provided by section 53105(d), the Secretary may not require, through an Emergency Preparedness Agreement or operating agreement, that a contractor continue to participate in an Emergency Preparedness Agreement after the operating agreement with the contractor has expired according to its terms or is otherwise no longer in effect. After expiration of an Emergency Preparedness Agreement, a contractor may volunteer to continue to participate in such an agreement.

"(d) RESOURCES MADE AVAILABLE.—The commercial transportation resources to be made available under an Emergency Preparedness Agreement shall include vessels or capacity in vessels, intermodal systems and equipment, terminal facilities, intermodal and management services, and other related services, or any agreed portion of such nonvessel resources for activation as the Secretary of Defense may determine to be necessary, seeking to minimize disruption of the contractor's service to commercial shippers.

"(e) COMPENSATION.—

"(1) IN GENERAL.—The Secretary shall include in each Emergency Preparedness Agreement provisions approved by the Secretary of Defense under which the Secretary of Defense shall pay fair and reasonable compensation for all commercial transportation resources provided pursuant to this section.

"(2) SPECIFIC REQUIREMENTS.—Compensation under this subsection—

"(A) shall not be less than the contractor's commercial market charges for like transportation resources;

"(B) shall be fair and reasonable considering all circumstances;

"(C) shall be provided from the time that a vessel or resource is required by the Secretary of Defense until the time that it is redelivered to the contractor and is available to reenter commercial service; and

"(D) shall be in addition to and shall not in any way reflect amounts payable under section 53106.

"(f) TEMPORARY REPLACEMENT VESSELS.—Notwithstanding section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), or 1241f), or any other cargo preference law of the United States—

"(1) a contractor may operate or employ in foreign commerce a foreign-flag vessel or foreign-flag vessel capacity as a temporary replacement for a United States-documented vessel or United States-documented vessel capacity that is activated by the Secretary of Defense under an Emergency Preparedness Agreement or under a primary Department of Defense-approved sealift readiness program; and

"(2) such replacement vessel or vessel capacity shall be eligible during the replacement period to transport preference cargoes subject to section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 App. U.S.C. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(a), 1241(b), and 1241b) to the same extent as the eligibility of the vessel or vessel capacity replaced.

"(g) REDELIVERY AND LIABILITY OF UNITED STATES FOR DAMAGES.—

"(1) IN GENERAL.—All commercial transportation resources activated under an Emergency Preparedness Agreement shall, upon termination of the period of activation, be redelivered to the contractor in the same good order and condition as when received, less ordinary wear and tear, or the Secretary of Defense shall fully compensate the contractor for any necessary repair or replacement.

"(2) LIMITATION ON LIABILITY OF U.S.—Except as may be expressly agreed to in an Emergency Preparedness Agreement, or as otherwise provided by law, the Government shall not be liable for disruption of a contractor's commercial business or other consequential damages to a contractor arising from activation of commercial transportation resources under an Emergency Preparedness Agreement.

"§53108. Regulatory relief

"(a) OPERATION IN FOREIGN COMMERCE.—A contractor for a vessel included in an operating agreement under this chapter may operate the vessel in the foreign commerce of the United States without restriction.

"(b) OTHER RESTRICTIONS.—The restrictions of section 901(b)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)(1)) concerning the building, rebuilding, or documentation of a vessel in a foreign country shall not apply to a vessel for any day the operator of that vessel is receiving payments for operation of that vessel under an operating agreement under this chapter.

"(c) TELECOMMUNICATIONS EQUIPMENT.—The telecommunications and other electronic equipment on an existing vessel that is redocumented under the laws of the United States for operation under an operating agreement under this chapter shall be deemed to satisfy all Federal Communications Commission equipment certification requirements, if—

"(1) such equipment complies with all applicable international agreements and associated guidelines as determined by the country in which the vessel was documented immediately before becoming documented under the laws of the United States;

"(2) that country has not been identified by the Secretary as inadequately enforcing international regulations as to that vessel; and

"(3) at the end of its useful life, such equipment will be replaced with equipment that meets Federal Communications Commission equipment certification standards.

"§53109. Special rule regarding age of participating fleet vessel

"Any age restriction under section 53102(b)(3) or 53106(c)(3) shall not apply to a participating fleet vessel during the 30-month period beginning on the date the vessel begins operating under an operating agreement under this title, if the Secretary determines that the contractor for the vessel has entered into an arrangement to obtain and operate under the operating agreement for the participating fleet vessel a replacement vessel that, upon commencement of such operation, will be eligible to be included in the Fleet under section 53102(b).

"§53110. Regulations

"The Secretary and the Secretary of Defense may each prescribe rules as necessary to carry out their respective responsibilities under this chapter.

"§53111. Authorization of appropriations

"There are authorized to be appropriated for payments under section 53106, to remain available until expended—

"(1) $156,000,000 for each of fiscal years 2006, 2007, and 2008;

"(2) $174,000,000 for each of fiscal years 2009, 2010, and 2011; and

"(3) $186,000,000 for each fiscal year thereafter through fiscal year 2015.".

(b) CONFORMING AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by inserting before the item relating to chapter VI the following:

"V. MERCHANT MARINE .... 53101".

SEC. 3532. RELATED AMENDMENTS TO EXISTING LAW.

(a) AMENDMENT TO SHIPPING ACT, 1916.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

(1) by redesignating subsection (e), as added by section 1136(b) of Public Law 104–324 (110 Stat. 3987), as subsection (f); and

(2) by amending subsection (e), as added by section 6 of Public Law 104–324 (110 Stat. 3132), to read as follows:

"(e) Notwithstanding subsection (c)(2), the Merchant Marine Act, 1936, or any contract entered into with the Secretary of Transportation under that Act, a vessel may be placed under a foreign registry, without approval of the Secretary, if—

"(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of title 46, United States Code, by the owner of the vessel placed under the foreign registry; and

"(B) the replacement vessel is not more than 10 years of age on the date of that documentation; or

"(2) an operating agreement covering the vessel under chapter 531 of title 46, United States Code, has expired.".

(b) MERCHANT MARINE ACT, 1936.—Section 512 of the Merchant Marine Act, 1936 (46 U.S.C. 1162) is amended—

(1) by striking "Notwithstanding" and inserting "(a) Except as provided in subsection (b), notwithstanding"; and

(2) by adding at the end the following:

"(b)(1) Except as provided in paragraph (2), the restrictions and requirements of section 506 shall terminate upon the expiration of the 20-year period beginning on the date of the original delivery of the vessel from the shipyard for operation of a vessel in any domestic trade in which it has operated at any time since 1996.

"(2) Paragraph (1) shall not affect any requirement to make payments under section 506.".

SEC. 3533. INTERIM RULES.

The Secretary of Transportation and the Secretary of Defense may each prescribe interim rules necessary to carry out their respective responsibilities under this subtitle and the amendments made by this subtitle. For this purpose, the Secretaries are excepted from compliance with the notice and comment requirements of section 553 of title 5, United States Code. All interim rules prescribed under the authority of this section that are not earlier superseded by final rules shall expire no later than 270 days after the effective date of this subtitle.

SEC. 3534. REPEALS AND CONFORMING AMENDMENTS.

(a) REPEALS.—The following provisions are repealed:

(1) Subtitle B of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1187 et seq.).

(2) Section 804 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1222).

(b) CONFORMING AMENDMENTS.—

(1) Section 12102(d)(4) of title 46, United States Code, is amended by inserting "or chapter 531 of title 46, United States Code" after "Merchant Marine Act, 1936".

(2) Section 1137 of Public Law 104–324 (46 App. U.S.C. 1187 note) is amended by striking "section 651(b) of the Merchant Marine Act, 1936" and inserting "section 53102(b) of title 46, United States Code".

SEC. 3535. GAO STUDY OF ADJUSTMENT OF OPERATING AGREEMENT PAYMENT CRITERIA.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the potential impact of amending section 53106 of title 46, United States Code, as amended by this Act—

(1) to increase or decrease the 7,500 ton limitation;

(2) to apply the limitation to bagged cargo as well as bulk cargo; and

(3) to so modify the tonnage limitation and apply it to bagged cargo as well as bulk cargo.

(b) MATTERS TO BE ADDRESSED.—

(1) SPECIFIC IMPACTS.—As part of the study required by subsection (a), the Comptroller General shall address, in particular, the impact of such amendments on—

(A) the Maritime Security Fleet established under chapter 531 of title 46, United States Code, as amended by this Act;

(B) the civilian bulk cargo preference program under section 901(a), 901(b), or 901b of such Act (46 U.S.C. App. 1241(a), 1241(b), and 1241f); and

(C) operations of vessels under sections 901a through 901k of such Act (46 U.S.C. App. 1241e through 1241o, the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(8)), or any other statute in pari materia.

(2) CERTAIN ASPECTS.—In carrying out paragraph (1), the Comptroller General shall consider, among other matters—

(A) increased or decreased costs to the overall cargo preference program, including transportation costs (for both land and water transportation);

(B) effects on ports;

(C) the number of shipments that would be affected;

(D) increased or decreased administrative and compliance burdens for carriers and Federal agencies; and

(E) increases or decreases in the number of United States-flag operators participating in the cargo preference program.

(3) BALANCING BENEFITS.—In the study, the Comptroller General shall also address whether and how such amendments could result in achieving an appropriate balance of benefits between participants in the Maritime Security Fleet program and participants in the cargo preference program.

(c) REPORT.—The Comptroller General shall transmit a report of the study, including findings, conclusions, and recommendations (including legislative recommendations, if any), to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services and the Committee on Commerce, Science, and Transportation of the Senate within 9 months after the date of enactment of this Act.

(d) AUTHORITY.—In order to conduct the study required by subsection (a), the Comptroller General, or any of the Comptroller General's duly authorized representatives, shall have access to any books, accounts, documents, papers, and records that relate to the information required to complete the study of owners or operators of vessels—

(1) under operating agreements under subtitle B of title VI of the Merchant Marine Act, 1936 (46 App. U.S.C. 651 et seq.) or chapter 531 of title 46, United States Code, as amended by this Act; and

(2) that accept bulk cargo subject to the cargo preference laws of the United States.

SEC. 3536. DEFINITIONS.

In this subtitle, the definitions set forth in section 53101 of title 46, United States Code, as amended by this Act, shall apply.

SEC. 3537. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this subtitle shall take effect October 1, 2004.

(b) REPEALS AND CONFORMING AMENDMENTS.—Section 3534 shall take effect October 1, 2005.

(c) OTHER PROVISIONS.—Sections 3533, 3535, and this section shall take effect on the date of the enactment of this Act.

Subtitle D—National Defense Tank Vessel Construction Assistance

SEC. 3541. NATIONAL DEFENSE TANK VESSEL CONSTRUCTION PROGRAM.

The Secretary of Transportation shall establish a program for the provision of financial assistance for the construction in the United States of a fleet of up to 5 privately owned product tank vessels—

(1) to be operated in commercial service in foreign commerce; and

(2) to be available for national defense purposes in time of war or national emergency pursuant to an Emergency Preparedness Plan approved by the Secretary of Defense pursuant to section 3543(e).

SEC. 3542. APPLICATION PROCEDURE.

(a) REQUEST FOR PROPOSALS.—Within 90 days after the date of the enactment of this subtitle, and on an as-needed basis thereafter, the Secretary, in consultation with the Secretary of Defense, shall publish in the Federal Register a request for competitive proposals for the construction of new product tank vessels necessary to meet the commercial and national security needs of the United States and to be built with assistance under this subtitle.

(b) QUALIFICATION.—Any citizen of the United States or any shipyard in the United States may submit a proposal to the Secretary of Transportation for purposes of constructing a product tank vessel with assistance under this subtitle.

(c) REQUIREMENT.—The Secretary, with the concurrence of the Secretary of Defense, may enter into an agreement with the submitter of a proposal for assistance under this subtitle if the Secretary determines that—

(1) the plans and specifications call for construction of a new product tank vessel of not less than 35,000 deadweight tons and not greater than 60,000 deadweight tons, that—

(A) will meet the requirements of foreign commerce;

(B) is capable of carrying militarily useful petroleum products, and will be suitable for national defense or military purposes in time of war, national emergency, or other military contingency; and

(C) will meet the construction standards necessary to be documented under the laws of the United States;

(2) the shipyard in which the vessel will be constructed has the necessary capacity and expertise to successfully construct the proposed number and type of product tank vessels in a reasonable period of time as determined by the Secretary of Transportation, taking into consideration the recent prior commercial shipbuilding history of the proposed shipyard in delivering a vessel or series of vessels on time and in accordance with the contract price and specifications; and

(3) the person proposed to be the operator of the proposed vessel possesses the ability, experience, financial resources, and any other qualifications determined to be necessary by the Secretary for the operation and maintenance of the vessel.

(d) PRIORITY.—The Secretary—

(1) subject to paragraph (2), shall give priority consideration to a proposal submitted by a person that is a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); and

(2) may give priority to consideration of proposals that provide the best value to the Government, taking into consideration—

(A) the costs of vessel construction; and

(B) the commercial and national security needs of the United States.

SEC. 3543. AWARD OF ASSISTANCE.

(a) IN GENERAL.—If after review of a proposal, the Secretary determines that the proposal fulfills the requirements under this subtitle, the Secretary may enter into a contract with the proposed purchaser and the proposed shipyard for the construction of a product tank vessel with assistance under this subtitle.

(b) AMOUNT OF ASSISTANCE.—The contract shall provide that the Secretary shall pay, subject to the availability of appropriations, up to 75 percent of the actual construction cost of the vessel, but in no case more than $50,000,000 per vessel.

(c) CONSTRUCTION IN UNITED STATES.—A contract under this section shall require that construction of a vessel with assistance under this subtitle shall be performed in a shipyard in the United States.

(d) DOCUMENTATION OF VESSEL.—

(1) CONTRACT REQUIREMENT.—A contract under this section shall require that, upon delivery of a vessel constructed with assistance under the contract, the vessel shall be documented under chapter 121 of title 46, United States Code with a registry endorsement only.

(2) RESTRICTION ON COASTWISE ENDORSEMENT.—A vessel constructed with assistance under this subtitle shall not be eligible for a certificate of documentation with a coastwise endorsement.

(3) AUTHORITY TO REFLAG NOT APPLICABLE.—Section 9(g) of the Shipping Act, 1916, (46 App. U.S.C. 808(g)) shall not apply to a vessel constructed with assistance under this subtitle.

(e) EMERGENCY PREPAREDNESS AGREEMENT.—

(1) IN GENERAL.—A contract under this section shall require that the person who will be the operator of a vessel constructed with assistance under the contract shall enter into an Emergency Preparedness Agreement for the vessel under section 53107 of title 46, United States Code, as amended by this Act.

(2) TREATMENT AS CONTRACTOR.—For purposes of the application, under paragraph (1), of section 53107 of title 46, United States Code, to a vessel constructed with assistance under this subtitle, the term "contractor" as used in that section means the person who will be the operator of a vessel constructed with assistance under this subtitle.

(f) ADDITIONAL TERMS.—The Secretary shall incorporate in the contract the requirements set forth in this subtitle, and may incorporate in the contract any additional terms the Secretary considers necessary.

SEC. 3544. PRIORITY FOR TITLE XI ASSISTANCE.

Section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) is amended by adding at the end the following:

"(i) PRIORITY.—In guaranteeing and entering commitments to guarantee under this section, the Secretary shall give priority to guarantees and commitments for vessels that are otherwise eligible for a guarantee under this section and that are constructed with assistance under subtitle D of the Maritime Security Act of 2003.".

SEC. 3545. DEFINITIONS.

In this subtitle the definitions set forth in section 53101 of title 46, United States Code, as amended by this Act, shall apply.

SEC. 3546. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle a total of

$250,000,000 for fiscal years after fiscal year 2004.

TITLE XXXVI—NUCLEAR SECURITY INITIATIVE

Sec. 3601. Short title.

Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs

Sec. 3611. Management assessment of Department of Defense and Department of Energy threat reduction and nonproliferation programs.

Subtitle B—Relations Between the United States and Russia

Sec. 3621. Comprehensive inventory of Russian tactical nuclear weapons.

Sec. 3622. Establishment of interparliamentary Threat Reduction Working Group.

Sec. 3623. Sense of Congress on cooperation by United States and NATO with Russia on ballistic missile defenses.

Sec. 3624. Sense of Congress on enhanced collaboration to achieve more reliable Russian early warning systems.

Subtitle C—Other Matters

Sec. 3631. Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development.

SEC. 3601. SHORT TITLE.

This title may be cited as the "Nuclear Security Initiative Act of 2003".

Subtitle A—Administration and Oversight of Threat Reduction and Nonproliferation Programs

SEC. 3611. MANAGEMENT ASSESSMENT OF DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY THREAT REDUCTION AND NONPROLIFERATION PROGRAMS.

(a) GAO ASSESSMENT REQUIRED.—The Comptroller General shall carry out an assessment of the management of the threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy. The matters assessed shall include—

(1) the effectiveness of the overall strategy used for managing such programs;

(2) the basis used to allocate the missions of such programs among the executive departments and agencies;

(3) the criteria used to assess the effectiveness of such programs;

(4) the strategy and process used to establish priorities for activities carried out under such programs, including the analysis of risks and benefits used in determining how best to allocate the funds made available for such programs;

(5) the mechanisms used to coordinate the activities carried out under such programs by the executive departments and agencies so as to ensure efficient execution and avoid duplication of effort; and

(6) the management controls used in carrying out such programs and the effect of such controls on the execution of such programs.

(b) CONSIDERATIONS.—In carrying out the assessment required by subsection (a), the Comptroller General shall take into account—

(1) the national security interests of the United States; and

(2) the need for accountability in expenditure of funds by the United States.

(c) REPORT.—Not later than May 1, 2004, the Comptroller General shall submit a report on the assessment required by subsection (a) to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate.

(d) DEFINITIONS.—In this section:

(1) The term "threat reduction and nonproliferation programs of the Department of Defense and the Department of Energy" means—

(A) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2731; 50 U.S.C. 2362 note); and

(B) any programs for which funds are made available under the defense nuclear nonproliferation account of the Department of Energy.

(2) The term "management controls" means any accounting, oversight, or other measure intended to ensure that programs are executed consistent with—

(A) programmatic objectives as stated in budget justification materials submitted to Congress (as submitted with the budget of the President under section 1105(a) of title 31, United States Code); and

(B) any restrictions related to such objectives as are imposed by law.

Subtitle B—Relations Between the United States and Russia

SEC. 3621. COMPREHENSIVE INVENTORY OF RUSSIAN TACTICAL NUCLEAR WEAPONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should, to the extent the President considers prudent, seek to work with the Russian Federation to develop a comprehensive inventory of Russian tactical nuclear weapons.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified form as necessary, describing the progress that has been made toward creating such an inventory.

SEC. 3622. ESTABLISHMENT OF INTERPARLIAMENTARY THREAT REDUCTION WORKING GROUP.

(a) ESTABLISHMENT OF WORKING GROUP.—There is hereby established a working group to be known as the "Threat Reduction Working Group" as an interparliamentary group of the Congress of the United States and the legislature of the Russian Federation.

(b) PURPOSE OF WORKING GROUP.—The purpose of the working group established by subsection (a) shall be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear nonproliferation and security and such other issues related to reducing the dangers of weapons of mass destruction as the members of the working group consider appropriate.

(c) MEMBERSHIP.—(1) The majority leader of the Senate, after consultation with the minority leader of the Senate, shall appoint not more than 10 Senators to the working group established by subsection (a).

(2) The Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives, shall appoint not more than 30 Members of the House to the working group.

SEC. 3623. SENSE OF CONGRESS ON COOPERATION BY UNITED STATES AND NATO WITH RUSSIA ON BALLISTIC MISSILE DEFENSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should, in conjunction with the North Atlantic Treaty Organization, encourage appropriate cooperative relationships between the Russian Federation and the United States and North Atlantic Treaty Organization with respect to the development and deployment of ballistic missile defenses.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report (in unclassified or classified form as necessary) on the feasibility of increasing cooperation between the Russian Federation and the United States and the North Atlantic Treaty Organization on the subject of ballistic missile defense. The report shall include—

(1) the recommendations of the Secretary;

(2) a description of the threat such cooperation is intended to address; and

(3) an assessment of possible benefits to ballistic missile defense programs of the United States.

SEC. 3624. SENSE OF CONGRESS ON ENHANCED COLLABORATION TO ACHIEVE MORE RELIABLE RUSSIAN EARLY WARNING SYSTEMS.

It is the sense of Congress that the President, to the extent consistent with the national security interests of the United States, should—

(1) encourage joint efforts by the United States and the Russian Federation to reduce the probability of accidental nuclear attack as a result of misinformation or miscalculation by developing the capabilities and increasing the reliability of Russian ballistic missile early-warning systems;

(2) encourage the development of joint programs by the United States and the Russian Federation to ensure that the Russian Federation has reliable information regarding launches of ballistic missiles anywhere in the world; and

(3) pending the execution of a new agreement between the United States and the Russian Federation providing for the conduct of the Russian-American Observation Satellite (RAMOS) program, ensure that funds appropriated for that program for fiscal year 2004 are obligated and expended in a manner that provides for the satisfactory continuation of that program.

Subtitle C—Other Matters

SEC. 3631. PROMOTION OF DISCUSSIONS ON NUCLEAR AND RADIOLOGICAL SECURITY AND SAFETY BETWEEN THE INTERNATIONAL ATOMIC ENERGY AGENCY AND THE ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT.

(a) SENSE OF CONGRESS REGARDING INITIATION OF DIALOGUE BETWEEN THE IAEA AND THE OECD.—It is the sense of Congress that—

(1) the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security; and

(2) the discussions referred to in paragraph (1) should also provide a forum to explore possible sources of funds in support of the G-8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(b) CONTINGENT REPORT.—(1) Except as provided in paragraph (2), the President shall, not later than 12 months after the date of the enactment of this Act, submit to Congress a report on—

(A) the efforts made by the United States to initiate the discussions described in subsection (a);

(B) the results of those efforts; and

(C) any plans for further discussions and the purposes of such discussions.

(2) Paragraph (1) shall not apply if no efforts referred to in paragraph (1)(A) have been made.

And the Senate agree to the same.

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

DUNCAN HUNTER

Curt Weldon,
Jim Saxton,
John M. McHugh,
Terry Everett,
Roscoe Bartlett,
Howard "Buck" McKeon,
Mac Thornberry,
John Hostettler,
Walter B. Jones,
Jim Ryun,
Jim Gibbons,
Robin Hayes,
Heather Wilson,
Ken Calvert,
Ike Skelton,
Solomon P. Ortiz,
Lane Evans,
Neil Abercrombie,
Silvestre Reyes,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

Porter J. Goss,
Pete Hoekstra,
Jane Harman,

From the Committee on Agriculture, for consideration of secs. 1057 and 2822 of the House bill, and modifications committed to conference:

Bob Goodlatte,
Frank D. Lucas,
Charles W. Stenholm,

From the Committee on Education and the Workforce, for consideration of secs. 544, 553, 563, 567, 907, 1046, 1501, 1502, and 1504–1506 of the House bill, and secs. 233, 351, 352, 368, 701, 1034, and 1036 of the Senate amendment, and modifications committed to conference:

Michael N. Castle,
John Kline,

From the Committee on Energy and Commerce, for consideration of secs. 601, 3113, 3201, and 3517 of the House bill, and secs. 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference:

Billy Tauzin,
Joe Barton,

From the Committee on Financial Services, for consideration of secs. 814 and 907 of the House bill, and modifications committed to conference:

Michael G. Oxley,
Peter T. King,

From the Committee on Government Reform, for consideration of secs. 315, 323, 551, 805, 822, 824, 828, 829, 1031, 1046, 1050, 1057, Title XI, Title XIV, secs. 2825 and 2826 of the House bill, and secs. 326, 801, 811, 813, 822, 831–833, 841, 852, 853, 1013, 1035, 1102–1104, and 2824–2826 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Christopher Shays,
Jo Ann Davis,
Adam H. Putnam,
Michael R. Turner,

From the Select Committee on Homeland Security, for consideration of sec. 1456 of the House bill, and modifications committed to conference:

Christopher Cox,
John Shadegg,
Bennie G. Thompson,

From the Committee on House Administration, for consideration of sec. 564 of the Senate amendment, and modifications committed to conference:

Robert W. Ney,
John L. Mica,
John B. Larson,

From the Committee on International Relations, for consideration of secs. 1047, 1201, 1202, 1209, Title XIII, secs. 3601, 3611, 3631, 3632, and 3634–3636 of the House bill, and secs. 323, 343, 921, 1201, 1201, 1204, 1205, 1207, 1208, Title XIII, and sec. 3141 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
Doug Bereuter,

From the Committee on the Judiciary, for consideration of secs. 661–665 and 851–853 of the Senate amendment; and modifications committed to conference:

James F. Sensenbrenner, Jr.,
Lamar Smith,

From the Committee on Resources, for consideration of secs. 311, 317–319, 601 and 1057 of the House bill, and secs. 322, 330, and 601 of the Senate amendment, and modifications committed to conference:

Richard Pombo,
Denny Rehberg,

From the Committee on Science, for consideration of secs. 852 and 911 of the Senate amendment, and modifications committed to conference:

Sherwood Boehlert,
Nick Smith,
Ralph M. Hall,

From the Committee on Transportation and Infrastructure, for consideration of secs. 312, 601, 907, 1049, 1051, and 2824 of the House bill, and secs. 324, 601, and 2821 of the Senate amendment, and modifications committed to conference:

Don Young,
Thomas Petri,
Brad Carson,

From the Committee on Veterans Affairs, for consideration of sec. 565 of the House bill, and secs. 644 and 707 of the Senate amendment, and modifications committed to conference:

Christopher H. Smith,
Mike Bilirakis,

From the Committee on Ways and Means, for consideration of sec. 701 of the Senate amendment, and modifications committed to conference:

William Thomas,
Jim McCrery,
Managers on the Part of the House.

John W. Warner,
John McCain,
James Inhofe,
Pat Roberts,
Wayne Allard,
Jeff Sessions,
Susan Collins,
John Ensign,
James Talent,
Saxby Chambliss,
Lindsey Graham,
Elizabeth Dole,
John Cornyn,
E. Benjamin Nelson,
Mark Pryor,
Managers on the Part of the Senate.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
DIVISION A									
Title I – PROCUREMENT									
Aircraft Procurement, Army	2,128,485	2,194,585	2,159,285	-29,500	2,098,985	2,128,485	2,194,585	2,159,285	2,098,985
Missile Procurement, Army	1,459,462	1,594,662	1,553,462	90,000	1,549,462	1,459,462	1,594,662	1,553,462	1,549,462
Procurement of Weapons and Tracked Combat Vehicles, Army	1,640,704	2,297,404	1,658,504	356,600	1,997,304	1,640,704	2,297,404	1,658,504	1,997,304
Procurement of Ammunition, Army	1,309,966	1,428,966	1,363,305	103,339	1,413,305	1,309,966	1,428,966	1,363,305	1,413,305
Other Procurement, Army	4,216,854	4,321,496	4,268,027	148,392	4,365,246	4,216,854	4,321,496	4,268,027	4,365,246
Aircraft Procurement, Navy	8,788,148	9,050,048	8,996,948	221,800	9,009,948	8,788,148	9,050,048	8,996,948	9,009,948
Weapons Procurement, Navy	1,991,821	2,529,821	2,046,821	241,713	2,233,534	1,991,821	2,529,821	2,046,821	2,233,534
Procurement of Ammunition, Navy and Marine Corps	922,355	963,355	924,355	2,000	924,355	922,355	963,355	924,355	924,355
Shipbuilding and Conversion, Navy	11,438,984	11,472,384	11,707,984	291,000	11,729,984	11,438,984	11,472,384	11,707,984	11,729,984
Other Procurement, Navy	4,679,443	4,614,892	4,741,943	59,700	4,739,143	4,679,443	4,614,892	4,741,943	4,739,143
Procurement, Marine Corps	1,070,999	1,154,299	1,089,599	52,500	1,123,499	1,070,999	1,154,299	1,089,599	1,123,499
Aircraft Procurement, Air Force	12,079,360	12,604,451	12,103,051	-44,209	12,035,151	12,079,360	12,604,451	12,103,051	12,035,151
Procurement of Ammunition, Air Force	1,284,725	1,324,725	1,284,725		1,284,725	1,284,725	1,324,725	1,284,725	1,284,725
Missile Procurement, Air Force	4,393,039	4,348,039	4,394,439	-94,534	4,298,505	4,393,039	4,348,039	4,394,439	4,298,505
Other Procurement, Air Force	11,583,659	11,376,059	11,630,659	48,200	11,631,859	11,583,659	11,376,059	11,630,659	11,631,859
Procurement, Defense-wide	3,665,506	3,734,821	3,855,506	103,000	3,768,506	3,665,506	3,734,821	3,855,506	3,768,506
Defense Production Act Purchases						67,516	67,516	67,516	67,516
Defense Health Program (Transfer from Other Programs)			327,826					327,826	
Office of the Inspector General (Transfer from Other Programs)			2,100					2,100	
Chem Agents and Munitions Destruction (Transfer from Other Programs)			1,530,261					1,530,261	
Total Procurement	**72,653,510**	**75,010,007**	**75,638,800**	**1,550,001**	**74,203,511**	**72,721,026**	**75,077,523**	**75,706,316**	**74,271,027**
Title II – RESEARCH, DEVELOPMENT, TEST & EVALUATION									
Research, Development, Test & Evaluation, Army	9,122,825	9,338,382	9,016,200	422,008	9,544,833	9,139,825	9,355,382	9,033,200	9,561,833
Research, Development, Test & Evaluation, Navy	14,106,653	14,364,510	14,604,784	738,850	14,845,503	14,106,653	14,364,510	14,604,784	14,845,503

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
Research, Development, Test & Evaluation, Air Force	20,336,258	20,552,867	20,389,516	219,409	20,555,667	20,336,258	20,552,867	20,389,516	20,555,667
Research, Development, Test & Evaluation, Defense-wide	17,974,257	18,181,385	18,849,018	177,800	18,152,057	17,974,257	18,181,385	18,849,018	18,152,057
Operational Test & Evaluation, Defense	286,661	286,661	286,661		286,661	286,661	286,661	286,661	286,661
Defense Health Program (Transfer from Other Programs)			65,796					65,796	
Office of the Inspector General (Transfer from Other Programs)			300					300	
Total Research, Development, Test & Evaluation	**61,826,654**	**62,723,805**	**63,212,275**	**1,558,067**	**63,384,721**	**61,843,654**	**62,740,805**	**63,229,275**	**63,401,721**
Title III – OPERATION AND MAINTENANCE & OTHER,									
Operation and Maintenance									
Operation and Maintenance, Army	24,965,342	25,050,587	24,661,004	-338,305	24,627,037	24,965,342	25,050,587	24,661,004	24,627,037
Operation and Maintenance, Navy	28,287,690	27,901,790	28,051,390	-312,131	27,975,559	28,287,690	27,901,790	28,051,390	27,975,559
Operation and Maintenance, Marine Corps	3,406,656	3,517,756	3,416,356	19,400	3,426,056	3,406,656	3,517,756	3,416,356	3,426,056
Operation and Maintenance, Air Force	27,793,931	25,298,960	26,956,431	-1,704,261	26,089,670	27,793,931	25,298,960	26,956,431	26,089,670
Operation and Maintenance, Defense-wide	16,570,847	16,134,047	15,739,047	-327,690	16,243,157	16,570,847	16,134,047	15,739,047	16,243,157
Operation and Maintenance, Army Reserve	1,952,009	1,954,009	1,955,009	14,000	1,966,009	1,952,009	1,954,009	1,955,009	1,966,009
Operation and Maintenance, Navy Reserve	1,171,921	1,171,921	1,170,421		1,171,921	1,171,921	1,171,921	1,170,421	1,171,921
Operation and Maintenance, Marine Corps Reserve	173,952	199,452	173,452		173,952	173,952	199,452	173,452	173,952
Operation and Maintenance, Air Force Reserve	2,179,188	2,170,188	2,178,688		2,179,188	2,179,188	2,170,188	2,178,688	2,179,188
Operation and Maintenance, Army National Guard	4,211,331	4,194,331	4,230,331	45,000	4,256,331	4,211,331	4,194,331	4,230,331	4,256,331
Operation and Maintenance, Air National Guard	4,402,646	4,404,646	4,405,646	3,500	4,406,146	4,402,646	4,404,646	4,405,646	4,406,146
United States Court of Appeals for the Armed Forces	10,333	10,333	10,333		10,333	10,333	10,333	10,333	10,333
Environmental Restoration, Army	396,018	396,018	396,018		396,018	396,018	396,018	396,018	396,018
Environmental Restoration, Navy	256,153	256,153	256,153		256,153	256,153	256,153	256,153	256,153
Environmental Restoration, Air Force	384,307	384,307	384,307		384,307	384,307	384,307	384,307	384,307
Environmental Restoration, Defense-Wide	24,081	24,081	24,081		24,081	24,081	24,081	24,081	24,081
Environmental Restoration, Formerly Used Defense Sites	212,619	212,619	252,619	40,000	252,619	212,619	212,619	252,619	252,619
Cooperative Threat Reduction	450,800	450,800	450,800		450,800	450,800	450,800	450,800	450,800
Overseas Military Investment Recovery						1,331	1,331	1,331	1,331
Disposal of DoD Real Property						16,303	16,303	16,303	16,303

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication Request	House	Senate	Conference
Lease of DoD Real Property						14,770	14,770	14,770	14,770
Overseas Humanitarian, Disaster, & Civic Aid	59,000	59,000	59,000		59,000	59,000	59,000	59,000	59,000
National Science Center, Army						5	5	5	5
Burdensharing						500,000	500,000	500,000	500,000
Rocky Mountain Arsenal						6,210	6,210	6,210	6,210
United States Industrial Base Capabilities Fund		100,000					100,000		
Overseas Contingency Operations Transfer Fund	50,000			-45,000	5,000	50,000			5,000
Drug Interdiction and Counter-Drug (Transfer from Other Programs)			817,371					817,371	
Defense Health Program (Transfer from Other Programs)			14,862,900					14,862,900	
Office of the Inspector General (Transfer from Other Programs)			160,049					160,049	
Subtotal Operation and Maintenance	**116,958,824**	**113,890,998**	**130,611,406**	**-2,605,487**	**114,353,337**	**117,497,443**	**114,429,617**	**131,150,025**	**114,891,956**
Other Programs									
Drug Interdiction and Counter-Drug Activities, Defense	817,371	817,371			817,371	817,371	817,371		817,371
Defense Health Program	15,270,509	15,317,063		131,000	15,401,509	15,270,509	15,317,063		15,401,509
Office of the Inspector General	162,449	162,449			162,449	162,449	162,449		162,449
Chemical Agents and Munitions Destruction, Army	1,650,076	1,580,261		-119,815	1,530,261	1,650,076	1,580,261		1,530,261
Subtotal Other Programs	**17,900,405**	**17,877,144**		**11,185**	**17,911,590**	**17,900,405**	**17,877,144**		**17,911,590**
Total Operation and Maintenance & Other Programs	**134,859,229**	**131,768,142**	**130,611,406**	**-2,594,302**	**132,264,927**	**135,397,848**	**132,306,761**	**131,150,025**	**132,803,546**
REVOLVING AND MANAGEMENT FUNDS									
Defense Working Capital Funds	1,721,507	1,721,507	1,661,307		1,721,507	1,721,507	1,721,507	1,661,307	1,721,507
National Defense Sealift Fund	1,062,762	1,102,762	1,062,762		1,062,762	1,062,762	1,102,762	1,062,762	1,062,762

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
National Defense Stockpile Transaction Fund						-99,558	-99,558	-99,558	-99,558
Armed Forces Retirement Home Fund	65,279	65,279	65,279		65,279				
Refined Petroleum Transfer Account Proposal						675,000			
Other Legislation	45,000			-45,000		45,000			
Total Revolving and Management Funds	**2,894,548**	**2,889,548**	**2,789,348**	**-45,000**	**2,849,548**	**3,404,711**	**2,724,711**	**2,624,511**	**2,684,711**
MILITARY PERSONNEL	98,956,065	98,634,511	99,194,206	-47,665	98,908,400	98,956,065	98,634,511	99,194,206	98,908,400
DIVISION B									
MILITARY CONSTRUCTION									
Military Construction, Army	1,678,210	1,604,480	1,360,710	-229,971	1,448,239	1,678,210	1,462,280	1,360,710	1,448,239
Military Construction, Navy	1,147,537	1,251,946	1,182,568	90,921	1,238,458	1,147,537	1,237,267	1,182,568	1,238,458
Military Construction, Air Force	830,671	986,076	1,035,538	237,080	1,067,751	830,671	986,076	1,035,538	1,067,751
Military Construction, Defense-wide*	655,381	802,549	614,090	46,490	701,871	726,981	841,469	685,670	773,471
Military Construction, Army National Guard	168,298	253,788	276,779	143,294	311,592	168,298	253,788	276,779	311,592
Military Construction, Air National Guard	60,430	123,408	208,530	162,478	222,908	60,430	123,408	208,530	222,908
Military Construction, Army Reserve	68,478	89,840	74,478	19,973	88,451	68,478	89,840	74,478	88,451
Military Construction, Naval and Marine Corps Reserve	28,032	45,762	34,132	17,466	45,498	28,032	45,762	34,132	45,498
Military Construction, Air Force Reserve	44,312	61,143	53,912	17,720	62,032	44,312	61,143	53,912	62,032
Military Construction, Foreign Currency Fluctuations						55,000	55,000	55,000	55,000
Base Realignment and Closure IV	370,427	370,427	370,427		370,427	370,427	370,427	370,427	370,427
NATO Security Investment Program	169,300	169,300	169,300		169,300	169,300	169,300	169,300	169,300
Chem Agents and Munitions Destruction (Transfer from Other Programs)			119,815					119,815	
Total Military Construction	**5,221,076**	**5,758,719**	**5,500,279**	**505,451**	**5,726,527**	**5,347,676**	**5,695,760**	**5,626,859**	**5,853,127**

* House Authorized and Conference Agreement include Chem Agents and Munitions Destruction (Transfer from Other Programs).

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication Request	Budget Authority Implication House	Budget Authority Implication Senate	Budget Authority Implication Conference
FAMILY HOUSING									
Family Housing Construction, Army	409,191	409,191	409,191	-25,600	383,591	409,191	356,891	409,191	383,591
Family Housing Support, Army	1,043,026	1,043,026	1,031,853	-10,000	1,033,026	1,043,026	1,043,026	1,031,853	1,033,026
Family Housing Construction, Navy and Marine Corps	184,193	184,193	184,193		184,193	184,193	184,193	184,193	184,193
Family Housing Support, Navy and Marine Corps	852,778	852,778	813,158	-17,700	835,078	852,778	852,778	813,158	835,078
Family Housing Construction, Air Force	657,065	657,065	657,065		657,065	657,065	637,718	657,065	657,065
Family Housing Support, Air Force	834,468	834,468	812,770	-18,394	816,074	834,468	834,468	812,770	816,074
Family Housing Construction, Defense-wide	350	350	350		350	350	350	350	350
Family Housing Support, Defense-wide	49,440	49,440	49,440		49,440	49,440	49,440	49,440	49,440
DoD Family Housing Improvement Fund	300	300	300		300	300	300	300	300
Total Family Housing	**4,030,811**	**4,030,811**	3,958,320	-71,694	3,959,117	**4,030,811**	3,959,164	3,958,320	3,959,117
FY 03 Military Construction and Family Housing Rescission**	-261,206		-153,373		-496,244	-261,206		-153,373	-496,244
Total Military Construction and Family Housing	**8,990,681**	**9,789,530**	**9,305,226**	**433,757**	**9,189,400**	**9,117,281**	**9,654,924**	**9,431,806**	**9,316,000**
OTHER DoD MILITARY									
Other Trust Funds						271,439	271,439	271,439	271,439
Sale of Material in National Defense Stockpile						-139,573	-139,573	-139,573	-139,573
Sale of Additional Material in National Defense Stockpile						-15,000	-15,000		-20,000

**The House included $261,206 in rescissions within the specific program lines in the House Budget Authority Implication column.

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
Receipts from Travel and Purchase Card Refunds						44,000	44,000	44,000	44,000
Offsetting Receipts and Other						-1,233,546	-1,233,546	-1,233,546	-1,233,546
Nonappropriated Fund BRAC Reserve Account							51,000		31,000
Land Conveyance and Other Property Transactions								2,000	2,000
Increased Death Benefit								23,000	23,000
USMC Heritage Center								34,000	34,000
Military Housing Privatization Initiative							120,000		
Immigration and Naturalization Provision								20,000	
Concurrent Receipt								3,285,000	804,000
Total Other DoD Military						**-1,072,680**	**-901,680**	**2,306,320**	**-183,679**
TOTAL DEPARTMENT OF DEFENSE MILITARY (051)	**380,180,687**	**380,815,543**	**380,751,260**	**854,858**	**380,800,507**	**380,367,905**	**380,237,555**	**383,642,458**	**381,201,725**
DIVISION C									
ATOMIC ENERGY DEFENSE ACTIVITIES (053)									
Energy Supply	110,473	110,473	110,473		110,473	110,473	110,473	110,473	110,473
Weapons Activities	6,378,000	6,393,000	6,457,272	56,772	6,434,772	6,378,000	6,393,000	6,457,272	6,434,772
Defense Nuclear Nonproliferation	1,340,195	1,312,695	1,340,195	-8,000	1,332,195	1,340,195	1,312,695	1,340,195	1,332,195
Naval Reactors	768,400	768,400	788,400		768,400	768,400	768,400	788,400	768,400
Office of the Administrator	347,980	347,980	347,980	-6,000	341,980	347,980	347,980	347,980	341,980
Total National Nuclear Security Administration	**8,834,575**	**8,822,075**	**8,933,847**	**42,772**	**8,877,347**	**8,834,575**	**8,822,075**	**8,933,847**	**8,877,347**
Defense Site Acceleration Completion	5,814,635	5,824,135	5,814,635		5,814,635	5,814,635	5,824,135	5,814,635	5,814,635
Defense Environmental Services	995,179	995,179	995,179		995,179	995,179	995,179	995,179	995,179
Other Defense Activities	494,331	497,331	465,059	-5,272	489,059	494,331	497,331	465,059	489,059
Defense Nuclear Waste Disposal	430,000	430,000	360,000	-37,500	392,500	430,000	430,000	360,000	392,500
Total Environmental & Other Defense Activities	**7,734,145**	**7,746,645**	**7,634,873**	**-42,772**	**7,691,373**	**7,734,145**	**7,746,645**	**7,634,873**	**7,691,373**

SUMMARY OF NATIONAL DEFENSE AUTHORIZATION FOR FY 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Change	Conference Agreement	Budget Authority Implication			
						Request	House	Senate	Conference
Energy Employees Illness Compensation Fund						425,000	425,000	425,000	425,000
Energy Employees Compensation - Administration						55,000	55,000	55,000	55,000
Corps of Engineers - Civil Works						140,000	140,000	140,000	140,000
Department of Homeland Security						92,000	92,000	92,000	92,000
Cerro Grande Fire Activities Rescission						-75,000	-75,000	-75,000	-75,000
Defense Nuclear Facilities Safety Board	19,559	19,559	19,559		19,559	19,559	19,559	19,559	19,559
TOTAL ATOMIC ENERGY DEFENSE ACTIVITIES (053)	**16,698,752**	**16,698,752**	**16,698,752**		**16,698,752**	**17,335,752**	**17,335,752**	**17,335,752**	**17,335,752**
DEFENSE RELATED ACTIVITIES (054)									
Department of Education						8,000	8,000	8,000	8,000
Department of Homeland Security						1,575,000	1,575,000	1,575,000	1,575,000
Department of Justice						524,000	524,000	524,000	524,000
Radiation Exposure Compensation Trust Fund						107,000	107,000	107,000	107,000
Department of Transportation - MARAD Maritime Security Program						99,000	99,000	99,000	99,000
Intelligence Community Management Account						125,000	125,000	125,000	125,000
CIA Retirement & Disability						226,000	226,000	226,000	226,000
National Science Foundation - Antarctic Research Activities						68,000	68,000	68,000	68,000
Selective Service System - Salaries and Expenses						28,000	28,000	28,000	28,000
TOTAL DEFENSE-RELATED ACTIVITIES (054)						**2,760,000**	**2,760,000**	**2,760,000**	**2,760,000**
TOTAL NATIONAL DEFENSE FUNCTION (050)	**396,879,439**	**397,514,295**	**397,450,012**	**854,858**	**397,499,259**	**400,463,657**	**400,333,307**	**403,738,210**	**401,297,477**
Authorization of the 2004 Emergency Supplemental					**64,702,554**				**64,702,554**

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Overview

The budget request for fiscal year 2004 included an authorization of $72,653.5 million for Procurement for the Department of Defense.

The House bill would authorize $75,010.0 million.

The Senate amendment would authorize $75,638.8 million.

The conferees recommend an authorization of $74,203.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2004

(Dollars in Thousands)

Title I -- PROCUREMENT	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Aircraft Procurement, Army	2,128,485	2,194,585	2,159,285	-29,500	2,098,985
Missile Procurement, Army	1,459,462	1,594,662	1,553,462	90,000	1,549,462
Procurement of W&TCV, Army	1,640,704	2,297,404	1,658,504	356,600	1,997,304
Procurement of Ammunition, Army	1,309,966	1,428,966	1,363,305	103,339	1,413,305
Other Procurement, Army	4,216,854	4,321,496	4,268,027	148,392	4,365,246
Aircraft Procurement, Navy	8,788,148	9,050,048	8,996,948	221,800	9,009,948
Weapons Procurement, Navy	1,991,821	2,529,821	2,046,821	241,713	2,233,534
Procurement of Ammunition, Navy & Marine Corps	922,355	963,355	924,355	2,000	924,355
Shipbuilding and Conversion, Navy	11,438,984	11,472,384	11,707,984	291,000	11,729,984
Other Procurement, Navy	4,679,443	4,614,892	4,741,943	59,700	4,739,143
Procurement, Marine Corps	1,070,999	1,154,299	1,089,599	52,500	1,123,499
Aircraft Procurement, Air Force	12,079,360	12,604,451	12,103,051	-44,209	12,035,151
Procurement of Ammunition, Air Force	1,284,725	1,324,725	1,284,725	0	1,284,725
Missile Procurement, Air Force	4,393,039	4,348,039	4,394,439	-94,534	4,298,505
Other Procurement, Air Force	11,583,659	11,376,059	11,630,659	48,200	11,631,859
Procurement, Defense-Wide	3,665,506	3,734,821	3,855,506	103,000	3,768,506
Defense Production Act Purchases					
Defense Health Program			327,826		
Office of the Inspector General			2,100		
Chem Agents & Munitions Destruction, Defense			1,530,261		
TOTAL PROCUREMENT	72,653,510	75,010,007	75,638,800	1,550,001	74,203,511

ITEMS OF SPECIAL INTEREST

LEGISLATIVE PROVISIONS ADOPTED

Aircraft Procurement, Army—Overview

The budget request for fiscal year 2004 included an authorization of $2,128.5 million for Aircraft Procurement, Army in the Department of Defense.

The House bill would authorize $2,194.6 million.

The Senate amendment would authorize $2,159.3 million.

The conferees recommend an authorization of $2,099.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Army										
	Aircraft										
	Fixed Wing										
1	UTILITY F/W (MR) AIRCRAFT			1	7,800			1	7,800		7,800
	UC-35 aircraft			[1]	[7,800]			[1]	[7,800]		
	Rotary Wing										
2	UH-60 BLACK HAWK (MYP)	10	138,859	19	251,659	17	210,359	7	70,700	17	209,559
	Additional UH-60s					[7]	[70,700]	[7]	[70,700]		
	UH-60Ls - additional 5 for ARNG			[5]	[52,000]						
	HH-60Ls - additional 4 for ARNG			[4]	[60,800]						
	Engine inlet barrier system						[800]				
3	UH-60 BLACK HAWK (MYP) (AP-CY)		28,141		28,141		28,141				28,141
4	HELICOPTER NEW TRAINING										
	Modification of Aircraft										
	Modification of Aircraft										
5	GUARDRAIL MODS (TIARA)		3,176		3,176		3,176				3,176
6	ARL MODS (TIARA)		5,707		5,707		5,707				5,707
7	AH-64 MODS		58,879		74,379		58,879				58,879
	AH-64 bladefold kits				[15,500]						
8	CH-47 CARGO HELICOPTER MODS		495,525		501,525		510,525				495,525
	CH-47 helicopter induction for MH-47G						[15,000]				
	Crashworthy crew seats				[6,000]						
9	CH-47 CARGO HELICOPTER MODS (MYP) (AP-CY)		20,515		20,515		20,515				20,515
10	UTILITY/CARGO AIRPLANE MODS		10,448		10,448		10,448				10,448
11	OH-58 MODS		477		477		477				477

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
Line	Program Title	Qty	Request Cost-ORIG	Qty	Authorized Cost	Qty	Authorized Cost	Qty	Change Cost	Qty	Authorized Cost
12	AIRCRAFT LONG RANGE MODS		762		762		762				762
13	LONGBOW		762,464		762,464		762,464				762,464
14	LONGBOW (AP-CY)		14,204		14,204		14,204				14,204
15	UH-60 MODS		136,496		36,496		36,496		-100,000		36,496
	UH-60M program delays (transfer to PE 23744A, RDA 162)				[-100,000]		[-100,000]		[-100,000]		
16	KIOWA WARRIOR		45,051		54,051		57,351		10,000		55,051
	Safety enhancement program GAU-19 machine gun						[12,300]		[6,000]		
	COTS helmet mounted display				[9,000]				[4,000]		
17	AIRBORNE AVIONICS		71,206		71,206		71,206		2,000		73,206
	Cockpit Airbag System (CABS)								[2,000]		
18	GATM ROLLUP		59,104		59,104		59,104		-35,000		24,104
	GATM C-23 aircraft and upgrades								[-35,000]		
19	AIRBORNE DIGITIZATION		1,906		1,906		1,906				1,906
	Spares and Repair Parts										
	Spares and Repair Parts										
20	SPARE PARTS (AIR)		11,299		11,299		11,299				11,299
	Support Equipment and Facilities										
	Ground Support Avionics										
21	AIRCRAFT SURVIVABILITY EQUIPMENT		14,879		14,879		21,879		5,000		19,879
	AVR-2 laser detecting set						[7,000]		[5,000]		
22	ASE INFRARED CM		75,713		75,713		75,713				75,713

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Support										
23	AIRBORNE COMMAND & CONTROL		26,594		26,594		26,594				26,594
24	AVIONICS SUPPORT EQUIPMENT		13,295		28,295		28,295		10,000		23,295
	Additional aviation night vision system goggles				[15,000]		[15,000]		[10,000]		
25	COMMON GROUND EQUIPMENT		16,597		16,597		16,597				16,597
26	AIRCREW INTEGRATED SYSTEMS		28,894		28,894		38,894				28,894
	Cockpit airbag system (CABS)						[10,000]				
27	AIR TRAFFIC CONTROL		59,963		59,963		59,963				59,963
28	INDUSTRIAL FACILITIES		1,203		1,203		1,203				1,203
29	LAUNCHER, 2.75 ROCKET		2,512		2,512		2,512				2,512
30	AIRBORNE COMMUNICATIONS		24,616		24,616		24,616				24,616
	Total - Aircraft Procurement, Army		**2,128,485**		**2,194,585**		**2,159,285**		**(29,500)**		**2,098,985**

UH-60 Blackhawk

The budget request included $138.9 million to procure ten UH-60 Blackhawk helicopters.

The House bill would authorize an increase of $52.0 million to procure an additional five UH-60L Blackhawk helicopters for the Army National guard (ARNG) and $60.8 million for four HH-60L medical evacuation Blackhawk helicopters for the ARNG.

The Senate amendment would authorize an increase of $70.7 million to procure an additional seven Blackhawk helicopters for the Army and $800,000 for an inlet barrier system.

The conferees agree to authorize $70.7 million to procure seven additional UH-60 Blackhawk helicopters to be fielded to the active or reserve component in accordance with Army priorities.

Missile Procurement, Army—Overview

The budget request for fiscal year 2004 included an authorization of $1,459.5 million for Missile Procurement, Army in the Department of Defense.

The House bill would authorize $1,594.7 million.

The Senate amendment would authorize $1,553.5 million.

The conferees recommend an authorization of $1,549.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Missile Procurement, Army										
	Other Missiles										
	Surface-to-air Missile System										
1	PATRIOT SYSTEM SUMMARY	108	561,555	138	687,555	108	561,555	30	90,000	138	651,555
	PAC-3			[30]	[126,000]			[30]	[90,000]		
2	STINGER SYSTEM SUMMARY		2,942		2,942		2,942				2,942
3	AVENGER SYSTEM SUMMARY										
4	SURFACE-LAUNCHED AMRAAM SYSTEM SUMM		7,452		7,452		7,452				7,452
	Air-to-surface Missile System										
5	HELLFIRE SYS SUMMARY		33,061		33,061		76,061				33,061
	Additional Hellfire II missiles						[43,000]				
6	APKWS (ADV PRECISION KILL WEAPON SYSTEM)										
7	APKWS (ADV PRECISION KILL WEAPON SYSTEM) (AP-CY)										
	Anti-tank/Assault Missile System										
8	JAVELIN (AAWS-M) SYSTEM SUMMARY	901	133,115	901	133,115	901	173,115			901	133,115
	Additional Javelin command launch units						[40,000]				
9	JAVELIN (AAWS-M) SYSTEM SUMMARY (AP-		7,600		7,600		7,600				7,600
10	LINE OF SIGHT ANTI-TANK (LOSAT) SYSTEM	76	43,232	76	43,232	76	43,232			76	43,232
11	LINE OF SIGHT ANTI-TANK (LOSAT) SYS SUM										
12	TOW 2 SYSTEM SUMMARY	200	10,010	200	10,010	200	10,010			200	10,010
13	TOW 2 SYSTEM SUMMARY (AP-CY)		16,366		16,366		16,366				16,366
14	GUIDED MLRS ROCKET (GMLRS)	786	107,759	786	107,759	786	107,759			786	107,759
15	MLRS REDUCED RANGE PRACTICE ROCKETS (R	2,934	14,646	2,934	14,646	2,934	14,646			2,934	14,646
16	MLRS LAUNCHER SYSTEMS		40,155		40,155		40,155				40,155
17	HIMARS LAUNCHER	24	124,191	24	124,191	24	124,191			24	124,191
18	ARMY TACTICAL MSL SYS (ATACMS) - SYS SUM	50	50,301	50	50,301	50	50,301			50	50,301
19	ATACMS BLKII SYSTEM SUMMARY										

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
20	ATACMS PENETRATOR										
	Modification of Missiles										
	Modifications										
21	PATRIOT MODS		212,575		212,575		223,575				212,575
	PAC-3 improvements						[11,000]				
22	STINGER MODS		973		973		973				973
23	AVENGER MODS										
24	ITAS/TOW MODS		15,707		24,907		15,707				15,707
	Improved target acquisition system lithium batteries				[9,200]						
25	MLRS MODS		19,918		19,918		19,918				19,918
26	HIMARS MODIFICATIONS: (NON AAO)		467		467		467				467
	Spares and Repair Parts										
	Spares and Repair Parts										
27	SPARES AND REPAIR PARTS		50,542		50,542		50,542				50,542
	Support Equipment and Facilities										
	Support Equipment and Facilities										
28	AIR DEFENSE TARGETS		3,464		3,464		3,464				3,464
29	ITEMS LESS THAN $5.0M (MISSILES)		10		10		10				10
30	MISSILE DEMILITARIZATION										
31	PRODUCTION BASE SUPPORT		3,421		3,421		3,421				3,421
	Total - Missile Procurement Army		**1,459,462**		**1,594,662**		**1,553,462**		**90,000**		**1,549,462**

Procurement of Weapons and Tracked Combat Vehicles, Army—Overview

The budget request for fiscal year 2004 included an authorization of $1,640.7 million for Procurement of Weapons and Tracked Combat Vehicles, Army in the Department of Defense.

The House bill would authorize $2,297.4 million.

The Senate amendment would authorize $1,658.5 million.

The conferees recommend an authorization of $1,997.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Weapons and Tracked Combat										
	Tracked Combat Vehicles										
	Tracked Combat Vehicles										
1	ABRAMS TRNG DEV MOD		6,252		6,252		6,252				6,252
2	BRADLEY BASE SUSTAINMENT		113,302		372,102		113,302	144	258,800		372,102
	Bradley A2 ODS-D+ for Counterattack Corps				[258,800]			[144]	[258,800]		
3	BRADLEY BASE SUSTAINMENT (AP-CY)										
4	BRADLEY FVS TRAINING DEVICES		3,397		3,397		3,397				3,397
5	ABRAMS TANK TRAINING DEVICES										
6	STRYKER	301	955,027	301	1,055,027	301	955,027			301	955,027
	Lethality and sustainability enhancements				[100,000]						
7	FUTURE COMBAT SYSTEMS: (FCS)										
	Modification of Tracked Combat Vehicles										
8	CARRIER, MOD										
9	FIST VEHICLE (MOD)		16,756		16,756		16,756				16,756
10	MOD OF IN-SVC EQUIP, FIST VEHICLE		676		676		676				676
11	BFVS SERIES (MOD)		23,126		23,126		23,126				23,126
12	HOWITZER, MED SP FT 155MM M109A6 (MOD)		36,092		36,092		36,092				36,092
13	FAASV PIP TO FLEET		10,981		10,981		10,981				10,981
14	IMPROVED RECOVERY VEHICLE (M88 MOD)										
15	HEAVY ASSAULT BRIDGE (HAB) SYS (MOD)										
16	ARMORED VEH LAUNCH BRIDGE (AVLB)										
17	M1 ABRAMS TANK (MOD)		268,644		160,644		268,644		-75,000		193,644
	LV100 engine unable to enter procurement				[-108,000]				[-75,000]		
18	M1A1D RETROFIT										

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
19	SYSTEM ENHANCEMENT PGM: SEP M1A2				424,000				155,000		155,000
	M1A2 SEP upgrades for Counterattack Corps modernization				[284,000]				[155,000]		
	Reprioritized from M1 Abrams tank modifications				[108,000]						
	Reprioritized from Abrams Upgrade Program				[32,000]						
20	ABRAMS UPGRADE PROGRAM		92,942		60,942		92,942				92,942
	M1A1 AIM funds not required				[-32,000]						
21	ABRAMS UPGRADE PROGRAM (AP-CY)										
	Support Equipment and Facilities										
22	ITEMS LESS THAN $5.0M (TCV-WTCV)		489		489		489				489
23	PRODUCTION BASE SUPPORT (TCV-WTCV)		10,188		10,188		10,188				10,188
	Weapons and Other Combat Vehicles										
	Weapons and Other Combat Vehicles										
24	ARMOR MACHINE GUN, 7.62MM M240 SERIES	1,480	16,559	1,480	16,559	1,480	16,559			1,480	16,559
25	MACHINE GUN, 5.56MM (SAW)				13,900		6,900		6,900		6,900
	Additional M249 Squad Automatic Weapons (SAW)				[7,000]		[6,900]		[6,900]		
	Transfer from OPA 136 "Land Warrior"				[6,900]						
26	GRENADE LAUNCHER, AUTO, 40MM, MK19-3										
27	MORTAR SYSTEMS	59	10,102	59	10,102	59	10,102			59	10,102
28	M16 RIFLE										
29	XM107, CAL. 50, SNIPER RIFLE	600	8,753	600	8,753	600	8,753			600	8,753
30	5.56 CARBINE M4	8,635	8,978	8,635	8,978	8,635	8,978			8,635	8,978
31	HOWITZER LT WT 155MM (T)		4,998		4,998		8,998		4,000		8,998
	LW-155 howitzer long lead items						[4,000]		[4,000]		
	Modification of Weapons and Other Combat										
32	MARK-19 MODIFICATIONS		3,845		3,845		3,845				3,845
33	M4 CARBINE MODS		6,660		6,660		11,660		5,000		11,660
	M4 Carbine modifications for rapid fielding initiative						[5,000]		[5,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	SQUAD AUTOMATIC WEAPON (MOD)		5,096		5,096		5,396		300		5,396
	SAW modifications for rapid fielding initiative						[300]		[300]		
35	MEDIUM MACHINE GUNS (MODS)		2,970		2,970		3,170		200		3,170
	Machine gun modifications for rapid fielding initiative						[200]		[200]		
36	HOWITZER, TOWED, 155MM, M198 (MODS)	13	882	13	882	13	882			13	882
37	M119 MODIFICATIONS										
38	M16 RIFLE MODS		2,369		2,369		2,369				2,369
39	MODIFICATIONS LESS THAN $5.0M (WOCV-		2,220		2,220		2,920		700		2,920
	Lightweight shotguns for rapid fielding initiative						[700]		[700]		
	Support Equipment and Facilities										
40	ITEMS LESS THAN $5.0M (WOCV-WTCV)		489		489		1,189		700		1,189
	M145 machine gun optics for rapid fielding initiative						[700]		[700]		
41	PRODUCTION BASE SUPPORT (WOCV-WTCV)		7,089		7,089		7,089				7,089
42	INDUSTRIAL PREPAREDNESS		2,675		2,675		2,675				2,675
43	SMALL ARMS (SOLDIER ENH PROG)		1,117		1,117		1,117				1,117
44	CLOSED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
45	SPARES AND REPAIR PARTS (WTCV)		18,030		18,030		18,030				18,030
	Total - Procurement of WTCV, Army		1,640,704		2,297,404		1,658,504		356,600		1,997,304

Other Procurement, Army—Overview

The budget request for fiscal year 2004 included an authorization of $4,216.9 million for Other Procurement, Army in the Department of Defense.

The House bill would authorize $4,321.5 million.

The Senate amendment would authorize $4,268.0 million.

The conferees recommend an authorization of $4,365.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Army										
	Ammunition										
	Small/Medium Caliber Ammunition										
1	CTG, 5.56MM, ALL TYPES		183,731		183,731		183,731				183,731
2	CTG, 7.62MM, ALL TYPES		65,414		65,414		65,414				65,414
3	CTG, 9MM, ALL TYPES		5,557		5,557		5,557				5,557
4	CTG, .50 CAL, ALL TYPES		60,484		60,484		60,484				60,484
5	CTG, 20MM, ALL TYPES										
6	CTG, 25MM, ALL TYPES		8,812		33,812		18,812		10,000		18,812
	M919 Armor-piercing, fin-stabilized, w/ tracer 25 mm				[25,000]		[10,000]		[10,000]		
7	CTG, 30MM, ALL TYPES		12,941		12,941		13,941		1,000		13,941
	M789 high-explosive, dual purpose cartridge						[1,000]		[1,000]		
8	CTG, 40MM, ALL TYPES		126,994		126,994		126,994				126,994
	Mortar Ammunition										
9	60MM MORTAR, ALL TYPES		45,408		44,408		45,408		-1,000		44,408
	M769 full range practice round - no production rqmt				[-1,000]				[-1,000]		
10	81MM MORTAR, ALL TYPES		14,104		14,104		14,104				14,104
11	CTG, MORTAR, 120MM, ALL TYPES		53,621		65,621		55,621		9,000		62,621
	M930 illumination cartridge				[5,000]		[2,000]		[2,000]		
	M931 full range practice round				[2,000]				[2,000]		
	M934A1 HE round				[5,000]				[5,000]		
	Tank Ammunition										
12	CTG TANK 105MM: ALL TYPES		20,607		20,607		20,607				20,607
13	120MM TANK TRAINING, ALL TYPES		134,270		134,270		134,270				134,270
14	CTG, TANK, 120MM TACTICAL, ALL TYPES		42,408		42,408		42,408				42,408
	Artillery Ammunition										
15	CTG ARTY 75MM BLANK M337A1		34		34		34				34

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
16	CTG, ARTY, 105MM: ALL TYPES		30,151		34,151		30,151				30,151
	M314 illumination cartridge				[4,000]						
17	CTG, ARTY, 155MM, ALL TYPES		77,781		77,781		78,781		1,000		78,781
	M485 illumination cartridge						[1,000]		[1,000]		
18	REMOTE AREA DENIAL ARTILLERY MUNITION (RADAM										
19	MODULAR ARTILLERY CHARGE SYSTEM (MACS), ALL T		78,949		98,949		78,949		3,000		81,949
	Modular artillery charge system				[20,000]				[3,000]		
	Artillery Fuzes										
20	ARTILLERY FUZES, ALL TYPES		47,400		47,400		47,400				47,400
	Mines										
21	MINE, TRAINING, ALL TYPES										
22	MINE AT VOLCANO,: ALL TYPES						5,000		5,000		5,000
	M87A1 Volcano anti-tank mine						[5,000]		[5,000]		
23	MINE, CLEARING CHARGE, ALL TYPES		14,564		14,564		14,564				14,564
24	WIDE AREA MUNITIONS (WAM), ALL TYPES										
25	ANTIPERSONNEL LANDMINE ALTERNATIVES										
	Rockets										
26	SHOULDER FIRED ROCKETS, ALL TYPES		13,836		13,836		13,836				13,836
27	ROCKET, HYDRA 70, ALL TYPES		21,981		32,981		21,981		11,000		32,981
	Hydra 70 rockets				[11,000]				[11,000]		
	Other Ammunition										
28	DEMOLITION MUNITIONS, ALL TYPES		24,959		28,959		25,959		4,000		28,959
	Modern demolition initiators				[4,000]		[1,000]		[4,000]		
29	GRENADES, ALL TYPES		27,010		27,010		27,010				27,010
30	SIGNALS, ALL TYPES		8,999		8,999		8,999				8,999
31	SIMULATORS, ALL TYPES		9,035		9,035		9,035				9,035
	Miscellaneous										
32	AMMO COMPONENTS, ALL TYPES		10,529		10,529		10,529				10,529

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
33	NON-LETHAL AMMUNITION, ALL TYPES										
34	CAD/PAD ALL TYPES		4,808		4,808		4,808				4,808
35	ITEMS LESS THAN $5 MILLION		7,697		7,697		7,697				7,697
36	AMMUNITION PECULIAR EQUIPMENT		7,415		7,415		7,415				7,415
37	FIRST DESTINATION TRANSPORTATION		11,868		11,868		11,868				11,868
38	CLOSEOUT LIABILITIES		98		98		98				98
	Ammunition Production Base Support										
	Production Base Support										
39	PROVISION OF INDUSTRIAL FACILITIES		33,570		77,570		60,909		54,339		87,909
	Medium caliber links manufacturing die sets				[5,000]		[1,000]		[5,000]		
	Modern munitions load, assembly, and pack technology				[15,000]		[2,000]		[5,000]		
	Transfer from WCF for white phos. production equipment						[24,339]		[24,339]		
	Small caliber production line upgrades				[24,000]				[20,000]		
40	LAYAWAY OF INDUSTRIAL FACILITIES		13,020		13,020		13,020				13,020
41	MAINTENANCE OF INACTIVE FACILITIES		9,664		9,664		9,664				9,664
42	CONVENTIONAL AMMO DEMILITARIZATION		77,592		77,592		83,592		6,000		83,592
	Conventional ammunition demilitarization						[6,000]		[6,000]		
43	ARMS INITIATIVE		4,655		4,655		4,655				4,655
	Total - Procurement of Ammunition, Army		**1,309,966**		**1,428,966**		**1,363,305**		**103,339**		**1,413,305**

Combat Support Medical

The budget request included $16.6 million for Combat Support Medical.

The House bill would authorize an increase of $1.0 million to procure additional computer sets for Army medical logistics battalions.

The Senate amendment would authorize an increase of $2.0 million to procure rapid infusion pumps.

The conferees agree to authorize an increase of $1.0 million to procure additional Combat Automated Service Support-Medical (CASS–M) medical computer sets and an increase of $2.0 million for additional rapid infusion pumps to be fielded to the active or reserve component in accordance with Army priorities.

Aircraft Procurement, Navy—Overview

The budget request for fiscal year 2004 included an authorization of $8,788.1 million for Aircraft Procurement, Navy in the Department of Defense.

The House bill would authorize $9,050.0 million.

The Senate amendment would authorize $8,996.9 million.

The conferees recommend an authorization of $9,009.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Procurement, Army										
	Tactical and Support Vehicles										
	Tactical Vehicles										
1	TACTICAL TRAILERS/DOLLY SETS		17,977		17,977		17,977				17,977
2	SEMITRAILERS, FLATBED:		23,950		23,950		27,950				23,950
	M871A3 trailers						[4,000]				
3	SEMITRAILERS, TANKERS		9,499		9,499		9,499				9,499
4	HI MOB MULTI-PURP WHLD VEH (HMMWV)		137,847		155,847		161,347		25,250		163,097
	Additional HMMWVs						[23,500]		[20,000]		
	Additional M1114s for AR				[9,000]						
	Additional M1114s for ARNG				[9,000]				[5,250]		
5	TRUCK, DUMP, 20T (CCE)										
6	FAMILY OF MEDIUM TACTICAL VEH (FMTV)		309,810		349,810		309,810		40,000		349,810
	Additional A1CR vehicles				[40,000]				[40,000]		
7	FIRETRUCKS & ASSOCIATED FIREFIGHTING EQI		14,968		14,968		14,968				14,968
8	FAMILY OF HEAVY TACTICAL VEHICLES (FHTV		133,130		164,030		158,130		30,900		164,030
	Movement Tracking System (MTS)				[9,000]		[25,000]		[9,000]		
	Additional HEMTTs for Counterattack Corps				[11,900]				[11,900]		
	Additional HEMTTs for ARNG				[10,000]				[10,000]		
9	ARMORED SECURITY VEHICLES (ASV)										
10	TRUCK, TRACTOR, LINE HAUL, M915/M916		45,772		45,772		45,772				45,772
11	TOWING DEVICE, 5TH WHEEL										
12	TRUCK, TRACTOR, YARD TYPE, M878 (C/S)	5	979	5	979	5	979			5	979
13	HVY EXPANDED MOBILE TACTICAL TRUCK EX'	139	24,838	139	24,838	139	24,838			139	24,838
14	LINE HAUL ESP										
15	MODIFICATION OF IN SVC EQUIP		57,061		57,061		57,061				57,061
16	ITEMS LESS THAN $5.0M (TAC VEH)		245		245		245				245
17	TOWING DEVICE-FIFTH WHEEL	40	1,958	40	1,958	40	1,958			40	1,958

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Non-tactical Vehicles										
18	HEAVY ARMORED SEDAN	4	608	4	608	4	608			4	608
19	PASSENGER CARRYING VEHICLES		3,078		3,078		3,078				3,078
20	NONTACTICAL VEHICLES, OTHER	85	6,260	85	6,260	85	6,260			85	6,260
	Communications and Electronics Equipment										
	Comm-Joint Communications										
21	COMBAT IDENTIFICATION PROGRAM										
22	WIN - TACTICAL PROGRAM		3,231				3,231		-3,231		
	Unjustified request				[-3,231]				[-3,231]		
23	JCSE EQUIPMENT (USREDCOM)		4,570		4,570		4,570				4,570
	Comm-Satellite Communications										
24	DEFENSE SATELLITE COMMUNICATIONS SYS (S		98,272		98,272		98,272				98,272
25	SHF TERM		17,492		17,492		17,492				17,492
26	SAT TERM, EMUT (SPACE)		5,154		5,154		5,154				5,154
27	NAVSTAR GLOBAL POSITIONING SYSTEM (SPA(	14,195	44,290	14,195	44,290	14,195	44,290			14,195	44,290
28	SMART-T (SPACE)		48,585		48,585		48,585				48,585
29	SCAMP (SPACE)		600		600		600				600
30	SCAMP BLOCK II										
31	GLOBAL BRDCST SVC - GBS		8,859		8,859		8,859				8,859
32	MOD OF IN-SVC EQUIP (TAC SAT)		10,668		10,668		10,668				10,668
	Comm-C3 System										
33	ARMY GLOBAL CMD & CONTROL SYS (AGCCS)		16,499		16,499		16,499				16,499
	Comm-Combat Communications										
34	ARMY DATA DISTRIBUTION SYSTEM (DATA RA		52,384		55,884		52,384		3,500		55,884
	Additional EPLRS for Counterattack Corps				[3,500]				[3,500]		
35	RADIO TERMINAL SET, MIDS LVT(2)		2,937		2,937		2,937				2,937

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
36	SINCGARS FAMILY		39,275		47,275		54,275		15,000		54,275
	Additional SINCGARS radios						[15,000]		[15,000]		
	Additional SINCGARS radios for ARNG				[8,000]						
37	MULTI-PURPOSE INFORMATION OPERATIONS S	1	6,087	1	6,087	1	6,087			1	6,087
38	JOINT TACTICAL AREA COMMAND SYSTEMS		850		8,850		850				850
	AN/ARS-6(V) COTS upgrades				[8,000]						
39	ACUS MOD PROGRAM		108,391		108,391		133,391				108,391
	Shelters for Army Common User System (ACUS)						[25,000]				
40	COMMS-ELEC EQUIP FIELDING		15,903		23,903		22,103		8,200		24,103
	Multiband radios for rapid fielding initiative						[6,200]		[6,200]		
	AN/PRC-148 multiband inter-team radios				[8,000]				[2,000]		
41	SOLDIER ENHANCEMENT PGM COMM/ELECTRC		8,025		8,025		8,025				8,025
42	COMBAT SURVIVOR EVADER LOCATOR (CSEL)		15,393		15,393		15,393				15,393
43	MEDICAL COMM FOR CBT CASUALTY CARE (M		6,602		6,602		6,602				6,602
	Comm-Intelligence Communications										
44	JWICS CONNECTIVITY										
45	CI AUTOMATION ARCHITECTURE		1,241		1,241		1,241				1,241
	Information Security										
46	TSEC - ARMY KEY MGT SYS (AKMS)		2,702		2,702		2,702				2,702
47	INFORMATION SYSTEM SECURITY PROGRAM-		124,419		124,419		124,419				124,419
	Comm-Long Haul Communications										
48	TERRESTRIAL TRANSMISSION		10,332		10,332		10,332				10,332
49	BASE SUPPORT COMMUNICATIONS		46,835		46,835		46,835				46,835
50	ARMY DISN ROUTER		6,016		6,016		6,016				6,016
51	ELECTROMAG COMP PROG (EMCP)		457		457		457				457
52	WW TECH CON IMP PROG (WWTCIP)		2,975		2,975		2,975				2,975
	Comm-Base Communications										
53	INFORMATION SYSTEMS		328,188		328,188		328,188				328,188

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
54	DEFENSE MESSAGE SYSTEM (DMS)		12,435		12,435		12,435				12,435
55	LOCAL AREA NETWORK (LAN)		96,475		104,475		96,475		8,000		104,475
	Local area networks				[8,000]				[8,000]		
56	PENTAGON INFORMATION MGT AND		14,424		14,424		14,424				14,424
	Elect Equip-Nat For Int Prog (NFIP)										
57	FOREIGN COUNTERINTELLIGENCE PROG (FCI)		1,624		1,624		1,624				1,624
58	GENERAL DEFENSE INTELL PROG (GDIP)		24,632		24,632		24,632				24,632
	Elect Equip-Tact Int Rel Act (TIARA)										
59	ALL SOURCE ANALYSIS SYS (ASAS) (TIARA)		36,980		37,680		36,980		700		37,680
	Additional ASAS for Counterattack Corps				[700]				[700]		
60	JTT/CIBS-M (TIARA)										
61	PROPHET GROUND (TIARA)		3,175		3,175		3,175				3,175
62	TUAV	8	73,764	8	73,764	8	73,764			8	73,764
63	ARMY COMMON GROUND STATION (CGS) (TIAF		8,261		8,261		8,261				8,261
64	DIGITAL TOPOGRAPHIC SPT SYS (DTSS) (TIARA		13,003		13,003		13,003				13,003
65	DRUG INTERDICTION PROGRAM (DIP) (TIARA)										
66	TACTICAL EXPLOITATION SYSTEM (TIARA)										
67	DCGS-A UNIT OF EMPLOYMENT (JMIP)		2,687		2,687		2,687				2,687
68	JOINT TACTICAL GROUND STATION MODS (JTA										
69	TROJAN (TIARA)		6,535		6,535		6,535				6,535
70	MOD OF IN-SVC EQUIP (INTEL SPT) (TIARA)		2,619		2,619		2,619				2,619
71	CI HUMINT INFO MANAGEMENT SYS (CHIMS) (T		7,892		7,892		7,892				7,892
72	ITEMS LESS THAN $5.0M (TIARA)	4	4,983	4	4,983	4	4,983			4	4,983
	Elect Equip-Electronic Warfare (EW)										
73	SHORTSTOP										
74	COUNTERINTELLIGENCE/SECURITY		2,296		2,296		2,296				2,296
	Elect Equip-Tactical Surv. (TAC SURV)										
75	FAAD GBS										

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
76	SENTINEL MODS		17,595		17,595		17,595				17,595
77	NIGHT VISION DEVICES		65,629		65,629		67,429		1,800		67,429
	NVDs for rapid fielding initiative						[1,800]		[1,800]		
78	LONG RANGE ADVANCED SCOUT SURVEILLAN	110	50,125	110	50,125	110	50,125			110	50,125
79	LTWT VIDEO RECON SYSTEM (LWVRS)				10,700						
	Additional LVRS for USASOC				[10,700]						
80	NIGHT VISION, THERMAL WPN SIGHT	3,104	50,504	3,104	50,504	3,104	50,504			3,104	50,504
81	COMBAT IDENTIFICATION / AIMING LIGHT										
82	ARTILLERY ACCURACY EQUIP		13,594		13,594		13,594				13,594
83	MOD OF IN-SVC EQUIP (MMS)		644		644		644				644
84	MOD OF IN-SVC EQUIP (MVS)		274		274		274				274
85	PROFILER	10	12,591	10	12,591	10	12,591			10	12,591
86	MOD OF IN-SVC EQUIP (TAC SURV)		35,169		35,169		35,169				35,169
87	FORCE XXI BATTLE CMD BRIGADE & BELOW (F	2,674	83,200	2,674	83,200	2,674	83,200			2,674	83,200
88	LIGHTWEIGHT LASER DESIGNATOR/RANGEFIN	45	12,302	45	12,302	45	12,302			45	12,302
89	MORTAR FIRE CONTROL SYSTEM	158	39,517	158	39,517	158	39,517			158	39,517
90	INTEGRATED MET SYS SENSORS (IMETS) - TIAR		9,080		9,080		9,080				9,080
	Elect Equip-Tactical C2 Systems										
91	TACTICAL OPERATIONS CENTERS		45,613		69,513		45,613		23,900		69,513
	Additional TOCs for Counterattack Corps				[23,900]				[23,900]		
92	ADV FA TAC DATA SYS / EFF CTRL SYS		22,324		22,324		22,324				22,324
93	MOD OF IN-SVC EQUIP, AFATDS		2,059		2,059		2,059				2,059
94	LIGHT WEIGHT TECH FIRE DIRECTION SYS (LW		3,223		3,223		3,223				3,223
95	CMBT SVC SUPT CONTROL SYS (CSSCS)		22,197		22,197		22,197				22,197
96	FAAD C2		19,474		19,474		19,474				19,474
97	AIR & MSL DEFENSE PLANNING & CONTROL SY		8,996		8,996		8,996				8,996
98	FORWARD ENTRY DEVICE / LIGHTWEIGHT FED		6,023		6,023		6,023				6,023

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
99	KNIGHT FAMILY		6,732		35,232		6,732		20,000		26,732
	Knight family for ARNG				[28,500]				[20,000]		
100	LIFE CYCLE SOFTWARE SUPPORT (LCSS)		1,814		1,814		1,814				1,814
101	LOGTECH		8,774		8,774		8,774				8,774
102	TC AIMS II		17,492		17,492		17,492				17,492
103	GUN LAYING AND POS SYS (GLPS)										
104	ISYSCON EQUIPMENT		21,528		21,528		21,528				21,528
105	JOINT NETWORK MANAGEMENT SYSTEM (JNM		9,452		9,452		9,452				9,452
106	TACTICAL INTERNET MANAGER		8,321		8,321		8,321				8,321
107	MANEUVER CONTROL SYSTEM (MCS)	201	37,141	201	41,141	201	37,141		4,000		41,141
	Additional MCS for Counterattack Corps				[4,000]				[4,000]		
108	STAMIS TACTICAL COMPUTERS (STACOMP)		46,233		46,233		46,233				46,233
109	STANDARD INTEGRATED CMD POST SYSTEM		361		361		361				361
	Elect Equip-Automation										
110	ARMY TRAINING MODERNIZATION		6,186		6,186		6,186				6,186
111	AUTOMATED DATA PROCESSING EQUIP		213,055		213,055		213,055				213,055
112	RESERVE COMPONENT AUTOMATION SYS		45,789		45,789		45,789				45,789
	Elect Equip-Audio Visual Sys (A/V)										
113	SPECIAL INFORMATION OPERATIONS (SIO)										
114	AFRTS		2,519		2,519		2,519				2,519
115	ITEMS LESS THAN $5.0M (A/V)		3,879		3,879		3,879				3,879
116	ITEMS LESS THAN $5M (SURVEYING		2,047		2,047		2,047				2,047
	Elect Equip-Support										
117	PRODUCTION BASE SUPPORT (C-E)		426		426		426				426
	Other Support Equipment										
	Chemical Defensive Equipment										
118	SMOKE & OBSCURANT FAMILY: SOF (NON AAO		35,252		35,252		35,252				35,252

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Bridging Equipment										
119	TACTICAL BRIDGING		42,539		42,539		42,539				42,539
120	TACTICAL BRIDGE, FLOAT-RIBBON		59,393		59,393		59,393				59,393
	Engineer (Non-construction) Equipment										
121	DISPENSER, MINE M139		5,231		5,231		5,231				5,231
122	TOWED VOLCANO DELIVERY SYSTEM										
123	VOLCANO LIGHT										
124	HANDHELD STANDOFF MINEFIELD DETECTION	69	1,766	69	1,766	69	1,766			69	1,766
125	KIT, STANDARD TELEOPERATING	12	2,314	12	2,314	12	2,314			12	2,314
126	GRND STANDOFF MINE DETECTION SYSTEM										
127	WIDE AREA MUNITIONS (REMOTE CONTROL U										
128	ROBOTIC COMBAT SUPPORT SYSTEM (RCSS)	36	8,247	36	8,247	36	8,247			36	8,247
129	EXPLOSIVE ORDNANCE DISPOSAL EQPMT (EOD		9,398		9,398		9,398				9,398
130	ITEMS LESS THAN $5M, COUNTERMINE EQUIPM	3	624	3	624	3	624			3	624
	Combat Service Support Equipment										
131	HEATERS AND ECU'S		13,544		13,544		13,544				13,544
132	LAUNDRIES, SHOWERS AND LATRINES		5,979		5,979		5,979				5,979
133	FLOODLIGHT SET, ELEC, TRL MTD, 3 LIGHTS										
134	SOLDIER ENHANCEMENT	795	4,286	795	4,286	795	4,286			795	4,286
135	LIGHTWEIGHT MAINTENANCE ENCLOSURE (L		7,577		7,577		7,577				7,577
136	LAND WARRIOR	2,425	94,827					-2,425	-94,827		
	Reduction - not ready for production				[-21,427]		[-21,327]	[-2,425]	[-36,327]		
	Transfer to PE 64713A (RDA 102)				[-58,500]		[-73,500]		[-58,500]		
	Transfer to OPA 40				[-8,000]						
	Transfer to W&TCV 25 "M249 SAW"				[-6,900]						
137	AUTHORIZED STOCKAGE LIST MOBILITY SYST		4,451		4,451		4,451				4,451
138	FIELD FEEDING EQUIPMENT		16,021		16,021		16,021				16,021
139	AIR DROP PROGRAM		4,892		4,892		4,892				4,892

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
140	CAMOUFLAGE: ULCANS										
141	ITEMS LESS THAN $5.0M (ENG SPT EQ)		10,947		10,947		10,947				10,947
142	ITEMS LESS THAN $5.0M (CSS EQ)										
	Petroleum Equipment										
143	QUALITY SURVEILLANCE EQUIPMENT										
144	DISTRIBUTION SYSTEMS, PETROLEUM & WATE		24,205		24,205		24,205				24,205
145	INLAND PETROLEUM DISTRIBUTION SYSTEM		1,182		1,182		1,182				1,182
	Water Equipment										
146	WATER PURIFICATION SYSTEMS		15,809		15,809		15,809				15,809
	Medical Equipment										
147	COMBAT SUPPORT MEDICAL		16,555		18,555		18,555		3,000		19,555
	Rapid infusion pumps						[2,000]		[2,000]		
	Combat Automated Service Support-Medical				[2,000]				[1,000]		
	Maintenance Equipment										
148	SHOP EQ CONTACT MAINTENANCE TRK MTD	186	12,855	186	12,855	186	12,855			186	12,855
149	WELDING SHOP, TRAILER MTD	112	5,873	112	5,873	112	5,873			112	5,873
150	ITEMS LESS THAN $5.0M (MAINT EQ)		4,002		4,002		4,002				4,002
	Construction Equipment										
151	GRADER, ROAD MTZD, HVY, 6X4 (CCE)										
152	SCRAPERS, EARTHMOVING										
153	DISTR, WATER, SP MIN 2500G SEC/NON-SEC										
154	MISSION MODULES - ENGINEERING		16,607		16,607		16,607				16,607
155	COMPACTOR										
156	LOADERS		8,148		8,148		8,148				8,148
157	HYDRAULIC EXCAVATOR										
158	DEPLOYABLE UNIVERSAL COMBAT EARTH MO										

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
Line	Program Title	Qty	Request Cost-ORIG	Qty	Authorized Cost	Qty	Authorized Cost	Qty	Change Cost	Qty	Authorized Cost
159	TRACTOR, FULL TRACKED				10,000						
	Additional dozers for Counterattack Corps				[5,000]						
	Additional dozers for ARNG				[5,000]						
160	CRANES		4,131		4,131		4,131				4,131
161	CRUSHING/SCREENING PLANT, 150 TPH	1	1,781	1	1,781	1	1,781			1	1,781
162	PLANT, ASPHALT MIXING	1	1,937	1	1,937	1	1,937			1	1,937
163	ARMORED COMBAT EARTHMOVER, M9 ACE										
164	HIGH MOBILITY ENGINEER EXCAVATOR (HMEE	15	4,842	15	4,842	15	4,842			15	4,842
165	CONST EQUIP ESP				10,000		10,200		10,000		10,000
	Construction equipment extended service program (ESP)						[10,200]		[10,000]		
	SLEP for ARNG and AR				[10,000]						
166	ITEMS LESS THAN $5.0M (CONST EQUIP)		6,305		6,305		6,305				6,305
	Rail Float Containerization Equipment										
167	FLOATING CRANE, 100-250 TON										
168	LOGISTIC SUPPORT VESSEL (LSV)			1	36,500			1	3,000		3,000
	Logistic support vessel				[33,000]						
	Small tugs			[1]	[3,500]			[1]	[3,000]		
169	CAUSEWAY SYSTEMS						25,000		12,000		12,000
	Modular causeway system (MCS)						[25,000]		[12,000]		
170	ITEMS LESS THAN $5.0M (FLOAT/RAIL)		7,860		7,860		7,860				7,860
	Generators										
171	GENERATORS AND ASSOCIATED EQUIP		62,853		62,853		62,853				62,853
	Material Handling Equipment										
172	ROUGH TERRAIN CONTAINER HANDLER (RTCH	72	36,237	72	36,237	72	36,237			72	36,237
173	ALL TERRAIN LIFTING ARMY SYSTEM	142	22,422	142	22,422	142	22,422			142	22,422
174	MHE EXTENDED SERVICE PROGRAM (ESP)	6	1,329	6	1,329	6	1,329			6	1,329
175	ITEMS LESS THAN $5.0M (MHE)										

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
Line	Program Title	Qty	Request Cost-ORIG	Qty	Authorized Cost	Qty	Authorized Cost	Qty	Change Cost	Qty	Authorized Cost
	Training Equipment										
176	COMBAT TRAINING CENTERS (CTC) SUPPORT		36,827		36,827		36,827				36,827
177	TRAINING DEVICES, NONSYSTEM		165,254		175,254		170,054		9,800		175,054
	Military Ops in Urban Terrain (MOUT) instrumentation						[4,800]		[4,800]		
	Laser marksmanship training systems for AR				[10,000]				[2,500]		
	Laser marksmanship training systems for ARNG								[2,500]		
178	CLOSE COMBAT TACTICAL TRAINER		71,692		71,692		71,692				71,692
179	AVIATION COMBINED ARMS TACTICAL TRAINE		10,295		10,295		10,295				10,295
	Test Measure and Dig Equipment (TMD)										
180	CALIBRATION SETS EQUIPMENT		18,304		18,304		18,304				18,304
181	INTEGRATED FAMILY OF TEST EQUIPMENT (IF]		27,952		37,952		27,952		1,500		29,452
	Additional TSC-750 maintenance support devices				[10,000]				[1,500]		
182	TEST EQUIPMENT MODERNIZATION (TEMOD)		14,718		14,718		14,718				14,718
183	ARMY DIAGNOSTICS IMPROVEMENT PGM (ADI]										
	Other Support Equipment										
184	RECONFIGURABLE SIMULATORS										
185	PHYSICAL SECURITY SYSTEMS (OPA3)		75,288		75,288		75,288				75,288
186	BASE LEVEL COM'L EQUIPMENT		15,026		15,026		15,026				15,026
187	MODIFICATION OF IN-SVC EQUIPMENT (OPA-3)		47,918		47,918		47,918				47,918
188	PRODUCTION BASE SUPPORT (OTH)		2,571		2,571		2,571				2,571
189	SPECIAL EQUIPMENT FOR USER TESTING		11,526		11,526		11,526				11,526

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
190	MA8975		2,419		2,419		2,419				2,419
191	CLOSED ACCOUNT ADJUSTMENTS										
	Spares and Repair Parts										
	OPA2										
192	INITIAL SPARES - C&E		44,714		44,714		44,714				44,714
	OPA3										
193	INITIAL SPARES - OTHER SUPPORT EQUIPMENT		1,250		1,250		1,250				1,250
xx	WMD - Civil Support Teams						25,900		25,900		25,900
	Financial information systems						-22,400				
	Information technology general reduction				-68,000						
	Total - Other Procurement, Army		**4,216,854**		**4,321,496**		**4,268,027**		**148,392**		**4,365,246**

Weapons Procurement, Navy—Overview

The budget request for fiscal year 2004 included an authorization of $1,991.8 million for Weapons Procurement, Navy in the Department of Defense.

The House bill would authorize $2,529.8 million.

The Senate amendment would authorize $2,046.8 million.

The conferees recommend an authorization of $2,233.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Navy										
	Combat Aircraft										
	Combat Aircraft										
1	AV-8B (V/STOL)HARRIER (MYP)		12,493		12,493		12,493				12,493
2	F/A-18E/F (FIGHTER) HORNET (MYP)	42	2,946,380	42	2,971,380	42	2,946,380			42	2,946,380
	F/A-18E/F aircraft armament equipment				[25,000]						
3	F/A-18E/F (FIGHTER) HORNET (MYP) (AP-CY)		84,765		84,765		84,765				84,765
4	F/A-18G (FIGHTER) HORNET (MYP) (AP-CY)										
5	V-22 (MEDIUM LIFT)	9	833,109	9	833,109	9	833,109			9	833,109
6	V-22 (MEDIUM LIFT) (AP-CY)		39,058		39,058		39,058				39,058
7	AH-1W (HELICOPTER) SEA COBRA										
8	UH-1Y/AH-1Z	9	310,799	9	310,799	9	310,799			9	310,799
9	MH-60S (MYP)	13	336,536	13	336,536	13	336,536			13	336,536
10	MH-60S (MYP) ADVANCE PROCUREMENT (CY)		94,972		94,972		94,972				94,972
11	MH-60R	6	352,057	6	352,057	6	355,557			6	352,057
	Airborne low frequency sonar (ALFS)						[3,500]				
12	MH-60R ADVANCE PROCUREMENT (CY)		46,472		46,472		46,472				46,472
13	E-2C (EARLY WARNING) HAWKEYE (MYP)	2	211,097	2	211,097	2	211,097			2	211,097
14	E-2C (EARLY WARNING) HAWKEYE (MYP) (AP-		17,409		17,409		17,409				17,409
	Airlift Aircraft										
	Airlift Aircraft										
15	MH-60S (MYP)										
16	UC-35	2	15,579	2	15,579	4	31,179	2	15,600	4	31,179
	Operational Support Aircraft (OSA)					[2]	[15,600]	[2]	[15,600]		
17	C-40A	1	63,952	1	63,952	1	63,952			1	63,952
18	C-37						55,000	1	55,000	1	55,000
	C-37 aircraft procurement acceleration						[55,000]	[1]	[55,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Trainer Aircraft										
	Trainer Aircraft										
19	T-39	1	22,018	1	22,018	1	22,018			1	22,018
20	T-45TS (TRAINER) GOSHAWK	15	339,201	15	339,201	15	339,201			15	339,201
21	JPATS		2,399		17,099	5	37,399		21,700		24,099
	T-6A aircraft and ground based systems				[14,700]	[5]	[35,000]		[21,700]		
	Other Aircraft										
	Other Aircraft										
22	KC-130J		39,163		39,163		39,163				39,163
23	KC-130J (AP-CY)		40,000		40,000		40,000				40,000
24	F-5	4	1,947	4	1,947	4	1,947			4	1,947
	Modification of Aircraft										
	Modification of Aircraft										
25	EA-6 SERIES		207,146		339,546		207,146		60,000		267,146
	EA-6B OWP				[60,000]				[60,000]		
	EA-6B OBOGS				[6,000]						
	EA-6B ICAP III kits				[66,400]						
26	AV-8 SERIES		20,866		57,866		70,866		37,000		57,866
	AV-8B avionics upgrade						[13,000]				
	Litening AT pods and conversion of Litening II to AT				[37,000]		[37,000]		[37,000]		
27	F-14 SERIES										
28	ADVERSARY		2,649		2,649		2,649				2,649
29	F-18 SERIES		335,894		335,894		335,894				335,894
30	H-46 SERIES		81,072		85,072		81,072				81,072
	CH-46 OSIP inventory adjustment				[4,000]						
31	AH-1W SERIES		5,810		5,810		5,810				5,810
32	H-53 SERIES		9,676		9,676		9,676				9,676
33	SH-60 SERIES		18,405		18,405		18,405				18,405

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
34	H-1 SERIES		3,492		15,492		8,992		5,000		8,492
	Navigational thermal imaging system						[5,500]		[5,000]		
	AH/UH-1 IR suppression system modifications				[12,000]						
35	H-3 SERIES										
36	EP-3 SERIES		31,506		40,206		36,306				31,506
	EP-3 service life assessment						[4,800]				
	USQ-146 communication jammer upgrade				[8,700]						
37	P-3 SERIES		94,972		103,972		134,372		27,500		122,472
	P-3 ASUW improvement program (AIP)						[39,400]		[26,000]		
	Electro-optics and communications upgrades				[9,000]				[1,500]		
38	S-3 SERIES		8,364		8,364		8,364				8,364
39	E-2 SERIES		43,139		43,139		43,139				43,139
40	TRAINER A/C SERIES		10,497		10,497		10,497				10,497
41	C-2A		35,318		35,318		35,318				35,318
42	C-130 SERIES		6,554		6,554		6,554				6,554
43	FEWSG		565		565		565				565
44	CARGO/TRANSPORT A/C SERIES		13,290		13,290		13,290				13,290
45	E-6 SERIES		48,517		48,517		48,517				48,517
46	EXECUTIVE HELICOPTERS SERIES		26,537		26,537		26,537				26,537
47	SPECIAL PROJECT AIRCRAFT		49,601		49,601		49,601				49,601
48	T-45 SERIES		22,321		41,421		22;321				22,321
	T-45A to C conversion				[19,100]						
49	POWER PLANT CHANGES		21,564		21,564		21,564				21,564
50	JPATS SERIES		534		534		534				534
51	AVIATION LIFE SUPPORT MODS		6,358		6,358		6,358				6,358
52	COMMON ECM EQUIPMENT		20,729		20,729		20,729				20,729
53	COMMON AVIONICS CHANGES		148,627		148,627		148,627				148,627
54	V-22 (TILT/ROTOR ACFT) OSPREY		4,814		4,814		4,814				4,814

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Spares and Repair Parts										
	Aircraft Spares and Repair Parts										
55	SPARES AND REPAIR PARTS		1,158,057		1,158,057		1,158,057				1,158,057
	Aircraft Support Equipment and Facilities										
	Aircraft Support Equipment and Facilities										
56	CANCELLED ACCOUNT ADJUSTMENTS (M)										
57	CANCELLED ACCOUNT ADJUSTMENTS (88)										
58	CANCELLED ACCOUNT ADJ (89)										
59	CANCELLED ACCOUNT ADJUSTMENT (90)										
60	PEACEKEEPER										
61	COMMON GROUND EQUIPMENT		460,865		460,865		460,865				460,865
62	AIRCRAFT INDUSTRIAL FACILITIES		15,487		15,487		15,487				15,487
63	WAR CONSUMABLES		11,247		11,247		11,247				11,247
64	OTHER PRODUCTION CHARGES		25,790		25,790		25,790				25,790
65	SPECIAL SUPPORT EQUIPMENT		26,785		26,785		26,785				26,785
66	FIRST DESTINATION TRANSPORTATION		1,694		1,694		1,694				1,694
67	CANCELLED ACCOUNT ADJUSTMENTS										
	Total - Aircraft Procurement, Navy		**8,788,148**		**9,050,048**		**8,996,948**		**221,800**		**9,009,948**

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Weapons Procurement, Navy										
	Ballistic Missiles										
	Ballistic Missiles										
1	TRIDENT II	12	675,209	12	675,209	12	675,209			12	675,209
2	ADVANCE PROCUREMENT (CY)										
	Modification of Missiles										
3	TRIDENT II MODS										
	Support Equipment and Facilities										
4	MISSILE INDUSTRIAL FACILITIES		1,305		1,305		1,305				1,305
	Other Missiles										
	Strategic Missiles										
5	TOMAHAWK	267	277,588	600	653,588	267	277,588		208,000		485,588
	Additional missiles				[336,000]				[183,000]		
	Tooling and testing				[40,000]				[25,000]		
5a	Affordable weapon			2,000	138,000						
6	ESSM	105	112,774	105	112,774	105	112,774			105	112,774
	Tactical Missiles										
7	AMRAAM	53	37,648	53	37,648	53	37,648			53	37,648
8	SIDEWINDER	167	35,818	167	35,818	167	35,818			167	35,818
9	JSOW	429	138,451	429	138,451	429	138,451			429	138,451
10	SLAM-ER	84	54,145	84	54,145	84	54,145			84	54,145
11	STANDARD MISSILE	75	148,308	75	148,308	75	148,308			75	148,308
12	RAM	90	48,315	90	48,315	90	48,315			90	48,315
13	AERIAL TARGETS		70,676		85,676		85,676		10,000		80,676
	GQM-163A Supersonic Sea Skimming Tgts (SSST)				[15,000]		[15,000]		[10,000]		
14	DRONES AND DECOYS										
15	OTHER MISSILE SUPPORT		10,943		10,943		10,943				10,943

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Modification of Missiles										
16	SIDEWINDER MODS										
17	HARM MODS		7,787		7,787		7,787		-7,787		
	Precision navigation units upgrade - termination								[-7,787]		
18	STANDARD MISSILES MODS		50,836		50,836		50,836				50,836
	Support Equipment and Facilities										
19	WEAPONS INDUSTRIAL FACILITIES		7,443		7,443		27,443		20,000		27,443
	ABL facilities restoration						[20,000]		[20,000]		
20	FLEET SATELLITE COMM (MYP) (SPACE)										
	Ordnance Support Equipment										
21	ORDNANCE SUPPORT EQUIPMENT		15,361		15,361		15,361				15,361
	Torpedoes and Related Equipment										
	Torpedoes and Related Equip.										
22	ASW TARGETS		25,532		25,532		25,532				25,532
	Mod of Torpedoes and Related Equipment										
23	MK-46 TORPEDO MODS		34,249		34,249		34,249				34,249
24	MK-48 TORPEDO ADCAP MODS		60,372		60,372		60,372				60,372
25	QUICKSTRIKE MINE		3,210		3,210		3,210				3,210
	Support Equipment										
26	TORPEDO SUPPORT EQUIPMENT		24,943		24,943		24,943				24,943
27	ASW RANGE SUPPORT		12,811		12,811		12,811				12,811
	Destination Transportation										
28	FIRST DESTINATION TRANSPORTATION		2,776		2,776		2,776				2,776
	Other Weapons										
	Guns and Gun Mounts										
29	SMALL ARMS AND WEAPONS		4,240		4,240		4,240				4,240
30	COAST GUARD WEAPONS										
31	AIRBORNE MINE NEUTRALIZATION SYSTEMS										

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Modification of Guns and Gun Mounts										
32	CIWS MODS		41,448		50,448		61,448		15,000		56,448
	CIWS-1B upgrade kits				[9,000]		[20,000]		[15,000]		
33	5/54 GUN MOUNT MODS										
34	GUN MOUNT MODS		27,263		27,263		27,263		-3,500		23,763
	Slow obligations/expenditures								[-3,500]		
	Other										
35	PIONEER		13,622		13,622		13,622				13,622
36	CANCELLED ACCOUNT ADJUSTMENTS										
37	CANCELLED ACCOUNT ADJ (89)										
	Spares and Repair Parts										
	Spares and Repair Parts										
38	SPARES AND REPAIR PARTS		48,748		48,748		48,748				48,748
	Total - Weapons Procurement, Navy		**1,991,821**		**2,529,821**		**2,046,821**		**241,713**		**2,233,534**

Procurement of Ammunition, Navy and Marine Corps—Overview

The budget request for fiscal year 2004 included an authorization of $922.4 million for Ammunition Procurement, Navy and Marine Corps in the Department of Defense.

The House bill would authorize $963.4 million.

The Senate amendment would authorize $924.3 million.

The conferees recommend an authorization of $924.3 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Navy & Marine Corps										
	Proc Ammo, Navy										
	Navy Ammunition										
1	GENERAL PURPOSE BOMBS		164,105		184,105		164,105				164,105
	Bomb bodies to synchronize with PGM kits				[20,000]						
2	JDAM	12,326	277,347	12,326	277,347	12,326	277,347			12,326	277,347
3	AIRBORNE ROCKETS, ALL TYPES		28,245		28,245		28,245				28,245
4	MACHINE GUN AMMUNITION		17,933		17,933		17,933				17,933
5	PRACTICE BOMBS		51,417		51,417		51,417				51,417
6	CARTRIDGES & CART ACTUATED DEVICES		26,374		26,374		26,374				26,374
7	AIRCRAFT ESCAPE ROCKETS		10,904		10,904		10,904				10,904
8	AIR EXPENDABLE COUNTERMEASURES		44,068		44,068		44,068				44,068
9	JATOS		4,627		4,627		4,627				4,627
10	5 INCH/54 GUN AMMUNITION		13,248		13,248		13,248				13,248
11	EXTENDED RANGE GUIDED MUNITIONS (ERGM		3,776		3,776		3,776				3,776
12	76MM GUN AMMUNITION		1,226		1,226		1,226				1,226
13	OTHER SHIP GUN AMMUNITION		16,368		16,368		16,368				16,368
14	SMALL ARMS & LANDING PARTY AMMO		17,724		17,724		17,724				17,724
15	PYROTECHNIC AND DEMOLITION		10,469		10,469		10,469				10,469
16	MINE NEUTRALIZATION DEVICES										
17	AMMUNITION LESS THAN $5 MILLION		2,173		2,173		2,173				2,173
18	CAWCF CLOSURE COSTS										
	Proc Ammo, MC										
	Marine Corps Ammunition										
19	5.56 MM, ALL TYPES		24,618		29,618		24,618				24,618
	M855 lead free round				[5,000]						
20	7.62 MM, ALL TYPES		6,351		6,351		6,351				6,351
21	LINEAR CHARGES, ALL TYPES		36,552		36,552		36,552				36,552

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
22	.50 CALIBER		10,218		10,218		10,218				10,218
23	40 MM, ALL TYPES		10,191		10,191		10,191				10,191
24	60 MM HE M888										
25	60MM, ALL TYPES		6,064		12,064		8,064		2,000		8,064
	60 MM high explosive cartridge				[6,000]		[2,000]		[2,000]		
26	81MM, ALL TYPES		19,361		19,361		19,361				19,361
27	120MM, ALL TYPES		18,691		18,691		18,691				18,691
28	FUZE, ET, XM762										
29	CTG 25MM, ALL TYPES		3,859		3,859		3,859				3,859
30	9 MM ALL TYPES		2,706		2,706		2,706				2,706
31	GRENADES, ALL TYPES		7,914		7,914		7,914				7,914
32	STINGER SLEP										
33	ROCKETS, ALL TYPES		15,461		15,461		15,461				15,461
34	ARTILLERY, ALL TYPES		49,813		59,813		49,813				49,813
	M795 HE round				[10,000]						
35	AAAV										
36	DEMOLITION MUNITIONS, ALL TYPES		3,752		3,752		3,752				3,752
37	FUZE, ALL TYPES		4,397		4,397		4,397				4,397
38	NON LETHALS		3,671		3,671		3,671				3,671
39	AMMO MODERNIZATION		7,116		7,116		7,116				7,116
40	ITEMS LESS THAN $5 MILLION		1,616		1,616		1,616				1,616
	Total - Procurement of Ammunition, Navy &		922,355		963,355		924,355		2,000		924,355

Shipbuilding and Conversion, Navy—Overview

The budget request for fiscal year 2004 included an authorization of $11,439.0 million for Shipbuilding and Conversion, Navy in the Department of Defense.

The House bill would authorize $11,472.4 million.

The Senate amendment would authorize $11,708.0 million.

The conferees recommend an authorization of $11,730.0 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
Line	Program Title	Qty	Request Cost-ORIG	Qty	Authorized Cost	Qty	Authorized Cost	Qty	Change Cost	Qty	Authorized Cost
	Shipbuilding and Conversion, Navy										
	Other Warships										
	Other Warships										
1	CARRIER REPLACEMENT PROGRAM										
2	CARRIER REPLACEMENT PROGRAM (AP-CY)		1,186,564		1,186,564		1,186,564				1,186,564
3	VIRGINIA CLASS SUBMARINE	1	1,511,935	1	1,511,935	1	1,511,935			1	1,511,935
4	VIRGINIA CLASS SUBMARINE (AP-CY)		1,016,172		1,016,172		1,016,172		-65,000		951,172
	FY 2004 for FY 2008								[-65,000]		
5	SSGN CONVERSION	2	930,700	2	930,700	2	930,700			2	930,700
6	SSGN ADVANCE PROCUREMENT (CY)		236,600		236,600		236,600				236,600
7	CRUISER CONVERSION	1	194,440	1	194,440	1	194,440			1	194,440
8	CRUISER CONVERSION ADVANCE										
9	CVN REFUELING OVERHAULS										
10	CVN REFUELING OVERHAULS (AP-CY)		367,832		367,832		367,832				367,832
11	SUBMARINE REFUELING OVERHAULS						248,000		248,000		248,000
	SSN refueling overhaul						[248,000]		[248,000]		
12	SUBMARINE REFUELING OVERHAULS (AP-CY)		164,372		164,372		164,372				164,372
13	DDG-51	3	3,198,311	3	3,198,311	3	3,219,311		20,000	3	3,218,311
	DDG-51 modernization program						[20,000]		[20,000]		
	Composite ship louvers						[1,000]				
14	DDG-51 (AP-CY)										
	Amphibious Ships										
	Amphibious Ships										
15	LHD-1 AMPHIBIOUS ASSAULT SHIP		355,006		355,006		355,006				355,006
16	LPD-17	1	1,192,034	1	1,192,034	1	1,192,034		75,000	1	1,267,034
	Advance procurement for LPD-23								[75,000]		
17	LPD-17 (AP-CY)										

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Auxiliaries, Craft and Prior Year Program Costs										
	Auxiliaries, Craft and Prior Year Program Costs										
18	LCU(X)										
19	OUTFITTING		344,949		344,949		344,949		1,000		345,949
	Composite ship louvers								[1,000]		
20	SERVICE CRAFT		31,480		34,480		31,480	1	3,000	1	34,480
	Yard oiler				[3,000]			[1]	[3,000]		
21	LCAC SLEP	3	73,087	4	94,087	3	73,087			3	73,087
	LCAC SLEP			[1]	[21,000]						
22	CANCELLED ACCOUNT ADJUSTMENTS										
23	MINE HUNTER			2	9,400			2	9,000	2	9,000
	Minehunter SWATH			[2]	[9,400]			[2]	[9,000]		
24	COMPLETION OF PY SHIPBUILDING PROGRAMS		635,502		635,502		635,502				635,502
	Total - Shipbuilding and Conversion, Navy		11,438,984		11,472,384		11,707,984		291,000		11,729,984

Other Procurement, Navy—Overview

The budget request for fiscal year 2004 included an authorization of $4,679.4 million for Other Procurement, Navy in the Department of Defense.

The House bill would authorize $4,614.9 million.

The Senate amendment would authorize $4,741.9 million.

The conferees recommend an authorization of $4,739.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Other Procurement, Navy										
	Ships Support Equipment										
	Ship Propulsion Equipment										
1	LM-2500 GAS TURBINE		10,664		10,664		10,664				10,664
2	ALLISON 501K GAS TURBINE		12,910		12,910		12,910				12,910
	Propellers										
3	SUBMARINE PROPELLERS										
	Navigation Equipment										
4	OTHER NAVIGATION EQUIPMENT		15,130		15,130		15,130				15,130
	Underway Replenishment Equipment										
5	UNDERWAY REPLENISHMENT EQUIPMENT		1,398		1,398		1,398				1,398
	Periscopes										
6	SUB PERISCOPES & IMAGING EQUIPMENT		33,391		33,391		33,391				33,391
	Other Shipboard Equipment										
7	FIREFIGHTING EQUIPMENT		22,015		22,015		22,015				22,015
8	COMMAND AND CONTROL SWITCHBOARD		4,102		4,102		4,102				4,102
9	POLLUTION CONTROL EQUIPMENT		50,392		50,392		50,392				50,392
10	SUBMARINE SUPPORT EQUIPMENT		8,830		8,830		8,830				8,830
11	VIRGINIA CLASS SUPPORT EQUIPMENT										
12	SUBMARINE BATTERIES		11,471		11,471		11,471				11,471
13	STRATEGIC PLATFORM SUPPORT EQUIP		26,660		26,660		26,660				26,660
14	DSSP EQUIPMENT		27,493		27,493		27,493				27,493
15	LCAC		10,627		10,627		10,627				10,627
16	MINESWEEPING EQUIPMENT		13,592		13,592		13,592				13,592
17	ITEMS LESS THAN $5 MILLION		124,214		127,214		133,614		2,000		126,214
	Integrated condition assessment system (ICAS)						[9,400]		[2,000]		
	Fuel and engine maintenance savings system				[3,000]						
18	CHEMICAL WARFARE DETECTORS										

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
19	SUBMARINE LIFE SUPPORT SYSTEM		14,591		14,591		14,591				14,591
	Reactor Plant Equipment										
20	REACTOR POWER UNITS		333,107		333,107		333,107				333,107
21	REACTOR COMPONENTS		211,030		211,030		211,030				211,030
	Ocean Engineering										
22	DIVING AND SALVAGE EQUIPMENT		7,258		7,258		7,258				7,258
	Small Boats										
23	STANDARD BOATS		53,913		53,913		53,913				53,913
	Training Equipment										
24	OTHER SHIPS TRAINING EQUIPMENT		8,115		8,115		8,115				8,115
	Production Facilities and Equipment										
25	OPERATING FORCES IPE		5,499		13,499		5,499		8,000		13,499
	Expeditionary maintenance facility				[8,000]				[8,000]		
	Other Ship Support										
26	NUCLEAR ALTERATIONS		128,441		128,441		128,441				128,441
	Drug Interdiction Support										
27	DRUG INTERDICTION SUPPORT										
	Communications and Electronics Equipment										
	Ship Radars										
28	RADAR SUPPORT										
29	TISS										
	Ship Sonars										
30	SPQ-9B RADAR		9,739		29,539		19,439		10,000		19,739
	Shipboard radar transmitter				[19,800]		[9,700]		[10,000]		
31	AN/SQQ-89 SURF ASW COMBAT SYSTEM										
32	SSN ACOUSTICS		265,423		265,423		265,423				265,423
33	UUV PROGRAM										
34	UNDERSEA WARFARE SUPPORT EQUIPMENT		5,758		5,758		5,758				5,758

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
35	SONAR SWITCHES AND TRANSDUCERS		13,644		13,644		13,644				13,644
	ASW Electronic Equipment										
36	SUBMARINE ACOUSTIC WARFARE SYSTEM		24,631		27,631		24,631		3,000		27,631
	Acoustic intercept improvement				[3,000]				[3,000]		
37	SSTD		11,277		11,277		11,277				11,277
38	ADVANCE DEPLOYABLE SYSTEM										
39	FIXED SURVEILLANCE SYSTEM		46,360		46,360		46,360				46,360
40	SURTASS		15,228		15,228		15,228				15,228
41	ASW OPERATIONS CENTER		6,516		6,516		6,516				6,516
	Electronic Warfare Equipment										
42	AN/SLQ-32		19,429		19,429		19,429				19,429
43	INFORMATION WARFARE SYSTEMS		4,191		4,191		4,191				4,191
	Reconnaissance Equipment										
44	SHIPBOARD IW EXPLOIT		123,267		123,267		123,267				123,267
	Submarine Surveillance Equipment										
45	SUBMARINE SUPPORT EQUIPMENT PROGRAM		71,411		71,411		71,411				71,411
	Other Ship Electronic Equipment										
46	NAVY TACTICAL DATA SYSTEM				6,500						
	Navy tactical data system				[6,500]						
47	COOPERATIVE ENGAGEMENT CAPABILITY		62,845		62,845		62,845				62,845
48	GCCS-M EQUIPMENT		52,398		52,398		52,398				52,398
49	NAVAL TACTICAL COMMAND SUPPORT SYSTE		52,594		52,594		52,594				52,594
50	ATDLS		16,197		16,197		16,197				16,197
51	MINESWEEPING SYSTEM REPLACEMENT		18,324		18,324		18,324				18,324
52	NAVSTAR GPS RECEIVERS (SPACE)		15,674		15,674		15,674				15,674
53	ARMED FORCES RADIO AND TV		4,194		4,194		4,194				4,194
54	STRATEGIC PLATFORM SUPPORT EQUIP		8,560		8,560		8,560				8,560

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Training Equipment										
55	OTHER SPAWAR TRAINING EQUIPMENT										
56	OTHER TRAINING EQUIPMENT		50,542		50,542		50,542				50,542
	Aviation Electronic Equipment										
57	MATCALS		15,629		15,629		15,629				15,629
58	SHIPBOARD AIR TRAFFIC CONTROL		7,860		7,860		7,860				7,860
59	AUTOMATIC CARRIER LANDING SYSTEM		17,493		17,493		17,493				17,493
60	NATIONAL AIR SPACE SYSTEM		30,095		30,095		30,095		-14,000		16,095
	Delay in procurement schedule								[-14,000]		
61	AIR STATION SUPPORT EQUIPMENT		7,633		7,633		7,633				7,633
62	MICROWAVE LANDING SYSTEM										
63	FACSFAC		4,337		4,337		4,337				4,337
64	ID SYSTEMS		21,829		21,829		21,829				21,829
65	TAC A/C MISSION PLANNING SYS(TAMPS)		8,639		8,639		8,639				8,639
	Other Shore Electronic Equipment										
66	DEPLOYABLE JOINT COMMAND AND CONT		46,551				46,551				46,551
	Program reduction				[-46,551]						
67	TADIX-B										
68	NAVAL SPACE SURVEILLANCE SYSTEM										
69	DIMHRS		5,512		5,512		5,512				5,512
70	COMMON IMAGERY GROUND SURFACE SYSTEM		60,600		60,600		60,600				60,600
71	RADIAC		8,600		8,600		8,600				8,600
72	GPETE		10,006		10,006		10,006				10,006
73	INTEG COMBAT SYSTEM TEST FACILITY		8,726		8,726		8,726				8,726
74	EMI CONTROL INSTRUMENTATION		6,469		6,469		6,469				6,469
75	ITEMS LESS THAN $5 MILLION		15,420		19,420		15,420		5,000		20,420
	Law enforcement information exchange (LINX)				[4,000]						
	Shipboard communications upgrade								[5,000]		

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Shipboard Communications										
76	SHIPBOARD TACTICAL COMMUNICATIONS		49,430		49,430		49,430				49,430
77	SHIP COMMUNICATIONS AUTOMATION		175,087		175,087		182,387				175,087
	Upgrade deployed shipboard switching systems						[7,300]				
78	COMMUNICATIONS ITEMS UNDER $5M		25,213		25,213		25,213				25,213
	Submarine Communications										
79	SHORE LF/VLF COMMUNICATIONS		16,591		16,591		16,591				16,591
80	SUBMARINE COMMUNICATION EQUIPMENT		104,935		104,935		115,935		6,000		110,935
	Submarine high data rate antenna						[11,000]		[6,000]		
	Satellite Communications										
81	SATELLITE COMMUNICATIONS SYSTEMS		257,388		257,388		257,388				257,388
	Shore Communications										
82	JCS COMMUNICATIONS EQUIPMENT		3,939		3,939		3,939				3,939
83	ELECTRICAL POWER SYSTEMS		1,437		1,437		1,437				1,437
84	NSIPS		363		363		363				363
85	JEDMICS										
	JEDMICS						[2,500]				
	JEDMICS (Transfer to PE 63739, RDN 71)						[-2,500]				
86	NAVAL SHORE COMMUNICATIONS		75,336		75,336		75,336				75,336
	Cryptographic Equipment										
87	INFO SYSTEMS SECURITY PROGRAM (ISSP)		81,938		81,938		81,938				81,938
	Cryptologic Equipment										
88	CRYPTOLOGIC COMMUNICATIONS		24,739		24,739		24,739				24,739
	Other Electronic Support										
89	COAST GUARD EQUIPMENT		12,582		12,582		12,582				12,582
	Drug Interdiction Support										
90	OTHER DRUG INTERDICTION SUPPORT										

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aviation Support Equipment										
	Sonobuoys										
91	SONOBUOYS - ALL TYPES		85,632		85,632		85,632				85,632
	Aircraft Support Equipment										
92	WEAPONS RANGE SUPPORT EQUIPMENT		30,981		30,981		30,981				30,981
93	EXPEDITIONARY AIRFIELDS		7,569		7,569		7,569				7,569
94	AIRCRAFT REARMING EQUIPMENT		11,850		11,850		11,850				11,850
95	AIRCRAFT LAUNCH & RECOVERY EQUIPMENT		20,277		20,277		20,277				20,277
96	METEOROLOGICAL EQUIPMENT		25,658		25,658		25,658				25,658
97	OTHER PHOTOGRAPHIC EQUIPMENT		1,775		1,775		1,775				1,775
98	AVIATION LIFE SUPPORT		27,749		27,749		27,749				27,749
99	AIRBORNE MINE COUNTERMEASURES		13,624		23,624		13,624				13,624
	Mk-105 Influence Mine Sweeping System				[10,000]						
100	LAMPS MK III SHIPBOARD EQUIPMENT		22,537		22,537		22,537				22,537
101	OTHER AVIATION SUPPORT EQUIPMENT		4,969		4,969		4,969				4,969
	Ordnance Support Equipment										
	Ship Gun System Equipment										
102	GUN FIRE CONTROL EQUIPMENT										
103	NAVAL FIRES CONTROL SYSTEM		4,301		9,001		4,301		4,700		9,001
	NFCS for LCS				[4,700]				[4,700]		
104	MK98-NIGHT VISION DEVICES		12,638		12,638		12,638				12,638
	Ship Missile System Equipment										
105	NATO SEASPARROW		32,797		32,797		32,797				32,797
106	RAM GMLS		31,300		31,300		31,300				31,300
107	SHIP SELF DEFENSE SYSTEM		58,089		58,089		58,089				58,089
108	AEGIS SUPPORT EQUIPMENT		105,227		105,227		117,227		6,000		111,227
	Integrated bridge system (IBS)						[12,000]		[6,000]		
109	SURFACE TOMAHAWK SUPPORT EQUIPMENT		63,423		63,423		63,423				63,423

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
110	SUBMARINE TOMAHAWK SUPPORT		5,786		5,786		5,786				5,786
111	VERTICAL LAUNCH SYSTEMS		7,875		7,875		7,875				7,875
	FBM Support Equipment										
112	STRATEGIC PLATFORM SUPPORT EQUIPMENT										
113	STRATEGIC MISSILE SYSTEMS EQUIPMENT		103,874		103,874		103,874				103,874
	ASW Support Equipment										
114	SSN COMBAT CONTROL SYSTEMS		68,032		68,032		68,032				68,032
115	SUBMARINE ASW SUPPORT EQUIPMENT		4,951		4,951		4,951				4,951
116	SURFACE ASW SUPPORT EQUIPMENT		4,780		4,780		4,780				4,780
117	ASW RANGE SUPPORT EQUIPMENT		7,275		7,275		7,275				7,275
	Other Ordnance Support Equipment										
118	EXPLOSIVE ORDNANCE DISPOSAL EQUIPMENT		8,083		8,083		8,083				8,083
119	ITEMS LESS THAN $5 MILLION		4,726		4,726		4,726				4,726
	Other Expendable Ordnance										
120	ANTI-SHIP MISSILE DECOY SYSTEM		44,757		44,757		55,757		11,000		55,757
	NULKA decoys						[11,000]		[11,000]		
121	SURFACE TRAINING DEVICE MODS		7,352		7,352		7,352				7,352
122	SUBMARINE TRAINING DEVICE MODS		25,150		25,150		30,150		5,000		30,150
	Submarine training performance support systems						[5,000]		[5,000]		
	Civil Engineering Support Equipment										
	Civil Engineering Support Equipment										
123	ARMORED SEDANS										
124	PASSENGER CARRYING VEHICLES		2,305		2,305		2,305				2,305
125	GENERAL PURPOSE TRUCKS		1,472		1,472		1,472				1,472
126	CONSTRUCTION & MAINTENANCE EQUIP		19,721		19,721		19,721				19,721
127	FIRE FIGHTING EQUIPMENT		8,834		8,834		8,834				8,834
128	TACTICAL VEHICLES		38,745		38,745		38,745				38,745
129	AMPHIBIOUS EQUIPMENT		4,251		4,251		4,251				4,251

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
130	POLLUTION CONTROL EQUIPMENT		5,007		5,007		5,007				5,007
131	ITEMS UNDER $5 MILLION		13,608		13,608		13,608				13,608
132	PHYSICAL SECURITY VEHICLES		943		943		943				943
	Supply Support Equipment										
	Supply Support Equipment										
133	MATERIALS HANDLING EQUIPMENT		15,053		15,053		15,053				15,053
134	OTHER SUPPLY SUPPORT EQUIPMENT		13,883		19,883		21,883		6,000		19,883
	Serial number tracking system (SNTS)				[6,000]		[8,000]		[6,000]		
135	FIRST DESTINATION TRANSPORTATION		5,197		5,197		5,197				5,197
136	SPECIAL PURPOSE SUPPLY SYSTEMS		75,571		75,571		75,571				75,571
	Personnel and Command Support Equipment										
	Training Devices										
137	TRAINING SUPPORT EQUIPMENT		2,532		2,532		2,532				2,532
	Command Support Equipment										
138	COMMAND SUPPORT EQUIPMENT		60,688		60,688		70,688		7,000		67,688
	Man overboard indicator (MOBI) system						[10,000]		[7,000]		
139	EDUCATION SUPPORT EQUIPMENT		7,786		7,786		7,786				7,786

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
140	MEDICAL SUPPORT EQUIPMENT		9,511		9,511		9,511				9,511
141	INTELLIGENCE SUPPORT EQUIPMENT		21,148		21,148		21,148				21,148
142	OPERATING FORCES SUPPORT EQUIPMENT		9,219		9,219		9,219				9,219
143	MOBILE SENSOR PLATFORM		35,899		35,899		35,899				35,899
144	ENVIRONMENTAL SUPPORT EQUIPMENT		15,349		15,349		15,349				15,349
145	PHYSICAL SECURITY EQUIPMENT		74,626		91,626		74,626				74,626
	Nonlethal swimmer detection systems				[17,000]						
	Productivity Programs										
146	JUDGMENT FUND REIMBURSEMENT										
	Other										
147	CANCELLED ACCOUNT ADJUSTMENTS										
148	CANCELLED ACCOUNT ADJUSTMENT (88)										
	Spares and Repair Parts										
149	SPARES AND REPAIR PARTS		247,636		247,636		247,636				247,636
	Financial information systems						-20,900				
	Information technology general reduction				-100,000						
	Total - Other Procurement, Navy		4,679,443		4,614,892		4,741,943		59,700		4,739,143

Procurement, Marine Corps—Overview

The budget request for fiscal year 2004 included an authorization of $1,071.0 million for Procurement, Marine Corps in the Department of Defense.

The House bill would authorize $1,154.3 million.

The Senate amendment would authorize $1,089.6 million.

The conferees recommend an authorization of $1,123.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Procurement, Marine Corps										
	Weapons and Combat Vehicles										
	Tracked Combat Vehicles										
1	AAV7A1 PIP		11,297		36,297		11,297		5,000		16,297
	AAV RAM/RS				[25,000]				[5,000]		
2	AAAV		97,915		97,915		97,915				97,915
3	LAV PIP		13,191		25,891		13,191				13,191
	LAV RAM				[12,700]						
4	IMPROVED RECOVERY VEHICLE (IRV)		3,650		3,650		3,650				3,650
5	MODIFICATION KITS (TRKD VEH)		6,757		6,757		6,757				6,757
6	M1A1 FIREPOWER ENHANCEMENTS		4,222		4,222		4,222				4,222
	Artillery and Other Weapons										
7	HIMARS	1	17,954	1	17,954	1	17,954			1	17,954
8	155MM LIGHTWEIGHT TOWED HOWITZER	60	111,489	60	111,489	60	111,489			60	111,489
9	MOD KITS (ARTILLERY)		3,305		3,305		3,305				3,305
10	MARINE ENHANCEMENT PROGRAM		6,898		6,898		6,898				6,898
11	WEAPONS AND COMBAT VEHICLES UNDER $5		4,977		13,077		6,177		5,000		9,977
	Additional M249 Squad automatic weapons (SAW)				[8,100]		[1,200]		[5,000]		
	Weapons										
12	MODULAR WEAPON SYSTEM		13,712		13,712		13,712				13,712
	Other Support										
13	OPERATIONS OTHER THAN WAR		1,349		1,349		1,349				1,349
	Guided Missiles and Equipment										
	Guided Missiles										
14	EADS MOD		1,996		1,996		1,996				1,996
15	JAVELIN										
16	PEDESTAL MOUNTED STINGER (PMS) (MYP)		817		817		817				817
17	HIMARS ROCKETS										

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
18	PREDATOR (SRAW)	526	36,398	526	36,398	526	36,398			526	36,398
	Other Support										
19	MODIFICATION KITS		587		587		587				587
	Communications and Electronics Equipment										
	Vehicle Mounted Radios and Equipment										
20	SMALL UNIT REMOTE SCOUTING SYSTEM		2,058		2,058		2,058				2,058
	Command and Control Systems										
21	UNIT OPERATIONS CENTER		29,225		29,225		29,225				29,225
22	GLOBAL COMBAT SUPPORT SYSTEM		13,548		13,548		13,548				13,548
23	MULTIPLE ROLE RADAR SYSTEM		1,633		1,633		1,633				1,633
24	JOINT TACTICAL RADIO SYSTEMS		13,919		13,919		13,919				13,919
25	TRANSITION SWITCH MODULE		23,072		23,072		23,072				23,072
26	COMPLIMENTARY LOW ALTITUDE WEAPON										
	Repair and Test Equipment										
27	AUTO TEST EQUIP SYS		20,462		20,462		20,462				20,462
28	GENERAL PURPOSE ELECTRONIC TEST		8,369		8,369		8,369				8,369
	Radar Equipment (Non-tel)										
29	RADAR SET AN/TPS-59		18,211		18,211		18,211				18,211
	Intell/Comm Equipment (Non-tel)										
30	TACTICAL REMOTE SENSOR SYSTEM		9,476		9,476		9,476				9,476
31	INTELLIGENCE SUPPORT EQUIPMENT		12,476		12,476		12,476				12,476
32	MOD KITS (INTEL)		7,856		7,856		7,856				7,856
33	ITEMS UNDER $5 MILLION (INTEL)										
	Repair and Test Equipment (Non-tel)										
34	GENERAL PURPOSE MECHANICAL TMDE		13,215		13,215		13,215				13,215

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Other Comm/Elec Equipment (Non-tel)										
35	NIGHT VISION EQUIPMENT		24,428		34,828		29,828		8,400		32,828
	AN/PVS-14 night vision equipment				[5,400]		[5,400]		[5,400]		
	AN/PVS-17 miniature night sights				[5,000]				[3,000]		
	Other Support (Non-tel)										
36	ITEMS UNDER $5 MILLION (COMM & ELEC)		463		463		463				463
37	COMMON COMPUTER RESOURCES		61,514		61,514		61,514				61,514
38	COMMAND POST SYSTEMS		9,316		9,316		9,316				9,316
39	RADIO SYSTEMS		10,633		10,633		22,633		21,600		32,233
	Lightweight multiband satellite terminals						[12,000]		[12,000]		
	AN/PRC-148 tactical hand held radios				[9,600]				[9,600]		
40	COMM SWITCHING & CONTROL SYSTEMS		19,252		19,252		19,252				19,252
41	COMM & ELEC INFRASTRUCTURE SUPPORT		24,360		24,360		24,360				24,360
42	MOD KITS MAGTF C41		20,786		20,786		20,786				20,786
43	AIR OPERATIONS C2 SYSTEMS		10,790		10,790		10,790				10,790
44	INTELLIGENCE C2 SYSTEMS		3,626		3,626		3,626				3,626
45	FIRE SUPPORT SYSTEM		28,444		28,444		28,444				28,444
	Support Vehicles										
	Administrative Vehicles										
46	COMMERCIAL PASSENGER VEHICLES	30	963	30	963	30	963			30	963
47	COMMERCIAL CARGO VEHICLES		10,278		10,278		10,278				10,278
	Tactical Vehicles										
48	5/4T TRUCK HMMWV (MYP)	1,738	124,548	1,738	124,548	1,738	124,548			1,738	124,548
49	MEDIUM TACTICAL VEHICLE REPLACEMENT		4,611		4,611		4,611				4,611
50	LOGISTICS VEHICLE SYSTEM REP		3,386		3,386		3,386				3,386
51	FAMILY OF TACTICAL TRAILERS										
	Other Support										
52	ITEMS LESS THAN $5 MILLION		4,027		4,027		4,027				4,027

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Engineer and Other Equipment										
	Engineer and Other Equipment										
53	ENVIRONMENTAL CONTROL EQUIP ASSORT		2,724		2,724		2,724				2,724
54	COMBAT BREACHER VEHICLE										
55	BULK LIQUID EQUIPMENT		15,812		15,812		15,812				15,812
56	TACTICAL FUEL SYSTEMS		5,067		5,067		5,067				5,067
57	DEMOLITION SUPPORT SYSTEMS		2,041		2,041		2,041				2,041
58	POWER EQUIPMENT ASSORTED		12,982		12,982		12,982				12,982
59	FAMILY OF EOD EQUIPMENT		4,608		4,608		4,608				4,608
60	BRIDGE BOATS		10,760		10,760		10,760				10,760
	Material Handling Equipment										
61	COMMAND SUPPORT EQUIPMENT										
62	AMPHIBIOUS RAID EQUIPMENT		21,404		21,404		21,404				21,404
63	PHYSICAL SECURITY EQUIPMENT		5,064		5,064		5,064				5,064
64	GARRISON MOBILE ENGR EQUIP		10,742		10,742		10,742				10,742
65	MATERIAL HANDLING EQUIP		27,885		27,885		27,885				27,885
66	FIRST DESTINATION TRANSPORTATION		8,091		8,091		8,091				8,091
	General Property										
67	FIELD MEDICAL EQUIPMENT		1,975		1,975		1,975				1,975
68	TRAINING DEVICES		19,988		27,988		19,988		3,000		22,988
	Battle effects simulators				[4,000]						
	Common range instrumentation system				[4,000]				[3,000]		
69	CONTAINER FAMILY		5,150		5,150		5,150				5,150

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
70	FAMILY OF CONSTRUCTION EQUIPMENT		14,380		14,380		14,380				14,380
71	FAMILY OF INTERNALLY TRANSPORTABLE VEI										
72	RAPID DEPLOYABLE KITCHEN										
	Other Support										
73	FAMILY OF INCIDENT RESPONSE		3,447		3,447		3,447				3,447
74	MODIFICATION KITS		2,597		2,597		2,597				2,597
75	ITEMS LESS THAN $5 MILLION		5,206		14,706		5,206		9,500		14,706
	6T/NATO equivalent absorbed glass mat batteries				[9,500]				[9,500]		
76	CANCELLED ACCOUNT ADJUSTMENT (M)										
	Spares and Repair Parts										
77	SPARES AND REPAIR PARTS		19,617		19,617		19,617				19,617
	Total - Procurement, Marine Corps		**1,070,999**		**1,154,299**		**1,089,599**		**52,500**		**1,123,499**

Aircraft Procurement, Air Force-Overview

The budget request for fiscal year 2004 included an authorization of $12,079.4 million for Aircraft Procurement, Air Force in the Department of Defense.

The House bill would authorize $12,604.5 million.

The Senate amendment would authorize $12,103.1 million.

The conferees recommend an authorization of $12,035.2 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Aircraft Procurement, Air Force										
	Combat Aircraft										
	Tactical Forces										
1	JOINT STRIKE FIGHTER										
2	JOINT STRIKE FIGHTER (AP-CY)										
3	F-22 RAPTOR	22	3,727,093	22	3,566,093	20	3,510,093		-161,000	22	3,566,093
	Vendor cost savings				[-161,000]	[-2]	[-217,000]		[-161,000]		
4	F-22 RAPTOR (AP-CY)		498,285		498,285		498,285				498,285
	Airlift Aircraft										
	Tactical Airlift										
5	C-17A (MYP)	11	2,027,572	12	2,199,572	11	2,115,572		88,000	11	2,115,572
	C-17 Multiyear procurement program - transfer request						[88,000]		[88,000]		
	AF requested transfer				[-10,000]						
	Additional aircraft				[182,000]						
6	C-17A (MYP) (AP-CY)		504,100		504,100		406,100		-98,000		406,100
	C-17 Advance procurement- transfer request						[-98,000]		[-98,000]		
7	C-17 ICS		927,627		927,627		927,627				927,627
	Other Airlift										
8	C-130H										
9	C-130J	5	335,991	5	335,991	5	335,991			5	335,991
10	C-130J (AP-CY)		110,000		110,000		110,000				110,000
	Trainer Aircraft										
	UPT Trainers										
11	CLASSIFIED PROGRAMS										
	Operational Trainers										
12	JPATS	52	280,569	52	280,569	52	280,569			52	280,569

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Aircraft										
	Helicopters										
13	V-22 OSPREY	2	217,853	2	217,853	2	217,853			2	217,853
14	V-22 OSPREY (AP-CY)		15,150		15,150		15,150				15,150
	Mission Support Aircraft										
15	C-32B FEST/DEST AIRCRAFT										
16	CIVIL AIR PATROL A/C	27	2,540	27	2,540	27	2,540			27	2,540
	Other Aircraft										
17	TARGET DRONES		48,402		48,402		48,402				48,402
18	E-8C										
19	E-8C (AP-CY)										
20	HAEUAV	4	197,912	4	197,912	4	197,912			4	197,912
21	HAEUAV (AP-CY)		55,000		55,000		55,000				55,000
22	PREDATOR UAV	16	193,569	16	211,569	16	193,569		18,000		211,569
	Predator B unmanned aerial vehicle				[18,000]				[18,000]		
	Modification of Inservice Aircraft										
	Strategic Aircraft										
23	B-2A		76,464		128,255		101,155		51,791		128,255
	Transfer from PE 64240F (RDAF 116)						[24,691]				
	AF requested transfer				[24,691]				[24,691]		
	Aft deck modification				[27,100]				[27,100]		
24	B-1B		91,623		111,923		111,923		5,300		96,923
	B-1B bomber modifications				[20,300]		[20,300]		[20,300]		
	WCMD modification kits								[-15,000]		
25	B-52		61,133		80,133		61,133				61,133
	Wiring kits/targeting pods				[19,000]						
26	F-117		16,790		16,790		16,790				16,790

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Tactical Aircraft										
27	A-10		17,769		17,769		37,769				17,769
	A-10 Litening pods						[20,000]				
28	F-15		197,605		237,605		234,105		41,500		239,105
	F-15 mods - Identification Friend or Foe (IFF) equipment						[11,500]		[11,500]		
	F-15 engine upgrades / E-Kits				[30,000]		[25,000]		[20,000]		
	ALQ-135 Band 1.5				[10,000]				[10,000]		
29	F-16		300,596		314,796		358,796		25,800		326,396
	F-16 engine procurement						[48,200]		[20,000]		
	F-16 Litening pods						[10,000]				
	Falcon STAR				[5,800]						
	OBOGS retrofit				[8,400]				[5,800]		
30	F-22 RAPTOR		8,284		8,284		8,284				8,284
31	T/AT-37		79		79		79				79
	Airlift Aircraft										
32	C-5		92,047		131,447		131,447		19,700		111,747
	C-5A avionics modernization program						[39,400]				
	C-5 AMP				[39,400]				[19,700]		
33	C-9		978		978		978				978
34	C-17A		42,801		49,101		49,101		6,300		49,101
	C-17 aircraft modifications - AF requested transfer				[6,300]		[6,300]		[6,300]		
35	C-21		1,367		1,367		1,367				1,367
36	C-32A		189		189		189				189
37	C-37A		355		355		355				355
38	C-141										
	Trainer Aircraft										
39	T6 MODIFICATIONS		4,201		4,201		4,201				4,201
40	T-38		132,196		132,196		132,196				132,196

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
41	T-41 AIRCRAFT		88		88		88				88
42	T-43		8,224		8,224		8,224				8,224
	Other Aircraft										
43	KC-10A (ATCA)		20,622		20,622		20,622				20,622
44	C-12		5,769		5,769		5,769				5,769
45	C-18										
46	C-20 MODS		444		444		444				444
47	VC-25A MOD		69,857		69,857		69,857				69,857
48	C-40		200		200		200				200
49	C-130		195,737		201,837		208,637		9,900		205,637
	C-130 APN-241 radar upgrade						[6,100]				
	AN/APN-241 radars for ANG				[6,100]				[3,100]		
	KU-Band satellite integration						[6,800]		[6,800]		
50	C130J MODS		9,759		9,759		9,759				9,759
51	C-135		176,382		405,582		184,982		-65,000		111,382
	Boom operator weapon system trainer						[8,600]		[5,000]		
	Air Force Air Refueling Transfer Account				[229,200]						
	Re-engining								[-70,000]		
52	C-29A MODS										
53	DARP		90,133		105,633		113,933		8,500		98,633
	Cobra Ball dual-sided SIGINT						[12,100]		[3,000]		
	Rivet Joint SIGINT modernization				[5,500]		[5,500]				
	Rivet Joint specific emitter identification						[6,200]				
	Senior Scout intelligent comm exploitation program				[3,000]				[3,000]		
	Cobra ball multichannel tracker				[7,000]				[2,500]		
54	E-3		53,467		62,267		53,467				53,467
	AWACS RSIP				[8,800]						
55	E-4		58,708		58,708		58,708				58,708

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
56	E-8		36,017		63,017		36,017		5,000		41,017
	JSTARS reengining				[27,000]				[5,000]		
57	H-1		3,367		3,367		3,367				3,367
58	H-60		44,723		49,423		44,723				44,723
	AN/ARS-6 V12				[4,700]						
59	OTHER AIRCRAFT		69,706		74,506		69,706				69,706
	Fixed aircrew standardized seats				[4,800]						
60	PREDATOR MODS		14,178		14,178		14,178				14,178
61	CV-22 MODS		279		279		279				279
	Other Modifications										
62	CLASSIFIED PROJECTS		16,525		25,525		16,525				16,525
	Compass Call - block 35 upgrade				[9,000]						
	Aircraft Spares and Repair Parts										
	Aircraft Spares and Repair Parts										
64	SPECIAL OPERATIONS FORCES		11,381		11,381		11,381				11,381
	Aircraft Support Equipment and Facilities										
65	COMMON SUPPORT EQUIPMENT		216,219		216,219		216,219				216,219
	Post Production Support										
66	B-1		8,448		8,448		8,448				8,448
67	B-2A		6,919		6,919		6,919				6,919
68	B-2A		31,556		31,556		31,556				31,556
69	C-130		8,470		8,470		8,470				8,470
70	F-15 POST PRODUCTION SUPPORT		7,292		7,292		7,292				7,292
71	F-16 POST PRODUCTION SUPPORT		13,871		13,871		13,871				13,871
	Industrial Preparedness										
72	REPLEN SPARES/REPAIR PARTS		21,728		21,728		21,728				21,728
	War Consumables										
73	WAR CONSUMABLES		25,716		25,716		25,716				25,716

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Other Production Charges										
74	REPLEN SPARES/REPAIR PARTS		327,231		327,231		327,231				327,231
75	DEPOT MODERNIZATION		57,690		57,690		57,690				57,690
	CLASSIFIED PROGRAMS										
76	REPLEN SPARES/REPAIR PARTS		9,449		9,449		9,449				9,449
	DARP										
77	DARP		82,933		82,933		82,933				82,933
	Cancelled Account Adjustments										
78	SUPPLY DEPOTS/OPERATIONS (NON-IF)										
	Total - Aircraft Procurement, Air Force		**12,079,360**		**12,604,451**		**12,103,051**		**-44,209**		**12,035,151**

E–8C joint surveillance and target attack radar system reengining

The budget request included $36.0 million for E–8C joint surveillance and target attack radar system (JSTARS) modifications, but included no funding for reengining of the JSTARS aircraft.

The House bill would authorize an increase of $27.0 million to begin a reengining program for the E–8C JSTARS aircraft.

The Senate amendment would authorize the budget request.

The conferees agree to authorize an increase of $5.0 million to begin a possible reengining program for the E–8C JSTARS aircraft.

The conferees understand that the E–8C's current engines are old, inefficient, provide marginal power to support the E–8C's mission taskings, and are expensive to maintain and operate in comparison to new engines currently available in the commercial marketplace. The conferees note that the Department of the Air Force submitted a budget/program fact paper that supported a 16-year lease program for E–8C replacement engines. While the conferees also note that an engine lease was not included in the budget request or on the Air Force's unfunded priority list, the conferees believe that a future E–8C reengining program may be necessary. Accordingly, the conferees direct the Secretary of Defense to provide a report to the congressional defense committees by February 13, 2004 that provides an economic analysis of options for maintaining engines for the E–8C aircraft. This analysis should compare the options of maintaining the current engines, buying and installing new engines, and leasing and installing new engines. This report should indicate the Department's preferred option, and plans for implementation of that preferred option.

Overview

The budget request for fiscal year 2004 included an authorization of $1.3 billion for Ammunition Procurement, Air Force in the Department of Defense.

The House bill would authorize $1.3 billion.

The Senate amendment would authorize the budget request.

The conferees recommend an authorization of $1.3 billion. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement of Ammunition, Air Force										
	Procurement of Ammo, Air Force										
	Rockets										
1	ROCKETS		64,494		74,494		64,494				64,494
	Rockets				[10,000]						
	Cartridges										
2	CARTRIDGES		159,746		159,746		159,746				159,746
	Bombs										
3	PRACTICE BOMBS		45,909		45,909		45,909				45,909
4	GENERAL PURPOSE BOMBS		167,834		187,834		167,834				167,834
	Bomb bodies to synchronize with PGM kits				[20,000]						
5	CAWCF CLOSURE COSTS										
6	SENSOR FUZED WEAPON	294	117,841	294	117,841	294	117,841			294	117,841
7	JOINT DIRECT ATTACK MUNITION	20,244	427,709	20,244	427,709	20,244	427,709			20,244	427,709
8	WIND CORRECTED MUNITIONS DISP	2,516	72,411	2,516	72,411	2,516	72,411			2,516	72,411
	Flare, IR MJU-7B										
9	CAD/PAD		20,030		20,030		20,030				20,030
10	EXPLOSIVE ORDINANCE DISPOSAL		3,175		3,175		3,175				3,175
11	SPARES AND REPAIR PARTS		164		164		164				164
12	REPLENISHMENT SPARES		3,167		3,167		3,167				3,167
13	MODIFICATIONS <5M		189		189		189				189

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
14	ITEMS LESS THAN $5,000,000		336		336		336				336
	Fuzes										
15	FLARES		146,221		156,221		146,221				146,221
	Flares				[10,000]						
16	FUZES		36,466		36,466		36,466				36,466
	Weapons										
	Small Arms										
17	SMALL ARMS		19,033		19,033		19,033				19,033
	Total - Procurement of Ammunition, Air Force		**1,284,725**		**1,324,725**		**1,284,725**				**1,284,725**

Missile Procurement, Air Force-Overview

The budget request for fiscal year 2004 included an authorization of $4,393.0 million for Missile Procurement, Air Force in the Department of Defense.

The House bill would authorize $4,348.0 million.

The Senate amendment would authorize $4,394.4 million.

The conferees recommend an authorization of $4,298.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Missile Procurement, Air Force										
	Ballistic Missiles										
	Missile Replacement Equipment-Ballistic										
1	MISSILE REPLACEMENT EQ-BALLISTIC		50,713		50,713		50,713				50,713
	Other Missiles										
	Tactical										
2	JASSM	250	102,534	250	102,534	250	102,534	-125	-46,534	125	56,000
	Maintain LRIP							[-125]	[-46,534]		
3	JOINT STANDOFF WEAPON	325	79,981	325	79,981	325	79,981			325	79,981
4	SIDEWINDER (AIM-9X)	386	69,072	386	69,072	386	69,072	-65	-13,000	321	56,072
	Maintain LRIP							[-65]	[-13,000]		
5	AMRAAM	201	105,246	201	105,246	201	105,246			201	105,246
6	PREDATOR HELLFIRE MISSILE	280	23,117	280	23,117	280	23,117			280	23,117
7	SMALL DIAMETER BOMB										
	Industrial Facilities										
8	REPLEN SPARES/REPAIR PARTS		1,948		1,948		1,948				1,948
	Modification of Inservice Missiles										
	Class IV										
9	ADVANCED CRUISE MISSILE		3,498		3,498		3,498				3,498
10	MM III MODIFICATIONS		606,964		606,964		593,364				606,964
	GRP excess overhead						[-13,600]				
11	AGM-65D MAVERICK		318		318		318				318
12	AIR LAUNCH CRUISE MISSILE		11,478		11,478		11,478				11,478
13	PEACEKEEPER (M-X)										
	Missile Spares and Repair Parts										
14	REPLEN SPARES/REPAIR PARTS		78,449		78,449		78,449				78,449
	Other Support										
	Space Programs										

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
15	ADVANCE PROCUREMENT (CY)										
16	WIDEBAND GAPFILLER SATELLITES		34,588		34,588		34,588				34,588
17	ADVANCE PROCUREMENT (CY)										
18	SPACEBORNE EQUIP (COMSEC)		9,145		9,145		9,145				9,145
19	GLOBAL POSITIONING (SPACE)		226,622		226,622		226,622				226,622
20	GLOBAL POSITIONING (SPACE) (AP-CY)		32,230		32,230		32,230				32,230
21	NUDET DETECTION SYSTEM										
22	DEF METEOROLOGICAL SAT PROG(S		68,026		68,026		68,026				68,026
23	DEFENSE SUPPORT PROGRAM(SPACE		113,067		113,067		113,067				113,067
24	DEFENSE SATELLITE COMM SYSTEM		12,479		12,479		12,479				12,479
25	TITAN SPACE BOOSTERS(SPACE)		91,499		46,499		46,499		-45,000		46,499
	Excess Funds				[-45,000]		[-45,000]		[-45,000]		
26	EVOLVED EXPENDABLE LAUNCH VEH	4	609,310	4	609,310	4	669,310		10,000	4	619,310
	Assured access						[60,000]		[10,000]		
27	MEDIUM LAUNCH VEHICLE(SPACE)		91,128		91,128		91,128				91,128
	Special Programs										
28	CANCELLED ACCOUNT										
29	DEFENSE SPACE RECONN PROGRAM		292,000		292,000		292,000				292,000
30	SPECIAL PROGRAMS		1,552,081		1,552,081		1,552,081				1,552,081
31	SPECIAL UPDATE PROGRAMS		127,546		127,546		127,546				127,546
	Total - Missile Procurement, Air Force		4,393,039		4,348,039		4,394,439		-94,534		4,298,505

Other Procurement, Air Force-Overview

The budget request for fiscal year 2004 included an authorization of $11,583.7 million for Other Procurement, Air Force in the Department of Defense.

The House bill would authorize $11,376.1 million.

The Senate amendment would authorize $11,630.7 million.

The conferees recommend an authorization of $11,631.9 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Other Procurement, Air Force										
	Vehicular Equipment										
	Passenger Carrying Vehicles										
1	SEDAN, 4 DR 4X2										
2	STATION WAGON, 4X2										
3	BUSES										
4	AMBULANCES										
5	LAW ENFORCEMENT VEHICLE										
6	ARMORED VEHICLE	1	243	1	243	1	243			1	243
7	PASSENGER CARRYING VEHICLE	269	12,031	269	12,031	269	12,031			269	12,031
	Cargo and Utility Vehicles										
8	TRUCK, CARGO-UTILITY, 3/4T, 4		15,515		15,515		15,515				15,515
9	TRUCK, CARGO-UTILITY, 3/4T, 4		5,374		5,374		5,374				5,374
10	TRUCK MAINT/UTILITY/DELIVERY		10,244		10,244		10,244				10,244
11	TRUCK CARRYALL		9,552		9,552		9,552				9,552
12	FAMILY MEDIUM TACTICAL VEHICLE		5,687		5,687		5,687				5,687
13	HIGH MOBILITY VEHICLE (MYP)		3,714		3,714		3,714				3,714
14	CAP VEHICLES		786		786		786				786
15	ITEMS LESS THAN $5,000,000		38,283		38,283		38,283				38,283
	Special Purpose Vehicles										
16	TRUCK TANK FUEL R-11		14,115		14,115		14,115				14,115
17	HMMWV, ARMORED		2,968		2,968		2,968				2,968
18	HMWWV, UP-ARMORED		5,809		5,809		5,809				5,809
19	TRACTOR, A/C TOW, MB-2										
20	TRACTOR, A/C TOW, MB-4		3,768		3,768		3,768				3,768
21	TRACTOR, TOW, FLIGHTLINE		6,052		6,052		6,052				6,052
22	TRUCK HYDRANT FUEL		1,397		1,397		1,397				1,397
23	ITEMS LESS THAN $5,000,000		24,028		24,028		24,028				24,028

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
		Request		Authorized		Authorized		Change		Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Fire Fighting Equipment										
24	TRUCK CRASH P-19		4,836		4,836		4,836				4,836
25	ITEMS LESS THAN $5,000,000		5,564		5,564		5,564				5,564
	Material Handling Equipment										
26	TRUCK, F/L 10,000 LB		8,510		8,510		8,510				8,510
27	TUNNER LOADER										
28	HALVERSEN LOADER	30	19,339	30	19,339	30	19,339			30	19,339
29	ITEMS LESS THAN $5,000,000		9,423		9,423		9,423				9,423
	Base Maintenance Support										
30	LOADER, SCOOP		5,656		5,656		5,656				5,656
31	TRUCK, DUMP		4,990		4,990		4,990				4,990
32	RUNWAY SNOW REMOVAL & CLEANING		16,298		16,298		16,298				16,298
33	MODIFICATIONS		564		564		564				564
34	ITEMS LESS THAN $5,000,000		12,260		12,260		12,260				12,260
	Electronics and Telecommunications										
	Comm Security Equipment (COMSEC)										
35	COMSEC EQUIPMENT		30,417		30,417		30,417				30,417
36	MODIFICATIONS (COMSEC)										
	Intelligence Programs										
37	INTELLIGENCE TRAINING EQUIPMENT		2,935		2,935		2,935				2,935
38	INTELLIGENCE COMM EQUIPMENT		1,683		1,683		14,083		12,400		14,083
	Jumbo-digital Transit Cased System						[12,400]		[12,400]		
	Electronics Programs										
39	AIR TRAFFIC CTRL/LAND SYSTEM		74,664		74,664		74,664				74,664
40	NATIONAL AIRSPACE SYSTEM		33,704		33,704		33,704		-3,500		30,204
	Digital airport surveillance radar								[-3,500]		
41	THEATER AIR CONTROL SYS IMPRO		29,849		29,849		29,849				29,849

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
42	WEATHER OBSERVE/FORECAST		32,839		36,739		32,839				32,839
	NPOESS support initiative				[3,900]						
43	STRATEGIC COMMAND AND CONTROL		43,094		43,094		43,094				43,094
44	CHEYENNE MOUNTAIN COMPLEX		20,613		20,613		20,613				20,613
45	TAC SIGINT SUPPORT		389		389		389				389
46	DRUG INTERDICTION PROGRAM		403		403		403				403
47	HIGH PERFORMANCE COMPUTING MO		48,927		23,927		48,927				48,927
	High performance computing				[-25,000]						
	Special Comm-Electronics Projects										
48	GENERAL INFORMATION TECHNOLOGY		119,534		114,534		119,534		-10,500		109,034
	Joint personnel adjudication system				[-17,000]				[-15,000]		
	SELDI				[12,000]				[4,500]		
49	AF GLOBAL COMMAND & CONTROL S		23,457		23,457		23,457				23,457
50	MOBILITY COMMAND AND CONTROL		9,247		9,247		9,247				9,247
51	AIR FORCE PHYSICAL SECURITY S		34,877		34,877		34,877				34,877
52	COMBAT TRAINING RANGES		23,442		32,242		28,442		10,000		33,442
	Joint Threat Emitter System procurement acceleration						[5,000]		[5,000]		
	Mini MUTES				[8,800]				[5,000]		
53	MINIMUM ESSENTIAL EMERGENCY C										
54	C3 COUNTERMEASURES		11,634		11,634		11,634				11,634
55	GCSS-AF FOS		17,147		17,147		17,147				17,147
56	THEATER BATTLE MGT C2 SYS		50,803		50,803		50,803				50,803
57	AIR OPERATIONS CENTER (AOC)		45,954		45,954		45,954				45,954
	Air Force Communications										
58	BASE INFORMATION INFRASTRUCTURE		268,408		243,408		276,408		6,000		274,408
	Information transport system (ITS)						[8,000]		[6,000]		
	Defend the Enclave				[-25,000]						
59	USCENTCOM		30,335		30,335		30,335				30,335

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
60	DEFENSE MESSAGE SYSTEM (DMS)		10,555		10,555		10,555				10,555
	DISA Programs										
61	SPACE BASED IR SENSOR PROG SP		95,421		95,421		95,421				95,421
62	NAVSTAR GPS SPACE		10,332		10,332		10,332				10,332
63	NUDET DETECTION SYS (NDS) SPA		10,786		10,786		10,786				10,786
64	AF SATELLITE CONTROL NETWORK		48,229		48,229		48,229				48,229
65	SPACELIFT RANGE SYSTEM SPACE		80,635		80,635		80,635				80,635
66	MILSATCOM SPACE		42,329		42,329		42,329				42,329
67	SPACE MODS SPACE		30,747		30,747		30,747				30,747
68	COUNTERSPACE SYSTEMS										
	Organization and Base										
69	TACTICAL C-E EQUIPMENT		158,322		158,322		158,322				158,322
70	COMBAT SURVIVOR EVADER LOCATE		8,839		22,539		8,839				8,839
	Program increase				[13,700]						
71	RADIO EQUIPMENT		8,750		8,750		8,750				8,750
72	TV EQUIPMENT (AFRTV)		2,590		2,590		2,590				2,590
73	CCTV/AUDIOVISUAL EQUIPMENT		3,238		3,238		3,238				3,238
74	BASE COMM INFRASTRUCTURE		160,558		160,558		160,558				160,558
75	CAP COM & ELECT										
76	ITEMS LESS THAN $5,000,000		5,960		5,960		5,960				5,960
	Modifications										
77	COMM ELECT MODS		38,732		38,732		38,732				38,732
	Other Base Maintenance and Support Equipment										
	Test Equipment										
78	BASE/ALC CALIBRATION PACKAGE		13,528		13,528		13,528				13,528
79	PRIMARY STANDARDS LABORATORY		1,074		1,074		1,074				1,074
80	ITEMS LESS THAN $5,000,000		9,382		9,382		9,382				9,382

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Personal Safety and Rescue Equipment										
81	NIGHT VISION GOGGLES		5,340		5,340		13,640		5,000		10,340
	Panoramic Night Vision Goggles (PNVG)						[8,300]		[5,000]		
82	ITEMS LESS THAN $5,000,000		7,435		7,435		19,235		11,800		19,235
	Aircraft survivable radio test equipment						[7,000]		[7,000]		
	Fixed Aircraft Standardized Seats						[4,800]		[4,800]		
	Depot Plant and Material Handling Equipment										
83	MECHANIZED MATERIAL HANDLING		13,919		25,919		25,919		8,000		21,919
	Point of Maintenance Initiative program				[12,000]		[12,000]		[8,000]		
84	ITEMS LESS THAN $5,000,000		11,702		11,702		11,702				11,702
	Electrical Equipment										
85	FLOODLIGHTS		5,616		5,616		5,616				5,616
86	ITEMS LESS THAN $5,000,000		9,570		9,570		9,570				9,570
	Base Support Equipment										
87	BASE PROCURED EQUIPMENT		9,617		18,617		9,617		6,000		15,617
	Combat arms training system				[9,000]				[6,000]		
88	MEDICAL/DENTAL EQUIPMENT		13,889		13,889		16,889		3,000		16,889
	Expeditionary medical support packages (EMEDS)						[3,000]		[3,000]		
89	ENVIRONMENTAL PROJECTS		664		664		664				664
90	AIR BASE OPERABILITY		5,502		5,502		5,502				5,502
91	PHOTOGRAPHIC EQUIPMENT		5,708		5,708		5,708				5,708
92	PRODUCTIVITY ENHANCING CAPITA		6,210		6,210		6,210				6,210
93	MOBILITY EQUIPMENT		92,951		92,951		92,951				92,951
94	AIR CONDITIONERS		10,238		10,238		10,238				10,238
95	ITEMS LESS THAN $5,000,000		14,940		14,940		14,940				14,940
	Special Support Projects										
96	PRODUCTION ACTIVITIES		50,442		50,442		50,442				50,442
97	TECH SURV COUNTERMEASURES EQ		3,998		3,998		3,998				3,998

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
98	DARP RC135		16,775		16,775		16,775				16,775
99	DARP, MRIGS		99,915		99,915		99,915				99,915
100	SELECTED ACTIVITIES		8,981,728		8,981,728		8,981,728				8,981,728
101	SPECIAL UPDATE PROGRAM		220,228		220,228		220,228				220,228
102	DEFENSE SPACE RECONNAISSANCE		14,141		14,141		14,141				14,141
103	INDUSTRIAL PREPAREDNESS										
104	MODIFICATIONS		201		201		201				201
105	FIRST DESTINATION TRANSPORTATION		4,980		4,980		4,980				4,980
	Spares and Repair Parts										
	Spares and Repair Parts										
106	SPARES AND REPAIR PARTS		36,582		36,582		36,582				36,582
	Financial information systems						-13,500				
	Information technology general reduction				-200,000						
	Total - Other Procurement, Air Force		11,583,659		11,376,059		11,630,659		48,200		11,631,859

Procurement, Defense-Wide-Overview

The budget request for fiscal year 2004 included an authorization of $3,665.5 million for Procurement, Defense-wide in the Department of Defense.

The House bill would authorize $3,734.8 million.

The Senate amendment would authorize $3,855.5 million.

The conferees recommend an authorization of $3,768.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title I - Procurement

(Dollars in Thousands)

		FY 2004 Request		House Authorized		Senate Authorized		Conference Change		Conference Authorized	
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Procurement, Defense-Wide										
	Major Equipment										
	Major Equipment, OSD/WHS										
1	WHS MOTOR VEHICLES	2	70	2	70	2	70			2	70
2	MAJOR EQUIPMENT, OSD		37,291		37,291		37,291				37,291
3	MAJOR EQUIPMENT, WHS		21,622		16,622		21,622				21,622
	Case control management system				[-5,000]						
	Major Equipment, NSA										
4	CONSOLIDATED CRYPTOLOGIC PROGRAM	[ ]	[ ]								
5	INFORMATION SYSTEMS SECURITY PROGRAM	[ ]	[ ]								
6	DEFENSE AIRBORNE RECONNAISSANCE PGM	[ ]	[ ]								
7	DEFENSE INTELLIGENCE COUNTERDRUG PROG										
	Major Equipment, DISA										
8	INFORMATION SYSTEMS SECURITY		32,860		32,860		32,860				32,860
9	CONTINUITY OF OPERATIONS										
10	DEFENSE MESSAGE SYSTEM		5,277				5,277				5,277
	Defense messaging system				[-5,277]						
11	GLOBAL COMMAND AND CONTROL SYS		4,743		4,743		4,743				4,743
12	GLOBAL COMBAT SUPPORT SYSTEM		2,507		2,507		2,507				2,507
13	TELEPORTS		58,160		58,160		58,160				58,160
14	GLOBAL INFORMATION GRID		380,135		380,135		380,135				380,135
15	ITEMS LESS THAN $5M		70,025		61,617		70,025				70,025
	Program reduction				[-8,408]						
	Major Equipment, DIA										
16	INTELLIGENCE AND COMMUNITCATIONS	[ ]	[ ]								
17	INTELLIGENCE PLANNING AND REVIEW ACTIVI	[ ]	[ ]								
18	HEADQUARTERS MANAGEMENT DIA	[ ]	[ ]								
19	INTEL SUPPORT TO OSD COUNTER-NARCOTICS	[ ]	[ ]								

Title I - Procurement

(Dollars in Thousands)

Line	Program Title	FY 2004 Request Qty	FY 2004 Request Cost-ORIG	House Authorized Qty	House Authorized Cost	Senate Authorized Qty	Senate Authorized Cost	Conference Change Qty	Conference Change Cost	Conference Authorized Qty	Conference Authorized Cost
	Major Equipment, DLA										
20	MAJOR EQUIPMENT		8,545		8,545		8,545				8,545
	Major Equipment, DCAA										
21	MAJOR EQUIPMENT/ITEMS LESS THAN $5.0M		1,500		1,500		1,500				1,500
	Major Equipment, TJS										
22	MAJOR EQUIPMENT, TJS		46,114		46,114		46,114				46,114
	Missile Defense Agency										
23	PATRIOT PAC-3										
	Major Equipment, DHRA										
24	PERSONNEL ADMINISTRATION		7,312		7,312		7,312				7,312
	National Imagery and Mapping Agency										
25	NATIONAL IMAGERY AND MAPPING AGENCY	[ ]	[ ]								
	Defense Threat Reduction Agency										
26	MAJOR EQUIPMENT, NIMA		200		200		200				200
27	OTHER MAJOR EQUIPMENT		37,350		37,350		37,350				37,350
	Defense Security Cooperation Agency										
28	OTHER MAJOR EQUIPMENT		209		209		209				209
	Major Equipment, AFIS										
29	MAJOR EQUIPMENT, AFIS		6,824		6,824		6,824				6,824
	Major Equipment, DODDE										
30	AUTOMATION/EDUCATIONAL SUPPORT AND		2,337		2,337		2,337				2,337
	Major Equipment, DCMA										
31	MAJOR EQUIPMENT		9,908		9,908		9,908				9,908
	Major Equipment, DTSA										
32	MAJOR EQUIPMENT		590		590		590				590

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
	Special Operations Command										
	Aviation Programs										
33	SOF ROTARY WING UPGRADES		675,063		675,063		675,063				675,063
	MH-60L altitude hold						[3,100]				
	MH-60L altitude hold						[-3,100]				
34	SOF TRAINING SYSTEMS		56,133		56,133		56,133				56,133
35	MC-130H COMBAT TALON II		8,838		8,838		8,838				8,838
36	CV-22 SOF MODIFICATION	2	108,790	2	108,790	2	108,790			2	108,790
37	AC-130U GUNSHIP ACQUISITION		390,054		390,054		390,054				390,054
38	C-130 MODIFICATIONS		214,798		214,798		237,798		5,000		219,798
	Commando Solo						[23,000]		[5,000]		
39	AIRCRAFT SUPPORT		295		295		295				295
	Shipbuilding										
40	ADVANCED SEAL DELIVERY SYSTEM		8,351		8,351		8,351				8,351
41	ADVANCED SEAL DELIVERY SYSTEM (AP-CY)		23,573		23,573		-27				23,573
	reduction						[-23,600]				
42	MK VIII MOD 1 - SEAL DELIVERY VEHICLE		10,100		10,100		10,100				10,100
	Ammunition Programs										
43	SOF ORDNANCE REPLENISHMENT		35,746		35,746		35,746				35,746
44	CONVENTIONAL AMMO WORKING CAPITAL FU										
45	SOF ORDNANCE ACQUISITION		22,506		33,006		22,506		2,500		25,006
	Special Operations Forces (SOF) ordnance				[10,500]				[2,500]		
	Other Procurement Programs										
46	COMM EQUIPMENT & ELECTRONICS		56,225		56,225		56,225		-5,000		51,225
	Reqmnt for TALCAN satisfied with PY sup funds								[-5,000]		
47	SOF INTELLIGENCE SYSTEMS		16,522		16,522		28,222				16,522
	Joint threat warning system						[5,700]				
	Recce-Pad						[6,000]				

Title I - Procurement

(Dollars in Thousands)

			FY 2004		House		Senate		Conference		Conference
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
48	SOF SMALL ARMS & WEAPONS		16,003		32,503		57,203		41,500		57,503
	Advanced lightweight grenade launcher						[22,200]		[22,000]		
	Light weight counter mortar radar				[5,000]		[6,500]		[4,000]		
	Night vision and laser targeting devices						[12,500]		[8,500]		
	Mini night vision sight (SOPMOD)				[8,000]				[4,000]		
	Infrared zoom laser illuminator/designator				[3,500]				[3,000]		
49	JOINT MILITARY INTELLIGENCE PROGRAM		18,269		18,269		18,269				18,269
50	ITV		5,206		5,206		5,206				5,206
51	MARITIME EQUIPMENT MODS		1,316		1,316		1,316				1,316
52	SOF COMBATANT CRAFT SYSTEMS		9,981		9,981		26,481		13,500		23,481
	Special Operations riverine craft						[16,500]		[13,500]		
53	SPARES AND REPAIR PARTS		7,995		7,995		7,995				7,995
54	SOF MARITIME EQUIPMENT		1,990		1,990		1,990				1,990
55	DRUG INTERDICTION										
56	MISCELLANEOUS EQUIPMENT		11,207		11,207		11,207				11,207
57	SOF PLANNING AND REHEARSAL SYSTEM		292		292		292				292
58	SOF OPERATIONAL ENHANCEMENTS		235,269		235,269		235,269				235,269
	SOF ops enhancements						[25,500]				
	Program reduction						[-25,500]				
59	PSYOP EQUIPMENT		18,264		18,264		18,264				18,264
	Chemical/Biological Defense										
	CBDP										
60	INDIVIDUAL PROTECTION		85,018		85,018		121,518		500		85,518
	JSLIST						[36,000]				
	M45 army aircrew protective masks						[500]		[500]		
61	DECONTAMINATION		12,643		12,643		22,643		1,000		13,643
	M291/295 decon kits						[2,000]		[1,000]		
	Wide-area decontamination applicator						[8,000]				

Title I - Procurement

(Dollars in Thousands)

		FY 2004		House		Senate		Conference		Conference	
			Request		Authorized		Authorized		Change		Authorized
Line	Program Title	Qty	Cost-ORIG	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
62	JOINT BIOLOGICAL DEFENSE PROGRAM		71,952		71,952		71,952				71,952
63	COLLECTIVE PROTECTION		17,608		53,608		19,608		30,000		47,608
	Chem-bio protective shelter				[31,000]		[2,000]		[25,000]		
	M28 protective equipment				[5,000]				[5,000]		
64	CONTAMINATION AVOIDANCE		318,516		343,516		399,116		13,000		331,516
	CBIFPP detection suite						[76,600]				
	JCAD				[15,000]		[2,000]		[3,000]		
	ACADA				[10,000]		[2,000]		[10,000]		
999	CLASSIFIED PROGRAMS		473,404		473,404		473,404				473,404
xx	WMD - Civil Support Teams						1,000		1,000		1,000
	Financial information systems						-8,900				
	Total - Procurement, Defense-Wide		**3,665,506**		**3,734,821**		**3,855,506**		**103,000**		**3,768,506**
	TOTAL PROCUREMENT		**72,653,510**		**75,010,007**		**75,638,800**		**1,550,001**		**74,203,511**

Advanced SEAL Delivery System advance procurement

The House bill would authorize $23.6 million, as proposed in the budget request, for the advance procurement of long lead time items associated with the Advanced SEAL Delivery System (ASDS), a flagship acquisition program of the U.S. Special Operations Command (SOCOM).

The Senate amendment recommended against funding advance procurement for ASDS because of continuing developmental problems plaguing the ASDS program.

The conferees agree to authorize $23.6 million in procurement, Defense-wide, for ASDS advance procurement, but direct that none of the authorized funds may be obligated or expended until 15 days after the Secretary of Defense notifies the congressional defense committees, in writing, of a favorable Milestone C decision with regard to continuing the ASDS program. This report shall include a detailed summary on the program's revised cost estimate and future cost estimates, as validated by the Cost Analysis and Improvement Group. Additionally, the report shall include: an evaluation of contractor performance, to date; a detailed acquisition strategy; and, a plan to demonstrate realistic solutions to key technical and performance problems identified during operational test and evaluation.

The conferees remain committed to meeting SOCOM's requirement for this capability, but are concerned that technical and financial problems that have plagued this program since its inception are still not yet fully resolved. The program is six years behind schedule and hundreds of millions of dollars over original cost estimates. It is possible that potential solutions to technical and performance problems, as yet not demonstrated, may require additional design changes. The conferees expect that advance procurement of long lead time items for additional ASDS boats will be delayed until key technical problems are demonstrably resolved and fundamental design of future boats is stable.

National Guard and Reserve Equipment

The conferees recommend that, of the amounts appropriated in fiscal year 2004 for National Guard and Reserve equipment, priority consideration should be given to the following items: Joint Threat Emitter System, Improved Target Acquisition System, F–16 Block 42 Re-engining Program, Extended Cold Weather Clothing System, F–16 and A–10 LITENING AT Targeting Pod, Movement Tracking System, Laser Marksmanship Training System, Bladefold Kits for Apache Helicopters, High Mobility Multipurpose Wheeled Vehicles (HMMWV), Up-Armored HMMWV, Construction Equipment SLEP, AN/PVS–14, LITENING II, E–8C nonrecurring engineering for Re-engining, and Family of Medium Tactical Vehicles (FMTV).

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 101–104)

The House bill contained provisions (secs. 101–104) that would authorize the recommended fiscal year 2004 funding levels for procurement Army, Navy, Marine Corps, Air Force, and Defense-wide activities.

The Senate amendment contained similar provisions (secs. 101–104) and additional provisions (secs. 105–107) that would authorize the recommended fiscal year 2004 funding levels for procurement for the Defense Inspector General, the Chemical Demilitarization Program, and the Defense Health Program.

The conference agreement includes a provision that would authorize funding levels for the Army, Navy, Marine Corps, Air Force, and Defense-wide activities. The conference agreement includes authorizations for the Defense Inspector General, the Chemical Demilitarization Program, and the Defense Health Program, as provided elsewhere in this conference report.

Subtitle B—Army Programs

Stryker vehicle program (sec. 111)

The House bill contained a provision (sec. 111) that would withhold $300.0 million from the authorization of appropriations for Stryker vehicle procurement until the Secretary of the Army provided a report to the congressional defense committees. The report would identify options for modifications to the equipment and configuration of the Stryker Brigade Combat Team (SBCT) that would make the SBCT more survivable, more capable across a broader spectrum of combat operations, and capable to be employed independent of higher-level command formations and support. The provision would also direct the Secretary to certify to the congressional defense committees whether fielding the fourth SBCT, as planned, would meet the objectives of a more capable and survivable brigade. The provision would also direct that all funds authorized for appropriation would be spent on Stryker vehicles only.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would withhold 20 percent of the budget request for the Stryker vehicle program until the Secretary of the Army provides a report to the congressional defense committees that identifies options for modifications to the equipment and configuration of the SBCT.

CH–47 helicopter program (sec. 112)

The Senate amendment contained a provision (sec. 111) that would direct a study of the feasibility and costs and benefits of providing for a second source for the production of gears for CH–47 helicopter transmissions.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Navy Programs

Multiyear procurement authority for F/A–18 aircraft program (sec. 121)

The House bill contained a provision (sec. 121) that would authorize the Secretary of the Navy to enter into a multiyear procurement contract for up to 234 aircraft in the F/A–18E, F/A–18F, and EA–18G configurations. The budget request included a baseline multiyear procurement authority for 42 aircraft a year, a total of 210 aircraft, with the flexibility to procure an additional six aircraft a year for the last four years of the multiyear procurement, potentially bringing the total to 234 aircraft.

The Senate amendment contained a provision (sec. 121) that would authorize the Secretary to enter into multiyear procurement contracts for a number of Navy programs, including the F/A–18E/F program.

The Senate recedes.

Multiyear procurement authority for Tactical Tomahawk cruise missile program (sec. 122)

The House bill contained a provision (sec. 122) that would authorize the Secretary of the Navy to enter into a multiyear procurement contract for the Tactical Tomahawk cruise missile program, limiting the production to no more than 900 cruise missiles in any year.

The Senate amendment contained a provision (sec. 121) that would authorize the Secretary to enter into multiyear procurement contracts for a number of Navy programs, including the Tactical Tomahawk cruise missile program. The provision would require the Secretary to determine that the cruise missile is effective for fleet use as a result of operational testing before entering into the multiyear procurement contract.

The Senate recedes with an amendment that would authorize the Secretary to enter into a multiyear procurement contract for the Tactical Tomahawk cruise missile program, limiting the production to no more than 900 cruise missiles in any year. The Secretary would be required to submit a determination to the congressional defense committees that the Tactical Tomahawk cruise missile is effective for fleet use, based on operational testing, before entering into the multiyear procurement contract.

Multiyear procurement authority for Virginia class submarine program (sec. 123)

The House bill contained a provision (sec. 123) that would authorize the Secretary of the Navy to enter into a multiyear procurement contract for seven *Virginia*-class submarines, with a limitation that the Secretary could not enter into the contract until 30 days after submitting a certification of compliance with subsection (a) of section 2306b of title 10, United States Code, to the congressional defense committees.

The Senate amendment contained a provision (sec. 121) that would authorize the Secretary to enter multiyear procurement contracts for a number of Navy programs, including the *Virginia*-class submarine, subject to the contractor teaming agreement included in paragraphs (2)(A), (3) and (4) of section 121(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85).

The Senate recedes with an amendment that would authorize the Secretary to enter into a multiyear procurement contract for *Virginia*-class submarines. The provision would restrict the Secretary from entering into the contract until 30 days after submitting a certification of compliance with subsection (a) of section 2306b of title 10, United States Code, to the congressional defense committees. The provision also mandates continuance of the teaming arrangement authorized in paragraphs (2)(A), (3), and (4) of section 121(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) for the multiyear procurement contract.

Multiyear procurement authority for E–2C aircraft program (sec. 124)

The House bill contained a provision (sec. 124) that would authorize the Secretary of the Navy to enter into multiyear procurement contracts for the procurement of four E–2C aircraft, four TE–2C aircraft, and 16 engines for aircraft in the E–2C or TE–2C configuration. The provision would limit the period of the contract to four program years.

The Senate amendment contained a provision (sec. 121) that would authorize the Secretary to enter into multiyear procurement contracts for a number of Navy programs, including the E–2C aircraft program.

The Senate recedes with an amendment that would authorize the Secretary to enter into multiyear procurement contracts for E–2C aircraft, TE–2C aircraft, and engines for aircraft in the E–2C and TE–2C configurations, with the period of the contract limited to four program years.

Multiyear procurement authority for Phalanx close in weapon system program (sec. 125)

The House bill contained a number of separate provisions which would authorize Navy multiyear procurement contracts, but did not have multiyear procurement authorization for the Phalanx CIWS–1B program.

The Senate amendment contained a provision (sec. 121) that would authorize the Secretary of the Navy to enter into multiyear procurement contracts for a number of Navy programs, including block 1B of the Phalanx close in weapon system (CIWS–1B).

The House recedes with an amendment that would authorize the Secretary to enter into a multiyear procurement contract for the Phalanx CIWS–1B program.

Pilot program for flexible funding of cruiser conversions and overhauls (sec. 126)

The Senate amendment contained a provision (sec. 122) that would authorize a pilot program through which the Secretary of the Navy could transfer funds from certain appropriations accounts to procurement for shipbuilding and conversion accounts. The provision would authorize the pilot program from fiscal year 2004 through fiscal year 2012. The provision would allow the transfer of funds to provide funds for conversion or overhaul of cruisers when it is due to an increase in the workload to meet conversion or overhaul requirements, or a new conversion or overhaul requirement is established. The Secretary would not be able to make a transfer under this section for 30 days after a notification containing details of the transfer is transmitted to the congressional defense committees.

The House bill contained no similar provision.

The House recedes.

Subtitle D—Air Force Programs

Elimination of quantity limitations on multiyear procurement authority for C–130J aircraft (sec. 131)

The House bill contained a provision (sec. 132) that would amend section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) by raising the number of C–130J aircraft authorized in the current multiyear procurement contract from 40 aircraft to 42 aircraft.

The Senate amendment contained a provision (sec. 131) that would amend section 131(a) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) by eliminating the numerical limits in the current multiyear procurement contract for C–130J aircraft in the CC–130J and KC–130J configurations.

The House recedes.

Limitation on retiring C–5 aircraft (sec. 132)

The House bill contained a provision (sec. 133) that would prevent the Secretary of the Air Force from retiring C–5A aircraft from the active inventory of the Air Force in any number that would reduce the total number of C–5 aircraft in the active inventory below 112, until the Air Force has modified a C–5A aircraft with the reliability enhancement and reengining program; and the Director, Operational Test and Evaluation, has submitted an operational assessment of that aircraft based on an operational evaluation.

The Senate amendment contained no similar provision.

The Senate recedes.

Limitation on obligation of funds for procurement of F/A–22 aircraft (sec. 133)

The House bill contained a provision (sec. 134) that would prohibit the obligation of $136.0 million of the funds appropriated for F/A–22 aircraft procurement in fiscal year 2004 until the Under Secretary of Defense for Acquisition, Technology and Logistics (USD (AT&L)) certifies the following: (1) four F/A–22 operational test aircraft are equipped with version 3.1.2 or later of the operational flight program; and, (2) these four aircraft, so equipped, have demonstrated 20 hours mean time between avionics software instability events. The provision would include a waiver by which the Secretary of Defense could waive this limitation in the event the USD (AT&L) was unable to make the certification.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would: (1) change the number of test aircraft to five aircraft for the operational test, plus the avionics test aircraft, and ensure that all aircraft are equipped with the software operational flight program configured for initial operational test and evaluation (IOT&E); and, (2) change the software stability metric to five hours mean time between avionics anomalies, classified as software events of type 1 or type 2 failures, or a hardware event of type 5 failure.

The conferees understand that much attention has been given to the F/A–22 aircraft software stability over the last several months, and that significant improvement has been made in this area. However, the conferees are concerned that the Department of Defense has focused so keenly on software stability that they may be missing other aspects of reliability and maintainability contained in the operational requirements document. Meeting these operational suitability requirements will, in the end, determine the operational utility of the aircraft, and deserve senior level attention.

Aircraft for performance of aerial refueling mission (sec. 134)

The Senate amendment contained a provision (sec. 367) that would restrict the Secretary of the Air Force from retiring more than 12 KC–135E aerial refueling aircraft in fiscal year 2004. The provision would also require the Secretary to submit an analysis of alternatives, conducted by a federally funded research and development center or another entity independent of the Department of Defense, for meeting Air Force aerial refueling requirements to the congressional defense committees not later than March 1, 2004.

The House bill contained no similar provision.

The House recedes.

Procurement of tanker aircraft (sec. 135)

The conferees recommend a provision that would authorize the Secretary of the Air Force to enter into a lease for no more than 20 aerial refueling tanker aircraft, and would further authorize the Secretary of the Air Force to enter into a multiyear procurement program, using incremental funding, for up to 80 aerial refueling aircraft for not in excess of 10 program years beginning as early as fiscal year 2004.

The provision would also require the Secretary of Defense to conduct a study to identify alternative means for meeting the long-term requirements of the Air Force for both the maintenance and training in the operation of aerial refueling aircraft leased or procured through this program. This study would be delivered to the congressional defense committees no later than April 1, 2004.

The conferees expect that this study would identify a time frame within which the program could transition to competitively-based maintenance, and within which the program could transition to a centralized training concept consistent with those used by other Air Force airlift and tanker aircraft with comparable numbers of aircraft in the force structure.

Air Force Air Refueling Transfer Account

The House bill contained a provision (sec. 131) that would establish an account for the Department of the Air Force, known as the Air Force Air Refueling Transfer Account. The provision would authorize $229.2 million for the necessary expenses to prepare for leasing of tanker aircraft under section 8159 of the Department of Defense Appropriations Act for Fiscal Year 2002 (division A of Public Law 107–117), for the necessary expenses to prepare for the purchase of tanker aircraft for the Air Force, or for retaining in active service (rather than retiring) KC–135E aircraft.

The Senate amendment contained no similar provision.

The House recedes.

Subtitle E—Other Programs

Legislative Provisions Not Adopted

B–1B bomber aircraft

The Senate amendment contained a provision (sec. 132) that would authorize $20.3 million for the reconstitution of B–1B bomber fleet, offset by a commensurate reduction from funds for Special Operations Forces operational enhancements. It would also require the Secretary of the Air Force to submit a report to the congressional defense committees on the amount necessary to be included in the future-years defense program to reconstitute the entire B1–B bomber aircraft fleet.

The House bill contained no similar provision, but included an increase of $20.3 million for the B–1B.

The Senate recedes.

The conferees agree to authorize an increase of $20.3 million for the B–1B bomber, as noted elsewhere in this conference report.

Configuration of the fourth Stryker brigade combat team

The House bill contained a provision (sec. 112) that would authorize an increase of $100.0 million in Procurement of Weapons and Tracked Combat Vehicles, Army, for the procurement of additional lethality and sustainability enhancements for the fourth Stryker brigade combat team.

The Senate amendment contained no similar provision.

The House recedes.

LPD–17 class vessel

The House bill contained a provision (sec. 125) that would authorize an increase for shipbuilding and conversion for advance procurement of long-lead items, including the advanced fabrication of components, for the LPD-17 class vessel. This authorization would be for the lesser amount of $200.0 million or funds appropriated in any fiscal year 2003 act making supplemental appropriations, after May 7, 2003, for the procurement of Tomahawk cruise missiles.

The Senate amendment contained no similar provision.

The House recedes.

Rapid infusion pumps

The Senate amendment contained a provision (sec. 112) that would authorize an increase of $2.0 million in Other Procurement, Army, for the procurement of medical rapid infusion (IV) pumps.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize an increase of $2.0 million for rapid infusion pumps, as noted elsewhere in this conference report.

Reduction in authorization

The Senate amendment contained a provision (sec. 108) that would reduce procurement, Defense-wide, Special Operations

Forces rotary wing upgrades by $2.1 million and procurement, Defense-wide, Special Operations Forces operational enhancements by $1.2 million, for a total reduction of $3.3 million. After Senate Armed Services Committee action on the National Defense Authorization Bill (S. 1050), the Commander, U.S. Special Operations Command, was able to procure certain unfunded priorities with fiscal year 2003 supplemental funding, obviating the need for certain additions included in the original bill.

The House bill contained no similar provision.

The Senate recedes.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Overview

The budget request for fiscal year 2004 included an authorization of $61,826.7 million for Research and Development for the Department of Defense.

The House bill would authorize $62,723.8 million.

The Senate amendment would authorize $63,212.3 million.

The conferees recommend an authorization of $63,384.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEAR 2004

(Dollars in Thousands)

Title II -- RESEARCH, DEVELOPMENT, TEST & EVALUATION	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Research, Development, Test & Evaluation, Army	9,122,825	9,338,382	9,016,200	422,008	9,544,833
Research, Development, Test & Evaluation, Navy	14,106,653	14,364,510	14,604,784	738,850	14,845,503
Research, Development, Test & Evaluation, Air Force	20,336,258	20,552,867	20,389,516	219,409	20,555,667
Research, Development, Test & Evaluation, Defense-wide	17,974,257	18,181,385	18,849,018	177,800	18,152,057
Operational Test & Evaluation	286,661	286,661	286,661		286,661
Defense Health Program			65,796		
Office of the Inspector General			300		
TOTAL RDT&E	**61,826,654**	**62,723,805**	**63,211,975**	**1,558,067**	**63,384,721**

Department of Defense science and technology funding

The budget request included $10,232.0 million for defense science and technology, including all Defense-wide and military service funding for basic research, applied research, and advanced technology development. To address the conferees' concerns with respect to critical shortcomings in the budget request, the conferees recommend an authorization of $11,029.6 million, an increase of $797.6 million for the Department of Defense (DOD) Science and Technology (S&T) Program.

The past year has provided numerous examples of successful technology development and deployment. The men and women of the U.S. Armed Forces are better equipped, trained, and protected because of revolutionary breakthroughs emerging from the technology base. The Global War On Terrorism has provided a showcase for precision munitions, unmanned and robotic systems, instantaneous global communications, and other technologies that enable our military superiority. With continued robust and stable science and technology investments, future forces will leverage revolutionary technologies such as directed energy, nanotechnology, and intelligent robotics to accomplish their missions.

The conferees commend the Department for increasing the budget request for science and technology by nearly 25 percent over the past two fiscal years and moving towards meeting the Secretary of Defense's goal of funding the Science and Technology Program at three percent of the overall defense budget. In addition, the Department continues to make great strides in meeting the difficult challenges of technology transition and, throughout the past year, in successfully delivering revolutionary capabilities to the warfighter, ranging from thermobaric weapons to enhanced armor and protective systems to multilingual translation devices. The conferees note that the Technology Transition Initiative and the Defense Acquisition Challenge Program, programs originally established in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), continue to be successfully implemented by the Department to address critical transition challenges. Finally, the conferees note that the Office of the Director of Defense Research and Engineering has organized an important effort to address the critical workforce issues facing the Nation's defense research laboratories. The issues confronting the national treasures of the defense laboratory system cannot be overstated and will require forceful advocacy within the Department in the future.

Despite the positive aspects of the Department's Science and Technology Program, the conferees are concerned about long-term projections for reductions in DOD science and technology as a percentage of total obligation authority, which are well below the three percent level, and in short-term trends in the science and technology accounts of some of the military departments and defense agencies. In particular, the conferees share the concerns raised by the House regarding the Navy Science and Technology Program. As highlighted in the House report accompanying H.R. 1588 (H. Rept. 108–106), ". . . the Navy's core science and technology program is reduced to $1.48 billion, $460.0 million less than last year's appropriated level, 1.3 percent of the total Department of the Navy budget, and the lowest in total and percentage funding of the military departments. The budget request represents the second straight year of a significant reduction in the Navy's science and technology program."

The conferees remain concerned that the level of investment in basic, long-term research remains anemic. This account will provide the next generation of warfighters with the equipment, training, and protection they will require in future conflicts. As the investment in science and technology continues to grow towards the Secretary's three percent goal, the basic research accounts must grow at comparable rates. In the face of growing near-term requirements and budget pressures, the Department must work to preserve its long range view of technology development and embrace the role that fundamental research plays in the future of our military. The recent successes of the technology base in the Global War On Terrorism should not lead to an expectation of science on demand.

The conferees also note that increasingly, scientific and technical advances are creating policy, privacy, and regulatory issues that must be addressed prior to final development and deployment of new technologies. These issues must be adequately addressed in parallel with research and technology development so that new capabilities are delivered to warfighters in a manner that is consistent with well developed and technically informed policies.

ARMY

Research, Development, Test and Evaluation, Army—Overview

The budget request for fiscal year 2004 included an authorization of $9,122.8 million for Research, Development, Test and Evaluation, Army in the Department of Defense.

The House bill would authorize $9,338.4 million.

The Senate amendment would authorize $9,016.2 million.

The conferees recommend an authorization of $9,544.8 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, ARMY					
0601101A	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	24,121	24,121	24,121		24,121
0601102A	2	DEFENSE RESEARCH SCIENCES	128,798	134,798	134,798	8,000	136,798
		Low temperature research			[2,000]	[2,000]	
		Desert terrain analysis		[4,000]	[4,000]	[4,000]	
		Advanced deployable nano-sensors		[2,000]		[2,000]	
0601103A	3	UNIVERSITY RESEARCH INITIATIVES	71,642	71,642			71,642
		Transfer program to PE 61103D8Z (RDDW 3)			[-71,642]		
0601104A	4	UNIVERSITY AND INDUSTRY RESEARCH CENTERS	84,816	90,916	89,816	3,100	87,916
		Infrastructure protection research			[4,000]		
		Ferroelectric nanomaterials fabrication			[1,000]	[1,000]	
		Jidoka project		[1,500]			
		Army Centers of Excellence		[2,500]		[2,100]	
		Electromagnetic gun initiative		[2,100]			
0601105A	5	FORCE HEALTH PROTECTION	9,847	9,847	9,847		9,847
0601114A	6	DEFENSE EXPERIMENTAL PGM TO STIM COMPET RESEARCH	9,730	9,730	9,730		9,730
0601228A	7	HISTORICALLY BLACK COL AND UNIVERSITIES/MINORITY INST	14,083	14,083	14,083		14,083
		Network centric operations research (non-add)			[1,000]		
0602105A	8	MATERIALS TECHNOLOGY	15,186	35,186	21,186	8,000	23,186
		Advanced materials processing			[3,000]	[3,000]	
		Multifunctional composite materials			[3,000]		
		Composite multifunction materials for Future Combat Systems		[5,000]		[4,000]	
		Volumetrically controlled manufacturing (VCM)		[15,000]		[1,000]	
0602120A	9	SENSORS AND ELECTRONIC SURVIVABILITY	22,765	22,765	22,765		22,765
0602122A	10	TRACTOR HIP	5,835	5,835	5,835		5,835
0602211A	11	AVIATION TECHNOLOGY	39,459	39,459	39,459		39,459
0602270A	12	EW TECHNOLOGY	17,029	17,029	17,029		17,029

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602303A	13	MISSILE TECHNOLOGY	43,269	53,269	52,269	17,096	60,365
		Short range air defense radar			[8,000]		
		Short range air defense radar (Transfer to RDA 58)			[-8,000]		
		Maneuver air defense system			[6,500]	[6,500]	
		Multiple component flight test			[2,500]	[2,500]	
		Micro electro-mechanical systems inertial measurement unit/GPS		[10,000]		[10,000]	
		National aerospace initiative				[-1,904]	
0602307A	14	ADVANCED WEAPONS TECHNOLOGY	14,189	21,189	14,189		14,189
		Diode-pumped solid-state high energy laser		[7,000]			
0602308A	15	ADVANCED CONCEPTS AND SIMULATION	15,941	15,941	23,441	7,500	23,441
		Advanced photonic detectors			[5,000]	[5,000]	
		Immersive simulation and training research			[2,500]	[2,500]	
0602601A	16	COMBAT VEHICLE AND AUTOMOTIVE TECHNOLOGY	80,910	90,810	92,910	14,500	95,410
		Corrosion-resistant coatings			[1,500]	[1,500]	
		Rapid prototyping technologies			[2,000]	[2,000]	
		Unmanned vehicle control technologies			[2,500]	[2,500]	
		Advanced energy and manufacturing technology			[3,000]	[3,000]	
		Advanced electric drive		[3,000]	[3,000]	[2,000]	
		M-gator advanced powertrains		[4,400]		[1,000]	
		Fuel preporator		[2,500]		[2,500]	
0602618A	17	BALLISTICS TECHNOLOGY	53,478	53,478	53,478		53,478
0602622A	18	CHEMICAL, SMOKE AND EQUIPMENT DEFEATING TECH	3,540	8,540	3,540	4,000	7,540
		Metal particles in defense applications obscurant smokes		[5,000]		[4,000]	
0602623A	19	JOINT SERVICE SMALL ARMS PROGRAM	5,835	10,835	5,835	5,000	10,835
		Anti-material sniper rifle		[5,000]		[5,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602624A	20	WEAPONS AND MUNITIONS TECHNOLOGY	39,485	55,985	42,485	12,250	51,735
		Single crystal tungsten alloy penetrators			[3,000]	[3,000]	
		Alloy tungsten (LA-T) kinetic energy penetrator technology ammo		[5,500]		[4,250]	
		Generation 2 (X-caliber) warhead technology		[3,000]		[3,000]	
		TEMPER		[8,000]		[2,000]	
0602705A	21	ELECTRONICS AND ELECTRONIC DEVICES	33,694	57,694	42,694	26,000	59,694
		Flexible Display Initiative		[4,000]	[9,000]	[6,000]	
		Advanced battery technology initiative		[20,000]		[20,000]	
0602709A	22	NIGHT VISION TECHNOLOGY	22,233	22,233	22,233		22,233
0602712A	23	COUNTERMINE SYSTEMS	21,291	21,291	30,791	4,500	25,791
		Chemical vapor sensing			[2,500]	[2,500]	
		Synthetic aperture radar mine detection systems			[2,000]	[2,000]	
		Rapid and reliable countermine capabilities			[5,000]		
0602716A	24	HUMAN FACTORS ENGINEERING TECHNOLOGY	16,749	20,249	16,749	3,500	20,249
		Human systems integration (MANPRINT)		[3,500]		[3,500]	
0602720A	25	ENVIRONMENTAL QUALITY TECHNOLOGY	18,252	18,252	19,252		18,252
		Environmental response and security protection program			[1,000]		
0602782A	26	COMMAND, CONTROL, COMMUNICATIONS TECHNOLOGY	18,728	18,728	18,728		18,728
0602783A	27	COMPUTER AND SOFTWARE TECHNOLOGY	4,142	4,142	4,142		4,142
0602784A	28	MILITARY ENGINEERING TECHNOLOGY	45,407	47,407	48,407	3,000	48,407
		Geosciences and atmospheric research			[3,000]	[3,000]	
		Brooks energy and sustainability lab		[2,000]			
0602785A	29	MANPOWER/PERSONNEL/TRAINING TECHNOLOGY	15,548	15,548	15,548		15,548
0602786A	30	WARFIGHTER TECHNOLOGY	29,421	32,921	34,221	2,000	31,421
		Embedded optical communications			[4,800]		
		Adv microbial tech for treating military textiles and clothing		[3,500]		[2,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602787A	31	MEDICAL TECHNOLOGY	58,877	67,077	63,077	9,200	68,077
		Anthrax research			[2,500]	[2,500]	
		Minimally invasive digital printing for human tissue			[1,700]	[1,700]	
		Remote acoustic homeostasis		[8,200]		[5,000]	
0602805A	32	DUAL USE SCIENCE AND TECHNOLOGY					
0603001A	33	WARFIGHTER ADVANCED TECHNOLOGY	63,882	63,882	63,882		63,882
0603002A	34	MEDICAL ADVANCED TECHNOLOGY	35,168	47,168	47,168	18,500	53,668
		Rugged textile electronic garments		[3,000]	[5,000]	[3,500]	
		Stable hemostat			[5,000]	[5,000]	
		Hemoglobin-based oxygen carrier		[5,000]		[5,000]	
		Genomics research			[2,000]	[2,000]	
		Pseudofolliculitis Barbae research		[1,000]			
		Diagnosis of dermatological diseases		[3,000]		[3,000]	
0603003A	35	AVIATION ADVANCED TECHNOLOGY	72,083	89,783	72,083	7,000	79,083
		Airborne manned/unmanned system technology		[5,000]		[2,000]	
		Broad area unmanned responsive re-supply operations		[9,700]		[3,000]	
		Reconfiguring tooling system		[3,000]		[2,000]	
0603004A	36	WEAPONS AND MUNITIONS ADVANCED TECHNOLOGY	47,752	55,752	47,752		47,752
		ScramFire 120mm powered munition		[5,000]			
		Lightweight cartridge cases		[3,000]			

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603005A	37	COMBAT VEHICLE AND AUTOMOTIVE ADVANCED TECH	210,856	220,856	245,856	36,000	246,856
		21st century truck			[17,500]	[12,000]	
		Fuel cell technology			[5,000]	[4,000]	
		Advanced collaborative environments			[2,000]	[2,000]	
		Fastening and joining technologies			[1,500]	[1,500]	
		Tactical vehicle design tools			[2,000]	[1,000]	
		Advanced thermal management controls			[1,500]	[1,500]	
		Advanced composite materials			[5,500]	[4,000]	
		Aluminum lightweight structure initiative		[5,000]		[1,000]	
		Advanced Army composite bridge		[5,000]		[3,000]	
		Mobile parts hospital development				[6,000]	
0603006A	38	COMMAND, CONTROL, COMMUNICATIONS ADV TECH	10,379	10,379	10,379		10,379
0603007A	39	MANPOWER, PERSONNEL AND TRAINING ADV TECH	4,931	9,931	4,931	5,000	9,931
		Ground systems team training		[5,000]		[5,000]	
0603008A	40	ELECTRONIC WARFARE ADVANCED TECHNOLOGY (H)	40,347	58,947	42,347	14,000	54,347
		Mobile emergency broadband systems		[8,600]	[2,000]	[4,000]	
		Applied communication and information networking		[10,000]		[10,000]	
0603009A	41	TRACTOR HIKE	8,781	8,781	8,781		8,781
0603015A	42	NEXT GENERATION TRAINING & SIMULATION SYSTEMS	18,649	18,649	24,149	4,000	22,649
		Immersive simulation and training research			[5,500]	[4,000]	
0603017A	43	TRACTOR RED					
0603020A	44	TRACTOR ROSE	2,872	2,872	2,872		2,872
0603103A	45	EXPLOSIVES DEMILITARIZATION TECHNOLOGY	9,349	9,349			9,349
		Transfer program to PE 63104D8Z (RDDW 26)			[-9,349]		
0603105A	46	MILITARY HIV RESEARCH	6,733	6,733	6,733		6,733
0603125A	47	COMBATING TERRORISM, TECHNOLOGY DEVELOPMENT	4,916	4,916	4,916		4,916
0603238A	48	GLOBAL SURVEILLANCE/AIR DEF/PREC STRIKE TECH DEM	12,660	12,660	12,660		12,660
0603270A	49	EW TECHNOLOGY	11,273	11,273	11,273		11,273

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603313A	50	MISSILE AND ROCKET ADVANCED TECHNOLOGY	111,321	116,321	117,321	5,000	116,321
		Close-in Active Protection (CIAPS) prototype			[6,000]	[4,000]	
		Army manufacturing and maintenance organization		[5,000]		[1,000]	
0603322A	51	TRACTOR CAGE	7,592	7,592	7,592		7,592
0603606A	52	LANDMINE WARFARE AND BARRIER ADVANCED TECH	24,552	24,552	24,552		24,552
0603607A	53	JOINT SERVICE SMALL ARMS PROGRAM	6,193	6,193	6,193		6,193
0603654A	54	LINE-OF-SIGHT TECHNOLOGY DEMONSTRATION	8,847	8,847	8,847		8,847
0603710A	55	NIGHT VISION ADVANCED TECHNOLOGY	47,088	72,588	50,088	26,000	73,088
		Warfighter/firefighter position, location, and tracking sensor			[3,000]	[3,000]	
		Night vision fusion (I2 &IR)		[5,000]		[5,000]	
		Buster backpack unmanned aerial vehicle		[10,000]		[10,000]	
		DoD firefighter helmet mounted thermal imaging camera system		[5,500]		[3,000]	
		Wire detection, wind sensor, and obstacle avoidance system		[5,000]		[5,000]	
0603728A	56	ENVIRONMENTAL QUALITY TECHNOLOGY DEMO	15,776	15,776	15,776		15,776
0603734A	57	MILITARY ENGINEERING ADVANCED TECHNOLOGY	3,441	3,441	3,441		3,441
0603772A	58	ADV TACTICAL COMPUTER SCIENCE AND SENSOR TECH	20,255	39,255	28,255	10,000	30,255
		Short range air defense radar			[8,000]	[6,000]	
		Lightweight counter mortar radar		[8,000]			
		Multi-mission radar program		[7,000]			
		Palletized SAR MTI radar sets		[4,000]		[4,000]	

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603305A	59	ARMY MISSILE DEF SYSTEMS INTEGRATION (NON SPACE)	51,547	63,047	83,947	30,500	82,047
		Mobile tactical high energy laser			[7,000]	[7,000]	
		Advanced laser electric power			[2,900]		
		Integrated composite missile structures			[5,000]	[4,000]	
		Low cost interceptor			[6,000]	[6,000]	
		Advanced radars and electro optical sensors			[6,500]		
		Radar power technology			[5,000]	[4,000]	
		Advanced battery technology demonstration and validation		[4,000]		[3,000]	
		Advanced tactical operations center		[7,500]		[6,500]	
0603308A	60	ARMY MISSILE DEFENSE SYSTEMS INTEGRATION (SPACE)	9,632	9,632	9,632		9,632
0603327A	61	AIR AND MISSILE DEFENSE SYSTEMS ENGINEERING	79,959	86,959	82,959	5,000	84,959
		AMD Architecture Analysis (A3) program		[7,000]	[3,000]	[5,000]	
0603619A	62	LANDMINE WARFARE AND BARRIER - ADV DEV	36,976	36,976	36,976		36,976
0603627A	63	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-ADV DEV	10,262	10,262	10,262		10,262
0603639A	64	TANK AND MEDIUM CALIBER AMMUNITION	11,249	11,249	11,249		11,249
0603653A	65	ADVANCED TANK ARMAMENT SYSTEM (ATAS)	61,377	61,377	61,377		61,377
0603747A	66	SOLDIER SUPPORT AND SURVIVABILITY	13,987	13,987	13,987		13,987
0603748A	XX	Defense Language Institute		5,000			
0603766A	67	TACTICAL ELECTRONIC SURVEILLANCE SYSTEM - ADV DEV	17,068	17,068	17,068		17,068
0603774A	68	NIGHT VISION SYSTEMS ADVANCED DEVELOPMENT	5,283	5,283	5,283		5,283
0603779A	69	ENVIRONMENTAL QUALITY TECHNOLOGY	11,514	13,514	18,014	6,500	18,014
		Managing Army Technologies for Environmental Enhancement			[4,500]	[4,500]	
		Manganese Health Research Program			[2,000]		
		Asbestos pilot program		[2,000]		[2,000]	
0603782A	70	WARFIGHTER INFORMATION NETWORK-TACTICAL	90,774	90,774	90,774	-8,463	82,311
		Reduce programmed growth - NAC tech				[-8,463]	
0603790A	71	NATO RESEARCH AND DEVELOPMENT	4,779	4,779	4,779		4,779
0603801A	72	AVIATION - ADV DEV	9,968	9,968	9,968		9,968

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603802A	73	WEAPONS AND MUNITIONS - ADV DEV	31,856	31,856	31,856		31,856
0603804A	74	LOGISTICS AND ENGINEER EQUIPMENT - ADV DEV	12,008	12,008	25,508	7,500	19,508
		Mobile parts hospital development			[6,000]		
		Theater support vessel development			[7,500]	[7,500]	
0603805A	75	COMBAT SERVICE SPT CNTRL SYS EVAL AND ANALYSIS	8,682	8,682	8,682		8,682
0603807A	76	MEDICAL SYSTEMS - ADV DEV	11,042	11,042	16,042	5,000	16,042
		Automated laboratories for biodefense			[5,000]	[5,000]	
0603850A	77	INTEGRATED BROADCAST SERVICE (JMIP/DISTP)	2,097		2,097		2,097
		Program reduction		[-2,097]			
0603851A	78	TRACTOR CAGE					
0603854A	79	ARTILLERY SYSTEMS					
0603856A	80	SCAMP BLOCK II	28,028	28,028	28,028		28,028
0603869A	81	MEDIUM EXTENDED AIR DEF SYS (MEADS) CONCEPTS	276,259			-276,259	
		Program reduction			[-34,934]		
		Transfer to PE 64865C (RDDW 90)			[-241,325]		
		MEADS transfer		[-276,259]			
		Transfer to PE 63869A (RDA 81a)				[-276,259]	
0603869A	81a	PAC-3 SPIRAL DEVELOPMENT				450,734	450,734
		Transfer from PE 63869A (RDA 81)				[276,259]	
		Transfer from PE 64865A (RDA 130)				[174,475]	
0604201A	82	AIRCRAFT AVIONICS	64,650	64,650	64,650	-5,000	59,650
		Reduce programmed growth				[-5,000]	
0604220A	83	ARMED, DEPLOYABLE OH-58D					
0604223A	84	COMANCHE	1,079,257	1,079,257	1,079,257		1,079,257
0604270A	85	EW DEVELOPMENT	33,214	33,214	33,214		33,214
0604280A	86	JOINT TACTICAL RADIO	134,693	134,693	134,693		134,693
0604321A	87	ALL SOURCE ANALYSIS SYSTEM	20,168	20,168	20,168		20,168
0604328A	88	TRACTOR CAGE	16,215	16,215	16,215		16,215

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604329A	89	COMMON MISSILE	183,790	183,790	183,790	-18,000	165,790
		Program refocused				[-18,000]	
0604601A	90	INFANTRY SUPPORT WEAPONS	21,637	21,637	21,637		21,637
0604604A	91	MEDIUM TACTICAL VEHICLES	4,366	4,366	4,366		4,366
0604609A	92	SMOKE, OBSCURANT AND TARGET DEFEATING SYS-SDD	12,094	12,094	12,094		12,094
0604611A	93	JAVELIN	956	956	956		956
0604619A	94	LANDMINE WARFARE					
0604622A	95	FAMILY OF HEAVY TACTICAL VEHICLES	9,200	9,200	9,200		9,200
0604633A	96	AIR TRAFFIC CONTROL	2,514	2,514	2,514		2,514
0604641A	97	TACTICAL UNMANNED GROUND VEHICLE (TUGV)			2,800		
		TUGV			[2,800]		
0604642A	98	LIGHT TACTICAL WHEELED VEHICLES	15,700	15,700	15,700		15,700
0604645A	99	ARMORED SYSTEMS MODERNIZATION (ASM)-SDD	1,701,331	1,245,118	1,701,331	-1,701,331	
		Transfer to Network fires systems tech (new PE 0604646A)		[-102,971]		[-102,971]	
		Transfer to Objective Force indirect fires (new PE 0604647A)		[-353,242]		[-353,242]	
		Transfer to Future Combat System - SDD (PE 0604645A)				[-1,245,118]	
0604645A	99	Future Combat System - SDD				1,245,118	1,245,118
0604646A	XX	Networked fires systems technology - SDD		102,971		102,971	102,971
0604647A	XX	Objective Force indirect fires - SDD		353,242		353,242	353,242
0604649A	100	ENGINEER MOBILITY EQUIPMENT DEVELOPMENT					
0604710A	101	NIGHT VISION SYSTEMS - SDD	29,022	32,022	29,022		29,022
		Modular multi function laser system		[3,000]			
0604713A	102	COMBAT FEEDING, CLOTHING, AND EQUIPMENT	67,283	125,783	140,783	58,500	125,783
		Integrated battlefield combat situational awareness (IB-CSAS)			[15,000]		
		Land Warrior development (transfer from OPA 136)		[58,500]	[58,500]	[58,500]	
0604715A	103	NON-SYSTEM TRAINING DEVICES - SDD	71,616	62,849	71,616		71,616
		Program reduction		[-8,767]			
0604716A	104	TERRAIN INFORMATION - SDD	6,977	6,977	6,977		6,977

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604726A	105	INTEGRATED METEOROLOGICAL SUPPORT SYSTEM	3,309	3,309	3,309		3,309
0604738A	106	JSIMS CORE PROGRAM					
0604741A	107	AIR DEFENSE COMMAND, CONTROL AND INTEL - SDD	29,297	29,297	29,297		29,297
0604742A	108	CONSTRUCTIVE SIMULATION SYSTEMS DEVELOPMENT	16,994	2,274	16,994		16,994
		Program reduction		[-14,720]			
0604746A	109	AUTOMATIC TEST EQUIPMENT DEVELOPMENT	4,634	4,634	4,634		4,634
0604760A	110	DISTRIBUTIVE INTERACTIVE SIMULATIONS (DIS) - SDD	26,358	26,358	26,358		26,358
0604766A	111	TACTICAL SURVEILLANCE SYSTEMS - SDD	19,695	25,695	19,695	5,000	24,695
		Broadband intelligence training system		[6,000]		[5,000]	
0604768A	112	ARMY TACTICAL MISSILE SYSTEM (ATACMS)	55,075	55,075	62,575	-51,075	4,000
		Viper strike munitions			[7,500]	[4,000]	
		Reduce programmed growth				[-55,075]	
0604770A	113	JOINT SURVEILLANCE/TARGET ATTACK RADAR SYSTEM	4,705	4,705	4,705		4,705
0604778A	114	POSITIONING SYSTEMS DEVELOPMENT (SPACE)	1,574	1,574	1,574		1,574
0604780A	115	COMBINED ARMS TACTICAL TRAINER (CATT) CORE	3,998	3,998	3,998		3,998
0604783A	116	JOINT NETWORK MANAGEMENT SYSTEM	9,437	9,437	9,437		9,437
0604801A	117	AVIATION - SDD	2,379	2,379	2,379		2,379
0604802A	118	WEAPONS AND MUNITIONS - SDD	129,409	138,409	149,409	10,000	139,409
		Advanced Precision Kill Weapon System (APKWS)		[9,000]	[20,000]	[10,000]	
0604804A	119	LOGISTICS AND ENGINEER EQUIPMENT - SDD	86,288	86,288	86,288		86,288
0604805A	120	COMMAND, CONTROL, COMMUNICATIONS SYS - SDD	219,088	219,088	219,088		219,088
0604807A	121	MEDICAL MATERIEL/MED BIOLOGICAL DEF EQPMT - SDD	12,202	12,202	12,202		12,202
0604808A	122	LANDMINE WARFARE/BARRIER - SDD	90,396	90,396	90,396		90,396
0604814A	123	ARTILLERY MUNITIONS	133,994	133,994	133,994		133,994
0604817A	124	COMBAT IDENTIFICATION	3,541	3,541	3,541		3,541
0604818A	125	ARMY TAC COMMAND & CNTRL HARDWARE & SOFTWARE	98,129	102,029	102,029	3,000	101,129
		Army Airborne Command and Control System (A2C2S)		[3,900]	[3,900]	[3,000]	
0604819A	126	LOSAT	30,809	30,809	30,809		30,809

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604820A	127	RADAR DEVELOPMENT					
0604823A	128	FIREFINDER	27,107	27,107	27,107		27,107
0604854A	129	ARTILLERY SYSTEMS	32,629	32,629	32,629		32,629
0604865A	130	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION	174,475	253,475		-174,475	
		Transfer to PE 64865C (RDDW 90)			[-174,475]		
		PAC-3 R&D		[79,000]			
		Transfer to PE 63869A (RDA 81a)				[-174,475]	
0605013A	131	INFORMATION TECHNOLOGY DEVELOPMENT	47,566	47,566	47,566		47,566
0604256A	132	THREAT SIMULATOR DEVELOPMENT	17,751	17,751	17,751		17,751
0604258A	133	TARGET SYSTEMS DEVELOPMENT	13,890	13,890	13,890		13,890
0604759A	134	MAJOR T&E INVESTMENT	62,135	62,135	62,135		62,135
0605103A	135	RAND ARROYO CENTER	22,804	22,804	22,804		22,804
0605301A	136	ARMY KWAJALEIN ATOLL	137,307	137,307	137,307		137,307
0605326A	137	CONCEPTS EXPERIMENTATION PROGRAM	26,473	26,473	26,473		26,473
0605502A	138	SMALL BUSINESS INNOVATIVE RESEARCH					
0605601A	139	ARMY TEST RANGES AND FACILITIES	174,603	182,003	174,603		174,603
		Army Aviation Technical Test Center upgrade for helicopter		[7,400]			
0605602A	140	ARMY TECHNICAL TEST INSTRUMENTATION AND TARGETS	54,986	54,986	54,986		54,986
0605604A	141	SURVIVABILITY/LETHALITY ANALYSIS	39,138	39,138	39,138		39,138
0605605A	142	DOD HIGH ENERGY LASER TEST FACILITY	17,806	17,806	17,806		17,806
0605606A	143	AIRCRAFT CERTIFICATION	3,098	3,098	3,098		3,098
0605702A	144	METEOROLOGICAL SUPPORT TO RDT&E ACTIVITIES	9,669	9,669	9,669		9,669
0605706A	145	MATERIEL SYSTEMS ANALYSIS	15,832	15,832	15,832		15,832
0605709A	146	EXPLOITATION OF FOREIGN ITEMS	3,579	3,579	3,579		3,579
0605712A	147	SUPPORT OF OPERATIONAL TESTING	67,795	67,795	67,795		67,795
0605716A	148	ARMY EVALUATION CENTER	57,074	47,074	57,074	-10,000	47,074
		Program reduction		[-10,000]		[-10,000]	
0605718A	149	SIMULATION & MODELING FOR ACQ, RQTS, & TNG (SMART)	2,654	2,654	2,654		2,654

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0605801A	150	PROGRAMWIDE ACTIVITIES	71,555	71,555	71,555		71,555
0605803A	151	TECHNICAL INFORMATION ACTIVITIES	28,520	28,520	28,520		28,520
0605805A	152	MUNITIONS STANDARDIZATION, EFFECTIVENESS AND SAFETY	19,855	28,355	19,855	6,500	26,355
		Advanced cluster energetics (ACE) manufacturing technology		[5,000]		[3,000]	
		Cadmium zinc telluride detectors		[3,500]		[3,500]	
0605857A	153	ENVIRONMENTAL QUALITY TECHNOLOGY MGMT SUPPORT	4,938	4,938	4,938		4,938
0605898A	154	MANAGEMENT HEADQUARTERS (R&D)	8,995	8,995	8,995		8,995
0909999A	155	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
0603778A	156	MLRS PRODUCT IMPROVEMENT PROGRAM	84,839	84,839	84,839		84,839
0102419A	157	AEROSTAT JOINT PROJECT OFFICE	57,549	60,549	57,549	3,000	60,549
		Lightweight X-band radar MEMS antenna technology		[3,000]		[3,000]	
0203610A	158	DOMESTIC PREP AGAINST WEAPONS OF MASS DESTR					
0203726A	159	ADV FIELD ARTILLERY TACTICAL DATA SYSTEM	28,917	28,917	28,917		28,917
0203735A	160	COMBAT VEHICLE IMPROVEMENT PROGRAMS	24,486	24,486	29,186	1,000	25,486
		Abrams track improvement			[4,700]	[1,000]	
0203740A	161	MANEUVER CONTROL SYSTEM	39,581	39,581	39,581		39,581
0203744A	162	AIRCRAFT MODIFICATIONS/PROD IMPROVEMENT PGMS	187,959	287,959	287,959	85,000	272,959
		Transfer from APA 15		[100,000]	[100,000]	[85,000]	
0203752A	163	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PGM	3,399	3,399	8,399	5,000	8,399
		Full authority digital engine control (FADEC)			[5,000]	[5,000]	
0203758A	164	DIGITIZATION	18,251	18,251	18,251		18,251
0203759A	165	FORCE XXI BATTLE CMD, BRIG AND BELOW (FBCB2)	48,436	48,436	48,436		48,436
0203761A	166	FORCE XXI, WARFIGHTING RAPID ACQUISITION PROGRAM					
0203801A	167	MISSILE/AIR DEFENSE PRODUCT IMPROVEMENT PGM	44,468	54,468	48,468	1,000	45,468
		PAC-3 antenna mast group			[4,000]	[1,000]	
		PAC-2		[10,000]			
0203802A	168	OTHER MISSILE PRODUCT IMPROVEMENT PROGRAMS	9,822	9,822	9,822		9,822
0203806A	169	TRACTOR RUT	8,851	8,851	8,851		8,851

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0203808A	170	TRACTOR CARD	9,255	9,255	9,255		9,255
0208010A	171	JOINT TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)	16,543	16,543	16,543		16,543
0208053A	172	JOINT TACTICAL GROUND SYSTEM	9,767	9,767	9,767		9,767
0301359A	173	SPECIAL ARMY PROGRAM	5,968	5,968	5,968		5,968
0303028A	174	SECURITY AND INTELLIGENCE ACTIVITIES		10,000	10,000	17,000	17,000
		Base protection and monitoring system			[8,000]	[8,000]	
		Portable documentation exploitation			[2,000]	[2,000]	
		Intelligence and security command global information portal		[5,000]		[3,000]	
		Info dominance center expanded processing for adv data analysis		[5,000]		[4,000]	
0303140A	175	INFORMATION SYSTEMS SECURITY PROGRAM	20,728	20,728	20,728		20,728
0303141A	176	GLOBAL COMBAT SUPPORT SYSTEM	58,983	58,983	58,983		58,983
0303142A	177	SATCOM GROUND ENVIRONMENT (SPACE)	87,352	87,352	87,352		87,352
0303150A	178	WWMCCS/GLOBAL COMMAND AND CONTROL SYSTEM	20,124	20,124	20,124		20,124
0305114A	179	TRAFFIC CONTROL, APPROACH AND LANDING SYSTEM	956	956	956		956
0305204A	180	TACTICAL UNMANNED AERIAL VEHICLES	60,493	72,893	60,493	8,900	69,393
		Shadow unmanned aerial vehicle improvements		[12,400]		[8,900]	
0305206A	181	AIRBORNE RECONNAISSANCE SYSTEMS	4,751	13,451	4,751		4,751
		Hyperspectral long wave imagery for the tac environment (Hy lite)		[8,700]			
0305208A	182	DISTRIBUTED COMMON GROUND SYSTEMS	32,292	32,292	32,292		32,292
0708045A	183	END ITEM INDUSTRIAL PREPAREDNESS ACTIVITIES	65,981	68,981	65,981	3,000	68,981
		21st century high technology for legacy parts reinvention		[3,000]		[3,000]	
1001018A	184	NATO JOINT STARS	503	503	503		503
		Financial information systems			-18,200		
		Information technology reduction		-68,000			
		Total, RDT&E Army	**9,122,825**	**9,338,382**	**9,016,200**	**422,008**	**9,544,833**

Patriot Advanced Capability–3 spiral development

The budget request included in $174.5 million in PE 64865A for Patriot Advanced Capability–3 (PAC–3) advanced development; $276.3 million in PE 63869A for research and development on the Medium Extended Air Defense System (MEADS); $44.5 million in PE 23801A for development of Patriot system improvements; $561.6 million in Missile Procurement, Army, for procurement of 108 PAC–3 missiles; and $212.6 million in Missile Procurement, Army, for procurement of Patriot system modifications.

The House bill would authorize $253.5 million in PE 64865A for PAC–3 advanced development, an increase of $79.0 million; $276.3 million for MEADS research and development, the requested amount, but would transfer funding for the program to the Missile Defense Agency (MDA) in PE 63881C; $44.5 million in PE 23801A, the requested amount; $687.6 for procurement of 138 PAC–3 missiles and improvements in PAC–3 communications and radar, an increase of $126.0 million and 30 missiles; and $212.6 million, the requested amount, for procurement of Patriot system modifications.

The Senate amendment would authorize the merger of PAC–3 advanced development and MEADS research and development into a single PAC–3 spiral development program, with funds for the new alignment in a MDA program element. Specifically, the Senate amendment would authorize no funding in PE 64865A, a decrease of $174.5 million; no funding in PE 63869A, a decrease of $276.3 million; $415.8 million in PE 64865C, an increase of $415.8 million; $48.5 million in PE 23801A, an increase of $4.0 million for the light antenna mast group; and $223.6 million in Missile Procurement, Army, an increase of $11.0 million for procurement of unfunded PAC–3 requirements identified by the Army. Of the funds authorized in PE 64865C, $20.0 million would be directed toward meeting high priority unfunded PAC–3 evolutionary development efforts identified by the Army. Funding in this program element would represent an increase of $20.0 million for PAC–3 development and a decrease of $55.0 million for legacy MEADS development efforts.

The conferees agree to authorize $450.7 million in PE 63869A for PAC–3 spiral development. This funding represents the combined requests for PAC–3 development and MEADS, merged into a single account under the auspices of the Army. The conferees also agree to authorize $45.5 million in PE 23801A, an increase of $1.0 million for the light antenna mast group; $651.6 million in Missile Procurement, Army, for 138 PAC–3 missiles, an increase of $90.0 million and 30 missiles; and $212.6 million, the budget request, for procurement of Patriot system modifications.

Subsequent to the submission of the budget request, the Under Secretary of Defense for Acquisition, Technology, and Logistics approved the Army's plan for the merger of MEADS and PAC–3 development under Army management. The conferees agree that the PAC–3 development program and the MEADS research and development program are best managed as a single coordinated effort and funded in a single program element. The conferees expect that such a management structure will lead to the development of technologies that can be used in subsequent PAC–3 block procurement, resulting in more rapid deployment of MEADS objective capabilities.

The conferees support the administration's efforts to encourage participation by U.S. allies and friends in the development of ballistic missile defenses. MEADS has been an example of those efforts. The conferees support a continuing, meaningful role for Germany and Italy in the combined development program.

The conferees recognize that PAC–3 also has air and cruise missile defense missions and that consequently the administration recommended that a merged PAC–3/MEADS program be funded in the Army. The conferees understand that programs with multiple missions, such as PAC–3, pose difficult management challenges. The conferees note that MDA is responsible for ballistic missile defense research and development; the services are responsible for air and cruise missile defense development, procurement of air and missile defense systems, and product improvement of those systems; and the Joint Theater Air and Missile Defense Organization is responsible for air and missile defense architectures. The conferees direct the Secretary of Defense to review this division of responsibilities, and to make any recommendations for changes to this management structure he deems desirable to the Committees on Armed Services of the Senate and House of Representatives by March 1, 2004.

The conferees also recognize that the transition of ballistic missile defense program procurement to the services poses serious management challenges for the spiral development of enhanced capabilities in the future. The conferees believe that MDA should retain the authority necessary to assure proper integration of missile defense assets. The conferees direct the Secretary of Defense to review the MDA's current authorities and planning for spiral development, and to make any recommendations for changes to these authorities and plans he deems desirable to the Committees on Armed Services of the Senate and House of Representatives by March 1, 2004.

The conferees reemphasize the priority placed by Congress and the President on development of defenses against ballistic missiles. The conferees understand that the Army has other competing priorities for force modernization and transformation funds. However, the conferees expect that the Army will obligate and expend funds authorized and appropriated for PAC–3/MEADS development solely for that purpose.

Space-based Radar

The budget request included $274.1 million for the space-based radar program.

The conferees agree to authorize $199.1 million for the space-based radar program, a reduction of $75.0 million.

The conferees continue to support the Department's plans to develop a Space-based Radar (SBR) system to support both military and intelligence missions. The conferees note that the program is in an early development phase, and consequently both the system's planned architecture and its concept of operations are as yet unclear. The conferees believe that robust competition will be important to achieving the most effective SBR technologies, architectures, and concepts of operations.

The Senate report (S. Rept. 108–46) included a requirement that the Secretary of the Air Force submit two reports on options for Space-Based Radar architectures and spiral developments. In lieu of these reports, the conferees direct that the Secretary of the Air Force and the Under Secretary of Defense for Intelligence to jointly submit a report to the congressional defense and intelligence committees by March 30, 2004, and a follow-on report by March 15, 2005, on the SBR capabilities and concepts of operation to meet both military and intelligence community needs, and the options for the SBR architecture, technology, and spiral developments. These reports should include, when available, a description of the initial architecture planned for SBR, the rationale for choosing the initial architecture and spiral development planned for the system and for rejecting the alternatives, an assessment of the cost effectiveness of SBR architecture and spiral alternatives that were evaluated, and a description of the competitive processes used to ensure that all relevant technologies, architectures, and concepts of operations were thoroughly evaluated.

The conferees believe that proper definition of system capabilities and coordination with the intelligence community are key to success for the SBR program. The conferees understand that the Under Secretary of the Air Force intends to issue the request for proposal (RFP) for phase A SBR concept development and analysis of alternatives only after the Joint Requirements Oversight Council and the Mission Requirements Board agree on a statement of SBR capabilities and concepts of operations. The conferees fully support this approach. The conferees direct the Under Secretary of the Air Force to issue the RFP only after this agreement has been achieved. If this RFP has not been issued within 60 days of the date of enactment of this Act, the conferees further direct the Secretary of Defense and the Director of Central Intelligence to provide a report describing the reasons for the delay to the Committees on Armed Services of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives. If required, this report shall be provided no later than March 30, 2004.

NAVY

Research, Development, Test and Evaluation, Navy-Overview

The budget request for fiscal year 2004 included an authorization of $14,106.7 million for Research, Development, Test and Evaluation, Navy in the Department of Defense.

The House bill would authorize $14,364.5 million.

The Senate amendment would authorize $14,604.8 million.

The conferees recommend an authorization of $14,845.5 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, NAVY					
0601103N	1	UNIVERSITY RESEARCH INITIATIVES	70,669	76,669		3,600	74,269
		Transfer program to PE 61103D8Z (RDDW 3)			[-70,669]		
		Naval architecture and engineering		[6,000]		[3,600]	
0601152N	2	IN-HOUSE LABORATORY INDEPENDENT RESEARCH	17,400	17,400	17,400		17,400
0601153N	3	DEFENSE RESEARCH SCIENCES	368,517	368,517	378,017	9,500	378,017
		Robotic countermine technology			[3,000]	[3,000]	
		Neutron detection technology			[1,500]	[1,500]	
		Advanced power and propulsion			[5,000]	[5,000]	
0602114N	4	POWER PROJECTION APPLIED RESEARCH	114,144	141,644	117,144	7,750	121,894
		Gallium nitride materials			[6,000]	[6,000]	
		Free electron laser			[10,000]	[10,000]	
		Chemical detection on UAVs			[2,000]	[2,000]	
		Silver Fox UAV		[15,000]	[8,000]		
		Transfer to PE 63114N (RDN18), Navy accounting error			[-25,000]	[-25,000]	
		Non-thermal imaging systems		[2,000]	[2,000]	[2,000]	
		Interrogator for high speed retro reflectometer		[4,000]		[4,000]	
		Hybrid Lidar-radar for improved optical imaging		[3,500]		[3,500]	
		Integrated high payoff rocket propulsion technology program		[3,000]		[1,000]	
		Intelligent control systems for SWARM UAVs				[4,250]	
0602123N	5	FORCE PROTECTION APPLIED RESEARCH	75,909	78,409	94,209	16,500	92,409
		Advanced fusion processing			[5,000]	[5,000]	
		Fiber reinforced polymers			[4,000]	[4,000]	
		Corrosion modeling			[4,500]	[4,500]	
		Polymeric aircraft components			[4,800]	[3,000]	
		Fire retarded POSS composites		[2,500]			
0602131M	6	MARINE CORPS LANDING FORCE TECHNOLOGY	31,778	31,778	31,778		31,778
0602232N	7	COMMUNICATIONS, COMM AND CNTRL, INTEL, SURVEILLANCE					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602233N	8	HUMAN SYSTEMS TECHNOLOGY					
0602234N	9	MATERIALS, ELECTRONICS AND COMPUTER TECHNOLOGY					
0602235N	10	COMMON PICTURE APPLIED RESEARCH	59,022	65,022	59,022	6,000	65,022
		Theater undersea warfare initiative		[6,000]		[6,000]	
0602236N	11	WARFIGHTER SUSTAINMENT APPLIED RESEARCH	52,213	59,913	70,713	19,200	71,413
		Bioagent diagnostic tool			[4,000]	[4,000]	
		Biowarfare agent detector			[4,000]	[3,000]	
		Low observable materials			[6,000]	[4,000]	
		Formable aligned carbon thermoset materials		[1,500]	[1,500]	[1,500]	
		Space tether system			[1,000]		
		Coastal mapping systems			[2,000]	[2,000]	
		Marine mammal research program		[2,200]		[2,200]	
		Aerospace materials technology consortium		[4,000]		[2,500]	
0602271N	12	RF SYSTEMS APPLIED RESEARCH	44,019	59,519	49,019	6,500	50,519
		High brightness electron sources			[3,000]	[3,000]	
		Advanced semiconductor research			[2,000]	[2,000]	
		Vacuum electronics		[9,500]			
		Wide band gap semiconductor power electronics		[6,000]		[1,500]	
0602435N	13	OCEAN WARFIGHTING ENVIRONMENT APPLIED RESEARCH	48,785	49,785	54,785	6,000	54,785
		Ocean observing systems			[6,000]	[6,000]	
		Station-keeping ocean environment sensors		[1,000]			
0602633N	14	UNDERSEA WARFARE WEAPONRY TECHNOLOGY					
0602747N	15	UNDERSEA WARFARE APPLIED RESEARCH	62,583	65,083	65,383	2,500	65,083
		Low acoustic signature motors & propulsion		[2,500]	[2,800]	[2,500]	
0602782N	16	MINE AND EXPEDITIONARY WARFARE APPLIED RESEARCH	47,490	47,490	47,490		47,490
0602805N	17	DUAL USE SCIENCE AND TECHNOLOGY PROGRAM					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603114N	18	POWER PROJECTION ADVANCED TECHNOLOGY	173,478	203,978	198,478	49,000	222,478
		Transfer from PE 62114N (RDN 4), Navy accounting error			[25,000]	[25,000]	
		DP-2 thrust vectoring program		[10,000]		[10,000]	
		Cruise missile real time retargeting/LADAR technology		[10,000]		[6,000]	
		Low-power mega-performance UAV processing engines		[7,500]		[7,000]	
		Integrated high payoff rocket propulsion technology program		[3,000]		[1,000]	
0603123N	19	FORCE PROTECTION ADVANCED TECHNOLOGY	55,780	145,680	74,580	59,700	115,480
		Project M - Mark V seat demonstration / Project M		[4,000]	[4,700]	[4,700]	
		HTS AC synchronous ship propulsion motor		[15,800]	[10,000]	[10,000]	
		Laser welding for shipbuilding			[4,100]	[4,000]	
		Littoral support craft - experimental		[20,000]		[20,000]	
		Superconducting DC homopolar motor		[8,000]		[8,000]	
		Advanced Waterjet 21		[3,000]		[2,000]	
		Offshore mobile basing		[10,000]			
		Quad hull security caisson technical demonstration		[16,000]		[5,000]	
		COTS carbon fiber qualification		[5,500]		[4,000]	
		Electromagnetic gun initiative		[7,600]		[2,000]	
0603235N	20	COMMON PICTURE ADVANCED TECHNOLOGY	69,194	81,194	79,194	8,000	77,194
		Consolidated undersea situational awareness system		[7,000]	[4,000]	[4,000]	
		Shipboard automated reconstruction capability			[6,000]	[4,000]	
		Integrated maritime picture system of systems		[5,000]			
0603236N	21	WARFIGHTER SUSTAINMENT ADVANCED TECHNOLOGY	54,794	63,294	67,294	12,500	67,294
		Automated container and cargo handling system			[6,500]	[4,000]	
		Emerging/critical interconnection technology initiative		[5,000]	[3,000]	[4,000]	
		Expeditionary logistics software development			[3,000]	[2,000]	
		Reduction of catapult post-retraction exhaust discharge		[2,000]		[1,000]	
		IMPRINT		[1,500]		[1,500]	

Title II-RDT and E

.(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603271N	22	RF SYSTEMS ADVANCED TECHNOLOGY	45,475	58,475	55,475	15,000	60,475
		Precision surveillance and targeting radar			[10,000]	[7,000]	
		Remote ocean surveillance systems		[3,000]		[3,000]	
		LPI surveillance radar demonstration		[10,000]		[5,000]	
0603508N	23	SURFACE SHIP & SUBMARINE HM&E ADVANCED TECH					
0603640M	24	MARINE CORPS ADVANCED TECH DEMONSTRATION (ATD)	56,404	70,404	69,304	16,000	72,404
		Water purification technology			[6,000]	[6,000]	
		Center for Emerging Threats and Opportunities (CETO)			[1,500]		
		Dragon Eye UAV			[3,500]		
		Expeditionary communications system			[1,900]		
		Rapid deployment fortification wall live-fire testing		[3,500]			
		Advanced light strike vehicle		[5,000]		[5,000]	
		Mobile expandable shelters		[500]			
		Spike urban warfare system		[5,000]		[5,000]	
0603706N	25	MEDICAL DEVELOPMENT					
0603707N	26	MANPOWER, PERSONNEL AND TRAINING ADV TECH DEV					
0603712N	27	ENVIRONMENTAL QUALITY AND LOGISTICS ADVANCED TECHNY					
0603727N	28	NAVY TECHNICAL INFORMATION PRESENTATION SYSTEM	151,058		151,058		151,058
		Joint Warfare Experimentation Pgm (Transfer to PE 63xxD8Z, RDDW 61a)		[-151,058]			
0603729N	29	WARFIGHTER PROTECTION ADVANCED TECHNOLOGY	11,435	23,935	11,435	3,000	14,435
		Biomedical research imaging		[5,000]			
		Organ transfer technology		[3,000]		[3,000]	
		Modeling and simulation of surgical procedures for battlefield trauma		[4,500]			
0603747N	30	UNDERSEA WARFARE ADVANCED TECHNOLOGY	38,168	38,168	38,168		38,168
0603757N	31	JOINT WARFARE EXPERIMENTS	13,684		28,684	11,000	24,684
		Modeling and simulation for homeland defense			[15,000]	[15,000]	
		Joint warfare experiments		[-13,684]			
		JSIMS				[-4,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603758N	32	NAVY WARFIGHTING EXPERIMENTS AND DEMONSTRATIONS	20,584	20,584	20,584		20,584
0603782N	33	MINE AND EXPEDITIONARY WARFARE ADVANCED TECH	31,719	31,719	39,219	6,500	38,219
		Augmented reality research			[3,500]	[2,500]	
		Hyperspectral mapping			[4,000]	[4,000]	
0603792N	34	ADVANCED TECHNOLOGY TRANSITION					
0603207N	35	AIR/OCEAN TACTICAL APPLICATIONS	22,832	26,082	22,832		22,832
		Hydrographic science		[3,250]			
0603216N	36	AVIATION SURVIVABILITY	6,809	6,809	14,809	5,000	11,809
		Rotorcraft external airbag protection system (REAPS)			[8,000]	[5,000]	
0603237N	37	DEPLOYABLE JOINT COMMAND AND CONTROL	79,449	32,449	79,449		79,449
		Program reduction		[-47,000]			
0603254N	38	ASW SYSTEMS DEVELOPMENT	11,149	17,149	11,149	5,000	16,149
		Nonlinear dynamics stochastic resonance		[4,000]		[4,000]	
		Claymore marine		[2,000]		[1,000]	
0603261N	39	TACTICAL AIRBORNE RECONNAISSANCE	7,051		7,051		7,051
		UAV concept program reduction		[-7,051]			
0603382N	40	ADVANCED COMBAT SYSTEMS TECHNOLOGY	3,394	3,394	7,394	4,000	7,394
		Improved combat information center (CIC)			[4,000]	[4,000]	
0603502N	41	SURFACE AND SHALLOW WATER MINE COUNTERMEASURES	140,731	149,731	140,731		140,731
		Surface navy integrated undersea tactical technology		[9,000]			
0603506N	42	SURFACE SHIP TORPEDO DEFENSE	48,347	48,347	48,347		48,347
0603512N	43	CARRIER SYSTEMS DEVELOPMENT	144,965	144,965	165,965	20,000	164,965
		Aviation Ship Integration Center			[14,000]	[14,000]	
		Advanced battle station/decision support system			[7,000]	[6,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603513N	44	SHIPBOARD SYSTEM COMPONENT DEVELOPMENT	20,431	21,931	23,431	4,000	24,431
		Improved surface vessel torpedo launcher			[3,000]	[3,000]	
		Navy AQB circuit breaker electronic trip units second source qualification		[1,500]		[1,000]	
0603525N	45	PILOT FISH	95,301	95,301	95,301		95,301
0603527N	46	RETRACT LARCH	74,111	74,111	74,111		74,111
0603536N	47	RETRACT JUNIPER	20,526	20,526	20,526		20,526
0603542N	48	RADIOLOGICAL CONTROL	1,112	1,112	1,112		1,112
0603553N	49	SURFACE ASW	2,506	2,506	5,006	2,500	5,006
		ASW risk reduction			[2,500]	[2,500]	
0603559N	50	SSGN CONVERSION	68,988	68,988	68,988		68,988
0603561N	51	ADVANCED SUBMARINE SYSTEM DEVELOPMENT	52,744	91,444	89,444	36,700	89,444
		Submarine payload and sensors		[25,000]	[25,000]	[21,000]	
		Rotary electromagnetic launcher			[3,000]	[2,000]	
		Advanced metal fiber brushes		[8,700]	[8,700]	[8,700]	
		Advanced composite sail phase II		[5,000]		[5,000]	
0603562N	52	SUBMARINE TACTICAL WARFARE SYSTEMS	6,027	6,027	6,027		6,027
0603563N	53	SHIP CONCEPT ADVANCED DESIGN	7,679	7,679	7,679		7,679
0603564N	54	SHIP PRELIMINARY DESIGN & FEASIBILITY STUDIES					
0603570N	55	ADVANCED NUCLEAR POWER SYSTEMS	201,239	201,239	201,239		201,239
0603573N	56	ADVANCED SURFACE MACHINERY SYSTEMS	1,468	1,468	1,468		1,468
0603576N	57	CHALK EAGLE	17,463	17,463	17,463		17,463
0603581N	58	LITTORAL COMBAT SHIP (LCS)	158,071	193,071	193,071	25,000	183,071
		LCS mission module development		[35,000]	[35,000]	[25,000]	
0603582N	59	COMBAT SYSTEM INTEGRATION	86,836	86,836	86,836		86,836
0603609N	60	CONVENTIONAL MUNITIONS	42,539	42,539	42,539		42,539
0603611M	61	MARINE CORPS ASSAULT VEHICLES	240,695	240,695	240,695		240,695
0603612M	62	MARINE CORPS MINE/COUNTERMEASURES SYS - ADV DEV	1,215	1,215	1,215		1,215

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603635M	63	MARINE CORPS GROUND COMBAT/SUPPORT SYSTEM	19,700	19,700	32,200	8,000	27,700
		Non-lethal weapons			[12,500]	[8,000]	
0603654N	64	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	12,385	12,385	12,385		12,385
0603658N	65	COOPERATIVE ENGAGEMENT	72,506	72,506	72,506		72,506
0603713N	66	OCEAN ENGINEERING TECHNOLOGY DEVELOPMENT	18,180	18,180	21,680	3,500	21,680
		Distress signaling system evaluation			[3,500]	[3,500]	
0603721N	67	ENVIRONMENTAL PROTECTION	30,127	30,127	33,127	3,000	33,127
		Integrated Marine Mammal Monitoring and Protection System			[3,000]	[3,000]	
0603724N	68	NAVY ENERGY PROGRAM	1,713	1,713	1,713		1,713
0603725N	69	FACILITIES IMPROVEMENT	1,440	1,440	1,440		1,440
0603734N	70	CHALK CORAL	61,453	61,453	61,453		61,453
0603739N	71	NAVY LOGISTIC PRODUCTIVITY	7,591	7,591	10,091	2,500	10,091
		JEDMICS (Transfer from OPN 85)			[2,500]	[2,500]	
0603746N	72	RETRACT MAPLE	300,864	300,864	300,864		300,864
0603748N	73	LINK PLUMERIA	105,363	105,363	105,363		105,363
0603751N	74	RETRACT ELM	43,755	43,755	43,755		43,755
0603755N	75	SHIP SELF DEFENSE	9,733	9,733	9,733		9,733
0603764N	76	LINK EVERGREEN	95,796	95,796	95,796		95,796
0603787N	77	SPECIAL PROCESSES	53,450	53,450	53,450		53,450
0603790N	78	NATO RESEARCH AND DEVELOPMENT	7,941	7,941	7,941		7,941
0603795N	79	LAND ATTACK TECHNOLOGY	63,434	130,434	63,434	62,000	125,434
		Affordable weapon system		[40,000]		[40,000]	
		Naval fires network tactical dissemination module		[5,000]		[1,000]	
		Autonomous naval support round		[20,000]		[20,000]	
		Antijam GPS receive/comm link for hypersonic projectile		[2,000]		[1,000]	
0603851M	80	NONLETHAL WEAPONS	43,445	43,445	43,445		43,445

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603857N	81	ALL SERVICE CBT IDENTIFICATION EVAL TEAM (ASCIET)	16,765	16,765	16,765		16,765
0603860N	82	JOINT PRECISION APPROACH AND LANDING SYSTEMS	24,304	24,304	24,304		24,304
0603879N	83	SINGLE INTEGRATED AIR PICTURE (SIAP) SYS ENG (SE)	15,053	15,053	15,053		15,053
0603889N	84	COUNTERDRUG RDT&E PROJECTS					
0604272N	85	TAC AIR DIRECTIONAL INFRARED COUNTERMEASURES					
0604327N	86	HARD AND DEEPLY BURIED TARGET DEFEAT SYS (HDBTDS)					
0604707N	87	SPACE AND ELECTRONIC WARFARE (SEW) ARCH/ENG SPT	31,369	31,369	36,369	5,000	36,369
		Advanced wireless network			[5,000]	[5,000]	
0603662N	88	FOREIGN COUNTER-INTELLIGENCE (FCI)	[ ]				
0603787N	89	SPECIAL PROCESSES	[ ]				
0603831N	90	CLASSIFIED PROGRAMS	[ ]				
0604212N	91	OTHER HELO DEVELOPMENT	66,764	67,764	67,764	1,000	67,764
		Advanced helicopter tow cable		[1,000]	[1,000]	[1,000]	
0604214N	92	AV-8B AIRCRAFT - ENG DEV	10,527	17,527	17,527		10,527
		AV-8B aircraft engine development		[7,000]	[7,000]		
0604215N	93	STANDARDS DEVELOPMENT	50,063	56,063	50,063	6,000	56,063
		Metrology		[6,000]		[6,000]	
0604216N	94	MULTI-MISSION HELICOPTER UPGRADE DEVELOPMENT	76,998	76,998	76,998		76,998
0604217N	95	S-3 WEAPON SYSTEM IMPROVEMENT					
0604218N	96	AIR/OCEAN EQUIPMENT ENGINEERING	4,309	4,309	4,309		4,309
0604221N	97	P-3 MODERNIZATION PROGRAM	7,306	24,806	19,606	12,300	19,606
		P-3 AIP phased capability upgrade		[17,500]	[12,300]	[12,300]	
0604230N	98	WARFARE SUPPORT SYSTEM	1,466	1,466	4,466	2,000	3,466
		Deployable autonomous distribution systems for MIUW			[3,000]	[2,000]	
0604231N	99	TACTICAL COMMAND SYSTEM	68,805	73,805	68,805	2,000	70,805
		F/A-22 EW at sea demo		[5,000]		[2,000]	
0604234N	100	E-2C RADAR MODERNIZATION	352,298	352,298	352,298		352,298
0604245N	101	H-1 UPGRADES	90,589	90,589	90,589		90,589

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604261N	102	ACOUSTIC SEARCH SENSORS	15,831	15,831	15,831		15,831
0604262N	103	V-22A	441,142	441,142	441,142		441,142
0604264N	104	AIR CREW SYSTEMS DEVELOPMENT	8,765	12,765	8,765	4,000	12,765
		Joint Helmet Mounted Cueing System (JHMCS)		[4,000]		[4,000]	
0604270N	105	EW DEVELOPMENT	256,701	66,879	256,701	12,500	269,201
		IDECM ALE-55 development testing		[15,000]		[12,500]	
		Transfer to EA-18G (new PE 64271N)		[-204,822]			
0604271N	XX	EA-18G		204,822			
0604273N	106	VHXX EXECUTIVE HELO DEVELOPMENT	197,431	197,431	197,431		197,431
0604280N	107	JOINT TACTICAL RADIO SYSTEM - NAVY (JTRS-NAVY)	87,943	87,943	87,943		87,943
0604300N	108	SC-21 TOTAL SHIP SYSTEM ENGINEERING	1,037,987	1,041,987	1,037,987	-6,000	1,031,987
		Knowledge projection for fleet maintenance		[4,000]		[4,000]	
		DD(X) radar development				[-10,000]	
0604307N	109	SURFACE COMBATANT COMBAT SYSTEM ENGINEERING	205,733	250,733	205,733	40,000	245,733
		AEGIS open architecture		[10,000]		[5,000]	
		S-band radar prototype		[35,000]		[35,000]	
0604311N	110	LPD-17 CLASS SYSTEMS INTEGRATION	7,989	7,989	7,989		7,989
0604312N	111	TRI-SERVICE STANDOFF ATTACK MISSILE	25,137	25,137	25,137		25,137
0604329N	112	SMALL DIAMETER BOMB (SDB)					
0604366N	113	STANDARD MISSILE IMPROVEMENTS	76,927	76,927	122,927	10,000	86,927
		ERAM acceleration			[46,000]	[10,000]	
0604373N	114	AIRBORNE MCM	88,514	88,514	88,514		88,514
0604503N	115	SSN-688 AND TRIDENT MODERNIZATION	80,815	87,315	85,815	5,000	85,815
		Submarine antenna technology improvements			[5,000]	[3,000]	
		Affordable towed array construction		[6,500]		[2,000]	
0604504N	116	AIR CONTROL	10,472	10,472	10,472		10,472
0604507N	117	ENHANCED MODULAR SIGNAL PROCESSOR	1,006	1,006	1,006		1,006

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604512N	118	SHIPBOARD AVIATION SYSTEMS	18,352	26,252	18,352	4,000	22,352
		Aviation shipboard information technology		[6,500]		[4,000]	
		AutoRead		[1,400]			
0604518N	119	COMBAT INFORMATION CENTER CONVERSION	21,244	21,244	21,244		21,244
0604558N	120	NEW DESIGN SSN	112,355	122,355	138,555	26,200	138,555
		Virginia class - information assurance			[8,200]	[8,200]	
		Virginia class - multi mission module		[10,000]	[10,000]	[10,000]	
		Virginia class - network centric architecture			[8,000]	[8,000]	
0604561N	121	SSN-21 DEVELOPMENTS	13,482	13,482	15,482		13,482
		Composite sail test articles			[2,000]		
0604562N	122	SUBMARINE TACTICAL WARFARE SYSTEM	32,238	32,238	52,238	6,500	38,738
		Submarine tactical control system			[10,000]	[10,000]	
		Submarine weapons control system			[10,000]	[7,000]	
		AN/BSG-1 milestone III				[-10,500]	
0604567N	123	SHIP CONTRACT DESIGN/ LIVE FIRE T&E	138,017	138,017	138,017		138,017
0604574N	124	NAVY TACTICAL COMPUTER RESOURCES	2,267	2,267	2,267		2,267
0604601N	125	MINE DEVELOPMENT	1,497	1,497	1,497		1,497
0604603N	126	UNGUIDED CONVENTIONAL AIR-LAUNCHED WEAPONS	9,701	9,701	9,701		9,701
0604610N	127	LIGHTWEIGHT TORPEDO DEVELOPMENT	3,442	3,442	3,442		3,442
0604618N	128	JOINT DIRECT ATTACK MUNITION	33,029	33,029	33,029		33,029
0604654N	129	JOINT SERVICE EXPLOSIVE ORDNANCE DEVELOPMENT	8,136	8,136	8,136		8,136
0604703N	130	PERSONNEL, TRAINING, SIMULATION, AND HUMAN FACTORS	1,941	1,941	1,941		1,941
0604710N	131	NAVY ENERGY PROGRAM			3,500	3,500	3,500
		Uninterruptible PEM fuel cell			[3,500]	[3,500]	
0604721N	132	BATTLE GROUP PASSIVE HORIZON EXTENSION SYSTEM	16,942	16,942	16,942		16,942
0604727N	133	JOINT STANDOFF WEAPON SYSTEMS	775	775	775		775

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0604755N	134	SHIP SELF DEFENSE (DETECT & CONTROL)	40,930	56,930	40,930	6,000	46,930
		Integrated radar optical surveillance and sighting system		[16,000]		[6,000]	
0604756N	135	SHIP SELF DEFENSE (ENGAGE: HARD KILL)	23,076	23,076	23,076		23,076
0604757N	136	SHIP SELF DEFENSE (ENGAGE: SOFT KILL/EW)	35,508	35,508	46,508	11,000	46,508
		NULKA decoy development			[7,000]	[7,000]	
		Radar absorbing tiles			[4,000]	[4,000]	
0604771N	137	MEDICAL DEVELOPMENT	9,121	14,121	9,121	5,000	14,121
		Hemoglobin-based oxygen carrier		[5,000]		[5,000]	
0604777N	138	NAVIGATION/ID SYSTEM	45,726	45,726	45,726		45,726
0604784N	139	DISTRIBUTED SURVEILLANCE SYSTEM	28,755	28,755	28,755		28,755
0604800N	140	JOINT STRIKE FIGHTER (JSF)	2,171,736	2,171,736	2,227,736	56,000	2,227,736
		Interchangeable engine development			[56,000]	[56,000]	
0604910N	141	SMART CARD	552	552	552		552
0605013M	142	INFORMATION TECHNOLOGY DEVELOPMENT	8,835	8,835	8,835		8,835
0605013N	143	INFORMATION TECHNOLOGY DEVELOPMENT	30,562	39,562	32,562	10,000	40,562
		Wireless sensor technologies/Open architecture wireless sensors		[1,000]	[2,000]	[2,000]	
		Naval collaboration tool set		[8,000]		[8,000]	
0605014N	144	DEF INTEGRATED MILITARY HUMAN RESOURCES SYS (DIMHRS) -	78,724	50,724	78,724		78,724
		Defense integrated military human resource system		[-28,000]			
0605015N	145	JOINT COUNTER-INTELLIGENCE ASSESSMENT GRP (JCAG)					
0605500N	146	MULTI-MISSION MARITIME AIRCRAFT (MMA)	76,243	58,743	76,243		76,243
		Program reduction		[-17,500]			
0508713N	147	NAVY STANDARD INTEGRATED PERSONNEL SYS (NSIPS)	4,653	4,653	4,653		4,653
0604256N	148	THREAT SIMULATOR DEVELOPMENT	28,004	28,004	28,004		28,004
0604258N	149	TARGET SYSTEMS DEVELOPMENT	37,638	37,638	37,638		37,638
0604759N	150	MAJOR T&E INVESTMENT	43,908	43,908	43,908		43,908
0605152N	151	STUDIES AND ANALYSIS SUPPORT - NAVY	4,431	4,431	5,431	1,000	5,431
		Fire resistant fibers			[1,000]	[1,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0605154N	152	CENTER FOR NAVAL ANALYSES	40,726	42,326	40,726		40,726
		Fleet architecture studies		[1,600]			
0605155N	153	FLEET TACTICAL DEVELOPMENT	2,006	2,006	2,006		2,006
0605502N	154	SMALL BUSINESS INNOVATIVE RESEARCH					
0605804N	155	TECHNICAL INFORMATION SERVICES	726	726	726		726
0605853N	156	MANAGEMENT, TECHNICAL & INTERNATIONAL SUPPORT	30,236	30,236	33,736	2,500	32,736
		Warfare analysis and education			[3,500]	[2,500]	
0605856N	157	STRATEGIC TECHNICAL SUPPORT	3,883	3,883	3,883		3,883
0605861N	158	RDT&E SCIENCE AND TECHNOLOGY MANAGEMENT	64,885	64,885	64,885		64,885
0605862N	159	RDT&E INSTRUMENTATION MODERNIZATION	13,554	13,554	13,554		13,554
0605863N	160	RDT&E SHIP AND AIRCRAFT SUPPORT	78,648	78,648	78,648		78,648
0605864N	161	TEST AND EVALUATION SUPPORT	258,471	258,471	258,471		258,471
0605865N	162	OPERATIONAL TEST AND EVALUATION CAPABILITY	12,094	12,094	12,094		12,094
0605866N	163	NAVY SPACE AND ELECTRONIC WARFARE (SEW) SUPPORT	3,187	3,187	3,187		3,187
0605867N	164	SEW SURVEILLANCE/RECONNAISSANCE SUPPORT	12,091	12,091	12,091		12,091
0605873M	165	MARINE CORPS PROGRAM WIDE SUPPORT	16,635	16,635	16,635		16,635
0909999N	166	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
0603660N	167	ADVANCED DEVELOPMENT PROJECTS	[ ]				
0603661N	168	RETRACT VIOLET	[ ]				
0101221N	169	STRATEGIC SUB & WEAPONS SYSTEM SUPPORT	104,793	104,793	106,293	1,500	106,293
		Thin plate pure lead batteries			[1,500]	[1,500]	
0101224N	170	SSBN SECURITY TECHNOLOGY PROGRAM	38,408	38,408	38,408		38,408
0101226N	171	SUBMARINE ACOUSTIC WARFARE DEVELOPMENT	2,955	2,955	2,955		2,955
0101402N	172	NAVY STRATEGIC COMMUNICATIONS	27,357	27,357	27,357		27,357
0203761N	173	RAPID TECHNOLOGY TRANSITION (RTT)	14,662	14,662	14,662		14,662
0204136N	174	F/A-18 SQUADRONS	179,047	179,047	179,047		179,047
0204152N	175	E-2 SQUADRONS	9,083	9,083	9,083		9,083
0204163N	176	FLEET TELECOMMUNICATIONS (TACTICAL)	16,484	16,484	16,484		16,484

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0204229N	177	TOMAHAWK AND TOMAHAWK MISSION PLANNING CENTER	71,385	71,385	81,385	10,000	81,385
		Precision target aided navigation			[10,000]	[10,000]	
0204311N	178	INTEGRATED SURVEILLANCE SYSTEM	14,278	21,778	14,278		14,278
		All optical underwater segments		[7,500]			
0204413N	179	AMPHIBIOUS TACTICAL SUPPORT UNITS	5,652	5,652	5,652		5,652
0204571N	180	CONSOLIDATED TRAINING SYSTEMS DEVELOPMENT	21,719	22,719	21,719	1,000	22,719
		Battle force tactical training coalition interoperability		[1,000]		[1,000]	
0204574N	181	CRYPTOLOGIC DIRECT SUPPORT	1,466	1,466	1,466		1,466
0204575N	182	ELECTRONIC WARFARE (EW) READINESS SUPPORT	11,927	11,927	11,927		11,927
0205601N	183	HARM IMPROVEMENT	49,381	49,381	49,381		49,381
0205604N	184	TACTICAL DATA LINKS	44,526	44,526	44,526		44,526
0205620N	185	SURFACE ASW COMBAT SYSTEM INTEGRATION	12,179	12,179	12,179		12,179
0205632N	186	MK-48 ADCAP	17,227	17,227	17,227		17,227
0205633N	187	AVIATION IMPROVEMENTS	60,073	63,073	60,073	3,000	63,073
		Automated wire analysis		[3,000]		[3,000]	
0205658N	188	NAVY SCIENCE ASSISTANCE PROGRAM	7,236	7,236	7,236		7,236
0205667N	189	F-14 UPGRADE					
0205675N	190	OPERATIONAL NUCLEAR POWER SYSTEMS	62,751	62,751	62,751		62,751
0206313M	191	MARINE CORPS COMMUNICATIONS SYSTEMS	235,722	239,722	243,722	3,000	238,722
		Collaborative info warfare network			[8,000]		
		Digital intelligence situation mapboard		[4,000]		[3,000]	
0206623M	192	MARINE CORPS GROUND COMBAT/SUPPORTING ARMS SYS	35,439	35,439	35,439		35,439
0206624M	193	MARINE CORPS COMBAT SERVICES SUPPORT	19,723	19,723	19,723		19,723
0207161N	194	TACTICAL AIM MISSILES	2,322	2,322	2,322		2,322
0207163N	195	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	9,297	9,297	9,297		9,297
0301303N	196	MARITIME INTELLIGENCE	[ ]				
0301323N	197	COLLECTION MANAGEMENT	[ ]				
0301327N	198	TECHNICAL RECONNAISANCE AND SURVEILLANCE	[ ]				

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0303109N	199	SATELLITE COMMUNICATIONS (SPACE)	379,541	389,541	379,541	-15,000	364,541
		Joint integrated satellite communications technology		[10,000]		[10,000]	
		MUOS program reduction				[-25,000]	
0303140N	200	INFORMATION SYSTEMS SECURITY PROGRAM	18,404	18,404	18,404		18,404
0304111N	201	SPACE ACTIVITIES	[ ]				
0305149N	202	COBRA JUDY	69,369	69,369	69,369		69,369
0305160N	203	NAVY METEOROLOGICAL AND OCEAN SENSORS-SPACE	4,966	4,966	4,966		4,966
0305188N	204	JOINT C4ISR BATTLE CENTER (JBC)	50,413	50,413	50,413		50,413
0305192N	205	JOINT MILITARY INTELLIGENCE PROGRAMS	5,314	5,314	5,314		5,314
0305204N	206	TACTICAL UNMANNED AERIAL VEHICLES	56,521	74,021	102,921	50,400	106,921
		Fire Scout UAV			[46,400]	[46,400]	
		Airborne buried mine detection		[2,000]			
		Shadow 200 system components for USMC		[8,500]			
		UAV Joint Operational Test Bed System		[7,000]		[4,000]	
0305205N	207	ENDURANCE UNMANNED AERIAL VEHICLES	101,448	93,048	101,448		101,448
		Global Hawk maritime demonstration		[-8,400]			
0305206N	208	AIRBORNE RECONNAISSANCE SYSTEMS	13,345	24,345	18,445	11,500	24,845
		Podded sensors for air reconnaissance			[5,100]	[4,500]	
		Advanced sensor initiative		[11,000]		[7,000]	
0305207N	209	MANNED RECONNAISSANCE SYSTEMS	13,717	13,717	13,717		13,717
0305208N	210	DISTRIBUTED COMMON GROUND SYSTEMS	4,421	10,921	4,421	6,500	10,921
		Enterprise Targeting and Strike System (ETSS)		[6,500]		[6,500]	
0305927N	211	NAVAL SPACE SURVEILLANCE					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0308601N	212	MODELING AND SIMULATION SUPPORT	7,044	7,044	9,044	2,000	9,044
		Verification, validation and accreditation improvements			[2,000]	[2,000]	
0702207N	213	DEPOT MAINTENANCE (NON-IF)	9,073	9,073	9,073		9,073
0708011N	214	INDUSTRIAL PREPAREDNESS	54,593	54,593	54,593		54,593
0708730N	215	MARITIME TECHNOLOGY (MARITECH)	10,068	10,068	10,068		10,068
XXXXXXX	999	Classified Programs	1,028,497	1,028,497	1,028,497		1,028,497
		Financial information systems			-15,200		
		Information technology reduction		-100,000			
		Total, RDT&E Navy	14,106,653	14,364,510	14,604,784	738,850	14,845,503

AIR FORCE

Research, Development, Test and Evaluation, Air Force—Overview

The budget request for fiscal year 2004 included an authorization of $20,336.3 million for Research, Development, Test and Evaluation, Air Force in the Department of Defense.

The House bill would authorize $20,552.9 million.

The Senate amendment would authorize $20,389.5 million.

The conferees recommend an authorization of $20,555.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, AIR FORCE					
0601102F	1	DEFENSE RESEARCH SCIENCES	204,754	209,754	210,254	9,500	214,254
		Quantum information technology			[1,500]	[1,500]	
		Adaptive optics research			[4,000]	[4,000]	
		Reduce biological research			[-5,000]		
		Increase propulsion research			[5,000]		
		Chabot Space and Science Center		[5,000]		[4,000]	
0601103F	2	UNIVERSITY RESEARCH INITIATIVES	105,224	105,224			105,224
		Transfer program to PE 61103D8Z (RDDW3)			[-105,224]		
0601108F	3	HIGH ENERGY LASER RESEARCH INITIATIVES	12,063	12,063			12,063
		Transfer program to PE 61108D8Z (RDDW 5)			[-12,063]		
0602102F	4	MATERIALS	68,657	76,157	86,157	25,000	93,657
		Composites for UAVs			[4,000]	[4,000]	
		Fabrication of microelectronic components			[6,000]	[6,000]	
		Closed cell foam materials			[2,000]	[2,000]	
		Nanostructured materials		[5,500]		[5,500]	
		Airbase materials technologies			[1,000]	[1,000]	
		Composite fire safety consortium		[2,000]		[2,000]	
		Nanotechnology research			[4,500]	[4,500]	
0602201F	5	AEROSPACE VEHICLE TECHNOLOGIES	65,662	65,662	65,662		65,662
0602202F	6	HUMAN EFFECTIVENESS APPLIED RESEARCH	66,795	68,795	66,795	2,000	68,795
		Flexible display and integrated communications development		[2,000]		[2,000]	
0602203F	7	AEROSPACE PROPULSION	101,575	105,575	101,575	1,000	102,575
		Integrated high payoff rocket propulsion technology		[4,000]		[1,000]	
0602204F	8	AEROSPACE SENSORS	75,577	81,577	75,577	4,000	79,577
		Advanced FT-IR gas analysis		[2,000]			
		Reconfigurable signal processors		[4,000]		[4,000]	
0602500F	9	MULTI-DISCIPLINARY SPACE TECHNOLOGY	90,526	90,526	90,526		90,526

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602601F	10	SPACE TECHNOLOGY	83,240	87,240	97,740	8,000	91,240
		Elastic memory composites			[4,000]	[3,000]	
		Thin film solar cells			[3,500]	[2,000]	
		Parallel datacom network			[4,000]		
		Microsatellite cluster technology			[3,000]	[3,000]	
		Hardening technologies for satellite protection		[4,000]			
0602602F	11	CONVENTIONAL MUNITIONS	46,455	46,455	46,455		46,455
0602605F	12	DIRECTED ENERGY TECHNOLOGY	35,359	35,359	35,359		35,359
0602702F	13	COMMAND CONTROL AND COMMUNICATIONS	71,674	87,174	78,674	9,000	80,674
		MASINT warfighter visualization tools		[8,000]	[7,000]	[4,000]	
		Central measurement intelligence office		[2,500]			
		MASINT Battlelab		[5,000]		[5,000]	
0602805F	14	DUAL USE SCIENCE AND TECHNOLOGY PROGRAM	10,586	10,586	10,586		10,586
0602890F	15	HIGH ENERGY LASER RESEARCH	41,854	41,854			41,854
		Transfer program to PE 62890D8Z (RDDW 22)			[-41,854]		
0603112F	16	ADVANCED MATERIALS FOR WEAPON SYSTEMS	33,079	43,079	40,079	7,000	40,079
		Metals affordability initiative		[7,000]	[7,000]	[5,000]	
		Hybrid bearings		[3,000]		[2,000]	
0603203F	17	ADVANCED AEROSPACE SENSORS	36,550	40,050	36,550	1,000	37,550
		National operational signature production and research capability		[3,500]		[1,000]	
0603205F	18	FLIGHT VEHICLE TECHNOLOGY					
0603211F	19	AEROSPACE TECHNOLOGY DEV/DEMO	73,416	76,416	84,916	12,000	85,416
		Advanced aluminum aerostructures			[6,500]	[5,000]	
		Life-cycle extension assessment			[2,000]	[1,000]	
		Fly-by-light photonic technology			[3,000]	[3,000]	
		3D bias woven preforms		[3,000]		[3,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603216F	20	AEROSPACE PROPULSION AND POWER TECHNOLOGY	114,726	114,726	127,726	5,000	119,726
		Fuels, lubrication and turbine engine technologies			[7,000]		
		Advanced turbine gas engine			[6,000]	[5,000]	
0603231F	21	CREW SYSTEMS AND PERSONNEL PROTECTION TECH	34,487	36,487	34,487	2,000	36,487
		Laser eye protection		[2,000]		[2,000]	
0603270F	22	ELECTRONIC COMBAT TECHNOLOGY	28,496	33,296	28,496	4,800	33,296
		Advanced threat alert receiver/lightweight modular support jammer		[4,800]		[4,800]	
0603311F	23	BALLISTIC MISSILE TECHNOLOGY		10,000		10,000	10,000
		Ballistic missile technology program		[10,000]		[10,000]	
0603333F	24	UNMANNED AIR VEHICLE DEV/DEMO					
0603401F	25	ADVANCED SPACECRAFT TECHNOLOGY	72,114	74,014	90,914	17,000	89,114
		Satellite hardening technologies			[6,800]	[5,000]	
		Thin film amorphous silicon solar arrays			[7,000]	[7,000]	
		Boron energy cell technology			[5,000]	[5,000]	
		SLV thermal protection technology		[1,900]			
0603436F	26	TRANSFORMATIONAL WIDEBAND MILSATCOM					
0603444F	27	MAUI SPACE SURVEILLANCE SYSTEM (MSSS)	6,323	16,323	16,323	10,000	16,323
		High accuracy network determination system (HANDS)		[10,000]	[10,000]	[10,000]	
0603500F	28	MULTI-DISCIPLINARY ADV DEVELOPMENT SPACE TECH	62,610	62,610	62,610		62,610
0603601F	29	CONVENTIONAL WEAPONS TECHNOLOGY	30,516	30,516	30,516		30,516
0603605F	30	ADVANCED WEAPONS TECHNOLOGY	27,024	30,524	27,024	3,500	30,524
		Laserspark countermeasure program		[3,500]		[3,500]	
0603723F	31	ENVIRONMENTAL ENGINEERING TECHNOLOGY		3,000			
		Environmental studies		[3,000]			
0603755F	32	HIGH PERFORMANCE COMPUTING MODERNIZATION PROGRAM	185,282	201,482	185,282		185,282
		SMDC Simulation Center computer upgrade		[16,200]			

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603789F	33	C3I ADVANCED DEVELOPMENT	31,538	38,038	31,538	3,000	34,538
		All-source fusion and effects based operation for C2 Constellation		[4,500]		[1,000]	
		Fusion SIGINT enhancements for network centric intelligence		[2,000]		[2,000]	
0603801F	34	HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	369,483	369,483	369,483		369,483
0603850F	35	INTEGRATED BROADCAST SERVICE	8,537	8,537	8,537		8,537
0603924F	36	HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM	10,910	10,910			10,910
		Transfer program to PE 63924D8Z (RDDW 56)			[-10,910]		
0207423F	37	ADVANCED COMMUNICATIONS SYSTEMS	12,053	12,053	12,053		12,053
0401840F	38	AMC COMMAND AND CONTROL SYSTEM	6,046	6,046	6,046		6,046
0804757F	39	JOINT NATIONAL TRAINING CENTER	2,940	2,940	2,940		2,940
0603260F	40	INTELLIGENCE ADVANCED DEVELOPMENT	4,513	4,513	4,513		4,513
0603287F	41	PHYSICAL SECURITY EQUIPMENT	24,483	27,483	24,483		24,483
		Enhanced techniques for detection of explosives		[3,000]			
0603421F	42	NAVSTAR GLOBAL POSITIONING SYSTEM III		45,000	80,000		
		Program increase		[45,000]	[80,000]		
0603430F	43	ADVANCED EHF MILSATCOM (SPACE)	778,078	838,078	838,078	45,000	823,078
		AEHF spare parts		[60,000]	[60,000]	[45,000]	
0603432F	44	POLAR MILSATCOM (SPACE)	5,580	5,580	5,580		5,580
0603434F	45	NATIONAL POLAR-ORBITING OPER ENVIRON SATELLITE SYS	267,716	267,716	267,716		267,716
0603438F	46	SPACE CONTROL TECHNOLOGY	14,714	14,714	18,714	4,000	18,714
		Space control / ASAT technology			[4,000]	[4,000]	
0603742F	47	COMBAT IDENTIFICATION TECHNOLOGY	16,575	16,575	16,575		16,575
0603790F	48	NATO RESEARCH AND DEVELOPMENT	3,888	3,888	3,888		3,888
0603791F	49	INTERNATIONAL SPACE COOPERATIVE R&D	545	545	545		545
0603845F	50	ADVANCED WIDEBAND SYSTEM (AWS)	439,277	359,277	389,277	-90,000	349,277
		Program reduction		[-80,000]	[-50,000]	[-90,000]	
0603850F	51	INTEGRATED BROADCAST SERVICE	16,466	16,466	16,466		16,466
0603851F	52	INTERCONTINENTAL BALLISTIC MISSILE	67,632	67,632	67,632		67,632

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0603854F	53	WIDEBAND GAPFILLER SYSTEM RDT&E (SPACE)	36,686	36,686	36,686		36,686
0603856F	54	AIR FORCE/NATIONAL PROGRAM COOPERATION (AFNPC)					
0603858F	55	SPACE-BASED RADAR	274,104	274,104	274,104	-75,000	199,104
		Program affordability				[-75,000]	
0603859F	56	POLLUTION PREVENTION	2,318	2,318	2,318		2,318
0603860F	57	JOINT PRECISION APPROACH AND LANDING SYSTEMS	13,847	13,847	13,847		13,847
0604327F	58	HARD AND DEEPLY BURIED TARGET DEFEAT SYS (HDBTDS)	12,633	12,633	12,633		12,633
0604731F	59	UNMANNED COMBAT AIR VEHICLE (UCAV)	161,269	161,269	161,269		161,269
0604855F	60	OPERATIONALLY RESPONSIVE LAUNCH	24,440	36,440	24,440	2,000	26,440
		Program increase		[12,000]		[2,000]	
0604856F	61	COMMON AERO VEHICLE (CAV)	12,220	24,220	12,220	9,000	21,220
		Program increase		[12,000]		[9,000]	
0603xxxF	xx	NEXT GENERATION BOMBER		100,000		100,000	100,000
0603840F	62	GLOBAL BROADCAST SERVICE (GBS)	38,147	38,147	38,147		38,147
0604012F	63	JOINT HELMET MOUNTED CUEING SYSTEM (JHMCS)	843	843	843		843
0604222F	64	NUCLEAR WEAPONS SUPPORT	13,396	13,396	13,396		13,396
0604226F	65	B-1B	88,703	88,703	88,703		88,703
0604233F	66	SPECIALIZED UNDERGRADUATE FLIGHT TRAINING	3,267	3,267	3,267		3,267
0604239F	67	F-22	620,740	620,740	620,740		620,740
0604240F	68	B-2 ADVANCED TECHNOLOGY BOMBER	152,084	185,584	127,393	33,500	185,584
		Aft deck design		[3,900]		[3,900]	
		EHF SATCOM		[29,600]		[29,600]	
		Air Force requested transfer to APAF-23			[-24,691]		
0604251F	69	SPACE-BASED RADAR					
0604270F	70	EW DEVELOPMENT	74,034	86,634	93,834	16,000	90,034
		Precision location and identification (PLAID) technology program		[12,600]	[13,800]	[10,000]	
		Loitering electronic warfare killer (LEWK)			[6,000]	[6,000]	

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0604280F	71	JOINT TACTICAL RADIO	48,814	48,814	48,814	-8,000	40,814
		Phase 2 contract				[-8,000]	
0604287F	72	PHYSICAL SECURITY EQUIPMENT	7,261	7,261	7,261		7,261
0604329F	73	SMALL DIAMETER BOMB (SDB)	126,447	126,447	126,447		126,447
0604421F	74	COUNTERSPACE SYSTEMS	82,565	82,565	82,565		82,565
0604435F	75	INTERIM POLAR	13,740	13,740	13,740		13,740
0604441F	76	SPACE BASED INFRARED SYSTEM (SBIRS) HIGH EMD	617,229	632,229	617,229		617,229
		Program increase		[15,000]			
0604479F	77	MILSTAR LDR/MDR SATELLITE COMMUNICATIONS (SPACE)	1,383	1,383	1,383		1,383
0604600F	78	MUNITIONS DISPENSER DEVELOPMENT	15,849	15,849	15,849		15,849
0604602F	79	ARMAMENT/ORDNANCE DEVELOPMENT	8,419	8,419	13,419	2,500	10,919
		Passive attack weapon			[5,000]	[2,500]	
0604604F	80	SUBMUNITIONS	4,717	4,717	4,717		4,717
0604617F	81	AGILE COMBAT SUPPORT	5,574	5,574	5,574		5,574
0604618F	82	JOINT DIRECT ATTACK MUNITION	34,061	34,061	34,061		34,061
0604706F	83	LIFE SUPPORT SYSTEMS	269	269	269		269
0604731F	84	UNMANNED COMBAT AIR VEHICLE (UCAV)	14,675	14,675	14,675		14,675
0604735F	85	COMBAT TRAINING RANGES	20,383	20,383	20,383		20,383
0604740F	86	INTEGRATED COMMAND & CONTROL APPLICATIONS (IC2A)	239	5,239	239	4,000	4,239
		Distributed mission interoperability toolkit		[5,000]		[4,000]	
0604750F	87	INTELLIGENCE EQUIPMENT	1,320	1,320	1,320		1,320
0604754F	88	TACTICAL DATA LINK INFRASTRUCTURE	14,675	14,675	14,675		14,675
0604762F	89	COMMON LOW OBSERV VERIF SYS (CLOVERS)	7,000	7,000	7,000		7,000
0604779F	90	TACTICAL DATA LINK INTEROPERABILITY					
0604800F	91	JOINT STRIKE FIGHTER (JSF)	2,194,087	2,194,087	2,194,087		2,194,087
0604851F	92	INTERCONTINENTAL BALLISTIC MISSILE	184,193	184,193	184,193		184,193
0604853F	93	EVOLVED EXPENDABLE LAUNCH VEHICLE PGM (SPACE)	8,000	8,000	8,000		8,000
0605011F	94	RDT&E FOR AGING AIRCRAFT	24,063	24,063	24,063		24,063

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0207249F	95	PRECISION ATTACK SYSTEMS PROCUREMENT					
0207256F	96	UNMANNED COMBAT AIR VEHICLE JOINT PGM OFFICE	4,892	4,892	4,892		4,892
0207434F	97	LINK-16 SUPPORT AND SUSTAINMENT	58,783	58,783	58,783		58,783
0207701F	98	FULL COMBAT MISSION TRAINING	6,946	6,946	6,946		6,946
0305176F	99	COMBAT SURVIVOR EVADER LOCATOR	14,684	22,384	14,684		14,684
		Program increase		[7,700]			
0401318F	100	CV-22	65,703	65,703	65,703		65,703
0604256F	101	THREAT SIMULATOR DEVELOPMENT	36,595	36,595	36,595		36,595
0604759F	102	MAJOR T&E INVESTMENT	50,215	50,215	52,315	2,100	52,315
		Magnetic levitation technologies			[2,100]	[2,100]	
0605101F	103	RAND PROJECT AIR FORCE	24,586	24,586	24,586		24,586
0605306F	104	RANCH HAND II EPIDEMIOLOGY STUDY	4,692	4,692	4,692		4,692
0605502F	105	SMALL BUSINESS INNOVATION RESEARCH					
0605712F	106	INITIAL OPERATIONAL TEST & EVALUATION	34,646	34,646	34,646		34,646
0605807F	107	TEST AND EVALUATION SUPPORT	336,720	336,720	336,720		336,720
0605860F	108	ROCKET SYSTEMS LAUNCH PROGRAM (SPACE)	9,673	9,673	25,173	15,500	25,173
		Ballistic missile range safety technology			[15,500]	[15,500]	
0605864F	109	SPACE TEST PROGRAM (STP)	42,909	42,909	39,609	-3,300	39,609
		STP			[-3,300]	[-3,300]	
0605976F	110	FACILITIES REST AND MOD - TEST AND EVAL SPT	33,940	33,940	33,940		33,940
0605978F	111	FACILITIES SUSTAINMENT - TEST AND EVALUATION SPT	15,770	15,770	15,770		15,770
0804731F	112	GENERAL SKILL TRAINING	318	318	318		318
0909900F	113	FINANCING FOR EXPIRED ACCOUNT ADJUSTMENTS					
0909980F	114	JUDGMENT FUND REIMBURSEMENT	36,434	36,434	36,434		36,434
1001004F	115	INTERNATIONAL ACTIVITIES	3,867	3,867	3,867		3,867
0604240F	116	B-2 ADVANCED TECHNOLOGY BOMBER	24,691		24,691	-24,691	
		Air Force requested transfer to APAF-23		[-24,691]		[-24,691]	
0605024F	117	ANTI-TAMPER TECHNOLOGY EXECUTIVE AGENCY	7,855	7,855	7,855		7,855

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0101113F	118	B-52 SQUADRONS	28,649	28,649	28,649		28,649
0101120F	119	ADVANCED CRUISE MISSILE	13,364	13,364	13,364		13,364
0101122F	120	AIR-LAUNCHED CRUISE MISSILE (ALCM)	29,804	29,804	29,804		29,804
0101313F	121	STRAT WAR PLANNING SYSTEM - USSTRATCOM	1,748	1,748	1,748		1,748
0101815F	122	ADVANCED STRATEGIC PROGRAMS	6,100	6,100	6,100		6,100
0102326F	123	REGION/SECTOR OPERATION CONTROL CTR MODERNIZATION PG	22,573	22,573	22,573		22,573
0203761F	124	WARFIGHTER RAPID ACQ PROCESS (WRAP) RPD TRANS FUND					
0207028F	125	JOINT EXPEDITIONARY FORCE EXPERIMENT	51,367	51,367	51,367		51,367
0207131F	126	A-10 SQUADRONS	29,729	29,729	29,729		29,729
0207133F	127	F-16 SQUADRONS	87,478	107,478	87,478	10,000	97,478
		AN/APG-68(V)9 radar upgrade		[10,000]		[10,000]	
		Block 40/42 AN/APX-113 integration for ANG		[10,000]			
0207134F	128	F-15E SQUADRONS	112,085	128,585	128,585	-500	111,585
		F-15C/D radar upgrade		[16,500]	[16,500]	[16,500]	
		Execution/scheduling delays				[-17,000]	
0207136F	129	MANNED DESTRUCTIVE SUPPRESSION	20,633	20,633	20,633		20,633
0207138F	130	F-22 SQUADRONS	315,784	315,784	315,784		315,784
0207141F	131	F-117A SQUADRONS	14,752	14,752	14,752		14,752
0207161F	132	TACTICAL AIM MISSILES	375	375	375		375
0207163F	133	ADVANCED MEDIUM RANGE AIR-TO-AIR MISSILE (AMRAAM)	32,429	32,429	32,429		32,429
0207224F	134	COMBAT RESCUE AND RECOVERY					
0207247F	135	AF TENCAP	10,479	13,479	15,979	3,000	13,479
		GPS jammer detection and location system		[3,000]	[3,000]	[3,000]	
		Space control test bed			[2,500]		
0207248F	136	SPECIAL EVALUATION PROGRAM	164,239	164,239	164,239		164,239
0207253F	137	COMPASS CALL	3,790	3,790	3,790		3,790
0207268F	138	AIRCRAFT ENGINE COMPONENT IMPROVEMENT PROGRAM	180,112	180,112	180,112		180,112

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0207277F	139	CSAF INNOVATION PROGRAM	1,880	1,880	9,880	5,000	6,880
		Eagle Vision commercial imagery program			[8,000]	[5,000]	
0207325F	140	JOINT AIR-TO-SURFACE STANDOFF MISSILE (JASSM)	31,216	31,216	48,216		31,216
		Joint Air-to-Surface Standoff Missile (JASSM) extended range			[17,000]		
0207410F	141	AEROSPACE OPERATIONS CENTER (AOC)	27,887	27,887	27,887		27,887
0207412F	142	CONTROL AND REPORTING CENTER (CRC)	16,083	16,083	16,083		16,083
0207417F	143	AIRBORNE WARNING AND CONTROL SYSTEM (AWACS)	270,397	270,397	270,397		270,397
0207423F	144	ADVANCED COMMUNICATIONS SYSTEMS	12,312	12,312	12,312		12,312
0207424F	145	EVALUATION AND ANALYSIS PROGRAM					
0207433F	146	ADVANCED PROGRAM TECHNOLOGY	263,392	263,392	263,392		263,392
0207438F	147	THEATER BATTLE MANAGEMENT (TBM) C4I	31,647	31,647	31,647		31,647
0207445F	148	FIGHTER TACTICAL DATA LINK	42,877	42,877	42,877		42,877
0207446F	149	BOMBER TACTICAL DATA LINK	12,959	12,959	12,959		12,959
0207448F	150	C2ISR TACTICAL DATA LINK	26,927	26,927	26,927		26,927
0207449F	151	MC2C (MULTI-SENSOR C2 CONSTELLATION)	363,630	363,630	363,630		363,630
0207581F	152	JOINT SURVEIL AND TGT ATTACK RADAR SYS (JOINT STARS)	58,431	58,431	58,431		58,431
0207590F	153	SEEK EAGLE	19,587	19,587	19,587		19,587
0207591F	154	ADVANCED PROGRAM EVALUATION	425,486	425,486	425,486		425,486
0207601F	155	USAF MODELING AND SIMULATION	8,483	8,483	8,483		8,483
0207605F	156	WARGAMING AND SIMULATION CENTERS	6,262	6,262	6,262		6,262
0208006F	157	MISSION PLANNING SYSTEMS	62,348	39,348	62,348		62,348
		Air Force mission planning system program reduction		[-23,000]			
0208021F	158	INFORMATION WARFARE SUPPORT	12,091	12,091	12,091		12,091
0208160F	159	TECHNICAL EVALUATION SYSTEM					
0208161F	160	SPECIAL EVALUATION SYSTEM					
0301310F	161	NATIONAL AIR INTELLIGENCE CENTER	[ ]				
0301314F	162	COBRA BALL	[ ]				
0301315F	163	MISSILE AND SPACE TECHNICAL COLLECTION	[ ]				

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0301324F	164	FOREST GREEN	[ ]				
0301398F	165	MANAGEMENT HEADQUARTERS GDIP	[ ]				
0302015F	166	E-4B NATIONAL AIRBORNE OPERATIONS CENTER (NAOC)	44,377	44,377	44,377		44,377
0303110F	167	DEFENSE SATELLITE COMMUNICATIONS SYSTEM (SPACE)					
0303112F	168	AIR FORCE COMMUNICATIONS (AIRCOM)					
0303131F	169	MINIMUM ESSENTIAL EMERGENCY COMM NETWORK	10,716	10,716	10,716		10,716
0303140F	170	INFORMATION SYSTEMS SECURITY PROGRAM	37,667	37,667	39,667	2,000	39,667
		Cybersecurity research			[2,000]	[2,000]	
0303141F	171	GLOBAL COMBAT SUPPORT SYSTEM	17,473	17,473	17,473		17,473
0303150F	172	GLOBAL COMMAND AND CONTROL SYSTEM	3,547	3,547	3,547		3,547
0303401F	173	COMMUNICATIONS SECURITY (COMSEC)					
0303601F	174	MILSATCOM TERMINALS	173,831	173,831	173,831		173,831
0304111F	175	SPECIAL ACTIVITIES	[ ]				
0304311F	176	SELECTED ACTIVITIES	107,800	107,800	107,800		107,800
0305099F	177	GLOBAL AIR TRAFFIC MANAGEMENT (GATM)	7,164	7,164	7,164		7,164
0305110F	178	SATELLITE CONTROL NETWORK (SPACE)	18,603	21,603	23,603	3,000	21,603
		Civil Reserve Space Service		[3,000]	[5,000]	[3,000]	
0305111F	179	WEATHER SERVICE	16,317	20,717	16,317		16,317
		NPOESS support initiative		[4,400]			
0305114F	180	AIR TRAFFIC CONTROL, APP, AND LANDING SYS (ATCALS)	10,622	10,622	10,622		10,622
0305128F	181	SECURITY AND INVESTIGATIVE ACTIVITIES	474	474	474		474
0305142F	182	APPLIED TECHNOLOGY AND INTEGRATION	[ ]				
0305144F	183	TITAN SPACE LAUNCH VEHICLES (SPACE)					
0305148F	184	AIR FORCE TAC MEASUREMENT AND SIG INTEL (MASINT) SYS	7,510	7,510	7,510		7,510
0305159F	185	DEFENSE RECONNAISSANCE SUPPORT ACTIVITIES (SPACE)	232,287	232,287	128,487		232,287
		Classified reduction			[-103,800]		
0305160F	186	DEFENSE METEOROLOGICAL SATELLITE PROGRAM (SPACE)	918	918	918		918
0305164F	187	NAVSTAR GLOBAL POSITIONING SYS (USER EQUIPMENT)	100,589	100,589	100,589		100,589

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0305165F	188	NAVSTAR GLOBAL POSITIONING SYS (SPACE AND CONTROL)	146,468	146,468	146,468		146,468
0305172F	189	COMBINED ADVANCED APPLICATIONS	[ ]				
0305174F	190	SPACE WARFARE CENTER	404	404	404		404
0305182F	191	SPACELIFT RANGE SYSTEM (SPACE)	63,210	63,210	63,210		63,210
0305202F	192	DRAGON U-2 (JMIP)	52,518	52,518	93,518	5,000	57,518
		U-2 SYERS 2 focal planes			[8,000]	[5,000]	
		U-2 SIGINT risk mitigation			[33,000]		
0305205F	193	ENDURANCE UNMANNED AERIAL VEHICLES	398,631	403,231	402,131	7,600	406,231
		Global Hawk lithium battery demonstration			[3,500]	[3,000]	
		Global Hawk advanced imagery architecture		[4,600]		[4,600]	
0305206F	194	AIRBORNE RECONNAISSANCE SYSTEMS	77,823	86,623	77,823	1,000	78,823
		F-16 theater airborne reconnaissance system		[6,800]			
		Ultra wideband laser communications for ISR		[2,000]		[1,000]	
0305207F	195	MANNED RECONNAISSANCE SYSTEMS	14,726	14,726	14,726		14,726
0305208F	196	DISTRIBUTED COMMON GROUND SYSTEMS	27,107	27,107	47,107		27,107
		Distributed common ground / surface system (DCGS) block 20			[20,000]		
0305906F	197	NCMC - TW/AA SYSTEM	57,933	57,933	57,933		57,933
0305910F	198	SPACETRACK (SPACE)	118,234	138,234	118,234		118,234
		Air Force space fence		[20,000]			
0305911F	199	DEFENSE SUPPORT PROGRAM (SPACE)					
0305913F	200	NUDET DETECTION SYSTEM (SPACE)	35,834	26,634	35,834		35,834
		Nuclear detonation detection system program reduction		[-9,200]			
0305917F	201	SPACE ARCHITECT	12,589	12,589	12,589		12,589
0308601F	202	MODELING AND SIMULATION SUPPORT					
0308699F	203	SHARED EARLY WARNING (SEW)	3,254	3,254	3,254		3,254
0401115F	204	C-130 AIRLIFT SQUADRON	105,381	105,381	105,381		105,381
0401119F	205	C-5 AIRLIFT SQUADRONS	356,570	356,570	356,570		356,570
0401130F	206	C-17 AIRCRAFT	184,089	184,089	184,089		184,089

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0401132F	207	C-130J PROGRAM	13,551	13,551	13,551		13,551
0401134F	208	LARGE AIRCRAFT IR COUNTERMEASURES (LAIRCM)	45,946	45,946	45,946		45,946
0401218F	209	KC-135S	1,473	1,473	4,873	3,400	4,873
		KC-135 simulator upgrades (boom)			[3,400]	[3,400]	
0401219F	210	KC-10S	2,306	2,306	2,306		2,306
0401839F	211	AIR MOBILITY TACTICAL DATA LINK					
0702207F	212	DEPOT MAINTENANCE (NON-IF)	1,406	1,406	1,406		1,406
0708011F	213	INDUSTRIAL PREPAREDNESS	39,396	46,396	39,396		39,396
		Metals affordability initiative		[7,000]			
0708012F	214	LOGISTICS SUPPORT ACTIVITIES					
0708026F	215	PRODUCTIVITY, REL, AVAIL, MAINTAIN. PROG OFC (PRAMPO)		7,000		5,000	5,000
		Aircraft turbine engine sustainment		[7,000]		[5,000]	
0708611F	216	SUPPORT SYSTEMS DEVELOPMENT	54,034	59,034	57,534	8,500	62,534
		Aging aircraft			[3,500]	[3,500]	
		Low emission/efficient hybrid aviation refueling truck propulsion		[5,000]		[5,000]	
0708612F	217	COMPUTER RESOURCES SPT IMPROVEMENT PGM (CRSIP)					
0901212F	218	SERVICE-WIDE SPT (NOT OTHERWISE ACCOUNTED FOR)	4,392	4,392	4,392		4,392
0901218F	219	CIVILIAN COMPENSATION PROGRAM	7,130	7,130	7,130		7,130
0901538F	220	FIN MGT INFORMATION SYSTEMS DEVELOPMENT	13,464	13,464	13,464		13,464
XXXXXXX	999	Classified Programs	5,245,898	5,275,898	5,245,898		5,245,898
		Program increase		[30,000]			
		Financial information systems			-11,500		
		Information technology reduction		-200,000			
		Total, RDT&E Air Force	20,336,258	20,552,867	20,389,516	219,409	20,555,667

Operationally responsive launch

The budget request included $24.2 million in PE 64855F for operationally responsive launch.

The House bill would authorize $36.2 million in PE 64855F, an increase of $12.0 million.

The Senate amendment would authorize the budget request.

The conferees agree to authorize $26.2 million, an increase of $2.0 million, for technology development for operationally responsive launch.

The conferees understand that the Air Force intends to conduct an analysis of alternatives prior to awarding two development contracts in the third quarter of fiscal year 2004. The conferees direct the Secretary of the Air Force to take appropriate steps to ensure that technologies that are potentially important to operationally responsive launch continue to mature during this analysis of alternatives.

DEFENSE-WIDE

Research, Development, Test and Evaluation, Defense-Wide-Overview

The budget request for fiscal year 2004 included an authorization of $17,974.3 million for Research, Development, Test and Evaluation, Defense-wide in the Department of Defense.

The House bill would authorize $18,181.4 million.

The Senate amendment would authorize $18,849.0 million.

The conferees recommend an authorization of $18,152.1 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		RESEARCH, DEVELOPMENT, TEST & EVALUATION, DEFENSE-WIDE					
0601101D8Z	1	IN-HOUSE LABORATORY INDEPENDENT RESEARCH					
0601101E	2	DEFENSE RESEARCH SCIENCES	151,029	158,029	172,029	21,000	172,029
		Nano- and microelectronics			[5,000]	[4,000]	
		Neural engineering research			[4,000]	[2,000]	
		Government industry cosponsorship of university research pgm			[10,000]	[8,000]	
		Nanophotonic systems fabrication			[2,000]	[2,000]	
		Advanced micro/nano-electromechanical systems technology		[5,000]		[5,000]	
		Integrated nano- and micro-manufacturing technology		[2,000]			
0601103D8Z	3	UNIVERSITY RESEARCH INITIATIVES			264,035	14,500	14,500
		Transfer program from PE 61103A (RDA 3)			[71,642]		
		Transfer program from PE 61103N (RDN 1)			[70,669]		
		Transfer program from PE 61103F (RDAF 2)			[105,224]		
		Photonics research			[3,500]	[3,500]	
		Advanced remote sensing software			[5,000]	[5,000]	
		Bioterrorism response analysis			[2,000]	[2,000]	
		Carbon nanotechnology research			[6,000]	[4,000]	
0601105D8Z	4	FORCE HEALTH PROTECTION					
0601108D8Z	5	HIGH ENERGY LASER RESEARCH INITIATIVES			12,063		
		Transfer program from PE 61108F (RDAF 3)			[12,063]		
0601111D8Z	6	GOVERNMENT/INDUSTRY COSPONSORSHIP OF UNIVERSITY RESE/					
0601114D8Z	7	DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPET RESI					
0601384BP	8	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	35,831	35,831	39,331	3,500	39,331
		Bacteriophage amplification			[1,500]	[1,500]	
		Cell and tissue culture and bacterial growth core research			[2,000]	[2,000]	
0602227D8Z	9	MEDICAL FREE ELECTRON LASER	9,494	19,494	18,494	9,000	18,494
		Medical free electron laser		[10,000]	[9,000]	[9,000]	
0602228D8Z	10	HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU) SCII					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0602234D8Z	11	LINCOLN LABORATORY RESEARCH PROGRAM	27,231	27,231	27,231		27,231
0602301E	12	COMPUTING SYSTEMS AND COMMUNICATIONS TECH	404,859	404,859	384,859	-20,000	384,859
		Computer research projects			[-20,000]	[-20,000]	
0602302E	13	EMBEDDED SOFTWARE AND PERVASIVE COMPUTING	13,318	13,318	13,318		13,318
0602383E	14	BIOLOGICAL WARFARE DEFENSE	137,254	149,254	137,254	2,000	139,254
		Asymmetric protocols for biological defense		[12,000]		[2,000]	
0602384BP	15	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	106,451	136,451	127,451	35,500	141,951
		Acoustic wave sensor technology			[2,000]	[2,000]	
		Water quality sensors			[3,500]	[3,500]	
		Mustard gas antidote		[5,000]	[3,000]	[5,000]	
		Bioinformatics			[6,500]	[6,500]	
		Sensor technologies			[2,000]		
		Food security technologies			[3,000]		
		Nerve agent decontamination technology			[1,000]	[1,000]	
		Chemical biological defense applied research initiative		[25,000]		[17,500]	
0602702E	16	TACTICAL TECHNOLOGY	250,558	250,558	239,558		250,558
		Tactical technology			[-11,000]		
0602712E	17	MATERIALS AND ELECTRONICS TECHNOLOGY	465,544	465,544	445,544		465,544
		Biology research			[-20,000]		
0602715BR	18	NUCLEAR SUSTAINMENT & COUNTERPROLIFERATION TECH					
0602716BR	19	WMD DEFEAT TECHNOLOGY	183,178	193,178	183,178		183,178
		Nuclear weapons effects		[10,000]			
0602717BR	20	STRATEGIC DEFENSE TECHNOLOGIES	116,049	116,049	116,049		116,049
0602787D8Z	21	MEDICAL TECHNOLOGY	9,213	9,213	11,713		9,213
		AFRRI			[2,500]		
0602890D8Z	22	HIGH ENERGY LASER RESEARCH			41,854		
		Transfer program from PE 62890F (RDAF 15)			[41,854]		
1160401BB	23	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT	9,715	9,715	9,715		9,715

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1160407BB	24	SOF MEDICAL TECHNOLOGY DEVELOPMENT	1,961	1,961	1,961		1,961
0603002D8Z	25	MEDICAL ADVANCED TECHNOLOGY	5,028	12,128	5,028	5,000	10,028
		Anti-radiation drug development		[7,100]		[5,000]	
0603104D8Z	26	EXPLOSIVES DEMILITARIZATION TECHNOLOGY			18,849	7,400	7,400
		Transfer program from PE 63103A (RDA 45)			[9,349]		
		Actodemil			[2,500]	[2,400]	
		Prototype production capability			[4,000]	[2,500]	
		Photocatalytic decommissioning process			[3,000]	[2,500]	
0603121D8Z	27	SO/LIC ADVANCED DEVELOPMENT	31,300	31,300	31,300		31,300
0603122D8Z	28	COMBATING TERRORISM TECHNOLOGY SUPPORT	60,526	75,326	68,026	20,000	80,526
		Blast mitigation			[7,500]	[7,500]	
		Blast mitigation analysis		[5,000]		[4,500]	
		Facial recognition access control technology		[3,000]		[2,000]	
		Chemical biological electrostatic decontamination system		[4,800]		[4,000]	
		Magnetic quadrupole resonance explosive detection		[2,000]		[2,000]	
0603160BR	29	COUNTERPROLIFERATION ADVANCED DEVELOPMENT TECH	76,277	76,277	86,277	10,000	86,277
		Portable radiation search tool			[10,000]	[10,000]	
0603175C	30	BALLISTIC MISSILE DEFENSE TECHNOLOGY	240,820	185,020	240,820	5,500	246,320
		Program reduction		[-55,800]			
		Silicon carbide wide bandgap technology				[5,500]	
		Silicon carbide wide bandgap technology (non-add)		[5,500]			
		Silicon brain architecture (non-add)		[2,000]			
0603225D8Z	31	JOINT DOD-DOE MUNITIONS TECHNOLOGY DEVELOPMENT	25,011	25,011	25,011		25,011
0603232D8Z	32	AUTOMATIC TARGET RECOGNITION					
0603285E	33	ADVANCED AEROSPACE SYSTEMS	323,730	333,730	303,730	-9,200	314,530
		Space technology			[-20,000]	[-12,200]	
		Suborbital space launch operations improvement		[10,000]		[3,000]	

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603384BP	34	CHEMICAL AND BIOLOGICAL DEFENSE PGM - ADV DEV	103,725	128,725	109,725	30,000	133,725
		SensorNet			[5,000]	[5,000]	
		Topically applied vector vaccine			[1,000]		
		Chem bio defense advanced technology demonstration initiative		[25,000]		[25,000]	
0603704D8Z	35	SPECIAL TECHNICAL SUPPORT	11,693	11,693	11,693		11,693
0603711BR	36	ARMS CONTROL TECHNOLOGY	4,807	4,807	4,807		4,807
0603712S	37	GENERIC LOGISTICS R&D TECHNOLOGY DEMONSTRATIONS	22,359	23,359	45,359	21,000	43,359
		Manufacturing extension partnership			[9,000]	[8,000]	
		Diminishing manufacturing sources (DMS) database			[7,000]	[5,000]	
		Vehicle fuel cells			[7,000]	[7,000]	
		Connectory for rapid identification of technology sources		[1,000]		[1,000]	
0603716D8Z	38	STRATEGIC ENVIRONMENTAL RESEARCH PROGRAM	47,068	47,068	47,068		47,068
0603727D8Z	39	JOINT WARFIGHTING PROGRAM	9,685	9,685	9,685		9,685
0603728D8Z	40	AGILE PORT DEMONSTRATION					
0603739E	41	ADVANCED ELECTRONICS TECHNOLOGIES	174,150	174,150	174,150		174,150
0603750D8Z	42	ADVANCED CONCEPT TECHNOLOGY DEMONSTRATIONS	213,361	215,361	223,361		213,361
		High altitude airship			[10,000]		
		Elemental detector		[2,000]			
0603752D8Z	43	COMMERCIAL TECHNOLOGY INSERTION PROGRAM					
0603755D8Z	44	HIGH PERFORMANCE COMPUTING MODERNIZATION PGM					
0603760E	45	COMMAND, CONTROL AND COMMUNICATIONS SYSTEMS	242,738	242,738	245,738		242,738
		All optical switching system			[3,000]		
0603762E	46	SENSOR AND GUIDANCE TECHNOLOGY	342,914	342,914	317,914		342,914
		Sensor technologies			[-25,000]		
0603763E	47	MARINE TECHNOLOGY	13,898	13,898	13,898		13,898
0603764E	48	LAND WARFARE TECHNOLOGY	82,387	82,387	89,887		82,387
		Organic micro air vehicle			[7,500]		
0603765E	49	CLASSIFIED DARPA PROGRAMS	210,532	210,532	210,532		210,532

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603766E	50	NETWORK-CENTRIC WARFARE TECHNOLOGY	95,654	95,654	95,654		95,654
0603769D8Z	51	DISTRIBUTED LEARNING ADVANCED TECHNOLOGY DEV					
0603781D8Z	52	SOFTWARE ENGINEERING INSTITUTE	22,652	22,652	22,652		22,652
0603805S	53	DUAL USE APPLICATION PROGRAMS					
0603826D8Z	54	QUICK REACTION SPECIAL PROJECTS	74,385	74,385	74,385		74,385
0603832D8Z	55	JOINT WARGAMING SIMULATION MANAGEMENT OFFICE	44,887	44,887	44,887		44,887
0603924D8Z	56	HIGH ENERGY LASER ADVANCED TECHNOLOGY PROGRAM			10,910		
		Transfer program from PE 63924F (RDAF 36)			[10,910]		
0603942D8Z	57	TECHNOLOGY LINK	2,000	2,000	2,000		2,000
0603943D8Z	58	AIR-TO-AIR TECHNOLOGY	2,000		2,000	-2,000	
		Program reduction		[-2,000]		[-2,000]	
0605160D8Z	59	COUNTERPROLIFERATION SUPPORT	1,882	1,882	1,882		1,882
0605803SE	60	R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND EVAL	13,757	13,757	13,757		13,757
1160402BB	61	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEV	67,017	78,517	67,017		67,017
		Multi-band multi-mission radio		[10,000]			
		Computer assisted medical diagnosis		[1,500]			
0603xxxD8Z	61a	Joint experimentation		151,058			
		Joint experimentation (Transfer from PE 0603727N, RDN 28)		[151,058]			
0603228D8Z	62	PHYSICAL SECURITY EQUIPMENT					
0603709D8Z	63	JOINT ROBOTICS PROGRAM	11,515	11,515	14,515	2,000	13,515
		Semi-autonomous UGV			[3,000]		
		TUGV				[2,000]	
0603714D8Z	64	ADVANCED SENSOR APPLICATIONS PROGRAM	16,718	35,218	26,718	15,000	31,718
		Advanced solid-state dye laser		[6,500]		[3,000]	
		Multi-wavelength surface scanning biologics sensor		[2,000]		[2,000]	
		Advanced sensor applications program classified increase		[10,000]	[10,000]	[10,000]	
0603736D8Z	65	CALS INITIATIVE	4,000	4,000	4,000		4,000
0603851D8Z	66	ENVIRONMENTAL SECURITY TECHNICAL CERTIFICATION PGM	35,594	35,594	35,594		35,594

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603869C	67	MEADS CONCEPTS					
0603879C	68	ADVANCED CONCEPTS, EVALUATIONS AND SYSTEMS	151,696	151,696	151,696		151,696
0603880C	69	BALLISTIC MISSILE DEFENSE SYSTEM SEGMENT					
0603881C	70	BALLISTIC MISSILE DEFENSE TERMINAL DEF SEGMENT	810,440	1,123,699	820,440	10,000	820,440
		Arrow			[10,000]	[10,000]	
		Arrow (non-add)			[115,000]		
		MEADS transfer		[276,259]			
		THAAD		[37,000]			
0603882C	71	BALLISTIC MISSILE DEFENSE MIDCOURSE DEFENSE SEGMENT	3,613,266	3,643,166	3,701,566	122,900	3,736,166
		Ground-based midcourse			[100,000]	[100,000]	
		Aegis program management			[-11,700]		
		Aegis		[7,000]			
		Sea-based X-band radar (SBX)		[22,900]		[22,900]	
		Common RF scene generation capability (non-add)		[4,800]			
0603883C	72	BALLISTIC MISSILE DEFENSE BOOST DEFENSE SEGMENT	626,264	626,264	626,264		626,264
0603884BP	73	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	162,142	177,142	168,142	4,000	166,142
		Anthrax and plague oral vaccine development			[6,000]	[4,000]	
		Primate biomedical laboratory test and evaluation capability		[15,000]			
0603884C	74	BALLISTIC MISSILE DEFENSE SENSORS	438,242	438,242	441,492	10,000	448,242
		Airborne infrared system			[10,000]	[10,000]	
		X-band radar			[5,000]		
		E-2 infrared search and track (IRST)			[3,750]		
		STSS program management			[-15,500]		
0603886C	75	BALLISTIC MISSILE DEFENSE SYSTEM INTERCEPTOR	301,052	151,052	231,052	-150,000	151,052
		BMDS interceptors / System interceptor program reduction		[-150,000]	[-70,000]	[-150,000]	
0603888C	76	BALLISTIC MISSILE DEFENSE TEST & TARGETS	611,522	611,522	611,522		611,522
0603889C	77	BALLISTIC MISSILE DEFENSE PRODUCTS	343,644	312,544	343,644		343,644
		BMD products program reduction		[-31,100]			

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0603890C	78	BALLISTIC MISSILE DEFENSE SYSTEMS CORE	483,996	438,996	480,996	-38,000	445,996
		Corporate lethality testing			[-5,000]		
		Advanced Research Center (ARC)			[2,000]	[2,000]	
		BMDS core program reduction		[-45,000]		[-45,000]	
		Wide bandwidth technology				[5,000]	
		Wide bandwidth technology (non-add)		[9,500]			
		Ballistic missile launch canister design and manufacturing (non-add)		[5,000]			
0603910D8Z	79	STRATEGIC CAPABILITY MODERNIZATION					
0603920D8Z	80	HUMANITARIAN DEMINING	13,299	13,299	13,299		13,299
0603923D8Z	81	COALITION WARFARE	5,906	5,906	5,906		5,906
0604722D8Z	82	JOINT SERVICE EDUCATION AND TRAINING SYSTEMS DEV					
0303191D8Z	83	JOINT ELECTROMAGNETIC TECHNOLOGY (JET) PROGRAM	6,362	6,362	6,362		6,362
0604384BP	84	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	148,017	148,017	153,717		148,017
		Wide area decontamination solutions and applicators			[5,700]		
0604618D8Z	85	MANPADS DEFENSE PROGRAM	25,000	3,000	25,000		25,000
		Program reduction		[-22,000]			
0604709D8Z	86	JOINT ROBOTICS PROGRAM	13,597	26,097	15,597	2,000	15,597
		Counter-terrorism UGVs			[2,000]	[2,000]	
		Packbot tactical mobile robot		[12,500]			
0604764K	87	ADVANCED IT SERVICES JOINT PROGRAM OFFICE	18,910	18,910	18,910		18,910
0604771D8Z	88	JOINT TACTICAL INFORMATION DISTRIBUTION SYSTEM (JTIDS)	10,633	10,633	10,633		10,633
0604861C	89	THEATER HIGH-ALTITUDE AREA DEFENSE SYSTEM - TMD					
0604865C	90	PATRIOT PAC-3 THEATER MISSILE DEFENSE ACQUISITION			415,800		
		PAC-3 spiral development transfer from PE 63869A (RDA 81)			[241,325]		
		PAC-3 spiral development transfer from PE 23801A (RDA 130)			[174,475]		
		Patriot evolutionary development program (non-add)			[20,000]		
0604867C	91	NAVY AREA THEATER MISSILE DEFENSE					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0605013BL	92	INFORMATION TECHNOLOGY DEVELOPMENT	10,539		10,539		10,539
		Rapid acquisition incentives		[-10,539]			
0605013D8Z	93	PROTOTYPE ACCOUNTING SYSTEMS					
0605015BL	94	INFORMATION TECHNOLOGY DEV-STANDARD PROC SYS	5,195	5,195	5,195		5,195
0605016D8Z	95	FINANCIAL MANAGEMENT SYSTEM IMPROVEMENTS	84,688	84,688	84,688		84,688
0303129K	96	DEFENSE MESSAGE SYSTEM	10,170		10,170		10,170
		Program reduction		[-10,170]			
0303140K	97	INFORMATION SYSTEMS SECURITY PROGRAM	5,987	5,987	5,987		5,987
0303141K	98	GLOBAL COMBAT SUPPORT SYSTEM	17,259	17,259	17,259		17,259
0305840K	99	ELECTRONIC COMMERCE	6,028	6,028	6,028		6,028
0305840S	100	ELECTRONIC COMMERCE	2,360	2,360	2,360		2,360
0603757D8Z	101	TRAINING TRANSFORMATION (T2)	2,951	2,951	2,951		2,951
0603858D8Z	102	UNEXPLODED ORDNANCE DETECTION AND CLEARANCE					
0604774D8Z	103	DEFENSE READINESS REPORTING SYSTEM (DRRS)	18,575	18,575	18,575		18,575
0604943D8Z	104	THERMAL VICAR	7,157	7,157	7,157		7,157
0605104D8Z	105	TECHNICAL STUDIES, SUPPORT AND ANALYSIS	30,204	32,204	30,204		30,204
		National Defense University sponsored research program		[2,000]			
0605110BR	106	CRITICAL TECHNOLOGY SUPPORT	1,858	1,858	1,858		1,858
0605114D8Z	107	BLACK LIGHT	19,675	19,675	19,675		19,675
0605114E	108	BLACK LIGHT					
0605116D8Z	109	GENERAL SUPPORT TO C3I	24,638	24,638	27,638	1,500	26,138
		See and avoid UAV technologies			[3,000]	[1,500]	
0605117D8Z	110	FOREIGN MATERIAL ACQUISITION AND EXPLOITATION	33,916	33,916	33,916		33,916
0605123D8Z	111	INTERAGENCY EXPORT LICENSE AUTOMATION	8,837	5,837	8,837		8,837
		Program reduction - IT		[-3,000]			
0605124D8Z	112	DEFENSE TRAVEL SYSTEM	31,806	31,806	31,806		31,806
0605126J	113	JOINT THEATER AIR AND MISSILE DEFENSE ORGANIZATION	87,250	87,250	87,250		87,250
0605128D8Z	114	CLASSIFIED PROGRAM USD(P)					

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(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0605130D8Z	115	FOREIGN COMPARATIVE TESTING	34,873	34,873	34,873		34,873
0605384BP	116	CHEMICAL AND BIOLOGICAL DEFENSE PROGRAM	39,345	39,345	39,345		39,345
0605502C	117	SMALL BUSINESS INNOVATIVE RESEARCH - MDA					
0605502E	118	SMALL BUSINESS INNOVATIVE RESEARCH					
0605710D8Z	119	CLASSIFIED PROGRAMS - C3I	20,556	20,556	20,556		20,556
0605790D8Z	120	SMALL BUSINESS INNOVATION RESEARCH/CHALLENGE ADMIN	2,026	2,026	2,026		2,026
0605798S	121	DEFENSE TECHNOLOGY ANALYSIS	5,209	5,209	6,209		5,209
		Global research watch			[1,000]		
0605799D8Z	122	FORCE TRANSFORMATION DIRECTORATE	19,675	19,675	19,675		19,675
0605801K	123	DEFENSE TECHNICAL INFORMATION SERVICES (DTIC)	44,162	44,162	44,162		44,162
0605803SE	124	R&D IN SUPPORT OF DOD ENLISTMENT, TESTING AND EVAL	8,858	8,858	8,858		8,858
0605804D8Z	125	DEVELOPMENT TEST AND EVALUATION	8,938	8,938	8,938		8,938
0605898E	126	MANAGEMENT HEADQUARTERS (R&D) DARPA	45,002	45,002	45,002		45,002
0901585C	127	PENTAGON RESERVATION	14,481	14,481	14,481		14,481
0901598C	128	MANAGEMENT HEADQUARTERS - MDA	93,441	93,441	93,441		93,441
0901598D8W	129	IT SOFTWARE DEV INITIATIVES	8,605	8,605	8,605		8,605
0909999E	130	FINANCING FOR CANCELLED ACCOUNT ADJUSTMENTS					
0604805D8Z	131	COMMERCIAL OPERATIONS AND SPT SAVINGS INITIATIVE					
0605127T	132	PARTNERSHIP FOR PEACE (PFP) INFORMATION MGT SYS	1,934	1,934	1,934		1,934
0605601D8Z	133	RDT&E TRANSFORMATIONAL PROGRAMS					
0607384BP	134	CHEMICAL AND BIOLOGICAL DEF (OPERATIONAL SYS DEV)	3,442	3,442	3,442		3,442
0208043J	135	ISLAND SUN	1,469	1,469	1,469		1,469
0208045K	136	C4I INTEROPERABILITY	42,415	42,415	42,415		42,415
0208052J	137	JOINT ANALYTICAL MODEL IMPROVEMENT PROGRAM	7,254	7,254	7,254		7,254
0300205R	138	INFORMATION TECHNOLOGY SYSTEMS	550	550	550		550
0301011G	139	CRYPTOLOGIC ACTIVITIES	[ ]				
0301301L	140	GENERAL DEFENSE INTELLIGENCE PROGRAM	[ ]				
0301398L	141	MANAGEMENT HEADQUARTERS GDIP, DIA	[ ]				

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0302016K	142	NATIONAL MILITARY COMMAND SYSTEM-WIDE SUPPORT	1,133	1,133	1,133		1,133
0302019K	143	DEF INFO INFRASTRUCTURE ENGINEERING AND INTEGRATION	2,460	2,460	2,460		2,460
0303126K	144	LONG HAUL COMMUNICATIONS (DCS)	1,401	1,401	1,401		1,401
0303127K	145	SUPPORT OF THE NATIONAL COMMUNICATIONS SYSTEM					
0303131K	146	MINIMUM ESSENTIAL EMERGENCY COMMUNICATIONS NETWORK	7,198	7,198	7,198		7,198
0303140D8Z	147	INFORMATION SYSTEMS SECURITY PROGRAM	14,790	14,790	14,790		14,790
0303140G	148	INFORMATION SYSTEMS SECURITY PROGRAM	476,657	477,407	478,657	2,000	478,657
		Info systems security research			[2,000]	[2,000]	
		Program increase		[750]			
0303149J	149	C4I FOR THE WARRIOR	4,199	4,199	4,199		4,199
0303149K	150	C4I FOR THE WARRIOR	37,100	37,100	37,100		37,100
0303150K	151	GLOBAL COMMAND AND CONTROL SYSTEM	49,991	32,991	49,991		49,991
		Program reduction - IT		[-17,000]			
0303153K	152	JOINT SPECTRUM CENTER	18,850	18,850	18,850		18,850
0303165K	153	DEFENSE COLLABORATION TOOL SUITE (DCTS)	14,915	14,915	14,915		14,915
0303170K	154	NET-CENTRIC ENTERPRISE SERVICES (NCES)	40,830		40,830		40,830
		Program reduction - IT		[-40,830]			
0303610K	155	TELEPORT PROGRAM	10,462	10,462	10,462		10,462
0304210BB	156	SPECIAL APPLICATIONS FOR CONTINGENCIES	24,587	24,587	24,587		24,587
0304345BQ	157	NATIONAL IMAGERY AND MAPPING AGENCY	[ ]				
0305102BQ	158	DEFENSE IMAGERY AND MAPPING PROGRAM	161,873	174,073	179,873	18,700	180,573
		NIMA TPED for FIA development			[14,000]	[2,500]	
		BRITE			[4,000]	[4,000]	
		GeoSAR		[12,200]		[12,200]	
0305125D8Z	159	CRITICAL INFRASTRUCTURE PROTECTION (CIP)	2,051	2,051	2,051		2,051
0305127BZ	160	FOREIGN COUNTERINTELLIGENCE ACTIVITIES	[ ]				
0305127V	161	FOREIGN COUNTERINTELLIGENCE ACTIVITIES					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
0305146BZ	162	DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	82,266	82,266	82,266	7,500	89,766
		Defense joint counterintelligence capability				[7,500]	
0305146D8Z	163	DEFENSE JOINT COUNTERINTELLIGENCE PROGRAM (JMIP)	30,757	38,257	30,757		30,757
		Defense joint counterintelligence program deception program		[7,500]			
0305190D8Z	164	C3I INTELLIGENCE PROGRAMS	132,094	132,094	132,094		132,094
0305191D8Z	165	TECHNOLOGY DEVELOPMENT	249,152	226,652	249,152		249,152
		Program reduction		[-22,500]			
0305193L	166	INTELLIGENCE SUPPORT TO INFORMATION OPERATIONS	[ ]				
0305202G	167	DRAGON U-2 (JMIP)	2,747	2,747	2,747		2,747
0305206G	168	AIRBORNE RECONNAISSANCE SYSTEMS	12,184	12,184	12,184		12,184
0305207G	169	MANNED RECONNAISSANCE SYSTEMS	4,424	4,424	4,424		4,424
0305208BQ	170	DISTRIBUTED COMMON GROUND SYSTEMS	[ ]				
0305208G	171	DISTRIBUTED COMMON GROUND SYSTEMS		2,460	2,460		
0305208L	172	DISTRIBUTED COMMON GROUND SYSTEMS	979	979	979		979
0305883L	173	HARD AND DEEPLY BURIED TARGET INTEL SUPPORT	[ ]				
0305884L	174	INTELLIGENCE PLANNING AND REVIEW ACTIVITIES	[ ]				
0305885G	175	TACTICAL CRYPTOLOGIC ACTIVITIES	112,691	112,691	112,691		112,691
0305889G	176	COUNTERDRUG INTELLIGENCE SUPPORT					
0305917D8Z	177	NATIONAL SECURITY SPACE ARCHITECT (NSSA)					
0708011S	178	INDUSTRIAL PREPAREDNESS	16,163	20,163	19,163	5,000	21,163
		Laser additive manufacturing technology			[3,000]	[3,000]	
		Titanium reduction processes		[4,000]		[2,000]	
0708012S	179	LOGISTICS SUPPORT ACTIVITIES	35,781	35,781	35,781		35,781
0902298J	180	MANAGEMENT HEADQUARTERS (JCS)	18,943	18,943	18,943		18,943
1001018D8Z	181	NATO JOINT STARS	24,721	24,721	24,721		24,721
1160279BB	182	SMALL BUS INNOVATIVE RSRCH/SMALL BUS TECH TRANS PILOT					
1160401BB	183	SPECIAL OPERATIONS TECHNOLOGY DEVELOPMENT					
1160402BB	184	SPECIAL OPERATIONS ADVANCED TECHNOLOGY DEV					

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
1160404BB	185	SPECIAL OPERATIONS TACTICAL SYSTEMS DEVELOPMENT	255,981	265,981	267,481	12,000	267,981
		Light counter mortar radar			[1,500]	[1,500]	
		Multiband multimission radios			[10,000]	[5,000]	
		Advanced target identification capability for AC-130U Gunship		[6,500]		[5,500]	
		Cobra blue force tracking		[3,500]			
1160405BB	186	SPECIAL OPERATIONS INTELLIGENCE SYSTEMS DEV	16,726	16,726	16,726		16,726
1160407BB	187	SOF MEDICAL TECHNOLOGY DEVELOPMENT					
1160408BB	188	SOF OPERATIONAL ENHANCEMENTS	64,430	64,430	64,430		64,430
XXXXXXX	999	Classified Programs	2,894,650	2,892,190	2,892,190		2,894,650
		Financial information systems			-10,500		
		Information technology reduction		-100,000			
		Total, RDT&E Defense-Wide	**17,974,257**	**18,181,385**	**18,849,018**	**177,800**	**18,152,057**

Chemical and biological defense program applied research

The budget request included $106.5 million in PE 62384BP for chemical and biological defense program applied research.

The House bill would authorize $136.5 million in PE 62384BP for chemical and biological defense program applied research, including $25.0 million for a chemical-biological defense applied research initiative and $5.0 million for mustard gas antidote.

The Senate amendment would authorize $127.5 million in PE 62384BP for chemical and biological defense program applied research, including $2.0 million for acoustic wave sensor technology, $3.5 million for water quality sensors, $3.0 million for mustard gas antidote, $6.5 million for bioinformatics, $2.0 million for sensor technologies, $3.0 million for food security technologies, and $1.0 million for nerve agent decontamination technologies.

The conferees agree to authorize $142.0 million in PE 62384BP for chemical and biological defense program applied research, including $17.5 million for a chemical-biological defense applied research initiative, $2.0 million for acoustic wave sensor technology, $3.5 million for water quality sensors, $5.0 million for mustard gas antidote, $6.5 million for bioinformatics, and $1.0 million for nerve agent decontamination technologies.

The conferees note that projects and technologies to be considered for funding under the chemical-biological defense program applied research initiative should be selected on the basis of technical and potential operational merit. The conferees recommend that the projects and technologies to be considered for funding under the chemical-biological defense program applied research initiative should include, but are not limited to, the following: air contaminant monitoring system; automated liquid phase detection of toxic chemicals; rapid decontamination system for nerve agents; rapid antibody-based biological countermeasures (RABBC); and multivalent Ebola-Marburg filovirus technologies.

Ballistic missile defense products

The budget request included $343.6 million in PE 63889C for ballistic missile defense (BMD) products.

The House bill would authorize $312.5 million, a reduction of $31.1 million.

The Senate amendment would authorize the budget request.

The conferees agree to authorize $343.6 million, the budget request, for BMD products.

The conferees direct the Secretary of Defense to prioritize funding in this line to maximize the effectiveness of the initial defensive operations capability and to ensure that sufficient modeling and simulation is conducted to verify the effectiveness of BMD system battle management and command and control.

Ballistic missile defense system core

The budget request included $484.0 million in PE 63890C for ballistic missile defense system (BMDS) core activities.

The House bill would authorize $439.0 million in PE 63890C, a reduction of $45.0 million.

The Senate amendment would authorize $481.0 million in PE 63890C, an increase of $2.0 million for the Advanced Research Center and a decrease of $5.0 million for lethality testing.

The conferees agree to authorize $446.0 million in PE 63890C, an increase of $2.0 million for the Advanced Research Center, an increase of $5.0 million for wide bandwidth technology, and a program reduction of $45.0 million.

The conferees are aware that the Missile Defense Agency (MDA) believes that a program reduction to BMDS core activities could significantly disrupt MDA's efforts to field an initial capability by the end of fiscal year 2004 and will slow the effort to define and develop the interfaces needed to assure an integrated missile defense system with enhanced capabilities. The conferees support the President's decision to field an initial set of missile defense capabilities and understand the utility of integrating disparate BMDS elements into a single integrated BMD system. The conferees encourage MDA to more clearly define discrete products generated by BMDS core activities and the purpose of these products, along with associated costs and schedules, to allow for better congressional oversight in these matters.

TEST AND EVALUATION

Operational Test and Evaluation, Defense-Overview

The budget request for fiscal year 2004 included an authorization of $286.7 million for Operational Test and Evaluation, Defense.

The House bill would authorize $286.7 million.

The Senate amendment would authorize $286.7 million.

The conferees recommend an authorization of $286.7 million. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Title II-RDT and E

(Dollars in Thousands)

Account	Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
		OPERATIONAL TEST & EVALUATION, DEFENSE					
0603941D8Z	1	TEST & EVALUATION SCIENCE & TECHNOLOGY	12,804	12,804	12,804		12,804
0604940D8Z	2	CENTRAL TEST AND EVALUATION INVESTMENT DEV (CTEIP)	123,215	123,215	123,215		123,215
0605118D8Z	3	OPERATIONAL TEST AND EVALUATION	37,323	37,323	37,323		37,323
0605131D8Z	4	LIVE FIRE TESTING	10,074	10,074	10,074		10,074
0605804D8Z	5	DEVELOPMENT TEST AND EVALUATION	103,245	103,245	103,245		103,245
		Total, Operational Test & Evaluation, Defense	**286,661**	**286,661**	**286,661**		**286,661**
		TOTAL RDT&E	**61,826,654**	**62,723,805**	**63,146,179**	**1,558,067**	**63,384,721**

ITEMS OF SPECIAL INTEREST

Manned airborne reconnaissance aircraft replacement

Recent military operations in Iraq and Afghanistan, along with broader requirements to support the global war on terrorism and standing global reconnaissance requirements, have placed enormous operational tempo demands on manned airborne reconnaissance platforms operated by the U.S. Army, Navy, and Air Force. The limited number of these assets and the large number of requirements placed on them have led to their designation as "high demand/low density" assets that have to be intensively managed by the Department of Defense (DOD) to ensure the most productive, efficient use. While many of these airborne reconnaissance platforms were initially developed for service-specific reconnaissance requirements, over time they have evolved into a patchwork airborne reconnaissance architecture that is not optimized to support national and combatant commanders' intelligence requirements.

Congress established the position of Under Secretary of Defense for Intelligence (USD(I)) in the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314). A clear intent of that action was to create a position and an organization in DOD that would better assess service and Defense-wide intelligence requirements, and better develop, coordinate and integrate current and projected DOD intelligence capabilities in support of service, joint, and national intelligence collection requirements. The conferees expect the USD(I) to move expeditiously to establish requirements for the development of a fully integrated manned and unmanned airborne reconnaissance architecture for the future that has adequate capabilities and availability to meet projected requirements, minimizes unnecessary duplication of effort, and maximizes operational efficiency.

Some of these platforms, such as the Navy's EP-3E and the Army's RC-12 Guardrail, are nearing the end of their expected service lives and are in urgent need of replacement. The conferees are concerned that while the need to recapitalize manned airborne reconnaissance platforms in a coordinated, integrated fashion is well known within the DOD, only the Army has established a formal program for replacing its legacy manned airborne signals intelligence reconnaissance platforms by the competitive development and production of the Aerial Common Sensor (ACS).

The conferees are aware that the Navy is interested in taking advantage of the work done by the Army on ACS, and is considering the adoption of an ACS-based solution for replacement of the EP-3E. The conferees applaud the Navy efforts to establish a joint program with the Army, but are concerned that a thorough analysis of options has not yet been conducted. While the Navy did commission an initial analysis of options, the conferees feel a more rigorous, thorough analysis is warranted for such an important program.

The conferees direct the Secretary of Defense to conduct a thorough analysis of options to replace the EP-3E mission capability. The analysis should be conducted as expeditiously as possible in order to avoid delaying an EP-3E replacement. The conferees expect that the analysis should evaluate: (1) all reasonable alternatives, including all manned and unmanned replacement alternatives, such as the RC-135 Rivet Joint, Global Hawk unmanned aerial vehicle, and the ACS; (2) the consistency of the cost methodology; and, (3) a solution that maximizes signals intelligence capability, low life-cycle costs, and increases interoperability. In order to ensure the Navy makes a well-founded acquisition decision, the conferees direct the Secretary of the Navy not to proceed with the acquisition of an EP-3E replacement until this analysis is complete and Defense Acquisition Board approval has been granted. The Navy should use additional funding that may be available to expedite the study, analysis, and decision making processes.

The conferees are also concerned that the Air Force has not moved more aggressively to analyze program alternatives for replacing or modernizing the RC-135, which will also be required in future years. The conferees believe that, when it is time to replace the RC-135 platform, DOD could avail itself of more modern platforms that use state of the art technology in aircraft and intelligence collection systems, emphasize lower operating costs, and take full advantage of robust communications capabilities to reduce platform size, weight, and operational costs.

The conferees direct the Secretary of Defense to conduct a formal Analysis of Alternatives (AOA) for replacement or modernization of the RC-135 mission. The AOA shall consider all manned and unmanned replacement alternatives, including high altitude, long endurance unmanned aerial vehicles, an ACS-based option, and more cutting edge technologies such as high altitude aero-bodies. The AOA should also specifically address the option of forming a joint program with Army, Navy, and Air Force participation.

The conferees expect these analyses will be coordinated with the Under Secretary of Defense for Acquisition, Technology and Logistics and the USD(I), and will be a consistent part of the comprehensive effort by the USD(I) to establish requirements for the development of a fully integrated manned and unmanned airborne reconnaissance architecture that makes appropriate use of reachback technology.

Sniper detection systems

The conferees note the growing need for reliable sniper detection systems and support the use of technology to rapidly and reliably classify and precisely locate hostile fire in complex and urban terrain. The conferees further note continuing work in several alternate technologies for sniper detection by various defense agencies and laboratories. The conferees encourage the Department of Defense to support accelerated research and development for such technologies to protect the lives of U.S. service personnel.

Supercomputer research and development

The conferees encourage the Secretary of Defense and the Secretary of Energy to take measures to ensure that the United States continues to be the world leader in supercomputing applications and infrastructure. The conferees note that the July 2002, "Report on High Performance Computing for the National Security," submitted by the Department of Defense, stated that supercomputing ". . . has been a key technology in the development of our nuclear arsenal, other major weapon systems, in critical intelligence fields of image processing and cryptanalysis, and as a key enabler for U.S. leadership in national-security fields of science and discovery." The conferees believe it is necessary to support a robust research and development program for basic and applied research on supercomputing systems and applications to maintain the United States' competitive position in the global marketplace and to meet military requirements.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (sec. 201)

The House bill contained a provision (sec. 201) that would authorize the recommended fiscal year 2004 funding levels for the research, development, test, and evaluation accounts for the Army, Navy, Marine Corps, Air Force, Defense-wide activities, and the Director of Operational Test and Evaluation.

The Senate amendment contained an identical provision (sec. 201) and additional provisions (secs. 203–204) that would authorize the recommended fiscal year 2004 funding levels for research, development, test, and evaluation for the Defense Inspector General and the Defense Health Program.

The conference agreement includes a provision that would authorize funding levels for the Army, Navy, Marine Corps, Air Force, Defense-wide activities, and the Director of Test and Evaluation. The conference agreement includes authorizations for the Defense Inspector General and the Defense Health Program, as provided elsewhere in this conference report.

Amount for defense science and technology (sec. 202)

The budget request included an authorization of $10,232.0 million for Department of Defense (DOD) science and technology programs.

The House bill would authorize $10,893.1 million.

The Senate amendment would authorize $10,705.6 million.

The conferees agree to authorize $11,029.6 million for DOD science and technology programs. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Subtitle B—Program Requirements, Restrictions, and Limitations

Collaborative program for development of electromagnetic gun technology (sec. 211)

The House bill contained a provision (sec. 211) that would establish a collaborative program for the development of electromagnetic gun technology.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees note that electromagnetic guns show significant potential to transform the capabilities of our military forces. The conferees believe that the program established by this provision should be a robustly funded, joint endeavor that aggressively develops and transitions electromagnetic gun systems and supporting technologies to warfighters, while continuing to address the fundamental scientific issues supporting their development.

The conferees direct the Director of Defense Research and Engineering to assign lead responsibility to appropriate organizations within the Department of Defense for the development of the various enabling technologies to achieve the program's goals. The conferees note that the Army, Navy, and Defense Advanced Research Projects Agency each have unique expertise, capabilities, and resources to support this Department of Defense program. The conferees believe that the memorandum of agreement established for the program should clearly delineate the roles and responsibilities for each of the participating organizations.

Leadership and duties of Department of Defense Test Resource Management Center (sec. 212)

The House bill contained a provision (sec. 212) that would amend section 196(b)(1) of title 10, United States Code, to provide that, in addition to a commissioned officer of the armed forces serving on active duty, the Secretary of Defense may also consider for possible selection as Director of the Department of Defense Test Resource Management Center (DTRMC) a senior civilian official or employee of the Department of Defense who has substantial experience in the field of test and evaluation.

The Senate amendment contained a similar provision (sec. 862) that would also clarify that the Director of Operational Test and Evaluation (DOT&E) budget is not subject to review by the DTRMC and that DOT&E access to records and data would include relevant operational records and data for systems that are deployed prior to the completion of the operational test and evaluation.

The House recedes with an amendment that would authorize the selection of a senior civilian official as Director of the DTRMC and provide that the DOT&E budget is not subject to review by the DTRMC. The issue of DOT&E access to operational records and data is addressed elsewhere in this conference report.

Development of the joint tactical radio system (sec. 213)

The House bill contained a provision (sec. 213) that would establish an independent joint tactical radio system (JTRS) joint program office (JPO) under rotating military service leadership. The provision would also centralize program funding and place all JTRS cluster development under JPO control. The JPO would ensure a joint JTRS concept of operations.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to provide an implementation plan for the JTRS program that would (1) adopt a program management structure that provides strong and effective joint management; (2) have sufficient control and authority to properly execute the program; and (3) establish processes to resolve differences between services expeditiously. The provision would direct the Secretary to develop a single, unified concept of operations for all JTRS users. The provision would also require the Secretary to submit the implementation plan and unified concept of operations to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 2004, and to ensure that this plan is implemented no later than October 1, 2004.

The conferees believe that the JTRS program is on a successful path to develop and procure Cluster 1 waveforms for a software programmable radio. However, the conferees also believe that the JTRS has reached a critical stage in its development that requires increased oversight and management.

Future combat systems (sec. 214)

The House bill contained a provision (sec. 214) that would require the budget request for the projects within the Armored Systems Modernization Program within the Department of the Army to be displayed in separate program elements. Further, this section would preclude authorization of appropriations until the Secretary of Defense provides to the congressional defense committees more detailed justification for the $1.7 billion program.

The Senate amendment contained a similar provision (sec. 212) that would require the Objective Force Indirect Fires project be planned, programmed, and budgeted as a separate and distinct program element.

The House recedes with an amendment that would require the Secretary of Defense to ensure that the Future Combat Systems (FCS), Networked Fires System Technology, and Objective Force Indirect Fires projects are planned, programmed and budgeted for as separate, distinct program elements. Further, the provision requires that the Secretary of the Army provide to the congressional defense committees an annual report on the cost breakdown for each project under the FCS program element, including sufficient detail to justify the requested budget and any updates of the Future Combat System analysis of alternatives.

The Under Secretary for Defense for Acquisition, Technology and Logistics approved the FCS Increment 1 to proceed into systems design and development and be managed as a single major defense acquisition program. The conferees note that the Department of the Army requested $1.7 billion in funding although the key performance parameters for FCS will not be quantified until November 2004. The technology development, concept design, system design, and key performance parameters specification of this evolutionary program are performed in parallel. The financial risks are high and program management function is challenging. If this program is to be managed successfully, the specific tasks and objectives to be accomplished must be clearly defined. This new "system-of-systems" rapid development approach is new to the Department of the Army. The high cost and high risk require congressional oversight which can be better accomplished through the application of separate and distinct program elements for the FCS, Networked Fire Systems Technology, and Objective Force Indirect Fires projects. The conferees also understand that the acquisition system should not discourage nor inhibit spiral development. Therefore, the conferees support further development of an improved process that strengthens congressional oversight and provides the Army the flexibility to manage the program without further subdividing the remaining projects under the FCS into program elements.

Although the Networked Fires and Objective Force Indirect Fires projects will be managed as separate and distinct program elements from FCS, the conferees understand the high value placed on interdependence and connectivity between these programs. The future Networked Fires program will not only fund missile development, but will also develop the command, control, communications, and computers, and intelligence, surveillance, and reconnaissance capabilities required for FCS. Similarly, the future Objective Force Indirect Fires program will not only fund the development of the non-line-of-sight cannon capability but will also serve as the technology driver and the lead system for the development of common components for manned ground systems, such as the chassis.

The conferees support Army transformation and the related FCS. The transformation of the Army's capabilities with the FCS is pivotal in meeting the goals of the Objective Force. However, the conferees believe that it is essential that the FCS be properly defined and managed to ensure the successful fielding of this capability.

The conferees recognize that this evolutionary program requires a certain level of flexibility to maintain the aggressive schedule. As a result, the conferees increase the limit for reprogramming funds within the three Future Combat Systems elements to $20.0 million before congressional approval is required. The Secretary of the Army shall notify the congressional defense committees of any below threshold reprogramming actions. Reprogramming funds from outside the FCS program to the FCS program would require the normal congressional defense committee approval process.

Extension of reporting requirement for RAH-66 Comanche aircraft program (sec. 215)

The House bill contained a provision (sec. 216) that would extend the requirement for the Secretary of the Army to report quarterly to the Committees on Armed Services of the Senate and the House of Representatives on the progress of the restructured Comanche aircraft program.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees continue to support the RAH-66 Comanche aircraft program and note that the Army is making progress on program execution.

Studies of Fleet Platform Architectures for the Navy (sec. 216)

The House bill contained a provision (sec. 217) that would direct the Secretary of Defense to provide for the performance of eight independent studies of alternative Navy future fleet platform architectures. These studies would examine, without constraint and in unclassified and, to the extent necessary, classified format: (1) the national security strategy; (2) potential threats; (3) traditional roles and missions; (4) alternative roles and missions; (5) evolving technology; and (6) personnel reduction opportunities in recommending future fleet architectures.

The Senate recedes with an amendment that would require the Secretary to provide for the performance of two studies that would recommend future fleet architectures of the Navy. One study would be performed by a federally funded research and development center, such as the Institute for Defense Analyses. The other study would be performed by the Office of Force Transformation within the Office of the Secretary of Defense, with participation from the Office of Net Assessment within the Office of the Secretary of Defense, the Department of the Navy, and the Joint Staff. The studies would be required to be delivered to the congressional defense committees not later than January 15, 2005.

Subtitle C—Ballistic Missile Defense

Enhanced flexibility for ballistic missile defense systems (sec. 221)

The House bill contained a provision (sec. 221) that would amend subsection (a) of section 223 of title 10, United States Code, to allow the President flexibility in designating program elements for the Missile Defense Agency (MDA). The provision would make conforming changes, including those related to reporting requirements, and other technical issues.

The Senate amendment contained a similar provision (sec. 222) that would repeal subsection (a) of section 223 of title 10, United States Code.

The Senate recedes. The conferees are aware of the Administration's interest in submitting an MDA budget request in fiscal year 2005 that reflects a single program element. The conferees believe that submission of future budget justification material should be consistent with past practice, and that a budget request reflecting a single program element would be inappropriate.

Fielding of ballistic missile defense capabilities (sec. 222)

The Senate amendment contained a provision (sec. 221) that would allow the Department of Defense to use research, development, test and evaluation funding to develop and field an initial set of ballistic missile defense capabilities.

The House bill contained no similar provision.

The House recedes.

Oversight of procurement of ballistic missile defense system elements (sec. 223)

The Senate amendment contained a provision (sec. 223) that would require: (1) the Secretary of Defense to submit, for ballistic missile defense (BMD) system elements for which the Missile Defense Agency (MDA) is engaged in planning for production and initial fielding, the production rate capabilities being planned, the potential date of availability of the element, the expected costs of initial production and fielding, and the estimated date that the element could be transferred to a military department; (2) the Missile Defense Agency to establish and submit to Congress measurable performance criteria for each block of the BMD system and its elements that describe the intended effectiveness of that block against foreign adversary capabilities; (3) the Director of Operational Test and Evaluation (DOT&E), in consultation with the Director of MDA, to establish and provide to Congress appropriate plans and schedules for operational testing, including an estimate of when the element would demonstrate its ability to meet its performance criteria through such testing; (4) the DOT&E to provide to Congress an assessment of progress being made in verifying element performance through operational testing; and (5) the Secretary of Defense to provide an estimate of funding necessary for procurement of BMD system elements in the future-years defense program (FYDP).

The House bill contained no similar provision.

The House recedes with an amendment that would require: (1) the Secretary of Defense to submit production rate capabilities being planned, the potential date of availability of the element, and the estimated date that the element could be transferred to a military department for BMD system elements for which MDA is engaged in planning for production and initial fielding; (2) the Secretary to provide an estimate of funding necessary for procurement of BMD system elements in the FYDP; (3) that performance criteria for development phases of the BMD system and its elements describe the intended effectiveness of each phase against foreign adversary capabilities; and (4) DOT&E to make available for review by March 1, 2004, the developmental and operational test plans established to assess the effectiveness of the BMD system and its elements with respect to performance criteria.

The conferees believe that the System Capability Specifications and Foreign Adversary Capabilities documents submitted by MDA with the fiscal year 2004 budget request were valuable documents that provide the Armed Services Committees of the Senate and the House of Representatives improved insight into the intent and progress of missile defense programs. The conferees believe that the System Capability Specification Document should reference those threats described in the Foreign Adversary Capabilities Document to which the performance criteria are intended to apply. The conferees expect that descriptions of intended effectiveness will appropriately address potential countermeasures.

Renewal of authority to assist local communities affected by ballistic missile defense system test bed (sec. 224)

The Senate amendment contained a provision (sec. 224) that would renew for three years the authority of the Missile Defense Agency to use research, development, test, and evaluation funds for assistance to communities significantly impacted by the expanded ballistic missile defense test bed. The provision would also require the Secretary of Defense to submit a description of the community assistance projects to be supported in a given fiscal year along with an estimate of the total cost of each project.

The House bill contained no similar provision.

The House recedes with an amendment that would renew this authority for one year, and require the Secretary of Defense to submit within 60 days of enactment of this Act a description of the community assistance projects to be supported along with an estimate of the total cost of each project.

Prohibition on use of funds for nuclear armed interceptors in missile defense systems (sec. 225)

The Senate amendment contained a provision (sec. 226) that would prohibit the use of funds authorized to be appropriated for the Department of Defense in fiscal year 2004 for research, development, test, and evaluation, procurement, or deployment of nuclear armed interceptors in a missile defense system.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Follow-on research, development, test, and evaluation related to system improvements for missile defense programs transferred to military departments (sec. 226)

The conferees recommend a provision that would amend section 224 of Title 10, U.S. Code. Section 224 requires that funding for ballistic missile defense (BMD) research and development be included in Missile Defense Agency (MDA) budget accounts and that responsibility for follow-on research and development on BMD elements transferred to the services remain with the Director of MDA. The amendment to section 224 would require that research and development funding requested for the purpose of integrating a BMD element into the overall integrated BMD architecture be included in the MDA budget accounts and that responsibility for follow-on research and development on BMD elements transferred to the services be clearly delineated.

The conferees agree that significant capability enhancements can be achieved through the integration of ballistic missile system elements into a seamless web of interceptor, battle management, communications, and sensor systems, and that MDA must have the budgetary resources and management authority to ensure that such integration is achieved. The conferees recommend that the MDA director continue to play an active role in the management of ballistic missile defense programs transferred to the services.

Subtitle D—Other Matters

Global Research Watch Program in the Office of the Director of Defense Research and Engineering (sec. 231)

The Senate amendment contained a provision (sec. 231) that would establish a Global Research Watch program.

The House bill contained no similar provision.

The House recedes with an amendment that would direct the military departments and defense agencies to participate in the program and to provide a sunset provision for the legislative provision.

Defense Advanced Research Projects Agency Biennial Strategic Plan (sec. 232)

The Senate amendment contained a provision (sec. 232) that would require the preparation of a biennial strategic plan for the activities of the Defense Advance Research Projects Agency (DARPA) and for the establishment of a senior review panel to assist in the formulation, review, and approval of the strategic plan.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Director, DARPA, to prepare a biennial strategic plan and would also require the Secretary of Defense to submit the plan to Congress in even-numbered years at the same time that the President submits the budget request.

The conferees note that in accomplishing DARPA's mission as the central research and development organization of the Department of Defense with a primary responsibility to maintain U.S. technological superiority over potential adversaries, the Director of DARPA has been granted wide latitude in discharging his responsibilities for the organization, direction, and management of DARPA and all assigned resources. Focusing on revolutionary research initiatives with high technical risk and high payoff, and responding to tasks and guidance from the Office of the Secretary of Defense (OSD) and the Joint Chiefs of Staff (JCS), the Director, DARPA, exercises his responsibilities under the direction, authority, and control of the Under Secretary of Defense for Acquisition, Technology and Logistics and the Director of Defense Research and Engineering (DDR&E). For DARPA to execute its mission, the conferees believe that close and regular communication is required between the agency, OSD, the JCS and combatant commands, the military departments and defense components, the intelligence community, other federal agencies, private industry, academia, and research institutions.

The conferees note and share the views contained in the Report of the Defense Science Board Task Force for the Investment Strategy for DARPA, dated July 1999, recommending that DARPA strengthen its approach to strategic planning in order to develop the warfighting capabilities, which will be required by U.S. Armed Forces to address the new asymmetric threats and complex and diverse missions expected in the 21st Century, and the technologies to support those capabilities. The task force noted that strategic planning should be based on a collaboration between the DARPA Director and his Office Directors, and that the resulting plans must be communicated to the agency's program managers, as well as the DDR&E, USD (AT&L), the Joint Staff and Congress. The task force cautioned that the planning process should not be too bureaucratic and that resource flexibility must be maintained to address emerging opportunities.

The conferees note that the DARPA Strategic Plan, February 2003, listed a number of defense officials who have been briefed on major elements of the current DARPA strategy. The conferees observe that it is common practice for scientific and technical organizations, both in the public and private sector, to engage advisory boards and/or visiting committees to assist in the review of strategic plans and programs. For example, the Defense Science Board has effectively reviewed a number of DOD programs, including DARPA's, on several occasions. The conferees believe that the ability of the DARPA Director and other senior officials to draw on such activities would be of immeasurable value in developing and reviewing the DARPA strategic plan. Finally, the conferees note that the recent controversy surrounding DARPA's Terrorism Information Awareness program, the handling of the issue by DARPA and OSD management, and the resulting termination of the program, might have been avoided had a properly vetted strategic review of DARPA programs been in place, as contemplated by this provision. The conferees direct the Secretary of Defense to establish an appropriate means for review and approval of the DARPA strategic plan.

Enhancement of authority of Secretary of Defense to support science, mathematics, engineering and technology education (sec. 233)

The Senate amendment contained a provision (sec. 233) that would enhance the authority of the Secretary of Defense to support science, mathematics, and technology education.

The House bill contained no similar provision. The House recedes with an amendment that would provide authority for the Secretary to support competition judging and event and award ceremony activities in conjunction with these educational programs.

The conferees intend for the Secretary to use this authority to continue and expand upon educational activities that are consistent with the mission of the Department of Defense, including the Army's eCybermission program. The conferees intend that this authority will allow for the covering of appropriate expenses for events, ceremonies, and personnel, including nonfederal personnel, associated with these activities.

Department of Defense program to expand high-speed, network-centric bandwidth capabilities for network-centric operations (sec. 234)

The Senate amendment contained a provision (sec. 234) that would require the Secretary of Defense to establish a comprehensive research and development program for advanced technologies to achieve high-speed, high-bandwidth wireless communications for the Department of Defense. The Senate provision would direct that the program focus on technologies to improve utilization of the radio frequency spectrum for wireless and mobile systems, highly networked systems, efficient communications devices, and computer software applications, including robust security, encryption, and privacy applications. The program would also include the development of common technology requirements and requirements among the military services and defense agencies to enhance interoperability and joint experimentation to improve network-centric warfare capabilities from the operational to the small unit level. Finally, the provision would require the Secretary to carry out the program through the Director of Defense Research and Engineering (DDR&E).

The House bill contained no similar provision.

The House recedes with an amendment that would assign to the Secretary of Defense the responsibility for carrying out the program.

The conferees endorse the establishment of a comprehensive research and development program that would support the Department's transformation to a network-centric force in which the rapid delivery of large amounts of data throughout the theater of operations would dramatically enhance the capability and situational awareness of the fighting forces. The conferees note that both the DDR&E and the Assistant Secretary of Defense for Networks and Information Integration (ASD(NII)) would have significant responsibilities with respect to the planning and execution of such a program: the DDR&E, as the principal staff assistant and advisor to the Under Secretary of Defense for Acquisition, Technology, and Logistics, with respect to oversight of the Department's science and technology program, including basic and applied research and advanced technology development; and the ASD(NII), as the principal staff advisor for networks and network centric concepts and for command, control and communications (C3), with respect to oversight of acquisition, technology, and logistics regarding C3 and information programs. The conferees expect that the DDR&E and the ASD(NII) will closely coordinate their respective responsibilities and activities regarding the program with one another and with the secretaries of the military departments, the heads of appropriate defense agencies, and the heads of other appropriate elements of the Department, in order to achieve an integrated, comprehensive research and development program that accomplishes the objectives established by the provision.

Blue forces tracking initiative (sec. 235)

The Senate amendment contained a provision (sec. 1031) that would require the Secretary of Defense to coordinate the developmental activities associated with U.S. military efforts to collect and display information on the location of U.S. and allied forces on the battlefield, which is sometimes called "blue forces tracking" or "blue forces situational awareness." The provision would further direct the Commander, U.S. Joint Forces Command, to conduct a blue forces tracking joint experiment in fiscal year 2004 in order to demonstrate and evaluate available technologies, and to recommend an achievable solution for Defense-wide fielding. The provision would require the Secretary to submit a report to the congressional defense committees on the results of the joint experiment and a plan for how the Department of Defense would proceed with the development, acquisition, and fielding of a blue forces tracking system.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees are concerned that despite improvements in technology and despite lessons learned from previous conflicts, the U.S. Armed Forces still lack a fully functional, near real-time blue forces tracking system. While overall casualties have declined in recent conflicts, the percent of casualties associated with friendly fire incidents has remained relatively constant. Additionally, different elements of the Department are working on disparate capabilities that are not fully interoperable. An initial lesson learned from Operation Iraqi Freedom has been that coalition battlefield commanders did not have a complete picture of where all friendly forces were located and that available tracking systems were not fully interoperable.

The conferees urge the Secretary to ensure that all funding within the Department for blue forces tracking development is fully coordinated, and that he implement a comprehensive plan for the development, acquisition, and fielding of a functional, interoperable blue force tracking system as soon as possible.

LEGISLATIVE PROVISIONS NOT ADOPTED

Amount for collaborative information warfare network

The Senate amendment contained a provision (sec. 236) that would authorize an increase of $8.0 million in PE 206313M, to be used for the Collaborative Information Warfare Network program, to be offset by a general decrease of $8.0 million in Operation and Maintenance, Air Force.

The House bill contained no similar provision.

The Senate recedes.

Amount for joint engineering data management information and control systems

The Senate amendment contained a provision (sec. 213) that would authorize an increase of $2.5 million in PE 63739N for the joint engineering data management information and control system (JEDMICS), and a decrease of $2.5 million in Other Procurement, Navy, for the same system.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize an increase of $2.5 million in PE 63739N for JEDMICS.

Amount for network centric operations

The Senate amendment contained a provision (sec. 221) that would authorize $1.0 million in PE 61228A for the initiation of a capability in historically black colleges and universities to support network centric operations of the Department of Defense.

The House bill contained no similar provision.

The Senate recedes on the provision.

Boron energy cell technology

The Senate amendment contained a provision (sec. 219) that would provide a $5.0 million increase for boron energy cell technology research and development and would offset the increase with a reduction from funds authorized for appropriation for Army operation and maintenance.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize an increase of $5.0 million in PE 63401F for boron energy cell technology research and development, as noted elsewhere in this conference report.

Composite sail test articles

The Senate amendment contained a provision (sec. 217) that would authorize an increase of $2.0 million in PE 64561N for development and fabrication of composite sail test articles for incorporation into designs for future submarines.

The House bill contained no similar provision.

The Senate recedes.

Coproduction of Arrow ballistic missile defense system

The Senate amendment contained a provision (sec. 237) that would make available $115.0 million for coproduction of the Arrow ballistic missile defense system from funds authorized for appropriation for ballistic missile defense in section 201 of this Act.

The House bill contained no similar provision.

The Senate recedes.

Enhanced production of titanium

The House bill contained a provision (sec. 215) that would require the Secretary of Defense, through the Secretary of the Army, to assess technologies leading to the enhanced production of titanium by the United States, select on a competitive basis the most viable technologies, and authorize $8.0 million under PE 62624A to carry out this provision.

The Senate amendment contained no similar provision.

The House recedes.

The conferees agree to authorize $2.0 million in PE 62624A for titanium extraction mining and process engineering research.

The conferees note the need for the Department of Defense to develop advanced low-cost titanium materials for use in military non-aerospace applications. The conferees direct the Secretary of Defense to develop an integrated plan for the development and processing of low-cost titanium materials and associated manufacturing technologies. The plan should also identify, to the maximum extent possible, military systems that may utilize low-cost titanium materials. The Secretary of Defense shall provide the plan to the congressional defense committees along with the fiscal year 2005 budget request.

Human tissue engineering

The Senate amendment contained a provision (sec. 214) that would authorize an increase of $1.7 million in PE 62787A for human tissue engineering.

The House bill contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $1.7 million in PE 62787A for minimally invasive digital printing for human tissue engineering.

Magnetic levitation

The Senate amendment contained a provision (sec. 216) that would authorize an additional $2.1 million in PE 64759F for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.

The House bill contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $2.1 million in PE 64759F for research and development on magnetic levitation technologies at the high speed test track at Holloman Air Force Base, New Mexico.

Modification of program element of short range air defense radar program of the Army

The Senate amendment contained a provision (sec. 220) that would modify the program element for the Army's short range air defense radar program from PE 62303A (Missile Technology) to PE 63772A(Advanced Tactical Computer Science and Sensor Technology).

The House bill contained no similar provision.

The Senate recedes on the provision.

The conferees agree to authorize an additional $6.0 million in PE63772A for the Army's short range air defense radar program.

Non-thermal imaging systems

The Senate amendment contained a provision (sec. 215) that would authorize an additional $2.0 million in PE 62114N for research and development of non-thermal imaging systems.

The House bill contained no similar provision, however, it would authorize an increase of $2.0 million in PE 62114N for applied research in promising non-thermal imaging technologies, including FireLidar, for military and civilian firefighting and operational applications.

The Senate recedes.

The conferees agree to authorize an increase of $2.0 million in PE 62114N for applied research in non-thermal imaging systems, such as FireLidar.

Portable mobile emergency broadband systems

The Senate amendment contained a provision (sec. 218) that would authorize an additional $2.0 million in PE 63008A for development of portable mobile emergency broadband systems.

The House bill contained no similar provision. The House authorized $8.6 million in PE 63008A for development of a portable and mobile emergency broadband system.

The Senate recedes on the provision.

The conferees agree to authorize an increase of $4.0 million in PE 63008A for development of portable mobile emergency broadband systems.

Program increases

The House bill contained a provision (sec. 203) that would authorize $3.0 million in PE 63002A for diagnosis of dermatological diseases, $3.0 million in PE 63004A for lightweight cartridge cases for ammunition, $6.5 million in PE 64512N for aviation-shipboard information technology, $1.4 million in PE 64512N for the AutoREAD system, $5.0 million in PE 63640M for SPIKE urban warfare system, $3.25 million in PE 63207N for research in hydrographic sciences, $5.0 million in PE 64231N for an at-sea demonstration of the F/A–22 electronic warfare product improvement program, $4.0 million in PE 62204F for reconfigurable signal processors, $2.0 million in PE 63750D8Z for an evaluation of systems to detect concentrations of specific compounds, and $5.0 million in PE 63284BP for mustard gas antidote.

The Senate bill contained no similar provision.

The House recedes.

The conferees agree to authorize $3.0 million in PE 63002A for diagnosis of dermatological diseases, $4.0 million in PE 64512N for aviation-shipboard information technology, $5.0 million in PE 63640M for SPIKE urban warfare system, $2.0 million in PE 64231N for an F/A–22 EW at-sea demo, $4.0 million in PE 62204F for reconfigurable signal processors, and $5.0 million in PE 62384BP for mustard gas antidote. These authorizations are also noted elsewhere in this conference report.

Prohibition on transfer of certain programs outside the Office of the Secretary of Defense

The Senate amendment contained a provision (sec. 211) that would prohibit the transfer of five research, development, test and evaluation (RDT&E) programs from the Office of the Secretary of Defense to the military services. These programs are: explosive demilitarization technology (PE 63104D8Z); high energy laser research initiative (PE 61108D8Z); high energy laser research (PE 62890D8Z); high energy laser advanced development (PE 63924D8Z); and university research initiative (PE 61103D8Z).

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense (DOD), and in particular the Office of the Director of Defense Research and Engineering (DDR&E), has assured the conferees that, despite the devolvement of these programs, the nature of the programs will not change. The conferees have, and will continue to pay particular attention to these programs in the future. The Secretary of Defense should consider these programs congressional interest items for purposes of the Base for Reprogramming (DD 1414). Any reprogramming of funds from these accounts shall only occur after approval by the congressional defense committees. The conferees may remove this designation after several years experience with the devolved programs.

The conferees further note their concerns about funding levels and technical content of the basic research activities of the defense science and technology program. The Department's investment in basic research provides the foundation upon which our modern military is built. It is critical the basic research investment remain strong, stable, and focused on the fundamental search for new knowledge. Therefore, the conferees direct the National Academies of Science to evaluate the DOD basic research portfolio. The evaluation shall utilize the official DOD definition of basic research to determine whether the basic research portfolio is consistent with the definition provided in DOD regulation. The conferees expect to work closely with the National Academies of Science and the Secretary to build the terms of reference for this evaluation. The evaluation should be made available to the congressional defense committees prior to the fiscal year 2006 budget request.

The conferees direct the Secretary to submit a report for each of the fifteen programs devolved in the fiscal year 2004 President's budget request, if the current year's budget request for the program is less than the fiscal year 2004 budget request in constant dollars. This reporting requirement is intended to be in effect for the next four fiscal years. This report shall be included with each fiscal year budget request, and shall contain budget request and appropriated levels for the program dating back to calendar year 2000 in both current and constant dollars, and an analysis of the impact of the reduced funding on the development of military capabilities, affected contractors, technical workforce, and scientific and technological advancement.

Requirement for specific authorization of Congress for design, development, or deployment of hit-to-kill ballistic missile interceptors

The Senate amendment contained a provision (sec. 225) that would: (1) require specific congressional authorization for the use of funds toward design, development, or deployment of hit-to-kill interceptors or other weapons for placement in space; and (2) make $14.0 million of funds authorized to be appropriated for fiscal year 2004 for Ballistic Missile Defense System Interceptors available for research and concept definition for a space based test bed.

The House bill contained no similar provision.

The Senate recedes.

The conferees understand that the Missile Defense Agency has no plans to use any fiscal year 2004 funding for space-based interceptor research, development, design or deployment.

TITLE III—OPERATION AND MAINTENANCE

Overview

The budget request for fiscal year 2004 included an authorization of $116,958.8 million for Operation and Maintenance, $17,900.4 for Other Programs, and $2,894.5 for Working Capital Fund Accounts in the Department of Defense.

The House bill would authorize $113,891.0 million for Operation and Maintenance, $17,877.1 for Other Programs, and $2,889.5 for Working Capital Fund Accounts.

The Senate amendment would authorize $130,611.4 million for Operation and Maintenance and $2,789.3 for Working Capital Fund Accounts.

The conferees recommend an authorization of $114,353.3 million for Operation and Maintenance, $17,911.6 for Other Programs, and $2,849.5 for Working Capital Fund Accounts. Unless noted explicitly in the statement of managers, all changes are made without prejudice.

Operation and Maintenance and Other Programs

(Dollars In Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Title III -- OPERATION AND MAINTENANCE AND OTHER PROGRAMS					
OPERATION AND MAINTENANCE					
Operation and Maintenance, Army	24,965,342	25,050,587	24,661,004	-338,305	24,627,037
Operation and Maintenance, Navy	28,287,690	27,901,790	28,051,390	-312,131	27,975,559
Operation and Maintenance, MC	3,406,656	3,517,756	3,416,356	19,400	3,426,056
Operation and Maintenance, AF	27,793,931	25,298,960	26,956,431	-1,704,261	26,089,670
Operation and Maintenance, Defense-wide	16,570,847	16,134,047	15,739,047	-327,690	16,243,157
Operation and Maintenance, Army Reserve	1,952,009	1,954,009	1,955,009	14,000	1,966,009
Operation and Maintenance, Navy Reserve	1,171,921	1,171,921	1,170,421		1,171,921
Operation and Maintenance, Marine Corps Reserve	173,952	199,452	173,452		173,952
Operation and Maintenance, Air Force Reserve	2,179,188	2,170,188	2,178,688		2,179,188
Operation and Maintenance, Army National Guard	4,211,331	4,194,331	4,230,331	45,000	4,256,331
Operation and Maintenance, Air National Guard	4,402,646	4,404,646	4,405,646	3,500	4,406,146
Transfer Accounts	1,323,178	1,373,178	1,313,178	-5,000	1,318,178
Miscellaneous Appropriations	520,133	520,133	520,133		520,133
Defense Health Program, O&M			14,862,900		
Defense Health Program (Transfer from Other Programs)			[14,876,887]		
Financial information systems			[-14,000]		
Drug Interdiction and Counter-Drug Activities (Transfer from Other Programs)			817,371		
Office of the Inspector General, O&M (Transfer from Other Programs)			160,049		
SUBTOTAL OPERATION AND MAINTENANCE	**116,958,824**	**113,890,998**	**130,611,406**	**-2,605,487**	**114,353,337**
OTHER PROGRAMS (Formerly in the O&M Title)					
Defense Health Program, O&M	14,876,887	14,923,441		131,000	15,007,887
Marshall Island diabetes program		[2,000]		[1,000]	
Army Choices program		[150]		[150]	
Operations in Southwest Asia		[-6,596]		[-150]	
Manganese Health Research Program				[2,000]	
TRICARE for Reserve Component Personnel				[128,000]	
Defense Health Program, RDTE	65,796	65,796			65,796

Operation and Maintenance and Other Programs

(Dollars In Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Health Program, Procurement	327,826	327,826			327,826
Subtotal Defense Health Program	**15,270,509**	**15,317,063**			**15,401,509**
Drug Interdiction and Counter-Drug Activities	817,371	817,371			817,371
Southwest border fence		[6,700]		[4,000]	
ISR and tanker support		[-2,000]		[-1,500]	
Ground based end game operations		[-3,500]		[-2,500]	
Subtotal Drug Interdiction and Counter-Drug Activities	**817,371**	**817,371**			**817,371**
Office of the Inspector General, O&M	160,049	160,049			160,049
Office of the Inspector General, RDTE	2,100	2,100			2,100
Office of the Inspector General, Procurement	300	300			300
Subtotal Office of the Inspection General	**162,449**	**162,449**			**162,449**
Chemical Agents and Munitions Destruction, O&M	1,199,168	1,249,168			1,199,168
Chemical Agents and Munitions Destruction, RDTE	251,881	251,881			251,881
Chemical Agents and Munitions Destruction, Procurement	79,212	79,212			79,212
Chemical Agents and Munitions Destruction, Military Construction	119,815			-119,815	
Subtotal Chemical Agents and Munitions Destruction	**1,650,076**	**1,580,261**			**1,530,261**
SUBTOTAL OTHER PROGRAMS	**17,900,405**	**17,877,144**			**17,911,590**
TOTAL OPERATION AND MAINTENANCE AND OTHER PROGRAMS	**134,859,229**	**131,768,142**	**130,611,406**	**-2,594,302**	**132,264,927**
REVOLVING AND MANAGEMENT FUNDS					
Defense Working Capital Funds	632,261	632,261	632,261		632,261
Defense Working Capital Funds - DeCA	1,089,246	1,089,246	1,089,246		1,089,246
National Defense Sealift Fund	1,062,762	1,102,762	1,062,762		1,062,762
Armed Forces Retirement Home	65,279	65,279	65,279		65,279
Other Legislation	45,000		45,000	-45,000	
TOTAL REVOLVING AND MANAGEMENT FUNDS	**2,894,548**	**2,889,548**	**2,894,548**	**-45,000**	**2,849,548**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Army					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
1	DIVISIONS	1,506,922	1,830,172	1,514,422	7,000	1,513,922
	Extended cold weather clothing system			[5,000]	[5,000]	
	Field battery charging technology			[2,500]		
	Consumable parts		[90,000]			
	Hydration on the move (Camelbak)		[2,000]		[2,000]	
	Depot maintenance		[231,250]			
2	CORPS COMBAT FORCES	478,563	478,563	478,563		478,563
3	CORPS SUPPORT FORCES	383,755	383,755	383,755		383,755
4	ECHELON ABOVE CORPS SUPPORT FORCES	467,026	467,026	467,026		467,026
5	LAND FORCES OPERATIONS SUPPORT	1,078,757	1,012,307	1,078,757		1,078,757
	Fuel reduction		[-20,450]			
	Working capital fund cash reduction		[-50,000]			
	Controlled humidity preservation (CHP) program		[4,000]			
	LAND FORCES READINESS					
6	FORCE READINESS OPERATIONS SUPPORT	1,568,900	1,568,900	1,568,900		1,568,900
7	LAND FORCES SYSTEMS READINESS	488,918	488,918	488,918		488,918
8	LAND FORCES DEPOT MAINTENANCE	1,007,481	1,007,481	1,007,481	10,000	1,017,481
	Tank transmission upgrades (non-add)			[15,000]		
	Tank transmission upgrades				[10,000]	

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	LAND FORCES READINESS SUPPORT					
9	BASE OPERATIONS SUPPORT	2,651,539	2,651,539	2,651,539		2,651,539
10	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,094,309	1,094,309	1,094,309		1,094,309
11	MANAGEMENT & OPERATIONAL HEADQUARTERS	243,033	243,033	243,033		243,033
12	UNIFIED COMMANDS	85,115	85,115	85,115		85,115
13	MISCELLANEOUS ACTIVITIES	1,562,793	1,362,393	1,562,793		1,562,793
	Contingency operations, Southwest Asia		[-200,400]			
	TOTAL, BA 01: OPERATING FORCES	**12,617,111**	**12,673,511**	**12,624,611**	**17,000**	**12,634,111**
	BUDGET ACTIVITY 02: MOBILIZATION					
	MOBILITY OPERATIONS					
14	STRATEGIC MOBILIZATION	378,432	378,432	382,432	4,000	382,432
	Quadruple shipping containers			[4,000]	[4,000]	
15	ARMY PREPOSITIONED STOCKS	145,728	145,728	145,728		145,728
16	INDUSTRIAL PREPAREDNESS	7,753	7,753	7,753		7,753
17	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	6,933	6,933	6,933		6,933
	TOTAL, BA 02: MOBILIZATION	**538,846**	**538,846**	**542,846**	**4,000**	**542,846**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
18	OFFICER ACQUISITION	89,853	89,853	89,853		89,853
19	RECRUIT TRAINING	22,977	22,977	22,977		22,977
20	ONE STATION UNIT TRAINING	39,106	39,106	39,106		39,106
21	SENIOR RESERVE OFFICERS' TRAINING CORPS	214,264	214,264	214,264		214,264
22	BASE OPERATIONS SUPPORT	80,110	80,110	80,110		80,110
23	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	61,096	61,096	61,096		61,096
	BASIC SKILL/ ADVANCE TRAINING					
24	SPECIALIZED SKILL TRAINING	306,272	312,772	308,272	6,000	312,272
	Satellite communications language training (SCOLA)			[2,000]		
	US Army Engineer School		[4,000]		[4,000]	
	Army Defense Language Institute (same as SCOLA)		[2,500]		[2,000]	
25	FLIGHT TRAINING	499,040	647,040	514,040	5,000	504,040
	Flight School XXI		[148,000]	[15,000]	[5,000]	
26	PROFESSIONAL DEVELOPMENT EDUCATION	142,038	142,038	142,038		142,038
27	TRAINING SUPPORT	478,903	478,903	478,903		478,903
28	BASE OPERATIONS SUPPORT	819,604	819,604	819,604		819,604
29	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	392,550	392,550	392,550		392,550

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	RECRUITING/OTHER TRAINING					
30	RECRUITING AND ADVERTISING	468,035	468,035	455,035		468,035
	Recruiting and advertising costs			[-13,000]		
31	EXAMINING	83,269	83,269	83,269		83,269
32	OFF-DUTY AND VOLUNTARY EDUCATION	226,011	226,011	226,011		226,011
33	CIVILIAN EDUCATION AND TRAINING	92,536	92,536	92,536		92,536
34	JUNIOR RESERVE OFFICERS' TRAINING CORPS	129,978	129,978	129,978		129,978
35	BASE OPERATIONS SUPPORT	238,993	238,993	238,993		238,993
	TOTAL, BA 03: TRAINING AND RECRUITING	**4,384,635**	**4,539,135**	**4,388,635**	**11,000**	**4,395,635**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SECURITY PROGRAMS					
36	SECURITY PROGRAMS	591,622	591,622	591,622		591,622
	LOGISTICS OPERATIONS					
37	SERVICEWIDE TRANSPORTATION	661,551	665,551	661,551	2,000	663,551
	Military vehicle tires		[2,000]			
	Military vehicle batteries		[2,000]		[2,000]	
38	CENTRAL SUPPLY ACTIVITIES	491,835	491,835	491,835		491,835
39	LOGISTICS SUPPORT ACTIVITIES	1,058,760	1,058,760	1,066,760	8,000	1,066,760
	Corrosion prevention and control			[8,000]	[8,000]	
40	AMMUNITION MANAGEMENT	330,129	330,129	330,129		330,129

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	SERVICEWIDE SUPPORT					
41	ADMINISTRATION	664,135	667,135	664,135		664,135
	Red Cross notification grant		[3,000]			
42	SERVICEWIDE COMMUNICATIONS	623,102	623,102	623,102		623,102
43	MANPOWER MANAGEMENT	210,202	210,202	210,202		210,202
44	OTHER PERSONNEL SUPPORT	198,716	199,716	198,716		198,716
	Center for military history - Vietnam historical perspectives		[1,000]			
45	OTHER SERVICE SUPPORT	707,558	707,558	707,558		707,558
46	ARMY CLAIMS	116,691	116,691	116,691		116,691
47	REAL ESTATE MANAGEMENT	50,173	50,173	50,173		50,173
48	BASE OPERATIONS SUPPORT	1,194,134	1,194,134	1,194,134		1,194,134
49	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	260,288	260,288	260,288		260,288
50	COMMISSARY OPERATIONS					
	Other support services		-7,119			
	Administration		-7,936			
	Civilian personnel underexecution		-26,600			
	Army knowledge management		-24,000			

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	SUPPORT OF OTHER NATIONS					
51	SUPPORT OF NATO OPERATIONS	207,125	207,125	207,125		207,125
52	MISC. SUPPORT OF OTHER NATIONS	58,729	58,729	58,729		58,729
53	EXPANSION OF NATO					
	Information technology reduction		-68,000			
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**7,424,750**	**7,299,095**	**7,432,750**	**10,000**	**7,434,750**
999a	WMD - Civil Support Teams			23,300	23,300	23,300
	Operations in Southwest Asia			-200,400	-200,400	-200,400
	WCF excess cash balances			-107,000	-107,000	-107,000
	Transfer from WCF for WP production equipment (PAA 39)			-24,339		
	Civilian personnel underexecution			-19,400	-9,850	-9,850
	Unobligated balances				-31,300	-31,300
	Administration and servicewide activities				-15,055	-15,055
	Information technology reduction				-40,000	-40,000
	Total Operation and Maintenance, Army	**24,965,342**	**25,050,587**	**24,661,004**	**-338,305**	**24,627,037**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Navy					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
1	MISSION AND OTHER FLIGHT OPERATIONS	3,262,507	3,435,007	3,262,507		3,262,507
	Flight operations		[172,500]			
2	FLEET AIR TRAINING	1,025,326	1,025,326	1,025,326		1,025,326
3	INTERMEDIATE MAINTENANCE	73,961	73,961	73,961		73,961
4	AIR OPERATIONS AND SAFETY SUPPORT	105,559	105,559	105,559		105,559
5	AIRCRAFT DEPOT MAINTENANCE	980,136	980,136	980,136		980,136
6	AIRCRAFT DEPOT OPERATIONS SUPPORT	50,725	50,725	50,725		50,725
	Fuel		-122,700			
	Contingency operations, Southwest Asia		-76,100			
	NMCI		-6,000			
	SHIP OPERATIONS					
7	MISSION AND OTHER SHIP OPERATIONS	2,485,605	2,485,605	2,492,105	5,000	2,490,605
	Condition-based maintenance photonic sensors			[6,500]	[5,000]	
8	SHIP OPERATIONAL SUPPORT AND TRAINING	614,525	614,525	614,525		614,525
9	INTERMEDIATE MAINTENANCE /1					
10	SHIP DEPOT MAINTENANCE /1	3,567,545	3,643,545	3,567,545		3,567,545
	Depot maintenance - LHA midlife and AOE-1 sustainment		[76,000]			

Title III - Operation and Maintenance
(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
11	SHIP DEPOT OPERATIONS SUPPORT	1,087,587	1,087,587	1,087,587		1,087,587
	NMCI		-46,000			
	COMBAT OPERATIONS/SUPPORT					
12	COMBAT COMMUNICATIONS	377,493	377,493	377,493	3,000	380,493
	Manufacturing Technical Assistance and Production Pgm (MTAPP)				[3,000]	
13	ELECTRONIC WARFARE	15,574	15,574	15,574		15,574
14	SPACE SYSTEMS & SURVEILLANCE	125,107	125,107	125,107		125,107
15	WARFARE TACTICS	235,237	235,237	235,237		235,237
16	OPERATIONAL METEOROLOGY & OCEANOGRAPHY	257,475	257,475	257,475		257,475
17	COMBAT SUPPORT FORCES	892,241	892,241	892,241		892,241
18	EQUIPMENT MAINTENANCE	166,033	166,033	169,033		166,033
	Lead paint removal			[3,000]		
19	DEPOT OPERATIONS SUPPORT	2,733	2,733	2,733		2,733
	WEAPONS SUPPORT					
20	CRUISE MISSILE	151,456	151,456	151,456		151,456
21	FLEET BALLISTIC MISSILE	806,058	806,058	806,058		806,058
22	IN-SERVICE WEAPONS SYSTEMS SUPPORT	44,092	44,092	44,092		44,092
23	WEAPONS MAINTENANCE	466,425	466,425	466,425		466,425
	WORKING CAPITAL FUND SUPPORT					
24	NWCF SUPPORT /2	-447,755	-447,755	-491,255	-43,500	-491,255
	Navy excess carryover			[-43,500]	[-43,500]	

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BASE SUPPORT					
25	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	1,079,723	1,079,723	1,079,723		1,079,723
26	BASE OPERATIONS SUPPORT	2,609,334	2,609,334	2,580,334		2,609,334
	Naval Station Roosevelt Roads			[-29,000]		
	NMCI		-25,000			
	TOTAL, BA 01: OPERATING FORCES	**20,034,702**	**20,007,402**	**19,971,702**	**-35,500**	**19,999,202**
	BUDGET ACTIVITY 02: MOBILIZATION					
	READY RESERVE AND PREPOSITIONING FORCES					
27	SHIP PREPOSITIONING AND SURGE	506,690	506,690	506,690		506,690
	ACTIVATIONS/INACTIVATIONS					
28	AIRCRAFT ACTIVATIONS/INACTIVATIONS	8,217	8,217	8,217		8,217
29	SHIP ACTIVATIONS/INACTIVATIONS	167,127	167,127	167,127		167,127

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	MOBILIZATION PREPAREDNESS					
30	FLEET HOSPITAL PROGRAM	25,361	25,361	25,361		25,361
31	INDUSTRIAL READINESS	1,702	1,702	1,702		1,702
32	COAST GUARD SUPPORT	18,137	18,137	18,137		18,137
	TOTAL, BA 02: MOBILIZATION	**727,234**	**727,234**	**727,234**		**727,234**
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
33	OFFICER ACQUISITION	116,022	116,022	116,022		116,022
34	RECRUIT TRAINING	8,693	8,693	8,693		8,693
35	RESERVE OFFICERS TRAINING CORPS	91,788	91,788	91,788		91,788
	BASIC SKILLS AND ADVANCED TRAINING					
36	SPECIALIZED SKILL TRAINING	363,006	363,006	363,006		363,006
37	FLIGHT TRAINING	441,982	441,982	441,982		441,982
38	PROFESSIONAL DEVELOPMENT EDUCATION	113,134	113,134	113,134		113,134
39	TRAINING SUPPORT	300,843	285,843	300,843	-15,000	285,843
	Program reduction		[-15,000]		[-15,000]	

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
40	RECRUITING AND ADVERTISING	251,507	252,507	246,507	1,000	252,507
	Recruiting and advertising costs			[-5,000]		
	Naval Sea Cadets Corps		[1,000]		[1,000]	
41	OFF-DUTY AND VOLUNTARY EDUCATION	98,885	98,885	98,885		98,885
42	CIVILIAN EDUCATION AND TRAINING	70,628	70,628	70,628		70,628
43	JUNIOR ROTC	40,333	40,333	40,333		40,333
	BASE SUPPORT					
44	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	201,993	201,993	201,993		201,993
45	BASE OPERATIONS SUPPORT	373,377	373,377	373,377		373,377
	TOTAL, BA 03: TRAINING AND RECRUITING	**2,472,191**	**2,458,191**	**2,467,191**	**-14,000**	**2,458,191**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SERVICEWIDE SUPPORT					
46	ADMINISTRATION	698,422	688,422	698,422		698,422
	Program reduction		[-10,000]			
47	EXTERNAL RELATIONS	4,026	4,026	4,026		4,026
48	CIVILIAN MANPOWER & PERSONNEL MGT	104,963	104,963	104,963		104,963

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
49	MILITARY MANPOWER & PERSONNEL MGT	221,170	179,570	221,170		221,170
	Navy personnel, Navy military personnel system		[-4,300]			
	Navy reserve integrated management		[-2,300]			
	Navy military personnel distribution system		[-5,000]			
	Other Navy military manpower/personnel		[-30,000]			
50	OTHER PERSONNEL SUPPORT	212,060	212,060	212,060		212,060
51	SERVICEWIDE COMMUNICATIONS	632,682	632,682	632,682		632,682
52	MEDICAL ACTIVITIES					
	NMCI		-76,000			
	LOGISTICS OPERATIONS AND TECHNICAL SUPPORT					
53	SERVICEWIDE TRANSPORTATION	193,045	193,045	193,045		193,045
54	ENVIRONMENTAL PROGRAMS					
55	PLANNING, ENGINEERING & DESIGN	301,365	291,365	301,365	-10,000	291,365
	Program reduction		[-10,000]		[-10,000]	
56	ACQUISITION AND PROGRAM MANAGEMENT	905,432	905,432	905,432		905,432
57	AIR SYSTEMS SUPPORT	447,639	447,639	447,639		447,639
58	HULL, MECHANICAL & ELECTRICAL SUPPORT	62,927	62,927	62,927		62,927
59	COMBAT/WEAPONS SYSTEMS	40,093	40,093	40,093		40,093
60	SPACE & ELECTRONIC WARFARE SYSTEMS	66,236	66,236	66,236		66,236
61	COMMISSARY OPERATIONS					
	NMCI		-7,000			

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	SECURITY PROGRAMS					
62	SECURITY PROGRAMS	801,509	801,509	801,509		801,509
	SUPPORT OF OTHER NATIONS					
63	INTERNATIONAL HDQTRS & AGENCIES	10,542	10,542	10,542		10,542
	BASE SUPPORT					
64	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	98,108	98,108	98,108		98,108
65	BASE OPERATIONS SUPPORT	253,344	253,344	253,344		253,344
	CANCELLED ACCOUNTS					
66	CANCELLED ACCOUNT					
	Information technology reduction		-200,000			
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**5,053,563**	**4,708,963**	**5,053,563**	**-10,000**	**5,043,563**
	Operations in Southwest Asia			-75,800	-75,800	-75,800
	WCF excess cash balances			-92,500	-45,000	-45,000
	Unobligated balances				-61,831	-61,831
	Administration and servicewide activities				-10,000	-10,000
	Information technology reduction				-60,000	-60,000
	Total Operation and Maintenance, Navy	**28,287,690**	**27,901,790**	**28,051,390**	**-312,131**	**27,975,559**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Marine Corps					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	EXPEDITIONARY FORCES					
1	OPERATIONAL FORCES	588,653	612,853	593,653	12,000	600,653
	Initial issue			[5,000]	[10,000]	
	Hydration on the move (Camelbak)		[2,000]		[2,000]	
	Deployable virtual training environment		[2,500]			
	Individual first aid kit		[6,200]			
	US Joint Maritime BEQ facility		[600]			
	Restrictive use easements		[5,800]			
	Marine air command and control sustainment		[1,100]			
	Corrosion control and coating program		[6,000]			
2	FIELD LOGISTICS	320,108	320,108	325,108	5,000	325,108
	Corrosion prevention and control			[5,000]	[5,000]	
3	DEPOT MAINTENANCE	101,439	188,339	101,439	5,000	106,439
	Depot maintenance		[35,900]		[5,000]	
	Initial issue		[51,000]			
4	BASE OPERATIONS SUPPORT	912,934	912,934	912,934		912,934
5	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	498,007	498,007	498,007		498,007
xx	Chem-Bio Incident Response Force Family of Incident Response System			2,000	2,000	2,000

Title III - Operation and Maintenance
(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	USMC PREPOSITIONING					
6	MARITIME PREPOSITIONING	76,996	76,996	76,996		76,996
7	NORWAY PREPOSITIONING	4,035	4,035	4,035		4,035
	TOTAL, BA 01: OPERATING FORCES	**2,502,172**	**2,613,272**	**2,514,172**	**24,000**	**2,526,172**
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
8	RECRUIT TRAINING	10,242	10,242	10,242		10,242
9	OFFICER ACQUISITION	348	348	348		348
10	BASE OPERATIONS SUPPORT					
11	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION					
	BASIC SKILLS AND ADVANCED TRAINING					
12	SPECIALIZED SKILLS TRAINING	41,514	41,514	41,514		41,514
13	FLIGHT TRAINING	171	171	171		171
14	PROFESSIONAL DEVELOPMENT EDUCATION	8,863	8,863	8,863		8,863
15	TRAINING SUPPORT	123,007	123,007	123,007		123,007
16	BASE OPERATIONS SUPPORT					
17	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION					

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	RECRUITING AND OTHER TRAINING EDUCATION					
18	RECRUITING AND ADVERTISING	115,167	115,167	113,167		115,167
	Recruiting and advertising costs			[-2,000]		
19	OFF-DUTY AND VOLUNTARY EDUCATION	35,606	35,606	35,606		35,606
20	JUNIOR ROTC	13,200	13,200	13,200		13,200
21	BASE OPERATIONS SUPPORT					
22	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION					
	BASE SUPPORT					
23	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	78,073	78,073	78,073		78,073
24	BASE OPERATIONS SUPPORT	151,071	151,071	151,071		151,071
	TOTAL, BA 03: TRAINING AND RECRUITING	**577,262**	**577,262**	**575,262**		**577,262**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SERVICEWIDE SUPPORT					
25	SPECIAL SUPPORT	229,485	229,485	229,485		229,485
26	SERVICEWIDE TRANSPORTATION	35,733	35,733	35,733		35,733
27	ADMINISTRATION	39,377	39,377	39,377		39,377
28	BASE OPERATIONS SUPPORT	18,991	18,991	18,991		18,991
29	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	3,636	3,636	3,636		3,636
30	COMMISSARY OPERATIONS					

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	CANCELLED ACCOUNT					
31	CANCELLED ACCOUNT					
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**327,222**	**327,222**	**327,222**		**327,222**
	Operations in Southwest Asia			-300	-500	-500
	Unobligated balances				-4,100	-4,100
	Total Operation and Maintenance, Marine Corps	**3,406,656**	**3,517,756**	**3,416,356**	**19,400**	**3,426,056**
	Operation and Maintenance, Air Force					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
1	PRIMARY COMBAT FORCES	3,496,496	3,496,496	3,496,496		3,496,496
2	PRIMARY COMBAT WEAPONS	331,972	331,972	331,972		331,972
3	COMBAT ENHANCEMENT FORCES	332,062	332,062	332,062		332,062
4	AIR OPERATIONS TRAINING	1,243,900	1,243,900	1,243,900		1,243,900

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
5	DEPOT MAINTENANCE	1,817,063	2,236,729	1,946,963		1,817,063
	Depot maintenance			[125,000]		
	Missile maintenance			[4,900]		
	Depot maintenance equipment		[329,666]			
	Depot level reparables (spares) for flying hour program		[90,000]			
6	COMBAT COMMUNICATIONS	1,350,589	1,350,589	1,350,589		1,350,589
7	BASE SUPPORT	2,260,913	1,960,913	2,260,913		2,260,913
	Program reduction		[-300,000]			
8	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION	936,519	936,519	936,519		936,519
	Fuel		-224,950			
	Contingency operations, Southwest Asia		-707,550			
	Working capital fund - cash		-26,000			
	COMBAT RELATED OPERATIONS					
9	GLOBAL C3I & EARLY WARNING	976,608	976,608	976,608		976,608
10	NAVIGATION/WEATHER SUPPORT	187,202	187,202	187,202		187,202
11	OTHER COMBAT OPERATIONS SUPPORT PROGRAMS	597,331	597,331	597,331		597,331
12	JCS EXERCISES	35,543	35,543	35,543		35,543
13	MANAGEMENT/OPERATIONAL HEADQUARTERS	213,088	213,088	213,088		213,088
14	TACTICAL INTELLIGENCE AND SPECIAL ACTIVITIES	223,946	223,946	223,946		223,946
	SPACE OPERATIONS					
15	LAUNCH FACILITIES	321,829	321,829	321,829		321,829
16	LAUNCH VEHICLES	67,232	67,232	67,232		67,232

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
17	SPACE CONTROL SYSTEMS	242,294	242,294	242,294		242,294
18	SATELLITE SYSTEMS	57,046	57,046	57,046		57,046
19	OTHER SPACE OPERATIONS	243,778	243,778	243,778		243,778
20	BASE SUPPORT	566,936	566,936	566,936		566,936
21	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION	148,408	148,408	148,408		148,408
	TOTAL, BA 01: OPERATING FORCES	**15,650,755**	**14,811,921**	**15,780,655**		**15,650,755**
	BUDGET ACTIVITY 02: MOBILIZATION					
	MOBILITY OPERATIONS					
22	AIRLIFT OPERATIONS	2,167,958	1,222,482	2,167,958		2,167,958
	Working capital fund - transportation		[-945,476]			
23	AIRLIFT OPERATIONS C3I	36,758	36,758	36,758		36,758
24	MOBILIZATION PREPAREDNESS	172,134	172,134	172,134		172,134
25	DEPOT MAINTENANCE	361,521	361,521	486,521		361,521
	Depot maintenance			[125,000]		
26	PAYMENTS TO TRANSPORTATION BUSINESS AREA		-135,500			
	Overstated airlift readiness account baseline		[-135,500]			
27	BASE SUPPORT	514,123	514,123	514,123		514,123
28	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION	200,836	200,836	200,836		200,836
	TOTAL, BA 02: MOBILIZATION	**3,453,330**	**2,372,354**	**3,578,330**		**3,453,330**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 03: TRAINING AND RECRUITING					
	ACCESSION TRAINING					
29	OFFICER ACQUISITION	67,763	67,763	67,763		67,763
30	RECRUIT TRAINING	6,112	6,112	6,112		6,112
31	RESERVE OFFICER TRAINING CORPS (ROTC)	82,586	82,586	82,586		82,586
32	BASE SUPPORT (ACADEMIES ONLY)	68,682	68,682	68,682		68,682
33	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION (A	75,337	75,337	75,337		75,337
	BASIC SKILLS AND ADVANCED TRAINING					
34	SPECIALIZED SKILL TRAINING	324,067	324,067	324,067		324,067
35	FLIGHT TRAINING	675,173	675,173	675,173		675,173
36	PROFESSIONAL DEVELOPMENT EDUCATION	154,978	154,978	154,978		154,978
37	TRAINING SUPPORT	92,652	92,652	92,652		92,652
38	DEPOT MAINTENANCE	8,461	8,461	8,461		8,461
39	BASE SUPPORT (OTHER TRAINING)	529,663	529,663	529,663		529,663
40	FACILITIES SUSTAINMENT, RESTORATION, AND MODERNIZATION	167,050	167,050	167,050		167,050
	RECRUITING, AND OTHER TRAINING AND EDUCATION					
41	RECRUITING AND ADVERTISING	150,744	150,744	145,744		150,744
	Recruiting and advertising costs			[-5,000]		
42	EXAMINING	3,103	3,103	3,103		3,103
43	OFF DUTY AND VOLUNTARY EDUCATION	114,240	114,240	114,240		114,240
44	CIVILIAN EDUCATION AND TRAINING	133,706	133,706	133,706		133,706

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
45	JUNIOR ROTC	43,413	43,413	43,413		43,413
	TOTAL, BA 03: TRAINING AND RECRUITING	**2,697,730**	**2,697,730**	**2,692,730**		**2,697,730**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	LOGISTICS OPERATIONS					
46	LOGISTICS OPERATIONS	965,075	965,075	968,075		965,075
	Manufacturing technical assistance and production program			[3,000]		
47	TECHNICAL SUPPORT ACTIVITIES	409,392	409,392	409,392		409,392
48	SERVICEWIDE TRANSPORTATION	240,064	240,064	240,064		240,064
49	DEPOT MAINTENANCE	130,930	130,930	130,930		130,930
50	BASE SUPPORT	1,082,612	1,082,612	1,082,612		1,082,612
51	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION	241,207	241,207	241,207		241,207
	Supply management		-344,350			
	SERVICEWIDE ACTIVITIES					
52	ADMINISTRATION	234,370	234,370	234,370		234,370
53	SERVICEWIDE COMMUNICATIONS	347,528	347,528	347,528		347,528
54	PERSONNEL PROGRAMS	213,901	203,901	213,901		213,901
	PCS moves		[-10,000]			
55	RESCUE AND RECOVERY SERVICES	121,063	121,063	121,063		121,063
56	ARMS CONTROL	33,640	33,640	33,640		33,640
57	OTHER SERVICEWIDE ACTIVITIES	679,177	679,177	679,177		679,177

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
58	OTHER PERSONNEL SUPPORT	34,655	13,844	34,655		34,655
	Program reduction		[-20,811]			
59	CIVIL AIR PATROL CORPORATION	21,432	21,432	21,432		21,432
60	BASE SUPPORT	299,750	299,750	299,750		299,750
61	FACILITIES SUSTAINMENT, RESTORATION AND MODERNIZATION	11,011	11,011	11,011		11,011
62	COMMISSARY OPERATIONS SUPPORT					
	SECURITY PROGRAMS					
63	SECURITY PROGRAMS	907,694	907,694	907,694		907,694
	SUPPORT TO OTHER NATIONS					
64	INTERNATIONAL SUPPORT	18,615	18,615	18,615		18,615
	Information technology reduction		-200,000			
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**5,992,116**	**5,416,955**	**5,995,116**		**5,992,116**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operations in Southwest Asia			-707,600	-707,550	-707,550
	Supply Management Activity Group, Air Force WCF			-250,000	-40,000	-40,000
	WCF excess cash balances			-114,000	-220,000	-220,000
	Civilian personnel underexecution			-18,800	-31,400	-31,400
	Unobligated Balances				-13,500	-13,500
	Administration and Servicewide Activities				-30,811	-30,811
	Base Operations Support				-150,000	-150,000
	Transportation WCF				-451,000	-451,000
	Information technology reduction				-60,000	-60,000
	Total Operation and Maintenance, Air Force	**27,793,931**	**25,298,960**	**26,956,431**	**-1,704,261**	**26,089,670**
	Operation and Maintenance, Defense-wide					
	BUDGET ACTIVITY 1: OPERATING FORCES					
1	JOINT CHIEFS OF STAFF	420,036	423,436	430,036		420,036
	Combatant Commander Initiative Fund			[10,000]		
	CJCS exercise program		[3,400]			
2	SPECIAL OPERATIONS COMMAND	1,851,533	1,851,533	1,851,533		1,851,533
	Tracing portable, sensitive items (non-add)		[1,100]			
	Fuel		-40,900			
	Contingency operations, Southwest Asia		-58,100			
	TOTAL, BUDGET ACTIVITY 1:	**2,271,569**	**2,175,969**	**2,281,569**		**2,271,569**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 2: MOBILIZATION					
5	DEFENSE LOGISTICS AGENCY	49,991	49,991	49,991		49,991
	TOTAL, BUDGET ACTIVITY 2:	**49,991**	**49,991**	**49,991**		**49,991**
	BUDGET ACTIVITY 3: TRAINING AND RECRUITING					
6	AMERICAN FORCES INFORMATION SERVICE	14,005	14,005	14,005		14,005
7	CLASSIFIED PROGRAMS	3,058	3,058	3,058		3,058
8	DEFENSE ACQUISITION UNIVERSITY	101,695	101,695	101,695		101,695
9	DEFENSE CONTRACT AUDIT AGENCY	5,517	5,517	5,517		5,517
10	DEFENSE FINANCE AND ACCOUNTING SERVICE					
11	DEFENSE HUMAN RESOURCES ACTIVITY	35,262	35,262	35,262		35,262
	Joint Advertising Market Research and Studies (non-add)				[7,500]	
12	DEFENSE SECURITY SERVICE	7,173	7,173	7,173		7,173
13	DEFENSE THREAT REDUCTION AGENCY	4,796	4,796	4,796		4,796
14	SPECIAL OPERATIONS COMMAND	92,646	92,646	92,646		92,646
	TOTAL, BUDGET ACTIVITY 3:	**264,152**	**264,152**	**264,152**		**264,152**
	BUDGET ACTIVITY 4: ADMIN & SERVICEWIDE ACTIVITIES					
15	AMERICAN FORCES INFORMATION SERVICE	105,261	105,261	105,261		105,261

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
16	CIVIL MILITARY PROGRAMS	99,030	140,030	99,030		99,030
	National Guard Youth Challenge		[6,000]			
	Supplementary DoD Impact Aid		[35,000]			
17	CLASSIFIED PROGRAMS	6,788,178	6,788,178	6,788,178		6,788,178
18	DEFENSE CONTRACT AUDIT AGENCY	359,011	359,011	359,011		359,011
19	DEFENSE CONTRACT MANAGEMENT AGENCY	1,008,908	1,008,908	1,008,908		1,008,908
20	DEFENSE FINANCE AND ACCOUNTING SERVICE	1,659	1,659	1,659		1,659
21	DEFENSE HUMAN RESOURCES ACTIVITY	276,802	276,802	276,802		276,802
22	DEFENSE INFORMATION SYSTEMS AGENCY	1,129,876	1,119,276	1,129,876	-10,600	1,119,276
	Program reduction		[-10,600]		[-10,600]	
23	DEFENSE LOGISTICS AGENCY	259,713	254,013	259,713		259,713
	Defense Logistics Agency (CTMA)		[10,000]			
	Defense Logistics Agency (DPAO)		[-15,700]			
24	DEFENSE LEGAL SERVICES AGENCY	17,757	17,757	17,757		17,757
25	DEPARTMENT OF DEFENSE DEPENDENTS EDUCATION	1,698,075	1,698,075	1,698,075		1,698,075
26	DEFENSE POW /MISSING PERSONS OFFICE	15,800	15,800	15,800		15,800
27	DEFENSE SECURITY COOPERATION AGENCY	284,767	84,767	84,767	-200,000	84,767
	Counter-terrorism train and equip program		[-200,000]	[-200,000]	[-200,000]	
28	DEFENSE SECURITY SERVICE	200,054	200,054	200,054		200,054
29	DEFENSE THREAT REDUCTION AGENCY	291,246	292,646	291,246		291,246
30	OFFICE OF ECONOMIC ADJUSTMENT	14,105	14,105	14,105		14,105

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
31	OFFICE OF THE SECRETARY OF DEFENSE	712,567	692,767	715,567	421	712,988
	Information Assurance Scholarship Program			[3,000]	[3,000]	
	Contract of support services		[-13,000]			
	Long range planning		[-6,800]		[-2,579]	
32	SPECIAL OPERATIONS COMMAND	61,932	61,932	61,932		61,932
33	SPECIAL ACTIVITIES					
34	JOINT CHIEFS OF STAFF	234,498	234,498	234,498		234,498
35	WASHINGTON HEADQUARTERS SERVICES	405,500	405,500	405,500		405,500
36	DEFENSE TECHNOLOGY SECURITY ADMINISTRATION	20,396	20,396	20,396		20,396
	Sikes Act extension		1,500			
	NIMA, archive and dissemination systems		-10,000			
	NIMA, production and information systems support		-10,000			
	Defense Health Program (TRICARE)		-25,000			
	Defense Security Service case control management		-4,000			
	Information technology reduction		-100,000			
	TOTAL, BUDGET ACTIVITY 4:	**13,985,135**	**13,643,935**	**13,788,135**	**-210,179**	**13,774,956**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Impact aid			30,000	30,000	30,000
	Impact aid for children with disabilities			5,000	5,000	5,000
	American Red Cross emergency communication services			5,000	5,000	5,000
	Operations in Southwest Asia			-80,100	-72,511	-72,511
	Transportation WCF			-600,000		
	Financial information systems			-4,700		
	Contract services				-45,000	-45,000
	Information technology reduction				-40,000	-40,000
	Total Operation and Maintenance, Defense-Wide	**16,570,847**	**16,134,047**	**15,739,047**	**-327,690**	**16,243,157**
	Operation and Maintenance, Army Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
1	DIVISION FORCES	14,791	16,791	21,791	7,000	21,791
	Extended cold weather clothing system (ECWCS)		[2,000]	[7,000]	[7,000]	
2	CORPS COMBAT FORCES	35,798	35,798	35,798		35,798
3	CORPS SUPPORT FORCES	309,462	309,462	309,462		309,462
4	ECHELON ABOVE CORPS FORCES	135,342	135,342	135,342		135,342
5	LAND FORCES OPERATIONS SUPPORT	467,097	467,097	468,097	1,000	468,097
	Equipment storage site initial operations			[1,000]	[1,000]	

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	LAND FORCES READINESS					
6	FORCES READINESS OPERATIONS SUPPORT	122,020	122,020	125,020	2,000	124,020
	Army Reserve Info Ops Center			[3,000]	[2,000]	
7	LAND FORCES SYSTEM READINESS	59,846	59,846	59,846		59,846
8	DEPOT MAINTENANCE	62,947	62,947	62,947		62,947
	LAND FORCES READINESS SUPPORT					
9	BASE OPERATIONS SUPPORT	323,592	323,592	323,592		323,592
10	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	182,079	182,079	182,079		182,079
11	ADDITIONAL ACTIVITIES	3,672	3,672	3,672		3,672
	TOTAL, BA 01: OPERATING FORCES	**1,716,646**	**1,718,646**	**1,727,646**	**10,000**	**1,726,646**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
12	ADMINISTRATION	47,714	47,714	47,714		47,714
13	SERVICEWIDE COMMUNICATIONS	37,862	37,862	37,862		37,862
14	PERSONNEL/FINANCIAL ADMINISTRATION	47,092	47,092	47,092		47,092
15	RECRUITING AND ADVERTISING	102,695	102,695	94,695		102,695
	Recruiting and advertising costs			[-8,000]		
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**235,363**	**235,363**	**227,363**		**235,363**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Controlled humidity protection				4,000	4,000
	Total Operation and Maintenance, Army Reserve	**1,952,009**	**1,954,009**	**1,955,009**	**14,000**	**1,966,009**
	Operation and Maintenance, Navy Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	RESERVE AIR OPERATIONS					
1	MISSION AND OTHER FLIGHT OPERATIONS	417,743	417,743	417,743		417,743
3	INTERMEDIATE MAINTENANCE	16,464	16,464	16,464		16,464
4	AIR OPERATIONS AND SAFETY SUPPORT	2,166	2,166	2,166		2,166
5	AIRCRAFT DEPOT MAINTENANCE	138,135	138,135	138,135		138,135
6	AIRCRAFT DEPOT OPERATIONS SUPPORT	362	362	362		362
	RESERVE SHIP OPERATIONS					
7	MISSION AND OTHER SHIP OPERATIONS	67,211	67,211	67,211		67,211
8	SHIP OPERATIONAL SUPPORT AND TRAINING	537	537	537		537
9	INTERMEDIATE MAINTENANCE					
10	SHIP DEPOT MAINTENANCE	83,577	83,577	83,577		83,577
11	SHIP DEPOT OPERATIONS SUPPORT	3,440	3,440	3,440		3,440
	RESERVE COMBAT OPERATIONS SUPPORT					
12	COMBAT SUPPORT FORCES	65,347	65,347	65,347		65,347

Title III - Operation and Maintenance
(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	RESERVE WEAPONS SUPPORT					
13	WEAPONS MAINTENANCE	5,544	5,544	5,544		5,544
	BASE SUPPORT					
14	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	61,929	61,929	61,929		61,929
15	BASE OPERATIONS SUPPORT	131,109	131,109	131,109		131,109
	TOTAL, BA 01: OPERATING FORCES	**993,564**	**993,564**	**993,564**		**993,564**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
16	ADMINISTRATION	12,560	12,560	12,560		12,560
17	CIVILIAN MANPOWER & PERSONNEL MGT	2,269	2,269	2,269		2,269
18	MILITARY MANPOWER & PERSONNEL MGT	36,276	36,276	34,776		36,276
	Recruiting and advertising costs			[-1,500]		
19	SERVICEWIDE COMMUNICATIONS	120,733	120,733	120,733		120,733
20	COMBAT/WEAPONS SYSTEMS	5,665	5,665	5,665		5,665

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
21	OTHER SERVICEWIDE SUPPORT	854	854	854		854
	CANCELLED ACCOUNTS					
22	CANCELLED ACCOUNTS					
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**178,357**	**178,357**	**176,857**		**178,357**
	Total Operation and Maintenance, Navy Reserve	**1,171,921**	**1,171,921**	**1,170,421**		**1,171,921**
	Operation and Maintenance, Marine Corps Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	MISSION FORCES					
1	OPERATING FORCES	61,261	74,461	61,261		61,261
	Initial issue		[13,200]			
2	DEPOT MAINTENANCE	10,231	22,531	10,231		10,231
	Depot level maintenance		[7,300]			
	Cartridge, 5.56 ball M855, lead free shot		[5,000]			
3	BASE OPERATIONS SUPPORT	33,621	33,621	33,621		33,621
4	TRAINING SUPPORT	25,953	25,953	25,953		25,953
5	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	8,770	8,770	8,770		8,770
	TOTAL, BA 01: OPERATING FORCES	**139,836**	**165,336**	**139,836**		**139,836**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
6	SPECIAL SUPPORT	8,956	8,956	8,956		8,956
7	SERVICEWIDE TRANSPORTATION	578	578	578		578
8	ADMINISTRATION	9,721	9,721	9,721		9,721
9	BASE OPERATIONS SUPPORT	6,701	6,701	6,701		6,701
10	RECRUITING AND ADVERTISING	8,160	8,160	7,660		8,160
	Recruiting and advertising costs			[-500]		
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**34,116**	**34,116**	**33,616**		**34,116**
	Total Operation and Maintenance, Marine Corps Reserve	**173,952**	**199,452**	**173,452**		**173,952**
	Operation and Maintenance, Air Force Reserve					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
1	PRIMARY COMBAT FORCES	1,351,819	1,351,819	1,351,819		1,351,819
2	MISSION SUPPORT OPERATIONS	69,058	69,058	69,058		69,058
3	DEPOT MAINTENANCE	319,109	319,109	319,109		319,109

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
4	BASE OPERATIONS SUPPORT	272,603	52,783	61,783		272,603
	Base infrastructure		[-9,000]			
5	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	61,783	272,603	272,603		61,783
	TOTAL, BA 01: OPERATING FORCES	**2,074,372**	**2,065,372**	**2,074,372**		**2,074,372**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
6	ADMINISTRATION	59,138	59,138	59,138		59,138
7	MILITARY MANPOWER AND PERSONNEL MANAGEMENT	24,253	24,253	24,253		24,253
8	RECRUITING AND ADVERTISING	14,162	14,162	13,662		14,162
	Recruiting and advertising costs			[-500]		
9	OTHER PERSONNEL SUPPORT	6,642	6,642	6,642		6,642
10	AUDIOVISUAL	621	621	621		621
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**104,816**	**104,816**	**104,316**		**104,816**
	Total Operation and Maintenance, Air Force Reserve	**2,179,188**	**2,170,188**	**2,178,688**		**2,179,188**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Army National Guard					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	LAND FORCES					
1	DIVISIONS	669,748	671,748	674,748	5,000	674,748
	Extended cold weather clothing system (ECWCS)		[2,000]	[5,000]	[5,000]	
2	CORPS COMBAT FORCES	651,273	651,273	651,273		651,273
3	CORPS SUPPORT FORCES	343,180	343,180	343,180		343,180
4	ECHELON ABOVE CORPS FORCES	563,199	563,199	563,199		563,199
5	LAND FORCES OPERATIONS SUPPORT	21,913	21,913	21,913	1,500	23,413
	Military Vehicle Tires				[1,500]	
	LAND FORCES READINESS					
6	FORCE READINESS OPERATIONS SUPPORT	128,036	128,036	130,036	1,500	129,536
	Cannon bore cleaning			[2,000]	[1,500]	
7	LAND FORCES SYSTEMS READINESS	106,760	106,760	106,760		106,760
8	LAND FORCES DEPOT MAINTENANCE	194,149	194,149	194,149		194,149
	LAND FORCES READINESS SUPPORT					
9	BASE OPERATIONS SUPPORT	448,167	408,167	448,167		448,167
	GuardNet		[-40,000]			
10	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	380,226	380,226	380,226		380,226
11	MANAGEMENT & OPERATIONAL HEADQUARTERS	398,017	398,017	398,017		398,017

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
12	MISCELLANEOUS ACTIVITIES	42,175	42,175	42,175		42,175
	TOTAL, BA 01: OPERATING FORCES	**3,946,843**	**3,908,843**	**3,953,843**	**8,000**	**3,954,843**
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	ADMINISTRATION AND SERVICEWIDE ACTIVITIES					
13	STAFF MANAGEMENT	102,752	118,752	102,752	16,000	118,752
	Military technicians		[16,000]		[16,000]	
14	INFORMATION MANAGEMENT	13,529	18,529	13,529	5,000	18,529
	Nationwide dedicated fiber optic network		[5,000]		[5,000]	
15	PERSONNEL ADMINISTRATION	51,667	51,667	51,667		51,667
16	RECRUITING AND ADVERTISING	96,540	96,540	89,540		96,540
	Recruiting and advertising costs			[-7,000]		
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**264,488**	**285,488**	**257,488**	**21,000**	**285,488**
999a	WMD - Civil Support Teams			16,000	16,000	16,000
	National Guard Challenge Program			3,000		
	Total Operation and Maintenance, Army National Guard	**4,211,331**	**4,194,331**	**4,230,331**	**45,000**	**4,256,331**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	Operation and Maintenance, Air National Guard					
	BUDGET ACTIVITY 01: OPERATING FORCES					
	AIR OPERATIONS					
1	AIRCRAFT OPERATIONS	2,842,931	2,842,931	2,844,431	1,500	2,844,431
	Test support program			[1,500]	[1,500]	
2	MISSION SUPPORT OPERATIONS	336,979	336,979	338,979	2,000	338,979
	Extended cold weather clothing system (ECWCS)			[2,000]	[2,000]	
3	BASE OPERATIONS SUPPORT	410,627	410,627	410,627		410,627
4	FACILITIES SUSTAINMENT, RESTORATION & MODERNIZATION	154,798	154,798	154,798		154,798
5	DEPOT MAINTENANCE	621,060	623,060	621,060		621,060
	Extended cold weather clothing system (ECWCS)		[2,000]			
	TOTAL, BA 01: OPERATING FORCES	**4,366,395**	**4,368,395**	**4,369,895**	**3,500**	**4,369,895**

Title III - Operation and Maintenance
(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	BUDGET ACTIVITY 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES					
	SERVICEWIDE ACTIVITIES					
6	ADMINISTRATION	26,547	26,547	26,547		26,547
7	RECRUITING AND ADVERTISING	9,704	9,704	9,204		9,704
	Recruiting and advertising costs			[-500]		
	TOTAL, BA 04: ADMINISTRATION & SERVICEWIDE ACTIVITIES	**36,251**	**36,251**	**35,751**		**36,251**
	Total Operation and Maintenance, Air National Guard	**4,402,646**	**4,404,646**	**4,405,646**	**3,500**	**4,406,146**
	TRANSFER ACCOUNTS					
1	ENVIRONMENTAL RESTORATION, ARMY	396,018	396,018	396,018		396,018
2	ENVIRONMENTAL RESTORATION, NAVY	256,153	256,153	256,153		256,153
3	ENVIRONMENTAL RESTORATION, AIR FORCE	384,307	384,307	384,307		384,307
4	ENVIRONMENTAL RESTORATION, DEFENSE-WIDE	24,081	24,081	24,081		24,081
5	ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES	212,619	212,619	252,619	40,000	252,619
xx	United States Industrial Base Capabilities Fund		100,000			
7	OVERSEAS CONTINGENCIES	50,000			-45,000	5,000
	Eliminate OCOTF account		[-50,000]	[-50,000]	[-45,000]	
	TOTAL, O&M, TRANSFER ACCOUNTS	**1,323,178**	**1,373,178**	**1,313,178**	**-5,000**	**1,318,178**

Title III - Operation and Maintenance

(Dollars in Thousands)

Line	Program Title	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
	MISCELLANEOUS APPROPRIATIONS					
8	U.S. COURT OF APPEALS FOR THE ARMED FORCES	10,333	10,333	10,333		10,333
9	SUPPORT OF INTERNATIONAL SPORTING COMPETITIONS					
10	OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AFFAIRS	59,000	59,000	59,000		59,000
11	PAYMENT TO KAHO'OLAWE ISLAND					
12	EMERGENCY RESPONSE FUND, DEFENSE					
13	FORMER SOVIET UNION THREAT REDUCTION	450,800	450,800	450,800		450,800
14	QUALITY OF LIFE ENHANCEMENTS					
15	OPPLAN 34A-35 P.O.W.					
16	COUNTER-TERRORISM/WMD DEFENSE					
	DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES			817,371		
	OFFICE OF THE INSPECTOR GENERAL			160,049		
	DEFENSE HEALTH PROGRAM			14,876,900		
	Financial information systems			-14,000		
	TOTAL, MISCELLANEOUS	520,133	520,133	31,223,353		520,133
	TOTAL OPERATION AND MAINTENANCE TITLE:	116,958,824	113,890,998	145,474,306	-2,605,487	114,353,337

BUDGET ITEMS

Flight School XXI

The budget requested included $499.4 million in Operation and Maintenance, Army, for the Flight School XXI program.

The House bill would authorize an increase of $148.0 million for the Flight School XXI program.

The Senate amendment would authorize an increase of $15.0 million for the Flight School XXI program.

The conferees agree to authorize an increase of $5.0 million in support of the Army's initiative to shift flight training from legacy aircraft to modernized aircraft and simulators, as planned under the Flight School XXI program. The conferees urge the Army to carefully evaluate the program requirements for Flight School XXI and to plan appropriately to accomplish this initiative. The conferees support the strategic goal of eliminating flight time in non-modernized aircraft and increasing flight training in go-to-war aircraft and simulators.

Marine Corps initial issue

The budget request included $588.7 million in Operation and Maintenance, Marine Corps (OMMC), operational forces, including initial issue of personal clothing and equipment.

The House bill would authorize an increase of $51.0 million in OMMC, depot maintenance, for initial issue.

The Senate amendment would authorize an increase of $5.0 million in OMMC, operational forces, for initial issue.

The conferees agree to authorize an increase of $10.0 million in OMMC, operational forces, for initial issue, to include All Purpose Environmental Clothing System (APECS), Mountain/Cold Weather Clothing and Equipment, and the Modular General Purpose Tent System.

ITEMS OF SPECIAL INTEREST

Range requirements for supersonic flight training

The conferees support the language in the Senate Report on the National Defense Authorization Act for Fiscal Year 2004 (S. Rept. 108-46) requiring an evaluation of current and projected requirements for land, air, and sea space in support of testing and training requirements. The conferees direct the Department of Defense, in preparing the report, to consider the requirements associated with future planned aircraft or with planned upgrades to existing combat aircraft, and to include an evaluation of existing supersonic airspace. The conferees expect the Department to build on past analyses of supersonic airspace requirements, such as the recent Melrose Range study, when addressing the feasibility and desirability of enhancing or expanding existing supersonic airspace.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Authorization of Appropriations

Authorization of appropriations (secs. 301–303)

The House bill contained provisions (secs. 301–303) that would authorize fiscal year 2004 funding levels for all operation and maintenance accounts, working capital funds, and other Department of Defense programs, including the Defense Inspector General, the Chemical Demilitarization Program, and the Defense Health Program.

The Senate amendment contained similar provisions (secs. 105–107, secs. 203–204, and secs. 301–302).

The conference agreement would authorize funding levels for all operation and maintenance accounts, working capital funds, and other Department of Defense programs.

Chemical Agents and Munitions Destruction, Defense

The House bill contained a provision (Sec. 303(b)) that would provide a total of $1.6 billion for Chemical Agents and Munitions Destruction, Defense (CAMD, D), including an increase of $50.0 million for the chemical stockpile emergency preparedness project for additional enhancements to the ability of State and local governments to respond to a chemical accident or incident at chemical stockpile storage sites in Arkansas, Oregon, and Alabama.

The Senate amendment contained a provision (sec. 106) that would provide $1.6 billion for CAMD, D.

The House recedes with an amendment that would authorize for appropriation $1.6 billion for CAMD, D, as follows: $1.2 billion for Operations and Maintenance; $251.9 million for Research, Development, Test, and Evaluation; and $79.2 million for Procurement.

The conferees strongly support the decision of the Department of Defense to request funding for the chemical agents and munitions destruction program in a Defense-wide account. Section 1521(f) of title 50, United States Code, requires that funds for this program shall not be included in the budget for any military department. Funding the destruction program in a Defense-wide account ensures that the program is subject to the appropriate level of management and oversight and ensures that the program is not subject to the internal budget priorities of one particular services.

Subtitle B—Environmental Provisions

Reauthorization and modification of title I of Sikes Act (sec. 311)

The House bill contained a provision (sec. 311) that would amend section 670f of title 16, United States Code, to reauthorize section 108 of the Sikes Act (Public Law 86–767), by striking, "fiscal years 1998 through 2003," and in each place it appears inserting "fiscal years 2004 through 2008." The provision would also express a sense of Congress regarding the Department of Defense (DOD) outsourcing of natural resource manager functions. Finally, the provision would establish a five-year DOD pilot program for management, control, and eradication of invasive species on military installations in Guam.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense, to the extent practicable and after consultation with the Secretary of Interior, to incorporate in an Integrated Natural Resource Management Plan the management, control, and eradication of invasive species that are not native to the ecosystem of a military installation in Guam and may harm readiness, the environment, the economy, or human health and safety.

Clarification of Department of Defense response to environmental emergencies (sec. 312)

The House bill contained a provision (sec. 314) that would amend sections 402, 404, and 2561 of title 10, United States Code, to clarify the authority of the Secretary of Defense to respond to environmental emergencies by providing humanitarian assistance, including the authority to transport supplies or provide assistance for the purpose of responding to or mitigating the effects of an event that threatens harm to the environment, such as an oil spill.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would give the Secretary discretionary authority to provide environmental emergency assistance if such assistance would not otherwise be available and would be subject to reimbursement.

Repeal of authority to use environmental restoration account funds for relocation of contaminated facility (sec. 313)

The Senate amendment contained a provision (sec. 325) that would extend for three years the authority of the Secretary of Defense or secretaries of the military departments to use funds available in the environmental restoration accounts, pursuant to section 2703 of title 10, United States Code, to permanently relocate facilities.

The House bill contained no similar provision.

The House recedes with an amendment that would repeal the authority, effective September 30, 2003, while retaining the authority to pay costs under cooperative agreements entered into prior to September 30, 2003.

Authorization for Department of Defense participation in wetland mitigation banks (sec. 314)

The House bill contained a provision (sec. 312) that would amend chapter 159 of title 10, United States Code, to permit the secretaries of the military departments to participate in wetland mitigation banking programs and consolidated user sites as an alternative to mitigation on Department of Defense lands for military construction projects.

The Senate amendment contained a similar provision.

The House recedes with an amendment that would require the Secretary of the Army, acting through the Chief of Engineers, to issue regulations establishing performance standards and criteria for the use of on-site, off-site, and in-lieu fee mitigation and mitigation banking as compensation for lost wetland functions in permits issued by the Secretary, consistent with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344).

Inclusion of environmental response equipment and services in Navy definitions of salvage facilities and salvage services (sec. 315)

The House bill contained a provision (sec. 313) that would amend section 7361 and 7363 of title 10, United States Code, to specifically authorize the Secretary of the Navy to provide salvage facilities and to assert claims for salvage services related to environmental response activities.

The Senate amendment contained a similar provision (sec. 329).

The Senate recedes with a technical amendment.

Repeal of model program for base closure environmental restoration (sec. 316)

The House bill contained a provision (sec. 1021) that would eliminate a reporting requirement under the section 2926(g) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would repeal the authority under section 2926 of the National Defense Authorization Act for Fiscal Year 1991.

Requirements for Restoration Advisory Boards and exemption from Federal Advisory Committee Act (sec. 317)

The House bill contained a provision (sec. 315) that would waive the Federal Advisory

Committee Act (FACA) (5 U.S.C. App.) requirements for Restoration Advisory Boards (RABs) set up to facilitate environmental cleanup at military bases. The provision would require that RABs comply with substantive requirements comparable to those applicable under FACA with the exception of Federal Register notice and financial disclosure requirements.

The Senate amendment (sec. 326) would exempt RABs from the Federal Register notice requirements of FACA and would eliminate restrictions on the number of RABs operating at any one time.

The Senate recedes.

Military readiness and conservation of protected species (sec. 318)

The House bill contained a provision (sec. 317) that would amend section 4(a)(3) of the Endangered Species Act (16 U.S.C. 1533(a)(3)) to preclude designation of critical habitat on Department of Defense (DOD) lands that are subject to an Integrated Natural Resource Management Plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a) if the Secretary of the Interior determines that such a plan addresses special management considerations or protection of endangered or threatened species.

The Senate amendment contained a similar provision (sec. 322) that would amend title 10, United States Code, to preclude designation of critical habitat on DOD lands that are subject to an INRMP, if the Secretary of Interior determines in writing that: (1) the management activities identified in the plan will effectively conserve threatened and endangered species; and (2) that adequate funding will be provided for such management activities.

The Senate recedes with an amendment that would modify section 4(a)(3) of the Endangered Species Act to preclude designation of critical habitat on DOD lands that are subject to an INRMP, if the Secretary of the Interior determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. This approach would allow for a balance between military training requirements and protection of endangered or threatened species, as pertains to pending or future critical habitat designations.

The conferees would expect the Secretary of the Interior to assess an INRMP's potential contribution to species conservation, giving due regard to those habitat protection, maintenance, and improvement projects and other related activities specified in the plan that address the particular conservation and protection needs of the species for which critical habitat would otherwise be proposed. Consistent with current practice, the Secretary would establish criteria that would be used to determine if an INRMP benefits the listed species for which critical habitat would be proposed.

Military readiness and marine mammal protection (sec. 319)

The House bill contained a provision (sec. 318) that would amend sections 3(18) and 101 of the Marine Mammal Protection Act (MMPA or the Act) (16 U.S.C. 1362(18) and 1371) to focus the "harassment" definition on biologically significant impacts, eliminate the requirement to publish notice with respect to incidental takes, and remove references to "small numbers," "specified geographical region," and "specific geographic region," as pertains to incidental take permits. The provision would also include an exemption for activities necessary for the national defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would apply the new "harassment" definition to military readiness activities and scientific research activities by or on behalf of the Federal Government. The conference agreement would also include the following: changes to the permit process; the national defense exemption; considerations relevant to mitigation and monitoring requirements; and other technical changes.

Specifically, the conference agreement would amend section 3(18) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(18)) by providing a new definition of "harassment" applicable only to military readiness activities, as defined by section 315(f) of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), and scientific research activities by or on behalf of the Federal Government, conducted pursuant to section 104(c)(3) of the Act (16 U.S.C. 1374(c)(3)). The new definition will provide greater clarity for the Department of Defense (DOD) and the regulatory agencies, and would properly focus authorization of military readiness and scientific research activities on biologically significant impacts to marine mammals, a science-based approach. Under the new definition for "Level B Harassment," behavioral patterns would be considered "abandoned" if long-term cessation of behaviors and demographic consequences to reproduction or survivability of the species or stock were involved. In order for natural behavioral patterns to be considered "significantly altered," there must be demographic consequences to reproduction or survivability of the species.

In addition, the conference agreement would authorize the Secretary of Defense, after conferring with the Secretary of Commerce, the Secretary of the Interior, or both, to exempt from the MMPA any action by the DOD or its components for up to two years, with renewable periods of exemption, if determined necessary for national defense. This authority is consistent with similar exemptions included in other environmental statutes.

The conference agreement would also cure deficiencies related to the incidental take permit process under MMPA, as applied to military readiness and scientific research activities. The need to address these deficiencies was recently highlighted by the ruling in *Natural Resources Defense Council, Inc. et al.* v. *Evans*, No. C–02–3805–EDL, 232 F. Supp. 2d 1003 (N.D. Cal 2002), a case that was initiated to stop deployment of the Navy's Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar system. For example, given the migratory nature of marine mammals and the varying biological and bathymetric features of the geographic regions occupied by migratory marine mammals, it is very difficult to describe "specified geographical region" for military readiness activities that take place over large areas of the ocean. The case also reveals the conundrum associated with reconciling the meaning of "small number" in relation to "negligible impact." As a result of this recent ruling and other litigation related to the Act, the conferees agreed to eliminate the requirements for "specific geographic region," and "specified geographical region" and "small numbers," terms that have proven more valuable as a basis for litigation than affording legitimate or demonstrable protection to marine mammals. Such changes would ensure a credible and flexible regulatory process that properly balances the equities associated with military readiness and maritime species protection. It is expected that the rulemaking process would continue to use best available scientific information to analyze impacts on marine mammals.

The conferees intend that the changes in the definition of "harassment," as well as changes in the incidental take permit process, would not eliminate the existing requirements for mitigation and monitoring (16 U.S.C. 1371(a)(5)). Instead, the use of mitigation and monitoring measures would be focused on the biologically significant impacts on marine mammals. In addition, decisions regarding mitigation and monitoring would take into account safety, practicality of implementation, and impact on the effectiveness of a military readiness activity.

Finally, the conferees commend the DOD and Navy for their commitment and leadership on marine mammal research. This research, currently funded at about $7.0 million per year, has provided valuable information on the impact of anthropogenic sounds upon marine mammals, marine mammal densities, and the health and vitality of marine mammal species. At a minimum, it is expected that DOD and Navy would continue these efforts and would maintain level funding in the Future Years Defense Plan. The conferees direct the Secretary of Defense to provide an annual report to the congressional defense committees on the funding provided and research conducted in relation to marine mammals. The report may be provided pursuant to section 2706(b) of title 10, United States Code.

Report regarding impact of civilian community encroachment and certain legal requirements on military installations and ranges and plan to address encroachment (sec. 320)

The House bill contained a provision (sec. 316) that would require the Secretary of Defense to study and provide a one-time report to Congress regarding the impact of civilian community encroachment on the readiness requirements and normal operations at military installations that are required to maintain safety buffer zones or safety arcs as part of their functional mission activities. The report would include study results pertaining to the impact of the environmental requirements under the Clean Air Act (42 U.S.C. 7410), the Solid Waste Disposal Act (42 U.S.C. 6901), and the Comprehensive Environmental Restoration, Compensation and Liability Act (42 U.S.C. 9601).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require an interim report by January 31, 2004, a more comprehensive report and a plan for addressing encroachment by January 31, 2006, and updates regarding the progress made in implementing the plan each year commencing January 2007 through January 2010. The conferees expect the Secretary to make a diligent effort to respond to the interim reporting requirement.

Cooperative water use management related to Fort Huachuca, Arizona, and Sierra Vista subwatershed (sec. 321)

The House bill contained a provision (sec. 319) that would amend section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) to ensure that the Secretary of the Army would not be held responsible for water consumption that occurs outside of Fort Huachuca, Arizona, and is not subject to the authority and control of the Secretary. The provision would also recognize secretarial discretion to mitigate off-base water consumption.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would clarify the categories of water consumption that may be considered at Fort Huachuca. The provision would recognize the Upper San Pedro Partnership and its efforts to establish a collaborative water use management program in the Sierra Vista Subwatershed, Arizona. The provision would also require the Secretary of Interior, in consultation with the Secretaries of Defense and Agriculture and other members of the Partnership, to submit a report to Congress, no later than December 31, 2004, on the water use management and conservation measures implemented and needed to restore sustainable yield of the regional aquifer. Subsequent annual reports on the progress toward sustainable yield of the regional aquifer would be due no later than October 31st of each year through 2011. Finally, the provision would express the sense of Congress that future funding appropriations to the Partnership should take into account the progress made in meeting annual goals.

Task force on resolution of conflict between military training and endangered species protection at Barry M. Goldwater Range, Arizona (sec. 322)

The Senate amendment contained a provision (sec. 330) that would establish a task force to determine and assess various means of enabling full use of the live ordnance delivery areas at Goldwater Range while also protecting endangered species that are present at the Range. The task force would be composed of representatives from Luke AFB, Goldwater Range, federal and state regulators, and non-governmental groups. The task force would be required to determine or assess the following: (1) the effects of the presence of endangered species on military training activities in the live ordnance delivery areas at Goldwater Range and in any other areas of the range that are adversely affected by the presence of endangered species; (2) various means of addressing any significant adverse impacts on military training activities on Goldwater Range that are identified by the task force; and (3) the benefits and costs associated with the implementation of each possible solution identified by the task force. The provision would also require the task force to report to Congress.

The House bill contained no similar provision.

The House recedes with technical amendments.

Public health assessment of exposure to perchlorate (sec. 323)

The House bill contained a provision (sec. 345) that would direct the Secretary of Defense to provide an independent epidemiological study and endocrinological review of human exposure to perchlorate.

The Senate amendment contained an identical provision (sec. 331).

The House recedes with a technical amendment.

Comptroller General review of Arctic Military Environmental Cooperation Program (sec. 324)

The Senate amendment contained a provision (sec. 323) that would authorize the Secretary of Defense to expand a cooperative environmental technology program to countries in the Western Pacific regions. The Secretary, with the concurrence of the Secretary of State, would provide cooperative assistance on activities that contribute to the demonstration of environmental technology in the Arctic and Pacific regions, with certain limitations and exceptions. The primary focus of the program would be technology projects and activities related to radiological contamination.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Comptroller General to conduct a review of the Arctic Military Environmental Cooperation (AMEC) Program, the existing and proposed technology demonstration role of the program in U.S. nonproliferation efforts, and the relationship to the Cooperative Threat Reduction (CTR) Program. Based on this review, the Comptroller General would submit a report to Congress that assesses the Western Pacific conditions that may require an expansion of AMEC technology development and demonstration, the foreign funding contributions for AMEC activities, the use of AMEC by CTR and G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction Initiative, the importance of AMEC to the disarmament and nonproliferation functions of CTR, and the program's future year funding and program plans.

The conferees note that no funds were included in the budget request for fiscal year 2004 or the Future Years Defense Program (FYDP) for the AMEC program. In the event the Secretary of Defense intends to continue the AMEC program and seek authorization to expand the program to the Western Pacific regions, the conferees expect the development of a comprehensive funding and program plan, and the identification of funding and projects in the FYDP. Otherwise, the Secretary should terminate the program. The conferees are aware that there is growing international interest in the activities of the AMEC program. The conferees encourage and support broad-based international programs that involve contributions by all participants.

Subtitle C—Workplace and Depot Issues

Exemption of certain firefighting service contracts from prohibition on contracts for performances of firefighting functions (sec. 331)

The Senate amendment contained a provision (sec. 363) that would allow the Department of Defense to enter into contracts for up to one year for the performance of firefighting functions to fill positions vacated by deployed military firefighters.

The House bill contained no similar provision.

The House recedes.

Technical amendment relating to termination of Sacramento Army Depot, Sacramento, California (sec. 332)

The Senate amendment contained a provision (sec. 364) that would repeal an obsolete provision of law related to a closed military facility.

The House bill contained no similar provision.

The House recedes.

Exception to competition requirement for workloads previously performed by depot-level activities (sec. 333)

The Senate amendment contained a provision (sec. 365) that would provide for an exception to the requirement in section 2469 of title 10, United States Code, for current depot-level maintenance and repair workload performed under a public-private partnership pursuant to section 2474(b) of title 10, United States Code.

The House bill contained no similar provision.

The House recedes with an amendment to authorize a waiver of the requirements under section 2469 of title 10, United States Code, for workloads performed under a public-private partnership at a Center for Industrial and Technical Excellence.

Resources-based schedules for completion of public-private competitions for performance of Department of Defense functions (sec. 334)

The Senate amendment contained a provision (sec. 812) that would ensure that schedules for the completion of public-private competitions within the Department of Defense (DOD) are based on DOD analysis of the availability of sufficient personnel, training, and technical resources to conduct such competitions. The provision would also establish a pilot program to allow the DOD to base its competitive sourcing decisions for information technology services on best value criteria.

The House bill contained no similar provision.

The House recedes with an amendment that would ensure a resource-based schedule for the completion of DOD public-private competitions. The issue of establishing a best value public-private competition pilot program is addressed elsewhere in the conference report.

Delayed implementation of revised Office of Management and Budget Circular A–76 by Department of Defense pending report (sec. 335)

The House bill contained a provision (sec. 323) that would require the Secretary of Defense to report to the Committees on Armed Services of the Senate and the House of Representatives on the new Office of Management and Budget Circular A–76 and then wait for a period of 45 days before implementing the Circular.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment to modify the minimum requirements of the content of the report.

Pilot program for best-value source selection for performance of information technology services (sec. 336)

The Senate amendment contained a provision (sec. 812) that would establish a pilot program to allow the Department of Defense (DOD) to base its competitive sourcing decisions for information technology services on best value criteria. The provision would also ensure that schedules for the completion of public-private competitions within DOD are based on DOD analysis of the availability of sufficient personnel, training, and technical resources to conduct such competitions.

The House bill contained no similar provision.

The House recedes with an amendment that would establish a best value public-private competition pilot program. The issue of schedules for public private competitions is addressed elsewhere in the conference report.

High-performing organization business process reengineering pilot program (sec. 337)

The House bill contained a provision (sec. 322) that would authorize the Secretary of Defense to implement a high performing organization pilot program for 15 organizations. Under the pilot program, functions within an organization that undergo an approved business process reengineering (BPR) shall not undergo a public-private competition during the design and implementation phase of the BPR and for five years after successful completion of the BPR.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the participation in the pilot to eight eligible organizations and would clarify that a participating organization may elect to undergo a public-private competition under its BPR plan.

Naval Aviation Depots multi-trades demonstration project (sec. 338)

The House bill contained a provision (sec. 324) that would require the Secretary of the Navy to conduct a demonstration project to evaluate the benefits of promoting workers who perform multiple trades.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require a worker to perform the new trade at least 25 percent of the time during the worker's work year.

Subtitle D—Other Matters

Cataloging and standardization for defense supply management (sec. 341)

The House bill contained a provision (sec. 341) that would amend Chapter 145 of title 10, United States Code, to authorize changing the current method the Secretary of Defense follows in cataloging and coding supply items for identification purposes.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to coordinate with the Administrator of the General Services Administration to enable the use of commercial identifiers for commercial items within the Federal Cataloging System.

Sale of Defense Information Systems Agency services to contractors performing the Navy-Marine Corps Intranet contract (sec. 342)

The Senate amendment contained a provision (sec. 361) that would enable the Defense Information Systems Agency to sell working-capital funded services to contractors that are working on the Navy-Marine Corps Intranet contract.

The House bill contained no similar provision.

The House recedes.

Permanent authority for purchase of certain municipal services at installations in Monterey County, California (sec. 343)

The House bill contained a provision (sec. 346) that would authorize the Department of Defense (DOD) to purchase public works, utility, and other municipal services from government agencies in Monterey County, California for DOD operations in that county.

The Senate amendment contained no similar provision.

The Senate recedes.

Department of Defense telecommunications benefit (sec. 344)

The Senate amendment contained a provision (sec. 311(b)) that would direct the Secretary of Defense to provide prepaid phone cards, or an equivalent telecommunications benefit to service members stationed outside the United States who are directly supporting military operations in Iraq or Afghanistan.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would allow service members to use the telecommunications benefit to make free calls to anyone they choose whether inside or outside the United States. Further, the amendment would provide the Secretary the option of providing a telecommunications benefit valued at $40 per month or 120 minutes per month, if the latter is less costly. Finally, the amendment would clarify that this benefit is available to those service members who are eligible for combat zone tax exclusion benefits due to their service in direct support of Operation Enduring Freedom and Operation Iraqi Freedom.

Independent assessment of material condition of the KC–135 aerial refueling fleet (sec. 345)

The conferees recommend a provision that would require the Secretary of Defense to submit an assessment of the material condition of the KC–135 aerial refueling aircraft by May 1, 2004. The conferees believe that this assessment will provide important information for the committees' review to support the Air Force's aerial refueling capability.

The conferees note that one of the justifications provided by the Secretary of the Air Force for proceeding with a lease of KC–767 aircraft to modernize the Air Force's aerial refueling capability is the deleterious effect of corrosion on the material condition of the current KC–135 fleet of aerial refueling aircraft. The conferees believe that an up-to-date, independent assessment of the material condition of the KC–135 aerial refueling fleet is warranted.

Neither the House bill nor the Senate amendment included a provision that would direct that an assessment of the material condition of the KC–135 fleet of aerial refueling aircraft be conducted.

The conferees expect that the assessment would be made by an entity outside of the Department of Defense (DOD), and should include the following data and analysis for KC–135E and KC–135R aircraft for each year from fiscal year 1996 through fiscal year 2003: (1) trend analysis for operational readiness; (2) trend analysis for organizational and depot-level maintenance manhours, with specific breakout of corrosion control and prevention manhours; (3) numbers of aircraft grounded due to corrosion and length of time each aircraft was grounded; (4) itemization of improved corrosion control processes which resulted in decreased manhours for corrosion control and treatment; (5) analysis of the relationship between manhours for corrosion repair and improved processes; and (6) analysis of major structural repairs required due to corrosion.

In addition, the conferees expect that the DOD official or organization designated to oversee and coordinate efforts to prevent and mitigate corrosion of military equipment and infrastructure, as required by section 1067 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107–314), would be informed of and involved in responding to the results of this assessment.

LEGISLATIVE PROVISIONS NOT ENACTED

Availability of funds for local educational agencies affected by the Brooks Air Force Base demonstration project

The Senate amendment contained a provision (sec. 351(d)) that would authorize up to $500,000 of Department of Defense (DOD) funds for assistance to local educational agencies to be used for making basic support payments in fiscal year 2004 to local educational agencies affected by the DOD infrastructure demonstration project at Brooks Air Force Base.

The House bill contained no similar provision.

The Senate recedes.

Construction of wetland crossings, Camp Shelby Combined Arms Maneuver Area, Camp Shelby, Mississippi

The House bill contained a provision (sec. 320) that would authorize the Secretary of the Army to use operation and maintenance funds to construct wetlands crossings within the Camp Shelby Combined Arms Maneuver Area, Camp Shelby, Mississippi.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recognize the importance of conducting heavy armor training at the Camp Shelby Combined Arms Manuever Area and expect the Army and Army National Guard to use operations and maintenance funds, when consistent with section 2805 of title 10, United States Code, to support unspecified minor construction at discrete training areas within the Combined Arms Maneuver Area, as necessary to support such training.

Counterexploitation initiative

The House bill contained a provision (sec. 304) that would require $1.1 million of the amount authorized to be appropriated by section 301(5) for operations and maintenance, Defense-wide, to be allocated to U.S. Special Operations Command for the purpose of tracing portable, sensitive items exported beyond the borders of the United States.

The Senate amendment contained no similar provision.

The House recedes.

Emergency and morale communications programs

The Senate amendment contained a provision (sec. 311(a)) that would authorize $5.0 million for the American Red Cross to support its Armed Forces Emergency Services program.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize $5.0 million for the Red Cross Emergency Services program, as noted elsewhere in this conference report.

Exclusion of certain expenditures from percentage limitation on contracting for performance of depot-level maintenance and repair workloads

The House bill contained a provision (sec. 321) that would remove the date limitation in section 2474(f) of title 10, United States Code, and permanently authorize that all work performed by private sector personnel at Department of Defense maintenance and repair depots be excluded from the percentage limitations on private sector depot-level maintenance work.

The Senate amendment contained no similar provision.

The House recedes.

Expansion of Department of Defense excess personal property disposal program to include health agencies in addition to law enforcement and firefighting agencies

The House bill contained a provision (sec. 344) that would grant additional authority to the Secretary of Defense to transfer excess personal property to health agencies.

The Senate amendment contained no similar provision.

The House recedes.

Impact aid for children with severe disabilities

The Senate amendment contained a provision (sec. 352) that would authorize $5.0 million for continuation of the Department of Defense assistance program to local educational agencies that benefit dependents with severe disabilities.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law

106–398) authorizes the Secretary of Defense to provide assistance to local educational agencies serving military dependents with severe disabilities. Consistent with that section, the conferees authorize $5.0 million of the funds available for Operation and Maintenance, Defense-Wide, for continuation of such assistance.

Information operations sustainment for land forces readiness of Army Reserve

The Senate amendment contained a provision (sec. 313) that would authorize an increase of $3.0 million for operation and maintenance, Army Reserve, to be used for Information Operations for land forces readiness—information operations sustainment. This amount would be offset by a general decrease of $3.0 million in operations and maintenance, Air Force.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree to authorize $2.0 million for operation and maintenance, Army Reserve, Land Forces Readiness, Forces Readiness Operations Support, to be used for information operations for land forces readiness—information operations sustainment, as noted elsewhere in this conference report.

Performance-based and results-based management requirements for Chief Information Officers of Department of Defense

The House bill contained a provision (sec. 331) that would establish additional responsibilities for the Chief Information Officer of the Department of Defense and the chief information officers of the military departments.

The Senate amendment contained no similar provision.

The House recedes.

Preservation of Air Force Reserve weather reconnaissance mission

The House bill contained a provision (sec. 343) that would prohibit the Secretary of Defense from disestablishing or transferring the Air Force Reserve's weather reconnaissance mission unless the Secretary determines that another organization or entity can demonstrate that it has the capability to perform the same mission with the same capability as the Air Force Reserve.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recognize the coordination between the Department of Defense (DOD) and other federal departments, agencies, and activities, to support weather surveillance taskings developed by the Department of Commerce. DOD resources, including an Air Force Reserve aircraft squadron, are currently involved in weather surveillance as a result of this interagency coordination. The conferees note that this coordination is achieved between the DOD and other federal activities on a not-to-interfere basis with the requirements of the DOD and the armed forces.

The conferees direct that, before current DOD resources that have been coordinated through the interagency process for weather surveillance are discontinued, the Secretary of Defense shall work within the interagency process to identify alternative DOD capabilities that may be coordinated with other federal activities to continue weather surveillance on a not-to-interfere basis.

Reduction in authorization for Air Force operation and maintenance account

The House bill contained a provision (sec. 305) that would reduce authorization by $135.5 million for operation and maintenance, Air Force.

The Senate bill contained no similar provision.

The House recedes.

Reimbursement of reserve component accounts for costs of intelligence activities support provided by reserve component personnel

The Senate amendment contained a provision (sec. 342) that would amend chapter 1003 of title 10, United States Code, by authorizing the use of the operation and maintenance funds of the military departments, combatant commands, and defense agencies to reimburse pay, allowances, and other expenses of National Guard or reserve intelligence personnel who provide intelligence or counterintelligence support to the military departments, combatant commands, or defense agencies.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that the Department of Defense has asked for the authority contained in the Senate amendment for the past several years, but has yet to recommend increases to appropriate reserve component personnel funding accounts. The conferees urge the Department to better forecast reserve component intelligence requirements and include realistic funding recommendations in reserve component personnel funding accounts in future budget submissions.

Reimbursement of reserve component military personnel accounts for personnel costs of special operations reserve component personnel engaged in landmines clearance

The Senate amendment contained a provision (sec. 341) that would amend section 301 of title 10, United States Code, to allow up to $5.0 million of the funding for a fiscal year for humanitarian and civic assistance to be expended for the pay and allowances of reserve component personnel of the Special Operations Command (SOCOM) performing duty in connection with training and activities related to the clearing of landmines for humanitarian purposes.

The House bill contained no similar provision.

The Senate recedes.

The conferees note that similar temporary authority was enacted under section 513 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314). Through section 513, Congress directed the Secretary of Defense, as part of the fiscal year 2004 budget request, to submit a legislative proposal that would ensure that the military personnel expenses of active and reserve component personnel engaged in humanitarian de-mining activities were defined in detail and funded within military personnel accounts. No such proposal was submitted. The conferees urge the Secretary to propose a comprehensive, long-term solution to this issue that recognizes the requirement to support humanitarian de-mining operations around the world, and that complies with the requirements of public law.

Space-available transportation for dependents of members assigned to overseas duty locations for continuous period in excess of one year

The House bill contained a provision (sec. 342) that would authorize the dependents of service members who are assigned overseas for a continuous period in excess of one year to use space-available transportation to travel between the overseas duty location and the United States and return, or between the overseas duty location and another overseas location and return.

The Senate amendment contained no similar provision.

The House recedes.

The conferees support policies of the Department of Defense that make space available travel and emergency and morale leave benefits consistent for both active duty personnel and members of the reserve component serving on active duty.

The conferees recommend that the Department review existing policies regarding space-available travel and emergency and morale leave with the objective of ensuring that members of the reserve component serving on active duty and their dependents are able effectively to exercise this privilege. The conferees recommend further that the Department of Defense and the services ensure promulgation of practical guidance aimed at informing reserve component personnel about their eligibility for this benefit and the resources available to further their understanding of what to expect when traveling space-available.

Submittal of survey on perchlorate contamination at Department of Defense sites

The Senate amendment contained a provision (sec. 314) that would require the Secretary of Defense to submit to the appropriate committees of Congress the Department of Defense (DOD) 2001 Perchlorate Occurrence Survey to identify the potential for perchlorate contamination at DOD sites.

The House bill contained no similar provision.

The Senate recedes.

As of July 9, 2003, the Department of Defense notified the Committees on Armed Services of the Senate and the House of Representatives that it had provided interested members of Congress ". . . all information this office currently has on perchlorate sampling by the Services."

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Title IV—Military Personnel Authorizations

Legislative Provisions Adopted

Subtitle A—Active Forces

End strengths for active forces (sec. 401)

The House bill contained a provision (sec. 401) that would authorize the following end strengths for active forces, as of September 30, 2004: Army, 482,375; Navy, 375,700; Marine Corps, 175,000; Air Force, 361,268.

The Senate amendment contained a similar provision (sec. 401) that would authorize the following active forces end strengths: Army, 480,000; Navy, 373,800; Marine Corps, 175,000; and Air Force, 359,300.

The Senate recedes with an amendment that would authorize 2,400 additional active duty soldiers in the Army.

The conferees' recommended active forces end strengths for fiscal year 2004 are set forth in the following table:

Service	FY 2003 authorized	FY 2004		Change from	
		Request	Recommendation	FY 2004 request	FY 2003 authorized
Army	480,000	480,000	482,400	2,400	2,400
Navy	375,700	373,800	373,800	0	−1,900
Marine Corps	175,000	175,000	175,000	0	0
Air Force	359,000	359,300	359,300	0	300
DOD Total	1,389,700	1,388,100	1,390,500	2,400	800

Revision in permanent active duty end strength minimum levels (sec. 402)

The House bill contained a provision (sec. 402) that would establish new permanent active duty end strength minimum levels in section 691(b) of title 10, United States Code, for the Army and Air Force as of September 30, 2004.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would set the following minimum end strengths: Army, 482,400; Navy, 373,800; and Air Force, 359,300.

Personnel strength authorization and accounting process (sec. 403)

The Senate amendment contained a provision (sec. 421) that would authorize a change to the method used by the Department of Defense to measure the strength for active duty and reserve component personnel from strength at the end of the fiscal year to average strength throughout the year.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to prescribe quarterly end strength levels for each service and permissible maximum variances of actual strength at the end of each quarter. The levels and variances established by the Secretary should be such that they support maintenance throughout the year of the personnel strengths necessary to achieve the annual authorized end-strength levels.

Subtitle B—Reserve Forces

End strengths for Selected Reserve (sec. 411)

The House bill contained a provision (sec. 411) that would authorize the following end strengths for the selected reserve personnel, including the end strength for reserves on active duty in support of the reserves, as of September 30, 2004: Army National Guard, 350,000; the Army Reserve, 205,000; the Naval Reserve, 85,900; the Marine Corps Reserve, 39,600; the Air National Guard, 107,000; the Air Force Reserve, 75,800.

The Senate amendment contained a similar provision (sec. 413) that would authorize an end strength for the Air National Guard of 107,030.

The House recedes.

The conferees' recommended Selected Reserve end strengths for fiscal year 2004 are set forth in the following table:

Service	FY 2003 authorized	FY 2004		Change from	
		Request	Conferee recommendation	FY 2004 request	FY 2003 authorized
Army National Guard	350,000	350,000	350,000	0	0
Army Reserve	205,000	205,000	205,000	0	0
Naval Reserve	87,800	85,900	85,900	0	−1,900
Marine Corps Reserve	39,558	39,600	39,600	0	42
Air National Guard	106,600	107,000	107,030	30	430
Air Force Reserve	75,600	75,800	75,800	0	200
DoD Total	864,558	863,300	863,330	30	−1,228
Coast Guard Reserve	9,000	10,000	10,000	0	1,000

End strengths for Reserves on active duty in support of the Reserves (sec. 412)

The House bill contained a provision (sec. 412) that would authorize the following end strengths for Reserves on active duty in support of the Reserves as of September 30, 2004: the Army National Guard of the United States, 25,386; the Army Reserve, 14,374; the Naval Reserve, 14,384; the Marine Corps Reserve, 2,261; the Air National Guard of the United States, 12,140; and the Air Force Reserve, 1,660.

The Senate amendment contained a similar provision (sec. 412) that would authorize end strengths of 25,599 for the Army National Guard, 12,191 for the Air National Guard and identical end strengths for the other services.

The House recedes.

The conferees' recommended end strength levels for Reserves on active duty in support of the reserves are set forth in the following table:

Service	FY 2003 authorized	FY 2004		Change from	
		Request	Conferee recommendation	FY 2004 request	FY 2003 authorized
Army National Guard	24,562	25,386	25,599	213	1037
Army Reserve	14,070	14,374	14,374	0	304
Naval Reserve	14,572	14,384	14,384	0	−188
Marine Corps Reserve	2,261	2,261	2,261	0	0
Air National Guard	11,727	12,140	12,191	51	464
Air Force Reserve	1,498	1,660	1,660	0	162
DoD Total	68,690	70,205	70,469	264	1,779

End strengths for military technicians (dual status) (sec. 413)

The House bill contained a provision (sec. 413) that would authorize the following end strengths for military technicians (dual status) as of September 30, 2004: the Army National Guard of the United States, 24,589; the Army Reserve, 7,844; the Air National Guard of the United States, 22,806; the Air Force Reserve, 9,991.

The Senate amendment contained a similar provision (sec. 413).

The House recedes with a clarifying amendment that would authorize end strength for the Army Reserve of 6,949.

The conferees' recommended end strength levels for military technicians (dual status) are set forth in the following table:

Service	FY 2003 authorized	FY 2004		Change from	
		Request	Conferee recommendation	FY 2004 request	FY 2003 authorized
Army National Guard	24,102	24,589	24,589	0	487
Army Reserve	6,599	6,699	6,949	250	350
Air National Guard	22,495	22,806	22,806	0	311
Air Force Reserve	9,911	9,991	9,991	0	80
DoD Total	63,107	64,085	64,335	250	1,228

Fiscal year 2004 limitations on non-dual status technicians (sec. 414)

The House bill contained a provision (sec. 414) that would establish the maximum end strengths for the reserve components of the Army and Air Force for non-dual status technicians as of September 30, 2004.

The Senate amendment contained a similar provision (sec. 414).

The Senate recedes with a technical amendment.

Permanent limitations on number of non-dual status technicians (sec. 415)

The House bill contained a provision (sec. 415) that would increase to 595 the permanent limit on the number of non-dual status military technicians who are allowed to be employed by the Army Reserve on or after October 1, 2007. It would also establish a separate permanent limit of 90 non-dual status technicians who are allowed to be employed by the Air Force Reserve on or after October 1, 2007.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle C—Authorization of Appropriations

Authorization of appropriations for military personnel (sec. 421)

The House bill contained a provision (sec. 421) that would authorize a total of $98,634.5 million to be appropriated to the Department of Defense for military personnel.

The Senate amendment contained a similar provision (sec. 431) that would authorize a total of $99,194.2 million to be appropriated to the Department for military personnel.

The House recedes with an amendment that would authorize $98,908.4 million to be appropriated to the Department for military personnel.

The conferees note that in addition to the amounts shown below, $203.0 million was made available in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–xxx) for imminent danger pay and family separation allowance. The conferees provide the following itemization of the increases and decreases from the budget request related to the military personnel accounts:

[Additions in millions]

Army, increase active end strength (2,400)	$ 68.0
Add AGR strength for WMD–CST teams	22.2
Army National Guard, sustain AGR growth	37.8
Imminent Danger Pay and Family Separation Allowance	128.0
Minimum 3.7 percent pay raise for all	38.0
Increase death gratuity	9.0
Total	303.0

[Reductions in millions]

Contingency Operations in SW Asia	312.1
AGR cost avoidance	38.6
Total	350.7

Armed Forces Retirement Home (sec. 422)

The House bill contained a provision (sec. 422) that would authorize $65,279,000 to be appropriated for the operation of the Armed Forces Retirement Home during fiscal year 2004.

The Senate amendment contained a similar provision (sec. 303).

The Senate recedes.

Legislative Provisions Not Adopted

Exclusion of recalled retired members from certain strength limitations during period of war or national emergency

The Senate amendment contained a provision (sec. 422) that would exclude retirees recalled to active duty from annual personnel end strength and grade strength limitations during a period of war or national emergency in which members of a reserve component are serving on active duty pursuant to an order to active duty under sections 12301 or 12302 of title 10, United States Code.

The House bill contained no similar provision.

The Senate recedes.

Increased maximum percentage of general and flag officers on active duty authorized to be serving in grades above brigadier general and rear admiral (lower half)

The Senate amendment contained a provision (sec. 402) that would modify section 525 of title 10, United States Code, to increase from 50 percent to 55 percent the number of active duty general and flag officers who may serve in grades above O–7.

The House bill contained no similar provision.

The Senate recedes.

Title V—Military Personnel Policy

Items of Special Interest

Superintendent of the United States Air Force Academy (sec.)

The conferees considered all the recommendations of the Panel to Review Sexual Misconduct Allegations at the United States Air Force Academy with the goal of determining those that required legislative action. The conferees agree with the Panel's recommendation that the Air Force extend the tour length of the Superintendent to four years in order to provide for greater continuity and stability in Academy leadership and urge the Secretary of the Air Force to implement such a policy.

Legislative Provisions Adopted

Subtitle A—Officer Personnel Policy

Standardization of qualifications for appointment as service chief (sec. 501)

The House bill contained a provision (sec. 501) that would require that candidates for selection as the Chief of Naval Operations and the Commandant of the Marine Corps be chosen from the flag officers of the Navy or general officers of the Marine Corps. The provision would make qualification criteria with respect to grade consistent across all four of the military services.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Eligibility for appointment as Chief of Army Veterinary Corps (sec. 502)

The Senate amendment contained a provision (sec. 502) that would modify section 3084 of title 10, United States Code, to require that the Chief of the Veterinary Corps of the Army be appointed from among officers of the Veterinary Corps of the Army.

The House bill contained no similar provision.

The House recedes.

Repeal of required grade of defense attache in France (sec. 503)

The House bill contained a provision (sec. 514) that would repeal section 714 of title 10, United States Code, which delineates the required grade for the defense attache to the U.S. embassy in France.

The Senate bill contained no similar provision.

The Senate recedes.

Repeal of termination provisions for certain authorities relating to management of general and flag officers in certain grades (sec. 504)

The Senate amendment contained a provision (sec. 403) that would extend existing procedures in sections 525, 526, and 604 of title 10, United States Code, relating to the filling and management of certain senior joint officer positions.

The House bill contained no similar provision.

The House recedes with an amendment that would make the authority permanent for the procedures currently in use relating to management of general and flag officers for these positions.

Retention of health professions officers to fulfill active-duty service commitments following promotion nonselection (sec. 505)

The House bill contained a provision (sec. 512) that would authorize the secretary concerned to retain officers serving in health professions until the end of their active duty service obligations, notwithstanding the requirement under law to discharge them on an earlier date due to nonselection for promotion. This section would allow the secretary to decline to retain an officer if retention of the officer is not in the best interests of the service.

The Senate amendment contained a similar provision (sec. 501).

The Senate recedes.

Permanent authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander (sec. 506)

The Senate amendment contained a provision (sec. 521) that would modify section 1370 of title 10, United States Code, to make permanent the authority to reduce the three-year time-in-grade requirement to two years for retirement in grade for officers in grades above major and lieutenant commander under prescribed conditions.

The House bill contained a provision (sec. 513) that would authorize the Secretary of Defense and the service secretaries greater latitude in allowing officers serving in grades above colonel, or captain in the Navy, to retire in grade, including a minimum one year time-in-grade requirement.

The House recedes with a clarifying amendment that would make the waiver authority applicable to both active and reserve component officers.

Contingent exclusion from officer strength and distribution-in-grade limitations for officer serving as Associate Director of Central Intelligence for Military Support (sec. 507)

The conferees agree to include a provision that would exempt the position of Associate Director for Central Intelligence for Military Support from counting against the numbers and percentages of officers authorized to be serving in the rank and grade for an assigned officer's armed force. This exemption would only apply when none of the individuals serving in the positions of Director for Central Intelligence, Deputy Director for Central Intelligence, or Deputy Director of Central Intelligence for Community Management are military officers.

Reappointment of incumbent Chief of Naval Operations (sec. 508)

The conferees agree to include a provision that, notwithstanding the provisions of section 5033(a)(1) of title 10, United States Code, would authorize the President, by and with the advice of the Senate, to reappoint the officer serving as Chief of Naval Operations on October 1, 2003, for an additional term of not more than two years.

Secretary of Defense approval required for practice of wearing uniform insignia of higher grade known as "frocking" (sec. 509)

The conferees agree to include a provision that would amend section 777 of title 10, United States Code, to add new conditions required for frocking of flag and general officers. This provision would require that the Secretary of Defense, or an authorized designee within the Office of the Secretary of Defense, approve the frocking of all officers for grades above O6. Additionally, the Secretary of Defense would be required to submit written notification to the Congress of the intent to authorize an officer to wear the insignia for a grade above O6 and a period of 30 days would have to elapse after the date of notification before frocking could occur.

The conferees are dissatisfied with existing procedures that control frocking within the services and are concerned about the troubling instances of improper frocking by field commanders who have knowingly disregarded the requirements of law. The conferees are hopeful that the requirement for approval by the Secretary of Defense and written notification to the Congress prior to the frocking of a flag or general officer will significantly reduce abuses of frocking authority, result in stronger justification for the recommendations to frock flag and general officers, and preclude the need to further restrict the practice of frocking for the most senior grades or impose similar requirements below the grade of O7.

The conferees expect that the Committees on Armed Services of the Senate and House of Representatives will be informed promptly of violations of laws pertaining to frocking and of actions taken within the Office of the Secretary of Defense and the services to ensure future compliance with the requirements set forth in section 777 of title 10, United States Code.

Subtitle B—Reserve Component Matters

Streamlined process for continuation of officers on the reserve active-status list (sec. 511)

The House bill contained a provision (sec. 521) that would remove the requirement for the secretary concerned to conduct a selection board to identify officers eligible for continuation on the reserve active-status list after being subject to separation or retirement due to nonselection for promotion, selection for early separation, or other reason.

The Senate amendment contained a similar provision (sec. 512).

The Senate recedes.

Consideration of reserve officers for position vacancy promotions in time of war or national emergency (sec. 512)

The House bill contained a provision (sec. 522) that would authorize the secretary concerned to consider reserve officers ordered to active duty in support of a contingency operation for vacancy promotions for a period of up to two years of active duty service.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Authority for delegation of required secretarial special findings for placement of certain retired members in Ready Reserve (sec. 513)

The House bill contained a provision (sec. 524) that would allow the secretaries of the military departments to delegate determinations of whether retired members possess a skill so critical that they will be permitted to serve in a reserve component following retirement.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Authority to provide expenses of Army and Air Staff personnel and National Guard Bureau personnel attending national conventions of certain military associations (sec. 514)

The House bill contained a provision (sec. 525) that would authorize the secretary concerned to fund the necessary expenses of regular members assigned to the National Guard Bureau or the Army General Staff or the Air Staff to attend the national convention of the Enlisted Association of the National Guard of the United States in the same manner as funding is provided to support the attendance at the national convention of the National Guard Association of the United States and the Adjutant General Association.

The Senate amendment contained no similar provision.

The Senate recedes.

Expanded authority for use of Ready Reserve in response to terrorism (sec. 515)

The Senate amendment contained a provision (sec. 511) that would modify the language of section 12304(b) of title 10, United States Code, to authorize the use of reserves for all terrorist attacks or threatened terrorist attacks in the United States that result, or could result, in loss of life or property.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would limit use of reserve component personnel and units in responding to a terrorist attack or threatened terrorist attack in the United States to those attacks that result, or could result, in significant loss of life or property, and only if the President determines that the requirements for responding to such an emergency have exceeded, or will exceed, the response capabilities of local, state, and federal civilian agencies.

National Guard officers on active duty in command of National Guard units (sec. 516)

The Senate amendment contained a provision (sec. 513) that would modify section 325 of title 32, United States Code, to allow officers of the Army or Air National Guard, called to active duty for the purpose of commanding a unit composed of both active duty and reserve component personnel, to retain and exercise their Army or Air National Guard state commissions if authorized by the President and the governor. Such National Guard officers would have the authority to command subordinate active duty personnel by virtue of their own active duty status and also retain the authority to command National Guard personnel in a nonfederal status.

The House bill contained no similar provision.

The House recedes.

Presidential report on mobilization of reserve component personnel and Secretary of Defense assessment (sec. 517)

The Senate amendment contained a provision (sec. 1024) that would require the Secretary of Defense, not later than 90 days after enactment of this Act, to submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the mobilization of reserve component forces during fiscal years 2002 and 2003.

The House bill contained no similar provision.

The House recedes with an amendment that would require the President, not later than six months after the date of enactment of this Act, to transmit to Congress a report on the mobilization of members of the reserve components during fiscal years 2002 and 2003. The report would include for each of those fiscal years the number of members of the reserve components who were called or ordered to active duty under a provision of law specified in section 101(a)(13)(B) of title 10, United States Code, and additional data regarding the duration and frequency of recalls for members of the reserve components. Additionally, the Secretary would be required to submit, not later than one year after the date of enactment of this Act, a report addressing, among other things, the effects on reserve component recruitment and retention resulting from the mobilization of Reserves, lessons learned from this experience, a description of changes in the armed forces envisioned by the Secretary, and an assessment of the process used for calling and ordering such members to active duty.

Authority for the use of operation and maintenance funds for promotional activities of the National Committee for Employer Support of the Guard and Reserve (sec. 518)

The conferees agree to include a provision that would authorize use of amounts appropriated for operation and maintenance, under regulations prescribed by the Secretary of Defense, for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.

Subtitle C—ROTC and Military Service Academies

Expanded educational assistance authority for cadets and midshipmen receiving ROTC scholarships (sec. 521)

The House bill contained a provision (sec. 532) that would authorize the secretary of the military department concerned to provide Senior Reserve Officer Training Corps scholarship students financial assistance in the form of room and board or other expenses required by the educational institution, so long as the total amount of assistance does not exceed what the student would have otherwise received for tuition, fees, books, and laboratory expenses, or another amount determined by the secretary concerned.

The Senate amendment contained a similar provision (sec. 532).

The Senate recedes with a technical amendment.

Increase in allocation of scholarships under Army Reserve ROTC scholarship program to students at military junior colleges (sec. 522)

The House bill contained a provision (sec. 533) that would expand from 10 to 17 the number of cadets attending each military junior college on a Reserve Officer Training Corps scholarship.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority for nonscholarship senior ROTC sophomores to voluntarily contract for and receive subsistence allowance (sec. 523)

The House bill contained a provision (sec. 535) that would authorize the secretary of the military department concerned to enter into a service contract with a Senior Reserve Officer Training Corps student who is not on a scholarship for the purpose of making the student eligible to receive a monthly subsistence allowance at the same level as scholarship cadets and midshipmen.

The Senate amendment contained a similar provision (sec. 604).

The Senate recedes with an amendment that would provide that no contract may be entered into under this provision after December 31, 2006.

Appointments to military service academies from nominations made by delegates from Guam, Virgin Islands, and American Samoa (sec. 524)

The House bill contained a provision (sec. 536) that would increase from two to three the number of appointments to each of the military service academies that can be made as a result of nominations made by the Delegate in Congress from Guam and the Delegate in Congress from the Virgin Islands. It would also increase from one to two the number of appointments to each of the military service academies that can be made as a result of nominations made by the Delegate from American Samoa.

The Senate amendment contained no similar provision.

The Senate recedes.

Readmission to service academies of certain former cadets and midshipmen (sec. 525)

The House bill contained a provision (sec. 537) that would authorize the secretary of a military department to readmit a former cadet or midshipman to a service academy on the basis of a formal report by an Inspector General in the Department of Defense, if that report found that while attending that service academy, the cadet or midshipman had suffered a reprisal or other injustice that led to their resignation from the service academy.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Defense task force on sexual harassment and violence at the military service academies (sec. 526)

The House bill contained a provision (sec. 539) that would require the Secretary of Defense to establish a task force to examine matters related to sexual harassment and violence at the United States Military Academy and the United States Naval Academy. At the same time, the Secretary would be required to provide the task force's report and his evaluation of the report to the Committees on Armed Services of the Senate and the House of Representatives. The Secretary would also be required to provide to the committees an assessment of the effectiveness of the corrective actions being taken as a result of various investigations into matters involving sexual assault and harassment at the U.S. Air Force Academy.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Actions to address sexual harassment and violence at the service academies (sec. 527)

The Senate amendment contained a provision (sec. 534) that would direct the service secretaries, under guidance provided by the Department of Defense, to direct the superintendents of their respective service academies to prescribe a policy on sexual misconduct applicable to the personnel of their academy. Additionally, the provision would direct the Secretary of Defense, through the service secretaries and service academy superintendents, to conduct annual assessments, including surveys of academy personnel, to determine the effectiveness of academy policies, training, and procedures on sexual misconduct. The Secretary of Defense would be directed to submit annual reports to the Committees on Armed Services of the Senate and the House of Representatives for five years on sexual misconduct involving academy personnel.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Study and report related to permanent professors at the United States Air Force Academy (sec. 528)

The conferees agree to include a provision that would direct the Secretary of the Air Force to submit a report to the Secretary of Defense no later than six months after the date of enactment containing recommended changes in policy and law pertaining to the selection, tenure, utilization, responsibilities, and qualifications of the permanent professors at the Air Force Academy.

Dean of the Faculty of the United States Air Force Academy (sec. 529)

The conferees agree to include a provision that would amend section 9335 of title 10, United States Code, to authorize selection of either a military officer or civilian for the position of Dean of the Faculty at the U. S. Air Force Academy. It would also authorize the Secretary of the Air Force to prescribe the qualifications, selection procedures, training, retention, and determinations of appropriate pay grade for the Dean of the Faculty.

In taking these actions, the conferees are implementing one of the recommendations of the Panel to Review Sexual Misconduct Allegations at the U. S. Air Force Academy that was led by former Congresswoman Tillie K. Fowler. The Panel, which issued its report on September 22, 2003, strongly urged expedited action to amend section 9335 of title 10, United States Code, to afford a larger pool of candidates for the position of Dean of the Faculty beyond the current limitation of permanent professors at the U. S. Air Force Academy.

In evaluating the civilian candidates for the position of Dean of the Faculty, the conferees strongly urge the Secretary of the Air Force to place particular emphasis on candidates with prior military experience and service, and to consider familiarity with and contributions to the armed forces as part of the selection process.

Subtitle D—Other Education and Training Matters

Authority for the Marine Corps University to award the degree of master of operational studies. (sec. 531)

The House bill contained a provision (sec. 531) that would authorize the president of the Marine Corps University to confer the degree of master of operational studies upon graduates of the Command and Staff College's School of Advanced Warfighting who fulfill the requirements for that degree.

The Senate amendment contained a similar provision (sec. 922).

The Senate recedes with a clarifying amendment.

Authorization for Naval Postgraduate School to provide instruction to enlisted member participating in certain programs (sec. 532)

The House bill contained a provision (sec. 538) that would permit enlisted members of the armed services to receive instruction at the Naval Postgraduate School in connection with the information security scholarship program. Additionally, the provision would authorize senior enlisted members of the armed forces to attend certain executive level seminars conducted at the Naval Postgraduate School.

The Senate amendment contained a similar provision (sec. 533).

The Senate recedes with a clarifying amendment that would require that enlisted members who receive instruction under the information security scholarship program at the Naval Postgraduate School must have completed undergraduate studies and been awarded a baccalaureate degree.

Cost reimbursement requirements for personnel receiving instruction at the Air Force Institute of Technology (sec. 533)

The Senate amendment contained a provision (sec. 533) that would require the Department of the Army, the Department of the Navy, and the Department of Transportation to bear the cost of instruction of their personnel at the Air Force Institute of Technology. In the case of an enlisted member of the Army, Navy, Marine Corps, or Coast Guard who receives instruction at the Institute, the Secretary of the Air Force will charge only for such costs and fees as the Secretary considers appropriate.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Inclusion of accrued interest in amounts that may be repaid under Selected Reserve critical specialties education loan repayment program (sec. 534)

The House bill contained a provision (sec. 534) that would clarify that the interest accrued on a student loan should be included in the loan amount used as the basis for calculating the annual payment to reserve members under the Selected Reserve education loan repayment program.

The Senate amendment contained no similar provision.

The Senate recedes.

Funding of education assistance enlistment incentives to facilitate national service through Department of Defense Education Benefits Fund (sec. 535)

The Senate amendment contained a provision (sec. 535) that would amend section 510 of title 10, United States Code, to authorize payment of education assistance enlistment incentives to eligible National Call to Service participants from the Department of Defense Education Benefits Fund, pursuant to section 2006 of title 10, United States Code.

The House bill contained no similar provision.

The House recedes.

Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees (sec. 536)

The House bill contained a provision (sec. 563) that would provide $35.0 million for assistance to local educational agencies that benefit dependents of members of the armed forces and Department of Defense (DOD) civilian employees.

The Senate amendment contained a similar provision (sec. 351) that would authorize $30.0 million for assistance to local educational agencies.

The Senate recedes with an amendment that would provide $30.0 million for assistance to local educational agencies that benefit dependents of members of the armed forces and DOD civilian employees.

Impact aid eligibility for heavily impacted local educational agencies affected by privatization of military housing (sec. 537)

The House bill contained a provision (sec. 567) that would modify the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)(H)) to clarify the eligibility for impact aid of certain local educational agencies whose student populations are affected by the conversion of military housing units to private housing through public-private partnerships.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would establish the effective date of this provision.

Subtitle E—Administrative Matters

High-tempo personnel management and allowance (sec. 541)

The House bill contained a provision (sec. 541) that would modify the program under section 991 of title 10 and section 436 of title 37, United States Code, with respect to management of deployments of service members and payment of a high-tempo per diem allowance. This provision would require that the deployment of members in excess of 400 days out of the preceding 730 days must be approved, as a minimum, by an officer serving in the grade of colonel or Navy captain, when they have been selected for promotion and are serving in a billet authorized for a general or flag officer, or by a civilian member of the Senior Executive Service.

This provision would also authorize payment of a monthly high-deployment allowance of up to $1000, instead of the $100 high-tempo per diem allowance currently authorized in law, for service members for each month during which the member is deployed for 191 or more consecutive days or for 401 days out of the preceding 730 days. It would also authorize payment of the monthly allowance to reservists serving on active duty for more than 30 days during a second or subsequent mobilization for the same contingency operation.

The Senate amendment contained a similar provision (sec. 561).

The House recedes with a clarifying amendment that would prescribe when deployment management responsibilities must commence for members who exceed certain high-deployment thresholds.

Enhanced retention of accumulated leave for high-deployment members (sec. 542)

The House bill contained a provision (sec. 542) that would increase the accumulated leave from 90 to 120 days that may be retained by a member serving at least 120 consecutive days in an area authorized for payment of imminent danger pay, or similar assignment.

The Senate amendment contained a similar provision (sec. 651).

The Senate recedes.

Standardization of statutory authorities for exemptions from requirement for access to secondary schools by military recruiters (sec. 543)

The House bill contained a provision (sec. 544) that would remove the authority for local educational agencies to vote to deny military recruiters access to secondary schools and student information and would bring the recruiter access policy established in section 503 of title 10, United States Code, in line with the policy established in the No Child Left Behind Act (Public Law 107-110).

The Senate amendment contained no similar provision.

The Senate recedes.

Procedures for consideration of applications for award of the Purple Heart medal to veterans held as prisoners of war before April 25, 1962 (sec. 544)

The House bill contained a provision (sec. 545) that would instruct the secretary concerned to consider the length of time between captivity and application and the duration of captivity when reviewing cases in which individuals are seeking the award of the Purple Heart for periods when they were held as prisoners of war before April 25, 1962. This provision would also require the secretary concerned to provide information on prisoner of war camps to assist individuals in assembling applications.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Authority for reserve and retired regular officers to hold state and local office notwithstanding call to active duty (sec. 545)

The House bill contained a provision (sec. 546) that would remove the restriction barring reservists or retirees who are serving on active duty for more than 270 days from holding elective office in the government of a state, the District of Columbia or a territory, possession, or commonwealth of the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide that reserve and retired regular officers who serve on active duty for more than 270 days may not hold elective office in the government of a state if the holding of such office is prohibited under the laws of that state or interferes with the performance of the officer's duties as an officer of the armed forces, as determined by the Secretary of Defense. Additionally, the amendment would prohibit an officer who holds such a state elective office from exercising the functions of the office while on active duty with the armed forces.

Policy on public identification of casualties (sec. 546)

The House bill contained a provision (sec. 548) that would prohibit the Secretary of Defense from publicly releasing the name or other personal identifying information about military casualties until 24 hours after official notification of the service members' next-of-kin.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to prescribe the policy of the Department of Defense (DOD) on public release of identifying information about casualties. The conferees believe strongly that the policy prescribed by the Secretary should provide service members' next-of-kin with a period of privacy before the public is made aware of service members' death, injury, or change in status. The conferees expect this period of privacy to be at least 18 to 24 hours following official notification of the next-of-kin. The conferees also encourage the Secretary to require as part of the agreement with embedded reporters and other civilian personnel accompanying the force that they will comply with the DOD policy on releasing names and personally identifying information on military casualties.

Space personnel career fields (sec. 547)

The Senate amendment contained a provision (sec. 912) that would require the Secretary of Defense to develop a human capital resources strategy for personnel of the Department of Defense with space expertise that would ensure that the space career fields for the military services are integrated to the maximum extent possible. The provision would also require the Secretary to submit a report to the Committees on Armed Services of the Senate and House of Representatives on the strategy, an assessment of the progress in integrating the space career fields of the military services, and an assessment of the adequacy of the Air Force space career field. Finally, the provision would require a review and assessment by the Comptroller General.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees note that the space career fields within each of the military departments may include officers, enlisted, and civilian personnel. The conferees believe that an integrated strategic approach to the development of viable space career fields should be assessed based on how those career fields provide a common expertise, eliminate redundancies or overlaps in training and education, minimize any critical gaps that may exist in training and education, improve coordination between the services, and ultimately improve space operations and the ability of all the services to benefit from those operations.

Department of Defense joint advertising, market research, and studies program (sec. 548)

The conferees agree to include a provision that would authorize the Secretary of Defense to carry out a joint advertising, market research, and studies program to complement the recruiting advertising programs of the military departments and improve the ability of the military departments to attract and recruit qualified individuals to serve in the Armed Forces. This provision would authorize $7,500,000 of operation and maintenance funds for Defense-wide activities to be made available to carry out this program.

Limitation on aviation force structure changes in the department of the Navy (sec. 549)

The House bill contained a provision (sec. 566) that would require the Secretary of the Navy to ensure that no reductions are made in the active and reserve force structure of Navy and Marine Corps for fixed and rotary wing aircraft until 90 days have elapsed after two reports have been received by the Armed Services Committees of the House of Representatives and the Senate. The reports required would be a naval aviation force structure plan and an active and reserve component integration plan.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit the Secretary from reducing or disestablishing a Naval or Marine Corps Reserve aviation squadron before February 1, 2004. The conferees are aware of a limitation on the use of funds for decommissioning of any Navy or Marine Corps aviation squadron until delivery of a report by the Comptroller General of the United States, contained in section 8141 of the Department of Defense Appropriations Act for Fiscal Year 2004 (P.L. 108-87). The conferees expect the Secretary to take the final findings and recommendations of this report into account if the Secretary decides to reduce or disestablish any Navy or Marine Corps Reserve aviation squadrons.

Subtitle F—Military Justice Matters

Extended limitation period for prosecution of child abuse cases in courts-martial (sec. 551)

The Senate amendment contained a provision (sec. 551) that would amend Article 43 of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. 843) to apply a modified version of the federal criminal statute of limitations found in section 3283 of title 18, United States Code, which applies to offenses involving the sexual or physical abuse of a child under 18, to trial by court-martial of a person for such offenses under the UCMJ. The modification would limit the application of the extended limitation period to cases involving children under the age of 16 years, the limit for such offenses under the substantive criminal provisions of the UCMJ. The extended limitation period would permit trial by court-martial if sworn charges and specifications were received before the child reached the age of 25 years. This would replace the present five-year statute of limitations for this category of offenses.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Clarification of blood alcohol content limit for the offense under the Uniform Code of Military Justice of drunken operation of a vehicle, aircraft, or vessel (sec. 552)

The Senate amendment contained a provision (sec. 552) that would clarify the blood alcohol content limit for the offense of drunken operation of a vehicle, aircraft, or vessel under Article 111 of the Uniform Code of Military Justice (10 U.S.C. 911). The provision would make explicit that a blood alcohol content equal to the applicable state limit, or the 0.10 limit set out in Article 111, whichever is applicable, would constitute an offense under Article 111.

The House bill contained a similar provision (sec. 547).

The House recedes with an amendment that would clarify the definition of "blood alcohol content limit."

Subtitle G—Benefits

Additional classes of individuals eligible to participate in the federal long-term care insurance program (sec. 561)

The House bill contained a provision (sec. 551) that would authorize reservists and federal civilian employees who have not reached the minimum age required to begin receiving a retired annuity and certain other civilian employees to be eligible for the Federal Long-Term Care Insurance Program.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Authority to transport remains of retirees and retiree dependents who die in military treatment facilities (sec. 562)

The House bill contained a provision (sec. 552) that would expand the authority of the secretary concerned to transport the remains of armed forces retirees and their dependents who die in military health care facilities to places of burial located overseas or in the continental United States under prescribed conditions.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Eligibility for dependents of certain mobilized reservists stationed overseas to attend Defense Dependents Schools overseas (sec. 563)

The House bill contained a provision (sec. 553) that would expand the eligibility for space-available, tuition-free attendance at Department of Defense Dependents Schools (DODDS) overseas to the dependents of mobilized reservists who are called to active duty from a continental United States location and whose overseas tour is voluntarily or involuntarily extended beyond one year.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would require DODDS tuition-status parity for dependent children of reservists who are ordered to active duty under section 12301 or 12302 of title 10, United States Code, from any location to overseas duty assignments.

Subtitle H—Domestic Violence

Travel and transportation for dependents relocating for reasons of personal safety (sec. 571)

The House bill contained a provision (sec. 571) that would allow travel and transportation allowances to dependents of uniformed service members who are victims of domestic violence and who, under certain conditions, have requested relocation.

The Senate amendment contained a similar provision (sec. 565).

The House recedes with a clarifying amendment.

Commencement and duration of payment of transitional compensation (sec. 572)

The House bill contained a provision (sec. 572) that would allow transitional compensation to commence as of the date of sentencing of a service member who has been convicted of a dependent-abuse offense at a court-martial. Additionally, the provision would modify section 1059(e)(2) of title 10, United States Code, to provide for payment of transitional compensation benefits for 36 months in all cases unless terminated earlier, as required by law.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment providing that transitional compensation shall be paid for a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the secretary concerned.

Exceptional eligibility for transitional compensation (sec. 573)

The House bill contained a provision (sec. 573) that would allow transitional compensation to be paid in exceptional cases to certain dependents of a member or former member of the armed forces if the secretary concerned determines that there are extenuating circumstances such that granting transitional compensation benefits is consistent with the intent of the program.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would provide that a secretarial decision to authorize exceptional payment of transitional compensation may not be delegated.

Types of administrative separations triggering coverage (sec. 574)

The House bill contained a provision (sec. 574) that would expand coverage of transitional compensation for dependents of a service member on active duty who is administratively separated voluntarily or involuntarily from active duty if the basis for the separation includes a dependent-abuse offense.

The Senate amendment contained no similar provision.

The Senate recedes.

Comptroller General review and report (sec. 575)

The House bill contained provisions (sec. 575 and 576) that would require the Secretary of Defense to convene a working group within two years from the date of enactment to review and assess the progress of the Department of Defense (DOD) in implementation of the recommendations of the Defense Task Force on Domestic Violence. Additionally, the Secretary would be required to provide the necessary resources to the organization within the Office of the Secretary of Defense with direct responsibility for oversight of implementation by the military departments of the recommendations of the Task Force in order for that organization to carry out its duties and responsibilities.

The Senate bill contained no similar provisions.

The Senate recedes with an amendment that would require the Comptroller General not later than 30 months after the date of enactment of this Act to review and assess the progress of the DoD in implementing the recommendations of the Defense Task Force on Domestic Violence and the resources that the DoD has provided toward such implementation.

Fatality reviews (sec. 576)

The House bill contained a provision (sec. 577) that would require the Secretary of Defense to conduct multidisciplinary reviews of each fatality known or suspected to have resulted from domestic violence or child abuse under certain conditions.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the secretary of the military department concerned, under uniform guidance prescribed by the Secretary of Defense, to conduct fatality reviews in the case of each fatality known or suspected to have resulted from domestic violence or child abuse.

Sense of Congress (sec. 577)

The House bill contained a provision (sec. 578) that would express the sense of Congress that the Secretary of Defense should adopt the strategic plan proposed by the Defense Task Force on Domestic Violence and that the service secretaries should establish and support a Victim Advocate Protocol for victims of domestic violence.

The Senate bill contained no similar provision.

The Senate recedes with a clarifying amendment.

Subtitle I—Other Matters

Recognition of military families (sec. 581)

The House bill contained a provision (sec. 562) that would require the Secretary of Defense to implement and sustain programs, including appropriate annual ceremonies and events, to celebrate the contributions and sacrifices of military families in the active and reserve components.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Permanent authority for support for certain chaplain-led military family support programs (sec. 582)

The House bill contained a provision (sec. 564) that would authorize the secretary of a military department to provide support services to active duty and reserve members and their immediate family members to facilitate their participation in chaplain-led programs designed to build and maintain strong families.

The Senate amendment contained no similar provision.

The Senate recedes.

Department of Defense-Department of Veterans Affairs Joint Executive Committee (sec. 583)

The House bill contained a provision (sec. 565) that would expand the scope of responsibilities of the Department of Defense-Department of Veterans Affairs Health Executive Committee to consider matters beyond health care.

The Senate amendment contained a similar provision (sec. 707 (a)—(c)).

The Senate recedes with a technical amendment.

Review of the 1991 death of Marine Corps Colonel James E. Sabow (sec. 584)

The House bill contained a provision (sec. 568) that would require the Secretary of Defense to open a new investigation into the death of Colonel James E. Sabow.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary within 60 days of enactment of this Act, to commence a review by medical and forensic experts outside the Department of Defense of the evidence concerning Colonel Sabow's death on January 22, 1991, with the principal focus of determining the cause of death.

Policy on concurrent deployment to combat zones of both military spouses of military families with minor children (sec. 585)

The Senate amendment contained a provision (sec. 563) that would require the Secretary of Defense to prescribe the policy of the Department of Defense on concurrent deployment to a combat zone of both spouses of a dual-military family with one or more minor children within 180 days of enactment of the National Defense Authorization Act for Fiscal Year 2004.

The House bill contained no similar provision.

The House recedes.

Congressional notification of amendment or cancellation of Department of Defense directive relating to reasonable access to military installations for certain personal commercial solicitation (sec. 586)

The House bill contained a provision (sec. 1052) that would require the Secretary of Defense to submit notice to the Congress of any amendment or other revision to a Department of Defense (DOD) directive relating to personal commercial solicitation on military installations, along with the supporting reasons for the change. The provision would further require that no changes take effect until the end of the 90-day period beginning on the date the notice is submitted.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that any changes to DOD Directive 1344.7, regarding personal commercial solicitation on DOD installations, not take effect until the end of the 30-day period beginning on the date notice of amendment or cancellation of the directive and the reasons therefor are submitted.

The conferees believe that the Under Secretary of Defense for Personnel and Readiness has acted prudently in responding to documented instances of abuses of grants of access to military installations and personnel for the purpose of commercial solicitation. The Department has taken necessary and appropriate steps to thoroughly consider and evaluate potential changes to personal commercial solicitation policies. The conferees urge the Department to continue to give all stakeholders ample opportunities, both before and after proposed changes are implemented, to contribute factual information and recommendations for improvements to these policies.

Study of National Guard Challenge Program (sec. 587)

The Senate amendment contained a provision (sec. 1043) that would provide for a 65 percent maximum federal share for the costs of operating state programs under the National Guard Challenge Program for fiscal year 2004. Additionally, the Secretary of Defense would be required to carry out a study, among other objectives, to identify potential alternatives to the matching fund structure in order to provide management flexibility to better respond to temporary fiscal conditions.

The House bill contained no similar provision.

The House recedes with an amendment that would retain: (1) the requirement for the Secretary of Defense to conduct a study of the National Guard Challenge program; (2) maintain the current federal-to-state ratio for matching funds; and (3) provide funding for fiscal year 2004, in accordance with the budget request.

Findings and sense of Congress on reward for information leading to resolution of status of members of the armed forces who remain unaccounted for (sec. 588)

The Senate amendment contained a provision (sec. 1039) that would express the sense of the Senate that the Secretary of Defense should use his authority to disburse funds rewarding individuals who provide information leading to the conclusive resolution of the status of any missing member of the armed forces, and authorize and publicize a reward of $1,000,000 for information resolving the fate of any member of the armed forces, such as Navy Captain Scott Speicher.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the Secretary should use his authority for the foregoing purpose.

LEGISLATIVE PROVISIONS NOT ADOPTED

Alternate initial military service obligation for persons accessed under direct entry program

The Senate amendment contained a provision (sec. 562) that would authorize the establishment of a direct entry program for persons with critical military skills that would not require application of the initial military service obligation, as set forth in section 651(a) of title 10, United States Code.

The House bill contained no similar provision.

The Senate recedes.

Enhancement of voting rights of members of the uniformed services

The Senate amendment contained a provision (sec. 564) that would modify section 1973ff–1 of title 42, United States Code, by prescribing standards to be used by state officials in validating ballots submitted in elections for federal office by absent uniformed service voters. Additionally, the provision would establish procedures to facilitate voting by recently separated military members.

The House bill contained no similar provision.

The Senate recedes.

Increased flexibility for management of senior level education and post-education assignments

The Senate amendment contained a provision (sec. 531) that would modify section 663 of title 10, United States Code, by repealing the requirement that the principal course of instruction offered at the Joint Forces Staff College as Phase II joint professional military education must be at least three months in duration. Additionally, the provision would repeal requirements related to mandatory assignment to joint duty of officers completing joint professional military education.

The House bill contained no similar provision.

The Senate recedes.

Repeal of prohibition on transfer between line of the Navy and Navy staff corps applicable to regular Navy officers in grades above lieutenant commander

The House bill contained a provision (sec. 511) that would repeal section 5582 of title 10, United States Code, setting forth limitations on transfers of officers between the line and staff corps of the Navy.

The Senate amendment contained no similar provision.

The House recedes.

Simplification of determination of annual participation for purposes of Ready Reserve training requirements

The House bill contained a provision (sec. 523) that would amend section 10147 of title 10, United States Code, to restate (in terms of days of duty to be performed) the annual training requirement for all members of the Ready Reserve.

The Senate amendment contained no similar provision.

The House recedes.

The conferees support the Department of Defense objective of modifying existing policies affecting annual training participation by members of the Ready Reserve to simplify these policies and make them more flexible and responsive to current operational requirements and the needs of individual reservists. The conferees encourage the Department as it continues its review, however, to balance achieving that objective with efforts to ameliorate any potential negative effects that simplification could have on the pay and retirement benefits of individual reservists and on reserve unit cohesion.

Standardization of time-in-service requirements for voluntary retirement of members of the Navy and Marine Corps with Army and Air Force requirements

The House bill contained a provision (sec. 543) that would standardize the existing statutory requirements used by each Service in determining eligibility for retirement.

The Senate amendment contained no similar provision.

The House recedes.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Pay and Allowances

Increase in basic pay for fiscal year 2004 (sec. 601)

The House bill contained a provision (sec. 601) that would increase basic pay for members of the armed forces by an average of 4.1 percent. This provision would also provide enhanced increases for mid-grade and senior noncommissioned officers and select warrant officers to enhance retention. It also would provide that the rates of monthly basic pay for members of the National Oceanic and Atmospheric Administration (NOAA) and the Public Health Service (PHS) would be increased by two percent.

The Senate amendment contained a similar provision (sec. 601) that would authorize a military pay raise of 3.7 percent for all officer and enlisted personnel, consistent with the standard set forth in section 602 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65), which requires that pay increases through fiscal year 2006 for all members equate to the annual increase in the Employment Cost Index plus 0.5 percent, and higher targeted pay raises for mid-grade personnel. The Senate provision did not limit to two percent the pay raise of uniformed members of the NOAA and PHS.

The House recedes.

Revised annual pay adjustment process (sec. 602)

The Senate amendment contained a provision (sec. 602) that would modify section 1009 of title 37, United States Code, to require an annual adjustment of basic pay for members of the uniformed services. The provision would provide all eligible members with an increase in the monthly basic pay that is the equivalent percentage (rounded to the nearest one-tenth of one percent) of the annual increase in the Employment Cost Index (ECI). The provision would also maintain the existing requirement in law that annual pay raises in fiscal years 2004, 2005, and 2006, equal the annual increase in ECI plus 0.5 percent.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Computation of basic pay rate for commissioned officers with prior enlisted or warrant officer service (sec. 603)

The House bill contained a provision (sec. 602) that would modify section 203 of title 37, United States Code, to authorize commissioned officers who have accrued at least 1,460 points for reserve service as a warrant officer, an enlisted member, or as a warrant officer and an enlisted member, to receive basic pay at the same rate as commissioned officers credited with over four years of active duty service as an enlisted member.

The Senate amendment contained an identical provision (sec. 603).

The conference agreement includes this provision.

Special subsistence allowance authorities for members assigned to high-cost duty location or under other unique and unusual circumstances (sec. 604)

The House bill contained a provision (sec. 603) that would authorize payment to service members of a supplemental allowance for subsistence to compensate for additional expenses encountered when they are assigned to high-cost and unique duty locations. The provision would be effective as of September 12, 2001.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make this authority effective on October 1, 2003.

Basic allowance for housing for each member married to another member without dependents when both spouses are on sea duty (sec. 605)

The Senate amendment contained a provision (sec. 605) that would allow two members of the uniformed services in a pay grade below E–6 who are married to each other, have no other dependent, and are simultaneously assigned to sea duty to each receive a basic allowance for housing.

The House bill contained no similar provision.

The House recedes.

Temporary increase in authorized amount of family separation allowance (sec. 606)

The House bill contained a provision (sec. 622) that would increase the rate of family separation allowance under section 427 of title 37, United States Code, from $100 per month to $250 per month for service members performing duty in the combat zones designated for Operation Iraqi Freedom and Operation Enduring Freedom.

The Senate amendment contained a provision (sec. 606) that would increase the rate of the family separation allowance from $100 per month to $250 per month for all service members who are eligible to receive this allowance.

The House recedes with an amendment that would make the rate of $250 per month effective for the period beginning on October 1, 2003, and ending on December 31, 2004.

Subtitle B—Bonuses and Special and Incentive Pays

One-year extension of certain bonus and special pay authorities for reserve forces (sec. 611)

The House bill contained a provision (sec. 611) that would extend the authority for the Selected Reserve enlistment and reenlistment bonus, special pay for enlisted members of the Selective Reserve assigned to certain high priority units, the Selected Reserve affiliation bonus, the Ready Reserve enlistment and reenlistment bonus, and the prior service enlistment bonus until December 31, 2004.

The Senate amendment contained an identical provision (sec. 611).

The conference agreement includes this provision.

One-year extension of certain bonus and special pay authorities for certain health care professionals (sec. 612)

The House bill contained a provision (sec. 612) that would extend the authority for the nurse officer candidate accession program, the accession bonus for registered nurses, incentive special pay for nurse anesthetists, special pay for Selected Reserve health care professionals in critically short wartime specialties, and the accession bonus for dental officers until December 31, 2004. The provision would also extend the authority for repayment of education loans for certain health professionals who serve in the Selected Reserve until January 1, 2005.

The Senate amendment contained an identical provision (sec. 612).

The conference agreement includes this provision.

One-year extension of special pay and bonus authorities for nuclear officers (sec. 613)

The House bill contained a provision (sec. 613) that would extend the authority for the special pay for nuclear-qualified officers extending the period of active service, nuclear career accession bonus, and the nuclear career annual incentive bonus until December 31, 2004.

The Senate amendment contained an identical provision (sec. 613).

The conference agreement includes this provision.

One-year extension of other bonus and special pay authorities (sec. 614)

The House bill contained a provision (sec. 614) that would extend the authority for the aviation officer retention bonus, the reenlistment bonus for active members, the enlistment bonus for active members, the retention bonus for members with critical military skills, and the accession bonus for new officers in critical skills until December 31, 2004.

The Senate amendment contained an identical provision (sec. 614).

The conference agreement includes this provision.

Hazardous duty pay for duty involving ski-equipped aircraft on Antarctica or the Arctic icepack (sec. 615)

The House bill contained a provision (sec. 619) that would authorize incentive pay for service members performing duty on the ground in Antarctica or on the icepack in the Arctic at the rate of $5 per day.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize incentive pay under section 301 of title 37, United States Code, for hazardous duty involving use of ski-equipped aircraft on the ground in Antarctica or on the Arctic icepack.

Special pay for reserve officers holding positions of unusual responsibility and of critical nature (sec. 616)

The Senate amendment contained a provision (sec. 615) that would authorize reserve component officers to receive special pay under section 306 of title 37, United States Code.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Payment of Selected Reserve reenlistment bonus to members of Selected Reserve who are mobilized (sec. 617)

The Senate amendment contained a provision (sec. 618) that would clarify that members entitled to a bonus under section 308b of title 37, United States Code, who are called or ordered to active duty, may be paid any amount of such bonus that is payable during the period of active duty without regard to the fact that the member is serving on active duty pursuant to such call or order to active duty.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Availability of hostile fire and imminent danger special pay for reserve component members on inactive duty (sec. 618)

The House bill contained a provision (sec. 616) that would authorize payment of hostile fire and imminent danger pay under section 310 of title 37, United States Code, to reserve component members performing inactive-duty training at duty locations designated for receipt of this special pay. The provision would be effective as of September 11, 2001.

The Senate amendment contained a similar provision (sec. 620).

The House recedes with a clarifying amendment.

Temporary increase in authorized amount of hostile fire and imminent danger special pay (sec. 619)

The House bill contained a provision (sec. 622) that would increase the rate of special pay for duty subject to hostile fire or imminent danger under section 310 of title 37, United States Code, from $150 per month to $225 per month for service members performing duty in the combat zones designated for Operation Iraqi Freedom and Operation Enduring Freedom. The Senate amendment contained a provision (sec. 619) that would increase the rate of special pay for duty subject to hostile fire or imminent danger from $150 per month to $225 per month for all service members who are eligible to receive this special pay.

The House recedes with an amendment that would make the rate of $225 per month effective for the period beginning on October 1, 2003, and ending on December 31, 2004.

Retroactive payment of hostile fire or imminent danger pay for service in eastern Mediterranean Sea in Operation Iraqi Freedom (sec. 620)

The conferees agree to include a provision that would authorize the Secretary of Defense to approve special pay for duty subject to hostile fire or imminent danger under section 310(a) of title 37, United States Code, to members of the armed forces who were assigned to duty, during the period beginning on March 19, 2003, and ending on April 11, 2003, located in the Mediterranean Sea east of 30 degrees East Longitude.

Expansion of overseas tour extension incentive program to officers (sec. 621)

The House bill contained a provision (sec. 617) that would authorize officers to receive the same compensation or rest and recuperative leave benefits as granted to enlisted members who extend their overseas tours of duty at designated locations.

The Senate amendment contained a similar provision (sec. 621).

The Senate recedes.

Repeal of congressional notification requirement for designation of critical military skills for retention bonus (sec. 622)

The House bill contained a provision (sec. 661) that would repeal the requirement for 90 days advance notice to Congress before implementation of a critical skills retention bonus.

The Senate amendment contained no similar provision.

The Senate recedes.

Eligibility of warrant officers for accession bonus for new officers in critical skills (sec. 623)

The House bill contained a provision (sec. 618) that would amend section 324 of title 37, United States Code, to allow members appointed in the grade of warrant officer (W1) to receive the accession bonus for new officers in critical skills.

The Senate amendment contained a similar provision (sec. 622).

The House recedes.

Special pay for service as member of weapons of mass destruction civil support team (sec. 624)

The House bill contained a provision (sec. 620) that would authorize members assigned by orders to duty as members of Weapons of Mass Destruction Civil Support Teams to be paid a special pay of $150 per month.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would authorize secretaries of military departments to pay this special pay only if the secretary determines that the payment of this special pay is needed to address recruitment or retention concerns for members of Weapons of Mass Destruction Civil Support Teams. Additionally, the monthly rate of such special pay may be in any amount up to, but not exceeding, $150.

Incentive bonus for conversion to military occupational specialty to ease personnel shortage (sec. 625)

The House bill contained a provision (sec. 621) that would authorize the service secretaries to offer a lump sum bonus of up to $4000 to eligible enlisted members, in pay grade E–6 with less than 10 years of service, or pay grade E–5 and below, regardless of years of service, who successfully convert from ratings or occupational specialties designated by the secretary concerned as adequately manned or overmanned to one in which there is a designated shortage of trained and qualified personnel.

The Senate amendment contained a similar provision (sec. 623).

The House recedes with an amendment that would limit the minimum obligated service to three years that members would incur who receive this bonus.

Bonus for reenlistment during service on active duty in Afghanistan, Iraq, or Kuwait (sec. 626)

The conferees agree to include a provision that would authorize waiver of certain eligibility requirements under sections 308(a), 308b(c), and 308h(a) of title 37, United States Code, and payment of a bonus to active duty and reserve members of the armed forces who reenlist or voluntarily extend their enlistments while serving on active duty in Afghanistan, Iraq, or Kuwait in support of Operation Enduring Freedom or Operation Iraqi Freedom.

Subtitle C—Travel and Transportation Allowances

Shipment of privately owned motor vehicle within continental United States (sec. 631)

The House bill contained a provision (sec. 631) that would allow service members to contract personally for the transportation of a motor vehicle in permanent change of station moves within the continental United States instead of relying exclusively on the government to arrange such transport. The amount of the allowance for such transportation would not be more than the amount that would have been paid if the member or a dependent had driven the vehicle between duty stations.

The Senate amendment contained a similar provision (sec. 631).

The House recedes.

Transportation of dependents to presence of members of the armed forces retired for illness or injury incurred in active duty (sec. 632)

The Senate amendment contained a provision (sec. 634) that would modify section 411 of title 37, United States Code, to authorize under certain conditions transportation at government expense of up to two family members to the location of a service member who is retired for an illness or injury incurred on active duty.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Payment or reimbursement of student baggage storage costs for dependent children of members stationed overseas (sec. 633)

The House bill contained a provision (sec. 632) that would expand the eligibility for dependent children of members stationed overseas to store student baggage to include storage at any point during the same fiscal year and not just at the time of the dependent student's annual trip to the member's overseas duty station.

The Senate amendment contained an identical provision (sec. 632).

The conference agreement includes this provision.

Contracts for full replacement value for loss or damage to personal property transported at government expense (sec. 634)

The Senate amendment contained a provision (sec. 633) that would authorize the Secretary of Defense to require by contract that household goods carriers pay the full replacement value for loss or damage to the property of members of the armed forces moved under such a contract. Additionally, in the event that a carrier does not settle a claim for loss or damage within a reasonable period of time, this provision would authorize deduction of an amount equal to the full replacement value from the amount owed by the United States to the carrier under the contract, and remission of the amount so deducted to the claimant.

The House bill contained no similar provision.

The House recedes.

The conferees understand that the Department of Defense intends to implement changes to claims procedures, including use of the full replacement value standard, as part of more comprehensive changes under the "Families First" Program. The conferees fully support implementation of the various aspects of the "Families First" program, including use of customer surveys, increased direct deliveries through customer to carrier contact, and the on-line claims filing processing. Additionally, the conferees expect that the full replacement value standard for loss or damage will be implemented in a manner that is consistent with commercial practices and that is fully explained to military members who should benefit from this new approach.

The conferees recognize that a reasonable time period should be established in which a servicemember's claim should be resolved before the services exercise their prerogative to make deductions from the amount owed to the carrier by the United States. The conferees support adoption of industry recommendations wherever feasible, and expect the Department to adopt a reasonable time period to resolve claims, ideally no less than sixty days, as part of its implementation of full value replacement. The conferees urge the Department to continue working closely with industry representatives to resolve open issues prior to implementation and intend to monitor both the implementation of "full replacement value" and the "Families First" Program and assess the overall costs of the program and the impact of these initiatives on small businesses and quality of life of military members and their families.

Payment of lodging expenses of members during authorized leave from temporary duty location (sec. 635)

The House bill contained a provision (sec. 633) that would authorize the secretaries of the military departments to reimburse reservists and retirees serving on active duty at duty locations away from their homes the lesser of the lodging portion of the applicable per diem rate or the actual cost of lodging paid by the member for the period during which the member is in an authorized leave status.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize service secretaries prospectively to pay or reimburse a member of the active or reserve components for lodging expenses incurred for a period during which the member is in an authorized leave status. To qualify for such payment, members must be assigned to temporary duty for a period of more than 30 days, in support of a contingency operation or in other specific situations designated by the secretary concerned.

Subtitle D—Retired Pay and Survivor Benefits

Phase-in of full concurrent receipt of military retired pay and veterans' disability compensation for certain military retirees (sec. 641)

The Senate amendment contained a provision (sec. 644) that would repeal the prohibition against receipt of both military retired pay and veterans' disability compensation.

The House bill contained no similar provision.

The House recedes with an amendment that would establish two new provisions. Effective January 1, 2004, one provision (sec. 641) would modify section 1414 of title 10, United States Code, to authorize concurrent receipt of both military retired pay and veterans' disability compensation phased in over ten years for retirees whose disability is rated at 50 percent or greater.

The second provision (sec. 642) would authorize payment of special compensation for combat-related disabilities, as enacted in the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314), to all retirees who are eligible under the criteria set forth for a combat-related disability, including those whose disability is 50 percent or less, and a process for coordination with concurrent receipt of both military retired pay and veterans' disability compensation.

Special rule for computation of retired pay base for commanders of combatant commands (sec. 643)

The Senate amendment contained a provision (sec. 641) that would increase the rate of retired pay for combatant commanders to correspond with that of the service chiefs.

The House bill contained no similar provision.

The House recedes.

Survivor benefit plan annuities for surviving spouses of reserves not eligible for retirement who die from a cause incurred or aggravated while on inactive-duty training (sec. 644)

The Senate amendment contained a provision (sec. 642) that would extend benefits under the Survivor Benefit Plan to surviving spouses of reservists not eligible for retirement who die from an injury or illness incurred or aggravated in the line of duty during inactive-duty training. This provision would be effective as of September 10, 2001.

The House bill contained no similar provision.

The House recedes with a technical amendment.

The conferees continue to be concerned about continuing inconsistent practices involving expedited approval of physical disability retirement and election of Survivor Benefit Plan beneficiaries when death of a service member is imminent. This problem was noted in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), but the Secretary of Defense has not yet issued regulations required by July 1, 2002, governing imminent death retirements. The conferees direct the Secretary to issue regulations by March 1, 2004, which will provide needed direction to the services on how they should proceed in these difficult situations.

Survivor Benefit Plan modifications (sec. 645)

The conferees agree to include a provision that would amend section 1448(d) of title 10, United States Code, to expand coverage under the Survivor Benefit Plan for dependent children and surviving spouses of military personnel who die on active duty. The provision would also modify section 1448(b)(1) and section 1458 of title 10, United States Code, to require vitiation of elections by military personnel retired under chapter 61 of title 10, United States Code, with respect to Supplemental Survivor Benefit Plan benefits and annuity payments to individuals with an insurable interest who are not dependents of the retiree when the retiree dies within one year of retirement of a cause related to the disability causing retirement.

Increase in death gratuity payable with respect to deceased members of the armed forces (sec. 646)

The Senate amendment contained a provision (sec. 643) that would increase the death gratuity from $6000 to $12,000, effective as of September 11, 2001. Additionally, the provision would require the Secretary of Defense to carry out a study on death benefits to determine the adequacy of such benefits. It would also require the Comptroller General to conduct a study to identify the death benefits that are payable under applicable law for employees of the Federal Government and state and local governments.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle E—Commissary and Non-appropriated Fund Instrumentality Benefits

Expanded commissary access for selected reserve members, reserve retirees under age 60, and their dependents (sec. 651)

The House bill contained a provision (sec. 651) that would authorize members of the Selected Reserve, reserve retirees qualified to receive retired pay, except that they are not age 60, and their dependents to use commissaries to the same extent as active duty members and their dependents.

The Senate amendment contained a similar provision (sec. 369).

The Senate recedes.

Defense commissary system and exchange stores system (sec. 652)

The House bill contained a provision (sec. 652) that would require the Secretary of Defense to operate separate defense commissary and exchange store systems.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize continued operation of NEXMART stores established before October 1, 2003.

Limitations on private operation of defense commissary store functions (sec. 653)

The House bill contained a provision (sec. 653) that would clarify that only selected store functions may be considered for privatization and that proposed changes to private operation of commissary store functions would not go into effect until a period of 90 days of continuous session of Congress expires after the Secretary of Defense notifies Congress of the proposed changes.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to inform Congress of changes to commissary store functions performed by more than ten Department of Defense civilian employees, and such changes would not go into effect until expiration of a period of 75 calendar days following Congressional notification.

Use of appropriated funds to operate defense commissary system (sec. 654)

The House bill contained a provision (sec. 654) that would require the use of appropriated funding to support commissary operating expenses.

The Senate amendment contained no similar provision.

The Senate recedes.

Recovery of non-appropriated fund instrumentality and commissary store investments in real property at military installations closed or realigned (sec. 655)

The House bill contained a provision (sec. 655) that would authorize the use, without further appropriation, of funds resulting from the transfer or disposal (during base closures or realignments prior to 2005) of real property or facilities that had been acquired, constructed or improved with non-appropriated or commissary store funds.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize use of these funds without further appropriation, not to exceed the following amounts: $31.0 million in fiscal year 2004; $24.0 million in fiscal year 2005; and $15.0 million in fiscal year 2006.

The conferees authorize the use of these funds, but do not in any way designate a specific use of such funds.

Subtitle F—Other Matters

Comptroller General report on adequacy of special pays and allowances for frequently deployed members (sec. 661)

The Senate amendment contained a provision (sec. 652) that would require the Comptroller General to submit a report not later than April 1, 2004, regarding the adequacy of special pays and allowances for service members who experience frequent deployments away from their permanent duty stations for periods of less than 30 days.

The House bill contained no similar provision.

The House recedes with a technical amendment.

LEGISLATIVE PROVISIONS NOT ADOPTED

Assignment incentive pay for service in Korea

The Senate amendment contained a provision (sec. 616) that would require payment of assignment incentive pay in the amount of $100 per month to all military members stationed in the Republic of South Korea.

The House bill contained no similar provision.

The Senate recedes.

The conferees appreciate the hardships and sacrifices being shouldered by military personnel and their families as a result of the high-tempo of operations worldwide in fighting the global war on terrorism. However, endemic substandard living and working conditions for soldiers in Korea and the adverse effects of these conditions on soldier morale, retention, and the Army's current overseas duty assignment policies are a source of ongoing concern. The Commander, United States Forces Korea, testified before Congress in 2003 that family separation, poor living and working conditions, and financial hardship have a severe adverse effect on the desirability of duty in Korea. The conferees applaud the Commander's strong and visible commitment to improved working and living conditions and fully support his priority objective of making Korea "an assignment of choice."

The conferees are encouraged by recent cooperative efforts of the Department of Defense and the Army to identify options to improve housing and compensation such as additional hardship duty pay, a cost of living allowance, implementation of discretionary assignment incentive pay, and awarding partial basic allowance for housing to compensate for substandard housing. The conferees direct the Secretary of Defense to submit a report by March 1, 2004, assessing: (1) progress and projections for eliminating substandard housing for U.S. military personnel stationed in Korea; (2) pay comparability for soldiers stationed in Korea with soldiers stationed in a cross section of bases in the continental United States, Kosovo, Bosnia, Iraq, Afghanistan, and Japan; (3) evaluation of the Commander's goal of providing command-sponsored housing for at least 25 percent of married military members and their families by 2010; (4) the effect on the quality of life for U.S. military personnel of the Republic of South Korea's host nation funded construction programs; (5) progress in achieving the goal of providing unaccompanied enlisted service members with quality housing by 2008, as mandated by DOD policy; (6) evaluation of the funding levels for the Sustainment, Restoration, and Modernization accounts in reversing deteriorating facilities; (7) improvements in quality of life, including morale, welfare, and recreation resources, internet access, and communication capabilities for personal use, for personnel and their families while stationed in Korea; and (8) recommendations for improving the compensation and quality of life for soldiers, sailors, airmen, and Marines and their dependents stationed in Korea.

Availability of hostile fire and imminent danger pay for reserve component members serving in response to certain domestic terrorist attacks

The House bill contained a provision (sec. 623) that would authorize payment of special pay for duty subject to hostile fire or imminent danger to members of a reserve component who were on duty as first responders, or who accompany or protect first responders, to terrorist attacks on the United. States where there was an immediate threat of physical harm or imminent danger as a result of direct or residual effects of an attack or potential secondary attack.

The Senate amendment contained no similar provision.

The House recedes.

Commissary shelf-stocking pilot program

The House bill contained a provision (sec. 656) that would authorize the Secretary of Defense to conduct a pilot program using federal civilian employees or contract employees to stock shelves at commissaries.

The Senate amendment contained no similar provision.

The House recedes.

Computation of hazardous duty incentive pay for demolition duty and parachute jumping by members of reserve components entitled to compensation under section 206 of title 37

The House bill contained a provision (sec. 615) that would authorize qualified reservists to be paid hazardous duty pay at the same monthly rates paid to qualified members serving on active duty for explosives demolition and parachute jumping duties.

The Senate amendment contained no similar provision.

The House recedes.

Extension of requirement for exemplary conduct by commanding officers and others in authority to include civilians in authority in the Department of Defense

The House bill contained a provision (sec. 561) that would consolidate and broaden the scope of the statutory standards for exemplary conduct that are presently codified for commanding officers in the Army, Navy, Marine Corps, and Air Force, and set forth standards applicable to civilian leaders in the Department of Defense and the military departments.

The Senate amendment contained no similar provision.

The House recedes.

Funding for special compensation authorities for Department of Defense retirees

The House bill contained a provision (sec. 641) that would require that payments made to retirees eligible for either special compensation for the severely disabled or special compensation for the combat disabled would be paid from the Military Retirement Trust Fund. This provision would also provide that any increase in the Department of Defense's annual accrual payment to the Military Retirement Trust Fund resulting from the payment of the foregoing special compensations, or from concurrent receipt, would be provided by a contribution from the U.S. Treasury.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that this provision was substantially adopted as part of the provision implementing phased-in full concurrent receipt of military retired pay and veterans' disability compensation for certain military retirees.

Increased maximum amount of reenlistment bonus for active members

The Senate amendment contained a provision (sec. 617) that would authorize an increase in the reenlistment bonus to a maximum amount of $70,000.

The House bill contained no similar provision.

The Senate recedes.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Enhanced Benefits for Reserves

Medical and dental screening for members of Selected Reserve units alerted for mobilization (sec. 701)

The House bill contained a provision (sec. 707) that would authorize the Secretary of Defense to provide medical and dental screening and care for members of the Selected Reserve who are assigned to a unit that has been alerted or notified that members of the unit will be mobilized for active duty in support of an operational mission or contingency operation during a national emergency or time of war.

The Senate amendment contained a similar provision (sec. 701(f)(1)–(2)).

The House recedes with a technical amendment.

The conferees are aware that under current law there is often inadequate time in the post mobilization period to ensure that members of the Selected Reserve receive needed medical and dental evaluations and care. Therefore, the conferees take this action to enhance both the opportunities for that needed care and the overall medical readiness of members of the Selected Reserve.

Coverage for ready reserve members under TRICARE program (sec. 702–705)

The Senate amendment contained a provision (sec. 701(f)(3)) that authorizes participation by members of the selected reserve and the individual ready reserve in the TRICARE program, whether on active duty or not.

The House bill contained no similar provision.

The conferees agree to include three temporary authorities which would provide access to health care for the reserve components and their dependents, and allow for assessment of the merit of continuing such programs. The conferees agree to provide access to the TRICARE program for inactive Reservists and their family members, if they are eligible for unemployment compensation or are not eligible for health care benefits under an employer-sponsored health benefits plan. Further, the conferees authorize expanding the time period Reservists would be considered to be on active duty for purposes of TRICARE eligibility. Finally, the conferees amend the Transitional Assistance Medical Program benefit coverage period from 60 to 180 days beginning on the date on which the members are separated from active duty for both active and reserve members.

The conferees recognize the high cost of extending such health care benefits and based on information provided by the Congressional Budget Office, have been advised that the cost of this demonstration program is approximately $200,000,000 based on projected utilization rates. The conferees assume that not more than $400,000,000 shall be required to implement the demonstration program in Fiscal Year 2004. The conferees direct the Comptroller General to study the health care needs of the reserve components and implement this demonstration, assess it's effectiveness, and recommend to the Congress whether these enhanced benefits are necessary for Reserve and National Guard members and their families.

Limitation on fiscal year 2004 outlays for temporary reserve health care programs (sec. 706)

The conferees agree to include a provision that would cap the fiscal year 2004 outlays associated with the temporary reserve health care programs to an amount not to exceed $400,000,000.

TRICARE beneficiary counseling and assistance coordinators for reserve component beneficiaries (sec. 707)

The Senate amendment contained a provision (sec. 702) that would direct the Secretary of Defense to establish TRICARE beneficiary counseling and assistance coordinators for reserve and National Guard service members and their families.

The House bill contained no similar provision.

The House recedes.

Given the extensive use of the National Guard and reserve forces in recent operations, including Afghanistan and now Iraq, it is critical that reserve component service members and their families have access to a comprehensive benefit package, including timely access to quality health care. The transition between private sector health plans and the TRICARE program can be confusing and challenging, often at critical times when support is needed the most. Beneficiary counseling and assistance coordinators have proven very successful in assisting service members and their families in using the TRICARE system. The conferees believe that beneficiary counseling and assistance coordinators, trained in the unique challenges that reserve component service members and their families face, could dramatically increase satisfaction with, and access to the military health care system for reserve component service members and their families. The conferees expect that, should the Department of Defense transition to fewer geographic regions with future contract initiatives, sufficient beneficiary counseling and assistance coordinators to support the needs of both active and reserve component members would continue to be available.

Eligibility of reserve officers for health care pending orders to active duty following commissioning (sec. 708)

The Senate amendment contained a provision (sec. 708) that would authorize the same health care benefits for newly commissioned reserve officers awaiting orders to active duty as they will have when on active duty.

The House bill contained no similar provision.

The House recedes.

The conferees also remain concerned about the availability of military health care for other categories of reserve members prior to entry on active duty, including recruit candidates in the delayed entry program. The conferees direct the Secretary of Defense to examine and consider actions necessary to address access to health care by all categories of reserve service members. The conferees are eager to receive a related report on health and disability benefits for pre-accession training and education programs that was required by section 546 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) and was due to the Congress on March 1, 2002.

Subtitle B—Other Benefits Improvements

Acceleration of implementation of chiropractic health care for members on active duty (sec. 711)

The House bill contained a provision (sec. 706) that would require the Secretary of Defense to accelerate the implementation of the program, required by section 702 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398), to provide chiropractic health care services and benefits to active duty members by one year.

The Senate amendment contained no similar provision.

The Senate recedes.

Reimbursement of covered beneficiaries for certain travel expenses relating to specialized dental care (sec. 712)

The Senate amendment contained a provision (sec. 709) that would require the Secretary of Defense to reimburse covered beneficiaries for certain travel expenses relating to specialized dental care.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Eligibility for continued health benefits coverage extended to certain members of uniformed services (sec. 713)

The conferees agree to include a provision that would authorize members and dependents of members of uniformed services, including the Commissioned Corps of the Public Health Service and National Oceanic and Atmospheric Administration who are TRICARE beneficiaries, to be eligible for the premium based temporary health care program currently available to members of the armed forces.

Authority for designated providers to enroll covered beneficiaries with other primary health insurance coverage (sec. 714)

The Senate amendment contained a provision (sec. 706) that would eliminate the current legislative restriction on designated providers, as defined in section 724(d) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201), enrolling otherwise eligible beneficiaries who have other health insurance in U.S. Family Health Plans ("covered beneficiaries").

The House bill contained no similar provision.

The House recedes with an amendment that would allow designated providers to market services to, and enroll covered beneficiaries. However, for fiscal years beginning after September 30, 2003, the number of covered beneficiaries who are newly enrolled by a designated provider may not exceed 10 percent of the excess (if any) of the number of enrollees in managed care plans offered by designated providers of the first day of such fiscal year over the number of such enrollees as of the first day of the immediately preceding fiscal year.

The conferees direct the Secretary of Defense to prescribe policies and modify contracts, as the Secretary considers appropriate, to ensure that: (1) designated providers submit to the Secretary information on the number of enrollees of the provider who have other primary health insurance coverage; (2) a system is established to ensure effective Department of Defense oversight of and designated compliance with the 10 percent limit established by this provision; and (3) the Department's reimbursement rate to the designated providers for covered beneficiaries takes into account amounts for health care provided to the designated providers by other health insurance providers.

Subtitle C—Planning, Programming, and Management

Permanent extension of authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities (sec. 721)

The House bill contained a provision (sec. 703) that would authorize the Secretary of Defense to enter into personal services contracts to carry out health care responsibilities.

The Senate amendment contained a similar provision (sec. 703).

The Senate recedes.

Department of Defense Medicare-eligible retiree health care fund valuations and contributions (sec. 722)

The House bill contained a provision (sec. 701) that would give the Secretary of Defense increased flexibility in calculating the normal cost contributions to the Department of Defense Medicare-Eligible Retiree Health Care Fund for any uniformed service participating separately from the other participating uniformed services if the Secretary determines that a more accurate and appropriate contribution rate would be achieved by doing so.

The Senate amendment contained a similar provision (sec. 704).

The House recedes with a technical amendment.

Surveys on continued viability of TRICARE Standard (sec. 723)

The Senate amendment contained a provision (sec. 705) that would require the Secretary of Defense to survey and determine health care provider acceptance of the TRICARE Standard benefit, and to designate a senior official to take the actions necessary to achieve and maintain adequate levels of provider participation in the TRICARE Standard program. The provision would also direct the Comptroller General to review processes and procedures to ensure the Department of Defense is providing ready access to the TRICARE Standard program.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Plan for providing health coverage information to members, former members, and dependents eligible for certain health benefits (sec. 724)

The House bill contained a provision (sec. 704) that would require the Secretary of Defense to develop a plan to provide TRICARE Standard beneficiaries information concerning health care coverage, ensure assistance to beneficiaries in locating TRICARE-authorized providers, and institute an approach to assessing and recruiting TRICARE Standard providers.

The Senate amendment contained no similar provision.

The Senate recedes.

An active outreach program to assist beneficiaries and health care providers in their participation in the TRICARE Standard program is critical to improving satisfaction with the TRICARE Standard program. The conferees expect that the Department should focus significant effort on areas with high concentrations of reserve component personnel.

Transfer of certain members from pharmacy and therapeutics committee to uniform formulary beneficiary advisory panel under the pharmacy benefits program (sec. 725)

The House bill contained a provision (sec. 702) that would realign the membership of the Pharmacy and Therapeutics Committee and the Uniform Beneficiary Advisory Panel to improve the ability of both bodies to meet their defined roles.

The Senate amendment contained no similar provision.

The Senate recedes.

Working group on military health care for persons reliant on health care facilities at military installations to be closed or realigned (sec. 726)

The House bill contained a provision (sec. 705) that would require the Secretary of Defense to establish a working group to provide input to the Secretary on the provision of health care to persons in the United States and overseas who rely on military health care facilities on installations that are selected for closure or realignment.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would provide for a termination date.

The conferees believe that the working group that assessed health care needs for previous base realignment and closure initiatives was of great value and feel that it would be beneficial to move forward early in the process of the next base realignment and closure round to assess the health care needs of all potentially impacted beneficiaries through the establishment of this group. It is not the intent of the conferees to change the status or access priority of any category of beneficiaries, either in the United States or overseas, through this review.

Joint program for development and evaluation of integrated healing care practices for members of the armed forces and veterans (sec. 727)

The Senate amendment contained a provision (sec. 707(d)) that would authorize the Secretary of Defense and the Secretary of Veterans Affairs to conduct a program to develop and evaluate integrated healing care practices for members of the armed forces and veterans.

The House bill contained no similar provision.

The House recedes with a technical amendment.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Acquisition Policy and Management

Consolidation of contract requirements (sec. 801)

The Senate amendment contained a provision (sec. 866) that would require that, prior to the consolidation of Department of Defense contract requirements in excess of $5.0 million, a determination be made that the benefits of that acquisition strategy substantially exceed the benefits of alternative contracting approaches that would involve a lesser degree of consolidation.

The House bill contained no similar provision.

The House recedes with a clarifying amendment to establish an implementation date.

Quality control in procurement of aviation critical safety items and related services (sec. 802)

The Senate amendment contained a provision (sec. 805) that would require the establishment of a policy for quality control in the procurement of critical aircraft spare parts.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to prescribe in regulations a quality control policy for the procurement of aviation critical safety items and the procurement of modifications, repair, and overhaul of these items. An approved source may include a dealer, manufacturer, repair or overhaul facility, broker, or distributor who provides aviation critical safety items to the Department of Defense.

Federal support for enhancement of State and local anti-terrorism response capabilities (sec. 803)

The Senate amendment contained a provision (sec. 852) that would require the establishment of a program where state and local governments could buy anti-terrorism technology solutions from Federal Government contracts and, additionally, would authorize grants to local fire departments to hire personnel.

The House bill contained no similar provision.

The House recedes with an amendment that would split the provision into two sections. The amendment would require the Administrator of the Office of Federal Procurement Policy to establish a program under which states and local governments could procure anti-terrorism technologies or services through contracts entered into by the Department of Defense (DOD) or the Department of Homeland Security (DHS). Under the direction of the Administrator of the Office of Federal Procurement Policy, DOD, and DHS would be authorized to award contracts using the same procedures as the multiple awards schedule program of the General Services Administration. The issue of the establishment of a grant program to assist local fire departments to hire personnel is addressed elsewhere in the conference report.

Special temporary contract closeout authority (sec. 804)

The Senate amendment contained a provision (sec. 802) that would allow the Secretary of Defense to settle the financial accounts for contracts executed prior to September 30, 1996, that have unreconciled balances of less than $100,000. This provision would give the Secretary of Defense three fiscal years to execute this authority.

The House bill contained no similar provision.

The House recedes.

Competitive award of contracts for reconstruction activities in Iraq (sec. 805)

The Senate amendment contained a provision (sec. 1209) that would require the Department of Defense to conduct a full and open competition for performing work needed for the reconstruction of the Iraqi oil industry and the Secretary of Defense to report to Congress until such time a competitive contract has been awarded.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the number of reports required by the provision. The conferees note that section 2304a(d)(3) of title 10, United States Code, and section 253h(d) title 41, United States Code, establish a statutory preference for the award of separate task order or delivery order contracts for the same or similar services or property to two or more sources to facilitate competition for individual task orders and delivery orders. The conferees encourage the Department of Defense and the Coalition Provisional Authority to utilize multiple task order and delivery order contracts to facilitate competition for task orders and delivery orders for Iraqi reconstruction to the maximum extent practicable.

Subtitle B—United States Defense Industrial Base Provisions

Consistency with United States obligations under international agreements (sec. 811)

The conferees agree to include a provision that would require that no provision of subtitle B of this act shall apply if the Secretary of Defense, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of State, determines that it is inconsistent with international agreements.

Assessment of United States defense industrial base capabilities (sec. 812)

The House bill contained a provision (sec. 811) that would direct the Secretary of Defense and the secretaries of each military department to establish a program to assess the ability of the United States industrial base to produce military systems necessary to support national security requirements.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would modify the provision's reporting requirements.

Identification of essential items: military system breakout list (sec. 813)

The House bill contained a provision (sec. 812) that would direct the Secretary of Defense to identify and list all items and components of military systems which are essential and critical to the U.S. industrial base. The Secretary of Defense would be required to submit an annual report to the committees on Armed Services of the Senate and the House of Representatives that would compile the lists required under this section, including a list of items and components that are manufactured outside the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that existing data sources be used to meet the requirements of this provision and a Federally Funded Research and Development Center conduct a study to support the Secretary of Defense in developing common definitions and recommending which items and components of military systems that are deemed essential.

Production capabilities improvement for certain critical items using Defense Industrial Base Capabilities Fund (sec. 814)

The House bill contained a provision (sec. 814) that would establish within the Department of the Treasury, the Defense Industrial Base Capabilities Fund that would be used to develop U.S. capabilities for the production of essential or other important defense items and authorize $100.0 million for the fund in fiscal year 2004.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would delete the $100.0 million authorization.

Elimination of unreliable sources of defense items and components (sec. 821)

The House bill contained a provision (sec. 823) that would require the Secretary of Defense to identify foreign countries that restricted the provision or sale of military goods and services to the United States because of the U.S. policy toward, or military operations in, Iraq after September 12, 2002 and prohibit the Secretary of Defense from procuring any items or components contained in military systems that were manufactured in the identified foreign countries. The Secretary could waive this requirement for an unusual and compelling urgency that would otherwise injure the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense in coordination with the Secretary of State to identify and list those countries that have restricted the provision or sale of military goods or services to the U.S. because of U.S. counter-terrorism or military operations after the date of enactment of this act and to provide for a process whereby the list can be periodically reviewed and countries can be removed from the list.

Incentive program for major defense acquisition programs to use machine tools and other capital assets produced within the United States (sec. 822)

The House bill contained a provision (sec. 826) that would require that within four years the defense contractors fulfilling procurement contractors for major defense acquisition programs shall use only machine tools produced entirely within the United States.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would direct the Secretary of Defense to establish an incentive program for contractors to purchase capital assets manufactured in the United States.

Technical assistance relating to machine tools (sec. 823)

The House bill contained a provision (sec. 827) that would require the Secretary of Defense to collect data identifying all contractors and subcontractors with defense contracts over $5 million that use machine tools to perform the contracts. The section would also require the Secretary to establish a center to assist machine tool companies and firms that use machine tools with understanding government contracting regulations and contracting opportunities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to publish information on resources available to assist machine tool companies and users of machine tools in Government contracting. The Secretary would be required to incorporate into the Department of Defense's science and technology initiatives on manufacturing technology an objective of developing advanced machine tool capabilities.

Study of beryllium industrial base (sec. 824)

The Senate amendment contained a provision (sec. 1025) that would require the Secretary of Defense to conduct a study of the adequacy of the U.S. industrial base to meet the defense requirements of the United States for beryllium.

The House bill contained no similar provision.

The House recedes.

Exceptions to Berry amendment for contingency operations and other urgent situations (sec. 826)

The Senate amendment contained a provision (sec. 831) that would clarify the requirements of section 2533a of title 10, United States Code, to facilitate timely purchases of products needed to support contingency operations and for other circumstances of unusual and compelling urgency when the use of procedures other than competitive procedures have been approved.

The House bill contained no similar provision.

The House recedes with an amendment to clarify that the provision would not apply to the procurement of textiles.

Inapplicability of Berry amendment to procurements of waste and byproducts of cotton and wool fiber for use in the production of propellants and explosives (sec. 827)

The Senate amendment contained a provision (sec. 832) that would eliminate domestic source restrictions for gun cotton lintners used in the production of propellants and explosives.

The House bill contained no similar provision.

The House recedes.

Buy American exception for ball bearings and roller bearings used in foreign products (sec. 828)

The Senate amendment contained a provision (sec. 834) that would amend section 2534(a)(5) of title 10, United States Code, which places limitations on the procurement of ball bearings and roller bearings other than those produced in the national technology and industrial base, by creating an exemption for ball bearings and roller bearings used in an end product or component of non-domestic origin.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Defense Acquisition and Support Workforce Flexibility

Subtitle C—defense acquisition and support workforce (secs. 831–836)

The Senate amendment contained a provision (sec. 841) that would amend the Defense Acquisition Workforce Improvement Act (DAWIA) to give the Secretary of Defense greater flexibility in managing the acquisition and support workforce. Specifically, the provision would give the Secretary the flexibility to establish different experience, educational, and tenure requirements for acquisition positions; require the establishment of a single acquisition corps; and streamline obsolete and outdated provisions of DAWIA.

The House bill contained no similar provision.

The House recedes with an amendment to split the provision into several sections.

Subtitle D—Amendments to General Contracting Authorities, Procedures, and Limitations

Additional authorities relating to obtaining personal services (sec. 841)

The House bill contained a provision (sec. 805) that would authorize the Secretary of Defense to award certain personal service contracts without application of section 3109 of title 5, United States Code.

The Senate amendment contained a similar provision (sec. 813).

The Senate recedes with an amendment that would authorize the Secretary of Defense to enter into personal services contracts for urgent or unique services that would not be practicable for the Department to obtain by other means: (1) the overseas activities and programs of the Department of Defense (DOD); (2) elements of the DOD within the intelligence community or counter-intelligence community; and (3) the mission of the U.S. Special Operations Command.

Elimination of certain subcontract notification requirements (sec. 842)

The House bill contained a provision (sec. 802) that would amend section 2306 of title 10, United States Code, by eliminating the requirement that contractors with a cost contract notify the agency before awarding a cost-plus-fixed-fee or a fixed price subcontract greater than the simplified acquisition threshold or five percent of the estimated cost of the prime contract. The requirement would no longer apply in those instances where the Secretary of Defense approves the contractor's purchasing system.

The Senate amendment contained no similar provision.

The Senate recedes.

Multiyear task and delivery order contracts (sec. 843)

The House bill contained a provision (sec. 804) that would amend section 811 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) in order to clarify the period of time for which task and delivery order contracts can be awarded.

The Senate amendment contained a similar provision (sec. 863).

The House recedes with an amendment that would amend section 2304a of title 10, United States Code, to limit to five years the base period of time (not including options) for which task and delivery order contracts may be awarded.

Elimination of requirement to furnish written assurances of technical data conformity (sec. 844)

The House bill contained a provision (sec. 803) that would eliminate the requirement for contractors providing technical data to the government to furnish written assurances that the technical data is complete, accurate, and satisfies the requirements of the contract.

The Senate amendment contained an identical provision (sec. 864).

The conference agreement includes this provision.

Access to information relevant to items deployed under rapid acquisition procedures (sec. 845)

The House bill contained a provision (sec. 212) that would amend section 196(b)(1) of title 10, United States Code, to provide that, in addition to a commissioned officer of the armed forces serving on active duty, the Secretary of Defense may also consider for possible selection as Director of the Department of Defense Test Resource Center a senior civilian official or employee of the Department of Defense who has substantial experience in the field of test and evaluation.

The Senate amendment contained a similar provision (sec. 862). The Senate provision would also clarify that access to records and data by the Director of Operational Test and Evaluation (DOT&E) would include relevant operational records and data for systems that are deployed prior to the completion of the operational test and evaluation.

The House recedes with an amendment that would clarify DOT&E access to records and data on deployed systems. The balance of the issues addressed the House bill and the Senate bill are addressed elsewhere in this conference report.

Applicability of requirement for reports on maturity of technology at initiation of major defense acquisition programs (sec. 846)

The Senate amendment contained a provision (sec. 823) that would make a technical change to a reporting requirement required under section 804(a) of the National Defense Authorization Act for fiscal year 2002 (Public Law 107–107), to conform to changes made in the Department of Defense's acquisition regulations and instructions.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Certain weapons-related prototype projects (sec. 847)

The House bill contained a provision (sec. 801) that would extend for four years the other transaction prototype authority under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

The Senate amendment contained a provision (sec. 821) that would: (1) extend for three years the other transaction prototype authority under section 845 of the National Defense Authorization Act for Fiscal Year 1994; (2) include a clarification that other transaction prototype authority can be used for prototype projects related to fielded systems; and (3) establish a three-year pilot program to ease the transition of nontraditional defense contractors from prototype transactions to standard procurement contracts.

The House recedes with an amendment that would include the authorizations in the Senate provision and extend for four years the other transaction prototype authority under section 845 of the National Defense Authorization Act for Fiscal Year 1994.

Limited acquisition authority for Commander of United States Joint Forces Command (sec. 848)

The Senate amendment contained a provision (sec. 861) that would give the Commander, U.S. Joint Forces Command (JFCOM), the authority to acquire systems with research, development, test and evaluation expenditure levels up to $10.0 million or procurement expenditure levels up to $50.0 million for the purpose of facilitating joint operations or enhancing interoperability.

The House bill contained no similar provision.

The House recedes with an amendment that would give the Secretary of Defense the discretion for three years to give the Commander, JFCOM limited acquisition authority and require the Comptroller General to report on the implementation of this section two years after the date of enactment of this Act.

Subtitle E—Acquisition-Related Reports and Other Matters

Report on contract payments to small businesses (sec. 851)

The House bill contained a provision (sec. 806) that would require the Secretary of Defense to evaluate provisions of law and regulations relating to the prompt payment of amounts due small business contractors under contracts with the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Comptroller General of the United States to review the timeliness of contract payments the Department of Defense made to small businesses during fiscal years 2001 and 2002.

Contracting with employers of persons with disabilities (sec. 852)

The Senate amendment contained a provision (sec. 368) that would provide for the continuation and completion of existing contracts (including any options) awarded to the blind and severely disabled for the operation of military troop dining facilities, military mess halls, and other similar military dining facilities. The Senate provision would also provide for a pilot demonstration project for contractors employing persons with disabilities.

The House bill contained no similar provision.

The House recedes with an amendment to split the provision into two sections. The pilot demonstration project is addressed elsewhere in this conference report.

Demonstration project for contractors employing persons with disabilities (sec. 853)

The Senate amendment contained a provision (sec. 368) that would provide for two pilot demonstration projects for contractors employing persons with disabilities. The Senate provision would also provide for the continuation and completion of existing contracts (including any options) awarded to the blind and severely disabled for the operation of military troop dining facilities, military mess halls, and other similar military dining facilities.

The House bill contained no similar provision.

The House recedes with an amendment to: (1) split the provision into two sections; (2) authorize a demonstration project by entering into one or more contracts with an eligible contractor for the purpose of providing defense contracting opportunities for severely disabled individuals; and (3) remove some of the limitations of the pilot program to promote greater participation. The conferees intent is to provide defense contracting opportunities for business entities that employ the severely disabled. The conferees believe such opportunities may exist in the purchase of aerospace end items or components and information technology products and services. The continuation and completion of existing contracts (including any options) awarded to the blind and severely disabled for the operation of military troop dining facilities, military mess halls, and other similar military dining facilities is addressed elsewhere in this conference report.

LEGISLATIVE PROVISIONS NOT ADOPTED

Procurement of certain critical items from American sources

The House bill contained a provision (sec. 813) that would require the Secretary of Defense to purchase certain critical items only if they are entirely produced in the United States. The Senate amendment contained no similar provision.

The House recedes.

Domestic source limitation for certain additional items

The House bill contained a provision (sec. 821) that would expand the list of items in 10 U.S.C. 2534 that are required to be procured from a source within the National Technology and Industrial Base (NTIB). The provision would exclude Canada from the definition of the NTIB and limit the conditions under which the Secretary of Defense could waive the domestic source requirements in 10 U.S.C. 2534.

The Senate amendment contained no similar provision.

The House recedes.

Requirements relating to buying commercial items containing specialty metals from American sources

The House bill contained a provision (sec. 822) that would define the requirements by which the Secretary of Defense could procure commercial items containing specialty metals produced outside of the United States upon agreement by contractors to purchase an equivalent amount, plus 10 percent, of those specialty metals from sources within the United States. The provision required specific contractor reporting of annual usage for such specialty metals. The provision also required that domestic sourcing of clothing also include the materials and components thereof.

The Senate amendment contained no similar provision.

The House recedes.

Congressional notification required before exercising exception to requirement to buy specialty metals from American sources

The House bill contained a provision (sec. 824) that would not allow the Secretary of Defense or Secretary of the military department to procure specialty metals under the exception in sec. 822 until the Secretary submits to Congress and publish in the Federal Register notice of the determination made under that section.

The Senate amendment contained no similar provision.

The House recedes.

Repeal of authority for foreign procurement of para-aramid fibers and yarns

The House bill contained a provision (sec. 825) that would repeal section 807 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261), which authorized competition for para-aramid fibers and yarns between foreign and domestic sources in order to avoid a domestic sole source procurement.

The Senate amendment contained no similar provision.

The House recedes.

Buy American enhancement

The House bill contained a provision (sec. 828) that would amend the criteria available to the Secretary of Defense under 10 U.S.C. 2533 in determining whether the application of the Buy American Act (41 U.S.C. 10A) is consistent with the public interest.

The Senate amendment contained no similar provision.

The House recedes.

Requirement relating to purchases by Department of Defense subject to Buy American Act

The House bill contained a provision (sec. 829) that would require that, in any application of the Buy American Act to the Department of Defense, the term "substantially" in section 2 of the Act would mean 65 percent rather than the 50 percent for Federal agencies as provided in current regulations implementing the Act.

The Senate amendment contained no similar provision.

The House recedes.

Definitions

The House bill contained a provision (sec. 831) that would provide a number of definitions related to subtitle B of title VIII of the House bill.

The Senate amendment contained no similar provision.

The House recedes.

Applicability of Clinger-Cohen Act policies and requirements to equipment integral to a weapon or weapon system

The Senate amendment contained a provision (sec. 822) that would clarify responsibility within the Department of Defense (for applying the requirements of the Clinger-Cohen Act, Division D of the National Defense Authorization Act for fiscal year 1996 (Public Law 104–106) to equipment determined by the Secretary of Defense to be an integral part of a weapon or weapon system.

The House bill contained no similar provision.

The Senate recedes.

The conferees believe that section 5141 of the Clinger-Cohen Act provides the Department flexibility to determine which organizations and the degree to which the Department will apply the Act's capital planning and investment control, and performance and results based management provisions to embedded information technology on weapon systems. The conferees direct the Department to review the procedures implementing the Clinger-Cohen Act with respect to embedded systems in order to streamline and eliminate duplicate or unnecessary procedures. If the Department determines that greater statutory flexibility is necessary in the application of the Clinger-Cohen Act to embedded systems, the Secretary of Defense should provide additional justification to Congress prior to submission of the budget for fiscal year 2005.

Waiver authority for domestic source or content requirements

The Senate amendment contained a provision (sec. 833) that would provide the Secretary of Defense the authority to waive the application of statutory domestic source requirements and domestic content requirements for those countries who have signed a Declaration of Principles on defense trade with the United States.

The House bill contained no similar provision.

The Senate recedes.

Application of indemnification authority to state and local government contractors

The Senate amendment contained a provision (sec. 851) that would authorize the executive branch to apply discretionary indemnification authority (50 U.S.C. 1431 et seq.; Public Law 85–804) to authorized Federal Government contracts where state and local governments could buy anti-terrorism technology solutions.

The House bill contained no similar provision.

The Senate recedes.

Definitions

The Senate amendment contained a provision (sec. 853) that would provide a number of definitions related to subtitle F of title VIII of the Senate bill.

The House bill contained no similar provision.

The Senate recedes.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Duties and Functions of Department of Defense Officers

Clarification of responsibility of military departments to support combatant commands (sec. 901)

The House bill contained a provision (sec. 904) that would clarify the responsibility of the military departments of the Department of Defense to fully support the current and future operational requirements of the combatant commands, subject to the authority, direction, and control of the Secretary of Defense.

The Senate amendment contained a similar provision (sec. 901).

The House recedes.

Combatant commander initiative fund (sec. 902)

The Senate amendment contained a provision (sec. 921) that would amend section 166(a) of title 10, United States Code, by establishing an additional category of joint warfighting capabilities to the authorized list of activities for which combatant commander initiative funds can be used. The provision would also amend the limitations currently contained in title 10: allowing up to $15.0 million for procurement of items with a unit cost in excess of $15,000; allowing up to $10.0 million to pay for the expenses of foreign nations participating in joint exercises; and, allowing up to $10.0 million to provide military training and education to military personnel and related civilians of foreign nations.

The House bill contained no similar provision.

The House recedes with an amendment that would limit the amount for procurement of items with unit cost in excess of $15,000 to $10.0 million and limit the amount for military training and education to $5.0 million.

Biennial review of national military strategy by Chairman of the Joint Chiefs of Staff (sec. 903)

The House bill contained a provision (sec. 905) that would require the Chairman of the Joint Chiefs of Staff, in consultation with other members of the Joint Chiefs of Staff and the combatant commanders, to submit a national military strategy, including an assessment of the risk associated with the strategy, no later than February 15, 2004, and every even numbered year thereafter.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees note, with concern, that the Chairman of the Joint Chiefs of Staff had not submitted an annual risk assessment for the last two years, as required by section 153(c) of title 10, United States Code. The conferees consider the annual risk assessment to be an important tool in assessing the adequacy of military capabilities to support the National Security Strategy, expect the Department to comply with this requirement.

Report on changing roles of United States Special Operations Command (sec. 904)

The Senate amendment contained a provision (sec. 923) that would direct the Secretary of Defense to prepare a report on implementation of direction by the Secretary to the U.S. Special Operations Command (SOCOM) to assume an expanded role in the global war on terrorism, and to restructure SOCOM to function as a supported combatant commander for planning and executing operations, as well as a supporting combatant commander.

The House bill contained no similar provision.

The House recedes with an amendment that would require that the discussion of decision making include consideration of the requirement that special operations missions conducted under the command of Commander, SOCOM, as a supported combatant commander be authorized by the President or the Secretary of Defense.

Sense of Congress regarding continuation of mission and functions of Army Peacekeeping Institute (sec. 905)

The House bill contained a provision (sec. 1059) that would express the sense of the Congress that the Secretary of Defense should maintain the functions and missions of the Army Peacekeeping Institute.

The Senate amendment contained no similar provision.

The Senate recedes.

Transfer of personnel investigative functions and related personnel of the Department of Defense (sec. 906)

The Senate amendment contained a provision (sec. 1104) that would authorize the Secretary of Defense, with the consent of the Director of the Office of Personnel Management, to transfer the personnel security investigations functions that are performed by the Defense Security Service of the Department of Defense to the Office of Personnel Management.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to certify to the Committees on Armed Services that such a transfer would meet the following conditions: that the Office of Personnel Management (OPM) has the capability to handle high-priority investigations; that OPM could ensure contract personnel would perform in a timely manner; that appropriate federal employees were available to perform counterintelligence and polygraph activities; that adjudication authority would remain with the Department of Defense (DOD); and that DOD would retain sufficient personnel to improve industry security programs and practices. Following congressional receipt of such certification, a period of 30 days would elapse prior to initiation of any transfer. The provision would also require the Director of OPM, in coordination with the Secretary of Defense, to review functions performed by Defense Security Service personnel and to determine whether any functions are inherently governmental or otherwise inappropriate for performance by contractor personnel.

Defense acquisition workforce freeze for fiscal year 2004 (sec. 907)

The House bill contained a provision (sec. 910) that would require a five percent reduction in the number of defense acquisition and support personnel in the Department of Defense in each of fiscal years 2004 through 2008.

The Senate amendment contained a provision (sec. 842) that would prohibit any reduction in the defense acquisition and support workforce in fiscal years 2004 through 2006.

The Senate recedes with an amendment that would freeze the defense acquisition and support workforce for one year. The number of acquisition and support personnel could vary by no more than one percent up or down, but only for the purpose of exercising normal hiring and firing flexibility during a year. The Secretary of Defense would be permitted to waive this limitation upon a determination that the waiver is necessary to protect a significant national security interest of the United States.

Subtitle B—Space Activities

Coordination of space science and technology activities of the Department of Defense (sec. 911)

The Senate amendment contained a provision (sec. 911) that would provide the Under Secretary of the Air Force oversight authority for space science and technology (S&T) projects. The provision would require the Under Secretary, in consultation with the Director of Defense Research and Engineering (DDR&E), to develop a space S&T strategy, and allow the Department S&T entities to proceed with space S&T projects only with the concurrence of the Under Secretary of the Air Force. The provision would also require the Under Secretary to submit a report on the strategy to the Committees on Armed Services of the Senate and the House of Representatives not later than March 15, 2004, and a review of the strategy and coordination by the Comptroller General.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to develop and implement, through the DDR&E and the Executive Agent for Department of Defense (DOD) Space, a space science and technology strategy. The strategy would be included as part of the National Security Space Plan, that is now required as part of DOD directive 5101.2 dated June 3, 2003. The amendment provides that the strategy would be developed in consultation with the science and technology entities of the DOD, that the strategy would be available for review by the congressional defense committees, and that the strategy and S&T coordination would be reviewed by the Comptroller General.

DOD Directive 5101.2 assigns the role of Executive Agent for DOD Space to the Secretary of the Air Force, to be redelegated to the Under Secretary of the Air Force. The conferees understand that, as the Executive Agent for DOD Space, the Under Secretary of the Air Force functions in a Department-wide capacity. In the exercise of those duties, the conferees understand that DOD directive 5101.1, dated September 3, 2002, provides DOD executive agents with considerable authority. The conferees note that section 4.4 of this directive states that: "Within the scope of assigned responsibilities and functions, the DOD Executive Agent's authority takes precedence over the authority of other DOD Component officials performing related or collateral joint or multi-component support responsibilities and functions." The conferees also note that DOD Directive 5101.2 assigns the Executive Agent for DOD Space, in coordination with the Under Secretary for Acquisition, Technology, and Logistics and the DDR&E, responsibility for assuring that space programs of DOD components, including research efforts, are properly coordinated. This directive also requires the heads of DOD components to ensure the cooperation of their components in that endeavor.

The conferees direct the Executive Agent for Space and the DDR&E to execute their respective responsibilities and authorities contained in DOD directive 5101.1, 5101.2, and this provision to ensure that space S&T activities identified in the space S&T strategy are executed in a manner that is consistent with the strategy and to redirect or alter any of those activities inconsistent with the strategy to ensure their proper coordination.

The conferees recognize that space science and technology efforts have not been well coordinated in the past. The conferees intend to monitor progress in this area carefully and to pursue additional steps if necessary to ensure coordination in the future.

Policy regarding assured access to space for United States national security payloads (sec. 912)

The Senate amendment contained a provision (sec. 913) that would establish as the policy of the United States that the President undertake actions appropriate to ensure that United States has the capacity to launch national security payloads when such payloads are needed in space. These steps would include resources and policy guidance to sustain two launch vehicles or families of launch vehicles capable of delivering national security payloads to space and a robust space launch infrastructure.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

The conferees agree that sustaining two launch vehicles or families of launch vehicles is important to ensuring that the United States can deliver critical national security payloads into orbit. The conferees note that this provision requires that the two launch vehicles or families of launch vehicles have the capability, in combination, to launch all national security payloads.

Pilot program for provision of space surveillance network services to non-United States governmental entities (sec. 913)

The House bill contained a provision (sec. 903) that would authorize the Secretary of Defense to establish a three year pilot program that would allow non-United States government entities to purchase satellite tracking services from assets owned or controlled by the Department of Defense, space surveillance data, and analysis of space surveillance data, if the Secretary of Defense determines that such purchase is in the national security interests of the United States. Sales to foreign entities would also require the approval of the Secretary of State. Funds generated by the provision of these services would be credited to Department of Defense accounts.

The Senate amendment contained a similar provision (sec. 914).

The Senate recedes with an amendment that would authorize the Secretary of Defense to provide satellite tracking services from assets owned or controlled by the Department of Defense, space surveillance data, and analysis of space surveillance data, to non-United States government entities, foreign governments, and foreign and domestic commercial entities, if the Secretary determines that providing such data and services is in the national security interests of the United States. The Secretary could require payment by foreign governments, and domestic and foreign commercial entities to cover the cost of providing the data and services to those entities. Funds so generated would be credited to Department of Defense accounts originally charged to provide the data and services.

Content of biennial global positioning system report (sec. 914)

The Senate amendment contained a provision (sec. 915) that would modify an existing reporting requirement on the operational status and effectiveness of the Global Positioning System (GPS). The House bill contained no similar provision.

The House recedes with a technical amendment.

Report on processes—related space systems (sec. 915)

The House bill contained a provision (sec. 1024) that would require the Secretary of Defense to submit a report to the congressional defense committees on how the United States Strategic Command generates planning and requirements to support U.S. warfighters with space capabilities.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to provide a report to the congressional defense committees no later than March 15, 2004, that assesses the role of the United States Strategic Command in planning and requirements development for space systems, assesses the processes by which space system capabilities are integrated into service training and doctrine, and makes recommendations for improvements in these processes.

Subtitle C—Reports

Redesignation of the National Imagery and Mapping Agency as the National Geospatial-Intelligence Agency (sec. 921)

The House bill contained a provision (sec. 902) that would change the name of the National Imagery and Mapping Agency (NIMA) to the National Geospatial-Intelligence Agency.

The Senate amendment contained a similar provision (sec. 902) that would also introduce, as a matter of law, the term "geospatial intelligence," and would include a requirement for the Director, NIMA, to submit a report on utilization of certain data extraction and exploitation capabilities.

The Senate recedes with an amendment that would define the term "geospatial intelligence," and clarify the original language in the House bill.

The conferees direct the Director, NIMA, to submit a report to the congressional defense committees and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives on the status of efforts by NIMA to incorporate within the Commercial Joint Mapping Tool Kit applications for the rapid extraction and exploitation of three-dimensional geospatial data from reconnaissance imagery. This report shall be submitted no later than 60 days after the date of enactment of this Act.

Protection of operational files of the National Security Agency (sec. 922)

The House bill contained a provision (sec. 1050) that would exempt certain operational files at the National Security Agency (NSA) from the search, review, and disclosure provisions of the Freedom of Information Act, contained in section 552 of title 5, United States Code. This authority parallels the authority currently available to the Central Intelligence Agency, the National Imagery and Mapping Agency, and the National Reconnaissance Office.

The Senate amendment contained a similar provision (sec. 1035) that would also limit the specific offices at the NSA that can qualify for an exemption.

The House recedes with a clarifying amendment.

Integration of Defense intelligence, surveillance, and reconnaissance capabilities (sec. 923)

The Senate amendment contained a provision (sec. 924) that would require the Under Secretary of Defense for Intelligence (USD (I)) to establish an Intelligence, Surveillance, and Reconnaissance (ISR) Integration Council, composed of the senior intelligence officers of the military services, the directors of the defense intelligence agencies, and the Director of Operations, J3, the Joint Staff, to provide a permanent forum for the discussion and arbitration of issues relating to the development and integration of Defense-wide ISR capabilities. The provision would also require the USD (I), in consultation with the Defense ISR council, to develop a comprehensive plan to guide the development, fielding, and integration of Department of Defense ISR capabilities over the next 15 years, to be submitted to the congressional defense and intelligence committees no later than September 30, 2004.

The House bill contained no similar provision.

The House recedes.

Management of National Security Agency modernization program (sec. 924)

The Senate amendment contained a provision (sec. 804) that would transfer acquisition milestone decision authority for major defense acquisition programs at the National Security Agency (NSA) from the Director, NSA, to the Under Secretary of Defense for Acquisition, Technology and Logistics (USD (AT&L)), effective upon enactment of this Act. The provision would also prohibit the USD (AT&L) from returning this authority to the Director, NSA, before October 1, 2006, and then only after the Under Secretary of Defense for Intelligence (USD (I)), in coordination with the Deputy Director of Central Intelligence for Community Management (DDCI (CM)), certifies that the NSA has implemented acquisition management policies, procedures, and practices that are sufficient to ensure that acquisitions by the NSA are conducted in a manner consistent with sound, efficient acquisition practices.

The House bill had no similar provision.

The House recedes with an amendment that would allow the USD (AT&L) to delegate milestone decision authority back to the Director, NSA, after September 30, 2005, provided conditions established in the provision are met.

Modification of obligated service requirements under National Security Education Program (sec. 925)

The Senate amendment contained a provision (sec. 1036) that would transfer administration of the National Security Education Program (NSEP) from the Department of Defense (DOD) to the Central Intelligence Agency.

The House bill contained no similar provision.

The House recedes with an amendment that would retain the NSEP within the DOD, but would amend section 1902 of title 50, United States Code, to modify the service commitment associated with participation in the program. Under current law, participants in the NSEP program may perform alternative service in the civilian education community if they are unable to find suitable employment in a national security position within a year of finishing their participation in the NSEP. The conferees strongly feel that participants in the NSEP should fulfill a service commitment in a position in the DOD or in a position in the Intelligence Community certified by the Secretary of Defense as appropriate to utilize the unique language and regional expertise acquired by NSEP participants.

Authority to provide living quarters for certain students in cooperative and summer education programs of the National Security Agency (sec. 926)

The House bill contained a provision (sec. 1046) that would amend section 2195 of title 10, United States Code, to allow the National Security Agency to provide and pay for living quarters for qualifying students who are employed at the National Security Agency under a Student Educational Employment Program or a similar cooperative or summer education program.

The Senate amendment contained a similar provision (sec. 1034).

The Senate recedes.

Commercial imagery industrial base (sec. 927)

The Senate amendment contained a provision (sec. 312) that would require that: (1) at least ninety percent of the funds authorized for commercial imagery be available for the acquisition of commercial space imagery or to support the development of next generation commercial imagery satellites; and (2) the Secretary of Defense, in consultation with the Director of Central Intelligence, submit a report to the Committees on Armed Services of the Senate and the House of Representatives by March 1, 2004, on how the Secretary will implement the President's policy on commercial remote sensing.

The House bill contained no similar provision.

The House recedes with an amendment that would require that at least ninety percent of the funds authorized for commercial imagery be available for the acquisition of commercial space imagery, to support the development of next generation commercial imagery satellites, and to support unique infrastructure improvements that meet unique requirements related to commercial space imagery. The amendment would also allow the Secretary of Defense, in consultation with the Director of Central Intelligence, to waive the requirement that ninety percent of these funds be available for the designated purposes if he determines that such a waiver is in the national security interest. If a waiver is issued, the provision would require that the Secretary provide a report that includes the reasons for the waiver and a plan on how commercial imagery funds would be spent. The amendment would also require the Secretary of Defense, in consultation with the Director of Central Intelligence, to submit a report by March 1, 2004, on how the Secretary will implement the President's policy on commercial remote sensing. Reports required in the provision are to be submitted to the congressional defense committees, the Select Intelligence Committee of the Senate, and the Permanent Select Intelligence Committee of the House of Representatives.

Subtitle D—Other Matters

Authority for Asia-Pacific Center for Security Studies to accept gifts and donations (sec. 931)

The House bill contained a provision (sec. 906) that would expand the authority of the Asia-Pacific Center for Security Studies to accept gifts and donations from domestic sources as well as foreign sources.

The Senate amendment contained a similar provision.

The Senate recedes with an amendment that would preclude authority for the Asia-Pacific Center to accept gifts and donations from a department or agency of the United States. The conferees agreed that such authority would represent an undesirable exception to the Economy Act (31 U.S.C. 1535).

Repeal of rotating chairmanship of Economic Adjustment Committee (sec. 932)

The House bill contained a provision (sec. 907) that would amend section 4004(b) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 to authorize the Secretary of Defense to serve as the permanent Chairman of the Economic Adjustment Committee.

The Senate amendment contained no similar provision.

The Senate recedes.

Extension of certain authorities applicable to the Pentagon Reservation to include a designated Pentagon continuity-of-government location (sec. 933)

The House bill contained a provision (sec. 909) that would expand the definition of the Pentagon Reservation to include property at the Raven Rock Mountain Complex, and other parcels of land within a 100 mile radius of the District of Columbia, to the extent such property may be utilized as a facility relating to continuity of operations and continuity of government.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that eliminates the 100 mile radius and adds only the land and facilities at Raven Rock Mountain Complex to the Pentagon Reservation and to the National Capital Region.

Legislative Provisions Not Adopted

Standards of conduct for members of the Defense Policy Board and the Defense Science Board

The Senate amendment contained a provision (sec. 903) that would require the Secretary of Defense to promulgate standards of conduct for members of the Defense Policy Board (DPB) and the Defense Science Board (DSB).

The House bill contained no similar provision.

The Senate recedes.

The conferees direct the Secretary to review existing standards of conduct applicable to members of the DPB and the DSB and report to the congressional defense committees not later than six months after the date of enactment of this Act on the adequacy of such standards of conduct to ensure public confidence in the DPB and the DSB.

Change in title of Secretary of the Navy to Secretary of the Navy and Marine Corps

The House bill contained a provision (sec. 901) that would redesignate the title of the Secretary of the Navy to the Secretary of the Navy and Marine Corps.

The Senate amended contained no similar provision.

The House recedes.

The conferees continue to view the proposal to change the title of the Secretary of the Navy to Secretary of the Navy and Marine Corps as one deserving of careful study and consideration. Respect for naval traditions that can be traced directly to the Founding Fathers and the origins of the Republic have inherent value in linking the sailors and Marines of today to those of the past and fostering esprit de corps and a sense of unity, purpose, and pride.

The Department of the Navy was established and named on April 30, 1798, by an act of Congress that stated in part: ". . . there shall be an Executive Department under the denomination of the Department of the Navy, the chief officer of which shall be called the Secretary of the Navy, whose duty it shall be to execute such orders as he shall receive from the President of the United States, relative to the procurement of naval stores and materials, and the construction, armament, equipment, and employment of vessels of war, as well as other matters connected with the naval establishment of the United States." This designation by Congress of the Department of the Navy and the Secretary of the Navy is noteworthy. Similarly, the decision by the Congress in 1834 to place the U.S. Marine Corps within the Department of the Navy without change to the denomination of the Department or its chief officer has precedential value. Nonetheless, proponents for the new title of Secretary of the Navy and Marine Corps state that such a change will more accurately signify the dual duties of the Secretary and recognize the equal status and contributions of the U.S. Navy and U.S. Marine Corps.

The conferees welcome debate on this proposal and urge congressional hearings and public debate to create a record that would form the basis for a more informed decision on this issue.

Establishment of the National Guard of the Northern Mariana Islands

The Senate amendment contained a provision (sec. 925) that would authorize the Secretary of Defense to cooperate with the Governor of the Northern Mariana Islands to establish the National Guard of the Northern Mariana Islands and integrate into the Army National Guard and Air National Guard of the United States the members of the National Guard of the Northern Mariana Islands who are granted federal recognition under title 32, United States Code.

The House bill contained no similar provision.

The Senate recedes.

Required force structure

The House bill contained a provision (sec. 911) that would establish force structure floors for the U.S. Army, Navy and Air Force at the levels outlined in the 2001 Quadrennial Defense Review.

The Senate amendment contained no similar provision.

The House recedes.

The conferees support the principle that the current force structure, as reflected in the 2001 Quadrennial Defense Review, is the baseline from which the Department of Defense will develop a transformed force that has the capabilities to meet current and future military requirements. The conferees expect that any planned transformation of that base force will sustain and improve U.S. military advantages, meet critical operational goals, and ensure success in future military operations.

The conferees note that the terrorist attacks of September 11, 2001, the Global War on Terrorism, continuing operations in Iraq and Afghanistan, as well as enduring and emerging military commitments elsewhere have significantly altered the strategic landscape facing the United States, and the resulting operational tempo has placed considerable stress on both the active and reserve components of the U.S. Armed Forces. The Department of Defense has undertaken a series of studies to fully understand the ramifications of this changing security environment. Given the fluid nature of today's global security requirements and current operational commitments, the conferees believe that it would be premature for the Department to reduce or significantly alter the current military force structure until on-going studies are complete, and their findings thoroughly examined, in consultation with Congress.

Title X—General Provisions

Items of Special Interest

Internet access in Iraq

The conferees understand that living conditions for members of the U.S. Armed Forces in Iraq are austere, but steadily improving. Nonetheless, communications with loved ones back home remain difficult, with troops enduring long lines to call home and with internet access not available in many locations. The conferees are aware of efforts by the Department of Defense to increase internet access, as well as initiatives taken by some local commanders, including the 101st Airborne Division in Mosul, to encourage local Iraqi entrepreneurs to establish internet cafes that can be used by U.S. troops.

The conferees applaud these initiatives that have the potential both to help the local economy and to improve the morale of U.S. troops. The conferees encourage the Secretary of Defense to expand these internet access initiatives to as many U.S. troop locations in Iraq as possible, consistent with force protection considerations.

Security of sensitive software

The conferees believe that comprehensive information assurance programs must consider and employ defenses against a variety of sophisticated threats, well beyond the attacks commonly experienced by the general public on the internet. The conferees support the use of commercial off-the-shelf (COTS) software, but believe the Department of Defense (DOD) must ensure that the recent emphasis on procurement of COTS software will not open vulnerabilities in sensitive DOD command, control, communications and intelligence software.

The conferees believe that the Department must be more proactive in protecting the Department's robust information systems that are critical enablers of U.S military combat power. In that regard, the conferees are concerned that the Department has not implemented an overall architecture or blueprint for all of its information technology (IT) systems. This architecture must provide information assurance and protection for all DOD IT assets, including, but not limited to: unauthorized modifications to code in mission critical software; the insertion of malicious code into mission critical software, and reverse engineering of proprietary intellectual property residing in mission critical software.

The conferees are aware of the existence of tamper-resistant security software that may be effective to defend against these threats by the insertion of security related functionality directly into the binary level of software code. The conferees are also aware that other potential solutions may also be under development. The conferees direct the Secretary of Defense to assess the utility of tamper-resistant security software and other innovative software security tools in protecting critical DOD command, control, communications and intelligence software and to incorporate such protections, as appropriate, into the Department's information assurance programs.

Legislative Provisions Adopted

Subtitle A—Financial Matters

Transfer Authority (sec. 1001)

The House bill contained a provision (sec. 1001) that would provide $2.5 billion in transfer authority among accounts in Division A of this Act for fiscal year 2004.

The Senate amendment contained a similar provision (sec. 1001) that would provide $3.0 billion in transfer authority.

The Senate recedes.

United States contribution to NATO common-funded budgets in fiscal year 2004 (sec. 1002)

The Senate amendment contained a provision (sec. 1002) that would authorize the U.S. contribution to NATO common-funded budgets for fiscal year 2004, including the use of unexpended balances. The resolution of ratification for the Protocol to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary and the Czech Republic contained a provision (section 3(2)(c)(ii)) requiring a specific authorization for U.S. payments to the common-funded budgets of NATO for each fiscal year, beginning in fiscal year 1989, that payments exceed the fiscal year 1998 total.

The House bill contained no similar provision.

The House recedes.

Authorization of supplemental appropriations for fiscal year 2003 (sec. 1003)

The House bill contained a provision (sec. 1002) that would authorize supplemental appropriations for the Department of Defense (DOD) and the national security activities of the Department of Energy (DOE) for fiscal year 2003 contained in the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11). The House bill would also authorize supplemental appropriations for the DOD and the national security activities of the DOE for fiscal year 2003 in any act enacted after May 23,2003.

The Senate amendment contained a provision (sec. 1003) that would authorize supplemental appropriations for the DOD and the national security activities of the DOE contained in Public Law 108–11 and would require a report on all DOD transfers from the Iraqi Freedom Fund or any similar account.

The House recedes.

Authorization of supplemental appropriations for fiscal year 2004 (sec. 1004)

The conferees agree to include a provision (sec. 1004) that would authorize supplemental appropriations for the Department of Defense for fiscal year 2004 contained in the Emergency Supplemental Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004.

Reestablishment of authority for short-term leases of real or personal property across fiscal years (sec. 1005)

The House bill contained a provision (sec. 1004) that would restore the authority of the Department of Defense to enter into 12–month leases at any time during a fiscal year.

The Senate amendment contained a similar provision (sec. 865).

The House recedes with an amendment that would establish an effective date for this authority.

Reimbursement rate for certain airlift services provided to Department of State (sec. 1006)

The Senate amendment contained a provision (sec. 343 (a), (b)) that would authorize the Secretary of Defense to charge the Department of State the same reimbursement rate for airlift services as charged to other Department of Defense components.

The House bill contained no similar provision.

The House recedes with technical amendments.

Limitation on payment of facilities charges assessed by Department of State (sec. 1007)

The Senate amendment contained a provision (sec. 343(c)) that would permit the Secretary of Defense to offset, on an annual basis, any fees charged to the Department of Defense by the Department of State for the maintenance, upgrade or construction of U.S. diplomatic facilities by the total amount of the unreimbursed costs incurred by the Department of Defense for providing goods and services to the Department of State during that year.

The House bill contained no similar provision.

The House recedes with a technical amendment.

It is the intent of the conferees that the offset authority granted by this provision to the Secretary of Defense would apply only if the administration proceeds with the establishment of a capital cost sharing program or any other funding mechanism that would permit the Secretary of State to collect fees from other government agencies and to use such fees to upgrade and construct U.S. diplomatic facilities. While the conferees recognize the need to upgrade and construct new U.S. diplomatic facilities, the conferees oppose the use of a capital cost sharing program as a means of accomplishing this goal. As currently described by the administration, the capital cost sharing program neither takes into account the goods and services that other departments and agencies provide to the Department of State at no cost, nor does the program give other departments and agencies, or the congressional committees that oversee their budgets, a statutory role in determining how funds authorized and appropriated for those departments and agencies will be spent by the Department of State. The conferees urge the administration to request sufficient funds in future year budget requests to provide for the costs of upgrading or constructing U.S. diplomatic facilities.

Use of the Defense Modernization Account for life cycle cost reduction initiatives (sec. 1008)

The Senate amendment contained a provision (sec. 362) that would extend the authorization for the Defense Modernization Account and amend the existing authority to allow the Department to program funds into this account to provide start-up funds for projects to improve the life cycle cost of new or existing systems.

The House bill contained no similar provision.

The House recedes.

Provisions relating to defense travel cards (sec. 1009)

The Senate amendment contained a series of provisions (sections 1011–1013) that addressed the management of defense travel cards. Section 1011 would make mandatory the authority in section 2784a(a) of title 10, United State Code, to require direct payment to the issuer of a Department of Defense (DOD) travel card for official travel or transportation expenses charged on the travel card by a DOD employee or member. Section 1012 would require the Secretary of Defense to establish a program for evaluating the creditworthiness of individuals prior to the issuance of a DOD travel card. Section 1013 would require the Secretary of Defense to prescribe guidelines and procedures for making determinations regarding disciplinary actions against DOD personnel for improper, fraudulent, or abusive use of defense travel cards by such personnel.

The House bill contained no similar provisions.

The House recedes with an amendment that would combine these two provisions into one provision. The amendment would also authorize the Secretary of Defense to waive the requirement for direct payment where appropriate and require the Secretary to issue regulations on taking disciplinary action and assessing penalties for improper, fraudulent, or abusive use of the travel card to ensure consistency with the penalties for improper, fraudulent, or abusive use of the purchase card.

Subtitle B—Naval Vessels and Shipyards

Repeal of requirement regarding preservation of surge capability for naval surface combatants (sec. 1011)

The House bill contained a provision (sec. 1011) that would repeal subsection (b) of section 7296 of title 10, United States Code, and would include associated clerical amendments. This provision would repeal the requirement that the Secretary of the Navy maintain on the Naval Register a sufficient number of combatant surface vessels to enable the Navy to regain a force of at least 116 combatant surface vessels within 120 days after the date of any decision by the President to increase the number of surface combatant vessels.

The Senate amendment contained no similar provision.

The Senate recedes.

Enhancement of authority relating to use for experimental purposes of vessels stricken from the Naval Vessel Register (sec. 1012)

The House bill contained a provision (sec. 1012) that would amend section 7306a of title 10, United States Code, to authorize the Secretary of the Navy to retain proceeds from the sale of material and equipment stripped from vessels stricken from the Naval Vessel Register to pay for the stripping and environmental remediation of other vessels used for fleet training exercises.

The Senate amendment contained a similar provision (sec. 327).

The House recedes with a technical amendment.

Transfer of vessels stricken from the Naval Vessel Register for use as artificial reefs (sec. 1013)

The House bill contained a provision (sec. 1013) that would authorize the Secretary of the Navy to transfer vessels stricken from the Naval Vessel Register to States or other political entities of the United States for use as artificial reefs.

The Senate amendment contained a similar provision (sec. 328).

The House recedes with a technical amendment.

The conferees agree that there is a need to authorize the Secretary of the Navy to utilize the full range of ship disposal options in order to ensure the availability of cost effective and efficient methods. In addition, coastal communities can benefit from these efforts because sunken vessels build reefs that prevent beach erosion and support marine life, commercial and sport fishing, and recreational diving.

Priority for Title XI assistance (sec. 1014)

The House bill contained a provision (sec. 1014) that would establish a pilot program which would enable the Secretary of the Navy to guarantee loans for the construction of two qualified sealift ships built in a United States shipyard and for the facilities or equipment associated with the marine operations of those ships. The provision would authorize $40.0 million to be appropriated to the Secretary to guarantee a loan for these ships, exercising authorities that are substantially the same as the authorities available to the Secretary of Transportation under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would amend section 1103 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1273) by striking the word "priority" in subsection (i) (as added by section 3544 of this act, and inserting "priority for National Defense Tank Vessels" and adding at the end a section that would require the Secretary of Transportation to give priority for loan guarantees to vessels that the Secretary of Defense deems suitable for service as a naval auxiliary in time of war or national emergency and meets a shortfall in sealift capacity or capability.

The provision would also require the Secretary of Transportation and the Secretary of Defense to submit a report, within 180 days of enactment of the Act, to the Senate Committee on Armed Services, the Senate Committee on Commerce, Science, and Transportation, and the House Committee on Armed Services that defines the criteria to be used by the Secretary of Defense in determining the suitability of a vessel as a naval auxiliary and how it meets a sealift shortfall, and the procedure by which the Secretary of Defense will review applications.

The conferees expect that the Department of Defense review would be timely so as not to delay the application process, review, and award of guarantees. The conferees further expect that all applications, regardless of priority established under this section, will meet all program requirements, including financial commitment and economic soundness, prior to the awarding of a commitment to guarantee or a guarantee.

Support for transfers of decommissioned vessels and shipboard equipment (sec. 1015)

The Senate amendment contained a provision (sec. 366) that would enable the Navy to provide assistance to certain foreign, State and municipal governments, organizations, and other entities in support of certain ship and shipboard equipment transfers. The provision would only apply to transfers made in accordance with sections 2572, 7306, 7307, or 7545 of title 10, United States Code, and would also authorize the Navy to be reimbursed for such assistance.

The House bill contained no similar provision.

The House recedes.

Advanced shipbuilding enterprise (sec. 1016)

The Senate amendment contained a provision (sec. 1040) that would express the sense of the Senate that the advanced shipbuilding enterprise of the national shipbuilding research program is supported, and that the Secretary of Defense and the Secretary of the Navy are encouraged to continue funding for the program.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the advanced shipbuilding enterprise of the national shipbuilding research program is supported, and that the Secretary of Defense and the Secretary of the Navy are encouraged to continue funding for the program.

Report on Navy plans for basing aircraft carriers (sec. 1017)

The Committee on Armed Services of the Senate, in the Senate report to accompany the bill S. 2514 (S.R. 107-151), directed the Chief of Naval Operations to submit a report on Navy plans for basing aircraft carriers through 2015 to the congressional defense committees not later than 180 days after enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314).

The conferees note that the required report has not been delivered.

Neither the House bill nor the Senate amendment contained any provisions relating to the report on the Navy's plan for basing aircraft carriers.

The conferees recommend a provision that would direct the Secretary of Defense to submit a report on Navy plans for basing aircraft carriers through 2020 to the congressional defense committees not later than 120 days after enactment of the National Defense Authorization Act for Fiscal Year 2004.

Limitation on disposal of obsolete naval vessel (sec. 1018)

The conferees agree to include a provision that would preclude the Secretary of the Navy from disposing of the ex-Forest Sherman (DD-931) during fiscal year 2004 to afford nonprofit groups the opportunity to make application to the Secretary of the Navy under the terms of section 7306 of title 10, United States Code.

The conferees understand that there is at least one nonprofit entity that may be interested in acquiring this obsolete vessel under section 7306, the authority for the Navy's transfer of vessels stricken from the Naval Vessel Register. The conferees believe that this period should provide ample opportunity for any interested nonprofit organizations to make application to the Navy and for the Navy to render a judgement on such applications.

Subtitle C—Counterdrug Matters

Expansion and extension of authority to provide additional support for counter-drug activities (sec. 1021)

The Senate amendment contained a provision (sec. 1207) that would extend the authority in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-84), for counter-drug support to Colombia and would renew the authority for counter-drug support to Peru that expired at the end of fiscal year 2002. This authority would extend through fiscal year 2006. Additionally, the provision would authorize the same type of counter-drug support for Afghanistan, Bolivia, Ecuador, Pakistan, Tajikistan, Turkmenistan, and Uzbekistan through the end of fiscal year 2006. The provision would limit the maximum amount of annual support in fiscal years 2004, 2005 and 2006 for this program to $40.0 million.

The House bill contained no similar provision.

The House recedes.

Authority for Joint Task Forces to provide support to law enforcement agencies conducting counter-terrorism activities (sec. 1022)

The House bill contained a provision (sec. 1048) that would authorize Department of Defense (DOD) joint task forces to provide the same support, subject to all applicable laws and regulations, to law enforcement agencies conducting counter-terrorism activities as DOD is currently authorized to give to law enforcement agencies conducting counter-drug activities.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Use of funds for unified counterdrug and counterterrorism campaign in Colombia (sec. 1023)

The Senate amendment contained a provision that would extend, for two additional years, the expanded authority to use Department of Defense counterdrug funds to support a unified campaign against narcotics cultivation and trafficking, and against associated terrorist organizations in Colombia.

The House bill contained a similar provision.

The House recedes with an amendment that would limit the extension of authority to fiscal year 2004.

Sense of Congress on reconsideration of decision to terminate border and seaport inspection duties of National Guard under National Guard drug interdiction and counter-drug program (sec. 1024)

The Senate amendment contained a provision (sec. 1044) that would express the sense of the Senate that the Secretary of Defense should reconsider his decision to terminate the support provided by the National Guard to the U.S. Border Patrol and Customs Service in augmenting their ability to conduct comprehensive counter-terrorism and counter-drug inspections of cargo and personnel entering the United States by land, sea, and air.

The House bill contained no similar provision.

The House recedes with a technical amendment that would change the provision to a sense of Congress.

Subtitle D—Reports

Repeal and modification of various reporting requirements applicable to the Department of Defense (sec. 1031)

The House bill contained a provision (sec. 1021) that would repeal or modify a number of obsolete or superceded reporting requirements presently imposed by statute on the Department of Defense.

The Senate amendment contained a similar provision (sec. 1021).

The conferees agree to repeal or modify 82 reports currently required of the Department.

Plan for prompt global strike capability (sec. 1032)

The Senate amendment contained a provision (sec. 1022) that would require the Secretary of Defense to prepare a global strike plan that would be updated annually, and to provide an annual report on the roadmap through fiscal year 2006 to the congressional defense committees.

The House bill contained no similar provision.

The House recedes.

Annual report concerning dismantlement of strategic nuclear warheads (sec. 1033)

The House bill included a provision (sec. 1056) that would require the President to submit an annual report to Congress on warheads dismantled in the preceding year within the boundaries of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (known as the Moscow Treaty), and dismantlements pursuant to the Treaty planned for the current calendar year.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Director of Central Intelligence to provide an annual report, while the Moscow Treaty is in force, on dismantlement of warheads by the Russian Federation. The report would be submitted to the Committees on Armed Services and Foreign Relations, and the Select Committee on Intelligence of the Senate, and to the Committees on Armed Services and International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

The conferees note that Congress receives information on U.S. warhead dismantlement in the Weapon System Classified Annex to the annual budget justification material provided by the Department of Energy. The conferees direct that this material be annotated to indicate which of the dismantlements described in the annex are a result of Moscow Treaty compliance activities. The conferees further direct that, to the extent possible, this information be included in the unclassified annual Department of Energy budget justification material.

Report on use of unmanned aerial vehicles for support of homeland security missions (sec. 1034)

The Senate amendment contained a provision (sec. 1037) that would require the President to provide a report, produced in consultation with all relevant federal agencies, no later than April 1, 2004, on the potential use of Unmanned Aerial Vehicles for homeland security.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Subtitle E—Extension of Expiring Authorities

Codification and revision of defense counterintelligence polygraph program authority (sec. 1041)

The House bill contained a provision (sec. 1041) that would remove existing limits on the number of polygraph examinations that the Department of Defense (DOD) may administer in any fiscal year. The provision also expands the categories of individuals who may be required to undergo polygraph examinations, to include persons applying for positions at DOD and persons from other agencies assigned or detailed to DOD who will require access to top secret or special access information. The provision would further require the Secretary of Defense to institute a process to monitor responsible and effective application of polygraphs within DOD, and to make information on the use of polygraphs available to the congressional defense committees on request, in lieu of a recurring reporting requirement.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

General definitions applicable to facilities and operations of Department of Defense (sec. 1042)

The Senate amendment contained a provision (sec. 321) that would amend section 101 of title 10, United States Code, to clarify the definitions of military munitions, operational range, range, and range activities in relation to Department of Defense facilities and operations. The definitions provide a foundation for the Department's entire munitions response program. That program is in its early stages, but is growing rapidly and the Department anticipates additional statutory directives in this area.

The House bill contained no similar provision.

The House recedes with technical amendments.

Additional definitions for purposes of title 10, United States Code (sec. 1043)

The House bill contained a provision (sec. 1043) that would define the terms "congressional defense committees" and "base closure law" for purposes of title 10 of the United States Code, and would make technical and conforming changes to that title.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Inclusion of annual military construction authorization request in annual defense authorization request (sec. 1044)

The House bill contained a provision (sec. 1044) that would amend section 113a(b) of title 10, United States Code, by requiring the annual military construction authorization request to be submitted with the annual defense authorization request within 30 days of the date the President transmits to Congress the budget request for that year. This provision would also repeal section 2859 of title 10, United States Code, and would make conforming changes.

The Senate amendment contained no similar provision.

The Senate recedes.

Technical and clerical amendments (sec. 1045)

The House bill contained a provision (sec. 1045) that would make technical and clerical amendments to various provisions of law.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would make an additional technical and clerical amendment.

Subtitle F—Other Matters

Assessment of effects of specified statutory limitations on the granting of security clearances (sec. 1051)

The House bill contained a provision (sec. 1060) that would require the Secretary of Defense to assess the effects of section 986 of title 10, United States Code, on the granting or renewal of security clearances for Department of Defense personnel and defense contractor personnel.

The Senate amendment contained no similar provision.

The Senate recedes.

Acquisition of historical artifacts through exchange of obsolete or surplus property (sec. 1052)

The Senate amendment contained a provision (sec. 1032) that would authorize, for fiscal years 2004 and 2005, the secretaries of the military departments to exchange obsolete or surplus property with an individual, organization, institution, agency, or nation if the exchange would directly benefit the historical collection of the armed forces.

The House bill contained no similar provision.

The House recedes.

Conveyance of surplus T–37 aircraft to Air Force Aviation Heritage Foundation, Incorporated (sec. 1053)

The Senate amendment contained a provision (sec. 1038) that would authorize the Secretary of the Air Force to convey a surplus T–37 aircraft to the Air Force Aviation Heritage Foundation of Georgia. This authority is discretionary and the conveyance of an aircraft would be made at no cost to the United States.

The House bill contained no similar provision.

The House recedes with an amendment that would specify requirements for the demilitarization of the aircraft to ensure that the aircraft is permanently unfit for flight.

Department of Defense biennial strategic plan for management of electromagnetic spectrum (sec. 1054)

The Senate amendment contained a provision (sec. 235) that would require the Secretary of Defense to develop a strategy for management of electromagnetic spectrum to improve spectrum access and high-bandwidth connectivity to military assets. The provision would require that the strategy be developed by a board of senior acquisition officials established to administer the implementation of the policies and requirements of chapter 113, Title 40, United States Code, in procurement of information technology equipment that is an integral part of a weapon or weapon system. The strategy would include specific time lines, metrics, plans for implementation of technologies for the efficient use of spectrum, and proposals for program funding, all of which would be updated biennially.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to update the DOD Electromagnetic Spectrum Management Strategic Plan on a biennial basis and to submit the updated plan to the Congress at the same time as the budget submission.

The conferees note that on December 3, 2002, the Deputy Secretary of Defense promulgated the DOD Electromagnetic Spectrum Management Strategic Plan, October 2002, which identifies goals and strategies to ". . . assure the availability of, and access to, sufficient electromagnetic spectrum," and to enhance collaboration within the electromagnetic spectrum management and the electromagnetic environmental effects communities. Prepared by the Assistant Secretary of Defense (Command, Control, Communications, and Intelligence), the plan outlines key strategic goals and objectives for improving electromagnetic spectrum business, practices, electromagnetic spectrum planning, efficient electromagnetic spectrum utilization, and coordination with electromagnetic environmental effects programs. The plan identifies strategies and targets to be achieved for each of the objectives. The plan also states that the Department will develop implementation plans for each of the objectives contained in the plan.

The conferees believe that a published DOD electromagnetic spectrum management strategy and implementation plans will provide a framework for improving spectrum management, access, and high-bandwidth connectivity within the Department. The conferees direct the Secretary of Defense to include a summary of the implementation plans, timelines, and metrics for achieving each of the goals and objectives of the DOD electromagnetic spectrum management strategy as an item of special interest in the Information Technology Budget Justification that accompanies the President's budget submission.

Revision of defense acquisition directive relating to management and use of radio frequency spectrum (sec. 1055)

The Senate amendment contained a provision (sec. 803) that would require the Secretary of Defense to revise the acquisition policies relating to the management and use of the radio frequency spectrum. The provision would also require the Secretary to appoint an official or board within the Department of Defense (DOD) to review and approve the proposed usage of the spectrum in acquisition programs.

The House bill contained no similar provision.

The House recedes with an amendment that would require revision of DOD Directive 4650.1 to ensure that planning for spectrum usage is conducted as early as practicable in a program's development.

The conferees note that DOD program managers often fail to obtain, consider, or act on concerns related to the availability of adequate spectrum to support planned weapons systems during the early phases of an acquisition program. As a result, such programs have often experienced significant development delays, reduced operational capabilities, or the need for extensive redesign, when spectrum availability became an issue in the later stages of a program and after key system development decisions had been made.

The conferees note that the DOD has begun to address spectrum issues in applicable plans and directives. DOD Directive 4650.1 requires that spectrum management requirements be addressed early in the development life cycle. The DOD Electromagnetic Spectrum Management Strategic Plan, October 2002, addresses the objective of identifying electromagnetic spectrum certification requirements early in the requirements generation, planning, and acquisition process and establishes the target that DOD program managers will address electro-magnetic spectrum certification and electromagnetic environmental effects at each acquisition milestone. DOD Instruction 5000.2 provides that electromagnetic spectrum certification shall be accomplished by Milestone B (program initiation) for all systems and equipment that require utilization of the electromagnetic spectrum for those programs.

The conferees expect responsible DOD officials ensure the consistent application of the policies established in this provision and in applicable plans and directives to all acquisition programs.

Sense of Congress on deployment of airborne chemical agent monitoring systems at chemical stockpile disposal sites in the United States (sec. 1056)

The Senate amendment contained a provision (sec. 1042) that would express the sense of the Senate that the Secretary of the Army should develop and deploy a program to upgrade the airborne chemical agent monitoring systems at all chemical stockpile disposal sites across the United States in order to achieve the broadest possible protection of the general public, personnel involved in the chemical demilitarization program, and the environment.

The House bill contained no similar provision.

The House recedes with an amendment that would express the sense of Congress that the Secretary of the Army, in coordination with relevant Department of Defense research and development agencies, should invigorate and coordinate efforts to develop and deploy chemical agent monitors with improved sensitivity, specificity, and response time.

The conferees note that the National Research Council (NRC) has completed six reports since 1994 that include assessments of the capabilities of airborne chemical agent monitoring systems installed at the chemical agent and munitions stockpile and destruction sites. In these reports, the NRC has consistently cited several problems with the airborne chemical agent sensors. While the NRC has determined that monitoring levels used at the demilitarization facilities are very conservative and are highly protective of workers and public health and safety, the conservative monitoring levels used are a contributing factor in a high incidence of false positive alarms. The NRC has urged the Project Manager for Chemical Demilitarization to improve both the reliability and response time of its airborne agent monitoring systems and recommended that the Army develop a real-time system for airborne-agent monitoring. The NRC has also noted the lack of robust techniques for rapidly measuring agent and agent breakdown products present in liquid waste streams and associated solid materials. The NRC acknowledges the progress made by the Army over the last decade in developing better agent monitoring technology, but concludes that the results to date have been disappointing.

The conferees note that the Army's Chemical Material Agency (CMA) conducts an active program for evaluating new equipment and methods for improving both near-real time monitoring and historical long-term monitoring and continues to improve technologies and equipment to increase specificity, lower detection limits and response times, and minimize false alarms. The conferees believe that these efforts should be coordinated with, and take advantage of, the increased level of interest in and increased resources available for developing chemical agent detectors for homeland defense. The committee strongly supports these actions of the CMA that promote the maximum protection of the general public, personnel involved in the chemical demilitarization program, and the environment.

United States Fire Administration grants to make fighting fires safer (sec. 1057)

The Senate amendment contained a provision (sec. 852) that would authorize grants to local fire departments to hire personnel and require the establishment of a program where state and local governments could buy anti-terrorism technology solutions from Federal Government contracts.

The House bill contained no similar provision.

The House recedes with an amendment that would: (1) direct that the grant program be administered by the U.S. Fire Administrator; (2) authorize providing the grants directly to local fire departments; (3) require a local contribution in the first year of the grant program to ensure that all recipients of grants are capable of acquiring state or local funding; (4) ensure that 10 percent of grant aid will be available to volunteer fire departments; and (5) authorize appropriations until fiscal year 2010. The issue of the establishment of a program where state and local governments could buy anti-terrorism technology solutions from Federal Government contracts is addressed elsewhere in this conference report.

Review and Enhancement of Existing Authorities for Using Air Force and Air National Guard Modular Fire-Fighting System and Other Department of Defense Assets to Fight Wildfires (sec. 1058)

The House bill contained a provision (sec 1057) that would establish a pilot program to improve the use of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems to fight wildfires. The section would have authorized the Secretary of the Interior and the Secretary of Agriculture to waive the provisions of section 1535(a)(4), title 31, United States Code, to procure the services of military aircraft of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units without first comparing the cost and convenience of procuring such services to services from a commercial enterprise, during a two-year pilot program. The section also required a report on the use of the authority and the ability of such units to respond to wildfires in a timely and effective manner.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that within 120 days of enactment, the Director of the Office of Management and Budget conduct a review of existing authorities regarding the use of Air Force and Air National Guard Modular Airborne Fire-Fighting Systems units and other Department of Defense assets to fight wildfires to ensure that such assets are available in the most expeditious manner consistent with applicable law to fight wildfires on Federal and non-Federal lands at the request of a Federal agency or State government. In conducting the review, the Director must consider any adverse impact caused by restrictions contained in section 1535(a)(4), title 31, United States Code, or caused by the interpretation of those restrictions. The Director must also consider whether the authorities of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) are being properly utilized to facilitate an expeditious Department of Defense response to State requests for firefighting services, in accordance with that Act. The amendment requires a determination on the basis of the review whether existing authorities are being used in a manner consistent with using the available capabilities of Department of Defense assets to fight wildfires in the most expeditious and efficacious way to minimize the risk to public safety. Finally, the Director must report the results of the review and determination required above and wait thirty days for Congressional review before any implementation of improved procedures. If appropriate, the report must include a description of any expedited Economy Act review processes determined to be necessary, and plans related to the implementation of such processes. Further, if appropriate, the report must describe any revised policies and implementation plans related to the use of existing authorities in title 31 and title 42, United States Code, to improve the ability of the Department of Defense to respond to a request by a Federal agency or State government to assist in fighting wildfires on Federal or non-Federal lands under such authorities. The report shall also include such recommendations for legislative changes that further improve the use of Department of Defense assets for fighting wildfires as the Director determines to be warranted.

LEGISLATIVE PROVISIONS NOT ADOPTED

Assignment of members to assist Bureau of Border Security and Bureau of Citizenship and Immigration Services of the Department of Homeland Security

The House bill contained a provision (sec. 1055) that would authorize the Secretary of Defense to assign members of the Army, Navy, Air Force, and Marine Corps to assist the Bureau of Border Security and the United States Customs Service of the Department of Homeland Security, in preventing the entry of terrorists, drug traffickers, and illegal aliens into the United States, and to aid in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction.

The Senate amendment contained no similar provision.

The House recedes.

Assistance for study of feasibility of biennial international air trade show in the United States and for initial implementation

The House bill contained a provision (sec. 1051) that would select and provide assistance to a community in conducting a joint study to determine the feasibility of establishing an international air trade show in that community.

The Senate amendment contained no similar provision.

The House recedes.

Commission on Nuclear Strategy of the United States

The House bill contained a provision (sec. 1053) that would establish a Commission on Nuclear Strategy of the United States to assess and make recommendations about current U.S. strategy, as described by the Nuclear Posture Review and other planning documents, as well as possible alternative strategies that could be pursued over the next 20 years. The Commission would have broad purview to consider matters of policy, force structure, stockpile stewardship, and estimates of threats and force requirements, and would have the authority to hold hearings and take testimony.

The Senate amendment contained no similar provision.

The House recedes.

Extension of Counterproliferation Program Review Committee

The House bill contained a provision (sec. 1054) that would amend section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160), as amended.

The Senate amendment contained no similar provision.

The House recedes.

The conferees have reviewed the annual CPRC Report on Activities and Program for Countering Proliferation and NBC Terrorism, dated May 2003, and noted its findings and recommendations. The conferees recognize that development and deployment of advanced technologies are key counterproliferation elements and encourage the interagency community to make development and execution of an integrated strategy a high priority. The conferees endorse the recommendations to integrate the Under Secretary of Defense for Intelligence into the CPRC process, and for the CPRC to establish communications and coordination with the Assistant Secretary of Defense (Homeland Defense) and Northern Command. The conferees express their support for the newly established National Security Council-initiated Counterproliferation Technology Coordination Committee as a means of improving interagency coordination. The conferees also endorse the need for a comprehensive counterproliferation acquisition strategy. Progress made in these areas should be noted in future annual reports submitted to the Congress.

Limitation on number of United States military personnel in Colombia

The House bill contained a provision (sec. 1208) that would limit the number of members of the U.S. Armed Forces in Colombia to 500 personnel. U.S. military personnel working at the U.S. Embassy in Colombia for the purpose of conducting search and rescue of U.S. Government personnel or participating in authorized humanitarian relief operations, or just transiting Colombia would not be counted against this limitation.

The Senate amendment contained no similar provision.

The House recedes.

Repeal of requirement for two-year budget cycle for the Department of Defense

The House bill contained a provision (sec. 1006) that would repeal section 1405 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 31 U.S.C. 1105 note) requiring the Department of Defense to submit a two-year budget every other year.

The Senate amendment contained no similar provision.

The House recedes.

Sense of Congress on commercial air carrier accommodation for members of the armed forces purchasing tickets for personal use

The Senate amendment contained a provision (sec. 1041) that would express the sense of the Senate that each U.S. air carrier should make every effort to allow active duty members of the armed forces to purchase tickets on a space available basis for the lowest fares possible and offer flexible terms that allow members of the armed forces to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

The House bill contained no similar provision.

The Senate recedes.

Use of National Driver Register for personnel security investigations and determinations

The House bill contained a provision (sec. 1049) that would amend title 49, United States Code, to authorize access to the National Driver Register by federal agencies for use in personnel security investigations and determinations and for use in personnel investigations with regard to federal employment.

The Senate amendment contained no similar provision.

The House recedes.

Authority to transfer procurement funds for a major defense acquisition program for continued development work on that program

The House bill contained a provision (sec. 1003) that would amend section 2114 of title 10, United States Code, to provide the Secretary of Defense additional authority to transfer funds to correct specific acquisition funding problems that occur during the transition phase of an acquisition program from development to production.

The Senate amendment contained no similar provision.

The House recedes.

Authority to provide reimbursement for use of personal cellular telephones when used for official government businesses

The House bill contained a provision (sec. 1007) that would allow the Department of Defense to reimburse individuals with a validated need for an official government cellular telephone using a flat rate or monthly stipend for such individuals' use of their personal cellular telephone.

The Senate amendment contained no similar provision.

The House recedes.

Codification and revision of limitation on modification of major items of equipment scheduled for retirement or disposal

The House bill contained a provision (sec. 1042) that would revise existing reporting requirements on modifications to aircraft, weapons, vessels, and other items of equipment scheduled to be retired or disposed of within five years.

The Senate amendment contained no similar provision.

The House recedes.

Assistance for study of feasibility of biennial international air trade show in the United States and for initial implementation

The House bill contained a provision (sec. 1051) that would select and provide assistance to a community in conducting a joint study to determine the feasibility of establishing an international air trade show in that community.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Department of Defense National Security Personnel System

Department of Defense National Security Personnel System (sec. 1101)

The House bill contained a provision (sec. 1121) that would amend title 5 of the United States Code by adding a new chapter 99 entitled "Department of Defense National Security Personnel System" at the end of subpart I of part III. The new chapter contained the following sections: (1) section 9901 would provide definitions of various terms used throughout the new chapter; (2) section 9902 would authorize the establishment of a human resources management system; (3) section 9903 would authorize the Department to hire highly qualified experts for up to five years and to prescribe the appropriate pay rates; (4) section 9904 would authorize the Secretary of Defense to hire American citizens 55 years of age and older to work for DOD for up to two years, without a reduction in any annuity, pension, retirement pay, or similar payment; and (5) section 9905 would authorize DOD to align the allowances and benefits of certain employees outside the United States with those of the Foreign Service and the Central Intelligence Agency.

The Senate bill contained no similar provision.

The Senate recedes with an amendment that would modify the House provision to: (1) require the Secretary of Defense to develop the new personnel system in collaboration with the Office of Personnel Management; (2) authorize the establishment of a labor relations system for the Department of Defense based on a collaborative issue-based approach to labor relations (subject to a six-year sunset); (3) provide for independent third party review of issues arising in the labor relations system, including defining what decisions are reviewable, what body would conduct the review, and the standard or standards for that review; (4) authorize the establishment of a streamlined appeals process for adverse actions against individual employees, subject to review by the Merit Systems Protection Board; (5) direct the Secretary to maintain current levels of funding for civilian pay accounts; (6) provide for voluntary separation incentive payments for up to 25,000 employees per year; (7) establish new authority for employment of up to 2,500 highly qualified experts; (8) provide the Department with authority to develop new polices for recruitment, assignment, promotion and reduction in force flexibility while maintaining Veterans' preference; (9) provide for a phase-in of the NSPS by authorizing the Secretary to apply the National Security Personnel System to more than 300,000 civilian employees of the Department only after the Department of Defense has in place a performance management system that meets specific criteria; and (10) delay the incorporation of the Department of Defense demonstration laboratories into the National Security Personnel System until October 1, 2008, and place certain conditions on such incorporation.

The conferees fully appreciate the need for a more flexible and responsive personnel management system for the civilian employees of the Department of Defense. The DOD has embarked on a number of demonstration initiatives to determine the most appropriate and productive approach to management of civilian personnel with the Department of Defense and is ready to expand on the lessons learned through those efforts.

The conferees direct the Secretary to implement a pay-for-performance evaluation system established in accordance with this chapter to better link individual pay to performance and provide an equitable method for appraising and compensating employees. Implementing regulations shall: (1) group employees into pay bands in accordance with the type of work that such employees perform and their level of responsibility; (2) establish a performance rating process, which shall include, at a minimum (i) rating periods; (ii) communication and feedback requirements; (iii) performance scoring systems; (iv) a system for linking performance scores to salary increases and performance incentives; (v) a review process; (vi) a process for addressing performance that fails to meet expectations; and (vii) a pay-out process; (3) establish an upper and lower salary level for each pay band; (4) ensure that performance objectives are established for individual position assignments and position responsibilities; and (5) establish performance factors to be used to evaluate the accomplishment of performance objectives and ensure that comparable scores are assigned for comparable performance, while accommodating diverse individual objectives.

The conferees understand that the Secretary's decision to utilize national-level collective bargaining procedures in accordance with subsection (g) would not be subject to outside review. However, the result of any such national-level collective bargaining would be subject to review by an independent third-party only to the extent provided and pursuant to procedures established under paragraph (6) of subsection (m).

Nothing in this provision should be construed to expand the scope of bargaining under chapter 71 or this subsection with respect to any provision of title 5 that may be waived, modified, or otherwise affected under this section.

The conferees agree that in designing the labor relations system the Secretary should take into consideration the unique requirements and contributions of public safety employees in supporting the national security mission of the Department.

Finally, as the Department trains new personnel on the National Security Personnel System, the conferees urge the Department to fully utilize facilities with existing contracts for Department of Defense civilian personnel.

Subtitle B—Department of Defense Civilian Personnel Generally

Pilot program for improved civilian personnel management (sec. 1111)

The House bill contained a provision (sec. 908) that would establish a pilot program for Improved Civilian Personnel Management to assess the utility of an automated civilian personnel management program to provide needed improvements in the current management performance of the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would reduce the reporting requirements of the provision.

In evaluating offers to assist in the pilot program, the conferees direct the Department to consider factors that are likely to contribute to the successful deployment of an automated personnel management system, such as the offer of a system that: (1) is currently in use by the Federal Government; (2) is able to be purchased on an annual subscription basis; (3) requires no capital investment; and (4) is able to be fully hosted by the vendor so that customers only require internet access to use the system.

Clarification and revision of authority for demonstration project relating to certain acquisition personnel management policies and procedures (sec. 1112)

The Senate amendment contained a provision that would strengthen the acquisition workforce pilot program established in section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106). In particular, the provision would: (1) relax the existing requirement that the entire workforce of a participating organization consist of members of the acquisition workforce and supporting personnel assigned to work directly with the acquisition workforce; (2) increase the total number of civilian personnel permitted to participate in the pilot program; and (3) ensure that an organization that is properly designated to participate in the pilot program would continue to do so, notwithstanding any reorganization, restructuring, realignment, consolidation, or other organizational change.

The House bill contained no similar provision.

The House recedes.

Military leave for mobilized federal civilian employees (sec. 1113)

The House bill contained a provision (sec. 1102) that would amend section 6323 of title 5, United States Code to allow federal civilian employees to receive 22 additional workdays of military leave when performing full-time military service as a result of a call or order to active duty in support of a contingency operation.

The Senate amendment contained no similar provision.

The Senate recedes.

Restoration of annual leave for certain Department of Defense employees (sec. 1114)

The conferees agree to include a provision that would authorize the Secretary of Defense to provide for restoration of forfeited annual leave for employees transferring from a closing or realigning Department of Defense installation or activity who were improperly given credit for restored leave if: (1) the employee relied in good faith upon the guidance provided by agency officials; and (2) the action occurred through no wrong doing by the employee.

Authority to employ civilian faculty members at the Western Hemisphere Institute for Security Cooperation (sec. 1115)

The Senate amendment contained a provision (sec. 1101) that would amend section 1595 of title 10, United States Code, to add the Western Hemisphere Institute for Security Cooperation as a covered institution of the Department of Defense at which the Secretary of Defense may employ civilians as professors, instructors, and lecturers, and may prescribe their compensation.

The House bill contained no similar provision.

The House recedes.

Extension, expansion, and revision of authority for experimental personnel program for scientific and technical personnel (sec. 1116)

The Senate bill contained a provision (sec. 1103) that would extend and expand the Defense Advanced Research Projects Agency (DARPA) Experimental Personnel Program. The provision extended the program for three years, from the current expiration date of 2005 to 2008. In addition, the provision increased the number of positions available to the Director of DARPA from 40 to 50.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the experimental personnel program for three years, from 2005 to 2008.

The conferees do not intend for the extension of the DARPA Experimental Personnel Program to be interpreted as a permanent, free standing program outside of the National Security Personnel System (NSPS). Instead, the conferees expect that the extension will allow the DARPA program to become part of the NSPS as soon as practical, in a manner that provides a seamless transition for DARPA personnel, while maintaining DARPA's ability to successfully fulfill its mission.

Subtitle C—Other Federal Government Civilian Personnel Matters

Modification of the overtime pay cap (sec. 1121)

The House bill contained a provision (sec. 1101) that would modify the overtime pay cap to allow for payment of at least the hourly rate of basic pay for an employee.

The Senate amendment contained no similar provision.

The Senate recedes.

Common occupational and health standards for differential payments as a consequence of exposure to asbestos (sec. 1122)

The House bill contained a provision (sec. 1103) that would amend sections 5343 and 5545 of title 5, United States Code, to establish a common standard for payment of hazardous duty differential pay for reason of exposure to asbestos for prevailing rate and general schedule federal employees.

The Senate amendment contained no similar provision.

The Senate recedes.

Increase in annual student loan repayment authority (sec. 1123)

The House bill contained a provision (sec. 1104) that would increase the annual amount that an agency can repay a highly qualified employee for a student loan from $6,000 to $10,000 per year without increasing the overall limit of $40,000.

The Senate amendment contained no similar provision.

The Senate recedes.

Authorization for Cabinet Secretaries, secretaries of military departments and heads of executive agencies to be paid on a biweekly basis (sec. 1124)

The House bill contained a provision (sec. 1105) that would authorize the Office of Personnel Management to promulgate regulatory guidelines that would permit Cabinet Secretaries, secretaries of the military departments and heads of executive agencies, who are currently paid on a monthly basis, to be paid on the same biweekly basis as most federal employees.

The Senate amendment contained no similar provision.

The Senate recedes.

Senior executive service and performance (sec. 1125)

The House bill contained a provision (sec. 1106) that would amend Chapter 53 of title 5, United States Code, relating to pay of senior executives. Specifically the provision would revise eligibility for locality pay, ranges of rates of basic senior executive service (SES) pay, the maximum rate for SES levels, and post employment restrictions.

The Senate amendment contained no similar provision.

The Senate recedes with technical amendments.

Design elements of pay-for-performance systems in demonstration projects (sec. 1126)

The House bill contained a provision (sec. 1107) that would provide for specific elements to be incorporated into any pay-for-performance system established in a demonstration project under chapter 47 of title 5, United States Code, and that such a system include a fair, credible, and transparent appraisal system, provide a link between pay-for-performance and an agencies strategic plan, and provide for training and feedback.

The Senate amendment contained no similar provision.

The Senate recedes.

Federal flexible benefits plan administrative costs (sec. 1127)

The House bill contained a provision (sec. 1108) that would prohibit agencies that provide or plan to provide flexible benefits plans for employees from imposing fees related to the program. The section would also require reporting requirements associated with benefits plans.

The Senate amendment contained no similar provision.

The Senate recedes.

Employee surveys (sec. 1128)

The House bill contained a provision (sec. 1110) that would require executive agencies to conduct annual surveys of their employees in order to assess leadership and management practices, employee satisfaction, assessment of work environment opportunities for personal and professional growth, and opportunities to contribute to organizational missions.

The Senate amendment contained no similar provision.

The Senate recedes.

Human capital performance fund (sec. 1129)

The House bill contained a provision (sec. 1111) that would amend title 5, United States Code, and add a new Chapter 54 that would provide for establishment of a human capital performance fund to reward an agencies highest performing and most valuable employees.

The Senate amendment contained no similar provision.

The Senate recedes.

LEGISLATIVE PROVISIONS NOT ADOPTED

Clarification of Hatch Act

The House bill contained a provision (sec. 1109) that would prohibit the enforcement of section 7326 of title 5, United States Code, against an individual who, before the date of enactment of this Act, was employed by the Office of the Department of Defense Inspector General and who then transferred to a Special Court sponsored by the United Nations pursuant to the authority contained in section 3582(a) of title 5, United States Code, unless the individual subsequently became reemployed in the civil service.

The Senate amendment contained no similar provision.

The House recedes.

Pay authority for critical positions (sec.)

The Senate amendment contained a provision (sec. 1102) that would give the Department of Defense critical pay authority for up to 40 administrative, technical, or professional positions.

The House bill contained no similar provision.

The Senate recedes.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

Subtitle A—Matters Relating to Iraq

Medical assistance to Iraqi children injured during Operation Iraqi Freedom (sec. 1201)

The House bill contained a provision (sec. 1213) that would direct the Secretary of Defense, to the maximum extent practicable, to provide all necessary support, in an expeditious manner to assist Iraqi children who were injured during Operation Iraqi Freedom.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Report on the conduct of Operation Iraqi Freedom (sec. 1202)

The House bill contained a provision (sec. 1022) that would require the Secretary of Defense to submit a comprehensive report to the Committees on Armed Services of the Senate and House of Representatives on lessons learned during major combat operations in Operation Iraqi Freedom (OIF), not later than June 15, 2004, with a preliminary report to be submitted by January 15, 2004.

The Senate amendment contained a similar provision (sec. 1023) that would also require specific information on family support services available to mobilized members of reserve components, and on non-competitive contracting for the reconstruction of infrastructure of Iraq.

The House recedes with an amendment that would require the Secretary to submit a comprehensive report on the conduct of military operations during the major combat phase of OIF to the congressional defense committees not later than March 31, 2004. The requirement for the Secretary to include a report on non-competitive contracting would not be included in this report.

The conferees were reassured by the successful military campaign in Iraq that recent investments in personnel, military equipment, and new technologies were well-founded. Legacy equipment appeared to perform well alongside new technologies. The military services seemed to continue to improve their collective capabilities to fight as a joint force. As in all military operations, however, many things went well, but other areas were identified that can be improved. The conferees urge the Secretary to take full advantage of this opportunity to fully document important lessons learned, and to work closely with the Congress to identify those capabilities where investment needs to be curtailed, sustained, or increased.

Of particular note, the conferees are concerned about the extensive use of reserve component personnel in OIF, as well as other U.S. military commitments around the world, and the overall impact of frequent, extended deployments on the families of mobilized reserve component personnel. To address this concern, the conferees urge the Secretary to ensure a comprehensive study is conducted regarding the availability of family support services provided to dependents of members of reserve components who are called to active duty. Included in this study would be: (1) a discussion of the extent to which cooperative agreements are in place, or need to be in place, to ensure that dependents of mobilized members receive adequate family support services from military installations and associated family readiness groups without regard to the members' affiliation with a component of the armed forces; (2) a discussion of what additional family support services, and what additional family support agreements between and among the U.S. Armed Forces, including the Coast Guard, are necessary to ensure that adequate family support services are provided to the families of mobilized members; (3) a discussion of what additional resources are necessary to ensure that adequate family support services are available to dependents of mobilized members at military installations nearest the residence of dependents; (4) a discussion of the additional outreach programs that should be established between families of mobilized members and the sources of family support services at the military installations in their respective regions; and, (5) a discussion of the procedures in place for providing information on availability of family support services to families of mobilized members at the time the members are called or ordered to active duty.

The conferees are also interested in contracting procedures for reconstruction in Iraq. A requirement for reporting on such procedures is contained elsewhere in this conference report.

Report on Department of Defense security and reconstruction activities in Iraq (sec. 1203)

The House bill contained a provision (sec. 1023) that would require the Secretary of Defense to report to Congress, within 90 days of enactment of this Act, on the range of Department of Defense activities in post-conflict Iraq.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would acknowledge that significant military operations continue in Iraq and expand the scope of the required report to include training of Iraqi security forces and the effect of continuing U.S. military deployments in Iraq on global U.S. military deployments.

Report on acquisition by Iraq of advanced weapons (sec. 1204).

The House bill contained a provision (sec. 1205) that would direct the Secretary of Defense to submit a report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and International Relations of the House of Representatives on efforts by Iraq to acquire weapons of mass destruction and associated delivery systems, and the acquisition by Iraq of advanced conventional weapons.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Sense of Congress on the use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq (sec. 1205)

The House bill contained a provision (sec. 1058) that would require the Secretary of Defense to study the feasibility of use of small businesses, minority-owned businesses, and women-owned businesses in efforts to rebuild Iraq.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that the Secretary Defense should ensure that outreach procedures are in place to provide information on contract opportunities for efforts to rebuild Iraq to small businesses, minority-owned businesses, and women-owned businesses.

Subtitle B—Matters Relating to Export Protections

Review of export protections for military superiority resources (sec. 1211)

The House bill contained a provision (sec. 1204) that would direct the Secretary of Defense to establish a catalog of goods, materials, weapons systems technologies, and developing critical technologies and know-how that either could enhance a potential adversary's military capabilities or are critical to maintaining the superiority and qualitative advantage of the U.S. Military.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to determine to what degree goods and technologies identified under the provision are being controlled for export purposes and to provide a more limited reporting requirement.

Report on Department of Defense costs relating to national security controls on satellite export licensing (sec. 1212)

The Senate amendment contained a provision (sec. 1205) that would amend section 1514 of the National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261) to clarify that only costs directly related to monitoring the launch of a satellite in a foreign country shall be reimbursed by contractors to the Department of Defense and require the U.S. Comptroller General to conduct a study of these costs.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Inspector General of the Department of Defense to conduct a study of the Department's costs for monitoring launches of satellites in a foreign country and the costs incurred in connection with applications for licences for the export of satellites. The conferees expect that the Department will include in its budget request for fiscal year 2005 those portions of direct or indirect costs that are not directly related to monitoring the launch of a satellite in a foreign country.

Subtitle C—Administrative Requirements and Authorities

Authority to use funds for payment of costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program (sec. 1221)

The Senate amendment contained a provision (sec. 1201) that would amend title 10, United States Code, to authorize the Department of Defense to use appropriated funds to pay the costs of attendance of certain qualified foreign visitors to designated training and educational events under the auspices of the Regional Defense Counterterrorism Fellowship Program.

The House bill contained no similar provision.

The House recedes.

Recognition of superior noncombat achievements or performance by member of friendly foreign forces and other foreign nationals (sec. 1222)

The House bill contained a provision (sec. 1202) that would authorize the Department of Defense to expend operations and maintenance funds to recognize superior noncombat achievements or performance by members of foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

The Senate amendment contained a similar provision (sec. 1202).

The Senate recedes with a technical amendment.

Expansion of authority to waive charges for cost of attendance at George C. Marshall European Center for Security Studies (sec. 1223)

The House bill contained a provision (sec. 1203) that would permit the Secretary of Defense to waive reimbursement of costs from military officers and civilian officials from states in Europe and the former Soviet Union participating in Marshall Center programs. The effect of this provision is to expand the current authority of the Secretary to waive costs so that Balkan-state participants will now be eligible to have their costs waived.

The Senate amendment contained no similar provision.

The Senate recedes.

Authority for check cashing and currency exchange services to be provided to foreign military members participating in certain activities with United States forces (sec. 1224)

The House bill contained a provision (sec. 1206) that would authorize a disbursing official of the U.S. Government to allow military personnel from allied nations to cash checks and certain negotiable instruments and exchange foreign currency, provided these individuals are participating in military training activities with U.S. Armed Forces.

The Senate amendment contained a similar provision (sec. 1203).

The Senate recedes with a technical amendment.

Depot maintenance and repair work on certain types of trainer aircraft to be transferred to foreign countries as excess aircraft (sec. 1225)

The House bill contained a provision (sec. 1207) that would expand the requirements of section 2581 of title 10, United States Code, to include T–2 Buckeye aircraft and the T–37 Tweet aircraft.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require that the Secretary of Defense make all reasonable efforts to ensure that necessary depot maintenance and repair work is performed in the United States prior to transferring T–2 or T–37 aircraft to a foreign country for the purpose of flight operations by that country.

Subtitle D—Other Reports and the Sense of the Congress Statements

Annual report on the NATO Prague capabilities commitment and the NATO response force (sec. 1231)

The Senate amendment contained a provision (sec. 1206) that would require the Secretary of Defense to submit an annual report, prepared in consultation with the Secretary of State, on implementation of the North Atlantic Treaty Organization (NATO) Prague capabilities commitment and development of the NATO response force by the member nations of NATO.

The House bill contained no similar provision.

The House recedes with an amendment that would sunset this report requirement after calendar year 2008.

Report on actions that could be taken regarding countries that initiate certain legal actions against United States officials or members of the armed forces (sec. 1232)

The House bill contained a provision (sec. 1211) that would require the Secretary of Defense to submit to Congress a report on appropriate steps that could be taken by the

Department of Defense to respond to any action by a foreign government to commence legal proceedings against, or attempt to compel the appearance of, or production of documents from, any current or former official or employee of the United States or member of the Armed Forces of the United States relating to the performance of official duties.

The Senate amendment contained no similar provision.

The Senate recedes with clarifying amendments that would make clear that the report is not meant to address actions taken by a foreign government pursuant to a Status of Forces Agreement or other international agreement to which the United States is a party, and would add additional examples to the list of types of appropriate steps that the Department of Defense could consider in its report.

Sense of Congress on redeployment of United States forces in Europe (sec. 1233)

The House bill contained a provision (sec. 1210) that would express the sense of the Congress that the President should initiate a reevaluation of the current posture of U.S. forces stationed in Europe.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should initiate a reevaluation of the current posture of U.S. forces stationed in Europe; and would make a clarifying amendment to the findings section.

Sense of Congress concerning Navy port calls in Israel (sec. 1234)

The House bill contained a provision (sec. 1212) that expresses the sense of Congress that the Navy should resume regular port visits to the port of Haifa, Israel.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

The conferees are concerned that despite having invested significant amounts of money in expanding the capacity and capabilities of the port of Haifa, Israel, the U.S. Navy has not conducted regular port visits to Haifa since the attack on the U.S.S. Cole in Aden, Yemen, on October 12, 2000. The conferees feel that the Secretary of Defense and the U.S. Navy should be able to conclude consultations with the Government of Israel that will lead to the establishment of effective arrangements to ensure the safety of U.S. Navy vessels and personnel, thus enabling the Navy to take advantage of the logistics and communications capabilities of the Haifa port area. The conferees also feel that Navy port visits to Haifa are a strong and visible expression of continuing American national interest in this important region, and an important demonstration of support and commitment to the State of Israel. The conferees urge the Secretary of Defense to consider resumption of regular port visits to Haifa, Israel.

LEGISLATIVE PROVISIONS NOT ADOPTED

Assessment and report concerning the location of NATO headquarters

The House bill contained a provision (sec. 1209) that would require the Secretary of Defense to conduct an assessment of, and submit to Congress a report on, the costs associated with the location of NATO headquarters in Brussels, Belgium, and the costs and benefits of relocating NATO headquarters to another NATO country.

The Senate amendment contained no similar provision.

The House recedes.

The conferees note that the costs and benefits of moving NATO headquarters can be considered in the context of the report required by sec. 1232 on actions that could be taken regarding countries that initiate certain legal actions against U.S. officials.

Expansion of authority to provide administrative support and services and travel and subsistence expenses for certain foreign liaison officers

The House bill contained a provision (sec. 1201) that would remove limitations on certain nations from existing law and expand the authority of the Department of Defense to provide administrative support and services, as well as fund travel and subsistence expenses for liaison officers of certain nations.

The Senate amendment contained no similar provision.

The House recedes.

Clarification and extension of authority to provide assistance for international nonproliferation activities

The Senate amendment contained a provision (sec. 1204) that would authorize the Department of Defense to continue to support activities of the United Nations Monitoring, Verification and Inspection Commission and limit the amount of funding for such activities pursuant to section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) to $15.0 million.

The House bill contained no similar provision.

The Senate recedes.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

LEGISLATIVE PROVISIONS ADOPTED

Specification of Cooperative Threat Reduction programs and funds (sec. 1301)

The House bill contained a provision (sec. 1301) that would define the programs and funds that are Cooperative Threat Reduction (CTR) programs and funds, define the funds as those authorized to be appropriated in section 301 of this Act, and specify that CTR funds shall remain available for obligation for three fiscal years.

The Senate amendment contained an identical provision (sec. 1301).

The conferees agree to include the provision.

Funding allocations (sec. 1302)

The House bill contained a provision (sec. 1302) that would authorize $450.8 million for the Cooperative Threat Reduction (CTR) Program. The provision would also authorize specific amounts for each CTR program element, require notification to Congress 30 days before the Secretary of Defense obligates and expends fiscal year 2004 funds for purposes other than those specifically authorized, and provide limited authority to obligate amounts for a CTR program element in excess of the amount specifically authorized for that purpose. Regarding specific program elements, the House provision would authorize $86.4 million for strategic offensive arms elimination in Russia, $171.5 million for chemical weapons destruction in Russia, and $11.1 million for defense and military contacts.

The Senate amendment contained a similar provision (sec. 1302) that, consistent with the budget request for the specific program elements, would authorize $57.6 million for strategic offensive arms elimination in Russia, $200.3 million for chemical weapons destruction in Russia, and $11.0 million for defense and military contacts.

The conferees agree to a provision that would authorize $450.8 million for the CTR Program and, with respect to the specific program elements, $57.6 million for strategic offensive arms elimination in Russia, $200.3 million for chemical weapons destruction in Russia, and $11.1 million for defense and military contacts.

Limitation on use of funds until certain permits obtained (sec. 1303)

The House bill contained a provision (sec. 1303) that would require the Secretary of Defense to determine for new or incomplete Cooperative Threat Reduction (CTR) projects what permits will be needed and obtain copies of those permits before obligating more than 35 per cent of a CTR project's total cost.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to determine for new or incomplete CTR construction projects what permits will be needed and, for new construction projects, to obtain copies of those permits required to begin construction, before obligating more than 40 percent of a CTR construction project's total cost. The amendment provides authority for the Secretary to waive this limitation on funds if it is in the national interest.

Limitation on use of funds for biological research in the former Soviet Union (sec. 1304)

The House bill contained a provision (sec. 1304) that would prohibit obligating funds for cooperative biodefense research or bioattack early warning and preparedness under a Cooperative Threat Reduction (CTR) program at a site in the former Soviet Union until the Secretary of Defense: has determined that no prohibited biological weapons research is being conducted at that site; has assessed the vulnerability of the site to external or internal attempts to exploit or obtain dangerous pathogens illicitly; and has begun to implement appropriate security measures to reduce any vulnerabilities and prevent diversion of dangerous pathogens from legitimate research purposes.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would prohibit the obligation of funds for collaborative biodefense research or bioattack early warning and preparedness projects under a CTR program at a facility in the former Soviet Union until the Secretary determines that no prohibited biological weapons research is being conducted at that facility, and that appropriate security measures have begun to be, or will be, put in place at the facility to prevent theft of dangerous pathogens. The amendment permits up to 25 percent of funds authorized for such projects to be obligated and expended for the purposes of making those determinations.

Requirement for on-site managers (sec. 1305)

The House bill contained a provision (sec. 1306) that would require the Secretary of Defense to appoint an on-site manager to oversee Cooperative Threat Reduction (CTR) projects involving a dismantlement, destruction or storage facility or construction of a facility in the former Soviet Union whose total U.S. cost will exceed $25.0 million over the life of the project.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to appoint an employee of the Federal Government as an on-site manager to oversee CTR projects involving a dismantlement, destruction or storage facility or construction of a facility in the former Soviet Union whose total U.S. cost will exceed $50.0 million over the life of the project. The amendment would allow one individual to serve as the site manager for more than one project so long as the total cost of the projects does not exceed $150.0 million for that fiscal year.

Temporary authority to waive limitation on funding for chemical weapons destruction facility in Russia (sec. 1306)

The House bill contained a provision (sec. 1307) that would extend for a period of one year the President's authority to waive existing certification requirements before obligating funds for the construction of the Shchuch'ye Chemical Weapons Destruction Facility in Russia. The provision would provide that $71.5 million of fiscal year 2004 funds be available for obligation on and after October 1, 2003, but that authorized amounts above $71.5 million could be obligated only at an amount no greater than two times the amount obligated by Russia and any other state for the planning, design, construction or operation of a chemical weapons destruction facility in Russia.

The Senate amendment contained a similar provision (sec. 1305) that would extend for a period of one year the President's authority to waive existing certification requirements before obligating funds for the construction of the Shchuch'ye Chemical Weapons Destruction Facility in Russia.

The Senate recedes with an amendment that would extend for a period of one year the President's authority to waive existing certification requirements before obligating funds for the construction of the Shchuch'ye Chemical Weapons Destruction Facility in Russia.

Annual certifications on use of facilities being constructed for Cooperative Threat Reduction projects or activities (sec. 1307)

The Senate amendment contained a provision (sec. 1303) that would require the Secretary of Defense to provide the congressional defense committees with an annual certification that would indicate whether each facility constructed for a Cooperative Threat Reduction (CTR) project or activity will be used for its intended purpose by the host country, and whether the host country remains committed to using the facility for its intended purpose.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Defense to certify also that actions have been taken to ensure security at each facility, including secure transportation of any materials, substances or weapons to, from, or within the facility.

Authority to use Cooperative Threat Reduction funds outside the former Soviet Union (sec. 1308)

The Senate amendment contained a provision (sec. 1304) that would authorize the President to obligate and expend Cooperative Threat Reduction (CTR) funds for a fiscal year, and any CTR funds that remain available for obligation from any previous fiscal year, for proliferation threat reduction projects or activities in countries outside the states of the former Soviet Union. The amount that may be obligated in a fiscal year for this purpose would not exceed $50.0 million.

The House bill contained no similar provision.

The House recedes with an amendment that would require the President to make certain determinations and to notify Congress in writing within 10 days after obligating funds under this authority of those determinations as follows: (1) that the project or activity will assist the United States in the resolution of a critical emerging proliferation threat; or permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; (2) that the Department of Defense is the entity of government most capable of carrying out the project or activity; and (3) that the project or activity will be completed in a short period of time. The written notification is to include a justification for the determinations and a description of the scope and duration of the project or activity.

The conferees expect that the President would assign such projects or activities to the agency whose mission is most appropriate to the project or activity. The conferees further expect that this authority will be used only for projects or activities that are expected to be completed within a short period of time.

Authority to use Cooperative Threat Reduction funds outside the former Soviet Union (sec. 1308)

The Senate amendment contained a provision (sec. 1304) that would authorize the President to obligate and expend Cooperative Threat Reduction (CTR) funds for a fiscal year, and any CTR funds that remain available for obligation from any previous fiscal year, for proliferation threat reduction projects or activities in countries outside the states of the former Soviet Union. The amount that may be obligated in a fiscal year for this purpose would not exceed $50.0 million.

The House bill contained no similar provision.

The House recedes with an amendment that would require the President to make certain determinations and to notify Congress in writing within 10 days after obligating funds under this authority of those determinations as follows: (1) that the project or activity will assist the United States in the resolution of a critical emerging proliferation threat; or permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; (2) that the Department of Defense is the entity of government most capable of carrying out the project or activity; and (3) that the project or activity will be completed in a short period of time. The written notification is to include a justification for the determinations and a description of the scope and duration of the project or activity.

The conferees expect that the President would assign such projects or activities to the agency whose mission is most appropriate to the project or activity. The conferees further expect that this authority will be used only for projects or activities that are expected to be completed within a short period of time.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority and funds for nonproliferation and disarmament

The House bill contained a provision (sec. 1305) that would authorize the Secretary of Defense to transfer $78.0 million in prior year Cooperative Threat Reduction funds from the Department of Defense to the Department of State for disarmament and nonproliferation purposes outside the territory of the former Soviet Union.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XIV—SERVICES ACQUISITION REFORM

LEGISLATIVE PROVISIONS ADOPTED

Short title (sec. 1401)

The House bill contained a provision (sec. 1401) that would provide that this title may be cited as the Services Acquisition Reform Act of 2003.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle A—Acquisition Workforce and Training

Definition of acquisition (sec. 1411)

The House bill contained a provision (sec. 1411) that would amend section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) by defining the term acquisition. The new definition would encompass the entire spectrum of acquisition, starting with the development of an agency's requirements through management and measurement of contract performance.

The Senate amendment contained no similar provision.

The Senate recedes.

Acquisition workforce training fund (sec. 1412)

The House bill contained a provision (sec. 1412) that would amend section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) to establish within the General Services Administration an acquisition workforce-training fund to be managed by the Federal Acquisition Institute (FAI). The fund would be financed by depositing 5 percent of the fees collected by various executive agencies under their government-wide contracts. This approach would provide the funding for FAI to develop training resources needed to support new acquisition initiatives. The fund would only be used for acquisition workforce training across civilian government agencies. This provision would not apply to the Department of Defense (DOD).

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would exempt the DOD from making contributions to the workforce training fund and would include a five year sunset provision.

Acquisition workforce recruitment program (sec. 1413)

The House bill contained a provision (sec. 1413) that would authorize the head of an agency to determine if, for purposes of sections 3304, 5333, and 5753 of title 5, United States Code, certain federal acquisition positions are in a shortage category for purposes of recruiting and directly hiring persons with high qualifications.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment that would require the Office of Personnel Management (OPM), in consultation with the Office of Federal Procurement Policy, to report to the congressional defense committees on the extent to which the authority has been used and whether such use has been consistent with regulations issued by OPM.

Architectural and engineering acquisition workforce (sec. 1414)

The House bill contained a provision (sec. 1414) that would require the Administrator for Federal Procurement Policy, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Personnel Management, to develop and implement a plan to ensure that the Federal Government maintains the necessary capability to contract effectively for the performance of architectural and engineering services.

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle B—Adaptation of Business Acquisition Practices

Chief Acquisition Officers (sec. 1421)

The House bill contained a provision (sec. 1421) that would amend section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. Sec. 414) to provide for the appointment of a non-career employee as the chief acquisition officer for each executive agency other than the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would limit the number of agencies required to have Chief Acquisition Officers and to retain the requirement for all agencies to have senior procurement executives.

Chief Acquisition Officers Council (sec. 1422)

The House bill contained a provision (sec. 1422) that would establish a Chief Acquisition Officers Council to monitor and improve the federal acquisition system.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would modify the membership of the Council.

Statutory and regulatory review (sec. 1423)

The House bill contained a provision (sec. 1423) that would require the Administrator for Federal Procurement Policy to establish an advisory panel to review acquisition laws and regulations to ensure greater use of commercial practices and performance-based contracting, as well as enhance the performance of acquisition functions across agency lines, and the use of government-wide contracts. The advisory panel would consist of at least nine experts in acquisition law and policy who represent diverse public and private sector experiences.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment.

Extension of authority to carry out franchise fund programs (sec. 1426)

The House bill contained a provision (sec. 1426) that would amend section 403(f) of the Federal Financial Management Act of 1994 (Public Law 103–356) to reauthorize the federal government's franchise funds until October 1, 2006.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would extend the authority to carry out franchise fund programs through December 31, 2004. The conferees direct the Comptroller General to review the Department of Defense use of franchise fund programs and to report to the congressional defense committees on the results of this review no later than six months after the date of enactment of this Act.

Improvements in contracting for architectural and engineering services (sec. 1427)

The House bill contained a provision (sec. 1428) that would amend section 2855(b) of title 10, United States Code, to raise from $85,000 to $300,000 the threshold for a participation incentive for small business concerns in acquisitions for architectural and engineering services. This provision would also require that architectural and engineering services offered under multiple-award schedule contracts awarded by the General Services Administration or under government-wide task and delivery order contracts be performed under the supervision of a licensed professional engineer and be awarded pursuant to the quality-based selection procedures in chapter 11 of title 40, United States Code.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Authorization of telecommuting for Federal contractors (sec. 1428)

The House bill contained a provision (sec. 1429) that would require the federal acquisition regulations to provide that solicitations for federal contracts should not contain any requirement or evaluation criteria that would render an offeror ineligible or would reduce the scoring of the offeror's proposal based upon the offeror's inclusion of a plan to allow its employees to telecommute, unless the contracting officer determines in writing that the needs of the agency could not be met if telecommuting is permitted. This provision would also require the Comptroller General to report to the Congress on the implementation.

The Senate amendment contained no similar provision.

The Senate recedes with a clarifying amendment. The provision would also eliminate the requirement for a report by the Comptroller General.

Subtitle C—Acquisition of Commercial Items

Additional incentive for use of performance-based contracting for services (sec. 1431)

The House bill contained a provision (sec. 1441) that would amend the Office of Federal Procurement Policy Act (41 U.S.C. 403) to create an additional incentive for the use of performance-based services contracts by authorizing a performance-based contract or a performance-based task order for services to be treated as a contract for the procurement of a commercial item if each task is defined in measurable, mission related terms with specific products or outputs, and the contractor provides similar services to the general public. This provision would also require the Administrator for Federal Procurement Policy to establish a center of excellence for service contracting to assist the acquisition community in identifying best practices in service contracting.

The Senate amendment contained a provision (section 811) that would extend the authority in section 821(b) of the Floyd Spence National Defense Authorization Act for fiscal year 2001 to treat Department of Defense performance based services contracts as contracts for the procurement of commercial items and raise the ceiling on such contracts to $10.0 million.

The Senate recedes with an amendment that would make the new government-wide contract authority consistent with existing authority applicable to the DOD, extend the authority for ten years, and raise the ceiling to $25.0 million.

Authorization of additional commercial contract types (sec. 1432)

The House bill contained a provision (sec. 1442) that would amend section 8002(d) of the Federal Acquisition Streamlining Act of 1994 (Public Law 103-355) to provide that the federal acquisition regulations include authority for time and material contracts or labor hour contracts to be used for the acquisition of a commercial service commonly sold to the general public through such contracts.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would place additional safeguards and limitations on the use of time-and-materials and labor-hour contracts for the procurement of commercial services.

The conferees note that section 821 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) establishes a statutory preference for performance-based contracts and performance-based task orders that contain firm fixed prices for the specific tasks to be performed. The provision recommended by the conferees does not change that preference. The provision would make a time-and-materials contract or a labor-hours contract an available option only if the contracting officer executes a determination and finding that no other contract type is suitable. A performance-based contract or task order that contains firm fixed prices for the specific tasks to be performed remains the preferred option for the acquisition of either commercial or non-commercial items.

The conferees direct the Comptroller General to review the use of this authority and to report to the Armed Services Committees of the Senate and the House of Representatives, the Governmental Affairs Committee of the Senate, and the Government Reform and Oversight Committee of the House of Representatives not later than one year after the date of enactment of this Act. The Comptroller General's report should address, at a minimum: the extent to which the authority provided in this provision has been used; the types of contracts for which the authority has been used; and the degree to which such use has been in compliance with the safeguards included in this section (including the requirement that time-and-materials contracts be used only where no other contract type is suitable).

Clarification of commercial services definition (sec. 1433)

The House bill contained a provision (sec. 1443) that would amend section 4 of the Office of Federal Procurement Policy (OFPP) Act [41 U.S.C. 403(12)] by modifying the criteria applied to a commercial service purchased under the procedures for the purchase of a commercial item.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would modify the definition of commercial services to conform the language to terms used in section 41 of the OFPP Act as added by section 1431 of this bill.

Subtitle D—Other Matters

Authority to enter into certain transactions for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack (sec. 1441)

The House bill contained a provision (sec. 1451) that would amend title III of the Federal Property and Administrative Services Act of 1949 (Public Law 81–152) to provide the Director of the Office of Management and Budget authority to grant to the head of selected executive agencies the authority to enter into transactions (other than contracts, cooperative agreements, and grants) and to carry out prototype projects in accordance with the requirements and conditions for such projects, as provided under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160).

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would conform the authority provided to civilian agencies with the existing authority under section 845 and would clarify that the Director of the Office of Management and Budget must authorize the use of this authority by civilian agencies on a case-by-case basis.

Public disclosure of noncompetitive contracting for the reconstruction of infrastructure in Iraq (sec. 1442)

The House bill contained a provision (sec. 1455) that would require agencies to report on the justification for awarding a contract for the reconstruction of infrastructure in Iraq without full and open competition.

The Senate amendment contained a similar provision (sec. 1209).

The Senate recedes with an amendment that would limit the reporting requirement to contracts entered into on or before September 30, 2005.

Special emergency procurement authority (sec. 1443)

The House bill contained a provision (sec. 1456) that would amend the federal emergency procurement authorities in section 852 of the Homeland Security Act of 2002 (Public Law 107-296) by repealing the sunset for authorities applicable for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack and to adjust thresholds amounts.

The Senate amendment contained a provision (sec. 801) that would extend by two years temporary emergency procurement authority under section 852 to assist the Department of Defense (DOD) in facilitating the defense against terrorist biological or chemical attack.

The Senate recedes with an amendment that would modify the Office of Federal Procurement Policy Act (Public Law 93-400) by providing special emergency procurement authority to the DOD and civilian agencies. The provision would authorize the use of the new authority: (1) to support a contingency operation; or (2) to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack on the United States. The simplified acquisition threshold, the micropurchase threshold, and the threshold for use of simplified acquisition procedures would be increased for all procurements covered by this provision. In addition, the head of an executive agency would be authorized to deem items or services purchased to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack on the United States as commercial items (subject to certain limitations). Finally, the provision would extend certain authorities provided in the Clinger-Cohen Act (division D of Public Law 104-106).

LEGISLATIVE PROVISIONS NOT ADOPTED

Executive agency defined

The House bill contained a provision (sec. 1402) that would use the term executive agency, as defined in section 4 of the Office of Federal Procurement of Policy Act (41 U.S.C. 403).

The Senate amendment contained no similar provision.

The House recedes.

Agency acquisition protests

The House bill contained a provision (sec. 1427) that would amend Chapter 137 of title 10, United States Code, and the Federal Property and Administrative Services Act of 1949 (Public Law 81-152) to provide statutory authority for an agency-level acquisition protest process.

The Senate amendment contained no similar provision.

The House recedes.

Incentives for contract efficiency

The House bill contained a provision (sec. 1431) that would amend the Office of Federal Procurement Policy Act (Public Law 93-400) by authorizing agencies to include options in service contracts that extend the contract by one or more performance periods based on exceptional performance, as measured by standards set forth in the contract.

The Senate amendment contained no similar provision.

The House recedes.

Designation of commercial business entities

The House bill contained a provision (sec. 1444) that would amend section 4 of the Office of Federal Procurement Policy Act (Public Law 93-400) to authorize federal agencies to treat the purchase of products or services provided by a commercial entity as a procurement of a commercial item.

The Senate amendment contained no similar provision.

The House recedes.

Authority to make inflation adjustments to simplified acquisition threshold

The House bill contained a provision (sec. 1452) that would authorize the Administrator for Federal Procurement Policy to adjust the simplified acquisition threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (Public Law 93-400), every five years to an amount equal to $100,000 in constant fiscal year 2003 dollars.

The Senate amendment contained no similar provision.

The House recedes.

Applicability of certain provisions to sole source contracts for goods and services treated as commercial items

The House bill contained a provision (sec. 1454) that would limit certain commercial item authority.

The Senate amendment contained no similar provision.

The House recedes.

Prohibition on use of quotas

The House bill contained a provision (sec. 1453) that would prohibit the Office of Management and Budget from establishing, applying, or enforcing quotes on federal agencies with respect to the number of employees that should be part of a public-private competition.

The Senate amendment contained no similar provision.

The House recedes.

TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

Veterans' Disability Benefits Commission (sec. 1501-1507)

The conferees agree to include a provision that would establish a Veterans' Disability Benefits Commission composed of 13 members that would carry out a study of the benefits provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service. The Commission would be required, not later than 15 months after the date on which it first meets, to submit to the President and the Congress a report on the study, including recommendations for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

Higher education relief opportunities for students

The House bill contained provisions (secs. 1501-1506) that would amend the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.). These provisions would authorize the Secretary of Education to waive or modify any statutory or regulatory provision applicable to certain student financial assistance programs with respect to individuals who are serving on active duty during a war or other military operation or national emergency. Additionally, a provision would express the sense of Congress that all institutions offering post-secondary education should provide a full refund of tuition and related fees to students who are unable to receive academic credit due to their active military service.

The Senate amendment contained no similar provision.

The House recedes.

The Higher Education Relief Opportunities for Students Act of 2003 (Public Law 108-76) was enacted on August 18, 2003.

LEGISLATIVE PROVISIONS ADOPTED

LEGISLATIVE PROVISIONS NOT ADOPTED

TITLE XVI—DEFENSE BIOMEDICAL COUNTERMEASURES

Research and development of defense biomedical countermeasures (sec. 1601)

The House bill contained a provision (sec. 1031) that would require the Secretary of Defense to establish and carry out a program to accelerate the research and development of biomedical countermeasures, including therapeutics and vaccines, for protecting members of the Armed Forces from attack by chemical, biological, radiological, or nuclear (CBRN) agents.

The Senate amendment contained no similar provision.

The conferees agree to an amendment that would require the Secretary of Defense to establish a program to accelerate research and development of biological countermeasures to CBRN threats. The amended provision would encourage interagency cooperation and provide incentives for the program through the use of increased thresholds for expedited acquisition authority and streamlined authority for hiring professional and technical employees, both of which are established elsewhere in the bill.

Procurement of defense biomedical countermeasures (sec. 1602)

The House bill contained a provision (sec. 1032) that would require the Secretary of Defense, in consultation with the Secretaries of Health and Human Services and of Homeland Security, to assess emerging threats of the use of CBRN agents, identify those agents for which biomedical countermeasures are needed to protect the health of members of the Armed Forces, and procure qualified biomedical countermeasures for the DOD stockpile.

The Senate amendment contained no similar provision.

The conferees agree to an amendment that would authorize the Secretary of Defense to enter into an interagency agreement with the Secretaries of Homeland Security and Health and Human Services to provide for acquisition by the Secretary of Defense for use by the Armed Forces of biomedical countermeasures procured for the Strategic National Stockpile by the Secretary of Health and Human Services. The amendment authorizes the Secretary of Defense to transfer those funds to the Secretary of Health and Human Services that are necessary to carry out such agreements and the Secretary of Health and Human Services to expend any such transferred funds to procure such counter-measures for use by the Armed Forces, or to replenish the stockpile.

Authorization for medical products for use in emergencies (sec. 1603)

The House bill contained a provision (sec. 1033) that would define the conditions under which the Secretary of Defense could declare a state of emergency that would authorize use on members of the Armed Forces of a drug or device intended for use in an actual or potential emergency.

The Senate recedes with an amendment that would permit the Secretary of Health and Human Services to authorize emergency use by the general public of certain drugs, devices, or biological products based on a determination by the Secretary of Defense that there is a military emergency involving a heightened risk to United States military forces of attack with specified biological, chemical, radiological, or nuclear agents. The amendment would authorize the President to waive the right of service members to refuse administration of a product if the President determines, in writing, that affording service members the right to refuse the product is not feasible, is contrary to the best interests of the members affected, or is not in the interests of national security. If the President makes this determination, the amendment would authorize the Secretary of Defense, in consultation with the Secretary of Health and Human Services, to make a determination that it is not feasible based on time limitations to advise military personnel in advance of the significant known benefits and risks of use of the product.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Overview

The administration originally requested authorization of appropriations in fiscal year 2004 for military construction and housing programs totaling $8,965.2 million. The administration's amended budget for authorization of appropriations totaled $9,144.1 million, which included the use of rescinded authorization totaling $153.4 million from the termination of fiscal year 2003 military construction projects.

The House bill would authorize appropriations totaling $9,789.5 million for military construction and family housing, which included the use of $261.2 million from fiscal year 2003 project authorization recisions.

The Senate amendment would authorize appropriations totaling $9,458.6 million for military construction and family housing, which included the use of $153.4 million from fiscal year 2003 project authorization recisions.

The conferees recommend authorization of appropriation of $9,685.7 million for the military construction and family housing accounts of the Department of Defense for fiscal year 2004, which includes the use of $496.2 million from multiple prior year project authorization recisions. With the prior year recisions, the conference agreement is consistent with a budget authority level of $9,189.4 million for military construction and family housing.

The conferees agreed to transfer $119.8 million in authorization requested by the administration in the Chemical Agents and Munitions Destruction program Defense-wide account to the Military Construction, Defense-wide account.

The following tables provide the project-level authorizations for the military construction funding authorized in Division B of this Act and summarize that funding by account. The tables also note as Budget Amend the projects contained in the fiscal year 2004 amended budget request submitted by the administration on May 1, 2003 to realign certain military construction and family housing projects.

NATIONAL DEFENSE AUTHORIZATIONS FOR FISCAL YEAR 2004

(Dollars in Thousands)

	Authorization Request	House Authorized	Senate Authorized	Conference Change	Conference Agreement
Military Construction					
Military Construction, Army	1,678,210	1,604,480	1,360,710	(229,971)	1,448,239
Military Construction, Navy	1,147,537	1,251,946	1,182,568	90,921	1,238,458
Military Construction, Air Force	830,671	986,076	1,035,538	237,080	1,067,751
Military Construction, Defense-Wide*	655,381	802,549	733,905	46,490	701,871
NATO Security Investment Program	169,300	169,300	169,300	0	169,300
BRAC IV	370,427	370,427	370,427	0	370,427
Military Construction, Army National Guard	168,298	253,788	276,779	143,294	311,592
Military Construction, Air National Guard	60,430	123,408	208,530	162,478	222,908
Military Construction, Army Reserve	68,478	89,840	74,478	19,973	88,451
Military Construction, Naval and Marine Corps Reserve	28,032	45,762	34,132	17,466	45,498
Military Construction, Air Force Reserve	44,312	61,143	53,912	17,720	62,032
Total Military Construction	**5,221,076**	**5,758,719**	**5,500,279**	**505,451**	**5,726,527**
Family Housing					
Family Housing Construction, Army	409,191	409,191	409,191	(25,600)	383,591
Family Housing Support, Army	1,043,026	1,043,026	1,031,853	(10,000)	1,033,026
Family Housing Construction, Navy	184,193	184,193	184,193	0	184,193
Family Housing Support, Navy	852,778	852,778	813,158	(17,700)	835,078
Family Housing Construction, Air Force	657,065	657,065	657,065	0	657,065
Family Housing Support, Air Force	834,468	834,468	812,770	(18,394)	816,074
Family Housing Construction, Defense-Wide	350	350	350	0	350
Family Housing Support, Defense-Wide	49,440	49,440	49,440	0	49,440
Family Housing Improvement Fund	300	300	300	0	300
Total Family Housing	**4,030,811**	**4,030,811**	**3,958,320**	**(71,694)**	**3,959,117**
Total Military Construction and Family Housing	**9,251,887**	**9,789,530**	**9,458,599**	**433,757**	**9,685,644**
Rescissions	(261,206)	(261,206)	(153,373)	(235,038)	(496,244)
Total Authorization of Appropriations	**8,990,681**	**9,528,324**	**9,305,226**	**198,719**	**9,189,400**

*ChemDemil projects are included in MilCon, Defense-Wide.

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Alabama	Army	Redstone Arsenal	Vibration Dynamic Test Facility	5,500	5,500	5,500		5,500
Alabama	Air Force	Maxwell AFB	Integrated Operations Support Facility		12,600	-	12,600	12,600
Alabama	Air Force	Maxwell AFB	SOC Dormitory, Phase 3	13,400	13,400	13,400		13,400
Alabama	Defense Wide	Redstone Arsenal	Defense Agency, Phase 3		-	-	20,000	20,000
Alabama	Army National Guard	ARNGRC Fort Payne	Readiness Center, Add/Alter (ADRS)	3,648	-	3,648	(3,648)	-
Alabama	Army National Guard	ARNGRC Mobile	Armed Forces Reserve Center (ADRS), Phase 2	2,943	2,943	2,943		2,943
Alabama	Army National Guard	ARNGRC Springville	Readiness Center, Add/Alter (ADRS)	3,365	-	3,365	(3,365)	-
Alabama	Army National Guard	ARNGRC Vincent	Readiness Center, Add/Alter (ADRS)	3,353	3,353	3,353		3,353
Alabama	Army National Guard	Ft McClellan	Fire Station (ADRS)	1,873	1,873	1,873		1,873
Alabama	Army National Guard	Haleyville	Joint Armed Forces Reserve Center Phase 1	-	13,849	-		-
Alabama	Air National Guard	Dannelly Field	Composite Operations and Training Facility		-	11,400		-
Alabama	Army Reserve	Birmingham	Land Acquisition for Reserve Center		-	2,900		-
Alaska	Army	Ft Richardson	Barracks		-	8,200		-
Alaska	Army	Ft Richardson	Barracks Complex - D Street, Phase 3	33,000	33,000	33,000		33,000
Alaska	Army	Ft Richardson	Vehicle Maintenance Shop		-	2,500	2,500	2,500
Alaska	Army	Ft Wainwright	Pallet Processing Facility	16,500	16,500	16,500		16,500
Alaska	Army	Ft Wainwright	Military Operations on Urban Terrain	11,200	11,200	11,200		11,200
Alaska	Army	Ft Wainwright	Multi-Purpose Training Range Complex	47,000	47,000	47,000		47,000
Alaska	Army	Ft Wainwright	Ammunition Supply Point Upgrade	10,600	10,600	10,600		10,600
Alaska	Army	Ft Wainwright	Barracks - Luzon Avenue	21,500	21,500	21,500		21,500
Alaska	Army	Ft Wainwright	Alert Holding Area Facility	32,000	32,000	32,000		32,000
Alaska	Air Force	Eielson AFB	Repair/Expand Enroute Ramp	19,060	19,060	19,060		19,060
Alaska	Air Force	Eielson AFB	Dormitory--96 RM	13,914	13,914	13,914		13,914
Alaska	Air Force	Eielson AFB	Joint Security Forces Complex		-	15,800	15,800	15,800
Alaska	Air Force	Elmendorf AFB	Maintenance Facility	2,000	2,000	2,000		2,000
Alaska	Defense Logistics Agency	Eielson AFB	Replace Hydrant Fuel System	17,000	17,000	17,000		17,000
Alaska	Tri-Care Management Activity	Ft Wainwright	Hospital Replacement, Phase 5 [1]	-	-	-		-
Alaska	Army National Guard	Juneau	Organizational Maintenance Shop		-	3,100	3,100	3,100
Arizona	Navy	MCAS Yuma	Station Ordnance Area	7,980	7,980	7,980		7,980
Arizona	Navy	MCAS Yuma	Aircraft Maintenance Hangar	14,250	14,250	14,250		14,250
Arizona	Air Force	Davis-Monthan AFB	CSAR Msn Ready Support Parts	1,906	1,906	1,906		1,906
Arizona	Air Force	Davis-Monthan AFB	CSAR C-130 Apron/Shoulder	1,954	1,954	1,954		1,954
Arizona	Air Force	Davis-Monthan AFB	CSAR HH-60 Sq Ops/AMU	6,004	6,004	6,004		6,004
Arizona	Air Force	Luke AFB	Modification to FY 2003 Land Acquisition		-	14,300	14,300	14,300
Arizona	Air National Guard	Tucson IAP	Composite Support Complex		5,900	-	5,900	5,900
Arkansas	Air Force	Little Rock AFB	C-130J Add/Alter Hangar 280	1,144	1,144	1,144		1,144
Arkansas	Air Force	Little Rock AFB	C-130 Operations Training Facility	2,478	2,478	2,478		2,478
Arkansas	Air Force	Little Rock AFB	Child Development Center		3,750	3,750		-
Arkansas	Army National Guard	Warren	Readiness Center		-	3,610	3,610	3,610

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
California	Army	Ft Irwin	MOUT Phase 1		3,350	-		-
California	Navy	Palms	Bachelor Enlisted Quarters	26,100	26,100	26,100		26,100
California	Navy	Palms	Enlisted Dining Facility		13,700	-	13,700	13,700
California	Navy	Palms	Explosive Ordnance Operations	2,290	2,290	2,290		2,290
California	Navy	MCAS Miramar	Aircraft Fire/Rescue Station	4,740	4,740	4,740		4,740
California	Navy	MCAS Miramar	Ground Combat Training Range		2,900	-	2,900	2,900
California	Navy	MCB Camp Pendleton	BEQ	22,930	22,930	22,930		22,930
California	Navy	MCB Camp Pendleton	Tertiary Sewage Treatment, Increment 1	24,960	24,960	24,960		24,960
California	*Navy*	*NAF El Centro*	*Rescission, Transient Quarters-Bid Savings (FY 2002)*				*[-2100]*	*[-2100]*
California	Navy	NAF San Clemente Island	Operational Access - Shoba	18,940	18,940	18,940		18,940
California	Navy	NAS Lemoore	Operational Trainer	9,900	9,900	9,900		9,900
California	Navy	NAS Lemoore	Maintenance Hangar-O/H Space	24,610	24,610	24,610		24,610
California	Navy	NAS North Island	Taxiway/Tower	13,650	13,650	13,650		13,650
California	Navy	NAS North Island	Squadron Operations Facility	35,590	35,590	35,590		35,590
California	Navy	NAVPGSCOL Monterey	Bachelor Officer Quarters Replacement	35,550	35,550	35,550		35,550
California	Navy	NAVPGSCOL Monterey	Education Facility Replacement Phase 2		7,010	-	7,010	7,010
California	Navy	NAWC China Lake	Airfield Pavement Upgrade	12,890	-	12,890	(12,890)	-
California	Navy	NAWC China Lake	Propellants and Explosives Lab Ph 3		12,230	-	12,230	12,230
California	Navy	Nicholas Island)	Transient Quarters (SNI)	6,150	6,150	6,150		6,150
California	Navy	NS San Diego	BEQ Homeport Ashore	42,710	42,710	42,710		42,710
California	Navy	Pt Mugu NB	Aircraft Test Stand		-	3,000		-
California	Air Force	Beale AFB	Global Hawk Dorm--96 RM	13,342	13,342	13,342		13,342
California	Air Force	Beale AFB	Global Hawk Upgrade Docks	8,958	8,958	8,958		8,958
California	Air Force	Edwards AFB	Add/Renovate JSF Complex, Phase 1	19,060	19,060	19,060		19,060
California	Air Force	Edwards AFB	Base Operations Facility		7,300	-	7,300	7,300
California	Air Force	Los Angeles AFB	Area B Main Gate Complex		-	5,000	5,000	5,000
California	Air Force (Budget Amend)	Vandenberg AFB	Consolidated Fitness Center	16,500	16,500	16,500	(16,500)	-
California	Special Operations Command	NAB Coronado	Small Arms Range		2,800	-	2,800	2,800
California	Army National Guard	Bakersfield	Readiness Center (ADRS)	5,495	5,495	5,495		5,495
California	Army National Guard	Los Alamitos	Replace Utilities Infrastructure, Phase I		-	21,000	21,000	21,000
California	Navy Reserve	NARC San Diego	C-40 Hangar	15,973	15,973	15,973		15,973
Colorado	Army	Ft Carson	Vehicle Marshalling Area		2,150	-	2,150	2,150
Colorado	Air Force	Buckley AFB	Upgrade Base Infrastructure, Phase 3	6,957	6,957	6,957		6,957
Colorado	Air Force	Peterson AFB	Add/Alter Mission Support Facility		-	10,200	10,200	10,200
Colorado	Tri-Care Management Activity	Air Force Academy	Hospital Addition/Alteration	21,500	21,500	21,500		21,500
Colorado	ChemDemil	Pueblo Depot Activity	Ammunition Demilitarization Facility Ph 5		88,388	88,388	88,388	88,388
Colorado	Air Force Reserve	Peterson AFB	Consolidated Aerial Port/Airlift Control Flight Facility		7,700	-	7,700	7,700
Colorado	Air National Guard	Buckley ANG Base	Buckley-Civil Engineer Complex	6,900	6,900	6,900		6,900
Colorado	Army National Guard	Ft Carson	Centennial Training Site, Phase II, III (Design)		-	4,500		-

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Connecticut	Navy	NSB New London	Tomahawk Missile Magazine		3,120	3,000	3,120	3,120
Connecticut	Tri-Care Management Activity	NSB New London	Dental Clinic Replacement	6,400	6,400	6,400		6,400
Connecticut	Army National Guard	Newtown Mil. Res.	Working Animal Building (ADRS)	2,167	2,167	2,167		2,167
Connecticut	Army National Guard	Stones Ranch Mil. Res.	Fire Station (ADRS)	2,422	2,422	2,422		2,422
Delaware	Air Force	Dover AFB	Air Traffic Control Tower		-	8,500		-
Columbia	Navy	Marine Corps Bks	Motor Transport Facility Addition	1,550	1,550	1,550		1,550
Columbia	Air Force	Bolling AFB	Air Force Central Adjudication Facility	9,300	9,300	9,300	(9,300)	-
Columbia	Tri-Care Management Activity	NS Anacostia	Medical/Dental Clinic Conversion/Renovation	15,714	15,714	15,714		15,714
Columbia	Tri-Care Management Activity	Walter Reed MC	Hospital Energy Plant Add/Alter	9,000	9,000	9,000		9,000
Florida	Navy	Blount Island	Land Acquisition	115,711	115,711	115,711		115,711
Florida	Navy	NAS Jacksonville	Aircraft Parking Apron Phase 1		6,000	-	6,000	6,000
Florida	Navy	NAS Jacksonville	Airfield Perimeter Security Enhancement	3,190	3,190	3,190		3,190
Florida	Navy	NAS Whiting Fld	Clear Zone Acquisition (OLF Barin)	4,830	4,830	4,830		4,830
Florida	Navy	NSWC Panama City	Littoral Warfare Research Complex	9,550	9,550	9,550		9,550
Florida	Air Force (Budget Amend)	Hurlburt Fld	AFC2TIG System/Warrior School Complex	19,400	19,400	19,400		19,400
Florida	Air Force	Hurlburt Fld	Special Tactics Advanced Skills Training	7,800	7,800	7,800		7,800
Florida	Air Force	Patrick AFB	Security Forces Operations Facility		-	8,800		-
Florida	Air Force	Tyndall AFB	1st Air Force Air Operations Center Phase 1		14,400	-	9,500	9,500
Florida	Air Force	Tyndall AFB	F-22 Parking Apron/Runway Extension	6,195	6,195	6,195		6,195
Florida	Defense Logistics Agency	Eglin AFB	Replace Jet Fuel Storage Complex	4,800	4,800	4,800		4,800
Florida	Defense Logistics Agency	Hurlburt Fld	Replace Fuel Pier	3,500	3,500	3,500		3,500
Florida	Special Operations Command	Hurlburt Fld	SOF Squadron Ops/AMU AC-130	6,000	6,000	6,000		6,000
Florida	Special Ops Cmd (Budget Amend)	MacDill AFB	SOF Add/Alter Building 501A	25,500	25,500	25,500		25,500
Florida	Army National Guard	Camp Blanding	Combined Support Maintenance Shop		16,470	-	16,470	16,470
Georgia	Army	Ft Benning	Fire Station, Two Company		2,850	-	2,850	2,850
Georgia	Army	Ft Benning	Infantry Squad Battle Course		1,650	-	1,650	1,650
Georgia	Army	Ft Benning	Multi-Purpose Training Range Complex	30,000	30,000	30,000		30,000
Georgia	Army	Ft Gordon	Training Support Center		-	4,350	4,350	4,350
Georgia	Army (Budget Amend)	Ft Stewart/Hunter AAF	Barracks, Ph 1	17,000	17,000	17,000		17,000
Georgia	Army (Budget Amend)	Ft Stewart/Hunter AAF	Command and Control Facility	25,050	25,050	25,050	(25,050)	-
Georgia	Army	Ft Stewart/Hunter AAF	Physical Fitness Training Center	15,500	15,500	15,500		15,500
Georgia	Army	Ft Stewart/Hunter AAF	Barracks Complex - Perimeter Road	49,000	49,000	49,000		49,000
Georgia	Navy	SWFLANT Kings Bay	Rifle Range	8,170	8,170	8,170		8,170
Georgia	Navy	SWFLANT Kings Bay	Staff Addition & HMMWV Garage	3,340	3,340	3,340		3,340
Georgia	Air Force	Moody AFB	C-130 Maintenance Hangar		-	7,600		-
Georgia	Air Force	Robins AFB	Consolidated Aircraft Maintenance Shop		7,900	-	7,900	7,900
Georgia	Air Force	Robins AFB	Corrosion Control Paint Facility	25,731	25,731	25,731		25,731
Georgia	Air Force	Robins AFB	J-STARS Flight Simulator Facility	2,954	2,954	2,954		2,954
Georgia	Special Operations Command	Ft Benning	Physical Evaluation Center	2,100	2,100	2,100	(2,100)	-

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Georgia	Army Reserve	Ft Gillem	OMS/DS/Parts Warehouse/Storage	7,620	7,620	7,620		7,620
Georgia	Air Force Reserve	Dobbins ARB	North Side Overpass		4,200	-	4,200	4,200
Hawaii	Army	Helemano Mil. Res.	Land Easement	1,400	1,400	1,400		1,400
Hawaii	Army	Pohakuloa Training Area	Saddle Road Access, Phase 3		-	17,000	17,000	17,000
Hawaii	Army	Schofield Barracks	Barracks Complex - Quad E	49,000	49,000	49,000		49,000
Hawaii	Army	Schofield Barracks	Land Acquisition	19,400	19,400	19,400		19,400
Hawaii	Army	Schofield Barracks	Information Systems Facility	18,000	18,000	18,000		18,000
Hawaii	Army	Schofield Barracks	Barracks Complex - Capron Road, Phase 2	49,000	49,000	49,000		49,000
Hawaii	Army	Schofield Barracks	Mission Support Training Facility	33,000	33,000	33,000		33,000
Hawaii	Army	Schofield Barracks	Qualification Training Range (1)		8,700	-	8,700	8,700
Hawaii	Navy	FISC Pearl Harbor	Waterfront Improvements	32,180	32,180	32,180		32,180
Hawaii	Navy	NAVMAG Lualualei	Ordnance Holding Areas	6,320	6,320	6,320		6,320
Hawaii	Navy	NSY Pearl Harbor	Perimeter/Security Lighting	7,010	7,010	7,010		7,010
Hawaii	Air Force	Hickam AFB	C-17 Consolidated Maintenance Complex	7,529	7,529	7,529		7,529
Hawaii	Air Force	Hickam AFB	C-17 Squadron Operations	10,674	10,674	10,674		10,674
Hawaii	Air Force	Hickam AFB	C-17 Kuntz Gate & Road	3,050	3,050	3,050		3,050
Hawaii	Air Force	Hickam AFB	C-17 Flight Simulator	5,623	5,623	5,623		5,623
Hawaii	Air Force	Hickam AFB	C-17 Corrosion Control/ Maintenance Facility	30,400	30,400	30,400		30,400
Hawaii	Air Force	Hickam AFB	C-17 Support Utilities, Phase 1	4,098	4,098	4,098		4,098
Hawaii	Air Force	Hickam AFB	Electrical Distribution System, Phase I		-	6,800	6,800	6,800
Hawaii	Air Force	Hickam AFB	Expand Strategic Airlift Ramp	10,102	10,102	10,102		10,102
Hawaii	Defense Logistics Agency	Hickam AFB	Replace Hydrant Fuel System	14,100	14,100	14,100		14,100
Idaho	Air Force	Mountain Home AFB	726th Squadron Air Control Complex		-	9,800	9,800	9,800
Idaho	Air Force	Mountain Home AFB	Add/Alter Fitness Center	5,337	5,337	5,337		5,337
Illinois	Navy	NTC Great Lakes	Battle Station Training Facility, Increment 1	13,200	13,200	13,200		13,200
Illinois	Navy	NTC Great Lakes	Recruit Barracks	34,130	34,130	34,130		34,130
Illinois	Navy	NTC Great Lakes	Recruit Barracks	31,600	31,600	31,600		31,600
Illinois	Air Force	Scott AFB	Shiloh Gate (AT/FP)	1,900	1,900	1,900		1,900
Illinois	Army National Guard	Galesburg	Readiness Center		3,750	3,750	3,750	3,750
Indiana	Navy	NSWC Crane	Joint Ordnance Engineering & Logistics Facility		11,400	-	11,400	11,400
Indiana	ChemDemil	Newport AAP	Ammunition Demilitarization Facility Ph 6		15,207	15,207	15,207	15,207
Indiana	Army National Guard	ARNGRC Gary	Limited Aviation Support Facility		-	15,581	15,581	15,581
Indiana	Army National Guard	ARNGRC Gary	Readiness Center, Add/Alter (ADRS)	1,417	1,417	1,417		1,417
Indiana	Army National Guard	Camp Atterbury	Readiness Center, Add/Alter (ADRS)	2,849	2,849	2,849		2,849
Indiana	Army National Guard	Elkhart	Readiness Center, Add/Alter (ADRS)	1,770	1,770	1,770		1,770
Indiana	Army National Guard	South Bend	Readiness Center, Add/Alter (ADRS)	1,496	1,496	1,496		1,496
Iowa	Air National Guard	Sioux Gateway APT	Sioux-KC-135 Fire Crash/Rescue Station/Security	6,091	7,409	6,091		6,091
Iowa	Air National Guard	Sioux Gateway APT	Upgrade Runway/Taxiways, Phase II		-	2,000		-
Kansas	Army (Budget Amend)	Ft Leavenworth	Lewis and Clark Instr Facility, Ph 1	28,000	28,000	28,000		28,000

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Kansas	Army	Ft Riley	Barracks Complex - Graves Street	40,000	40,000	40,000		40,000
Kansas	Army	Ft Riley	Combined Arms Collective Training Facility, Ph II		-	13,600	13,600	13,800
Kansas	Army National Guard	ARNGRC Kansas City	Readiness Center, Add/Alter (ADRS)	2,982	2,982	2,982		2,982
Kansas	Air National Guard	McConnell AFB	Air Intelligence Exploitation Facility		7,400	-	7,400	7,400
Kansas	Army Reserve	Ft Leavenworth	AR Center/OMS/Unh Storage		7,962	-	7,962	7,962
Kentucky	Army	Ft Campbell	Barracks Complex - Range Road, Phase 2	49,000	49,000	49,000		49,000
Kentucky	Army	Ft Knox	Dining Facility		-	10,000	10,000	10,000
Kentucky	Army	Ft Knox	Modified Record Fire Range	3,500	3,500	3,500		3,500
Kentucky	Army	Ft Knox	Urban Assault Course		2,050	-		-
Kentucky	ChemDemil	Blue Grass Army Depot	Ammunition Demilitarization Facility Ph 4		16,220	16,220	16,220	16,220
Kentucky	Special Operations Command	Ft Campbell	Flight Simulator	7,800	7,800	7,800		7,800
Kentucky	Army National Guard	ARNGRC Morehead [2]	Readiness Center, (ADRS)	4,997	4,997	4,997		4,997
Kentucky	Army National Guard	ARNGRC Richmond	Readiness Center, Add/Alter (ADRS)	756	756	756		756
Kentucky	Army National Guard	Greenville	Fire Station (ADRS)	2,238	2,238	2,238		2,238
Louisiana	Army	Ft Polk	Aircraft Maintenance Hangar	34,000	34,000	34,000		34,000
Louisiana	Army	Ft Polk	Arms Storage Facility	1,350	1,350	1,350		1,350
Louisiana	Army	Ft Polk	Shoot House	1,250	1,250	1,250		1,250
Louisiana	Army	Ft Polk	Mission Training Support Facility	27,000	27,000	27,000		27,000
Louisiana	Army	Ft Polk	Alert Holding Area Facility	8,400	8,400	8,400		8,400
Louisiana	Army National Guard	ARNG Pineville	Consolidated Maintenance Facility, Phase 1	18,579	18,579	18,579		18,579
Louisiana	Air National Guard	NAS/JRB New Orleans	Vehicle Maintenance Support Equipment Facility		-	6,300	6,300	6,300
Louisiana	Navy Reserve	NAS/JRB New Orleans	Armed Forces Reserve Center, Phase 4		10,800	-	4,780	4,780
Maine	Army National Guard	Bangor International Airport	Aviation Support Facility, Phase II		-	14,900	14,900	14,900
Maryland	Army	Aberdeen	Chem/Bio Sample Reception Facility		-	13,000		-
Maryland	Army	Ft Meade	Dining Facility	9,600	9,600	9,600		9,600
Maryland	Navy	NAWC Patuxent River	JSF Test Facility	24,370	24,370	24,370		24,370
Maryland	Navy	NAWC Patuxent River	Relocate Range Theodolite Tracking Station		3,900	-	3,900	3,900
Maryland	Navy	NSWC Indian Head	Water System Improvements	14,850	14,850	14,850		14,850
Maryland	National Security Agency	Ft Meade	Critical Utility Control, Phase II-B	1,842	1,842	1,842		1,842
Maryland	Army Reserve	Ft Meade	ARCenter/OMS/Warehouse, Phase 1	19,710	19,710	19,710		19,710
Maryland	Air Force Reserve	Andrews AFB	Alter Aircraft Maintenance Shop	2,900	2,900	2,900		2,900
Maryland	Air Force Reserve	Andrews AFB	Upgrade Airfield Pavements	835	835	835		835
Maryland	Air Force Reserve	Andrews AFB	Hydrant Fuel System	7,375	7,375	7,375		7,375
Massachusetts	Army	Natick	Thermal Test Facility		5,500	-	5,500	5,500
Massachusetts	Army National Guard	Camp Edwards	Readiness Center add/alt		2,185	-		-
Massachusetts	Army National Guard	Camp Edwards	Fire Station		2,418	-	2,418	2,418
Massachusetts	Air National Guard	Otis (Falmouth)	Fire Crash/Rescue Station		-	11,000	11,000	11,000
Michigan	Army National Guard	Calumet	Readiness Center		-	3,370	3,370	3,370
Michigan	Army National Guard	Jackson	Readiness Center, (ADRS)	5,591	5,591	5,591		5,591

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Michigan	Army National Guard	Shiawassee County	Readiness Center		3,508	-	3,508	3,508
Michigan	Air National Guard	Alpena	Dining Facility		-	8,500	8,500	8,500
Michigan	Air National Guard	Selfridge ANGB	Joint ANG/AFRC Medical Training		9,600	9,600	9,600	9,600
Michigan	Air National Guard	Selfridge ANGB	Pass and ID/Visitors Complex		-	4,000		-
Minnesota	Air National Guard	Duluth IAP	Aircraft Maintenance Facility Modernization		-	9,000	9,000	9,000
Minnesota	Air Force Reserve	Minneapolis-St. Paul IAP	Aeromedical Evacuation Building		3,650	-	3,650	3,650
Mississippi	Navy	NS Pascagoula	Littoral Surveillance System Facility		6,100	-		-
Mississippi	Navy	NAS Meridian	Fire & Rescue Station	4,570	4,570	4,570		4,570
Mississippi	Air Force	Columbus AFB	Air Traffic Control Tower		-	5,500	5,500	5,500
Mississippi	Air Force	Columbus AFB	T-6 Parts Warehouse		2,200	-	2,200	2,200
Mississippi	Air Force	Keesler AFB	ADAL Child Development Center		2,900	2,900	2,900	2,900
Mississippi	Army National Guard	Camp Shelby	Military Education Facility, Phase 3	7,733	7,733	7,733		7,733
Mississippi	Army National Guard	Gulfport	Organizational Maintenance Shops		-	4,650		-
Mississippi	Air National Guard	Camp Shelby	Camp Shelby-C-17 Assault Runway	7,409	6,091	7,409		7,409
Mississippi	Navy Reserve	NS Pascagoula	Littoral Surveillance System Facility		-	6,100	6,100	6,100
Mississippi	Air Force Reserve	Keesler AFB	Fuel Cell Maintenance Hangar	6,650	6,650	6,650		6,650
Missouri	Army	Ft Leonard Wood	Vehicle Operations Site, TA 244		5,900	-		-
Missouri	Air Force	Whiteman AFB	Education Center		11,600	-	11,600	11,600
Missouri	Army National Guard	Dexter[3]	Readiness Center, (ADRS)	4,947	4,947	4,947		4,947
Missouri	Air National Guard	Rosecrans Memorial Airport	Air Traffic Control Training Complex		-	8,000	8,000	8,000
Montana	Army National Guard	Billings	Organizational Maintenance Shop, Add/Alter (ADRS)	1,209	1,209	1,209		1,209
Montana	Army National Guard	Kalispell	Armed Forces Reserve Center		-	9,020	9,020	9,020
Montana	Army National Guard	Kalispell	Organizational Maintenance Shop, Add/Alter (ADRS)	706	706	706		706
Nebraska	Defense Logistics Agency	Offutt AFB	Replace Hydrant Fuel System	13,400	13,400	13,400		13,400
Nebraska	Army National Guard	ARNGRC Columbus	Readiness Center, Add/Alter (ADRS)	618	618	618		618
Nebraska	Army National Guard	ARNGRC York	Readiness Center, Add/Alter (ADRS)	758	758	758		758
Nebraska	Army National Guard	Camp Ashland	Construct Frontage Levee Segment		-	3,000	3,000	3,000
Nebraska	Army National Guard	Norfolk, NE	Fire Station, (ADRS)	1,068	1,068	1,068		1,068
Nebraska	Army National Guard	Omaha	Readiness Center, (ADRS)	5,804	5,804	5,804		5,804
Nebraska	Army Reserve	Omaha	Army Reserve Center Land Acquisition		-	3,100		-
Nevada	Navy	NAS Fallon	High Explosives Magazines		4,700	4,700		-
Nevada	Air Force	Nellis AFB	Vehicle Maintenance Complex		-	11,800	11,800	11,800
Nevada	Defense Logistics Agency	Nellis AFB	Hydrant Fuel System	12,800	12,800	12,800		12,800
Nevada	Air National Guard	Reno	Replace Communication & Security Forces Facility		-	9,000	9,000	9,000
New Hampshire	Air National Guard	Pease ANG Base	Fire Station		-	6,100	6,100	6,100
New Jersey	Army	NAES Lakehurst	Special Purpose BN Operations Facility		2,250	-	2,250	2,250
New Jersey	Army	Picatinny Arsenal	Explosives R&D Loading Facility		11,800	-	8,000	8,000
New Jersey	Navy	NAWC Lakehurst	EMALS Facility	20,681	20,681	20,681		20,681
New Jersey	Navy	NWS Earle	General Purpose/Berthing Pier Ph 1	26,740	26,740	26,740		26,740

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New Jersey	Air Force	McGuire AFB	C-17 Roads & Utilities	4,765	4,765	4,765		4,765
New Jersey	Air Force	McGuire AFB	C-17 Maintenance Training Device Facility	6,862	6,862	6,862		6,862
New Jersey	Army Reserve	Ft Dix	Officer Education School		7,000	-		-
New Jersey	Army Reserve	Ft Dix	ADD/ALT Timmerman Conference Center		3,700	-	3,700	3,700
New Jersey	Army Reserve	Ft Dix	Urban Assault Course		2,700	-	2,700	2,700
New Mexico	Air Force	Cannon AFB	Aerospace Ground Equipment Complex		-	7,700	7,700	7,700
New Mexico	Air Force	Cannon AFB	Install Approach Lights, Runway 13		-	1,300	1,300	1,300
New Mexico	Air Force	Kirtland AFB	Arsenic Treatment Plant	6,957	6,957	6,957		6,957
New Mexico	Air Force	Kirtland AFB	Electrical Power Main Switching Station		4,150	-	4,150	4,150
New Mexico	Air Force	Tularosa	Upgrade Radar Test Facility	3,600	3,600	3,600		3,600
New Mexico	Army National Guard	ARNGRC Albuquerque	Readiness Center, Add/Alter (ADRS)	2,533	2,533	2,533		2,533
New York	Army	Ft Drum	Alert Holding Area Facility		3,500	-		-
New York	Army	Ft Drum	Barracks Complex - Wheeler Sack AAF, Phase 1	49,000	49,000	49,000		49,000
New York	Army	Ft Drum	Barracks - 10200 Area	22,500	22,500	22,500		22,500
New York	Army	Ft Drum	Departure Airfield Arrival Control Group Facility		5,100	-		-
New York	Army (Budget Amend)	Ft Drum	Mountain Ramp Expansion	11,000	11,000	11,000		11,000
New York	Army	Ft Drum	Tactical Unmanned Aerial Vehicle Facility		5,200	-	5,200	5,200
New York	Army National Guard	ARNG Utica	Organizational Maintenance Shop, Add/Alter (ADRS)	3,261	3,261	3,261		3,261
New York	Army National Guard	ARNGRC Rochester	Readiness Center, Add/Alter (ADRS)	4,332	4,332	4,332		4,332
New York	Air National Guard	Hancock Field	Munitions Storage Complex		6,500	-	6,500	6,500
New York	Air National Guard	Hancock Field	Replace Mobility Processing Center		2,300	-		-
New York	Air Force Reserve	Niagara ARS	Visiting Airmen's Quarters		-	9,600		-
North Carolina	Army	Ft Bragg	Barracks Complex - Bastogne Drive, Phase 1	47,000	47,000	47,000		47,000
North Carolina	Army	Ft Bragg	Barracks Complex - Butner Road, Phase 4	38,000	38,000	38,000		38,000
North Carolina	Army	Ft Bragg	Barracks - D Area, Phase 4	17,000	17,000	17,000		17,000
North Carolina	Army	Ft Bragg	Soldier Support Center Phase 2		11,400	-	11,400	11,400
North Carolina	Navy	MCAS Cherry Point	Land Acquisition (AICUZ)		-	1,270		-
North Carolina	*Navy*	*MCAS Cherry Point*	*Rescission, T-56 Jet Engine Test Cell (FY 2003)*			-	*[-5942]*	*[-5942]*
North Carolina	Navy	MCAS New River	Water Treatment Facility	6,240	6,240	6,240		6,240
North Carolina	Navy	MCB Camp Lejeune	Consolidated Armory	10,270	10,270	10,270		10,270
North Carolina	Navy	MCB Camp Lejeune	US Joint Maritime Instruction Facility	6,300	6,300	6,300		6,300
North Carolina	Navy	MCB Camp Lejeune	Joint Maritime Ops & Training	12,880	12,880	12,880		12,880
North Carolina	Air Force	Pope AFB	C-130J 2-Bay Hanger	15,629	15,629	15,629		15,629
North Carolina	Air Force	Pope AFB	C-130J/30 Tech Training Facility	4,431	4,431	4,431		4,431
North Carolina	Air Force	Pope AFB	C-130J/30 Ramp Upgrade	1,239	1,239	1,239		1,239
North Carolina	Air Force	Pope AFB	C-130J Upgrade Hanger 6	2,716	2,716	2,716		2,716
North Carolina	Air Force	Seymour Johnson AFB	Boundary Fence	1,500	1,500	1,500		1,500
North Carolina	Air Force	Seymour Johnson AFB	Dormitories--144 RM	9,530	9,530	9,530		9,530
North Carolina	Air Force	Seymour Johnson AFB	Fire/Crash Rescue Station		11,800	11,400	11,400	11,400

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North Carolina	Defense Education Activity	MCB Camp Lejeune	Replace Existing Mainside PS	15,259	15,259	15,259		15,259
North Carolina	Special Operations Command	Ft Bragg	Training Complex (SWCS)	8,500	8,500	8,500		8,500
North Carolina	Special Operations Command	Ft Bragg	Maze & Facade	2,400	2,400	2,400		2,400
North Carolina	Special Operations Command	Ft Bragg	Battalion & Company Headquarters	4,200	4,200	4,200		4,200
North Carolina	Special Operations Command	Ft Bragg	Company Operations Facility Addition	1,500	1,500	1,500		1,500
North Carolina	Special Operations Command	Ft Bragg	Joint Operations Complex	19,700	19,700	19,700		19,700
North Carolina	Army National Guard	ARNG Morrisville	Fire Station, (ADRS)	1,306	1,306	1,306		1,306
North Carolina	Army National Guard	ARNG Salisbury	Fire Station, (ADRS)	926	926	926		926
North Carolina	Army National Guard	ARNGRC Asheville	Readiness Center, (ADRS)	6,251	6,251	6,251		6,251
North Carolina	Army National Guard	ARNGRC Lenoir	Readiness Center	5,184	5,184	5,184		5,184
North Dakota	Air Force	Minot AFB	Add/Alter Missile Maintenance Vehicle Facility	3,050	3,050	3,050		3,050
North Dakota	Air Force	Minot AFB	Fitness Center		-	9,500	9,500	9,500
North Dakota	Army National Guard	Bismarck	Aviation Spt Complex ADD/ALT (Aviation Transformation)		7,228	-	7,228	7,228
North Dakota	Army National Guard	Bismarck	Readiness Center, Add/Alter (ADRS)	1,873	1,873	1,873		1,873
Ohio	Air Force	Wright-Patterson AFB	Consolidated Fire/Crash Rescue Station		10,600	-	10,600	10,600
Ohio	Air Force	Wright-Patterson AFB	Dormitory (144 room)	10,500	10,500	10,500		10,500
Ohio	Army National Guard	Camp Sherman, Chillicothe	Readiness Center		5,558	5,560	5,560	5,560
Ohio	Air National Guard	Springfield-Beckley Airport	Replace Control Tower		8,000	-	8,000	8,000
Ohio	Army Reserve	Cleveland	AR Center/OMS/AMSA/Unh Strg/Land	21,595	21,595	21,595		21,595
Oklahoma	Army (Budget Amend)	Ft Sill	Consolidated Maint. Complex, Ph 2	13,000	13,000	13,000		13,000
Oklahoma	Army	Ft Sill	Modified Record Fire Range	3,500	3,500	3,500		3,500
Oklahoma	Army	Ft Sill	Urban Assault Course Complex		2,000	-	2,000	2,000
Oklahoma	Air Force	Altus AFB	C-17 Modify Simulator Base	1,144	1,144	1,144		1,144
Oklahoma	Air Force	Tinker AFB	Building 3001 Revitalization, Phase 1	19,060	19,060	19,060		19,060
Oklahoma	Air Force	Tinker AFB	Consolidated Integration Support Facility		-	7,500		-
Oklahoma	Air Force	Vance AFB	Consolidated Logistics Complex		-	15,000	15,000	15,000
Oregon	Air Force Reserve	Portland IAP	Alter Flightline Facilities	2,900	2,900	2,900		2,900
Oregon	Air Force Reserve	Portland IAP	Hydrant Refueling System, Phase 2	3,050	3,050	3,050		3,050
Oregon	Air Force Reserve	Portland IAP	Fire/Crash Rescue Station	4,300	4,300	4,300		4,300
Pennsylvania	Navy	Philadelphia Foundry	Upgrade Large Propeller Shop (Bldg 546)		-	10,200		-
Pennsylvania	Defense Logistics Agency	Cumberland - DDSP	Replace General Purpose Warehouse at #3 & 4	27,000	27,000	27,000		27,000
Pennsylvania	Special Operations Command	Harrisburg IAP	C-130J Spec Mission Equip Maint Fac	3,000	3,000	3,000		3,000
Pennsylvania	Army National Guard	Ft Indiantown Gap	Multipurpose Training Range		15,338	-	15,338	15,338
Rhode Island	Navy	NS Newport	Bachelor Enlisted Quarters Replacement (NAPS)	16,140	16,140	16,140		16,140
Rhode Island	Navy	NS Newport	Improve Gate 1 Security		-	2,550	2,550	2,550
Rhode Island	Navy	NUWC Newport	Underwater Weapon Systems Lab	10,890	10,890	10,890		10,890
Rhode Island	Air National Guard	Quonset State APT	Quonset-Replace Composite Aircraft Maintenance Complex	18,500	18,500	18,500		18,500
South Carolina	Navy	NWS Charleston	AT/FP South Annex Gate 4		2,350	-	2,350	2,350
South Carolina	Air Force	Charleston AFB	Dormitory--144 RM	8,863	8,863	8,863		8,863

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South Carolina	Air Force	Shaw AFB	Deployment Processing Center		8,500	8,500	8,500	8,500
South Dakota	Air Force	Ellsworth AFB	B-1 Weapons System Trainer Facility		-	9,300	9,300	9,300
Tennessee	Army National Guard	Nashville	Armed Forces Reserve Center, Ph I		-	8,100		-
Tennessee	Air National Guard	Memphis IAP	C-5 Upgrade Shops		5,000	5,000	5,000	5,000
Tennessee	Air National Guard	Nashville	Composite Aircraft Maintenance Complex, Ph II		-	11,000	11,000	11,000
Tennessee	Air National Guard	Tyson-McGhee	Fire Station/Security Forces Facility		-	6,000	6,000	6,000
Tennessee	Army Reserve	Nashville	AR Center/OMS/Unh Storage	8,955	8,955	8,955		8,955
Texas	Army	Ft Bliss	Tac Equip Shop-31st CSH		5,400	-	5,400	5,400
Texas	Army	Ft Hood	Barracks Complex - 67th St & Battalion Ave	47,000	47,000	47,000		47,000
Texas	Army	Ft Hood	Battalion Command and Control Facilities		6,900	-		-
Texas	Army (Budget Amend)	Ft Hood	Urban Assault Course	2,800	2,800	2,800		2,800
Texas	Navy	NAS Corpus Christi	Control Tower		5,400	-	5,400	5,400
Texas	Navy	NS Ingleside	Headquarters, Mine Warfare Command		-	7,070	7,070	7,070
Texas	Air Force	Goodfellow AFB	Student Dormitory--200 RM	18,107	18,107	18,107		18,107
Texas	Air Force	Goodfellow AFB	Fire Training Classroom Facility	1,863	1,863	1,863		1,863
Texas	Air Force	Lackland AFB	Child Development Center, Ph II		-	8,700		-
Texas	Air Force	Lackland AFB	Student Dormitory--200 RM	20,966	20,966	20,966		20,966
Texas	Air Force	Lackland AFB	Student Dormitory--300 RM	35,260	35,260	35,260		35,260
Texas	Air Force	Laughlin AFB	Aircraft Maintenance Shelter		5,200	-	5,200	5,200
Texas	Air Force	Laughlin AFB	Student Officers Quarters Phase 1		7,200	-	7,200	7,200
Texas	Air Force	Randolph AFB	Fitness Center		-	13,600	13,600	13,600
Texas	Air Force	Sheppard AFB	Airfield Operations Complex		9,000	-	9,000	9,000
Texas	Air Force	Sheppard AFB	Student Dormitory--300 RM	28,590	28,590	28,590		28,590
Texas	Defense Logistics Agency	Laughlin AFB	Replace Truck Fuel Loading Facility	4,688	4,688	4,688		4,688
Texas	Defense Logistics Agency	NAS Kingsville	Aboveground Storage Tank Fuel Farm		9,200	-	9,200	9,200
Texas	Tri-Care Management Activity	Ft Hood	Troop Medical Clinic #10		9,400	-	9,400	9,400
Texas	Air National Guard	Kelly Field Annex	Upgrade General Purpose Shops		4,000	-	4,000	4,000
Texas	Navy Reserve	NAS/JRB Ft Worth	Joint Reserve Police Station		2,660	-	2,660	2,660
Texas	Navy Reserve	NAS/JRB Ft Worth	Combined Passenger Terminal		3,520	-	3,520	3,520
Utah	Air Force	Hill AFB	AEF Deployment Center		-	5,900	5,900	5,900
Utah	Air Force	Hill AFB	Replace Munitions Storage Igloos	13,000	13,000	13,000		13,000
Utah	Air Force	Hill AFB	Small Diameter Bomb Storage Igloos	1,811	1,811	1,811		1,811
Utah	Air Force	Hill AFB	Munitions Maintenance Facility	1,000	1,000	1,000		1,000
Vermont	Army National Guard	ARNGRC South Burlington	Army Aviation Support Facility	23,827	23,827	23,827		23,827
Vermont	Air National Guard	Burlington	Air Mobilization Facility		-	5,400		-
Virgina	Army	Ft Belvoir	NGIC Land Acquisition		7,000	-	7,000	7,000
Virgina	Army	Ft Lee	Fire and Emergency Services Center Phase 2		3,850	-	3,850	3,850
Virgina	Army	Ft Myer	Vehicle Maintenance Facility	9,000	9,000	9,000		9,000
Virgina	Navy	Henderson Hall, Arlington	Physical Fitness Center	1,970	1,970	1,970		1,970

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Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Virgina	Navy	MCCDC Quantico	Network Operations Center		-	14,420	14,420	14,420
Virgina	Navy	MCCDC Quantico	WTBN Load & Test Facility	3,700	3,700	3,700		3,700
Virgina	Navy	NAS Oceana	Child Development Center		10,000	-	10,000	10,000
Virgina	Navy	NAB Little Creek	Gate 1 Improvements	3,810	3,810	3,810		3,810
Virgina	Navy	NS Norfolk	Aircraft Maintenance Hangars	36,460	36,460	36,460		36,460
Virgina	Navy	NS Norfolk	Pier 11 Replacement, Increment 1	27,610	27,610	27,610		27,610
Virgina	Navy	NSCC Dahlgren	Naval Networks Operations Center Addition	20,520	20,520	20,520		20,520
Virgina	Navy	NSCC Dahlgren	Weapons Dynamic RDT&E Center		3,500	3,500	3,500	3,500
Virgina	Navy	NSY Norfolk	BEQ Shipboard Ashore, Increment 2	46,730	46,730	46,730		46,730
Virgina	Navy	NSY Norfolk	Crane/Weight Handling Equipment Shop	17,770	17,770	17,770		17,770
Virgina	Air Force	Langley AFB	F-22 Vertical Wing Tank Storage	2,573	2,573	2,573		2,573
Virgina	Air Force	Langley AFB	F-22 Squadron Ops/AMU/Hangar	20,013	20,013	20,013		20,013
Virgina	Air Force	Langley AFB	F-22 Clear Water Rinse Pad	2,383	2,383	2,383		2,383
Virgina	Defense Logistics Agency	Langley AFB	Replace Hydrant Fuel System	13,000	13,000	13,000		13,000
Virgina	Special Operations Command	Dam Neck	SOF Small Arms Range	9,681	9,681	9,681		9,681
Virgina	Special Operations Command	Dam Neck	Mission Support Facility (CDA-N)	5,600	5,600	5,600		5,600
Virgina	Special Operations Command	Little Creek	Operations Center		-	9,000		-
Virgina	Washington Headquarters Services	WHS - VA	Pentagon Athletic Center Restoration Project	38,086	38,086	38,086		38,086
Virgina	Defense Threat Reduction Agency	Ft Belvoir	Headquarters Relocation	25,700	25,700	25,700		25,700
Virgina	Air National Guard	Camp Pendleton	Troop Training Quarters (RED HORSE)		-	2,500	2,500	2,500
Virgina	Navy Reserve	Insp Instr Stf Quantico	Reserve Training Center & Vehicle Maintenance Facility	9,497	9,497	9,497		9,497
Washington	Army	Ft Lewis	Deployment Staging Facility	2,650	2,650	2,650		2,650
Washington	Army	Ft Lewis	Barracks Complex -17th & B Street, Phase 3	48,000	48,000	48,000		48,000
Washington	Army	Ft Lewis	Shoot House	1,250	1,250	1,250		1,250
Washington	Navy	NAS Whidbey Island	Struc Aircraft/Fire Station Addition		4,350	-	4,650	4,650
Washington	Navy	NAVMAG Indian Island	Ordnance Transfer Facility	2,240	2,240	2,240		2,240
Washington	Navy	NSB Bangor	Service Pier Upgrade/Mod Building 7111	33,820	33,820	33,820		33,820
Washington	Navy	NSY Puget Sound	Ship Repair Pier #3		12,120	-	6,020	6,020
Washington	Navy	SWFPAC Bangor	Waterfront Security Force Facility	6,530	6,530	6,530		6,530
Washington	Air Force (Budget Amend)	McChord AFB	Upgrade Mission Spt Center, Ph 2	19,000	19,000	19,000		19,000
Washington	Defense Logistics Agency	McChord AFB	Bulk Fuel Storage Tanks	8,100	8,100	8,100		8,100
Washington	Air National Guard	Camp Murray	RED HORSE Medical Training Complex		-	7,500	7,500	7,500
West Virginia	Army National Guard	Eleanor	Supplemental: Equipment/Road/Force Protection		-	4,000	4,000	4,000
West Virginia	Air National Guard	Martinsburg	Air Traffic Control Tower		-	5,800	5,800	5,800
West Virginia	Air National Guard	Martinsburg	C-5 Apron, Jet Fuel Storage, Hydrant System		-	20,000	15,000	15,000
Wisconsin	Army National Guard	Ft McCoy	Battle Simulation Center		-	4,340		-
Wisconsin	Army Reserve	Ft McCoy	Battle Simulation Center		-	-	4,340	4,340
Wyoming	Air Force	FE Warren AFB	Stormwater Drainage System, Ph 1		-	10,000		-
CONUS Various	Navy	Various Locations CONUS	Outlying Landing Field Facilities, Increment 1	27,610	27,610	27,610		27,610

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Bahrain	Navy	NSA Bahrain	Operations Control Center	18,030	18,030	18,030		18,030
Germany	Army	ASG Bamberg	Barracks - Warner 7004	9,900	9,900	9,900		9,900
Germany	Army (Budget Amend)	ASG Bamberg	Barracks - Warner 7004	(9,900)	(9,900)	(9,900)		(9,900)
Germany	Army	ASG Bamberg	Barracks - Warner 7083	8,000	8,000	8,000		8,000
Germany	Army (Budget Amend)	ASG Bamberg	Barracks - Warner 7083	(8,000)	(8,000)	(8,000)		(8,000)
Germany	*Army (Budget Amend)*	*ASG Bamberg*	*Rescission, Child Development Center (FY 2003)*	*[-7,000]*	*[-7000]*	*[-7000]*		*[-7000]*
Germany	*Army (Budget Amend)*	*ASG Bamberg*	*Rescission, Barracks Complex - Warner (FY 2003)*	*[-10200]*	*[-10200]*	*[-10200]*		*[-10200]*
Germany	*Army (Budget Amend)*	*Coleman Barracks*	*Rescission, Upgrade Access Control Points (FY 2003)*	*[-1350]*	*[-1350]*	*[-1350]*		*[-1350]*
Germany	Army	Darmstadt	Barracks - Cambrai Fritsch 4029	7,700	7,700	7,700		7,700
Germany	Army (Budget Amend)	Darmstadt	Barracks - Cambrai Fritsch 4029	(7,700)	(7,700)	(7,700)		(7,700)
Germany	*Army (Budget Amend)*	*Darmstadt*	*Rescission, Modified Record Fire Range (FY 2003)*	*[-3500]*	*[-3500]*	*[-3500]*		*[-3500]*
Germany	Army	Grafenwoehr	Brigade Complex - Barracks & Maint/Support	30,000	30,000	-		30,000
Germany	Army	Grafenwoehr	Brigade Complex - Troop Support Facilities	46,000	46,000	-		46,000
Germany	Army	Heidelberg	Barracks - Heidelberg Hospital	17,000	17,000	-	(17,000)	-
Germany	Army	Hohenfels	Physical Fitness Training Center	13,200	13,200	-	(13,200)	-
Germany	Army	Mannheim	Barracks - Sullivan 205	4,300	4,300	4,300		4,300
Germany	Army (Budget Amend)	Mannheim	Barracks - Sullivan 205	(4,300)	(4,300)	(4,300)		(4,300)
Germany	*Army (Budget Amend)*	*Mannheim*	*Rescission, Barracks Complex - Coleman (FY 2003)*	*[-42000]*	*[-42000]*	*[-42000]*		*[-42000]*
Germany	Army	Schweinfurt	Modified Record Fire Range	7,500	7,500	7,500		7,500
Germany	Army (Budget Amend)	Schweinfurt	Modified Record Fire Range	(7,500)	(7,500)	(7,500)		(7,500)
Germany	*Army (Budget Amend)*	*Schweinfurt*	*Rescission, Central Wash Vehicle Facility (FY 2003)*	*[-2000]*	*[-2000]*	*[-2000]*		*[-2000]*
Germany	Army (Budget Amend)	Vilseck	Barracks Complex, Ph 1	12,100	12,100	-		12,100
Germany	Army	Wuerzburg	Barracks - Leighton	18,500	18,500	18,500		18,500
Germany	Army (Budget Amend)	Wuerzburg	Barracks - Leighton	(18,500)	(18,500)	(18,500)		(18,500)
Germany	Air Force (Budget Amend)	Ramstein AB	CES Midfield Complex	6,250	6,250	-	(6,250)	-
Germany	Air Force	Ramstein AB	Consolidate 1st Combat Comm Sq, Phase 2	19,713	19,713	19,713		19,713
Germany	Air Force	Ramstein AB	Fitness Center Annex	15,903	15,903	15,903		15,903
Germany	Air Force	Spangdahlem AB	Fitness Center	17,117	17,117	17,117		17,117
Germany	Air Force (Budget Amend)	Spangdahlem AB	Fitness Center	(17,117)	(17,117)	(17,117)		(17,117)
Germany	Air Force	Spangdahlem AB	Fire Station Annex & Training Facility	3,865	3,865	3,865		3,865
Germany	Air Force	Spangdahlem AB	Passenger Terminal	1,546	1,546	1,546		1,546
Germany	Air Force	Spangdahlem AB	South Gate	2,800	2,800	2,800		2,800
Germany	Air Force (Budget Amend)	Spangdahlem AB	South Gate	(2,800)	(2,800)	(2,800)		(2,800)
Germany	Special Operations Command	Stuttgart	Forward Station Complex (FSOAR)	11,400	11,400	11,400	(11,400)	-
Germany	*Defense Education (Budget Amend)*	*Spangdahlem AB*	*Rescission, Elem School Classroom Addition (FY 2003)*	*[-997]*	*[-997]*	*[-997]*		*[-997]*
Germany	Defense Education Activity	Grafenwoehr	Elementary School/Middle School	36,247	36,247	18,616	(36,247)	-
Germany	Defense Education Activity	Heidelberg	Mark Twain Elementary School New Multi-Purpose Room	3,086	3,086	3,086	(3,086)	-
Germany	Defense Education Activity	Vilseck	Elementary School Renovation/Addition	1,773	1,773	1,773	(1,773)	-

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Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Germany	Tri-Care Management Activity	Grafenwoehr	Dispensary/Dental Clinic Add/Alter	12,585	12,585	12,585	(12,585)	-
Germany	*Tri-Care Management Activity*	*Spangdahlem AB*	*Rescission, Hospital Replacement (FY 2003)*				*[-39629]*	*[-39629]*
Greece	*Navy*	*Larissa*	*Rescission, Bachelor Enlisted Quarters (FY 2002)*			-	*[-12109]*	*[-12109]*
Greece	*Navy*	*Larissa*	*Rescission, Bachelor Enlisted Quarters (FY 2003)*			-	*[-6592]*	*[-6592]*
Guam	Navy	COMNAVMARIANAS	Victor Warf Fender System		1,700	-	1,700	1,700
Guam	*Navy*	*NSA Guam*	*Rescission, BEQ-Bid Savings (FY 2002)*				*[-4200]*	*[-4200]*
Guam	Tri-Care Management Activity	Andersen AFB	Medical/Dental Clinic Replacement	24,900	24,900	24,900		24,900
Iceland	*Navy (Budget Amend)*	*Keflavik*	*Rescission, Combined Dining Facility (FY 2003)*	*[-14679]*	*[-14679]*	*[-14679]*		*[-14679]*
Italy	Army	Aviano AB	Joint Deployment Facility	15,500	15,500	15,500		15,500
Italy	Army (Budget Amend)	Aviano AB	Joint Deployment Facility, Ph 2	13,000	13,000	-		13,000
Italy	Army	Livorno	Vehicle Maintenance Facility	22,000	22,000	22,000		22,000
Italy	Navy	NAS Sigonella	Base Operations Support 1	34,070	34,070	34,070		34,070
Italy	Navy (Budget Amend)	NAS Sigonella	Base Operations Support Facility II	14,679	14,679	-	(14,679)	-
Italy	Navy	NSA La Maddalena	Consolidated Santo Stefano Facilities	39,020	39,020	39,020		39,020
Italy	Air Force	Aviano AB	Airfield Obst-South Ramp	7,730	7,730	7,730		7,730
Italy	Air Force	Aviano AB	Munitions Admin Facility	5,301	5,301	5,301		5,301
Italy	Air Force	Aviano AB	Zulu Arm/Dearm Pad	994	994	994		994
Italy	Defense Education Activity	Sigonella	Elem School Renovation/New Construction High School	13,969	13,969	13,969		13,969
Italy	Defense Education Activity	Vicenza	Vicenza Elem School/High School Renovation/Construction	16,374	16,374	16,374		16,374
Korea	Army (Budget Amend)	*Camp Bonifas*	*Rescission, Physical Fitness Training Center (FY 2000)*				*[-4350]*	*[-4350]*
Korea	*Army (Budget Amend)*	*Camp Bonifas*	*Rescission, Physical Fitness Training Center (FY 2003)*	*[-4350]*	*[-4350]*	-		-
Korea	*Army (Budget Amend)*	*Camp Castle*	*Rescission, Physical Fitness Training Center (FY 2003)*	*[-6800]*	*[-6800]*	-		*[-6800]*
Korea	Army (Budget Amend)	Camp Casey	Barracks Complex - Engineer Drive	41,000	41,000	41,000		41,000
Korea	Army (Budget Amend)	Camp Casey	Barracks Complex - Engineer Drive	(41,000)	(41,000)	(41,000)		(41,000)
Korea	Army (Budget Amend)	Camp Casey	Barracks Complex - Ace Boulevard	35,000	35,000	35,000		35,000
Korea	Army (Budget Amend)	Camp Casey	Barracks Complex - Ace Boulevard	(35,000)	(35,000)	(35,000)		(35,000)
Korea	Army	Camp Hovey	Barracks Complex - Hovey	29,000	29,000	29,000		29,000
Korea	Army (Budget Amend)	Camp Hovey	Barracks Complex - Hovey	(29,000)	(29,000)	(29,000)		(29,000)
Korea	*Army (Budget Amend)*	*Camp Hovey*	*Rescission, Barracks Complex (FY 2003)*	*[-25000]*	*[-25000]*	-		*[-25000]*
Korea	*Army*	*Camp Hovey*	*Rescission, Barracks Complex (FY 2002)*			-	*[-10770]*	*[-10770]*
Korea	Army (Budget Amend)	Camp Humphreys	Barracks Complex	41,000	41,000	41,000	(41,000)	-
Korea	Army (Budget Amend)	Camp Humphreys	Barracks Complex	35,000	35,000	35,000	(35,000)	-
Korea	Army (Budget Amend)	Camp Humphreys	Barracks Complex	29,000	29,000	29,000	(29,000)	-
Korea	Army (Budget Amend)	Camp Humphreys	Barracks Complex	25,000	25,000	-		25,000
Korea	Army (Budget Amend)	Camp Humphreys	Barracks Complex	40,000	40,000	-		40,000
Korea	Army (Budget Amend)	Camp Humphreys	Physical Fitness Training Center	4,350	4,350	-	(4,350)	-
Korea	Army (Budget Amend)	Camp Humphreys	Physical Fitness Training Center	6,800	6,800	-	(6,800)	-
Korea	*Army*	*Camp Page*	*Rescission, Barracks Complex (FY 2001)*			-	*[-17415]*	*[-17415]*
Korea	*Army*	*Camp Stanley*	*Rescission, Barracks Complex (FY 2002)*			-	*[-13230]*	*[-13230]*

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Korea	*Army (Budget Amend)*	*K-16 Airfield*	*Rescission, Barracks Complex (FY 2003)*	*[-40000]*	*[-40000]*	-		*[-40000]*
Korea	Defense Education (Budget Amend)	Camp Humphreys	Middle School Replacement	31,683	31,683	-	(31,683)	-
Korea	*Defense Education (Budget Amend)*	*Seoul*	*Rescission, Middle School Replacement (FY 2003)*	*[-31683]*	*[-31683]*	-		*[-31683]*
Korea	Air Force	Kunsan AB	Upgrade Hardened Aircraft Shelter	7,059	7,059	7,059		7,059
Korea	Air Force	Osan AB	Dormitory--156 RM	16,638	16,638	16,638		16,638
Kwajalein	Army	Kwajalein Atoll	Vehicle Paint & Prep Facility	9,400	9,400	9,400		9,400
Portugal	Air Force	Lajes Field	Add/Alter Fitness Center	4,086	4,086	4,086		4,086
Turkey	Air Force	Incirlik AB	Consolidated Communications Facility	3,262	3,262	-	(3,262)	-
United Kingdom	Navy	JMF St. Mawgan Scotland	Bachelor Enlisted Quarters	7,070	7,070	7,070	(7,070)	-
United Kingdom	Air Force	RAF Lakenheath	Dormitory--120 RM	13,606	13,606	13,606		13,606
United Kingdom	Air Force	RAF Lakenheath	Add/Alter Crash Fire Station	2,667	2,667	2,667		2,667
United Kingdom	Air Force	RAF Lakenheath	Family Support Center	5,878	5,878	5,878		5,878
United Kingdom	Air Force	RAF Lakenheath	Communications Facility	8,436	8,436	8,436		8,436
United Kingdom	Air Force (Budget Amend)	RAF Lakenheath	Mobility Cargo Processing Center	11,900	11,900	11,900		11,900
United Kingdom	Air Force	RAF Mildenhall	Child Develop Center Annex	3,646	3,646	3,646		3,646
United Kingdom	Air Force	RAF Mildenhall	Vehicle Maintenance Complex	3,320	3,320	3,320		3,320
United Kingdom	Air Force	RAF Mildenhall	Post Office	3,592	3,592	3,592		3,592
Wake Island	Air Force	Wake Island	Wide Infrastructure, Phase 1	10,000	10,000	10,000		10,000
Wake Island	Air Force	Wake Island	Repair Airfield, Phase 3	14,000	14,000	14,000		14,000
Classified	Army	Classified Location	Classified Project	178,700	-	-	(178,700)	-
Classified	Air Force	Classified Location	Predator B-Squadron OPS/AMU & Hangar	25,731	25,731	25,731		25,731
Classified	Air Force	Classified Location	Classified MilCon	3,250	3,250	3,250		3,250
Worldwide	*Air Force*	*Classified Location*	*Rescission, Classified MilCon (FY 2003)*				*[-23000]*	*[-23000]*
Unspecified	Army	Unspecified Worldwide	Unspecified Minor Construction	20,000	22,550	20,000	12,606	32,606
Unspecified	Army	Unspecified Worldwide	Planning and Design	100,710	106,580	100,710	4,123	104,833
Unspecified	Army	Unspecified Worldwide	Planning and Design - Host Nation	22,000	22,000	22,000		22,000
Unspecified	Army	Unspecified Worldwide	Reduction (Prior Year Savings)				(10,000)	(10,000)
Unspecified	Navy	Unspecified Worldwide	Unspecified Minor Construction	12,334	13,624	12,334	2,251	14,585
Unspecified	Navy	Unspecified Worldwide	Planning & Design	10,054	15,583	10,054		10,054
Unspecified	Navy	Unspecified Worldwide	Planning & Design	55,558	55,558	55,558	5,389	60,947
Unspecified	Air Force	Unspecified Worldwide	Planning and Design	74,345	110,650	74,345	16,662	91,007
Worldwide	Air Force (Budget Amend)	Unspecified Worldwide	Planning and Design	4,771	4,771	-		4,771
Unspecified	Air Force	Unspecified Worldwide	Unspecified Minor Construction	12,000	12,000	12,000	4,180	16,180
Unspecified	Special Operations Command	Unspecified Worldwide	Planning and Design	14,768	15,491	14,768		14,768
Unspecified	Special Operations Command	Unspecified Worldwide	Planning and Design			(977)		-
Unspecified	Special Operations Command	Unspecified Worldwide	Unspecified Minor Construction	2,723	2,723	2,723		2,723
Unspecified	Missile Defense Agency	Unspecified Worldwide	Unspecified Minor Construction	2,600	2,600	2,600	(600)	2,000

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Unspecified	OSD Contingencies	Unspecified Worldwide	Contingency Construction	8,960	8,960	8,960		8,960
Unspecified	OSD Minor Construction	Unspecified Worldwide	Unspecified Minor Construction	3,000	3,000	3,000		3,000
Unspecified	OSD Planning & Design	Unspecified Worldwide	Planning and Design	20,000	25,230	20,000	4,249	24,249
Unspecified	OSD P&D (Budget Amend)	Unspecified Worldwide	Planning and Design	997	997	997		997
Unspecified	NATO Security Investment Program	Unspecified Worldwide	NATO Security Investment Program (NSIP)	169,300	169,300	169,300		169,300
Unspecified	*NATO Security Investment Program*	*Unspecified Worldwide*	*NSIP Rescission (2003)*				*[-8000]*	*[-8000]*
Unspecified	Army National Guard	Unspecified Worldwide	Planning and Design	26,570	46,157	26,570	11,806	38,376
Unspecified	Army National Guard	Unspecified Worldwide	Unspecified Minor Construction	1,451	4,063	1,451	6,648	8,099
Unspecified	Air National Guard	Unspecified Worldwide	Planning and Design	16,030	30,308	16,030	7,263	23,293
Unspecified	Air National Guard	Unspecified Worldwide	Unspecified Minor Construction	5,500	5,500	5,500	3,115	8,615
Unspecified	Army Reserve	Unspecified Worldwide	Planning and Design	7,712	7,712	7,712	1,271	8,983
Unspecified	Army Reserve	Unspecified Worldwide	Unspecified Minor Construction	2,886	2,886	2,886	-	2,886
Unspecified	Navy Reserve	Unspecified Worldwide	Planning and Design	862	1,612	862		862
Unspecified	Navy Reserve	Unspecified Worldwide	Planning and Design	1,700	1,700	1,700	406	2,106
Unspecified	Air Force Reserve	Unspecified Worldwide	Planning and Design	11,142	12,423	11,142	970	12,112
Unspecified	Air Force Reserve	Unspecified Worldwide	Unspecified Minor Construction	5,160	5,160	5,160	1,200	6,360
Unspecified	Def Finance & Accounting Service	Unspecified Worldwide	Unspecified Minor Construction	1,500	1,500	1,500		1,500
Unspecified	Base Closure IV	BRAC IV	Base Realignment and Closure IV	370,427	370,427	370,427		370,427
Unspecified	Joint Chiefs of Staff	Unspecified Worldwide	Unspecified Minor Construction	6,330	6,330	6,330		6,330
Unspecified	Defense Education Activity	Unspecified Worldwide	Planning and Design	6,500	6,500	6,500		6,500
Unspecified	Energy Conservation Improvement	Unspecified Worldwide	Energy Conservation Improvement Program	69,500	69,500	69,500	(19,500)	50,000
Unspecified	Tri-Care Management Activity	Unspecified Worldwide	Planning and Design	18,616	18,616	18,616		18,616
Unspecified	General Provision	Unspecified Worldwide	Foreign Currency Fluctuations (Sec. 118) [4]			-		-
Alaska	Army	Ft Wainwright	Family Housing New Construction	44,000	44,000	44,000		44,000
Alaska	Army (Budget Amend)	Ft Wainwright	Family Housing Replacement	20,000	20,000	20,000		20,000
Arizona	Army	Ft Huachuca	Family Housing Replacement	27,000	27,000	27,000		27,000
Arizona	Army (Budget Amend)	Ft Huachuca	Family Housing Replacement	14,000	14,000	14,000		14,000
Arizona	Air Force	Davis-Monthan AFB	Replace Family Housing, Phase 5	19,357	19,357	19,357		19,357
California	*Navy*	*NAVPGSCOL Monterey*	*Recission, Housing Privatization (FY 2003)*				*[-18399]*	*[-18399]*
California	Navy	NAS Lemoore	Lemoore Lexington Park Replacement Construction	41,585	41,585	41,585		41,585
California	Air Force	Travis AFB	Replace Family Housing, Phase 4	12,723	12,723	12,723		12,723
Delaware	Air Force	Dover AFB	Replace Family Housing, Phase 3	19,601	19,601	19,601		19,601
Florida	Navy	NAS Pensacola	Replacement Construction Pensacola	3,197	3,197	3,197		3,197
Florida	Air Force	Eglin AFB	Replace Family Housing, Phase 3	32,166	32,166	32,166		32,166
Hawaii	*Navy*	*Oahu*	*Rescission, Housing Privatization (FY 2003)*			-	*[-3585]*	*[-3585]*
Hawaii	*Navy*	*Schofield Barracks*	*Rescission, Housing Privatization (FY 2003)*				*[-21000]*	*[-21000]*
Idaho	Air Force	Mountain Home AFB	Replace Family Housing, Phase 5	37,126	37,126	37,126		37,126
Kentucky	Army	Ft Knox	Family Housing Replacement	41,000	41,000	41,000		41,000

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Kansas	Army (Budget Amend)	Ft Riley	Family Housing Replacement	8,300	8,300	8,300		8,300
Kansas	Army (Budget Amend)	Ft Riley	Family Housing Replacement	8,400	8,400	8,400		8,400
Maryland	Air Force	Andrews AFB	Replace Family Housing, Phase 2	20,233	20,233	20,233		20,233
Missouri	Air Force	Whiteman AFB	Replace Family Housing	18,221	18,221	18,221		18,221
Montana	Air Force	Malmstrom AFB	Replace Family Housing	19,368	19,368	19,368		19,368
New Mexico	Army	White Sands Missile Range	Family Housing Replacement	14,600	14,600	14,600		14,600
North Carolina	Navy	MCAS Cherry Point	Slocum Vlg, Phase 2 Replacement	42,803	42,803	42,803		42,803
North Carolina	Navy	MCB Camp Lejeune	Midway Park, Phase 1	21,537	21,537	21,537		21,537
North Carolina	Navy	MCB Camp Lejeune	Replace Tarawa Terrace Housing, Phase 3	46,244	46,244	46,244		46,244
North Carolina	Air Force	Seymour Johnson AFB	Replace Family Housing, Phase 7	18,336	18,336	18,336		18,336
North Dakota	Air Force	Grand Forks AFB	Replace Family Housing, Phase G	29,550	29,550	29,550		29,550
North Dakota	Air Force	Minot AFB	Replace Family Housing, Phase 10	41,117	41,117	41,117		41,117
Oklahoma	Army (Budget Amend)	Ft Sill	Family Housing Replacement	10,000	10,000	10,000		10,000
Oklahoma	Army (Budget Amend)	Ft Sill	Family Housing Replacement	15,373	15,373	15,373		15,373
South Dakota	Air Force	Ellsworth AFB	Replace Family Housing, Phase 3	16,240	16,240	16,240		16,240
Texas	Air Force	Dyess AFB	Replace Family Housing, Phase 4	19,973	19,973	19,973		19,973
Texas	Air Force	Randolph AFB	Replace Family Housing	13,754	13,754	13,754		13,754
Virgina	*Army*	*Ft Belvoir*	*Rescission, Housing Privatization (FY 2003)*				*[-8700]*	*[-8700]*
Virgina	Army (Budget Amend)	Ft Lee	Family Housing Replacement	18,000	18,000	18,000		18,000
Germany	*Army (Budget Amend)*	*Darmstadt*	*Rescission, Whole House Revitalization (48 units) (FY 2003)*	*[-4200]*	*[-4200]*	*[-4200]*		*[-4200]*
Germany	*Army*	*Heidelberg*	*Rescission, Whole Ngbhd Revitalization (75 units) (FY 2003)*				*[-12151]*	*[-12151]*
Germany	*Army (Budget Amend)*	*Mannheim*	*Rescission, Whole Ngbhd Revitalization (72 units) (FY 2003)*	*[-10400]*	*[-10400]*	*[-10400]*		*[-10400]*
Germany	*Army (Budget Amend)*	*Mannheim*	*Rescission, Whole Ngbhd Revitalization (60 units) (FY 2003)*	*[-10000]*	*[-10000]*	*[-10000]*		*[-10000]*
Germany	*Army (Budget Amend)*	*Schweinfurt*	*Rescission, Whole Ngbhd Revitalization (234 units) (FY 2003)*	*[-7600]*	*[-7600]*	*[-7600]*		*[-7600]*
Germany	*Army (Budget Amend)*	*Vilseck*	*Rescission, Whole Ngbhd Revitalization (36 units) (FY 2003)*	*[-3900]*	*[-3900]*	*[-3900]*		*[-3900]*
Germany	*Army (Budget Amend)*	*Wuerzberg*	*Rescission, Whole Ngbhd Revitalization (136 units) (FY 2003)*	*[-11200]*	*[-11200]*	*[-11200]*		*[-11200]*
Germany	*Air Force (Budget Amend)*	*Spangdahlem AB*	*Rescission, Improve Family Housing (FY 2003)*	*[-19347]*	*[-19347]*	*[-19347]*		*[-19347]*
Korea	*Army (Budget Amend)*	*Yongsan*	*Rescission, Whole House Revitalization (8 units) (FY 2003)*	*[-1900]*	*[-1900]*	*[-1900]*		*[-1900]*
Korea	*Army (Budget Amend)*	*Yongsan*	*Rescission, Family Housing Construction (10 units) (FY 2003)*	*[-3100]*	*[-3100]*	*[-3100]*		*[-3100]*
Korea	Air Force	Osan AB	Construct Family Housing, Phase 2	44,765	44,765	44,765		44,765
Portugal	Air Force	Lajes Field	Replace Family Housing, Phase 3	13,428	13,428	13,428		13,428
Turkey	Air Force	Incirlik AB	Replace Family Housing	17,538	17,538	17,538		17,538
Turkey	Air Force (Budget Amend)	Incirlik AB	Replace Family Housing	(17,538)	(17,538)	(17,538)		(17,538)
United Kingdom	*Navy*	*Saint Mawgan*	*Rescission, Replace 62 units (FY 2003)*				*[-18524]*	*[-18524]*
United Kingdom	Air Force	RAF Lakenheath	Replace Family Housing	23,640	23,640	23,640		23,640
Unspecified	Army	Unspecified Worldwide	Management Account	86,326	86,326	78,444		86,326
Unspecified	Army	Unspecified Worldwide	Miscellaneous Account	1,311	1,311	1,311		1,311

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Unspecified	Army	Unspecified Worldwide	Planning & Design	32,488	32,488	32,488		32,488
Unspecified	Army	Unspecified Worldwide	Utilities Account	167,332	167,332	167,332		167,332
Unspecified	Army	Unspecified Worldwide	Services Account	46,735	46,735	43,444		46,735
Unspecified	Army	Unspecified Worldwide	Insurance Premium	1	1	1		1
Unspecified	Army	Unspecified Worldwide	Furnishings Account	44,658	44,658	44,658		44,658
Unspecified	Army	Unspecified Worldwide	Privatization Support	29,587	29,587	29,587		29,587
Unspecified	Army	Unspecified Worldwide	Leasing Account	234,471	234,471	234,471		234,471
Unspecified	Army	Unspecified Worldwide	Maintenance of Real Property	432,605	432,605	432,605		432,605
Unspecified	Army	Unspecified Worldwide	Corrections to Army Estimates for Family Housing Support				(10,000)	(10,000)
Unspecified	Army (Budget Amend)	Unspecified Worldwide	Family Housing Improvements	156,030	156,030	156,030	(25,600)	130,430
Unspecified	Navy	Unspecified Worldwide	Privatization Support	10,609	10,609	10,609		10,609
Unspecified	Navy	Unspecified Worldwide	Utilities Account	164,556	164,556	154,583		164,556
Unspecified	Navy	Unspecified Worldwide	Miscellaneous Account	807	807	807		807
Unspecified	Navy	Unspecified Worldwide	Maintenance of Real Property	377,792	377,792	360,344		377,792
Unspecified	Navy	Unspecified Worldwide	Corrections to Navy Estimates for Family Housing Support				(10,000)	(10,000)
Unspecified	Navy	Unspecified Worldwide	Furnishings Account	25,462	25,462	25,462		25,462
Unspecified	Navy	Unspecified Worldwide	Management Account	78,325	78,325	70,584	(7,700)	70,625
Unspecified	Navy	Unspecified Worldwide	Planning & Design	8,381	8,381	8,381		8,381
Unspecified	Navy	Unspecified Worldwide	Construction Improvements	20,446	20,446	20,446		20,446
Unspecified	Navy	Unspecified Worldwide	Leasing Account	132,433	132,433	132,433		132,433
Unspecified	Navy	Unspecified Worldwide	SVCM's Mortgage Insurance Premium	64	64	64		64
Worldwide	Navy	Unspecified Worldwide	Services Account	62,730	62,730	58,272		62,730
Unspecified	Air Force	Unspecified Worldwide	Leasing Account	119,908	119,908	119,908	(8,394)	111,514
Unspecified	Air Force	Unspecified Worldwide	Housing Privatization	44,536	44,536	44,536		44,536
Unspecified	Air Force	Unspecified Worldwide	Planning & Design	33,488	33,488	33,488		33,488
Unspecified	Air Force	Unspecified Worldwide	Utilities Account	132,651	132,651	118,675		132,651
Unspecified	Air Force	Unspecified Worldwide	Furnishings Account	43,006	43,006	43,006		43,006
Unspecified	Air Force	Unspecified Worldwide	Maintenance (RMPA & RMPC)	395,650	395,650	395,650		395,650
Unspecified	Air Force	Unspecified Worldwide	Corrections to Air Force Estimates for Family Housing Support				(10,000)	(10,000)
Unspecified	Air Force	Unspecified Worldwide	Services Account	26,070	26,070	26,070		26,070
Unspecified	Air Force	Unspecified Worldwide	Miscellaneous Account	2,527	2,527	2,527		2,527
Unspecified	Air Force (Budget Amend)	Unspecified Worldwide	Construction Improvements	223,979	223,979	223,979		223,979
Unspecified	Air Force	Unspecified Worldwide	Management Account	70,083	70,083	62,361		70,083
Unspecified	Air Force	Unspecified Worldwide	Debt Account	37	37	37		37
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Management Account	289	289	289		289
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Furnishings Account	32	32	32		32
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Planning & Design	300	300	300		300
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Utilities Account	412	412	412		412
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Services Account	72	72	72		72

Military Construction Authorizations for FY2004
(Dollars in Thousands)

Location	Service/Agency/Program	Installation	Project Title	FY2004 Request	House Authorized	Senate Authorized	Conf Change	Conference Authorized
Unspecified	Defense Logistics Agency	Unspecified Worldwide	Maintenance of Real Property	2,057	2,057	2,057		2,057
Unspecified	National Security Agency	Unspecified Worldwide	Miscellaneous Account	51	51	51		51
Unspecified	National Security Agency	Unspecified Worldwide	Services Account	405	405	405		405
Unspecified	National Security Agency	Unspecified Worldwide	Utilities Account	413	413	413		413
Unspecified	National Security Agency	Unspecified Worldwide	Management Account	13	13	13		13
Unspecified	National Security Agency	Unspecified Worldwide	Leasing Account	11,987	11,987	11,987		11,987
Unspecified	National Security Agency	Unspecified Worldwide	Maintenance of Real Property	2,528	2,528	2,528		2,528
Unspecified	National Security Agency	Unspecified Worldwide	Furnishings Account	112	112	112		112
Unspecified	National Security Agency	Unspecified Worldwide	Construction Improvements	50	50	50		50
Unspecified	Defense Intelligence Agency	Unspecified Worldwide	Furnishings Account	3,844	3,844	3,844		3,844
Unspecified	Defense Intelligence Agency	Unspecified Worldwide	Leasing Account	27,225	27,225	27,225		27,225
Unspecified	Family Housing Improvement Fund	Unspecified Worldwide	Family Housing Improvement Fund	300	300	300		300
Unspecified	*Family Housing Improvement Fund*	*Unspecified Worldwide*	*Rescission, Housing Privatization - Patrick AFB, FL*				*[-9692]*	*[-9692]*
			Rescissions	**(261,206)**	**(261,206)**	**(153,373)**		**(496,244)**
			Total Authorization of Appropriations:	**8,990,681**	**9,528,324**	**9,305,226**		**9,189,400**

[1] Full project authorized for appropriation in prior year, $71,600,000 appropriated in the fiscal year 2004 military construction appropriation bill.

[2] Department of the Army requested location change from Maysville, Kentucky to Morehead, Kentucky.

[3] Department of the Army requested location change from Kansas City, Missouri to Dexter, Missouri.

[4] Foreign currency appropriations do not require an authorization, $55,000,000 appropriated in the fiscal year 2004 military construction appropriation bill.

LEGISLATIVE PROVISIONS ADOPTED

Short title (sec. 2001)

The House bill contained a provision (sec. 2001) that would cite Division B of this Act as the Military Construction Authorization Act for Fiscal Year 2004.

The Senate amendment contained an identical provision (sec. 2001).

The conference agreement includes this provision.

TITLE XXI—ARMY

Overview

The House bill would authorize appropriations of $3,056.7 million for Army military construction and housing programs for fiscal year 2004.

The Senate amendment would authorize appropriations of $2,801.8 million for Army military construction and family housing programs for fiscal year 2004.

The conferees recommend authorization of appropriation of $2,874.9 million for army military construction and family housing programs for fiscal year 2004. The conferees recommend a general reduction to the authorization of appropriation of $10.0 million, which represents corrections to estimates for military family housing support.

ITEMS OF SPECIAL INTEREST

Powertrain/flexible maintenance center, Anniston Army Depot, Alabama

The conferees understand that a project to construct a powertrain/flexible maintenance center at the Anniston Army Depot, Alabama, is included in the Future Years Defense Plan for the Army. Although the conferees were unable to authorize this project due to severe funding constraints, the conferees strongly encourage the Secretary of Defense to include this project in the President's fiscal year 2005 budget submission for the Army.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Army construction and land acquisition projects (sec. 2101)

The House bill contained a provision (sec. 2101) that would authorize Army military construction projects for fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2101).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2102)

The House bill contained a provision (sec. 2102) that would authorize new construction and planning and design of family housing units for the Army in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2102).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2103)

The House bill contained a provision (sec. 2103) that would authorize improvements to existing units of Army family housing in fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2103).

The conference agreement includes this provision.

Authorization of appropriations, Army (sec. 2104)

The House bill contained a provision (sec. 2104) that would authorize specific appropriations for each line item contained in the Army's military construction budget in fiscal year 2004. This provision would also provide an overall limit on the amount the Army is authorized to spend on military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2104).

The conference agreement includes this provision.

Termination or modification of authority to carry out certain fiscal year 2003 projects (sec. 2105)

The Senate amendment contained a provision (sec. 2105) that would amend the table in section 2101 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314) to rescind project authority from five installations in Germany and one in Korea, resulting in a total decrease of $118.4 million.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the table for projects inside the United States in section 2101 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314) to increase amounts authorized for Fort Riley, Kansas. The provision would also rescind project authority from five additional installations in Korea.

Modification of authority to carry out certain fiscal year 2002 projects (sec. 2106)

The House bill contained a provision (sec. 2105) that would amend the table in section 2101 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) as further amended by section 2105 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107–314) to increase the amount authorized for construction at Fort Richardson, Alaska.

The Senate amendment contained a similar provision (sec. 2107).

The House recedes with an amendment that would additionally modify the table for projects outside the United States in section 2101 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) as further amended by section 2105 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107–314) to decrease amounts authorized at Camp Hovey, Korea, and Camp Stanley, Korea, by a total of $24.0 million.

Termination or modification of authority to carry out certain fiscal year 2001 projects (sec. 2107)

The Senate amendment contained a provision (sec. 2108) that would amend the table in section 2101 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) as further amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to increase the funding authorization for Pohakoula Training Facility, Hawaii.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the table for projects inside the United States in section 2101 of the Military Construction Authorization Act for Fiscal Year 2001 (division B of Public Law 106–398) as further amended by section 2105 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107) to increase amounts authorized for Fort Bragg, North Carolina. The provision would also rescind project authorization for Camp Stanley, Korea.

TITLE XXII—NAVY

Overview

The House bill would authorize appropriations of $2,288.9 million for Navy military construction and housing programs for fiscal year 2004.

The Senate amendment would authorize appropriations of $2,179.9 million for Navy military construction and family housing programs for fiscal year 2004.

The conferees recommend authorization of appropriation of $2,267.7 million for Navy military construction and family housing programs for fiscal year 2004. The conferees recommend a general reduction to the authorization of appropriation of $10.0 million, which represents corrections to estimates for military family housing support.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Navy construction and land acquisition projects (sec. 2201)

The House bill contained a provision (sec. 2201) that would authorize Navy military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2201).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2202)

The House bill contained a provision (sec. 2202) that would authorize new construction and planning and design of family housing units for the Navy in fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2202).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorizations for FY2004," provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2203)

The House bill contained a provision (sec. 2203) that would authorize improvements to existing units of Navy family housing in fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2203).

The conference agreement includes this provision.

Authorization of appropriations, Navy (sec. 2204)

The House bill contained a provision (sec. 2204) that would authorize specific appropriations for each line item contained in the Navy's military construction budget in fiscal year 2004. This provision would also provide an overall limit on the amount the Navy is authorized to spend on military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2204).

The conference agreement includes this provision.

Termination of authority to carry out certain fiscal year 2003 projects (sec. 2205)

The Senate amendment contained a provision (sec. 2205) that would amend sections 2201 and 2204 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to rescind a project authorization of $14.9 million for a dining facility at Keflavik, Iceland.

The House bill contained no similar provision.

The House recedes with an amendment that would further modify sections 2201 and 2204 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to rescind project authorizations of $10.1 million at Naval Air Warfare Center, China Lake, California, $6.04 million at Marine Corps Air Station Cherry Point, North Carolina, and $6.8 million at Naval Support Activity, Joint Headquarters Command, Larissa, Greece. This provision would also amend section 2202(a) of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to rescind project authorization of $18.5 million for new housing units at Joint Maritime Facility, Saint Mawgan, United Kingdom.

Termination or modification of authority to carry out certain fiscal year 2002 projects (sec. 2206)

The conferees agree to include a provision that would amend sections 2201 and 2204 of the Military Construction Act for Fiscal Year 2002 (division B of Public Law 107-107) to amend project authorization for Naval Air Warfare Center, China Lake, California, and to strike the project authorization for Naval Support Activity, Joint Headquarters Command, Larissa, Greece, and to decrease the total project authorization outside the United States by $12.2 million.

TITLE XXIII—AIR FORCE

Overview

The House bill would authorize appropriations of $2,477.6 million for Air Force military construction and housing programs for fiscal year 2004.

The Senate amendment would authorize appropriations of $2,505.4 million for Air Force military construction and family housing programs for fiscal year 2004.

The conferees recommend authorization of appropriation of $2,550.9 million for Air Force military construction and family housing programs for fiscal year 2004. The conferees recommend a general reduction to the authorization of appropriation of $10.0 million, which represents corrections to estimates for military family housing support.

ITEMS OF SPECIAL INTEREST

Child Development Center, Little Rock Air Force Base, Arkansas

The conferees recognize the importance of supporting projects that improve the quality of life for the families of military members during long deployments. The conferees understand that a project to construct a child development center at Little Rock Air Force Base, Arkansas, is included in the Future Years Defense Plan for the Air Force. Although the conferees were unable to authorize this project due to severe funding constraints, the conferees strongly encourage the Secretary of Defense to include this project in the President's fiscal year 2005 budget submission for the Air Force.

LEGISLATIVE PROVISIONS ADOPTED

Authorized Air Force construction and land acquisition projects (sec. 2301)

The House bill contained a provision (sec. 2301) that would authorize Air Force military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2301).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2302)

The House bill contained a provision (sec. 2302) that would authorize new construction and planning and design of family housing units for the Air Force in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2302).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Improvements to military family housing units (sec. 2303)

The House bill contained a provision (sec. 2303) that would authorize improvements to existing units of Air Force family housing for fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2303).

The conference agreement includes this provision.

Authorization of appropriations, Air Force (sec. 2304)

The House bill contained a provision (sec. 2304) that would authorize specific appropriations for each line item contained in the Air Force's military construction budget in fiscal year 2004. This provision would also provide an overall limit on the amount the Air Force is authorized to spend on military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2304).

The conference agreement includes this provision.

Termination or modification of authority to carry out certain fiscal year 2003 projects (sec. 2305)

The Senate amendment contained a provision (sec. 2305) that would amend sections 2301 and 2304 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to decrease authorization for family housing construction world-wide unspecified account by $19.3 million for a housing improvement project at Spangdahlem, Germany.

The House bill contained no similar provision.

The House recedes with an amendment that would amend section 2301(c) of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to terminate a project at a classified location.

TITLE XXIV—DEFENSE AGENCIES

LEGISLATIVE PROVISIONS ADOPTED

Authorized Defense Agencies construction and land acquisition projects (sec. 2401)

The House bill contained a provision (sec. 2401) that would authorize Defense Agencies military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2401).

The conference agreement includes this provision.

The amounts authorized are listed in this provision on an installation-by-installation basis. A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Family housing (sec. 2402)

The House bill contained a provision (sec. 2402) that would authorize new construction and planning and design of family housing units for the Defense Agencies in fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2402).

The conference agreement includes this provision.

Improvements to military family housing units (sec. 2403)

The House bill contained a provision (sec. 2403) that would authorize improvements to existing units of the Defense Agencies' family housing in fiscal year 2004.

The Senate amendment contained an identical provision (sec. 2403).

The conference agreement includes this provision.

Energy conservation projects (sec. 2404)

The House bill contained a provision (sec. 2404) that would authorize the Secretary of Defense to carry out energy conservation projects.

The Senate amendment contained an identical provision (sec. 2404).

The conference agreement includes this provision.

Authorization of appropriations, Defense Agencies (sec. 2405)

The House bill contained a provision (sec. 2405) that would authorize specific appropriations for each line item contained in the Defense Agencies' military construction budget in fiscal year 2004. This provision would also provide an overall limit on the amount the Defense Agencies are authorized to spend on military construction projects in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2405).

The conference agreement includes this provision.

Termination of authority to carry out certain fiscal year 2003 projects (sec. 2406)

The Senate amendment contained a provision (sec. 2407) that would amend sections 2401 and 2404 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-314) to change the location for project authority in Korea and to rescind project authority from one installation in Germany, resulting in a decrease of $997,000.

The House bill contained no similar provision.

The House recedes with an amendment that would additionally rescind project authority from one installation in Korea, resulting in an overall decrease of $32.7 million.

LEGISLATIVE PROVISIONS NOT ADOPTED

Modification of authority to carry out certain fiscal year 2003 projects

The Senate amendment contained a provision (sec. 2406) that would amend sections 2401 of the Military Construction Act for Fiscal Year 2003 (division B of Public Law 107-

314) to transfer project authority for a Department of Defense Dependents Schools from Seoul, Korea, to Camp Humphreys, Korea.

The House bill contained no similar provision.

The Senate recedes.

Title XXV—North Atlantic Treaty Organization Security Investment Program

Authorized NATO construction and land acquisition projects (sec. 2501)

The House bill contained a provision (sec. 2501) that would authorize the Secretary of Defense to make contributions to the North Atlantic Treaty Organization security investment program in an amount equal to the sum of the amount specifically authorized elsewhere in this conference report and the amount of recoupment due to the United States for construction previously financed by the United States.

The Senate amendment contained an identical provision. (sec. 2501)

The conference agreement includes this provision.

Authorization of appropriations, NATO (sec. 2502)

The House bill contained a provision (sec. 2502) that would authorize appropriations of $169.3 million for the U.S. contribution to the North Atlantic Treaty Organization (NATO) security investment program.

The Senate amendment contained an identical provision (sec. 2502).

The conference agreement includes this provision.

Title XXVI—Guard and Reserve Forces Facilities

Overview

The House bill would authorize appropriations of $573.9 million for military construction and land acquisition for fiscal year 2004 for the Guard and Reserve components.

The Senate amendment would authorize appropriations of $647.8 million for military construction and land acquisition for fiscal year 2004 for the Guard and Reserve components.

The conferees recommend authorization of appropriations of $730.5 million for military construction and land acquisition for fiscal year 2004 for the Guard and Reserve components. This authorization would be distributed as follows:

Army National Guard	$311,592,000
Air National Guard	222,908,000
Army Reserve	88,451,000
Naval and Marine Corps Reserve	45,498,000
Air Force Reserve	62,032,000
Total	730,481,000

Items of Special Interest

Readiness Center, Charleston, South Carolina

The conferees recognize the contribution of National Guard readiness centers, formally known as armories, to the training and morale of Guard and Reserve units around the country. The conferees understand that a project to construct a readiness center in Charleston, South Carolina, is included in the Future Years Defense Plan for the Army National Guard. The conferees strongly encourage the Secretary of Defense to include this project in the President's fiscal year 2005 budget submission for the Army National Guard.

Legislative Provisions Adopted

Authorized Guard and Reserve construction and land acquisition projects (sec. 2601)

The House bill contained a provision (sec. 2601) that would authorize appropriations for military construction for the Guard and Reserve by service component in fiscal year 2004.

The Senate amendment contained a similar provision (sec. 2601).

The conference agreement includes this provision.

A state list of projects contained in the table at the beginning of Division B of this conference report entitled, "Military Construction Authorization for FY2004," provides the binding list of specific construction projects authorized at each location.

Title XXVII—Expiration and Extension of Authorizations

Legislative Provisions Adopted

Expiration of authorizations and amounts required to be specified by law (sec. 2701)

The House bill contained a provision (sec. 2701) that would provide that authorizations for military construction projects, repair of real property, land acquisition, family housing projects and facilities, contributions to the North Atlantic Treaty Organization infrastructure program, and guard and reserve projects will expire on October 1, 2006, or the date of enactment of an act authorizing funds for military construction for fiscal year 2007, whichever is later. This requirement would not apply to funds obligated prior to the expiration date.

The Senate amendment contained an identical provision (sec. 2701).

The conference agreement includes this provision.

Extension of authorizations of certain fiscal year 2001 projects (sec. 2702)

The House bill contained a provision (sec. 2702) that would provide for the extension of certain fiscal year 2001 military construction project authorizations until October 1, 2004, or the date of enactment of an act authorizing funds for military construction for fiscal year 2005, whichever is later.

The Senate amendment contained a similar provision (sec. 2702).

The House recedes with an amendment that would amend the list of fiscal year 2001 military construction project authorizations to be extended.

Extension of authorizations of certain fiscal year 2000 projects (sec. 2703)

The House bill contained a provision (sec. 2703) that would provide for the extension of certain fiscal year 2000 military construction project authorizations until October 1, 2004, or the date of enactment of an act authorizing funds for military construction for fiscal year 2005, whichever is later.

The Senate amendment contained an identical provision (sec. 2703).

The conference agreement includes this provision.

Legislative Provisions Not Adopted

Effective date

The House bill contained a provision (sec. 2704) that would provide that titles XXI, XXII, XXIII, XXIV, XXV, and XXVI of this Act shall take effect on October 1, 2003, or the date of enactment of this Act, whichever is later.

The Senate amendment contained an identical provision (sec. 2704).

Because the conference report was not adopted prior to October 1, 2003, this provision is no longer required and was not included in the conference agreement.

Title XXVIII—General Provisions

Items of Special Interest

Use of authorities to correct a deficiency that is life-threatening, health-threatening, or safety-threatening

United States Code title 10, section 2805 authorizes higher statutory limits for the use of operation and maintenance funds and unspecified minor military construction funds for projects intended to correct deficiencies that threaten life, health, or safety of personnel.

The conferees have recently received numerous notifications from the services stating their intent to award construction projects using this authority. While the conferees encourage the use of section 2805 to provide for immediate actions to protect the livelihood of military personnel, the conferees are concerned that the both the increased frequency and justifications included within the services' notifications represent an expansive interpretation of Congressional intent regarding the higher limits for compelling emergencies.

The conferees expect the services, when utilizing section 2805 authority to fund construction to correct life-, health-, or safety-threatening conditions, to include within the notification sent to Congress a description of when the requirement was determined and why deferral of the project until the next Military Construction Authorization Act poses an unacceptable and imminent risk to military personnel. The conferees also expect the justification to include a description of on-going actions and temporary work-arounds to mitigate risk and safeguard lives.

The conferees also expect the services to include in the notification sent to Congress an explanation why the facility deficiency cannot be repaired or corrected by other means, and an assurance that the military construction project is intended primarily to correct the facility deficiency that threatens the life, safety, or health of personnel.

The conferees understand that chronic under-funding of facility repairs, revitalization, and modernization has resulted in a substantial number of military facilities that pose a risk to life, safety, or health due to code violations, antiquated ventilation and utility systems, failing roofs, and other deficiencies. However, the use of section 2805 should be reserved to correct those deficiencies that pose an imminent and substantial risk to military personnel.

Preservation of historical military facilities

The conferees are concerned about the military departments' apparent inability to accurately track the costs of maintaining, repairing, and renovating over 17,000 historic facilities in the Department of Defense (DOD) inventory. In an April 2001 General Accounting Office report, the Comptroller General noted that data is not readily available to identify the costs of maintaining historic properties or to separately account for repairs related to historic aspects of these properties. (Defense Infrastructure: Military Services Lack Reliable Data on Historic Properties, April 2001, GAO–01–437) While the conferees recognize the need for the Department of Defense to comply with the National Historic Preservation Act (P.L. 89–665) (codified as USC 16, sec 470 et. seq.), it is equally important that reliable data be available on the life-cycle costs of the requirement in order to provide an adequate basis for comparison to the overall costs related to non-historic facilities. In the same report, the Comptroller General noted that the costs of maintenance can be proportionally greater in cases where historic facilities are larger in size than facilities constructed in accordance with current military requirements. For example, the DOD budget request for fiscal year 2004 includes more than $14.0 million just to repair, maintain, or renovate historic general and flag officers' quarters. Without reliable and complete data, there is no basis to assess the overall return on investment and the impact these costs may have on other military requirements.

The conferees concur with the Comptroller General's recommendation to the military departments to maintain reliable cost data on historic structures. The conferees expect the military services and DOD agencies to include an assessment of the costs associated with historical requirements in each in construction project justification contained in the annual President's budget submission and with each facility repair project notification required by section 2811 of Title 10, United States Code. In addition, the conferees encourage the Department to develop a long-term plan to sustain its historic facilities. This plan should include a roadmap to identify and efficiently manage the costs of maintaining historic facilities and a review of innovative efforts to reduce the budget impact of historic facilities. The conferees also encourage the Department to increase service-to-service sharing of historic facility management concepts and experience. The conferees believe that sharing lessons-learned will result in more accurate cost estimates and innovative solutions to cost management.

The conferees expect the Department's effort to include a review of the Marine Corps' renovation of the Commandant's Home in Washington, D.C. This project experienced significant growth in cost and scope, largely due to the historic aspects of the facility. In addition, the Marine Corps renovated the interior of the home before completing roof and exterior work, resulting in additional costs and schedule delays due to leaking roof areas. Also of concern was the Marine Corps' decision to utilize statutory gift authorities, intended to offset the costs of the renovation, for upgrades to furnishings. While the conferees recognize the historic and symbolic value of the Commandant's home to the Marine Corps, the conferees believe that decisions made during the renovation process resulted in a project that could have instead set a benchmark for successful renovation of a historic facility.

LEGISLATIVE PROVISIONS ADOPTED

Subtitle A—Military Construction Program and Military Family Housing Changes

Modification of general definitions relating to military construction (sec. 2801)

The Senate amendment contained a provision (sec. 2801) that would amend section 2801 of title 10, United States Code, to clarify definitions for military construction and military installations. Under this provision, military construction would include any temporary or permanent construction, development, conversion, or extension of any kind carried out with respect to a military installation. The scope and duration of the operational requirement necessitating military construction does not affect the definition. This provision would also clarify the definition of military installations. The House bill contained no similar provision.

The House recedes.

Increase in maximum amount of authorized annual emergency construction (sec. 2802)

The House bill contained a provision (sec. 2801) that would amend section 2803 of title 10, United States Code, to increase from $30,000,000 to $45,000,000 the annual limit on the amount a service secretary may obligate for emergency military construction projects not otherwise authorized by law.

The Senate amendment contained no similar provision.

The Senate recedes.

Increase in number of family housing units in Italy authorized for lease by Navy (sec. 2803)

The House bill contained a provision (sec. 2802) that would amend section 2828(e) of title 10, United States Code, to increase from 2,000 to 2,400 the number of family housing units the Secretary of the Navy may lease in Italy for not more than $25,000 per unit per year.

The Senate amendment contained a similar provision (sec. 2802).

The House recedes.

Increase in authorized maximum lease term for family housing and other facilities in certain foreign countries (sec. 2804)

The House bill contained a provision (sec. 2807) that would amend section 2828(d) of title 10, United States Code, to increase from 10 to 15 years the maximum length of lease that the Department of Defense may enter for housing facilities in Korea. This provision would also increase from 5 to 15 years the maximum length of a lease that the Department may enter for other military-related facilities in Korea.

The Senate amendment contained no similar provision.

The Senate recedes.

Conveyance of property at military installations closed or realigned to support military construction (sec. 2805)

The House bill contained a provision (sec. 2805) that would amend chapter 169 of title 10, United States Code, to expand existing Department of Defense authority to transfer property at military installations that have been closed or are subject to closure to persons who, in exchange, construct or provide family housing. The expanded authority would permit the Department to transfer property at such installations in exchange for family housing, unaccompanied housing, and authorized military construction activities. The provision would require the Department to utilize this authority for land-for-construction trades in at least 20 percent of base closure disposals of property that has not been identified as essential to a redevelopment plan, and would require each of the services to endeavor to use the authority provided for at least $200.0 million worth of exchanges annually. In addition, the provision would require that the fair market value of the housing or facilities received by the Department equal or exceed the fair market value of the real property conveyed, or the Department must receive payments equal to the difference. Finally, the provision would require the Department to provide an annual report to Congress on the use of this authority.

The Senate amendment contained a provision (sec. 2813) that would amend section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of Public Law 101–501) to expand the authority to allow for the transfer of property in exchange for unaccompanied housing.

The Senate recedes with an amendment that would establish a pilot program for use of these expanded authorities instead of requiring the services to use them to specific, mandated levels. The pilot program would require each Service to carry out, to the maximum extent practicable, at least one exchange in fiscal year 2004 of a value no less than $1.0 million. The provision would also require the Department to notify the Congress of the conveyance and to wait 14 days before entering into an agreement. In addition, the provision would authorize the services to notify prospective purchasers of property at military installations closed or realigned under a base closure law that exchanges for military construction projects, in lieu of or in addition to cash payments, would be considered. While the provision does not require the services to notify prospective purchasers, the conferees encourage the Department to do so in order to explore the opportunities available under this authority.

Inapplicability of space limitations to military unaccompanied housing units acquired or constructed under alternate authority (sec. 2806)

The House bill contained a provision (sec. 2803) that would amend section 2880 of title 10, United States Code, to provide increased flexibility for the Department of Defense (DOD) to determine the amount of space provided to each person in on-base unaccompanied housing built under the privatization program. The provision would also amend section 2883 of title 10, United States Code, to merge the DOD Family Housing Improvement Fund and the DOD Unaccompanied Housing Improvement Fund into a single DOD Housing Improvement Fund. This single fund would give the Department increased flexibility in managing its housing resources. Finally, the provision would amend section 2883 to increase the cap on budget authority for contracts and investments to military housing privatization projects from $850.0 million to $900.0 million.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would amend section 2880 of title 10, United States Code, to provide increased flexibility for DOD to determine the amount of space provided to each person in on-base unaccompanied housing built under the privatization program.

Additional material for reports on housing privatization program (sec. 2807)

The House bill contained a provision (sec. 2804) that would amend section 2884 of Title 10, United States Code, to require the Department of Defense to include additional information in its annual report on housing privatization programs. The additional information would include a review of privatization activities entered into in previous years, planned privatization activities, authorities necessary to improve the program, and additional facilities planned as part of each privatization project. Finally, the report would include an explanation for each instance in which a privatization effort does not include additional facilities, such as schools, in the contract.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Department to provide detailed information for each housing privatization contract that includes guarantees in the event of closure or realignment of an installation or major changes in the number of personnel stationed or deployed away from the installation. The information provided must describe the nature and specific conditions of the guarantee and assess the extent and potential cost of the Federal Government's liability as a result of the guarantee.

Temporary, limited authority to use operation and maintenance funds for construction projects outside the United States (sec. 2808)

The House bill contained a provision (sec. 2806) that would limit the ability of the Department of Defense (DOD) to utilize operation and maintenance funds for certain construction purposes by prohibiting the obligation of such funds for any single construction project exceeding $5.0 million and limiting the total annual obligation to $200.0 million. This provision would require the Department to notify Congress 14 days before obligating more than $1.5 million of operation and maintenance funds for construction purposes, but allow a service secretary to waive the notice and wait requirement in cases where a delay would jeopardize national security, health, or safety. The provision would also require the Department to provide a quarterly report to Congress on the worldwide use of operation and maintenance funds for construction purposes.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of Defense, in fiscal year 2004, to use operation and maintenance funds for military construction requirements outside the United States, with specific conditions. The Secretary of Defense, or a designee within DOD in a position that requires confirmation by the Senate, would have to determine:

(1) that military construction would be necessary to satisfy urgent requirements in support of temporary operations related to a declaration of war, national emergency, or a contingency operation;

(2) that military construction would not be carried out at a military installation where the United States is reasonably expected to have a long-term presence, such as locations with permanently stationed U.S. Armed Forces or locations identified as forward operating bases for rotational U.S. Armed Forces;

(3) the United States would have no intention of using the constructed facility or infrastructure after the operation formally ceased; and

(4) the level of construction would be the minimum necessary to meet the operational requirement and temporary methods of construction would be used to the extent practicable to safely support the operation.

The Secretary would also be required to submit a notification to the congressional defense committees within seven days after the obligation of funds with the following information:

(1) certification that the project meets the conditions required by this provision;

(2) a description of the operational requirement for which funds have been obligated;

(3) all relevant documentation detailing the construction project, to include a Department of Defense Form 1391 and other supporting information that fully explains the construction project; and

(4) a cost estimate of the total construction requirement and the amount of funds that have been obligated to date.

The Secretary would also be authorized to waive the $200.0 million limitation on the annual total obligation of operation and maintenance funds for military construction requirements if the Secretary determines that exceeding the limitation is vital to the national security. The Secretary must notify the congressional defense committees within five days of granting such a waiver.

The amendment would also clarify the relationship of this provision to other authorities granted in title 10, United States Code, for the use of operation and maintenance funds for military construction requirements.

The conferees support operational flexibility and the ability of commanders to satisfy urgent requirements in support of contingency operations. The temporary authority in this provision is specifically written to facilitate these activities under certain conditions without prior notification to Congress. If this authorization does not provide the necessary flexibility, the Department should seek to amend existing law. If continuation of the authority is desired, the conferees expect the Department of Defense to include a legislative proposal related to this matter in the fiscal year 2005 defense authorization request.

Report on military construction requirements to support new homeland defense missions of the armed forces (sec. 2809)

The House bill contained a provision (sec. 2808) that would require the Secretary of Defense to provide an annual assessment of the anticipated military construction requirements necessary to support current and future homeland defense missions of the armed forces.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to report by February 15, 2004, on military construction requirements identified to meet new homeland defense missions of the armed forces. The report shall include a list of military construction projects initiated to support new homeland defense missions since September 11, 2001, and an assessment of military construction requirements identified to meet the armed forces' homeland defense missions during the next three years.

The conferees recognize that defining "new homeland defense missions" may be difficult. As such, the conferees expect the report to include the Department of Defense definition of specific homeland defense missions, which should include requirements identified by the U.S. Northern Command. The report should also address specific military construction requirements, such as operations centers, that would support other federal or state agencies contributing to homeland defense missions. In addition, the report should specifically address new military construction requirements necessary to support combat air patrols over U.S. cities.

The conferees intend the report to provide a baseline for Congress to assess the adequacy of the Department's current infrastructure and facilities, and its future infrastructure and facility plans supporting the emerging homeland defense requirements of the armed forces.

Subtitle B—Real Property and Facilities Administration

Enhancement of authority to acquire low-cost interests in land (sec. 2811)

The House bill contained a provision (sec. 2811) that would amend section 2672 of title 10, United States Code, to increase from $500,000 to $1,500,000 the limit on the amount a service secretary may obligate to acquire land in the interest of national defense. This provision would also amend section 2672a of title 10, United States Code, to require a service secretary who utilizes this authority to acquire land to notify Congress within 10 days of determining that such an acquisition is necessary. This provision would also amend section 2662 of title 10, United States Code, which requires service secretaries to report to Congress before entering into certain real estate transactions. The Senate amendment contained a similar provision (sec. 2811) that would amend section 2662 of title 10, United States Code, by raising the threshold of real property transactions that require notification to the congressional defense committees.

The Senate recedes with an amendment that would increase from $500,000 to $750,000 the limit on the amount a service secretary may obligate to acquire land under section 2672 of title 10, United States Code. The Senate amendment would also authorize the service secretary to acquire land under section 2672 up to $1,500,000 if the land is required to correct a deficiency that is life-threatening, health-threatening or safety-threatening. A separate Senate amendment to the House bill (sec. 1021) would amend section 2662 of title 10, United States Code, by raising the threshold of real property transactions from $500,000 to $750,000 that require notification to the congressional defense committees.

Retention and availability of amounts realized from energy cost savings (sec. 2812)

The House bill contained a provision (sec. 1005) that would allow the Department of Defense to obligate all funds representing energy cost savings, not just two-thirds of such funds, through the end of the fiscal year without additional authorization or appropriation.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to identify in each fiscal year budget submission the amounts available for obligation under this authority.

Acceptance of in-kind consideration for easements (sec. 2813)

The Senate amendment contained a provision (sec. 2812) that would amend sections 2668 and 2669 of title 10, United States Code, to authorize the secretaries of the military departments to accept in-kind payments in connection with modification of existing and new easements for rights-of-way and utilities. This provision would implement the same process for the acceptance of in-kind considerations, as directed in section 2667(c) of title 10, United States Code, pertaining to the lease of property.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Subtitle C—Base Closure and Realignment

Consideration of public-access road issues related to base closure, realignment, or placement in inactive status (sec. 2821)

The House bill contained a provision (sec. 2845) that would amend section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (Public law 101–50) to require the Secretary of Defense to consult with state and local authorities on the continued availability of public roads through, into, or around installations that have been closed, realigned, or placed on inactive status by the Department of Defense.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

Consideration of surge requirements in 2005 round of base realignments and closures (sec. 2822)

The House bill contained a provision (sec. 2843) that would amend section 2913(a) of the

Defense Base Closure and Realignment Act of 1990 (Public Law 101-510) to require the Secretary of Defense, when making closure and realignment recommendations, to use the force structure plan included in section 2842 of the House bill.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Defense to assess the probable threats to national security and, as part of such assessment, to determine the potential, prudent, surge requirements necessary to meet those threats. This provision would also require the Secretary of Defense to use this determination in the Base Realignment and Closure process.

Subtitle D—Land Conveyances

PART I—ARMY CONVEYANCES

Termination of lease and conveyance of Army Reserve Center, Conway, Arkansas (sec. 2831)

The House bill contained a provision (sec. 2821) that would authorize the Secretary of the Army to terminate a property lease with the University of Central Arkansas and convey, without consideration, an existing Army Reserve Center on the property that is no longer required by the Army to the University of Central Arkansas.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees expect that the terms of legal liability for facility conditions and compliance with environmental requirements would be explicitly and formally agreed upon by the Army and the University of Central Arkansas at the time of the facility's conveyance.

Land conveyance, Fort Campbell, Kentucky and Tennessee (sec. 2832)

The House bill contained a provision (sec. 2824) that would authorize the Secretary of the Army to convey a parcel of property to the Department of Transportation of the State of Tennessee for the purpose of realigning and expanding from two to four lanes U.S. Highway 79 running through Fort Campbell, Kentucky. In exchange, the Secretary would receive, along with other considerations, approximately 200 acres of replacement land, resulting in no net loss of training capability at Fort Campbell. The provision would also authorize the State to provide reimbursement for all administration, survey, and other costs incurred by the Secretary into the account from which funds originated.

The Senate amendment contained a similar provision (sec. 2821).

The House recedes with a technical amendment that would clarify the source of funds available to the Department of Transportation of the State of Tennessee.

Land conveyance, Fort Knox, Kentucky (sec. 2833)

The Senate amendment contained a provision (sec. 2822) that would authorize the Secretary of the Army to convey, without consideration, a parcel of real property consisting of approximately 93 acres at Fort Knox to the Department of Veterans Affairs of the Commonwealth of Kentucky for the purpose of establishing a state-run cemetery for veterans of the armed forces.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Army National Guard armory, Pierce City, Missouri (sec. 2834)

The conferees agree to include a provision that would authorize the Secretary of the Army to make a contribution under section 18233(a) of title 10, United States Code, without regard to the limits imposed by section 18236(b)(2) of such title if the Secretary determines that:

(1) a compelling and immediate need exists for the facility;

(2) the requirement for the facility was unforeseen and the result of a natural disaster;

(3) failure to construct the facility immediately would have an adverse impact on the mission; and

(4) the real property for the facility will be provided by the State of Missouri.

This provision would also authorize the Secretary of the Army to accept real property from the State of Missouri of a value not to exceed the financial contribution waived in this provision.

Land conveyance, Fort Belvoir, Virginia (sec. 2835)

The House bill contained a provision (sec. 2827) that would direct the Secretary of the Army to convey a parcel of property consisting of approximately 10 acres and improvements thereon at Fort Belvoir, Virginia, to the County of Fairfax, Virginia. The provision would also authorize the Secretary to receive reimbursement from the County for any costs incurred by the conveyance of the parcel and to deposit those funds into the accounts from which the costs were expended.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would authorize the Secretary of the Army to convey a parcel of property consisting of approximately 12 acres at Fort Belvoir, Virginia, to the County of Fairfax, Virginia, in exchange for a parcel of property acceptable to the Secretary.

PART II—NAVY CONVEYANCES

Land conveyance, Navy property, Dixon, California (sec. 2841)

The conferees agree to include a provision that would authorize the Secretary of the Navy to convey, without consideration, approximately 40 acres in Dixon, California, to the Housing Authority of the city of Dixon, California, for the purpose of permitting the Housing Authority to continue to provide suitable housing and support services to migrant workers. The Housing Authority would be required to pay for or reimburse the Navy for costs incurred to carry out the conveyance. This provision would also exempt the conveyance from screening for further federal use.

Land conveyance, Marine Corps Logistics Base, Albany, Georgia (sec. 2842)

The Senate amendment contained a provision (sec. 2823) that would authorize the Secretary of the Navy to convey through negotiated sale a parcel of property consisting of approximately 11 acres at Marine Corps Logistics Base, Albany, Georgia, to the Preferred Development Group Corporation for the purpose of economic development.

The House bill contained no similar provision.

The House recedes with a clarifying amendment.

Land conveyance, Naval and Marine Corps Reserve Center, Portland, Oregon (sec. 2843)

The Senate amendment contained a provision (sec. 2825) that would authorize the Secretary of the Navy to convey a parcel of property consisting of approximately 14 acres, and improvements thereon, at the Naval and Marine Corps Reserve Center, Portland, Oregon, to the United Parcel Service, Incorporated, for the purpose of expanding a main distribution complex. As consideration, the Secretary of the Navy would receive property and new facilities equal to no less than the fair market value of conveyed property, as determined by the Secretary.

The provision would also authorize the Secretary to receive reimbursement for any costs incurred as a result of the conveyance and to deposit those funds into the accounts from which the costs were expended.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Land conveyance, Naval Reserve Center, Orange, Texas (sec. 2844)

The House bill contained a provision (sec. 2826) that would authorize the Secretary of the Navy to convey approximately 2.5 acres at Naval Reserve Center, Orange, Texas to the City of Orange, Texas for the purpose of road construction, economic development, and other public purposes. As consideration, the City shall provide either cash payment or other consideration equal to the fair market value of the parcel, as determined by the Secretary.

The provision also authorizes the Secretary of the Navy to receive reimbursement from the City for costs incurred to carry out the conveyance and to deposit this reimbursement into the accounts from which funds were expended for services related to the conveyance.

The Senate amendment contained no similar provision.

The Senate recedes.

Land conveyance, Puget Sound Naval Shipyard, Bremerton, Washington (sec. 2845)

The House bill contained a provision (sec. 2828) that would authorize the Secretary of the Navy to convey approximately 2.8 acres at the eastern end of the Puget Sound Naval Shipyard, Bremerton, Washington, to the City of Bremerton, Washington. As consideration, the City shall replace administrative space on the parcel to be conveyed by renovating approximately 7,500 square feet of existing space in building 433 at Naval Station Bremerton to conditions acceptable to the Secretary and at no cost to the United States. In lieu of aforementioned renovation, the Secretary may accept other facility alteration or repair of not than less than equal value.

The Secretary may also carry out environmental remediation actions deemed necessary by the Secretary to conform to section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 using funds available in the Environmental Restoration Account.

The provision would also authorize the Secretary to receive reimbursement from the city for costs incurred to carry out the conveyance and to deposit this reimbursement into the accounts from which funds were expended for services related to the conveyance.

The Senate amendment contained no similar provision.

The Senate recedes.

PART III—AIR FORCE CONVEYANCES

Land exchange, March Air Reserve Base, California (sec. 2851)

The conferees agree to include a provision that would authorize the Secretary of the Army to convey five parcels, including any improvements thereon, totaling approximately 37 acres at March Air Reserve Base, California, to the March Joint Powers Authority of Moreno Valley, California. This provision would also authorize the Secretary of the Navy to convey two parcels, including any improvements thereon, totaling approximately 10 acres at March Air Reserve Base, California, to the March Joint Powers Authority of Moreno Valley, California. As consideration for the conveyances, the March Joint Powers Authority would release interest in two contiguous parcels of property at March Air Reserve Base, consisting of 20 acres and 28 acres respectively. This provision would also direct the Secretary of the Air Force to transfer, without consideration, the same two parcels of land to the Secretary of the Army.

Actions to quiet title, Fallin Water Subdivision, Eglin Air Force Base, Florida (sec. 2852)

The House bill contained a provision (sec. 2822) that would authorize the Secretary of the Air Force to quiet title to tracts of land not to exceed a total of two acres at Eglin Air Force Base, Florida, by conveying, acquiring, or exchanging small parcels of land as consideration. This authorization is intended to allow the Secretary to resolve longstanding encroachment issues with local communities as a result of inaccurate surveys.

The Senate amendment contained no similar provision.

The Senate recedes.

Modification of land conveyance, Eglin Air Force Base, Florida (sec. 2853)

Public Law 91–347, an Act to Provide for the Conveyance of Certain Real Property of the Federal Government to the Board of Public Instruction, Okaloosa County, Florida, directed the Secretary of the Air Force to transfer property to the School Board of the County of Okaloosa, Florida, to support public schools with a condition that any portion of the property not used for public schools would be returned to the United States.

The House bill contained a provision (sec. 2823) that would amend the Act to authorize the Okaloosa County School Board to lease the undeveloped portion of the property to Okaloosa County for other public uses.

The Senate amendment contained no similar provision.

The Senate recedes.

PART IV—OTHER CONVEYANCES

Land conveyance, Army and Air Force Exchange Service Property, Dallas, Texas (sec. 2861)

The House bill contained a provision (sec. 2825) that would authorize the Secretary of Defense to allow the Army and Air Force Exchange Service (AAFES) to sell a parcel of real property, including improvements, at 15 Roundtable Drive in Dallas, Texas, at fair market value and to retain funds received within AAFES-controlled accounts.

The Senate amendment contained a similar provision (sec. 2824).

The House recedes with a technical amendment.

Land conveyance, Umnak Island, Alaska (sec. 2862)

The conferees agree to include a provision that would authorize the Secretary of the Air Force to relinquish the claim of the former Nikolski Radio Relay Site (NRRS) on Umnak Island, Alaska in order for the Secretary of the Interior to carry out the following actions:

(1) To receive as consideration all rights to lot 1, section 14, township 81 south, range 133 west, Seward meridian, Alaska. (2) Upon confirmation of the receipt of consideration, to convey phase I of the surface estate of the former radio relay site to the Chaluka Corporation as soon as practicable, to convey phase II of the surface estate of the former NRRS to the Chaluka Corporation upon the Department of the Air Force's completion of environmental restoration in accordance with applicable laws, and to convey the subsurface estate of the former NRRS to the Aleut Corporation.

This provision would also reaffirm the applicability of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 USC 9620(h)) and other applicable laws for all conveyances.

This provision would require the property conveyed to the Chaluka Corporation and to the Aleut Corporation to be a part of, and subject to, the Alaska Native Claims Settlement Act (43 United States Code, section 1601 et seq.)

This provision would also require the Secretary of the Interior to convey without consideration an estate in fee simple in each of lots 1, 2, 5, 6, and 9 of Tract B of amended United States Survey 4904, that is the subject of an Aleutian Housing Authority mutual help occupancy agreement, to the Aleutian Housing Authority. This provision would also require the Secretary of the Interior to convey without consideration the remainder of such lots to the occupants of such lots as of the date of the enactment of this Act.

This provision would also require the Secretary of the Interior to convey without consideration an estate in fee simple in the Nikolski powerhouse land to the Indian Reorganization Act Tribal Government for the Native Village of Nikolski upon completion of environmental restoration if, after the restoration is completed, the powerhouse continues to be located on the Nikolski powerhouse land. If the powerhouse is no longer located on the Nikolski powerhouse land, this provision would require the Secretary of the Interior to convey without consideration the surface estate of the Nikolski powerhouse land to the Chaluka Corporation and the subsurface estate of the powerhouse land to the Aleut Corporation upon completion of environmental restoration.

This provision would also require the Chaluka Corporation to permit United States personnel to have unrestricted access in perpetuity to the airfield at Nikolski for any activity associated with site investigation, environmental monitoring, restoration and remediation of the former Nikolski Radio Relay Site. This provision would also require the Chaluka Corporation to permit United States personnel to have reasonable access to the airfield at Nikolski for any activity associated with management of lands owned by the United States and for other government purposes without cost to the United States.

This provision would also direct the surface estate of Phase I and Phase II lands to be subject to the public's right of access over Hill and Beach Streets, located on Tract B of United States Survey 4904.

This provision would also authorize the Secretary of the Air Force to transfer $1.7 million of appropriated funds to the Alaska Energy Authority for the purpose of assisting the Authority to perform environmental restoration of the Nikolski powerhouse land.

This provision would cease to be effective if either the Chaluka Corporation or the Aleut Corporation affirmatively rejects the offer of conveyance or if required legally binding resolutions are not submitted to the Secretary of the Interior before the end of a 180-day period specified in this provision.

Subtitle E—Other Matters

Authority to accept guarantees with gifts in development of the Marine Corps Heritage Center, Marine Corps Base, Quantico, Virginia (sec. 2871)

The Senate amendment contained a provision (sec. 1033) that would authorize the Secretary of the Navy to use authority in section 6975 of Title 10, United States Code, to accept guarantees with gifts in development of the Marine Corps Heritage Center, Marine Corps Base, Quantico, Virginia. The authorization would expire on December 31, 2006.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would move the provision from Title X of this Act to the Military Construction Authorization Act for Fiscal Year 2004, and would amend section 2884 of the Military Construction Authorization Act for Fiscal Year 2001 (Public law 106–398).

Redesignation of Yuma Training Range Complex as Bob Stump Training Range Complex (sec. 2872)

The House bill contained a provision (sec. 2841) that would rename the Yuma Training Range Complex the Bob Stump Training Range Complex in honor of the former chairman of the House Committee on Armed Services, Bob Stump. The conferees note that renaming the Yuma Training Range Complex in Congressman Stump's honor is particularly fitting, as the congressman was a cosponsor of legislation in 1985 that created the Barry M. Goldwater Range, used in part by the Yuma Training Range Complex and supported by Luke Air Force Base, Arizona.

The Senate amendment contained no similar provision.

The Senate recedes.

Feasibility study of conveyance of Louisiana Army Ammunition Plant, Doyline, Louisiana (sec. 2873)

The Senate amendment contained a provision (sec. 2827) that would authorize the Secretary of the Army to conduct a study of the feasibility, costs, and benefits of entering into a public-private partnership for utilization and development of the Louisiana Army Ammunition Plant, Doyline, Louisiana. The study would consider the means by which a conveyance of the plant could facilitate more efficient support for military missions and the potential consideration provided for such conveyance. The study would include evidence provided by the State regarding the potential benefit to current and future private sector and government tenants of the plant, as well as the potential economic benefit to the surrounding community. The report would be due to the congressional defense committees not later than 180 days from enactment of this Act.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Legislative Provisions Not Adopted

Exemption from screening and use requirements under McKinney-Vento Homeless Assistance Act for Department of Defense property in emergency support of homeland security

The Senate amendment contained a provision (sec. 2814) that would amend section 11411 of title 42, United States Code, to provide an exemption for Department of Defense (DOD) property from the requirement to screen excess or surplus property for other uses when the Secretary of Defense determines that such DOD property should be made available for use by a state or local government or private entity on a temporary basis to support homeland security.

The House bill contained no similar provision.

The Senate recedes.

The conferees agree that current law does not require screening under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411) for the temporary transfer of DOD facilities to support contingency responses for homeland security activities, provided the property is returned to its previous legal status when the Secretary determines the property is no longer needed for the contingency response.

Land conveyance, Fort Ritchie, Maryland

The Senate amendment contained a provision (sec. 2826) that would authorize the Secretary of the Army to convey, without consideration, a parcel of property consisting of approximately 33 acres at the former Fort Ritchie, Maryland, to the PenMar Development Corporation, a public instrumentality of the State of Maryland, for the purpose of economic development.

The House bill contained no similar provision.

The Senate recedes.

Sense of Congress on demolition of Army Tacony Warehouse Depot Site, Philadelphia, Pennsylvania

The House bill contained a provision (sec. 2812) that would express the sense of Congress that the Secretary of the Army should take swift action to demolish the Tacony warehouse at Philadelphia, Pennsylvania.

The Senate amendment contained no similar provision.

The House recedes.

Modification of authority to conduct a round of realignments and closures of military installations in 2005

The House bill contained a provision (sec. 2842) that would amend section 2912(a) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510) as amended by section 3001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) to define the parameters by which the Secretary of Defense determines military force structure and infrastructure requirements. This provision would require the Secretary of Defense to submit a force structure plan that assumes, at a minimum, the 1991 Base Force Structure plan. In addition, the Secretary's description of supporting infrastructure must be capable of sustaining the entire planned force structure if no U.S. forces were permanently based outside of the United States. This provision would also amend current law to require the Secretary of Defense to submit, not later than April 1, 2005, a list of core military installations considered absolutely essential to national defense, to the base closure commission. This list must contain at least 50 percent of the total number of installations within the United States that would be eliminated from consideration for closure or realignment.

The Senate amendment contained no similar provision.

The House recedes.

Requirement for unanimous vote of defense base realignment and closure commission to recommend closure of military installations not recommended for closure by the Secretary of Defense

The House bill contained a provision (sec. 2844) that would amend section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510) as amended by section 3003 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) to require a unanimous vote of the base closure commission to add an installation to the list of bases recommended for closure by the Secretary of Defense.

The Senate amendment contained no similar provision.

The House recedes.

Review of overseas military facility structure

The Senate amendment contained a provision (secs. 2841-2848) that would establish a commission to conduct a thorough study of matters related to U.S. military facility structure overseas. The Commission would assess the adequacy of current U.S. overseas basing structure to execute current missions and the feasibility of closures, realignments, or establishment of new installations overseas to meet emerging defense requirements. The Commission would not take the place of or preclude in any way the ongoing efforts by the Department of Defense to conduct its own review and to develop a comprehensive and integrated global presence and basing strategy.

This provision would also authorize $3.0 million from the Department of Defense operations and maintenance account to be available to the Commission to carry out its specified responsibilities.

The House bill contained no similar provision.

The Senate recedes with the acknowledgment that a similar provision has been included in the fiscal year 2004 Military Construction Appropriations Act.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Atomic Energy Defense Activities (053)					
Energy Programs					
Energy supply	110,473	110,473	110,473		110,473
National nuclear security administration:					
Weapons activities	6,378,000	6,393,000	6,457,272	56,772	6,434,772
Defense nuclear nonproliferation	1,340,195	1,312,695	1,340,195	-8,000	1,332,195
Naval reactors	768,400	768,400	788,400		768,400
Office of the administrator	347,980	347,980	347,980	-6,000	341,980
Total, National nuclear security administration	**8,834,575**	**8,822,075**	**8,933,847**	**42,772**	**8,877,347**
Environmental and other defense activities:					
Defense environmental restoration & waste management					
Defense site acceleration completion	5,814,635	5,824,135	5,814,635		5,814,635
Defense environmental services	995,179	995,179	995,179		995,179
Other defense activities	494,331	497,331	465,059	-5,272	489,059
Defense nuclear waste disposal	430,000	430,000	360,000	-37,500	392,500
Total, Environmental & other defense activities	**7,734,145**	**7,746,645**	**7,634,873**	**-42,772**	**7,691,373**
Cerro Grande fire activities (Use of prior years balances)					
Subtotal Department of Energy	**16,679,193**	**16,679,193**	**16,679,193**		**16,679,193**
Defense nuclear facilities safety board	19,559	19,559	19,559		19,559
Total Atomic Energy Defense Activities	**16,698,752**	**16,698,752**	**16,698,752**		**16,698,752**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Energy Supply					
Nuclear Energy					
Infrastructure					
Idaho facilities management					
INEEL infrastructure					
INEEL infrastructure O&M (050)	21,415	21,415	21,415		21,415
Idaho sitewide safeguards and security (050)	56,654	56,654	56,654		56,654
Total, Infrastructure	**78,069**	**78,069**	**78,069**		**78,069**
Program direction (050)	35,407	35,407	35,407		35,407
Subtotal Nuclear Energy	**113,476**	**113,476**	**113,476**		**113,476**
Less security charge for reimbursable work (NE) (050)	-3,003	-3,003	-3,003		-3,003
Total, Energy Supply	**110,473**	**110,473**	**110,473**		**110,473**
National Nuclear Security Administration					
Weapons Activities					
Directed stockpile work					
Stockpile research and development	433,150	433,150	433,150		433,150
Stockpile maintenance	405,746	405,746	405,746	10,000	415,746
Stockpile evaluation	202,885	202,885	202,885		202,885
Dismantlement/disposal	37,722	37,722	37,722		37,722
Production support	278,113	295,113	278,113		278,113
Field engineering, training and manuals	7,170	7,170	7,170		7,170
Total, Directed stockpile work	**1,364,786**	**1,381,786**	**1,364,786**	**10,000**	**1,374,786**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Campaigns					
Science campaigns					
Primary certification	65,849	65,849	65,849	-1,000	64,849
Dynamic materials properties	82,251	82,251	82,251		82,251
Advanced radiography					
Operations and maintenance	65,985	60,985	65,985	-5,000	60,985
Secondary certification and nuclear systems margins	55,463	55,463	55,463		55,463
Total, Science campaigns	**269,548**	**264,548**	**269,548**	**-6,000**	**263,548**
Engineering campaigns					
Enhanced surety	37,974	37,974	37,974	-1,000	36,974
Weapons system engineering certification	28,238	28,238	28,238		28,238
Nuclear survivability	23,977	23,977	23,977		23,977
Enhanced surveillance	94,781	94,781	94,781	-2,000	92,781
Advanced design and production technologies	79,917	79,917	79,917		79,917
Engineering campaigns construction activities					
Operations and maintenance	4,500	4,500	4,500		4,500
Construction:					
01-D-108 Microsystem and engineering science applications (MESA), SNL, Albuquerque, NM	61,800	61,800	61,800		61,800
Total, Engineering campaigns construction activities	**66,300**	**66,300**	**66,300**		**66,300**
Total, Engineering campaigns	**331,187**	**331,187**	**331,187**	**-3,000**	**328,187**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Inertial confinement fusion and high yield campaign campaign					
Operations and maintenance	316,769	311,769	316,769	-5,000	311,769
Construction:					
96-D-111 National ignition facility (NIF), LLNL, Livermore, CA	150,000	150,000	150,000		150,000
Total, Inertial confinement fusion and high yield campaign	**466,769**	**461,769**	**466,769**	**-5,000**	**461,769**
Advanced simulation and computing campaign					
Operations and maintenance	713,326	713,326	713,326	-25,000	688,326
Construction:					
01-D-101 Distributed information systems laboratory, SNL, Livermore, CA	12,300	12,300	12,300		12,300
00-D-103, Terascale simulation facility, LLNL, Livermore, CA	25,000	25,000	25,000		25,000
00-D-107 Joint computational engineering laboratory, SNL, Albuquerque, NM					
Total, Construction	**37,300**	**37,300**	**37,300**		**37,300**
Total, Adv simulation and computing campaign	**750,626**	**750,626**	**750,626**	**-25,000**	**725,626**
Pit manufacturing and certification campaign	320,228	320,228	320,228		320,228
Readiness campaigns					
Stockpile readiness	55,158	57,158	55,158		55,158
High explosives manufacturing and weapons assembly/disassembly readiness	29,649	29,649	29,649	-2,000	27,649

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Non-nuclear readiness	37,397	37,397	37,397	-3,000	34,397
Materials readiness					
Tritium readiness					
Operations and maintenance	59,893	59,893	59,893		59,893
Construction:					
98-D-125 Tritium extraction facility, Savannah River site, Aiken, SC	75,000	75,000	75,000		75,000
98-D-126 Accelerator production of tritium (APT), various locations					
Total, Construction	**75,000**	**75,000**	**75,000**		**75,000**
Total, Tritium readiness	**134,893**	**134,893**	**134,893**		**134,893**
Total, Readiness campaigns	**257,097**	**259,097**	**257,097**	**-5,000**	**252,097**
Total, Campaigns	**2,395,455**	**2,387,455**	**2,395,455**	**-44,000**	**2,351,455**
Readiness in technical base and facilities					
Operations of facilities	972,773	989,073	1,052,045	106,272	1,079,045
Other sites		[-20,000]			
Y-12 Plant facilities and legacy material stewardship		[7,000]			
Pantex Plant maintenance		[14,300]			
Pantex General Plant projects and capital equipment		[15,000]			
Program readiness	131,093	131,093	131,093		131,093
Special projects	42,975	42,975	42,975		42,975
Material recycle and recovery	76,189	76,189	76,189		76,189
Containers	16,006	16,006	16,006		16,006
Storage	11,365	11,365	11,365		11,365
Nuclear weapons incident response	89,694	89,694	89,694		89,694

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Subtotal, Readiness in technical base and facilities	**1,340,095**	**1,356,395**	**1,419,367**	**106,272**	**1,446,367**
Construction:					
04-D-101 Test capabilities revitalization, Sandia National Laboratories, Albuquerque, NM	36,450	36,450	36,450		36,450
04-D-102 Exterior communications infrastructure modernization, Sandia National Laboratories Albuquerque, NM	20,000	20,000	20,000		20,000
04-D-103 Project engineering and design, (PED) various locations	2,000	2,000	2,000		2,000
04-D-104 National security sciences building Los Alamos National Laboratory, Los Alamos, NM	50,000	38,000		-50,000	
04-D-125 Chemistry and metallurgy facility replacement project, Los Alamos National Laboratory, Los Alamos, NM	20,500	20,500	20,500		20,500
04-D-126 Building 12-44 production cells upgrade, Pantex plant, Amarillo, TX	8,780	8,780	8,780		8,780
04-D-127 Cleaning and loading modifications Savannah River site, Aiken, SC	2,750	2,750	2,750		2,750

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
04-D-128 TA-18 Mission relocation project Los Alamos National Laboratory, Los Alamos, NM	8,820	8,820	8,820		8,820
03-D-101 Sandia underground reactor facility Sandia National Laboratories, Albuquerque, NM					
03-D-102 LANL Administration Building, SM-43 replacement, Los Alamos, NM			50,000	38,000	38,000
03-D-103 Project engineering and design (PED) various locations	10,570	10,570	10,570		10,570
03-D-121 Gas transfer capacity expansion, Kansas City Plant, Kansas City, MO	15,300	15,300	15,300		15,300
03-D-122 Purification facility, Y-12 plant Oak Ridge, TN					
03-D-123 Special nuclear materials component requalification facility, Pantex plant, Amarillo, TX	7,628	7,628	7,628		7,628
02-D-103 Project engineering and design, various locations	10,950	10,950	10,950		10,950
02-D-105 Engineering technology complex upgrade (ETCU), LLNL, Livermore, CA	9,776	9,776	9,776		9,776

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
02-D-107 Electrical power systems safety communications and bus upgrades, Nevada Test Site	2,887	2,887	2,887		2,887
01-D-103 Project engineering and design (PED) various locations	1,600	1,600	1,600		1,600
01-D-107 Atlas relocation and operations Nevada Test Site, NV					
01-D-108 Microsystem and engineering science applications (MESA), SNL, Albuquerque, NM					
01-D-124 HEU materials facility, Y-12 plant, Oak Ridge, TN	45,000	45,000	45,000		45,000
01-D-126 Weapons Evaluation Test Laboratory Pantex Plant, Amarillo, TX	2,838	2,838	2,838		2,838
01-D-800 Sensitive compartmented information facility, LLNL, CA					
99-D-103 Isotope sciences facilities, LLNL, Livermore, CA					
99-D-104 Protection of real property (roof reconstruction-Phase II), LLNL, Livermore, CA	3,500	3,500	3,500		3,500

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
99-D-106 Model validation & system certification center, SNL, Albuquerque, NM					
99-D-125 Replace boilers & controls, Kansas City plant, Kansas City, MO					
99-D-127 Stockpile management restructuring initiative, Kansas City plant, Kansas City, MO	12,475	12,475	12,475		12,475
99-D-128 Stockpile management restructuring initiative, Pantex plant, Amarillo, TX					
98-D-123 Stockpile management restructuring initiative, Tritium factory modernization and consolidation, Savannah River site, SC					
98-D-124 Stockpile management restructuring initiative, Y-12 plant Oak Ridge, TN					
97-D-123 Structural upgrades, Kansas City plant, Kansas City, MO					
96-D-102 Stockpile stewardship facilities revitalization, Phase VI, various locations	1,552	1,552	1,552		1,552

Department of Energy National Security Programs
(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
90-D-124 High explosive synthesis facility, Pantex plant, Amarillo, TX					
88-D-125 HE machining facility, PX					
Total, Construction	273,376	261,376	273,376	-12,000	261,376
Total, Readiness in technical base and facilities	1,613,471	1,617,771	1,692,743	94,272	1,707,743
Facilities and infrastructure recapitalization program					
Operation and maintenance	261,404	261,404	261,404		261,404
Construction					
04-D-203 Facilities and infrastructure recapitalization program (FIRP), project engineering design (PED), various locations	3,719	3,719	3,719		3,719
Total, Facilities and infrastructure recapitalization program	**265,123**	**265,123**	**265,123**		**265,123**
Secure transportation asset					
Operations and equipment	123,605	123,605	123,605		123,605
Program direction	58,795	58,795	58,795		58,795
Total, Secure transportation asset	**182,400**	**182,400**	**182,400**		**182,400**
Safeguards and security					
Operations and maintenance	582,067	583,767	582,067	-3,500	578,567
Physical and cyber security research and development		[-10,000]		[-3,500]	
LLNL security upgrades		[11,700]			

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Construction:					
99-D-132 Nuclear material safeguards and security upgrade project, LANL, Los Alamos, NM	3,683	3,683	3,683		3,683
Total, Safeguards and security	**585,750**	**587,450**	**585,750**	**-3,500**	**582,250**
Subtotal, Weapons Activities	**6,406,985**	**6,421,985**	**6,486,257**	**56,772**	**6,463,757**
Adjustments					
Use of prior year balances					
Less security charge for reimbursable work	-28,985	-28,985	-28,985		-28,985
Total, Adjustments	**-28,985**	**-28,985**	**-28,985**		**-28,985**
Total, Weapons Activities	**6,378,000**	**6,393,000**	**6,457,272**	**56,772**	**6,434,772**
Defense Nuclear Nonproliferation					
Nonproliferation and verification R&D					
Operation and maintenance	203,873	203,873	203,873		203,873
Construction:					
00-D-192 Nonproliferation and international security center (NISC), LANL					
Total, Nonproliferation & verification R&D	**203,873**	**203,873**	**203,873**		**203,873**
Nonproliferation and international security	101,734	101,734	101,734		101,734
IAEA safeguards and nonproliferation policy		[-5,000]			
Nuclear noncompliance verification		[5,000]			

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Nonproliferation programs with Russia					
International nuclear materials protection and cooperation	226,000	226,000	226,000	5,000	231,000
Russian transition initiatives	40,000	40,000	40,000		40,000
HEU transparency implementation	18,000	18,000	18,000		18,000
International nuclear safety and cooperation	14,083	11,583	14,083	-8,000	6,083
Elimination of weapons-grade plutonium production program	50,000	50,000	50,000		50,000
Accelerated materials disposition	30,000	5,000	30,000	-5,000	25,000
Fissile materials disposition					
U S surplus materials disposition	193,805	193,805	193,805		193,805
Russian surplus materials disposition	47,100	47,100	47,100		47,100
Construction:					
01-D-407 Highly enriched uranium (HEU) blend down, Savannah River, SC					
99-D-141 Pit disassembly and conversion facility, Savannah River, SC	13,600	13,600	13,600		13,600
99-D-143 Mixed oxide fuel fabrication facility, Savannah River, SC	402,000	402,000	402,000		402,000
Total, Construction	**415,600**	**415,600**	**415,600**		**415,600**
Program direction					
Total, Fissile materials disposition	**656,505**	**656,505**	**656,505**		**656,505**
Total, Nonproliferation programs with Russia	**1,034,588**	**1,007,088**	**1,034,588**	**-8,000**	**1,026,588**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Return of domestic sealed sources					
Program direction					
Subtotal, Defense Nuclear Nonproliferation	**1,340,195**	**1,312,695**	**1,340,195**	**-8,000**	**1,332,195**
Adjustments:					
Use of prior year balances					
International renewable energy program					
Total, Adjustments					
Total, Defense Nuclear Nonproliferation	**1,340,195**	**1,312,695**	**1,340,195**	**-8,000**	**1,332,195**
Naval Reactors					
Naval reactors development					
Operation and maintenance	724,600	724,600	744,600		724,600
Construction:					
03-D-201 Cleanroom technology facility	300	300	300		300
01-D-200 Major office replacement building, Schenectady, NY					
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	18,300	18,300	18,300		18,300
Total, Construction	**18,600**	**18,600**	**18,600**		**18,600**
Total, Naval reactors development	**743,200**	**743,200**	**763,200**		**743,200**
Program direction	25,200	25,200	25,200		25,200
Total, Naval Reactors	**768,400**	**768,400**	**788,400**		**768,400**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Office Of The Administrator					
Office of the administrator	347,980	347,980	347,980	-6,000	341,980
Defense nuclear nonproliferation					
Total, National Nuclear Security Administration	**8,834,575**	**8,822,075**	**8,933,847**	**42,772**	**8,877,347**
Defense Environmental Restoration & Waste Mgt					
Site/project completion					
Operation and maintenance					
Construction:					
03-D-414 Preliminary project engineering and design various locations					
02-D-402 Intec cathodic protection system expansion project, INEEL, Idaho Falls, ID					
02-D-420 Plutonium packaging and stabilization, Savannah River, SC					
01-D-414 Preliminary project, engineering and design (PE&D), various locations					
99-D-402 Tank farm support services, F&H area, Savannah River site, Aiken, SC					
99-D-404 Health physics instrumentation laboratory, INEEL, ID					

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
98-D-453 Plutonium stabilization and handling system for PFP, Richland, WA					
96-D-471 CFC HVAC/chiller retrofit, Savannah River site, Aiken, SC					
92-D-140 F&H canyon exhaust upgrades, Savannah River, SC					
86-D-103 Decontamination and waste treatment facility, LLNL, Livermore, CA					
Total, Construction					
Total, Site/project completion					
Post 2006 completion					
Operation and maintenance					
Uranium enrichment D&D fund contribution					
Construction:					
93-D-187 High-level waste removal from filled waste tanks, Savannah River, SC					
Office of river protection					
Operation and maintenance					
Construction:					
03-D-403 Immobilized high-level waste					

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
interim storage facility, Richland, WA					
01-D-416 Tank waste remediation system, RL					
97-D-402 Tank farm restoration and safe operations, Richland, WA					
94-D-407 Initial tank retrieval systems, Richland, WA					
Total, Construction					
Total, Office of river protection					
Total, Post 2006 completion					
Uranium enrichment D&D fund contribution					
Science and technology					
Excess facilities					
Multi-Site activities					
Safeguards and security					
Program direction					
Subtotal, Defense environmental restoration and waste management					
Adjustments:					
Use of prior year balances					
Less security charge for reimbursable work					
Total, Adjustments					
Total, Defense Environmental Restoration And Waste Management					

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Environmental Management Cleanup Reform					
Environmental management cleanup reform					
Defense Site Acceleration Completion					
(was Defense Facilities Closure Projects)					
2006 Accelerated completions	1,245,171	1,254,671	1,245,171		1,245,171
2012 Accelerated Completions					
Operation and maintenance	1,512,554	1,512,554	1,512,554		1,512,554
Construction:					
04-D-414 Project engineering and design, various locations	23,500	23,500	23,500		23,500
04-D-423 3013 container surveillance capability in 235-F, SR	1,134	1,134	1,134		1,134
02-D-402 Cathodic protection system expansion, ID	1,126	1,126	1,126		1,126
01-D-416 Waste treatment and immobilization plant, RL	690,000	690,000	690,000		690,000
Total, Construction	**715,760**	**715,760**	**715,760**		**715,760**
Total, 2012 Accelerated Completions	**2,228,314**	**2,228,314**	**2,228,314**		**2,228,314**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
2035 Accelerated Completions					
Operation and maintenance	1,892,884	1,892,884	1,892,884		1,892,884
Construction:					
04-D-408 Glass waste storage building #2, SR	20,259	20,259	20,259		20,259
03-D-403 Immobilized HLW interim storage facility, RL	13,954	13,954	13,954		13,954
03-D-414 Project engineering and design, various locations	51,500	51,500	51,500		51,500
Total, Construction	**85,713**	**85,713**	**85,713**		**85,713**
Total, 2035 Accelerated Completions	**1,978,597**	**1,978,597**	**1,978,597**		**1,978,597**
Safeguards and security	299,977	299,977	299,977		299,977
Technology development and deployment	63,920	63,920	63,920		63,920
Site closure					
Safeguards and security					
Subtotal, Defense Site Acceleration Completion	**5,815,979**	**5,825,479**	**5,815,979**		**5,815,979**
Less general reduction					
Less security charge for reimbursable work	-1,344	-1,344	-1,344		-1,344
Use of prior year balances					
Total, Defense Site Acceleration Completion	**5,814,635**	**5,824,135**	**5,814,635**		**5,814,635**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Defense Environmental Services					
(was Defense Environmental Management Privatization)					
Community and regulatory support	61,337	61,337	61,337		61,337
Federal contribution to the uranium enrichment	452,000	452,000	452,000		452,000
Non-closure environmental activities					
Operation and maintenance	189,698	189,698	189,698		189,698
Program direction	292,144	292,144	292,144		292,144
Privatization initiatives, various locations					
Subtotal, Defense Environmental Services	**995,179**	**995,179**	**995,179**		**995,179**
Less general reduction					
Total, Defense Environmental Services	**995,179**	**995,179**	**995,179**		**995,179**
Total, Defense Environmental Rest & Waste Mgt	**6,809,814**	**6,819,314**	**6,809,814**		**6,809,814**
Other Defense Activities					
Energy security and assurance					
Energy security					
Program direction	4,272	3,272		-4,272	
Total, Energy security and assurance	**4,272**	**3,272**		**-4,272**	
Office of Security					
Nuclear safeguards and security	104,713	104,713	104,713		104,713
Security investigations	54,554	54,554	54,554		54,554
Program direction	52,490	52,490	52,490		52,490

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Chief information officer					
Corporate management information program					
Total, Office of Security	**211,757**	**211,757**	**211,757**		**211,757**
Intelligence	39,823	44,823	39,823		39,823
Counterintelligence	45,955	45,955	45,955		45,955
Advanced accelerator applications					
Independent oversight and performance assurance	22,575	22,575	22,575		22,575
Environment, safety & health					
Environment, safety and health (defense)	87,276	87,276	87,276		87,276
Program direction	20,410	20,410	20,410		20,410
Total, Environment, safety and health	**107,686**	**107,686**	**107,686**		**107,686**
Worker and community transition					
Worker and community transition	12,321	12,321	12,321		12,321
Program direction	2,679	1,679	2,679	-1,000	1,679
Total, Worker and community transition	**15,000**	**14,000**	**15,000**	**-1,000**	**14,000**
Office of Legacy Management					
Office of Legacy Management (050)	19,178	19,178	19,178		19,178
Program direction					
National security programs administrative support	25,000	25,000			25,000
Office of hearings and appeals	3,797	3,797	3,797		3,797
Subtotal, Other defense activities	**495,043**	**498,043**	**465,771**	**-5,272**	**489,771**

Department of Energy National Security Programs

(Dollars in Thousands)

	FY2004 Request	House Authorized	Senate Authorized	Conference Change	Conference Authorized
Adjustments:					
Use of prior year balances					
Less security charge for reimbursable work (SO)	-712	-712	-712		-712
Total, Adjustments	**-712**	**-712**	**-712**		**-712**
Total, Other Defense Activities	**494,331**	**497,331**	**465,059**	**-5,272**	**489,059**
Defense Nuclear Waste Disposal					
Defense nuclear waste disposal	430,000	430,000	360,000	-37,500	392,500
Total, Environmental and Other Defense Activities	**7,734,145**	**7,746,645**	**7,634,873**	**-42,772**	**7,691,373**
Cerro Grande Fire Activities					
Use of prior year balances					
SUBTOTAL DEPARTMENT OF ENERGY	**16,679,193**	**16,679,193**	**16,679,193**		**16,679,193**
Defense nuclear facilities safety board	19,559	19,559	19,559		19,559
TOTAL ATOMIC ENERGY DEFENSE ACTIVITIES	**16,698,752**	**16,698,752**	**16,698,752**		**16,698,752**

Subtitle A—National Security Programs Authorizations

National Nuclear Security Administration (sec. 3101)

The House bill contained a provision (sec. 3101) that would authorize $8.8 billion for the National Nuclear Security Administration (NNSA), including funds for weapons activities, defense nuclear nonproliferation programs, naval reactor programs, and the Office of the Administrator.

The Senate amendment contained a similar provision (sec. 3101).

The conferees agree to include a provision that would authorize $8.9 billion for NNSA.

The budget request included $405.7 million in stockpile maintenance for directed stockpile work. The conferees agree to authorize $415.7 million for directed stockpile work, an increase of $10.0 million, to support activities at the Y–12 Plant in Oak Ridge, Tennessee, to replace aging manufacturing process equipment and support systems at Y–12.

The budget request included $65.8 million for the primary certification campaign. The conferees agree to $64.8 million, a decrease of $1.0 million.

The budget request included $66.0 million in operations and maintenance for the advanced radiography campaign. The conferees agree to authorize $61.0 million for the advanced radiography campaign, a decrease of $5.0 million. The conferees urge NNSA to focus on delivering the radiographic tools essential to its nearer term production requirements.

The budget request included $38.0 million for the enhanced surety campaign. The conferees agree to authorize $37.0 million for the enhanced surety campaign, a decrease of $1.0 million.

The budget request included $94.8 million for the enhanced surveillance campaign. The conferees agree to authorize $92.8 million for the enhanced surveillance campaign, a decrease of $2.0 million.

The budget request included $316.8 million in operations and maintenance for the inertial confinement fusion (ICF) and high yield campaign. The conferees agree to authorize $311.8 million for the ICF and high yield campaign, a decrease of $5.0 million. While the conferees believe diagnostics and target fabrication capabilities have been under emphasized in the past, the conferees question whether such a large budget increase could be executed effectively.

The budget request included $713.3 million in operations and maintenance for the advanced simulation and computing campaign. The conferees agree to authorize $688.3 million for the advanced simulation and computing campaign, a decrease of $25.0 million.

The budget request included $29.6 million for the high explosives manufacturing and weapons assembly and disassembly readiness campaign. The conferees agree to authorize $27.6 million for the high explosives manufacturing and weapons assembly and disassembly readiness campaign, a decrease of $2.0 million.

The budget request included $37.4 million for the non-nuclear readiness campaign. The conferees agree to authorize $34.4 million for the non-nuclear readiness campaign, a decrease of $3.0 million.

The budget request included $1.3 billion for Readiness in Technical Base and Facilities (RTBF). The conferees agree to authorize $1.4 billion, an increase of $106.3 million for the operations of facilities program to include a $7 million increase for facilities maintenance and legacy material stewardship at Y–12, and a $20.0 million increase for plant maintenance, plant projects and capital equipment at Pantex.

The budget request included $50.0 million for RTBF to begin construction of a national security sciences building (project 04–D–104) at Los Alamos National Laboratory (LANL). The conferees agree to authorize $38.0 million for project 03–D–102, a decrease of $12.0 million. The national security sciences building at LANL, listed as 03–D–102, received an advanced appropriation in fiscal year 2003 of $12.0 million. The conferees note that construction projects should be authorized prior to obligation of funds.

The budget request included $585.8 million for safeguards and security. The conferees agree to authorize $582.3 million for safeguards and security, a decrease of $3.5 million in physical and cyber security research and development. The conferees note that the proposed activities would be largely duplicative of research the Department of Energy requested in other defense activities. Of the amounts authorized for safeguards and security, the conferees agree to authorize the Department to expend appropriated funds available, not to exceed $8.0 million, for the planning, engineering, and design of a proposed Security Improvements project at the Y–12 National Security Complex.

The budget request included $226.0 million for international nuclear materials protection and cooperation. The conferees agree to authorize $231.0 million, an increase of $5.0 million for the second line of defense program which helps to prevent nuclear materials from being smuggled across Russian and other international borders. The budget request included $30.0 million for accelerated materials disposition. The conferees agree to authorize $25.0 million for accelerated materials disposition, a decrease of $5.0 million. The conferees note their concern with the cost-effectiveness of this program.

Defense environmental management (sec. 3102)

The House bill contained a provision (sec. 3102) that would authorize $6.8 billion for the Department of Energy for defense environmental management (EM) activities for fiscal year 2004, including funds for defense site acceleration completion and defense environmental services.

The Senate amendment contained a similar provision (sec. 3102) that would authorize $6.8 billion for defense environmental activities.

The conferees agree to authorize $6.8 billion for defense environmental management, the amounts of the budget request, including $5.8 billion for defense site acceleration completion and $995.2 million for defense environmental services.

The conferees support the continuing efforts of the Department of Energy to accelerate cleanup at all of the environmental management (EM) sites, which will result in reducing risk to the environment, workers, and the community, shortening cleanup schedules, and saving tens of billions of dollars across the EM complex. The conferees also support a policy that would take funds made available due to the cleanup completion of Fernald, Mound, Rocky Flats and other sites, and roll them into the remaining EM sites to help accelerate their completion even sooner, if possible.

Other defense activities (sec. 3103)

The House bill contained a provision (sec. 3103) that would authorize $497.3 million for the Department of Energy (DOE) for other defense activities for fiscal year 2004.

The Senate amendment contained a similar provision (sec. 3103) that would authorize $465.1 million for DOE other defense activities.

The conferees agreed to authorize $489.1 million, a reduction of $5.3 million below the budget request.

The budget request included $4.3 million for program direction for energy security and assurance. The conferees agree to authorize no funds for these activities. These funds are requested for program direction costs for an operational component of this office that was transferred to the Department of Homeland Security (DHS) in fiscal year 2003. The conferees note that funding for this component should be included in the DHS budget.

The budget request included $15.0 million for worker and community transition (WCT), including $2.7 million for program direction. The conferees agree to include $14.0 million for WCT, a reduction of $1.0 million to be taken out of the program direction activities. The conferees note that the request for programmatic funds drops 46 percent from fiscal year 2003, while program direction remains level. The conferees have included a proportional decrease to program direction.

Defense nuclear waste disposal (sec. 3104)

The House bill contained a provision (sec. 3104) that would authorize $430.0 million for defense nuclear waste disposal for fiscal year 2004.

The Senate amendment contained a similar provision (sec. 3104) that would authorize $360.0 million for defense nuclear waste disposal.

The conferees agree to authorize $392.5 million for defense nuclear waste disposal, a decrease of $37.5 million to the budget request. The conferrees note that the authorized amount for defense nuclear waste disposal reflects a $79.5 million increase to the fiscal year 2003 appropriated level.

Energy supply (sec. 3105)

The House bill contained a provision (sec. 3105) that would authorize $110.5 million for defense energy supply programs for fiscal year 2004

The Senate amendment contained a similar provision (sec. 3105) that would authorize $110.5 million.

The conferees agree to authorize $110.5 million for defense energy supply programs for fiscal year 2004, the amount of the budget request.

Subtitle B—Program Authorizations, Restrictions, and Limitations

Termination of requirement for annual updates of long-term plan for nuclear weapons stockpile life extension program (sec. 3111)

The House bill contained a provision (sec. 3112) that would terminate certain annual reporting requirements related to stockpile life extension programs, effective December 31, 2004.

The Senate amendment contained no similar provision.

The Senate recedes with a technical amendment.

The conferees note that this material should be included in the annual report submitted by the National Nuclear Security Administration on the overall stockpile stewardship program, as well as other required reports. The annual report just received by Congress was extremely late. The conferees expect subsequent reports to be submitted on time.

Department of Energy project review groups not subject to Federal Advisory Committee Act by reason of inclusion of employees of Department of Energy management and operating contractors (sec. 3112)

The House bill contained a provision (sec. 3114) that would allow an officer or employee of a management and operating (M&O) contractor of the Department of Energy, when serving on an advisory committee or review group for the Department on matters related to the Department's M&O contracts, to be treated as an officer or employee of the Department for the purposes of determining whether the group is an advisory committee within the meaning of section 3 of the Federal Advisory Committee Act (5 United States Code App.).

The Senate amendment contained no similar provision.

The Senate recedes.

Readiness posture for resumption by the United States of underground nuclear weapons tests (sec. 3113)

The Senate amendment contained a provision (sec. 3132) that would require the Secretary of Energy to achieve, and thereafter maintain, a posture of 18 months for resumption by the United States of underground nuclear tests. The Secretary of Energy would achieve this readiness posture by October 1, 2006. However, if, through the review conducted to comply with section 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, the Secretary determined that a different readiness posture was feasible and advisable, then the provision would require the Secretary to achieve, and thereafter maintain, that optimal test readiness posture.

The House bill contained no similar provision.

The House recedes with an amendment that would eliminate the requirement for the Secretary to identify an optimal test readiness posture in lieu of 18 months. Consistent with subsection 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), the Secretary determined that 18 months is the optimal test readiness posture. Furthermore, the amendment clarified that the readiness posture should be "not more" than 18 months for resumption by the United States of underground nuclear tests.

Technical base and facilities maintenance and recapitalization activities (sec. 3114)

The Senate amendment contained a provision (sec. 3133) that would require the Administrator for Nuclear Security to add discipline, criteria, and new requirements and limitations to the Operations of Facilities Program within the Readiness in Technical Base and Facilities (RTBF) Program.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Administrator to submit a report to the congressional defense committees setting forth guidelines on how NNSA's current and future maintenance needs shall be met, including the types of criteria to be used. The goal of the guidelines included in the report should be to avoid NNSA maintenance backlogs. The Administrator of NNSA would be required to complete the selection of the Facilities and Infrastructure Recapitalization Program (FIRP) projects by December 31, 2004. The Operations of Facilities Program would remain a subprogram within the RTBF Program. Within the RTBF Program, the Deputy Administrator for Defense Programs would be required to appoint an individual manager to ensure the Operations of Facilities Program receives the focus and priority it requires. Finally, the amendment would require the Secretary of Energy to submit a detailed budget justification for the Operations of Facilities Program broken down into individual budget elements.

The conferees note that FIRP was originally envisioned and introduced to Congress as a ten-year program with a narrow and specific goal of eliminating the enormous maintenance backlog, which had accumulated over many years. Accordingly, FIRP would terminate on September 30, 2011, at the end of the program's tenth year.

The conferees are concerned that the NNSA has not placed enough priority on future maintenance and repair needs across the nuclear weapons complex. While FIRP seems to be making significant progress in addressing maintenance backlogs, the NNSA needs to make much more progress in addressing current and future maintenance and repair needs within the RTBF program.

Continuation of processing, treatment, and disposition of legacy nuclear materials (sec. 3115)

The Senate amendment contained a provision (sec. 3134) that would amend section 3137 of the National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) that prohibited the Department of Energy (DOE) from decommissioning the F Canyon facility at the Savannah River Site until the Secretary of Energy and the Defense Nuclear Facilities Safety Board (DNFSB) jointly submits a report to the Committees on Armed Services of the Senate and the House of Representatives. The report would set forth an assessment of whether or not all materials present in the F Canyon are safely stabilized and future needs for fissile materials disposition can be met through H Canyon. The Senate provision would amend section 3137 of the National Defense Authorization Act for Fiscal Year 2001 by deleting the requirement that F Canyon be maintained in a high state of readiness and eliminating the DNFSB certification requirement. In addition, the provision would require the DOE to submit a report to the congressional defense committees and the DNFSB before commencing the decommissioning of F Canyon. The provision would retain the requirement that H Canyon be maintained in a high state of readiness to ensure the availability of H Canyon for any future canyon processing needs.

The House bill contained no similar provision.

The House recedes with a technical amendment.

Repeal of prohibition on research and development of low-yield nuclear weapons (sec. 3116)

The House bill contained a provision (sec. 3111) that would amend section 3136 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). The provision would maintain the prohibition on development of new nuclear weapons with yields less than five kilotons, but would allow research on such weapons, including concept definition studies, feasibility studies, and detailed engineering design.

The Senate amendment contained a similar provision (sec. 3131) that: (1) would repeal section 3136 of the National Defense Authorization Act for Fiscal Year 1994 and thereby end the prohibition on research and development of low-yield nuclear weapons; (2) would state that nothing in the provision should be construed as authorizing the testing, acquisition, or deployment of a low-yield nuclear weapon; (3) would require the Secretary of Energy to obtain specific congressional authorization before commencing the engineering development phase, or any subsequent phase, of a low-yield nuclear weapon; and (4) would require the Secretary of State, the Secretary of Defense and the Secretary of Energy to jointly submit to Congress, no later than March 1, 2004, a report assessing whether or not the repeal of section 3136 of the National Authorization Act for Fiscal Year 1994 would effect the ability of the United States to achieve its nonproliferation objectives and whether or not any changes in programs and activities would be required to achieve those objectives.

The House recedes.

Requirement for specific authorization of Congress for commencement of engineering development phase or subsequent phase of robust nuclear earth penetrator (sec. 3117)

The Senate amendment contained a provision (sec. 3135) that would require the Secretary of Energy to obtain specific authorization from Congress to commence development engineering (phase 6.3) of the nuclear weapons development process, or any subsequent phase, of a robust nuclear earth penetrator weapon.

The House bill contained no similar provision.

The House recedes.

Subtitle C—Proliferation Matters

Semi-annual financial reports on Defense Nuclear Nonproliferation Programs (sec. 3121)

The Senate bill contained a provision (sec. 3142) that would require the Administrator for Nuclear Security to submit to the Committees on Armed Services of the Senate and House of Representatives a report every six months on the financial status of Defense Nuclear Nonproliferation Programs. Each semi-annual report would describe the amount of funds authorized to be appropriated for the fiscal year in which the report would be submitted, and include the aggregate amount appropriated for that fiscal year, the amounts obligated, committed, and disbursed as of the end of the reporting period, and the amounts that remain available for obligation. The first report would be required in fiscal year 2004.

The House bill contained no similar provision.

The House recedes with a clarifying amendment that would require the Administrator for Nuclear Security to submit to the Committees on Armed Services of the Senate and House of Representatives a report every six months on the financial status of the Defense Nuclear Nonproliferation Programs by program. Each semi-annual report would set forth the amount of funds available for the fiscal year in which the report would be submitted, the carry over or uncommitted balances, the unobligated and unexpended balances as of the beginning of the reporting period, the aggregate of any new funds available during the reporting period, and the uncommitted or unobligated and unexpended balances as of the end of the reporting period. The reports are due to the committees 30 calendar days after the end of each fiscal half of the fiscal year. The first report would be due April 30, 2004, and would cover the first six months of fiscal year 2004.

Because the conferees are concerned with the high level of unexpended and unobligated balances in the Defense Nuclear Nonproliferation Programs, the conferees believe it is necessary that the program improve its budget management to expend funds in a timely and efficient manner without sacrificing oversight. The conferees believe that semi-annual financial reporting will assist the committees with tracking program expenditures to ensure that the national security benefit proposed by the Defense Nuclear Nonproliferation Programs can be realized.

Report on reduction of excessive unobligated or unexpended balances for defense nuclear nonproliferation activities (sec. 3122)

The Senate bill contained a provision (sec. 3143) that would require the Administrator for Nuclear Security to provide the Committees on Armed Services of the Senate and the House of Representatives with an aggressive plan to reduce the amount of funds obligated but not expended for the Defense Nuclear Nonproliferation Program if, at the end of fiscal year 2004, the program's obligated but not expended balances exceed 20 percent of the amount appropriated for the program in fiscal year 2004. This plan would be due not later than November 30, 2004. The purpose of the plan would be to provide the committees with the Department of Energy's strategic approach to addressing the low expenditures of defense nuclear nonproliferation appropriated funds from current and previous fiscal years.

The House bill contained no similar provision.

The House recedes with technical amendments.

The conferees believe the Defense Nuclear Nonproliferation Program should strive to attain the department-wide average of 15 percent obligated but not expended level per fiscal year. Currently, the funds available for the program include almost 50 percent uncosted and unexpended balances. The conferees believe the program must address these expenditure rates immediately by taking a more focused and aggressive approach to expending these funds without sacrificing accountability, management, and oversight. The conferees urge the program to consider innovative methods in developing and implementing such an approach, such as utilizing more robust information technology systems to better track project expenditure rates and contracting activities.

Study and report relating to weapons-grade uranium and plutonium of the independent states of the former Soviet Union (sec. 3123)

The House bill contained a provision (sec. 1308) that would require the Secretary of Defense to conduct a study and submit a report to Congress not later than one year after the date of enactment of this Act. The study would examine the costs and benefits of purchasing all former Soviet Union weapons-grade uranium and plutonium in fiscal year 2005 and safeguarding it from smuggling or theft until it could be rendered unusable for nuclear weapons.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary of Energy to conduct a study and submit a report to Congress not later than one year after the date of enactment that would examine the feasibility, costs, and benefits of purchasing former Soviet Union weapons-grade uranium and plutonium excess to defense needs, and the feasibility and costs of safeguarding this material from theft until it can be rendered unusable for nuclear weapons. The conferees encourage the Secretary to include in the study an analysis of the feasibility of purchasing this material in one year, as well as other options in quantity and timing as the Secretary considers appropriate, and to consider several possible locations for safeguarding this material using risk of theft, cost, and practicality as metrics.

Authority to Use International Nuclear Materials Protection and Cooperation program funds outside the former Soviet Union (sec. 3124)

The Senate amendment contained a provision (sec. 3141) that would authorize the Secretary of Energy to conduct nuclear nonproliferation threat reduction activities and projects outside the states of the former Soviet Union for the International Nuclear Materials Protection and Cooperation program.

The House bill contained no similar provision.

The House recedes with an amendment that would require the President to make certain determinations and to notify the Congress in writing within 10 days after obligating funds under this authority of those determinations as follows: (1) that the project or activity will assist the United States in the resolution of a critical emerging proliferation threat; or permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals; (2) that the Department of Energy is the entity of government most capable of carrying out the project or activity; and (3) that the project or activity will be completed in a short period of time. The written notification is to include a justification for the determinations and a description of the scope and duration of the project or activity.

The conferees expect that the President would assign such projects or activities to the agency whose mission is most appropriate to the project or activity. The conferees further expect that this authority will be used only for projects or activities that are expected to be completed within a short period of time.

Requirement for on-site managers (sec. 3125)

The House bill contained a provision (sec. 3117) that would require the Secretary of Energy to appoint a federal employee as an on-site manager before obligation of funds for any defense nuclear nonproliferation program that involves dismantlement, destruction, or storage facilities, or construction of a facility, and that is executed in a state of the former Soviet Union, if the total contribution by the Department of Energy is expected to exceed $25.0 million.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the Secretary to appoint an employee of the Federal Government as an on-site manager to oversee any defense nuclear nonproliferation program that involves dismantlement, destruction, or storage facilities, or construction of a facility, and that is executed in a state of the former Soviet Union, if the total contribution by the Department is expected to exceed $50.0 million. The amendment would allow one individual to serve as the site manager for more than one project so long as the total cost of the projects does not exceed $150.0 million for that fiscal year.

Subtitle D—Other Matters

Performance of personnel security investigations of certain Department of Energy and Nuclear Regulatory Commission Employees in Sensitive Programs (sec. 3131)

The Senate amendment contained a provision (sec. 3151) that would amend section 145 of the Atomic Energy Act of 1954 (Public Law 83-703) to provide the Secretary of Energy the authority to refer security investigations to either the Federal Bureau of Investigations (FBI) or the Office of Personnel Management (OPM). Current law requires the FBI to investigate all initial personnel security investigations and all reinvestigations for DOE federal and contractor employees assigned to a Department of Energy Special Access Program (SAP) or a Personnel Security and Assurance Program.

The House bill contained no similar provision.

The House recedes with an amendment that would amend section 145(e)(2) of the Atomic Energy Act of 1954 to repeal the requirement that the Secretary or the Commissioner of the Nuclear Regulatory Commission (NRC), as successors to the Atomic Energy Commission, must refer security investigations concerning DOE federal and contractor employees assigned to a Personnel Security and Assurance Program to the FBI. Under this provision, the Secretary or Commissioner would have the authority to refer such personnel security investigations to either the FBI or OPM, as successor to the Civil Service Commission. Nothing in this provision would change the requirement that the Secretary or Commissioner must refer security investigations to the FBI for DOE federal and contractor employees assigned to a DOE Special Access Program, or the authority to refer security investigations to the FBI for personnel that the Secretary or the Commissioner certifies, due to their specific position, to be of a high degree of importance or sensitivity.

Policy of Department of Energy regarding future defense environmental management matters (sec. 3132)

The Senate amendment contained a provision (sec. 3152) that would require the Secretary of Energy to establish a policy to clarify the shared or overlapping responsibilities between the Environmental Management (EM) program and the National Nuclear Security Administration (NNSA). This provision would require the Secretary to include a report declaring DOE's policy on these matters to be submitted with the administration's budget request for fiscal year 2005.

The provision would also require the Secretary of Energy to prepare a plan to implement the new policy to be presented with the administration's budget request for fiscal year 2006.

The House bill contained no similar provision.

The House recedes with an amendment that would require the Secretary of Energy to put in place, not later than October 1, 2005, a policy for carrying out future defense environmental management matters that have not already been included or considered in the Defense Site Acceleration Completion plan. The Secretary of Energy shall include in the budget submission for fiscal year 2005 a report on the policy the Secretary plans to have in effect as of October 1, 2005. The Secretary of Energy must have the policy in effect no later than October 1, 2005, and reflect the policy in the budget submission for fiscal year 2006 and each fiscal year thereafter.

The conferees support EM's initiative to accelerate cleanup across the entire NNSA and former nuclear weapons facilities complex. However, as the Secretary seeks to define and designate the complete scope of cleanup and waste management within the accelerated cleanup initiative, the conferees want to ensure that it is clear which program will be responsible for future defense EM matters. The Secretary of Energy can clarify this matter by establishing a clear policy that would help both EM and NNSA plan for future cleanup activities and the associated costs.

Inclusion in 2005 stockpile stewardship plan of certain information relating to stockpile stewardship criteria (sec. 3133)

The Senate amendment contained a provision (sec. 3153) that would require the Secretary of Energy to submit a report to the congressional defense committees, by March 1, 2005, on clear and specific criteria for judging whether the science-based tools being used by the Department of Energy for determining the safety and reliability of the nuclear weapons stockpile are performing in a manner that will provide an adequate degree of certainty regarding the safety and reliability of the stockpile. This would be an update of the report required in section 3158 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

The House bill contained no similar provision.

The House recedes with an amendment that would include this report as part of the Fiscal Year 2005 Stockpile Stewardship Plan. The conferees note that this annual report has been consistently late and urge the Department to submit this important report on time.

Progress reports on energy employees occupational illness compensation program (sec. 3134)

The Senate amendment contained a provision (sec. 3154) that would require the National Institute for Occupational Safety and Health (NIOSH) to submit a report to Congress on the ability of NIOSH to obtain, in a timely, accurate, and complete manner, information necessary to carry out radiation dose reconstructions under the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). The report should be submitted within 90 days of enactment of this Act.

The House bill contained no similar provision.

The House recedes.

The conferees direct NIOSH to send the report to the congressional defense committees, the Committees on Government Affairs and Health Education, Labor and Pensions of the Senate, and the Committees on Government Reform and Education and the Workforce of the House of Representatives.

Report on integration activities of Department of Defense and Department of Energy with respect to robust nuclear earth penetrator (sec. 3135)

The Senate amendment contained a provision (sec. 3155) that would require the Secretary of Energy and Secretary of Defense to develop, submit to Congress three months after the date of the enactment of this Act, and implement, a plan to coordinate the robust nuclear earth penetrator (RNEP) feasibility study at the Department of Energy (DOE) with the ongoing conventional hard and deeply buried weapons development programs at the Department of Defense.

The House bill contained no similar provision.

The House recedes with an amendment that would modify the reporting requirement of section 1032 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) to include analysis of the integration and interoperability of the robust nuclear earth penetrator with regard to research and development, procurement, and other activities by the Departments of Defense and Energy during fiscal year 2003. This information would be included in the report due April 1, 2004.

Subtitle E—Consolidation of National Security Provisions

Transfer and consolidation of recurring and general provisions on Department of Energy national security programs (sec. 3141)

The House bill contained a provision (sec. 3121) that would assemble under the Atomic Energy Defense Act (title XXXVI) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314), with technical and conforming amendments, recurring and general provisions of law on Department of Energy national security programs that remain in force. Although there are technical and conforming changes resulting in the recodification there are no substantive changes in law effecting the DOE national security programs. The provisions of the Atomic Energy Defense Act, as amended by this provision, would be redesignated to a new chapter of title 50, United States Code.

The Senate amendment contained a similar provision (sec. 3161).

The Senate recedes with technical amendments.

Items of Special Interest

Thorium-based fuel cycle research

The conferees believe the Secretary of Energy should review whether there is a role for thorium fuel cycle research in Department of Energy programs, to include nonproliferation programs under the National Nuclear Security Administration and advanced fuel cycle research and related work under the Office of Nuclear Energy. If the Secretary determines this technology should be pursued, this should be reflected in the Fiscal year 2005 budget request.

Legislative Provisions Not Adopted

Extension to all DOE facilities of authority to prohibit dissemination of certain unclassified information

The House bill contained a provision (sec. 3113) that would amend section 148 of the Atomic Energy Act of 1954 (Public Law 83-703) to expand the range of situations under which the Department of Energy could treat information as sensitive unclassified nuclear information, and consequently limit its dissemination.

The Senate amendment contained no similar provision.

The House recedes.

Availability of funds

The House bill contained a provision (sec. 3115) that would amend section 3628 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314) by establishing a three-year limitation on the availability of funds for obligation within the National Nuclear Security Administration (NNSA), for operation and maintenance and for plant projects.

The Senate amendment contained no similar provision.

The House recedes.

The conferees are concerned that the NNSA has not complied with section 3252 of the National Nuclear Security Administration Act (Public Law 106-65), which provides that at a minimum, the NNSA Administrator should establish procedures that ". . . provide for the planning, programming, and budgeting of activities of the Administration using funds that are available for obligation for a limited number of years." Contrary to the requirements of section 3252, the last four NNSA budget submissions have not included a limit on the number of years the funds were available for obligation. While the conferees have agreed not to include a provision that would place a specific limitation on the authority of funds in this Act, the conferees expect the Administrator to meet the requirements of section 3252 of the NNSA Act in the fiscal year 2005 budget and subsequent submissions.

Limitation on obligation of funds for nuclear test readiness program

The House bill contained a provision (sec. 3116) that would prohibit the obligation of more than 40 percent of funds available to the Secretary of Energy in fiscal year 2004 for the nuclear test readiness program until the Secretary submits the report on test readiness posture options required by subsection 3142(c) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314).

The Senate amendment contained no similar provision.

The House recedes.

The report on test readiness posture options was sent to the congressional defense committees on May 20, 2003, and received shortly thereafter. While this made the funding limitation in the House bill no longer necessary, the conferees note that the report was sent several months late even though the information in that report was very relevant to the fiscal year 2004 budget request for enhanced test readiness. The conferees encourage the Department of Energy to use due diligence in meeting report schedules and deadlines in the future.

Title XXII—Defense Nuclear Facilities Safety Board

Legislative Provisions Adopted

Authorization (sec. 3201)

The House bill contained a provision (sec. 3201) that would authorize $19.6 million for the Defense Nuclear Facilities Safety Board for fiscal year 2004.

The Senate amendment contained an identical provision (sec. 3201).

The conference agreement includes this provision.

Title XXIII—National Defense Stockpile

Legislative Provisions Adopted

Authorized Uses for National Defense Stockpile Funds (sec. 3301)

The House bill contained a provision (sec. 3301) that would authorize $69.7 million from the National Defense Stockpile Transaction Fund for the operation and maintenance of the National Defense Stockpile for fiscal year 2004. The provision would also permit the use of additional funds for extraordinary or emergency conditions 45 days after a notification to the Congress.

The Senate amendment contained no similar provision.

The Senate recedes.

Revisions to required receipt objectives for previously authorized disposals from National Defense Stockpile (sec. 3302)

The House bill contained a provision (sec. 3302) that would amend section 3402 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) to increase the required receipt objectives for previously authorized disposals from the National Defense Stockpile.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would increase the required receipt objectives for previously authorized disposals from the National Defense Stockpile.

Title XXIV—Naval Petroleum Reserves

Legislative Provisions Adopted

Authorization of appropriations (sec. 3401)

The House bill contained a provision (sec. 3401) that would authorize $16.5 million for the operation and maintenance of the Naval Petroleum and Oil Shale Reserves.

The Senate amendment contained no similar provision.

The Senate recedes.

The conferees understand that the administration intends to request the transfer of Naval Petroleum Reserve Two from the Department of Energy to the Department of Interior, and that additional authority is necessary to proceed with such a transfer. The conferees expect that a legislative package authorizing the transfer would include the requisite changes to title 10, United States Code, as well as the appropriate budgetary adjustments.

TITLE XXXV—MARITIME ADMINISTRATION

LEGISLATIVE PROVISIONS ADOPTED

Title XXXV—Maritime Administration (sec. 3501–3546)

The House bill contained several provisions (sec. 3501–3542) that would establish a new maritime security fleet program, beginning in fiscal year 2006, establish a new national defense tank vessel construction assistance program, provide for the authorization of appropriations for the Maritime Administration (MARAD) for fiscal year 2004, and authorize the transfer of the USS *Hoist* to the Last Patrol Museum, Toledo, Ohio.

The Senate amendment contained no similar provisions.

The Senate recedes with an amendment that would: (1) authorize appropriations for MARAD for fiscal years 2004–2008; (2) provide general authority to MARAD to convey obsolete vessels without additional statutory authorization; (3) amend current law to bring the service obligation of maritime academy students more in line with the requirements of students at the other federal service academies; (4) amend current law as it pertains to the preparation of MARAD obsolete vessels for use as artificial reefs; (5) allow MARAD to establish a pilot program to reimburse vessels participating in the maritime security program for extra cost for conducting U.S.-based maintenance and repair; (6) authorize changes to the current title XI loan guarantee program to reduce the likelihood of defaults; and (7) establish a new maritime security fleet program and a new national defense tank vessel construction assistance program.

Section 3512 would grant MARAD general authority to transfer obsolete vessels without the need for specific legislative authorization. Many of these ships are in disrepair and are no longer useful for government purposes, but could be used by not-for-profit corporations as museums, or by states or commonwealths for other public interest projects.

Under section 3515 of this title, students at the U.S. Merchant Marine Academy and students at the state maritime academies who receive federal scholarship assistance and who have attended their respective schools for two or more years would be required to serve on active duty or to reimburse the government for educational expenses if the Secretary of Transportation determined that the individuals breached their service agreement. If for any reason the individual were not ordered to active duty, the Secretary would be authorized to recover costs of the provided education, including the use of federal debt collection procedures, or other remedies to obtain payment. This section would also grant the Secretary similar authority with respect to graduate students. This change would align the service obligation of maritime academy students more closely with the requirements of students at the other federal service academies. The section would further require that U.S. Merchant Marine Academy graduates and graduates of state maritime academies who receive federal financial assistance maintain a valid merchant mariner license and certification under the International Convention for the Standards of Training, Certification, and Watch-keeping. Such a mandate would ensure that maritime academy graduates possess the license and certifications necessary to meet Coast Guard requirements. The section would also authorize an increase in the amount of annual student incentive payments for state maritime academy graduates from $3,000 to $4,000. The conferees expect that this increase would offset the increasing costs of higher education and encourage students to serve the maritime and national security needs of the United States.

The conferees agree to include a provision (sec. 3516) that would make technical amendments to section 3504(b) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) regarding environmental best management practices for preparing vessels for use as artificial reefs. It is anticipated that these technical modifications would facilitate the development of useful guidance for the preparation of obsolete vessels for use as artificial reefs.

Section 3517 would authorize the Secretary to establish a pilot program that would provide financial assistance to maritime security fleet contractors for the cost of repairs performed in the United States. The conferees expect that this program could be administered in a way that would benefit and enhance our domestic ship repair base, on which we rely for such important activities as maintaining and activating the Ready Reserve Force ships during emergencies. The conferees also believe that MARAD could administer such a pilot program in a manner that would hold operators of the U.S.-flag maritime security fleet harmless.

Subtitle B would amend the Merchant Marine Act, 1936 (46 U.S.C. App. 1274 et seq.) to require the Secretary of Transportation to adopt several changes to the vessel loan guarantee program to help reduce the likelihood of loan defaults. Section 3521 would require the Secretary to establish a system of controls to ensure that no loan or portion of a loan is disbursed to a ship owner before the obligor of a loan guarantee has met its cost-sharing obligation (25 percent or 12.5 percent depending on the type of vessel).

Section 3522 would require the Secretary to promulgate regulations regarding the circumstances under which MARAD could waive requirements concerning the financial condition of the applicant, and establish a transparent, independent, risk-based process for verifying and documenting the progress of projects under construction before disbursing loan funds.

Section 3523 would require the Secretary to monitor the financial condition and operation of the obligor on a regular basis during the term of the guarantee and to take additional action if financial issues jeopardize the obligor's continued ability to meet its responsibilities.

Section 3524 would require the Secretary to maximize the return on a default-related sale of assets by obtaining independent appraisals and ensuring adequate competition during foreclosure proceedings.

The conference agreement also includes provisions that would set deadlines for secretarial approval or denial of applications for loan guarantees (sec. 3525), and would allow the Secretary to obtain an independent risk analysis related to markets, technology, financial structures, or other factors (sec. 3526). The conferees intend that the Secretary should not use this authority in routine cases nor where the MARAD already has sufficient expertise to assess fully the risk of approving a loan guarantee application.

Section 3528 would require the Secretary to develop an organizational framework for the management of the loan guarantee program to ensure a clear distinction among the functions of loan application and approval, project monitoring, and default management. The Secretary would need to update loan guarantee program risk categories and associated subsidy rates on an annual basis. The Secretary would also be required to consider the risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers before making an obligation or commitment.

Section 3531 would establish a new maritime security fleet program upon the expiration of the current program at the end of fiscal year 2005. The new program would expand upon the current program by increasing the number of participating vessels and the size of the monetary payment allowable for each participating vessel. Under the new program, the Department of Defense (DOD), in conjunction with the Department of Transportation (DOT), could select the participants and vessels that could provide the type of sealift support that best complements the Department's organic fleet. The new program would reflect an expansion beyond the use of liner operators. In fact, the conferees intend that this program would include significant roll on/roll off assets and double hulled product tanker assets. The Secretary of Transportation, in conjunction with the Secretary of Defense, could enter into 60 operating agreements with eligible applicants, as opposed to the current authorization for 47 such agreements. The section would also authorize, subject to appropriations, contractor reimbursement for each vessel operated in the program: $2.6 million per year for each of fiscal years 2006, 2007, and 2008; $2.9 million per vessel for each of fiscal years 2009, 2010, and 2011; and $3.1 million per vessel for each of fiscal years 2012, 2013, 2014, and 2015.

Section 3531 would establish age restrictions for vessels entering the new maritime security fleet program, but would allow operators with certain vessels that have participated in the current program an additional 30 months to meet these requirements. The conferees expect that the DOD, in conjunction with the DOT, would work closely with existing program participants and new applicants to ensure that the newest and most capable vessels enter the program or are offered as replacement vessels. The conferees recognize that certain older vessels may remain in the program for some time. However, the conferees encourage new and existing participants to work closely with the DOD and DOT to address the Departments' operational requirements that are not adequately addressed by the current fleet.

Section 3531 would establish four categories of eligibility for program participation: (1) vessels owned and operated by persons who are citizens of the United States, as described under section 2 of the Shipping Act, 1916 (46 U.S.C. 802); (2) vessels owned by section 2 citizens or U.S. citizens' trusts, and chartered to a documentation citizen; (3) vessels owned and operated by a defense contractor; and (4) vessels owned by a documentation citizen, but chartered to a section 2 citizen. The provision would impose additional requirements for corporate management and control of the demise charterer for categories (2) and (3). In the case of category (3), the provision would also impose a requirement for a special security agreement.

Finally, section 3531 would establish priorities for the award of new agreements.

(1) The first priority for up to five agreements or slots would be accorded to section 2 citizens who own and operate new tank vessels constructed in the United States. The

conferees note that the lack of U.S.-flag tankers for transporting jet fuel posed a serious risk to U.S. resupply operations in Iraq. The establishment of a new priority for U.S.-built, -owned, and -operated tankers is a first step in alleviating this serious shortfall. During Operation Iraqi Freedom, the United States chartered 26 double hulled product tankers for the supply effort, however, only one was a documented U.S.-flag vessel. While this group of vessels was able to support our forces during Operation Iraqi Freedom, the fact that only one was operated by a U.S.-flag carrier raises concerns about the level of support for future operations.

(2) The second priority for the award of new operating agreements would be accorded to the 47 vessels that are participating in the current program. Additional latitude would be granted on the age restrictions to allow for replacement of older vessels with newer, more militarily useful vessels.

(3) The third priority would be reserved for vessels that are owned and operated by section 2 citizens, or owned by documentation citizens and operated by section 2 citizens.

Section 3535 would require the Comptroller General of the United States to conduct a study to determine the potential effects of increasing or decreasing the current 7,500 ton limitation on the carriage of bulk food aid cargo by maritime security program participants, and to examine whether the limitation should apply to bagged cargo, as well as bulk cargo.

Section 3541 would establish a new national defense tank vessel construction assistance program. This program would provide financial assistance to U.S. citizen owners in the form of a direct payment for up to 75 percent of the actual vessel construction, but in no case more than $50.0 million per vessel. The provision would:

(1) Establish size restrictions to ensure that these double hulled vessels would be competitive in the commercial market and would meet the petroleum transportation needs of the DOD in time of war or other national emergency;

(2) Grant vessel owners a priority for loan guarantees and would make them eligible to use funds in their capital construction fund accounts for building these vessels; and

(3) Give vessel owners priority for the award of an operating agreement under the new maritime security program.

The conferees believe that this construction assistance program would reduce the need for reliance on foreign-flag product tankers.

LEGISLATIVE PROVISIONS NOT ADOPTED

Authority to convey National Defense Reserve Fleet vessels and vessel contents

The House bill contained a provision (sec. 3543) that would authorize the Secretary of Transportation to convey the right, title, and interest of the U.S. Government to certain obsolete National Defense Reserve Fleet (NDRF) vessels for use as moored support ships and as memorials.

The Senate amendment contained no similar provision.

The House recedes.

The conferees agree to provide the Secretary with the general and permanent authority to transfer obsolete NDRF vessels without specific statutory authority for each transfer, as provided elsewhere in this conference report. The conferees expect that the Secretary would quickly develop procedures to allow for the efficient and safe transfer of these obsolete vessels to deserving not-for-profit corporations, appropriate states, or commonwealths.

TITLE XXXVI—NUCLEAR SECURITY INITIATIVE

Short title (sec. 3601)

The House bill contained a provision (sec. 3601) that would name this title the "Nuclear Security Initiative Act of 2003."

The Senate amendment contained no similar provision.

The Senate recedes.

Subtitle A—Administration and Oversite of Threat Reduction and Nonproliferation Programs

Management assessment of Department of Defense and Department of Energy threat reduction and nonproliferation programs (sec. 3611)

The House bill contained a provision (sec. 3621) that would require the National Academy of Sciences to carry out an analysis of the effect on threat reduction and nonproliferation programs of applicable congressional oversight measures.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the General Accounting Office to carry out an assessment of the management of the Department of Defense and Department of Energy threat reduction and nonproliferation programs.

Subtitle B—Relations Between the United States and Russia

Comprehensive inventory of Russian tactical nuclear weapons (sec. 3621)

The House bill contained a provision (sec. 3631) that would urge the United States to work with the Russian Federation to develop comprehensive inventories of Russian highly enriched uranium, weapons-grade plutonium, and assembled warheads, with special attention to be focused on tactical warheads and warheads that are no longer operationally deployed. The provision would require the President to submit to the Congress an annual report describing progress that has been made toward creating an inventory and exchanging the information.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would urge the United States to work with the Russian Federation to develop a comprehensive inventory of Russian tactical nuclear weapons. The provision would require the President to submit to the Congress a report describing the progress that has been made toward creating such an inventory.

Establishment of interparliamentary threat reduction working group (sec. 3622)

The House bill contained a provision (sec. 3632) that would establish a Duma-Congress nuclear threat reduction working group. The purpose of the working group would be to explore means to enhance cooperation between the United States and the Russian Federation with respect to nuclear proliferation and security, and other issues related to reducing nuclear weapons dangers.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would broaden the working group to include participants from the Russian Federation Council as well as the Russian Duma, and would broaden the focus of the working group to include all types of weapons of mass destruction.

The conferees recommend that this working group coordinate its activities with the Library of Congress Open World Program. The conferees further recommend that the number of Russian participants in the working group be roughly equal to the number of U.S. participants.

Sense of Congress on cooperation by United States and NATO with Russia on ballistic missile defenses (sec. 3623)

The House bill contained a provision (sec. 3633) that would establish as national policy that: 1) the United States should take the lead, in conjunction with the North Atlantic Treaty Organization (NATO), in arranging appropriate cooperative relationships with the Russian Federation with respect to development and deployment of theater-level ballistic missile defenses; 2) such cooperation should promote a new bilateral strategic framework consisting of transparency and confidence between and improve security of the two countries. The provision would also require the President to submit a report to Congress, no later than a year after the enactment of this Act, on the feasibility of increasing cooperation with the Russian Federation on theater-level missile defenses.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that the President, in conjunction with NATO, should encourage appropriate cooperative relationships with the Russian Federation in the development and deployment of ballistic missile defenses. The amendment would also require the Secretary of Defense to submit a report to the Armed Services Committees of the Senate and House of Representatives not later than one year after the date of enactment of this Act, on the feasibility of increasing ballistic missile defense cooperation with the Russian Federation.

The conferees believe that missile defense cooperation with the Russian Federation could improve the U.S. relationship with Russia by enhancing transparency and confidence between the two nations. The conferees also believe that such cooperation would accurately reflect a new bilateral relationship between the United States and Russia based on openness, common interests, and mutual trust, rather than the Cold War construct of mutual assured destruction.

Sense of Congress on enhanced collaboration to achieve more reliable Russian early warning systems (sec. 3624)

The House bill contained a provision (sec. 3634) that would make certain findings and establish as national policy that the President should: (1)encourage joint United States-Russian programs to improve Russian ballistic missile early-warning systems, including the Russian-American Observation Satellite (RAMOS) program and (2) encourage other joint programs to assure that the Russian Federation has reliable information regarding ballistic missile launches. It would also require the Secretary of Defense to ensure that, pending a new agreement between the United States and the Russian Federation, sufficient funds are appropriated for the RAMOS program for its satisfactory continuation during fiscal years 2004 and 2005.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would express the sense of Congress that the United States should, consistent with U.S. national security interests: (1) encourage joint efforts by the United States and the Russian Federation to improve Russian ballistic missile early warning systems; (2) encourage other U.S.-Russian programs to ensure that the Russian Federation has reliable information concerning ballistic missile launches; and (3) ensure that funds appropriated for RAMOS Program are used to provide for the satisfactory continuation of RAMOS.

Subtitle C—Other Matters

Promotion of discussions on nuclear and radiological security and safety between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development (sec. 3631)

The House bill contained a provision (sec. 3641) that would express the sense of the Congress that the United States should seek to initiate discussions between the International Atomic Energy Agency and the Organization for Economic Cooperation and Development for the purpose of exploring issues of nuclear and radiological security and safety, including the creation of new sources of revenue (including debt reduction) for states to provide nuclear security. The provision would require the President to submit to the Congress a report on the efforts made by the United States to initiate such discussions and on the results of such discussions.

The Senate amendment contained no similar provision.

The Senate recedes with an amendment that would require the President to submit a report to the Congress on the results of the discussions only if efforts to have such discussions have been made.

Legislative Provisions Not Adopted

Annual report on the use of funds appropriated for threat reduction and nonproliferation in states of the former Soviet Union

The House bill contained a provision (sec. 3622) that would require the Secretary of Energy, in consultation with the Secretary of Defense, to submit an annual report on the use of funds appropriated for threat reduction and nonproliferation programs in the Russian Federation and the other independent states of the former Soviet Union.

The Senate amendment contained no similar provision.

The House recedes.

Establishment of International Nuclear Materials Protection and Cooperation Program in Department of State

The House bill contained a provision (sec. 3611) that would authorize the Secretary of State to establish an international nuclear materials protection and cooperation program with respect to countries other than the Russian Federation and the other independent states of the former Soviet Union.

The Senate amendment contained no similar provision.

The House recedes.

Nonproliferation fellowships

The House bill contained a provision (sec. 3636) that would authorize the Administrator for Nuclear Security to carry out a program under which the Administrator awards, to scientists employed at the Kurchatov Institute of the Russian Federation and the Lawrence Livermore National Laboratory, international exchange fellowships, to be known as Teller-Kurchatov Fellowships, in the nuclear nonproliferation sciences. The purpose of the program would be to provide opportunities for advancement in the field of nuclear nonproliferation to scientists who, as demonstrated by their academic or professional achievements, show particular promise of making significant contributions in that field.

The Senate amendment contained no similar provision.

The House recedes.

The conferees recommend that the Secretary of Energy assess the feasibility and advisability of initiating a reciprocal nonproliferation fellowship program that would provide the opportunity for an employee of a U.S. national laboratory, and an employee of a Russian nuclear institute or nuclear laboratory, to study and work at a comparable institute or laboratory in the other country focusing on nuclear nonproliferation sciences.

Plan for and coordination of chemical and biological weapons nonproliferation programs with states of the former Soviet Union

The House bill contained a provision (sec. 3623) that would require the President to develop with the President of the Russian Federation a comprehensive plan to: account for, secure and destroy all chemical and biological weapons and the materials designed for use in such weapons that are located in Russia and the independent states of the former Soviet Union; and prevent the outflow from those states of the technology and scientific expertise that could be used for developing such weapons or their means of delivery.

The Senate amendment contained no similar provision.

The House recedes.

Teller-Kurchatov Alliance for Peace

The House bill contained a provision (sec. 3635) that would urge the Secretary of Energy to enter into an agreement with the Minister of Atomic Energy of the Russian Federation to carry out a cooperative venture, to be known as the Teller-Kurchatov Alliance for Peace, to develop and promote peaceful, safe, and environmentally sensitive uses of nuclear energy.

The Senate amendment contained no similar provision.

The House recedes.

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

Duncan Hunter,
Curt Weldon,
Jim Saxton,
John M. McHugh,
Terry Everett,
Roscoe Bartlett,
Howard "Buck" McKeon,
Mac Thornberry,
John Hostettler,
Walter B. Jones,
Jim Ryun,
Jim Gibbons,
Robin Hayes,
Heather Wilson,
Ken Calvert,
Ike Skelton,
Solomon P. Ortiz,
Lane Evans,
Neil Abercrombie,
Silvestre Reyes,

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X:

Porter J. Goss,
Pete Hoekstra,
Jane Harman,

From the Committee on Agriculture, for consideration of secs. 1057 and 2822 of the House bill, and modifications committed to conference:

Bob Goodlatte,
Frank D. Lucas,
Charles W. Stenholm,

From the Committee on Education and the Workforce, for consideration of secs. 544, 553, 563, 567, 907, 1046, 1501, 1502, and 1504–1506 of the House bill, and secs. 233, 351, 352, 368, 701, 1034, and 1036 of the Senate amendment, and modifications committed to conference:

Michael N. Castle,
John Kline,

From the Committee on Energy and Commerce, for consideration of secs. 601, 3113, 3201, and 3517 of the House bill, and secs. 601, 701, 852, 3151, and 3201 of the Senate amendment, and modifications committed to conference:

Billy Tauzin,
Joe Barton,

From the Committee on Financial Services, for consideration of secs. 814 and 9072 of the House bill, and modifications committed to conference:

Michael G. Oxley,
Peter T. King,

From the Committee on Government Reform, for consideration of secs. 315, 323, 551, 805, 822, 824, 828, 829, 1031, 1046, 1050, 1057, Title XI, Title XIV, secs. 2825 and 2826 of the House bill, and secs. 326, 801, 811, 813, 822, 831–833, 841, 852, 853, 1013, 1035, 1102–1104, and 2824–2826 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Christopher Shays,
Jo Ann Davis,
Adam H. Putnam,
Michael R. Turner,

From the Select Committee on Homeland Security, for consideration of sec. 1456 of the House bill, and modifications committed to conference:

Christopher Cox,
John Shadegg,
Bennie G. Thompson,

From the Committee on House Administration, for consideration of sec. 564 of the Senate amendment, and modifications committed to conference:

Robert W. Ney,
John L. Mica,
John B. Larson,

From the Committee on International Relations, for consideration of secs. 1047, 1201, 1202, 1209, Title XIII, secs. 3601, 3611, 3631, 3632, and 3634–3636 of the House bill, and secs. 323, 343, 921, 1201, 1202, 1204, 1205, 1207, 1208, Title XIII, and sec. 3141 of the Senate amendment, and modifications committed to conference:

Henry Hyde,
Doug Bereuter,

From the Committee on the Judiciary, for consideration of secs. 661–665 and 851–853 of the Senate amendment, and modifications committed to conference:

James F. Sensenbrenner, Jr.,
Lamar Smith,

From the Committee on Resources, for consideration of secs. 311, 317–319, 601, and 1057 of the House bill, and secs. 322, 330, and 601 of the Senate amendment, and modifications committed to conference:

Richard Pombo,
Denny Rehberg,

From the Committee on Science, for consideration of secs. 852 and 911 of the Senate amendment, and modifications committed to conference:

Sherwood Boehlert,
Nick Smith,
Ralph M. Hall,

From the Committee on Transportation and Infrastructure, for consideration of secs. 312, 601, 907, 1049, 1051, and 2824 of the House bill, and secs. 324, 601, and 2821 of the Senate amendment, and modifications committed to conference:

Don Young,
Thomas Petri,
Brad Carson,

From the Committee on Veterans Affairs, for consideration of sec. 565 of the House bill, and secs. 644 and 707 of the Senate amendment, and modifications committed to conference:

Christopher H. Smith,
Mike Bilirakis,

From the Committee on Ways and Means, for consideration of sec. 701 of the Senate amendment, and modifications committed to conference:

William Thomas,
Jim McCrery,
Managers on the Part of the House.

John W. Warner,
John McCain,
James Inhofe,
Pat Roberts,
Wayne Allard,
Jeff Sessions,
Susan Collins,
John Ensign,
James Talent,
Saxby Chambliss,
Lindsey Graham,
Elizabeth Dole,
John Cornyn,
E. Benjamin Nelson,
Mark Pryor,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Ackerman (at the request of Ms. Pelosi) for today and the balance of the week on account of a death in the family.

Mr. Hastings of Florida (at the request of Ms. Pelosi) for today and the balance of the week on account of official business.

Ms. Kilpatrick (at the request of Ms. Pelosi) for today after noon and for the balance of the week on account of personal reasons.

Ms. Majette (at the request of Ms. Pelosi) for today after 5:00 p.m. and the balance of the week on account of a death in the family.

Mr. Rangel (at the request of Ms. Pelosi) for today after 3:00 p.m. and the balance of the week on account of personal reasons.

Mr. Bachus (at the request of Mr. DeLay) for today on account of the birth of his first grandchild, Christopher Lee Douglas.

Mr. Gutknecht (at the request of Mr. DeLay) for today and the balance of the week on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Strickland) to revise and extend their remarks and include extraneous material):

Mr. Brown of Ohio, for 5 minutes, today.

Mr. DeFazio, for 5 minutes, today.

Mr. Strickland, for 5 minutes, today.

Mr. Miller of North Carolina, for 5 minutes, today.

Mr. Ryan of Ohio, for 5 minutes, today.

Ms. Norton, for 5 minutes, today.

Mr. Edwards, for 5 minutes, today.

Mr. Davis of Illinois, for 5 minutes, today.

Mr. Filner, for 5 minutes, today.

Mr. George Miller of California, for 5 minutes, today.

Mr. Pomeroy, for 5 minutes, today.

Mr. Mollohan, for 5 minutes, today.

Ms. Kaptur, for 5 minutes, today.

Ms. Eddie Bernice Johnson of Texas, for 5 minutes, today.

Ms. Jackson-Lee of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. Bereuter) to revise and extend their remarks and include extraneous material):

Mr. Burton of Indiana, for 5 minutes, November 11 and 12.

Mr. Murphy, for 5 minutes, today.

Mr. Bereuter, for 5 minutes, today.

Mr. Portman, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material):

Mr. McDermott, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1442. An act to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

H.R. 3365. An act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on November 5, 2003 he presented to the President of the United States, for his approval, the following bills.

H.R. 2691. Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

H.R. 3288. To amend title XXI of the Social Security Act to make technical corrections with respect to the definitions of qualifying State.

H.R. 3289. Making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

ADJOURNMENT

Mrs. MYRICK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 17 minutes a.m.), the House adjourned until today, Friday, November 7, 2003, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5101. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Fresh Bartlett Pears Grown in Oregon and Washington; Increased Assessment Rate [Docket No. FV03-931-1 FR] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5102. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—Processed Fruits and Vegetables—received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5103. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule—National Organic Program; Amendments to the National List of Allowed and Prohibited Substances [Docket Number TM-02-03] (RIN: 0581-AC19) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5104. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's final rule—Mexican Fruit Fly; Removal of Regulated Area [Docket No. 02-129-4] received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5105. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Joseph M. Cosumano, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5106. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John S. Caldwell, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5107. A letter from the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule—Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Interim Capital Treatment of Consolidated Asset-Backed Commercial Paper Program Assets [Docket No. 03-21] (RIN: 1557-AC76); Federal Reserve System [Regulations H and Y; Docket No. R-1156]; Federal Deposit Insurance Corporation (RIN: 3064-AC74); Office of Thrift Supervision [No. 2003-48] (RIN: 1550-AB79) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5108. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule—Rehabilitation Continuing Education Programs (RIN: 1820-ZA14) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5109. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Skin Pretectant Drug Products for Over-the-Counter Human Use; Astringent Drug Products; Final Monograph; Direct Final Rule; Confirmation of Effective Date [Docket No. 78N-021A] (RIN: 0910-AA01) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5110. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Iron-Containing Supplements and Drugs; Label Warning Statements and Unit-Dose of Packaging Requirements; Removal of Regulations for Unit-Dose Packaging Requirements; Removal of Regulations for Unit-Dose Packaging for Dietary Supplements and Drugs [Docket Nos. 91P-018 6 and 93P-0306] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5111. A letter from the Regulations Coordinator, OP/RPMS, Food and Drug Administration, Department of Health and Human Services, transmitting the Department's final rule—Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals [Docket No. 2003N-0400] (RIN: 0910-ZA21) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5112. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Cambria, California) [MB Docket No. 03-182; RM-10757] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5113. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Wright City, Oklahoma) [MM Docket No. 01-255; RM-10265] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5114. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charles Town, West Virginia and Stephens City, Virginia) [MB Docket No. 03-12; RM-10627] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5115. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendmet of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Crowell, Texas) [MB Docket No. 03-168; RM-10747]; (Florien, Louisiana) [MB Docket No. 03-169; RM-10748] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5116. A letter from the Senior Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Lamont and McFarland, California) [MB Docket No. 03-64; RM-10672] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5117. A letter from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendmet of Section 73.202(b) Table of Allotments, FM Broadcast Stations (Dickens, Texas) [MB Docket No. 02-258; RM-10500]; (Floydada, Texas) [MB Docket No. 02-259; RM-10501]; (Rankin, Texas) [MB Docket No. 02-262; RM-10504]; (San Diego, Texas) [MB Docket No. 02-264; RM-10505]; (Westbrook, Texas) [MB Docket No. 02-265; RM-10556] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5118. A letter from the Senior Legal Advisor to the Chief, Mass Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cobleskill and Saint Johnsville, New York) [MM Docket No. 00-40; RM-9824] received October 31, 2008, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5119. A letter from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems [CC Docket No. 94-102]; Non-Initialized Phones [RM-8143] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5120. A letter from the Legal Advisor, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Digital Audio Broadcasting Systems And Their Impact on the Terrestrial Radio Broadcast Service [MM Docket No. 99-325] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5121. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5122. A letter from the Deputy Chief, CGB, Federal Communications Commission, transmitting the Commission's final rule—Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities [CC Docket No. 98-67]; Petition for Clarification of WorldCom, Inc.—received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5123. A letter from the Chief, Policy and Rules Division, OET, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Parts 2, 73, 74, 80, 90, and 97 of the Commission's Rules to Implement Decisions from World Radiocommunication Conferences Concerning Frequency Bands Below 28000 kHz [ET Docket No. 02-16] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5124. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule— Amendment of the Commission's Rules To Establish New Personal Communications Services, Narrowband PCS; Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Narrowband PCS [GEN Docket No. 90-314, ET Docket No. 92-100 and PP Docket No. 93-253; FCC 01-135] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5125. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures [WT Docket No. 97-82] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5126. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of the Commission's Rules Regarding Multiple Address Systems [WT Docket No. 97-81] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5127. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 90.20(e)(6) of the Commission's Rules to revise the Authorized Duty Cycle on 173.075 MHz [WT Docket No. 01-97; RM-9798] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5128. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communication Requirements Through the Year 2010 [WT Docket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5129. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—the 4.9 GHz Band Transferred from Federal Government Use [WT Docket No. 00-32] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5130. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended [WT Docket No. 99-87]; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies [RM-9332]; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz [RM-9405]; Petition for Rule Making of The American Mobile Telecommunications Association [RM-9705] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5131. A letter from the Attorney Advisor, Federal Communications Commission, transmitting the Commission's final rule—1998 Biennial Regulatory Review--47 C.F.R. Part 90—Private Land Mobile Radio Services [WT Docket No. 98-182; RM-9222] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5132. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—2000 Biennial Regulatory Review-Spectrum Aggregation Limits for Commercial Mobile Radio Services [WT Docket No. 01-14; FCC 01-328] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5133. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico [FCC 01-387] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5134. A letter from the Associate Bureau Chief, WTB, Federal Communications Commission, transmitting the Commission's final rule—Implementation of Competitive Bidding Rules to License Certain Rural Service Areas [WT Docket No. 01-32; FCC-02-09] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5135. A letter from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule—The Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010 [WT DOcket No. 96-86] received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5136. A letter from the Acting Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Addition of Kazakhstan to the Nuclear Suppliers Group (NSG), and other revisions [Docket No. 031010256-3256-01] (RIN: 0694-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5137. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation [AAG/A Order No. 019-2003] received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5138. A letter from the Deputy Associate Administrator, Office of Acquisition Policy, GSA, National Aeronautics and Space Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Contract Bundling [FAC 2001-17; FAR Case 2002-029] (RIN: 9000-AJ58) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5139. A letter from the Deputy Assistant Secretary, Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—New River Gorge National River Hunting Regulation (RIN: 1024-AD12) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5140. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Glen Canyon National Recreation Area, PWC Use (RIN: 1024-AC90) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5141. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Special Regulations, Areas of the National Park System; Saguaro National Park, Designated Bicycle Routes (RIN 1024-AD10) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5142. A letter from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting the Department's final rule—Assateague Island National Seashore, Personal Watercraft Use (RIN 1024-AD02) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5143. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Serivce, Department of the Interior, transmitting the Department's final rule—Migratory Bird Permits; Regulations Governing Rehabilitation Activites and Permit Exceptions (RIN: 1018-AH87) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5144. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Texas Regulatory Program [TX-50-FOR] received Novmber 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5145. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule—Wyoming Regulatory Program [WY-031-FOR Rule Package 1J] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5146. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Drawbridge Operation Regulations; Great Channel Between Stone Harbor and Nummy Island, NJ [CGD05-03-050] (RIN: 1625-AA-09) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5147. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone: Port Valdez and Valdez Narrows, Valdez, AK [COTP Prince Wiliam Sound 03-002] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5148. A letter from the Chief, Regulations and Administrative Law, Coast Guard, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Bayou Casotte, Chevron Pascagoula Refinery Pascagoula, MS [COTP Mobile-03-022] (RIN: 1625-AA00) received October 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5149. A letter from the Attorney, Office of the Secretary of Transportation, Department of Transportation, transmitting the Department's final rule—Standard Time Zone Boundry in the State of South Dakota: Relocation of Jones, Mellette, and Todd Counties [Docket No. OST-2003-15858] (RIN: 2105-AD30) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5150. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Fairchild Aircraft, Inc., SA226 Series and SA227 Series Airplanes [Docket No. 2000-CE-45-AD; Amendment 39-13313; AD 2003-19-10] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5151. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Aerospatiale Model ATR42-200, -300, -320, and -500 Series Airplanes; and Model ATR72 Series Airplanes [Docket No. 2001-NM-306-AD; Amendment 39-13298; AD 2003-18-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5152. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100 & 440) Airplanes [Docket No. 2003-NM-54-AD; Amendment 39-13133; AD 2003-09-04] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5153. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Textron Lycoming Fuel Injected Reciprocating Engines [Docket No. 97-ANE-50-AD; Amendment 39-133222; AD 2003-14-03] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5154. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Raytheon Aircraft Company 90, 100, and 200 Series Airplanes [Docket No. 2002-CE-45-AD; Amendment 39-13218; AD 2003-13-16] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5155. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; MD Helicopters, Inc. Model 369A, D, E, H, HE, HM, HS, F, and FF Helicopters [Docket No. 2003-SW-17-AD; Amendment 39-13215; AD 2003-08-51] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5156. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters [Docket No. 2003-SW-26-AD; Amendment 39-13198; AD 2003-12-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5157. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4090, and PW4090-3 Turbofan Engines [Docket No. 2003-NE-24-AD; Amendment 39-13211; AD 2003-13-11] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5158. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Short Brothers and Harland Ltd. Models SC-7 Series 2 and SC-7 Series 3 Airplanes [Docket No. 2003-CE-15-AD; Amendment 39-13207; AD 2003-13-07] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5159. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Goodrich Avionics Systems, Inc. TAWS8000 Terrain Awareness Warning System [Docket No. 2003-CE-25-AD; Amendment 39-13208; AD 2003-13-08] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5160. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 747

Series Airplanes [Docket No. 2003-NM-101-AD; Amendment 39-13209; AD 2003-13-09] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5161. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 Airplanes [Docket No. 2001-NM-109-AD; Amendment 39-13288; AD 2003-17-13] (RIN: 2120-AA64) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5162. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30378; Amdt. No. 3067] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5163. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Jet Route J-147 [Docket No. FAA-2003-15363; Airspace Docket No. 03-AEA-3] (RIN: 2120-AA66) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5164. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Pilot Point, AK [Docket No. FAA-2003-14855; Airspace Docket No. 03-AAL-04] received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5165. A letter from the Assistant Secretary, Department of Labor, transmitting the Department's final rule—Unemployment Compensation—Trust Fund Integrity Rule; Birth and Adoption Unemployment Compensation; Removal of Regulations (RIN: 1205-AB33) received October 30, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5166. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—No Portion of Bonds May Be Issued for Skyboxes, Airplanes, Gambling Establisments, Etc. (Rev. Rul. 2003-116) received November 3, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMAS: Committee on Ways and Means. H.R. 2571. A bill to provide for the financing of high-speed rail infrastructure, and for other purposes; with amendments (Rept. 108–278, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MYRICK: Committee on Rules. House Resolution 434. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–352). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 587. A bill to amend title 40, United States Code, to add Ashtabula, Mahoning, and Trumbull Counties, Ohio, to the Appalachian region; with amendments (Rept. 108–353). Referred to the Committee of the Whole House on the State of the Union.

[Submitted November 7 (legislative day Nov. 6), 2003]

Mr. HUNTER: Committee of Conference. Conference report on H.R. 1588. A bill to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 2004, and for other purposes (Rept. 108–354). Ordered to be printed.

Mrs. MYRICK: Committee on Rules. House Resolution 437. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes (Rept. 108–355). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SESSIONS (for himself, Mr. Davis of Tennessee, Mr. Sweeney, Mrs. Myrick, Mr. Tiberi, Mr. Wicker, Mr. Bradley of New Hampshire, Mr. Garrett of New Jersey, Mr. Neugebauer, Mrs. Cubin, Mr. Baker, Mr. Toomey, Mr. Cunningham, Mr. Sullivan, Mr. Boyd, Mr. Stenholm, and Mr. Peterson of Minnesota):

H.R. 3452. A bill to improve homeland security; to the Committee on the Judiciary.

By Mr. DeMINT (for himself, Mr. Bartlett of Maryland, Mr. DeLay, Mr. Blunt, Mr. Aderholt, Mr. Akin, Mr. Barrett of South Carolina, Mr. Beauprez, Mr. Bishop of Utah, Mr. Boozman, Mr. Brady of Texas, Mr. Brown of South Carolina, Mr. Cantor, Mr. Carter, Mr. Cole, Mr. Crane, Mrs. Jo Ann Davis of Virginia, Mr. Doolittle, Mr. Everett, Mr. Feeney, Mr. Forbes, Mr. Franks of Arizona, Mr. Garrett of New Jersey, Mr. Gutknecht, Ms. Hart, Mr. Hayes, Mr. Hoekstra, Mr. Hostettler, Mr. Hunter, Mr. Istook, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. Keller, Mr. Kennedy of Minnesota, Mr. King of Iowa, Mr. Manzullo, Mr. McCotter, Mr. Miller of Florida, Mrs. Musgrave, Mrs. Myrick, Mr. Pence, Mr. Pickering, Mr. Pitts, Mr. Renzi, Mr. Ryan of Wisconsin, Mr. Ryun of Kansas, Mr. Schrock, Mr. Shadegg, Mr. Shimkus, Mr. Smith of New Jersey, Mr. Souder, Mr. Stearns, Mr. Stupak, Mr. Sullivan, Mr. Tancredo, Mr. Terry, Mr. Tiahrt, Mr. Toomey, Mr. Vitter, and Mr. Wilson of South Carolina):

H.R. 3453. A bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BELL:

H.R. 3454. A bill to designate the facility of the United States Postal Service located at 11805 Chimney Rock Road in Houston, Texas, as the "Lee P. Brown Post Office Building"; to the Committee on Government Reform.

By Mr. BELL:

H.R. 3455. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with Hepatitis C, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BELL:

H.R. 3456. A bill to deter and punish terrorism and crime at United States ports, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself and Mr. Shays):

H.R. 3457. A bill to amend the Inspector General Act of 1978 (5 U.S.C. App.) to enhance the independence of the Inspectors General, create a Council of the Inspectors General on Integrity and Efficiency, and for other purposes; to the Committee on Government Reform.

By Mr. COOPER:

H.R. 3458. A bill to amend titles XVIII and XIX of the Social Security Act to provide for coverage under the Medicare and Medicaid Programs of certain screening procedures for diabetic retinopathy, and to amend the Public Health Service Act to establish pilot programs to foster such screening, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUMMINGS (for himself, Mr. Rodriguez, Mr. Kildee, Mr. Wu, Mrs. Christensen, Ms. Solis, Mr. Pallone, Mr. Honda, Ms. Bordallo, Ms. Pelosi, Mr. Hoyer, Mr. Menendez, Mr. Clyburn, Mr. Dingell, Mr. Rangel, Mr. Stark, Mr. Rahall, Mr. Brown of Ohio, Ms. Roybal-Allard, and Mr. Case):

H.R. 3459. A bill to improve the health of minority individuals; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Resources, the Judiciary, Ways and Means, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FLAKE:

H.R. 3460. A bill to prohibit assistance to be provided to the Palestinian Authority and the Palestinian people until the perpetrators, or suspected perpetrators, of the killings of United States citizens in Gaza on October 15, 2003, are surrendered to the United States Government; to the Committee on International Relations.

By Mr. FLAKE:

H.R. 3461. A bill to bar Federal agencies from accepting for any identification-related purpose a State-issued driver's license, or other comparable identification document, unless the State has in effect a policy requiring presentation of acceptable forms of identification prior to issuance of the license or document, and the State requires the license or document, if issued to a nonimmigrant alien, to expire upon the expiration of the alien's authorized period of stay in the United States, and for other purposes; to the Committee on Government Reform, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GREEN of Texas (for himself and Mr. Barton of Texas):

H.R. 3462. A bill to designate the headquarters building of the Department of Education in Washington, DC, as the Lyndon Baines Johnson Federal Building; to the Committee on Transportation and Infrastructure.

By Mr. HERGER (for himself, Mr. Cardin, Mr. Houghton, Mr. Pomeroy, Mrs. Johnson of Connecticut, Mr. Rangel, Mr. McInnis, Mr. Levin, Mr. McDermott, and Mr. Sandlin):

H.R. 3463. A bill to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits; to the Committee on Ways and Means.

By Mr. INSLEE:

H.R. 3464. A bill to amend the Social Security Act to provide for coverage under the Medicare Program of audiologic rehabilitation services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL:

H.R. 3465. A bill to amend the Internal Revenue Code of 1986 to repeal the limitations on the deduction for interest on education loans and to make the deduction, as amended, permanent; to the Committee on Ways and Means.

By Mr. LEWIS of California:

H.R. 3466. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Yucaipa Valley Regional Water Supply Renewal Project; to the Committee on Resources.

By Mr. NUNES (for himself, Mr. Cardoza, Mr. Doolittle, Mr. Dooley of California, and Mr. Radanovich):

H.R. 3467. A bill to redesignate the facility of the Bureau of Reclamation located at 19550 Kelso Road in Byron, California as the "C.W. 'Bill' Jones Pumping Plant "; to the Committee on Resources.

By Mr. ROTHMAN:

H.R. 3468. A bill to enable America's schools to use their computer hardware to increase student achievement and prepare students for the 21st century workplace, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ROTHMAN:

H.R. 3469. A bill to prohibit the use of vending machines to sell tobacco products in all locations other than in locations in which the presence of minors is not permitted; to the Committee on Energy and Commerce.

By Mr. ROTHMAN (for himself and Mr. Menendez):

H.R. 3470. A bill to amend the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 to require that, in order to determine that a democratically elected government in Cuba exists, the government extradite to the United States convicted felon Joanne Chesimard and all other individuals who are living in Cuba in order to escape prosecution or confinement for criminal offenses committed in the United States; to the Committee on International Relations.

By Mr. SHAYS (for himself and Mrs. Maloney):

H.R. 3471. A bill to authorize the Secretary of the Interior to conduct a special resource study of the area at or near the footprints of the former World Trade Center towers for possible inclusion in the National Park System to commemorate the tragic events of September 11, 2001; to the Committee on Resources.

By Mr. SMITH of Michigan (for himself, Mr. Stenholm, Mr. Gutknecht, Mr. Rehberg, Mr. Bachus, Mr. Bereuter, Mrs. Jo Ann Davis of Virginia, Mr. Hall, Ms. Eddie Bernice Johnson of Texas, Ms. Lofgren, Mr. Peterson of Minnesota, Mr. Royce, Mr. Ballenger, Mr. Chabot, Mrs. Emerson, Mr. Hyde, Mr. Larson of Connecticut, Mr. Rohrabacher, and Mr. Weller):

H.R. 3472. A bill to establish a Federal interagency task force to promote the benefits, safety, and potential uses of agricultural biotechnology to improve human and animal nutrition, increase crop productivity, and improve agricultural sustainability while ensuring the safety of food and the environment; to the Committee on International Relations, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SULLIVAN (for himself, Mr. Bilirakis, Ms. Ginny Brown-Waite of Florida, Mr. Burgess, Mr. Gingrey, Mr. Janklow, Mr. Keller, Mr. Sessions, Mr. Stearns, Mr. Weldon of Florida, Ms. Berkley, Ms. Corrine Brown of Florida, Mr. Cooper, Mr. Green of Texas, Mr. Scott of Georgia, Mr. Snyder, and Mr. Strickland):

H.R. 3473. A bill to amend title 38, United States Code, to provide that only licensed medical doctors and licensed doctors of osteopathy may perform eye surgery at Department of Veterans Affairs facilities or under contract with the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. VAN HOLLEN (for himself, Mr. Edwards, Mr. Miller of Florida, and Mr. Cunningham):

H.R. 3474. A bill to restore health care coverage to retired members of the uniformed services, and for other purposes; to the Committee on Armed Services, and in addition to the Committees on Government Reform, Ways and Means, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL:

H. Con. Res. 321. Concurrent resolution honoring the service and achievements of the Women Airforce Service Pilots during World War II; to the Committee on Armed Services.

By Mr. SHAW (for himself and Mr. Houghton):

H. Con. Res. 322. Concurrent resolution recognizing November as National Lung Cancer Awareness Month and expressing the sense of Congress that Federal efforts need to increase in the areas of lung cancer screening and research; to the Committee on Energy and Commerce.

By Mrs. DAVIS of California (for herself, Mr. Waxman, Mr. Greenwood, Mr. Walden of Oregon, and Mr. Sweeney):

H. Res. 435. A resolution expressing the sense of the House of Representatives that the Secretary of Health and Human Services should take immediate action to remove dietary supplements containing ephedrine alkaloids from the market; to the Committee on Energy and Commerce.

By Ms. MILLENDER-McDONALD:

H. Res. 436. A resolution honoring the United States Army Volunteer Reserve for its dedicated and distinguished service to veterans and communities in need in the United States; to the Committee on Veterans' Affairs.

MEMORIALS

Under clause 3 of rule XII,

213. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 124 memorializing the United States Congress to pass H.R. 1516; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. CANNON introduced A bill (H.R. 3475) for the relief of Rommel Villanueva Herrera; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. Norwood and Mrs. Maloney.

H.R. 110: Mr: Tiberi.

H.R. 121: Mr. Kucinich.

H.R. 284: Mr. Barton of Texas, Ms. Majette, and Mrs. Northup.

H.R. 364: Mr. Grijalva.

H.R. 365: Mr. Grijalva.

H.R. 716: Mr. Rehberg.

H.R. 738: Mr. Waxman.

H.R. 745: Mr. Miller of North Carolina.

H.R. 806: Mr. Ehlers.

H.R. 811: Mr. Grijalva.

H.R. 839: Mr. Issa, Mr. Levin, Mr. Brady of Texas, Mr. Baker, Mr. Wynn, and Mr. Skelton.

H.R. 850: Mr. Gallegly.

H.R. 857: Mr. Upton, Mr. LoBiondo, and Mr. Wynn.

H.R. 876: Mr. Calvert, Mr. Sessions and Mr. Evans.

H.R. 919: Ms. Bordallo.

H.R. 1081: Mrs. Napolitano.

H.R. 1117: Mr. Doolittle and Mr. Rohrabacher.

H.R. 1160: Mr. Hastings of Washington.

H.R. 1206: Mr. Bartlett of Maryland and Mr. Akin.

H.R. 1212: Mr. Rothman.

H.R. 1285: Mr. Ruppersberger and Ms. Linda T. Sánchez of California.

H.R. 1329: Mr. Dicks.

H.R. 1336: Mr. Schiff, Mr. Sessions, Mr. Kingston, Ms. Bordallo, Mr. Pombo, Mr. Isakson, Mr. Terry, Mr. Pitts, Mr. Sullivan, Mr. Cummings, Mr. Wilson of South Carolina, Mr. Moore, and Mr. Cunningham.

H.R. 1372: Mr. Hastings of Washington, Mrs. Jo Ann Davis of Virginia, and Mr. Blunt.

H.R. 1385: Mr. LYNCH and Mr. KUCINICH.

H.R. 1532: Mr. WHITFIELD, Mr. BILIRAKIS, Mr. ROTHMAN, and Mr. FATTAH.

H.R. 1563: Mr. WAXMAN.

H.R. 1822: Mr. ROYCE, Mr. RADANOVICH, Mr. GARY G. MILLER of California, Mr. OSE, and Ms. ROYBAL-ALLARD.

H.R. 1914: Mr. BAKER.

H.R. 1916: Mr. FORBES.

H.R. 2028: Mr. RAHALL.

H.R. 2178: Mr. HERGER.

H.R. 2237: Mr. CASTLE and Mr. SKELTON.

H.R. 2239: Ms. LOFGREN.

H.R. 2260: Mr. KUCINICH, Mr. VITTER, Mr. BROWN of Ohio, and Mr. OWENS.

H.R. 2303: Mr. FALEOMAVAEGA.

H.R. 2494: Mr. CAMP.

H.R. 2511: Ms. NORTON.

H.R. 2549: Ms. BORDALLO.

H.R. 2568: Mr. PRICE of North Carolina.

H.R. 2579: Mr. GALLEGLY.

H.R. 2582: Mr. KUCINICH.

H.R. 2671: Mr. BLUNT and Mr. REHBERG.

H.R. 2699: Mr. BERRY, Mr. LINDER, Mr. GOODE, and Mr. HASTINGS of Washington.

H.R. 2719: Mrs. DAVIS of California.

H.R. 2743: Mr. PORTER.

H.R. 2768: Mr. LUCAS of Kentucky, Mr. BOOZMAN, Mr. BOYD, Mr. OBERSTAR, Mr. SMITH of Texas, and Mr. STARK.

H.R. 2818: Mr. MCDERMOTT.

H.R. 2821: Mrs. LOWEY and Mr. HYDE.

H.R. 2823: Mr. CUMMINGS, Mr. SMITH of Washington, Mr. GREEN of Texas, Mr. PAYNE, Mr. GOSS, Mr. SIMMONS, Mr. WYNN, and Mr. ORTIZ.

H.R. 2829: Mr. GREEN of Texas.

H.R. 2832: Mr. REHBERG.

H.R. 2873: Mr. GRIJALVA.

H.R. 2928: Mr. QUINN, Mr. BEREUTER, Mr. WEINER, Mr. THOMPSON of California, Mr. BOSWELL, Mr. COSTELLO, and Mr. MATHESON.

H.R. 2948: Mr. MCNULTY.

H.R. 2966: Mr. BEAUPREZ and Mr. SIMPSON.

H.R. 3058: Mr. BRADLEY of New Hampshire.

H.R. 3064: Mr. HINOJOSA and Mr. WILSON of South Carolina.

H.R. 3103: Ms. MCCOLLUM and Mrs. WILSON of New Mexico.

H.R. 3111: Mr. HONDA.

H.R. 3125: Mr. BISHOP of Utah and Mr. JANKLOW.

H.R. 3158: Mr. COSTELLO, Mr. PASTOR, Mr. BECERRA, Mr. OLVER, and Mr. OWENS.

H.R. 3190: Mr. BARRETT of South Carolina.

H.R. 3191: Mr. SULLIVAN, Mr. COLE, Mr. JONES of North Carolina, Mr. BAKER, and Mr. WAMP.

H.R. 3192: Mrs. CHRISTENSEN and Mr. GRIJALVA.

H.R. 3244: Mr. DEFAZIO and Mr. ROTHMAN.

H.R. 3246: Mr. BEREUTER, Mrs. CAPITO, Mr. BOSWELL, Mr. GRAVES, and Mr. PRICE of North Carolina.

H.R. 3272: Mr. BURGESS.

H.R. 3277: Mr. TANNER, Mr. CARDIN, Mr. PETERSON of Pennsylvania, Mr. HOSTETTLER, and Mr. WALSH.

H.R. 3281: Mrs. BLACKBURN.

H.R. 3286: Ms. ROYBAL-ALLARD and Mr. SERRANO.

H.R. 3292: Ms. LOFGREN, Mr. DOGGETT, and Mr. BROWN of Ohio.

H.R. 3339: Mr. COLE.

H.R. 3350: Mr. BRADLEY of New Hampshire.

H.R. 3369: Mr. WAMP.

H.R. 3386: Mr. BROWN of Ohio, and Mr. HASTINGS of Florida.

H.R. 3442: Ms. ROS-LEHTINEN, Mr. ACEVEDO-VILÁ, Mr. TOWNS, Mr. BELL, Mr. SANDERS, Mr. GRIJALVA, Ms. MILLENDER-MCDONALD, Mr. KENNEDY of Rhode Island, Mr. STRICKLAND, Mr. GONZALEZ, Mr. PASTOR, Ms. SCHAKOWSKY, Mr. BACA, Mr. LAMPSON, Mr. RANGEL, Mr. ANDREWS, Mr. CARDOZA, Ms. LORETTA SANCHEZ of California, Mr. RAHALL, Mr. JACKSON of Illinois, Mr. DEFAZIO, Mr. HASTINGS of Florida, Mr. LEWIS of Georgia, Mr. SERRANO, Mr. HINCHEY, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. STARK, Ms. CARSON of Indiana, and Mr. MCNULTY.

H. Con. Res. 78: Mr. BOUCHER.

H. Con. Res. 165: Mr. WAXMAN.

H. Con. Res. 240: Mr. HINCHEY.

H. Con. Res. 247: Mr. SHAW, Mr. SOUDER, and Mr. BLUNT.

H. Con. Res. 285: Mr. MOORE.

H. Con. Res. 299: Mrs. BONO, Mr. CUNNINGHAM, Ms. ROS-LEHTINEN, Mr. TIERNEY, and Ms. MCCOLLUM.

H. Con. Res. 304: Mr. NADLER, Mr. ANDREWS, Mr. GREENWOOD, Mr. WYNN, Mr. SMITH of New Jersey, Mrs. MCCARTHY of New York, Ms. NORTON, Mr. RODRIGUEZ, Mr. WOLF, Mr. SAXTON, Mr. HOEFFEL, Mr. ALLEN, Mr. TERRY, and Mr. MCNULTY.

H. Con. Res. 307: Mr. PORTER.

H. Con. Res. 310: Mr. BARRETT of South Carolina.

H. Con. Res. 313: Mr. FORBES, Mr. SHIMKUS, Mr. MARKEY, Mr. WALSH, MR. FROST, Mr. NUNES, Mr. MCNULTY, Mr. MEEHAN, Mr. COSTELLO, Mr. GALLEGLY, and Mr. SKELTON.

H. Res. 103: Mrs. JO ANN DAVIS of Virginia.

H. Res. 291: Mr. SANDERS and Ms. MCCOLLUM.

H. Res. 371: Mr. MORAN of Virginia, Mr. ENGEL, Mr. KING of New York, and Mr. LEACH.

H. Res. 389: Mr. JOHN, Mr. SANDERS, Mr. TIERNEY, and Mr. SCHIFF.

H. Res. 393: Mrs. BLACKBURN.

H. Res. 410: Mrs. LINDA T. SÁNCHEZ of California.

H. Res. 423: Mr. WAMP.

H. Res. 426: Mr. BISHOP of New York.

SENATE—*Thursday, November 6, 2003*

The Senate met at 9:31 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign God, You have shown us that Your name and Your commands are supreme. You answer when we call and strengthen us for life's trials. The leaders of our world depend upon Your providence. Our Senators reach for Your wisdom. You sustain us and Your promises are certain.

Lord, complete the work You have started in us. Each day, let more people see a clearer image of You in us. Keep us from deviating from the path of strict integrity, and help us to learn to count our many blessings. Free us from the chains of debilitating habits, as we rejoice in Your unfailing love.

And, Lord, place Your armor upon our military men and women and never leave or forsake them.

We pray this in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will begin 60 minutes of morning business. Following that 60-minute period, the Senate will proceed to executive session for the consideration of Executive Calendar No. 310, the nomination of William Pryor to be a United States Circuit Judge for the Eleventh Circuit.

At the conclusion of that debate time, the Senate will proceed to a vote on the motion to invoke cloture on that nomination. I do hope cloture will be invoked and that this qualified nomination could then receive an up-or-down vote of the Senate.

If cloture is not invoked, the Senate will resume consideration of the Agriculture appropriations bill. We made good progress on that bill yesterday, and I hope we can complete that appropriations bill at an early hour today. We will have rollcall votes throughout the day.

A number of Members have inquired about scheduling. I made it clear that it will be important, for us to achieve a departure day of November 21, for us to work 5 days a week, and we will be voting on Mondays and Fridays as we go forward.

It is likely that once we complete Agriculture, we will go to the Internet tax bill, and then I hope we can complete that in a reasonable period of time and we will follow that with the appropriations bills and will continue to address the VA-HUD bill at some point and Commerce-Justice-State. I am working very hard to try to get these appropriations brought across the floor, debated, and completed in a reasonable time.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business with the first 30 minutes under the control of the Democratic leader or his designee and the second 30 minutes under the control of the Senator from Texas or her designee.

Who yields time?

MEDICARE CONFERENCE

Mr. REED. Mr. President, I would like to take a moment to express concern about the current discussion on Medicare, particularly the prescription drug bill. The first point I would make is that the process has been, I think, subverted because all the conferees are not invited to participate in conference meetings. Many of my colleagues in the Democratic caucus who have voted for the bill and are named as conferees have not been given access to all of the deliberations and discussions.

I know Senator BAUCUS and Senator BREAUX have been there and are doing an admirable job representing the viewpoints of the Democratic caucus, but this is not the way procedurally to conduct deliberations on such important measures as Medicare reform and prescription drug benefit for seniors. But those are procedural issues.

The substance also troubles me, particularly the discussion of cost containment, premium support, income relating—all of these are euphemisms but have extremely important consequences in the lives of seniors and, indeed, in the lives of everybody throughout the country.

The conference is examining these proposals and exploring ideas that are not just about prescription drug benefits for seniors. In fact, the conference discussions have taken on a rather controversial cast because we are talking seriously now about Medicare reform. But we are not just talking about Medicare reform; I would argue we are talking about proposals that would perhaps lead to the end of the Medicare program, eventually, as we know it.

Back in 1995, Newt Gingrich said that his approach to Medicare was to let it "wither on the vine," to undercut it, undermine it, underfund it, so that eventually it would become a remnant, not a vital part of the American fabric. That, I fear, might be taking place right now in its first steps.

Of course, as we deliberate these issues with respect to Medicare drug benefits, one major issue that concerns me is that we have allocated $400 billion. That seems like a great deal of money but, frankly, it is not. When we consider, over the 10-year period we are talking about, that seniors will spend $1.8 trillion on pharmaceuticals, $400 billion is not a lot of money. Indeed, compared to what we are spending on some efforts overseas—Iraq being the most prominent at the moment—that $400 billion over 10 years is not an astounding total.

In fact, I would argue it is insufficient to give the benefits that most seniors expect to receive and believe we are discussing at the moment.

One of the particular issues that I am disturbed about is first this notion of cost containment. My impression of cost containment is that we would somehow be able to contain the cost of prescription drugs we are buying and seniors are buying, but that is not the view of the conferees about cost containment.

Cost containment is really Medicare expenditure containment. I think that is a fallacy. If we can't control the cost of pharmaceuticals through market forces, then we will never catch up with the explosion of costs. But then to arbitrarily say we are going to cap what we will put into Medicare, to me, is a fundamentally erroneous approach to this very difficult problem. In fact, the cost containment issue the conference is discussing is not directed precisely at the pharmaceutical program. It is going to be applied across the board to all Medicare expenditures.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Ostensibly, what the conferees are talking about now is capping the general fund contribution to Medicare. There are two sources of financing for the Medicare program. First is the Medicare trust fund, then second is general revenues. The conference position today, I am told, is if our general expenditures exceed 45 percent in any two consecutive years, we arbitrarily stop funding Medicare—not just the pharmaceutical portion, but the whole program. To me, that is the wrong approach—setting arbitrary limits not based upon the health conditions of our seniors but based upon our fiscal situation here in Washington.

Indeed, we all understand that Medicare is an extremely popular program. A Kaiser Family Foundation/Harvard School of Public Health survey found that 80 percent of seniors have a favorable impression of Medicare, and 62 percent believe the program is well run. Seventy-two percent of people age 65 and over thought seniors should be able to continue to get their health insurance coverage through Medicare over private plans.

It is an extremely popular program. It is efficiently run with very low overhead. And it is in danger of being scuttled because we are attempting to apply arbitrary limits to our contributions to Medicare.

There is another aspect that concerns me very much in this whole debate; that is, this notion of premium support. These euphemisms sound innocuous but the consequences could be quite severe to the long-term health and viability of Medicare.

Premium support is the notion that we are going to entice private health insurers to go in and take the place of the Medicare Program. If the market would allow for that, that is great. We want competition and choice. It provides for more efficient allocation of resources. But what the conferees are proposing is a $12 billion slush fund that will favor private companies over the government-run system. I think the only reason we have to do that is, in reality when you look at the Medicare system today, it is in many cases more efficient than private health insurers.

The way these private health insurers are going to be making their money is not to serve every senior, but to be very careful and very selective—to cherry-pick the senior population—and get the healthiest seniors into their plans; and in addition to that, get subsidies from the Federal Government to their bottom line by simply saying we can't make enough money to participate in this market—not that we can't serve enough seniors.

I think that is wrong. That will severely and significantly undercut the Medicare Program.

It has been estimated that a result of premium support will be that rates for seniors across the country will no longer be uniform. They will be variable based upon the region and based upon how many private plans are participating. They could vary from one area to another. Rhode Island and New England is a small area. We could have one rate in East Providence, RI, and 10 minutes away in Massachusetts the rates could be entirely different.

Today, seniors count on predictability, reliability and the certainty that the rates are stable and uniform. We could lose that. That is a major concern of mine.

There is another concern also; that is, the fact that we are on the verge of accepting this notion of means testing. The euphemism of the moment is income relating Medicare Part B premiums. They have laid out a situation where seniors who are making over $80,000 a year would gradually see their Federal subsidy reduced from a current level of 75 percent. Certainly at that level of income there is an argument to be made that seniors can afford to pay more than the majority of seniors whose incomes are much less than $80,000, and are probably closer to $15,000 to $20,000 a year.

We are fracturing the program by means-testing premiums. We are giving incentives for wealthy seniors to ask, Why should I participate at all? This is not a program that helps me. I can get my health insurance coverage in the private market, and I will do that.

The fragmentation—both in terms of geography because of premium support, and in terms of income because of this notion of means testing—will begin that slow, I am afraid, and irreversible process of withering Medicare. It makes no sense.

One of the reasons we enacted the Medicare Program in 1965 was because private health insurance companies would only insure the wealthiest and healthiest seniors, leaving the vast majority of seniors with nothing. The burden of those seniors was the burden of every family in this country.

As I grew up in the 1950s and the 1960s, it was not uncommon to have a grandmother or a grandfather living in your home because they simply could not support their health care needs. They could not support themselves. Medicare changed that more than any other program in this country.

It is widely popular, and based on the simple notion that, first, we are going to provide the benefit equally to all of our seniors. We are not going to fragment it by region or by income. We will provide a system of care. We essentially are going to do what insurance should do—take the broadest possible risk pool of all seniors—healthy seniors, unhealthy seniors, the frail and elderly seniors, and the young and vigorous seniors. They are all going to participate. That is the efficient, fair, and sensible way to do it.

We are on the verge, I fear, of ruining that system—not just for the moment but for all time.

I hope in the next several days we can resolve these issues favorably. But I am concerned if we proceed on this course we will not really be doing anything for seniors, the prescription drug benefit might be illusory, and the long-term effect will be severe and perhaps cause fatal damage to Medicare.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Massachusetts.

NOMINATION OF WILLIAM H. PRYOR

Mr. KENNEDY. I urge my colleagues to vote against cloture on the nomination of William Pryor. Since President Bush came into office, the Senate has confirmed 168 of his nominees and has decided so far not to proceed with only 4. That is a 97.7 percent success rate for the President. It is preposterous to say that Senate Democrats are obstructing the nomination process.

The few nominees who have not received our support are too extreme for lifetime judicial appointments, and Mr. Pryor's nomination illustrates the problem. His views are at the extreme of legal thinking, and he does not deserve appointment to an appellate Federal court that decides so many cases involving basic legal rights and constitutional protections. The people of the Eleventh Circuit deserve a nominee who will follow the rule of law and not use the Federal bench to advance his own extreme ideology.

The issue is not that Mr. Pryor is conservative. We expect a conservative President from a conservative party to select conservative nominees. But Mr. Pryor has spent his career using the law to further an ideological agenda that is clearly at odds with much of the Supreme Court's most important rulings over the last four decades, especially in cases that have made our country a fairer and more inclusive nation for all Americans.

Mr. Pryor's agenda is clear. He is an aggressive supporter of rolling back the power of Congress to remedy violations of civil rights and individual rights. He has urged the repeal of Section 5 of the Voting Rights Act which helps to ensure that no one is denied the right to vote because of their race. He vigorously opposes the constitutional right to privacy and a woman's right to choose. He is an aggressive advocate for the death penalty, even for persons with mental retardation. He dismisses—with contempt—claims of racial bias in the application of the death penalty. He is a strong opponent of gay rights.

Somehow, despite the intensity with which Mr. Pryor holds these views and the many years he has devoted to dismantling these legal rights, we are expected to believe that he will suddenly change course and "follow the law" if he is confirmed to the Eleventh Circuit. Repeating that mantra again and again in the face of his extreme record does not make it credible. Actions speak louder than words, and I will cast my vote based on what Mr. Pryor does, not just on what he says.

Mr. Pryor's supporters say that his views have gained acceptance by the courts, and that his views are well within the legal mainstream. But actions paint a different picture. He has consistently tried to narrow individual rights, far beyond what any court in this land has been willing to hold.

Just this past term, the Supreme Court rejected Mr. Pryor's argument that it was constitutional for Alabama prison guards to handcuff prisoners to "hitching posts" for hours in the summer heat. The court also rejected his argument that States could not be sued for money damages when they violate the Family and Medical Leave Act.

Mr. Pryor's position would have left workers who are fired in violation of the Family and Medical Leave Act without a remedy.

The court rejected his argument that states should be able to criminalize private sexual conduct between consenting adults.

The court rejected his far-reaching argument that counties should have the same immunity from lawsuits that States have.

The court rejected his argument that the right to counsel does not apply to defendants with suspended sentences of imprisonment.

The court rejected Mr. Pryor's view on what constitutes cruel and unusual punishment in the context of the death penalty. The court held, contrary to Mr. Pryor's argument, that subjecting mentally retarded persons to the death penalty violated the Constitution.

Just this spring, even the Eleventh Circuit, a court already dominated by conservative Republican appointees, rejected Mr. Pryor's attempt to evade the Supreme Court's decision. Mr. Pryor tried to prevent a prisoner with an IQ of 65 from raising a claim that he should not be executed, when even the prosecution agreed he was mentally retarded.

This is not a nominee even close to the legal mainstream. His actions in seeking to evade the Supreme Court's decision speak volumes about whether he will obey its decisions if confirmed to the Eleventh Circuit.

Mr. Pryor and his supporters keep saying that he is "following the law," but repeatedly he attempts to make the law, using the Attorney General's office in his state to advance his own personal ideological platform.

If, as his supporters urge, we look to Mr. Pryor's words in considering his nomination, we must review more than just his words before the committee at his confirmation hearing. We have a duty to consider what Mr. Pryor has said about the Supreme Court and the rule of law in other context as well.

Mr. Pryor ridiculed the Supreme Court of the United States for granting a temporary stay of execution in a capital punishment case. Alabama is one of only two States in the Nation that uses the electric chair as its only method of execution. The Supreme Court had agreed to hear the case to decide whether use of the electric chair was cruel and unusual punishment. Mr. Pryor, however, said the court should have refused to consider this constitutional issue. He said the issue "should not be decided by nine octogenarian lawyers who happen to sit on the Supreme Court." Those are his words, and they don't reflect the thoughtfulness that we want and expect in our judges. If Mr. Pryor does not have respect for the Supreme Court, how can we possibly have any confidence that he will respect that court's precedents if he is confirmed to the Court of Appeals?

Finally, Mr. Pryor's nomination does not even belong on the Senate floor at this time. His nomination was rushed through the Judiciary Committee in clear violation of our committee rules on ending debate.

An investigation into Mr. Pryor's controversial role in connection with the Republican Attorney Generals Association was interfered with and cut short by the committee majority and has never been completed. Most of our committee members agreed that the investigation raised serious questions which deserved answers in the committee, and they deserve answers now, before the Senate votes. The Senate is entitled to wonder what the nominee's supporters have to fear from the answers to these questions.

The fundamental question is why—when there are so many qualified attorneys in Alabama—the President chose such a divisive nominee? Why choose a person whose record casts so much doubt as to whether he will follow the rule of law? Why choose a person who can muster only a rating of partially unqualified from the American Bar Association? Why support a nominee who is unwilling to subject key facts in his record to the light of day?

We count on Federal judges to be open-minded and fair and to have the highest integrity. We count on them to follow the law.

Mr. Pryor has a first amendment right to pursue his agenda as a lawyer or an advocate, but he does not have the open-mindedness and fairness essential to be a Federal judge. I urge my colleagues to vote against ending debate on this nomination.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENSIGN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. ENSIGN. Madam President, this morning I rise to talk about what has been happening in this Chamber with regard to judicial nominations, and especially those nominations that have been put forward by the President with respect to the circuit courts.

The court of appeals is that branch in our Federal court system which is directly under the Supreme Court, an incredibly important place where a lot of judicial precedent is set.

We have had several judges being filibustered this year by the other side; just recently, Charles Pickering, a wonderful man with incredible qualifications, incredible political courage. With all the debate that happened about him and his qualifications—people can check the CONGRESSIONAL RECORD for it—but the bottom line is this man deserves an up-or-down vote. If he is granted an up-or-down vote, he would be approved because he was able to get 54 votes against 43 negative votes. Unfortunately, there is a minority in the Senate choosing to filibuster. That 54 votes should be enough to put him on the circuit court where he deserves to be.

I have no objection to people voting against judges. That is their right to do under the Constitution. But the Constitution specifically spells out only five instances where a supermajority is required in the Senate for approval, and moving to the consideration or the approval of the President's judicial nominees is not on that list.

Why is this debate so important to have on whether we should allow the Senate to filibuster judges or whether we should just have straight up-or-down votes on judges after a good amount of debate? If one side, meaning one political party, chooses to filibuster judges, the other side is going to be forced to filibuster. In other words, a precedent is set.

Someday the Democrats will get back in power in the White House and will be sending judges up to this body, and if they continue to filibuster the President's nominees, a precedent will be set, and our side will have no choice but to filibuster their judges. The reason is very simple: If they filibuster more conservative type judges, and we do not filibuster theirs, our court system will just go further and further to the left.

Politics and the judiciary—we are supposed to try to separate those as much as possible, even though it is impossible to completely separate them.

So, Madam President, I appeal to our colleagues on the other side that this obstructionism purely for political gain is a dangerous precedent to set in the Senate. We need to become statesmen in this body and do what is right for our Republic. This is really about the future of our Republic. Judges and the third branch of our Government have to have somewhat independence from the legislative branch and from the executive branch. It is critical, I believe, that we have a fair process going forward.

The system really is broken at this point. Another problem we are going to face in the future by staging this political battle on judges is that good people are not going to want to go through the nomination. Miguel Estrada is the perfect example. He was an extraordinary nominee who would have made an extraordinary judge and the ugliness this process has become resulted in him asking the President to withdraw his nomination. The toll of was too great on him and on his family. He could not take it anymore.

If we continue to drag more nominees through this political mess, it is going to be harder to get good people, the kind of people we want serving on the bench.

I make this appeal to my colleagues: This nonsense going on with filibustering circuit court judges needs to stop. I respect the fact that Senators want complete debate. We should have full debate on judges. But once they have their full debate, their complete investigation, questions are asked and answered, then we need an up-or-down vote, straight up-or-down vote. There is no place in the judicial nomination process for filibustering. If we do not correct this problem, and fix this broken process the future our judicial system will be hurt and it will be a great disservice to all Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

HEALTHY FORESTS LEGISLATION

Mr. CRAPO. Madam President, I rise to speak about the Healthy Forests legislation which we recently passed on the Senate floor. Since we passed it—I remind everyone it was a strong bipartisan effort which resulted in 80 votes out of 100 votes in the Senate supporting this effort—we have now run into further procedural snags. As I was sitting here listening to the Senator from Nevada talk about the snag we have run into with regard to trying to get votes on judges, I was reminded of the similarity.

It took us a long time to get this bill to the Senate floor, the Healthy Forests legislation. The process we went through was one in which I believe we showed America how we should be working together in a bipartisan fashion to cross party lines, cross regional lines, and build broad support for meaningful legislation to solve a serious problem.

We did that. We had a bipartisan coalition that came forward with a strong bill. I will talk a little bit about what the bill would mean to America. We passed it in the Senate with 80 votes. Yet today we are stalled in being able to move forward and appoint conferees to get together with the House and work out the differences between the two bills and come forward with strong legislation.

Unfortunately, this procedural maneuver of stopping us from being able to move forward into a conference with the House is simply another mechanism similar to a filibuster. In fact, it might ultimately be backed up by a filibuster to stop us from procedurally being able to move forward on important legislation. In effect, it allows anybody who wants to to vote for the bill, knowing it is going to be stalled and that we will not allow it to then go to conference and keep moving forward.

The Healthy Forests legislation is critically needed. I just received the most recent analysis of the statistics. When we debated the bill, we talked a lot about the damage going on in California with the wildfires then burning there. Just to remind everybody about what those fires meant, a study I have in front of me evaluates just 4 of the 13 fires that were burning in California last week as we considered the legislation.

The estimated cost to date—which is not finished—of fighting just those 4 fires is $65.8 million. That is 4 of the 13 fires in California. When you look at the rest of the country, as I discussed in the debate last week, we have burned 3.8 million acres in America this year. Last year it was nearly 7 million acres. The year before, it was over 3 million, and the year before that, it was over 7 million acres. The running 9-year average for the number of acres we have burned in our forests is 4.9 million acres per year.

The Forest Service estimates over 100 million acres of forest lands are at unnaturally high risk of catastrophic wildfires and large insect-disease outbreaks because of unhealthy forest conditions. Again, just looking at those 4 fires in California, $65.8 million worth of cost to fight them so far, 1,622 structures lost. We all know there were many lives lost in those fires. There were lives lost in Idaho this year fighting fires, my State. I am sure if other Senators from the States in which these fires are burning could be here right now, they would point out the damage in their States, not only from the cost of fighting the fires but in terms of the loss of life and the loss of property.

It is important we move ahead with this legislation. I am here to call on my colleagues from the Democratic side of the aisle to work with us again, as we worked in bringing forward the bill, to go into conference and work to achieve the objectives of this legislation.

Some have said: Let's just send our bill to the House and tell the House it must accept our bill. It is our bill or no bill.

Frankly, our constitutional Framers set up a system of government in which there are two Houses of Congress: the Senate and the House of Representatives. I don't think it is realistic for the Senate to simply say to the House you have to take our bill, and not only do you have to take our bill, but we are not going to conference with you if you won't take our bill as is.

I understand the desire by those who negotiated with us to reach the compromise, to build a bipartisan solution, to try to keep the bill we negotiated here intact to the maximum extent possible. In fact, in our negotiations, I committed to them that is what my objective would be if I am able to be on the conference committee. I believe each one of our Senate conferees will fight to the best of their ability to make sure we keep intact the Senate version of this bill. It was a good bill. It had a strong vote. But we must recognize the reality that in order to achieve legislation in this country, both Houses of Congress are entitled to work on the final product.

The refusal to go into conference until there is an agreement in advance that the House will take the Senate bill is a position which could be taken on every bill. If you think about it, every piece of legislation that goes through the Senate, one would think the Senators would prefer over the House. People in the Senate could simply take the position we will not go into conference with the House unless they will take our version of the bill.

If you think about it a little further, it becomes immediately apparent the House could do the same thing. The House could say to the Senate: We are not going to go into conference with you unless you take our bill.

The reality of the way our constitutional system operates is, we have a conference committee between the House and Senate. We work out our differences. We try to come forward with a bill that brings forward the maximum strengths of both systems. Then we come back to both bodies. The Senators in the Senate, the Congressmen in the House, will each then have another chance to register their opinion. If they believe they didn't get a sufficient amount of what they were hoping to see in the legislation, they, again, in the Senate, have the opportunity for a filibuster or to simply vote no on the legislation if they don't want to support it. But to stop us from even being able to take the next procedural step to go to the House and go into conference and try to see what kind of legislation we can come up with to address these critical issues is, in my opinion, inappropriate.

Again, I call on all my colleagues to step forward and allow us to move to the next procedural step to go into conference with the House and work on this critical legislation.

What does it do? This legislation reflects a comprehensive effort to focus on forest health. As I indicated, we have over 100 million acres in America today that are at an unnaturally high level of risk for fire or insect infestation.

The average loss of acres to fires alone is 5.4 million acres per year. In this bill, we put together a comprehensive effort to improve the health of our forests in terms of both the risk of fire and insect infestation. We will lower the number of catastrophic fires. We will establish new conservation programs to improve water quality and regenerate declining forest ecosystems. We will protect the health of the forests by establishing an accelerated plan to promote information on forest-damaging insects and related diseases. Endangered species, community and homes of Americans will be safeguarded through the stewardship of these forest lands.

We are going to establish a new predecisional administrative review process and allow for additional analysis under NEPA. We are going to improve the management tools available to our forest managers so they can get scientifically supported management practices implemented on our forest lands.

We will direct the Secretary of Agriculture to give priority to communities and watersheds in hazardous fuel reduction projects. We are going to have language in there for the first time ever in this country that specifically protects old-growth forests. We have language to expedite the judicial review process so that we end the litigation paralysis that is probably the most significant thing that is stopping us from effective forest management implementation.

Finally, we are going to significantly increase the resources we are putting into healthy forest management. I just told the number of dollars we are spending on fighting fires—on the fires in California. That was approximately $66 million. We are going to put in $760 million annually to help us manage our forests nationwide and preserve these incredible environmental gems for our future while maintaining our ability to have the kind of natural-resource-based economies that grow up around our forests.

Madam President, this is a critical issue; it is critical whether one is concerned about environmental aspects, health and safety aspects, loss of life, loss of property, or simply the loss of our incredibly wonderful Federal forests.

Again, I call on my colleagues to stop the procedural maneuvers that are prohibiting us from proceeding to a conference with the House. At this point, I will conclude my remarks and yield the remainder of my time to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, how much time remains?

The PRESIDING OFFICER. There are 13 minutes remaining.

CARE AND TREATMENT OF RETURNING GUARD AND RESERVE FORCES

Mr. BOND. Madam President, a couple of weeks ago we received reports from inquiring UPI reporter Mark Benjamin and a very active veterans advocate Steve Robinson, director of the National Gulf War Resource Center, that there was a significant problem with the care and treatment of returning guardsmen and reserves coming back from Iraq and Afghanistan to Fort Stewart, GA. There were, at the time, indications that some of the Guard and Reserve perceived they were not getting the same priority of care, treatment, and housing as was received by those who had been on active duty before they were sent to the combat theater.

So working with my colleague, Senator LEAHY, with whom I cochair the National Guard caucus, we sent our military LAs to visit Fort Stewart, GA, and on to Fort Knox and Fort Campbell, KY. We wanted to visit other sites and will continue to visit other sites to see if the problems at Fort Stewart were isolated or were they present at other Army mobilization and demobilization sites.

What Senator LEAHY and I found is detailed in the report. I ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BOND. Madam President, I don't have time to go over the entire report, but I think many colleagues will find it of interest to know what we experienced.

First, let me say that the Army was very open and responsive to our staff when they came to review the situation. They were most anxious to have us get a complete look at the situation and to offer to help in any way they could. So they recognized there was a problem.

Basically, there are not enough medical personnel—doctors, clinicians, support staff, specialists—available during "peak" mobilization and demobilization phases at a number of mobilization sites. Consequently, injured and ill soldiers have a difficult time scheduling appointments with medical care providers and seeing the specialists required to get the best possible care. Some of them had been waiting literally months to get the kind of care they deserve.

Compounding the problem, large numbers of soldiers either mobilizing or demobilizing created shortages of available housing at mobilization sites, which resulted in some of the returning guards and reservists being placed in housing totally inadequate for their medical condition. Some of these Guard and Reserve members who had been activated and were coming back were put in temporary barracks, with outside latrines, where they normally would house Guard or Reserve members called up for summer maneuvers.

We could neither confirm nor deny that there was any difference in medical treatment between the returning formerly Active and Guard and Reserve soldiers coming back, but one of the things that was different when the Active came back to the bases from which they had been mobilized was that they already had their housing, so they could go back to the housing from which they started. The Guard and Reserve coming back from service had to be put in some form of temporary housing, which, in some instances, was clearly inadequate for people with injuries or illnesses.

So what is being done? Senator LEAHY and I issued the report to highlight the problems to senior leaders at the Army, National Guard, and the Army Reserve. I was very encouraged by the response the military gave us. The Acting Secretary of the Army, Les Brownlee, visited Fort Stewart on Saturday, the weekend after we sent our teams there. He met with me last week to lay out his plans for dealing with the situation. He recounted what he discovered at Fort Stewart and promised swift support and changes, where necessary.

Specific issues addressed by Secretary Brownlee included the adequacy of facilities and where they would get treatment. He said, if appropriate, soldiers will be moved to facilities where they can provide more timely care. We suggested that if they don't have the medical personnel available there, why not send them someplace else. He said he would encourage the commands to contract out for special services, such as MRIs, for example. If they don't have the equipment, they can contract out.

I also asked the Secretary to allow soldiers in a medical hold status to be moved to facilities closer to their home, using military, veterans health administration, or civilian providers, as necessary. Secretary Brownlee told me some of the soldiers at Fort Stewart had already been moved to nearby

Fort Gordon, where the medical staff was not so badly overworked. Also, at his direction, the Army Medical Command is transferring medical care clinicians to mobilization sites that need them.

The Secretary has also established minimum standards for housing in medical hold status. He said, No. 1, facilities will be climate controlled, meaning air-conditioned and heated. Some of the facilities didn't have that. Second, facilities must have showers and restrooms indoors, and not a path in the back, and facilities must be clean and in good repair. The Secretary also indicated he is considering erecting prefab facilities to alleviate the housing shortages during mobilization and demobilization surges that could be used to house medical hold soldiers.

Secretary Brownlee has issued policy guidance that allows the Army to deactivate Guard and Reserve personnel who do not meet the physical requirements for deployment due to a preexisting condition. One of the problems at Fort Stewart was the fact that some 10 percent of the Guard and Reserve called up had not had adequate precallup medical care, a situation we are addressing with the TRICARE measures, and they could not be deployed. They were then the responsibility of the Army at Fort Stewart, and at the time we were there, a third of the 650 soldiers on medical hold had never even been deployed because they did not meet the standards for deployment. Those people will be sent home rather than kept on medical hold.

Also, after meeting with Secretary Brownlee, I followed up with LTG Steven Blum, Chief of the National Guard Bureau and LTG James Helmly, Chief of the Army Reserve, asking them to work with the Army in resolving these issues. Specifically, we asked their cooperation:

No. 1, by doing a better job medically prescreening Guard and Reserve soldiers so they do not activate soldiers who cannot serve.

No. 2, to coordinate the callup and retention of medical personnel—clinicians, support staff, specialists—to ensure the Army mobilization sites have sufficient medical personnel onsite.

I saw in the news today where the Department of Defense is looking to call up certain support personnel from other Reserve units, other than the Army, to provide perhaps naval medical personnel to assist with caring for the sick and injured soldiers.

No. 3, we asked them to check on Guard and Reserve soldiers who are on medical hold, making sure somebody was looking after them, to let them know they have not been forgotten, or to find out if they have other needs.

Further, Senator LEAHY and I have asked the GAO to conduct a survey into the Army's medical hold process to ascertain the breadth of the problems that we saw at Fort Stewart and Fort Knox, and to determine if there is any disparity in medical treatment of returning guardsmen and reservists who come back in demobilization and have health care problems.

It is our understanding that the Senate Armed Services Committee, as well as its House counterpart, is going to conduct hearings into the conditions uncovered by Mark Benjamin and confirmed by Senator LEAHY's and my investigation, but I regret very much, as all of us do, that this situation has occurred. It is unacceptable to all of us to think that injured, ill soldiers returning from the theater of battle would not get the medical care they need, would not be placed in appropriate housing.

Once it came to our attention and we brought it to the Army's attention, we are very encouraged by the way everybody is handling this, from the garrison commanders and medical directors to mobilization staff to the Acting Secretary of the Army. This is a matter of taking care of our soldiers regardless of whether they are traditional active-duty soldiers or National Guard and Army Reserve soldiers.

Senator LEAHY and I are going to continue to monitor the progress of the Army in addressing these issues. We plan on sending staff to additional mobilization sites in the next few weeks and months to make sure there are no problems. We know that in the next few months the National Guard and Reserve will be mobilizing thousands of additional troops. We want to make sure the Army gets it right and keeps it right. The next mobilization schedule is to begin in the January–April timeframe, which means when they go, we want to make sure soldiers get timely care and housing, suitable to getting well, no exceptions.

We know the Army knows of the problems and is aggressively tackling them. We expect garrison commanders at mobilization sites to continue to do their best, and we will continue to support them, as well as every soldier in the war on terrorism. We owe a great debt of gratitude to our fighting men and women. They have and deserve our highest regard and respect. We will do all we can to ensure they get the kind of care we would expect for them.

I thank the Chair, and I yield the floor.

EXHIBIT 1

U.S. SENATE NATIONAL GUARD CAUCUS REPORT

Senators Kit Bond and Patrick Leahy, cochairs of the U.S. Senate National Guard Caucus, dispatched their aides to Ft. Stewart to investigate reports that activated Guard and Reserve members were being poorly housed, with inadequate medical attention, while on "medical hold."

SUMMARY

Approximately 650 members of the National Guard and the Army Reserve who have answered the call-to-duty and in many cases were wounded, injured or became ill while serving in Iraq, are currently on medical hold at Ft. Stewart, GA. Army base. As a result of an investigation by a reporter and expeditious follow-up by a veteran service organization representative it has come to our attention that these National Guard and Army Reserve soldiers have been receiving inadequate medical attention and counsel while being housed in living accommodations totally inappropriate to their condition. Of the roughly 650 injured soldiers currently awaiting medical care and follow-up evaluations, approximately one-third of these soldiers were found not physically qualified for deployment and therefore never deployed overseas. The remaining two-thirds deployed overseas and were returned to Ft. Stewart as a result of wounds or injuries sustained while serving or as the result of illness encountered either before or after deployment. Regardless of the nature of the medical malady, these soldiers have been enduring unacceptable conditions for as many as 10 months.

The return of the 3rd Infantry Division from the Middle East (18,000-strong which is permanently stationed at the base), has forced commanders to lease barracks from the Georgia National Guard that were designed as temporary quarters for National Guard soldiers undergoing annual training. They are not designed to accommodate wounded, injured or ill soldiers awaiting medical care and evaluation. The Army has designed a Disability Evaluation System that is purposely slow to ensure that National Guard and Army Reserve citizen-soldiers who are found not physically qualified for duty receive a fair and impartial review when undergoing a medical evaluation board. The process, similar in many respects to the workmen's compensation process, requires that these soldiers be given every opportunity to recover. If full recovery is not possible, the system works to establish a baseline condition before the soldier is evaluated by a medical evaluation board.

The situation at Ft. Stewart unfortunately was, and remains, hampered by an insufficient number of medical clinicians and specialists, which has caused excessive delays in the delivery of care. Exacerbating the situation, was the Army's placement of wounded and injured soldiers in housing totally unsuitable for their medical condition. Additionally, these soldiers were placed under the leadership of soldiers who were also injured, resulting in a situation where the sick and injured were leading the sick and injured. Furthermore, the perception among these soldiers is that the traditional active duty soldier is receiving better care, compounding an already deteriorating situation that had a devastating and negative impact on morale. Most of the soldiers in the medical hold battalion, which was established administratively to provide a military structure for the soldiers, have families living within hundreds of miles; yet they have been unable to join their families while awaiting the final deliberation of their cases.

In the short term, we must alleviate the unacceptable conditions at Ft. Stewart and determine if the problem is isolated to Ft. Stewart alone or part of a larger system wide problem.

Alleviating the problem at Ft. Stewart will require the immediate assignment of additional medical clinicians, specialists and medical support personnel and/or the transfer, where appropriate, of our National

Guard and Army Reserve soldiers to faculties close to their families so they can continue to receive quality care and await further medical reviews if necessary in an environment conducive to healing. We must also ensure that the conditions at Ft. Stewart are not replicated elsewhere, while ensuring the fixes we install at Ft. Stewart are applied throughout the Army if necessary. In the long term, the Congress must address the physical readiness of the National Guard and the Reserve by passage of a pending bill, TRICARE for Guard and Reservists, to ensure that every member of the Guard and Reserves has adequate health insurance coverage and is medically ready to deploy.

FUNDAMENTAL PROBLEM

More than 650 members of the National Guard and Army Reserve, who have been activated and put on active duty (some of whom have already served in Iraq or Afghanistan) are currently on medical hold at Ft. Stewart, GA. These numbers change almost daily as some soldiers are returned to duty, others receive medical evaluations for medical conditions that prohibit their continued service on active duty, while more soldiers are brought into the system (the result of sustaining injuries, wounds or falling ill overseas; or failing to qualify for deployment after being mobilized because of injuries or preexisting conditions.)

About one-third of the citizen-soldiers currently in the disability evaluation system at Ft. Stewart could not originally deploy with their units because they were not medically fit, while approximately two-thirds were injured, wounded or fell ill while on deployment overseas and were returned stateside to receive special medical attention. When the 3rd Infantry Division, which is based at Ft. Stewart, returned from its deployment in Iraq, available housing was in short supply which resulted in those on medical hold being moved from one barracks to another in a form of musical housing. The U.S. Army resorted to leasing open-bay barracks with detached restroom facilities and no air-conditioning in most cases, which are normally used to house Georgia National Guard troops during their two weeks of annual training.

These National Guard and Army Reserve soldiers have been kept in place at Ft. Stewart according to standard Army policy while they await medical care and work-ups, which senior officials say is designed to protect their careers and ensure they receive the best medical care. The goal is to put these medically held Reserve soldiers in a holding pattern until they are healthy enough to return to duty and go back to their units or to prevent soldiers from being permanently discharged from service until the nature of their conditions have been fully assessed and optimal treatment regime prescribed. When soldiers cannot return to duty, a final determination about their status is made by a Medical Evaluation Board (MEB). The MEB process can take anywhere from an average of 42 days to 76 days after the soldier's treatment has been "optimized." That is when a sufficient diagnosis and treatment regime has been put in place to establish enough confidence to make a decision. Some troops have been on medical hold for more than 10 months.

The primary task of the Army Medical Department is to return these soldiers to duty. While undergoing medical care and reviews they can be assigned light duty around the post. Adequate convalescence requires a great deal of rest in most cases and cannot be properly pursued if there are unnecessary life stressors, such as placement in housing that is designed to house "healthy" National Guard forces on annual training—not injured, wounded or ill soldiers.

The barracks for these medically held National Guard and Army Reservists are totally inappropriate for soldiers injured, wounded or ill who are in need of quality care and are garrisoned in a stateside Army installation. The worst accommodations to which these medically challenged soldiers were subjected are 1950s-style, concrete-foundation barracks with no air-conditioning or insulation and detached toilets and shower facilities, though they do have heat. On a relatively cooler day in the area (October 22nd), the temperature in one of these huts was noticeably warm if not stifling. Bunks sit in open bays, no more three feet apart. In some cases, there are no footlockers for the troops to store their gear. In a few of the better barracks, for soldiers with more severe medical conditions, there is air conditioning, indoor-plumbing, and storage space.

The fundamental problem, as summarized colorfully by one of the base commanders, is that soldiers are going through a "go slow medical review system while living in 'get them the hell out of here barracks.'" Many of the medically held reservists—mostly from Southern states like Georgia, Alabama, and Florida—expressed frustration and anger over the duration of their medical hold and the quality of their housing while in this seemingly interminable holding pattern.

COMPLICATING FACTORS

Feeding these justifiable frustrations are several real and perceived considerations regarding their medical care and treatment on the base.

There has been a shortage of clinicians and specialists to see the medically held Reservists and to accelerate the review and treatment process. At various points over the past several months there may have been only a handful of doctors to care for these hundreds of troops, as well as to assist with regular forces and their families. Most reserve doctors called to active duty were deployed forward, and those remaining in the states can stay on duty for only 90 days before returning to their civilian practices. One soldier on medical hold said it took him almost three weeks to get a follow-on appointment necessary to optimize his care.

Further feeding the anger and frustration is inadequate leadership. Typically, a soldier will receive advice, counsel, and assistance in accessing the military's health system from the soldiers's unit or from upper echelon chain-of-command. The units of the medically held reservists, however, have deployed abroad in most cases, and their commanders are focused on their operational mission overseas. The Reservists at Ft. Stewart have been grouped together in a "medical hold" battalion for administrative purposes but the effectiveness of the unit chain of command is suspect.

Additionally, many of the battalion leaders—at the officer and NCO level—are sick themselves, raising the question of whether these leaders are capable to care for themselves, let alone hundreds of their comrades. Without a familiar advisor and leader, deployed away from home and their parent National Guard or Army Reserve commands, and lacking experience dealing with a huge bureaucracy like the Army, these Reservists were left without the leadership to which they were accustomed.

Moreover, many of the medically held Reservists perceive bias against them on the post. Whenever they go the hospital, PX, or dining hall, they are asked whether they are a Reservist or a traditional active duty service member. This question is made for accounting purposes, but it makes the Reservists—many of whom are likely disappointed about being on sick call in the first place—feel like they are being singled out. Similarly, many of the medically held Reservists, lacking sufficient knowledge of the military's medical bureaucracy, chalk up delays in treatment to preferential treatment for active forces.

AN AVOIDABLE SITUATION

This situation could have been avoided. In early June, medical and garrison staff realized that there would be a surge in housing needs when the 3rd Infantry Division returned from Iraq. The division was manned at over 115 percent authorized strength, which would force commanders to use triple bunks to accommodate 6500 troops in their barracks that usually hold about 4300. These commanders recognized then that these permanently assigned troops would have to take priority over the troops temporarily at the post on medical hold. Six weeks ago, medical staff submitted a request up the chain-of-command for 18 additional care providers who could help manage and accelerate the reviews of the medical holds. No action was taken on the request.

At about the same time, the garrison commander submitted a request to 1st Army Headquarters at Ft. MacPherson, Georgia, for additional funds to renovate the barracks that are leased from the Georgia National Guard. The command provided $4 million, divided into two parts, but the prospective contractors could not begin work until this week. That project, which would have taken 90 days at the very least, was postponed pending the outcome of the investigations the Army has currently undertaken after media reports about the medical hold situation surfaced.

Additionally, it is reported that the Army had the opportunity in the initial stages of the mobilization process to provide for rear-detachment elements staffed by National Guard personnel. These elements are designed to provide stateside oversight and support to National Guard personnel and units deployed overseas. Had they been present it is possible the conditions described herein might have been identified and rectified before they reached a crisis point.

MEDICAL READINESS OF THE GUARD AND RESERVES

It is clear that part of the situation was created by the fact that some of the mobilized reservists were not as healthy as possible. Almost ten percent of Guard/Reserve personnel mobilized for duty at Ft. Steward could not deploy because of a medical condition and were put on medical hold status for some period of time.

In the barracks visits, there were also troubling indications that a handful of Reservists were knowingly activated and sent to mobilize with medical conditions that would preclude them from actually deploying. Such an unjustified deployment might have been designed to take advantage of the fact that once soldiers are activated (put on active duty orders) they become the full-scale responsibility of the U.S. Army. The service is then charged with their care and feeding to include medical care and medical evaluations.

The hundreds of Reservists who could not deploy because they were medically unready raises a number of larger questions, which the caucus has already begun to address through its effort to ensure every member of the Guard and Reserves has adequate health insurance. The caucus will continue to address the issue in detail during its ongoing investigation of the medical readiness and mobilizations, examining questions like whether the resources and process for screening at the unit level within the National Guard and Army Reserve ranks are sufficient, and how to explain the recall of soldiers to active duty who are not fit for duty.

RECOMMENDATIONS

There are a number of actions that the Army must take to address this situation at Ft. Stewart and the larger issue of "medical holds," which will continue to arise as the country pursues the war against terrorism and sustains operations in Iraq, Afghanistan and other areas where military forces are operating.

In the short term, the Army National Guard and the Army Reserve must jointly provide for the leadership, guidance and medical care our Reservists require to operate at maximum proficiency. These dedicated and loyal soldiers need to know what to expect in the medical review process. They need to understand thoroughly the Army's health care system, warts and all. This strong, steady leadership must have the goal of reaffirming the Army's seamless support for the "Army of One" and the country's gratitude for their service and sacrifice, reassuring them that they are not forgotten despite the fact they are separated from their units.

To move the Reservists along to a Medical Evaluation Board if required, many more doctors need to be assigned to Ft. Stewart and, specifically, to these cases. The biggest delay in getting the Reservists off medical hold is the wait to optimize care. Many soldiers are seeing a different doctor every time they enter the hospital, each of whom may prescribe a different remedy. Additional doctors and specialists, who could help coordinate care, would provide greater continuity-of-care, one of the central reasons to keep them at their mobilization station in the first place.

It is unacceptable to have these citizen-soldiers—every one of whom answered the call-to-duty—living in such inadequate housing. However, more adequate barracks cannot be completed quickly because it will take almost three months to complete any upgrades. Other 3rd Infantry Division barracks are unlikely to become available soon.

It would be far better to send these troops back home. They could be assigned to another Military Treatment Facility (MTF), a State Area Command (STARC) or possibly a VHA medical facility closer to their families. Liaisons from the TRICARE management authority could ensure that they are receiving adequate care and that they would be available to return to Ft. Stewart if they get better and can return to duty. The benefit to morale among the medically held Reservists would far outweigh any of the unlikely risks that might go along with moving troops away from their mobilization station. Current Army Regulation 40-501 directs medically held soldiers to remain near their mobilization post, but there is no statutory restriction against assigning them to another facility close to home.

In the longer-term, the Army, working together with the leadership of the National Guard and the Army Reserve, must ensure that our citizen-soldiers who are identified for activation are medically ready to deploy. Enactment of the cost-share TRICARE proposal for Reservists, currently attached to the Senate version of the Fiscal Year 2004 Supplemental Spending Bill for Iraq and Afghanistan, would ensure that every member of the Reserves has access to health insurance and would increase the likelihood that citizen-soldiers are medically and physically ready for duty.

Currently, reservists are required to complete a physical once every five years. The high percentage of reservists found to be physically unable to deploy raises the questions of whether this five-year interval is too long. Another question the Caucus may want to raise, is the Army's mobilization and demobilization policy sufficient in providing a housing standard for soldiers on medical hold? Furthermore, is the working relationship between the Army's medical department and the Veterans Health Administration (VHA) structured to allow for the transfer of soldiers on medical hold from Army military facilities to VHA facilities? Also, new medical case management software included in the second version of the military's Composite Health Care System (CHCS II) will permit continuity-of-care wherever a soldier accesses care. Guard and Reserve units across the country could assign liaisons to help manage a Reservist's care and maintain contact with their mobilization base at any point.

Lastly, it has been reported that architectural hardware and software exist that will allow the Army to equip its hospitals, dining halls, and commissaries with scanners that could read an ID that can show whether a member of the service is from the active component or the Reserves. Perhaps the Caucus should look at such systems as a means of addressing the perceived bias that exists when reservists are queried about their service status.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank Senator BOND for his leadership on veterans issues throughout this Congress, as he always does. I have been over to Walter Reed Army Hospital on three different occasions. Families tell me they are being treated extremely well. The soldiers are very complimentary of the health care they have received, but there have been some problems.

It is important we make sure every soldier injured in the service of the United States of America be given the best medical care, wherever he or she is in this country.

I salute Senator BOND for his work in that regard. We want to make sure that happens. I believe it is happening, at least in the areas I have personally examined. We will continue to monitor them.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF WILLIAM H. PRYOR, JR., TO BE UNITED STATES CIRCUIT JUDGE

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider Calendar No. 310, which the clerk will report.

The assistant legislative clerk read the nomination of William H. Pryor, Jr., of Alabama, to be United States Circuit Judge for the Eleventh Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes equally divided for debate on the nomination prior to the vote on the motion to invoke cloture.

The Senator from Alabama.

Mr. SESSIONS. Madam President, I am pleased to be here today to seek an up-or-down vote on the attorney general of Alabama, Bill Pryor, who has been nominated to the Eleventh Circuit Court of Appeals of the United States of America. Chairman HATCH is, at this moment, chairing the Senate Judiciary Committee. He is not able to be here at this moment, but he wants to make a statement because he feels very strongly that Bill Pryor is an extraordinarily qualified individual, as I do.

I had the honor of having Bill Pryor work for me. I had not known him until shortly before I was elected attorney general of Alabama in 1994. I talked with him about coming to work with me. He had been with two of the best law firms in Birmingham. He was a partner in a highly successful law firm. He knew financially it would be a cut for him and his family, but he decided to come to Montgomery to be chief of constitutional and special litigation and to help improve the legal system in America.

As I have said before, I have not known a single individual in my history of practicing law who is more committed, more dedicated, has more integrity about the issues that are important to the legal system of America, a man who is more committed to improving the rule of law in America. Bill Pryor is that kind of person. He is a decent family man. He is a principled church man. He is a person who believes the law is something that ought to be followed.

In fact, right now, he has found himself, as is his duty as attorney general, to bring the case brought by the judicial inquiry commission in Alabama against Judge Moore, the chief justice of the Alabama Supreme Court, whom the judicial inquiry commission charged with not complying with a Federal court order. Here he is doing his duty again, as he has done time and again, even when it was not politically popular to do so. Even when conservative friends and Republican friends very much disapproved, he has tried to identify what the law is. He is committed to doing what the law says, and he has proven it time and again.

Bill Pryor grew up in Mobile, AL. His father was band director at McGill-Toolen High School, a wonderful Catholic high school in Mobile.

He was raised in the church. His mother taught at an African-American school. His family considered themselves Kennedy Democrats in the 1960s. That is the way he was raised. He went to law school at Tulane University, one of America's great law schools. He graduated magna cum laude at that fine law school, at the top of his class, and his fellow members of the Tulane Law Review elected him editor in chief, the finest honor any graduating senior in a law school can obtain, to be named editor in chief of the Law Review. He did an extraordinary job with that.

Upon his graduation, he applied for and was hired to be a law clerk for the Fifth Circuit Court of Appeals, the sister circuit to the Eleventh Circuit Court of Appeals, which he would sit on when he is confirmed. He clerked for one of the legends of the Fifth Circuit, Judge John Minor Wisdom, who was probably, more than any other judge—Judge Rives, Judge Tuttle, and Judge Wisdom are the judges who have been credited with changing and breaking down the rules of segregation in the South during a very difficult period.

Judge Wisdom has always had the most superior law clerks. They come from all over the country, and yet he selected Bill Pryor, and Attorney General Pryor remained a great admirer of Judge Wisdom.

I say that to say the charges that have been brought against him just do not ring true. The things that are said about Bill Pryor do not reflect the man we know in Alabama, do not reflect the qualities of the individual known in this State of Alabama by Democrats, Republicans, African Americans, Whites, everybody in the State. They know him. They know the quality of his integrity. They know his commitment to law. Of that, they have no doubt. There is no doubt about this.

So what do we have? We have a group Senator HATCH often calls the "usual suspects." We have groups that are attack groups. They go into people's records and backgrounds and they seek any way they can to distort a person's record, caricature them as something they are not, and then come up to this Senate and ask us, based on distorted and dishonest information, to vote them down. That is not right.

What has been done to Bill Pryor and several other nominees who have been sent up here is not right. What we have been seeing is once these groups all come together and they make their appeals to the leadership on the other side, they have been given support on these nominations. They have stuck together and blocked them. The minority leader, Senator DASCHLE, has led the Democratic Senators and they have blocked a series of highly qualified, superb nominees. That is very frustrating. I believe it is unfair.

I will share a few things that are relevant to this issue. The People for the American Way is the group that has raised most of the issues. They refer to him as a rightwing zealot, unfit to judge. How about this line: He personally has been involved in key Supreme Court cases that by narrow 5-to-4 majorities have hobbled Congress's ability to protect Americans' rights.

If one reads that carefully, what they will see is that he, as attorney general of the State of Alabama, has been involved in litigation in the United States Supreme Court that he prevailed on, that he won. He has won a number of cases in the Supreme Court defending interests of States, and States do have interests. A lot of time we forget the interests of the States in America. We just willy-nilly pass legislation and then when somebody defends a State, as an attorney general is sworn to do—he is sworn to defend the laws of the State of Alabama, the constitution of the State of Alabama. And when the Congress of the United States passes laws that abrogate those rules, if he has a legitimate case in court, he has not only a choice, he has a duty to defend those laws against erosion by the national Government.

One law they have complained about and complained about incredibly was that under the Americans with Disabilities Act, this Congress allowed people to sue the employer, but the historic document of sovereign immunity says one cannot sue States unless they authorize the suit. The power to sue is the power to destroy a government. Governments, since before our founding, have understood that doctrine. It is a part of the law of every State in America, and Attorney General Pryor said in that small number of cases that amount to 4 percent of the complaints under the Americans with Disabilities Act, one could not sue the State of Alabama for damages. A person could sue to get their job back, they could sue to get promoted, but they just could not get damages because of the doctrine of sovereign immunity. He took it to the Supreme Court and the Supreme Court agreed with him. When Senator MARK PRYOR from Arkansas was attorney general in Arkansas, he joined on the brief. So this was not an extreme view; it was a prevailing view.

They said he was against disability rights. How disturbing that is. To say Bill Pryor, who had a sworn obligation and did it to defend the State of Alabama legal rights, was somehow against the disabled is stunning to hear.

I want to mention a couple of things in regard to the type of bipartisan support he has gotten in Alabama. I mentioned earlier last night the support he has gotten from a number of individuals of real prominence in the State. Dr. Joe Reed, the chairman of the Alabama Democratic Conference, an arm of the Democratic Party of Alabama, has strongly endorsed Mr. Pryor. Dr. Reed is a partisan Democrat. He sits on the Democratic National Committee. I assure my colleagues all Democratic candidates who seek to win a primary in Alabama, including Presidential candidates, call Dr. Reed when they are thinking about coming to Alabama. They seek his support, because when he speaks, a lot of voters follow.

He said this about Mr. Pryor: A first-class public official, will be a credit to the judiciary and a guardian of justice.

Mr. Alvin Holmes, probably the most outspoken African American in the legislature, said this about Mr. Pryor:

> I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities. I consider Bill Pryor as a moderate on the race issue.

He concludes:

> Finally, as one of the key civil rights leaders in Alabama who has participated in basically every civil rights demonstration in America, who has been arrested for civil rights causes on many occasions, as one who was a field staff member of Dr. Martin Luther King's SCLC, as one who has been brutally beaten by vicious police officers for participating in civil rights marches and demonstrations, as one who has had crosses burned in his front yard by the KKK and other hate groups, as one who has lived under constant threats day in and day out because of his stand fighting for the rights of blacks and other minorities, I request your swift confirmation of Bill Pryor to the 11th Circuit because of his constant efforts to help the causes of blacks in Alabama.

He noted his help with the church bombing case, and he noted Bill Pryor's early commitment that he would eliminate an old provision in the Alabama constitution that prohibited interracial marriage. It had been there, been declared unconstitutional, but it was still in the constitution. Bill Pryor believed it ought not to be in the constitution. According to Mr. Alvin Holmes:

> Every prominent white political leader in Alabama (both Republican and Democrats) opposed my bill or remained silent except Bill Pryor who openly and publicly asked the white and black citizens of Alabama to vote and repeal such racist law. He gives Bill Pryor all the credit for that.

Mr. President, I see the distinguished ranking member of the Judiciary Committee is here. He knows how much I love and respect and admire Bill Pryor. I believe he has broad bipartisan support. He is a brilliant lawyer, committed to the highest principles of justice in America, committed to giving every American an equal right in court, committed to high ideals. He is a man of faith, a man who takes his faith seriously, who is thoughtful but who has demonstrated that he will follow the law even if it conflicts with his deepest and most sincere opinions.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, how much time is available to each side?

The PRESIDING OFFICER. Thirty minutes was available to each side at the beginning of the debate. The majority has 16½ minutes remaining.

Mr. LEAHY. How many?

The PRESIDING OFFICER. Sixteen and a half minutes on the majority side.

Mr. LEAHY. Our side has 30 minutes?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Madam President, I understand there is a request on the Republican side to accommodate the scheduling, then, to have this vote at noon. One of the things I have learned in 29 years here is to always try to accommodate other Senators on scheduling, for both parties.

I ask unanimous consent that the vote be at 12, with the additional time to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, only the Republican leadership can answer why it refuses to proceed on what all of us know are the real priorities—not hollow priorities—of the American people in these waning days of the legislative session. We have a number of annual appropriations bills on which the Senate has yet to act. We do know the law requires us to finish those by September 30. We are now well into November and we have yet to act on them.

We should look at the purpose of some of these appropriations bills that are being held up while we are wasting time trying to do things for political points. We are holding up the appropriations for America's veterans. What a bad time to send that signal, when our veterans, and many who are about to become our veterans, are serving so bravely in Iraq and Afghanistan.

We are holding up appropriations for law enforcement. As one who served for 8½ years in law enforcement, I know how much our law enforcement people rely on those funds. We are holding up appropriations for the State Department. We are holding up appropriations for the Federal judiciary. We are holding up appropriations for housing. We are holding up appropriations for many other things. But we will talk and talk and talk about three or four judges.

There is unfinished business of providing a real prescription drug benefit for seniors, but we will instead talk and try to make political points. We have the Nation's unemployment, having seen for 8 years adding a million jobs a year, having seen in the last 2½ years losing more than a million jobs a year. We talk about the economy improving. Tell that to the American families who can't find a job, or find two or three jobs because they are so low paying they are working 80 hours a week and not having time to be with their children or their families.

We see the corporate and Wall Street scandals, the mutual funds, and others. Those concern those of us who have invested and placed our trust and financial security at risk in the securities market. I think of a number of people in Vermont who are approaching retirement time and see these scandals where their money is being taken away and they see a Senate unwilling or unable to move legislation addressing that.

Of course, we are not doing oversight on the war in Iraq. We are signing blank checks, but we are not doing oversight.

Lowest Vacancy Rate in 13 Years: I mention this only because, instead of, considering these very important matters—matters that seem to be neglected by both the White House and the Congress—Republican leadership insists on rehashing the debate on one of a tiny handful of judicial nominees in which further Senate action is unlikely. Certainly, when the Republican leadership was considering the judicial nominees of a Democratic President in the years 1995 to the year 2000, they showed no concern about stranding more than 60—let me repeat that, more than 60—of President Clinton's judicial nominees without hearings or votes. They did not demand an up-or-down vote on every nominee. They were content to use anonymous holds to scuttle scores of nominees.

This is not a question of having a filibuster or a cloture vote. If one member, just one member of the Republican caucus objected to one of President Clinton's nominees, they didn't have to stand up here and say so. They could just let their side know and the person was never given a hearing, never given a vote.

There were numerous extraordinarily well-qualified people. In fact, they stood by while vacancies rose from 65 in January 1995 when the Republicans took over the majority, to 110 when Democrats assumed Senate leadership in the summer of 2001. Republicans presided over the doubling of circuit court vacancies from 16 to 33 during that time by simply refusing to allow President Clinton's nominees to have a vote. As I said, over 60 of them were never allowed to have a vote.

McCarthyite Smears: So why do they insist that the Senate now consume this precious floor time to rehash the debate on one of the President's most controversial nominees to the independent Federal judiciary, the nomination of William Pryor? Perhaps it is to give some on the Republican side another chance to continue to make false arguments about judicial nominations. Perhaps it is to give some platform for baseless and McCarthyite accusations that Senators oppose Mr. Pryor because of his religion.

This is the worst of religious McCarthyism I have heard, although there are aspects that are actually amusing. We had one of these Republicans go on a Sunday morning show, I guess, to accuse me of being anti-Catholic. When asked about it, we responded I didn't see it because my wife and I were at Mass, as we are on every Sunday morning, and that was when the program was on. But I suspect it is to distract from the real concerns that affect Americans every day.

The facts show the Senate has made progress on judicial vacancies in those areas where the administration has been willing to work with the Senate. Yesterday, the Senate confirmed the 168th of President Bush's judicial nominees.

Incidentally, I should point out, of that 168, 100 of them were confirmed during the 17 months the Democrats controlled the Senate, and I was chairman; 68 of them during the 17 months the Republicans controlled the Senate.

It is kind of hard to say we are partisan on this when in 17 months we confirmed 100 of the President's nominees and in the 17 months the Republicans confirmed 60. Actually, we could have confirmed several more had the Republican leadership just scheduled votes on these noncontroversial nominations. The truth is, in less than 3 years' time the number of President Bush's judicial nominees the Senate has confirmed has exceeded the number of judicial nominees confirmed for President Reagan, who was the all-time champ to get judges confirmed in the first 4 years in office. Everybody acknowledges that President Reagan had more judges confirmed in his first 4 years than any President ever had in the Republican-controlled Congress and Republican-controlled Senate. He confirmed more judges in 4 years than anybody else until President Bush, who has had 7 more Federal judges confirmed in less than 3 years than President Reagan did in 4.

To give you some idea, here are the Clinton nominees over a period of, actually, 5 years: 248 were confirmed, and 63 of them were blocked by the Republicans—63. Some are ones where we had cloture votes and we won on the cloture votes and got them through. Twenty percent of President Clinton's nominees were blocked by the Republican-controlled Senate.

Between 2001 and 2003, President Bush sent 168 through, and 4 were blocked; or 2 percent were blocked. Actually, 2 percent is pretty darned good.

Look at what has happened on vacancies when the Republicans were in the majority. Look at how vacancies skyrocketed because they were blocking usually by a one-person anonymous filibuster. President Clinton's nominee vacancies skyrocketed. During the 17 months when I was chairman and the Democrats were in the majority, look at how we quickly brought down those vacancies of all of President Bush's nominees. Ironically, President Bush nominated people to fill vacancies created because the Republicans refused to allow President Clinton's nominees to go through. Of course, they continue to go down.

If debates like this are staged to give some a platform for repulsive smears that Democrats are opposing Mr. Pryor because of his religion, they will have to enter a realm of demagoguery, repeating false allegations and innuendo often enough to hope that some of their mud will stick.

Senate Democrats oppose the nomination of William Pryor to the Eleventh Circuit because of his extreme some, with good reason, use the word "radical"—ideas about what the Constitution says about federalism, criminal justice and the death penalty, violence against women, the Americans with Disabilities Act, and the Government's ability to protect the environment on behalf of the American people. Of course, those substantive concerns will not do much to help raise money for the Republican Party or seem provocative in a flyer placed on windshields late on the day before an election and hardly get a mention on the evening news. So some Republican partisans will be putting the truth to one side. They dismiss the views of Democratic Senators doing their duty under the Constitution to examine the fitness of every nominee to a lifetime position on the Federal bench and choose, instead, to use smears and the ugliest accusations they could dream up.

This started in the aftermath of the first rejection of the Pickering nomination in the Judiciary Committee. After the committee voted not to recommend him to the full Senate, insinuations were made on this Senate floor that Democrats opposed him because he is a Baptist. From that time to now, I have waited patiently for Republican Senators to disavow such charges which they know to be untrue.

Just a few weeks ago, Republican Senators on the Judiciary Committee trotted out an offensive cartoon targeting a nominee, and asked us to denounce it. Even though it was taken off a website run by two private individuals, of whom I had never heard before and who have no connection to Democratic Senators, we appropriately denounced it without hesitation.

Abusing Religion For Wedge Politics: But when slanderous accusations were made by Republican Senators, and ads run by a group headed by the President's father's former White House counsel and a group whose funding includes money raised by Republican Senators and even by the President's family, no apologies or denunciations were heard. Other Republican members of the Judiciary Committee and of the Senate have either stood mute in the face of these McCarthyite charges, or, worse, have fed the flames.

These accusations are harmful to the Senate and to the Nation and have no place in this debate or anywhere else. Just a few weeks ago, President Bush rightly told the Prime Minister of Malaysia that his inflammatory remarks about religion were "wrong and divisive." He should say the same to members of his own party. Today, Republican Senators have another chance to do what they have not yet done and what this Administration has not yet done: Disavow this campaign of division waged by those who would misuse religion by playing wedge politics with it. I hope that the Republican leadership of the Senate will finally disavow the contention that any Senator is being motivated in any way by religious bigotry.

An Extreme and Divisive Nominee: Let us take William Pryor. Many of us opposed his nomination to the Eleventh Circuit because of his extreme—in fact, some would view radical—ideas about what the Constitution says about federalism and what the Constitution says about criminal justice and the death penalty, his views about violence against women, or the Americans With Disabilities Act, or the Government's ability to protect the environment on behalf of all American people—not just the environment to protect just Republicans or just Democrats but all Americans.

I am stunned as I read and reread reports. Just to see how radical his ideas are, just today I learned of the sworn affidavits made under oath by the former Republican Governor of Alabama, Bob James and his son. They explained the circumstances under which Governor James came to appoint Mr. Pryor as attorney general. We keep hearing about how Attorney General Pryor just looks at the law, he will just stand by the law, and he will call them as he sees them. In sworn affidavits, the Governor who appointed him said Mr. Pryor was only hired after making explicit promises—explicit promises—that he would defy court orders up through and including orders of the Supreme Court of the United States.

This is a man we want to give a lifetime tenure on the court of appeals, which is one step below the United States Supreme Court; somebody who would take a job where he has made promises that he would defy court orders, including the Supreme Court of the United States; a person who takes an oath to uphold the Constitution but says give me the job and don't worry about that oath, I promise I will defy them.

These statements were made under the penalty of perjury by a former Republican Governor of Alabama. He recounts how Mr. Pryor persuaded him that he was right for the job by showing them research papers from his time in law school about nonacquiescence in court orders. Indeed, the Governor and his son say that Mr. Pryor's position on defying court orders changed only when he decided he wanted to become a Federal judge.

I have been here 29 years. I don't remember any President, Republican or Democratic, who would think of sending up a nominee who has told people he will get his job with a promise that he will defy courts. This is so violative of even what Mr. Pryor said in sworn statements before the Senate Judiciary Committee.

Assuming that the sworn statement of the former Republican Governor of Alabama and his son are true, this information is consistent with extremism.

Elsewhere, Mr. Pryor's record is shocking. I cannot imagine any President—I have been here with six Presidents, Republican and Democrat—who would send somebody up here with that kind of a record.

I pride myself in voting for nominees of Presidents. President Ford, President Carter, President Reagan, former President Bush, President Clinton, and even the current President Bush, I probably have voted for 98 or 99 percent of all the nominations. But this is one that never should even have come to us. It is not a question of whether to vote it up or down—it shouldn't even be here. In fact, the President ought to withdraw this nomination because, if this affidavit of Governor James is true—and he did make it under pain of penalty of perjury—that means Mr. Pryor sat with Governor James and promised to undermine the very bases of the stability of the United States Government and its legal system.

I don't understand how any Senator, Republican or Democrat, can continue to support this nomination.

There are a whole lot of other reasons.

Again, I cannot believe any President would send a nominee here who has done this.

There are some other reasons he shouldn't be a judge on the Eleventh Circuit. These reasons have prompted a chorus of opposition of individuals and organizations and editorial pages across the Nation, the South, the East, and the West. Organizations and individuals concerned about justice before the Federal courts include Log Cabin Republicans, Leadership Conference on Civil Rights, Alliance for Justice, and many others have provided the committee with their concerns and bases for their opposition. We have received letters of opposition from organizations that rarely take positions on nominations who feel strongly about this one and are compelled to write, including the National Senior Citizens Law Center, Anti-Defamation League, Sierra Club, and others.

I ask unanimous consent that a list of all of the letters that have been sent in opposition to Mr. Pryor's confirmation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS OF OPPOSITION TO THE NOMINATION OF BILL PRYOR, TO THE 11TH CIRCUIT COURTS OF APPEAL

ELECTED OFFICIALS

Congressional Black Caucus

CIVIL RIGHTS MOVEMENT VETERANS

Rev. Fred Shuttlesworth, Leader, Birmingham Movement
Rev. C.T. Vivian, Executive Staff for Dr. Martin Luther King, Jr.
Dr. Bernard LaFayette, Executive Staff for Dr. Martin Luther King, Jr.
Rev. Jim Lawson, Jr., Advisor to Dr. Martin Luther King, Jr., President of Southern Christian Leadership Conference (Los Angeles)
Rev. James Bevel, Executive Staff for Dr. Martin Luther King, Jr.
Rev. James Orange, Organizer for National Southern Christian Leadership Conference
Claud Young, M.D., National Chair, Southern Christian Leadership Conference
Rev. E. Randel T. Osbourne, Executive Director, Southern Christian Leadership Foundation
Rev. James Ellwanger, Alabama Movement Activist and Organizer
Dorothy Cotton, Executive Staff for Dr. Martin Luther King, Jr.
Rev. Abraham Woods, Southern Christian Leadership Conference
Thomas Wrenn, Chair, Civil Rights Activist Committee, 40th Year Reunion
Sherrill Marcus, Chair, Student Committee for Human Rights (Birmingham Movement, 1963)
Dick Gregory, Humorist and Civil Rights Activist
Martin Luther King III, National President, Southern Christian Leadership Conference
Mrs. Johnnie Carr, President, Montgomery Improvement Association (1967-Present) (Martin Luther King, Jr. was the Association's first President. The Association was established in December, 1955 in response to Rosa Park's arrest.)

LETTERS FROM THE ELEVENTH CIRCUIT

Alabama Hispanic Democratic Caucus
Hispanic Interest Coalition of Alabama
Jefferson County Progressive Democratic Council, Inc.
Latinos Unidos De Alabama
NAACP, Alabama State Conference
National Council of Jewish Women Chapter in Florida, Alabama and Georgia
The People United, Birmingham, AL
Petitioners' Alliance
Tricia Benefield, Cordova, AL
Patricia Cleveland, Munford, AL
Hobson Cox, Montgomery, AL
Judy Collins Cumbee, Lanett, AL
Larry Darby, Montgomery, AL
B. Ilyana Dees, Birmingham, AL
Morris Dees; Co-Founder and Chief Trial Counsel, Southern Poverty Law Center
Martin E. DeRamus, Pleasant Grove, AL
Bryan K. Fair, Professor of Constitutional Law at University of Alabama
Joseph E. Lowery, Georgia Coalition for the Peoples' Agenda
Michael and Becky Pardue, Mobile, AL
James V. Rasp
Helen Hamilton Rivas
William Alfred Rose, Mountain Brook, AL
Terry A. Smith (USMC Ret.), Decatur, AL
Harold Sorenson, Rutledge, AL
Carolyn Robinson, Semmes, AL
Sisters of Mercy letter signed by Sister Dominica Hyde, Sister Alice Lovette, Sister Suzanne Gwynn, Ms. Cecilia Street and Sister Magdala Thompson, Mobile, AL

GROUPS

The Ability Center of Defiance, Defiance, OH
Ability Center of Greater Toledo
Access for America
Access Now, Inc.
The ADA Committee
ADA Watch
AFL–CIO
AFSCME
Alliance for Justice
Americans for Democratic Action
American Association of University Women
American Jewish Congress
Americans United for Separation of Church and State
Anti-Defamation League
B'nai B'rith International
California Council of the Blind
California Foundation for Independent Living Centers
Center for Independent Living of South Florida
Citizens for Consumer Justice of Pennsylvania letter also signed by: NARAL-Pennsylvania, National Women's Political Caucus, PA, PennFuture, Sierra Club, and United Pennsylvanians
Coalition for Independent Living Options, Inc.
Coalition to Stop Gun Violence
Disabled Action Committee
Disability Resource Agency for Independent Living, Stockton, CA
Disability Resource Center, North Charleston, SC
Earthjustice
Eastern Paralyzed Veterans Association, Jackson Heights, NY
Eastern Shore Center for Independent Living, Cambridge, MD
Environmental Coalition Letter signed by: American Planning Association, Clean Water Action, Coast Alliance, Community Rights Counsel, Defenders of Wildlife, EarthJustice, Endangered Species Coalition, Friends of the Earth, League of Conservation Voters, National Resources Defense Council, The Ocean Conservancy, Oceana, Physicians for Social Responsibility, Sierra Club, U.S. Public Interest Research Group, The Wilderness Society, Alabama Environmental Council, Alliance for Affordable Energy, American Lands Alliance, Buckeye Forest Council, California Native Plant Society, Capitol Area Greens, Center for Biological Diversity, Citizens Coal Council, Citizens of Lee Environmental Action Network, Clean Air Council, The Clinch Coalition, Committee for the Preservation of the Lake Purdy Area, Connecticut Public Interest Research Group, Devil's Fork Trail Club, Dogwood Alliance, Environment Colorado, Environmental Law Foundation, Florida Consumer Action Network, Florida League of Conservation Voters, Florida Public Interest Research Group, Foundation for Global Sustainability, Friends of Hurricane Creek, Friends of Rural Alabama, Kentucky Resources Council, Inc., Landwatch Monterey County, Native Plant Conservation Campaign, North Carolina Public Interest Research Group, Oilfield Waste Policy Institute, Patrick Environmental Awareness Group, Public Interest Research Group in Michigan, Rhode Island Public Interest Research Group, Sand Mountain Concerned Citizens, Save Our Cumberland Mountains, Sitka Conservation Society, Southern Appalachian Biodiversity Project, Taking Responsibility for the Earth and Environment, Tennessee Environmental Enforcement Fund, Texas Public Interest Research Group, Valley Watch, Inc., Virginia Forest Watch, Waterkeepers Northern California, and Wisconsin Forest Conservation Task Force,
Equality Alabama
Feminist Majority
The Freedom Center
Heightened Independence & Progress
Houston Areas Rehabilitation Association
Human Rights Campaign
Illinois-Iowa Center for Independent Living
Independent Living Center of Southern California, Inc.
Independent Living Resource Center, San Francisco, CA
Justice for All Project, letter signed by the following California organizations: Americans United for Separation of Church and State, Los Angeles, California National Organization for Women, Committee for Judicial Independence, Democrats. Com of Orange County, CA, Feminist Majority Foundation, National Center for Lesbian Rights, National Council of Jewish Women/California, National Council of Jewish Women/Los Angeles, National Employment Lawyers' Association, San Diego County National Organization of Women, National Women's Political Caucus, Noe Valley Ministry, Planned Parenthood of San Diego and Riverside Counties, Progressive Jewish Alliance, Rock the Vote, Stonewall Democratic Club of Los Angeles, Unitarian Universalist Project Freedom of Religion, and Women's Leadership Alliance
Lake County Center for Independent Living, IL
Leadership Conference on Civil Rights
Log Cabin Republicans
MALDEF
NAACP
NARAL Pro-Choice America
National Abortion Federation
National Association of Criminal Defense Lawyers
National Association of the Deaf
National Council of Jewish Women letter signed by B'nai B'rith International, Central Conference of American Rabbis, and Union of American Hebrew Congregations
National Disabled Students Union
National Employment Lawyers Association
National Family Planning & Reproductive Health Association
National Organization for Women Legal Defense and Education Fund
National Partnership for Women & Families
National Resources Defense Council
National Senior Citizens Law Center, letter also signed by AFCSME Retirees Program, Center for Medicare Advocacy, Families USA, and Gray Panthers
National Women's Law Center
New Mexico Center on Law and Poverty

Parents, Families, and Friends of Lesbians and Gays
People for the American Way
Pennsylvania Council of the Blind
Placer Independent Resource Services
Planned Parenthood Federation of America
Planned Parenthood of Northern New England
Protect All Children's Environment, Marion, NC
Religious Action Center of Reform Judaism
Religious Coalition for Reproductive Choice
SEIU
Sierra Club
Society of American Law Teachers
Summit Independent Living Center, Inc., Missoula, MT
Tennessee Disability Coalition, Nashville, TN
Vermont Coalition for Disability Rights

CITIZENS

Carol Baizer, Santa Barbara, CA
Daily Dupre, Jr., Lafayette, LA
Don Beryl Fago, Evansville, WI
Barry S. Gridley, Santa Barbara, CA
Greg Jones, Parsons, KS
Catherine Koliha, Boulder, CO
Donald R. Mitchell, Bourbonnais, IL
Patricia Murphy, Juneau, AK
Elizabeth A. Patience, Watertown, NY
Jason Torpy, Marietta, OH
Randy Wagoner, New England
Rabbi Zev-Hayyim Feyer, Murrieta, CA
Joan Claybrook, President, Public Citizen
Nick Nyhart, Executive Director, Public Campaign
John Bonifaz, Executive Director, National Voting Rights Institute

LETTERS OF SERIOUS CONCERN

The Interfaith Alliance

Mr. LEAHY. Madam President, the ABA indicates concern about this nomination. The Standing Committee of the Federal Judiciary gave Mr. Pryor a partial rating of not qualified to sit on the Federal bench. And indications from these peer reviews have been enough to raise red flags in the confirmation process.

Let me talk about some more of the reasons we oppose William Pryor. Like Jeffrey Sutton, Mr. Pryor has been a crusader for the federalist revolution, but Mr. Pryor has taken an even more prominent role. Having hired Mr. Sutton to argue several key federalism cases in the Supreme Court, Mr. Pryor is the principal leader of the federalist movement, promoting state power over the Federal Government. A leading proponent of what he refers to as the "federalism revolution," Mr. Pryor seeks to revitalize state power at the expense of Federal protections, seeking opportunities to attack Federal laws and programs designed to guarantee civil rights protections. He has urged that Federal laws on behalf of the disabled, the aged, women, minorities, and the environment all be limited.

Limiting Worker And Environmental Protections: He has argued that the Federal courts should cut back on the protections of important and well-supported Federal laws including the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Civil Rights Act of 1964, the Clean Water Act, the Violence Against Women Act, and the Family and Medical Leave Act. He has repudiated decades of legal precedents that permitted individuals to sue states to prevent violations of Federal civil rights regulations. Mr. Pryor's aggressive involvement in this "federalist revolution" shows that he is a goal-oriented, activist conservative who has used his official position to advance his "cause." Alabama was the only state to file an amicus brief arguing that Congress lacked authority to enforce the Clean Water Act. He argued that the Constitution's Commerce Clause does not grant the Federal Government authority to prevent destruction of waters and wetlands that serve as a critical habitat for migratory birds. The Supreme Court did not adopt his narrow view of the Commerce Clause powers of Congress. While his advocacy in this case is a sign to most people of the extremism, Mr. Pryor trumpets his involvement in this case. He is unabashedly proud of his repeated work to limit Congressional authority to promote the health, safety and welfare of all Americans.

Mr. Pryor's passion is not some obscure legal theory but a legal crusade that has driven his actions since he was a student and something that guides his actions as a lawyer. Mr. Pryor's speeches and testimony before Congress demonstrate just how rooted his views are, how much he seeks to effect a fundamental change in the country, and how far outside the mainstream his views are.

Mr. Pryor is candid about the fact that his view of federalism is different from the current operation of the Federal Government and that he is on a mission to change the Government to fit his vision. His goal is to continue to limit Congress's authority to enact laws under the Fourteenth Amendment and the Commerce Clause—laws that protect women, ethnic and racial minorities, senior citizens, the disabled, and the environment—in the name of sovereign immunity. Is there any question that he would pursue his agenda as a judge on the Eleventh Circuit Court of Appeals—reversing equal rights progress and affecting the lives of millions of Americans for decades to come?

Mr. Pryor's comments have revealed insensitivity to the barriers that disadvantaged persons and members of minority groups and women continue to face in the criminal justice system.

Attacking the Voting Rights Act: In testimony before Congress, Mr. Pryor has urged repeal of Section 5 of the Voting Rights Act—the centerpiece of that landmark statute—because, he says, it "is an affront to federalism and an expensive burden that has far outlived its usefulness." That testimony demonstrates that Mr. Pryor is more concerned with preventing an "affront" to the states' dignity than with guaranteeing all citizens the right to cast an equal vote. It also reflects a long-discredited view of the Voting Rights Act. Since the enactment of the statute in 1965, every Supreme Court case to address the question has rejected the claim that Section 5 is an "affront" to our system of federalism. Whether under Earl Warren, Warren Burger, or William Rehnquist, the United States Supreme Court has recognized that guaranteeing all citizens the right to cast an equal vote is essential to our democracy—not a "burden" that has "outlived its usefulness."

His strong views against providing counsel and fair procedures for death row inmates have led Mr. Pryor to doomsday predictions about the relatively modest reforms in the Innocence Protection Act to create a system to ensure competent counsel in death penalty cases. When the United States Supreme Court questioned the constitutionality of Alabama's method of execution in 2000, Mr. Pryor lashed out at the Supreme Court, saying, "[T]his issue should not be decided by nine octogenarian lawyers who happen to sit on the U.S. Supreme Court."

Aside from the obvious disrespect this comment shows for the Nation's highest court, it shows again how results-oriented Mr. Pryor is in his approach to the law and to the Constitution. Of course, an issue about cruel and unusual punishment ought to be decided by the Supreme Court. It is addressed in the Eighth Amendment, and whether or not we agree on the ruling, it is an elementary principle of constitutional law that it be decided by the Supreme Court, no matter how old its members.

Mr. Pryor has also vigorously opposed an exemption for persons with mental retardation from receiving the death penalty, exhibiting more certainty than understanding or sober reflection. He authored an amicus curiae brief to the Supreme Court arguing that the Court should not declare that executing mentally retarded persons violated the Eighth Amendment. After losing on that issue, Mr. Pryor made an unsuccessful argument to the Eleventh Circuit that an Alabama death-row defendant is not mentally retarded.

Mr. Pryor has spoken harshly about the moratorium imposed by former Illinois Governor George Ryan, calling it a "spectacle." Can someone so dismissive of evidence that challenges his views be expected to hear these cases fairly? Over the last few years, many prominent Americans have begun raising concerns about the death penalty, including current and former supporters of capital punishment. For example, Justice O'Connor recently said there were "serious questions" about whether the death penalty is fairly administered in the United

States, and added: "[T]he system may well be allowing some innocent defendants to be executed." In response to this uncertainty, Mr. Pryor offers us nothing but his obstinate view that there is no problem with the application of the death penalty. This is a position that is not likely to afford a fair hearing to a defendant on death row.

Mr. Pryor's troubling views on the criminal justice system are not limited to capital punishment. He has advocated that counsel need not be provided to indigent defendants charged with an offense that carries a sentence of imprisonment if the offense is classified as a misdemeanor. The Supreme Court nonetheless ruled that it was a violation of the Sixth Amendment to impose a sentence that included a possibility of imprisonment if indigent persons were not afforded counsel.

Like Carolyn Kuhl, Priscilla Owen and Charles Pickering, Mr. Pryor is hostile to a woman's right to choose. There is every indication from his record and statements that he is committed to reversing Roe v. Wade. Mr. Pryor describes the Supreme Court's decision in Roe v. Wade as the creation "out of thin air [of] a constitutional right," and opposes abortion even in cases of rape or incest.

Mr. Pryor does not believe Roe is sound law, neither does he give credence to Planned Parenthood v. Casey. He has said that "Roe is not constitutional law," and that in Casey, "the court preserved the worst abomination of constitutional law in our history." When Mr. Pryor appeared before the Committee, he repeated the mantra suggested by White House coaches that he would "follow the law." But his willingness to circumvent established Supreme Court precedent that protects fundamental privacy rights seems much more likely.

Mr. PRYOR has expressed his opposition to fair treatment of all people regardless of their sexual orientation. The positions he took in a brief he filed in the recent Supreme Court case of Lawrence v. Texas were entirely repudiated by the Supreme Court majority just a few months ago when it declared that: "The petitioners are entitled to respect for their private lives. The State cannot demean their existence or control their destiny by making their private conduct a crime." Mr. Pryor's view is the opposite. He would deny certain Americans the equal protection of the laws, and would subject the most private of their behaviors to public regulation.

A record of activism: On all of these issues—the environment, voting rights, women's rights, gay rights, federalism, and more—William Pryor's record of activism and advocacy is clear. That is his right as an American citizen, but it does not make him qualified to be a judge. As a judge it would be his duty to impartially hear and weigh the evidence and to impart just and fair decisions to all who come before the court. In their hands, we entrust to the judges in our independent Federal judiciary the rights that all of us are entitled to enjoy through our birthright as Americans.

The President has said he is against what he calls "judicial activism." How ironic, then, that he has chosen several of the most committed and opinionated judicial activists ever to be nominated to our courts.

The question posed by this controversial nomination is not whether Mr. Pryor is a skilled and capable politician and advocate. He certainly is. The question is whether—not for a 2-year term, or a 6-year term, but for a lifetime—he would be a fair and impartial judge. Could every person whose rights or whose life, liberty or livelihood were at issue before his court, have faith in being fairly heard? Could every person rightly have faith in receiving a just verdict, a verdict not swayed by or yoked to the legal philosophy of a self-described legal crusader? To read Mr. Pryor's record and his extreme views about the law is to answer that question.

The President has chosen to divide the American people, the people of the Eleventh Circuit, and the Senate with this highly controversial nomination. He should clean the slate and choose a nominee who can unite the American people.

I see the distinguished senior Senator from New York on the Senate floor. Would he seek time?

I yield the floor. How much time is remaining?

The PRESIDING OFFICER (Mrs. DOLE). Twenty-three minutes 11 seconds.

Mr. LEAHY. I thank the Chair. I yield 10 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Thank you, Madam President. I thank our great leader of the Judiciary Committee, PAT LEAHY, leader on our side, for his stalwart defense of having a mainstream Judiciary and for his leadership on so many other issues.

I will note what we all start by noting: We have now confirmed 168 of the President's nominees and opposed 4. The President is getting his way 98 percent of the time on judicial nominations. To say that is obstructionism is to rewrite Webster's Dictionary. We have bent over backwards to be fair.

In fact, in many of our States, including my own State of New York, when the President and the White House ask for an agreement, we do agree; we are in the process of filling every vacancy in New York. I don't agree with many of the judges we are nominating on particular issues but they meet the fundamental test. The only litmus test I have is not on any one issue but, rather, will the judge interpret the law, not make it. That is what the Founding Fathers wanted judges to do in their infinite wisdom. I say "infinite" because my hair stands on edge; the longer I am around, the more I respect the wisdom of our Founding Fathers. In their infinite wisdom, they wanted judges to interpret law, not make it; they wanted the Senate, in its infinite wisdom, to be a check—a real check, not a rubberstamp—on the President's power to nominate. The Senate is a cooling saucer.

The other side says, let the majority rule. We know what will happen. Every single one of the President's nominees, so many chosen through ideological prisms, will be approved. I don't think we have had a situation, since the President has nominated anyone—I may be wrong—where a single Republican opposed any of the President's nominees. Is that the open, grand debate the Founding Fathers envisioned? I may be off by an instance here and an instance there, but I am sure if you tabulate all the votes taken by Republicans on all of the nominees, the number of "no" votes, the percentage of "no" votes, is infinitesimal.

Yes, we are blocking judges by filibuster. That is part of the hallowed process around here of the Founding Fathers saying the Senate is the cooling saucer. We do not work as quickly as the House. We are not as restricted as the House. That is how it was intended to be. I don't believe in tit for tat. This is not a tit-for-tat comment, but the other side did not even let 50 judges come up for a vote in committee. They blocked a far higher percentage of President Clinton's judges than we have blocked of President Bush's judges.

The means is not the issue here; it is the end. So that is how it is. We have been very careful when we have opposed nominees. We have tried to give the President—it makes sense to do it—the benefit of the doubt. But some nominees are so far out of the mainstream, it is so clear they are going to make law. not interpret law, that we believe it is our constitutional obligation to our country and to the next generation of Americans to oppose them. Mr. Pryor is one of those nominees.

What the other side has tried to do is two types of things. One, they say we are opposing someone because of their race or sex, his or her religion. Those are cheap shots. We are opposing people because they are ideologically out of the mainstream, without any discrimination. If they are Black and out of the mainstream, or a woman and out of the mainstream, or Protestant, Catholic, or Jewish and out of the mainstream, we are going to oppose them.

The second thing they try to do is say it is because of one particular issue. There is a litmus test on Justice Brown; they are saying it is on affirmative action. On Attorney General Pryor, they are saying it is because of the issue of abortion.

Let's look at the record. I, myself, Senator LEAHY, and just about every Democrat have voted for a majority of judges who disagree with our views on affirmative action and abortion. The number of judges I have voted for who are pro-life in the last 2 years far exceeds the number I have voted for who are pro-choice. That demolishes any argument of a litmus test. I have not asked too many judges their views on affirmative action, but my guess is, how ideologically driven the President's nominees are, that I have voted for a large number of nominees who disagree with my view on affirmative action as well. But it is not a litmus test. It is again a question, Will they make law or will they interpret law?

If we look at Attorney General Pryor's record, he is not a mainstream conservative. He is far out of the mainstream. Let me give some examples.

On criminal justice issues, I tend to be conservative. I tend to agree often with my Republican colleagues on criminal justice and other such issues. But, again, there are limits. He defended his State's practice of handcuffing prisoners to hitching posts in the hot Alabama summer for 7 hours without giving them a drop of water to drink, and when the conservative supreme court said this violated the 8th amendment ban on cruel and unusual punishment, he criticized the court's decision, saying they were applying their "own subjective views on the appropriate methods of prison discipline."

How about States rights? Attorney General Pryor has been one of the staunchest advocates of the Reagan court's efforts to roll back the clock not just to the 1930s but to the 1890s. He is an ardent supporter of an activist Supreme Court agenda cutting back Congress's power to protect women, workers, consumers, the environment, and civil rights.

As Alabama attorney general, why was he the only one of 50 attorneys general urging the Supreme Court to undo significant portions of the Violence Against Women Act? The Violence Against Women Act is not out of the mainstream. In fact, it has overwhelming support from both parties, But here is Pryor, way beyond.

How about on the case of child welfare? At the same time he was conceding that Alabama had failed to fulfill the requirements of a Federal consent decree regarding the operation of the State's child welfare system, he was demanding that the State be let out of the deal. It is not so much the position he took but the comments he made afterward. Attorney General Pryor said:

> My job is to make sure the State of Alabama isn't run by federal courts. . . . My job isn't to come here and help children.

I wonder how many Alabamians would agree with that statement.

When it comes to the environment, more of the same concerns. We have had a consensus for 40 years that the Constitution allows the Federal Government to regulate interstate waters. Not Attorney General Pryor—again, the lone attorney general to file an amicus brief arguing the Constitution does not give the Federal Government the power to regulate interstate waters. He took this position despite decades of precedent and the Federal Clean Water Act, standing for the contrary position.

He has been probably the staunchest advocate of States rights of all the attorneys general, of the ability of the States to do what they want and the Federal Government cannot tell them what to do. But then, all of a sudden, when the Supreme Court in Bush v. Gore made a decision that overruled the State of Florida, only one attorney general intervened on behalf of either side; 49 attorneys general, whatever their views, had the good sense not to intervene in that highly charged case. Not Attorney General Pryor. It is so contrary to everything he believed in, everything else, that when he says, I will interpret the law—which he has stated before us; every nominee does, and some do, and some don't, and we have to make a judgment whether, when they say it to us, it will actually happen. As we all know, once we appoint them, the horse is out of the barn—lifetime appointment; they are there forever. But when he goes through a pretzel-like contortion—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHUMER. Madam President, I ask my colleague to yield me another 2 minutes.

Mr. LEAHY. I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. But when he goes through such a contortion to advocate against States rights on Bush v. Gore, you say this is not a man interpreting law; this is a man who is outcome determinative. He comes to the result he wants and then takes the law in that direction.

I do not have an easel here, so I thank my staff aide for helping me hold up this very heavy sign. It is heavy in its words.

Here is what Grant Woods, a former Republican attorney general of Arizona, said:

> I would have great question of whether Mr. Pryor has an ability to be nonpartisan. I would say he was probably the most doctrinaire and most partisan of any attorney general I dealt with in 8 years. So I think people would be wise to question whether or not he's the right person to be nonpartisan on the bench.

That did not come from some wild-eyed, crazy, liberal Democrat. It came from the attorney general—a Republican—of a conservative State, Arizona. He makes the case as good as anybody.

Let me say, in conclusion, Bill Pryor is a proud and distinguished ideological warrior. I respect him for it. But ideological warriors, whether from the left or from the right, are bad news for the bench. They want to make law, not interpret it. That is not what the Founding Fathers wanted and that is not what the American people want from their judges. I oppose the nomination.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. SESSIONS. Madam President, I ask unanimous consent for 3 minutes and then I will yield to the Senator from Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. I would like to respond briefly to Senator SCHUMER's comments.

There have been a lot of words used: "extreme views," "radical views," words of that nature, "way outside the mainstream of legal thought." Then you listen. Show me what happened, what positions he has taken that are outside the mainstream.

He cited this hitching post case and said people were held without water, which was very much disputed, and I submit was not the truth. But, at any rate, the State had stopped that procedure. The case the attorney general defended was whether or not guards could be sued personally and made personally liable for carrying out what at one time had been the established policy of the prison system. That is what went before the Supreme Court. He did the right thing.

He was criticized for certain States rights issues on the Violence Against Women Act. He challenged a small part of that act that violated a State's procedures and rights of immunity and won that case in the Supreme Court.

He is recognized for the Children's First Program in Alabama that was to put large amounts of money into improving procedures for children in Alabama. He was one of the leaders in the State in promoting and working for that.

Time and time again, he has proven to be a powerful, effective lawyer. Thurbert Baker—the Senator talked about an attorney general from Arizona, who only knew Mr. Pryor, I am sure, only at attorneys general meetings. But Thurbert Baker, the Democratic attorney general of Georgia, an African American, knows him. This is what Thurbert Baker, an attorney general, an African American, said about Bill Pryor:

> [He] has always done what he thought was best for the people of Alabama.

And Mr. Baker said:

> [He] know[s] that his work on the bench will continue to serve as an example of how the public trust should be upheld.

Former Democratic Alabama Governor Don Seigelman said:

> Bill Pryor is an incredibly talented, intellectually honest attorney general. He calls them like he sees them. He's got a lot of courage, and he will stand up and fight when he believes he's right.

Madam President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I want to say a few words about the nomination of Bill Pryor to serve on the Eleventh Circuit Court of Appeals. I come to this debate with some personal knowledge of the nominee, having served as attorney general of Texas for 4 years during the time Bill Pryor served as attorney general of Alabama.

Before I get to the specific comments about this outstanding nominee and distinguished law enforcement official, I want to say a little bit about the process.

The process of confirming judicial nominees in the Senate is broken, and it cries out for reform and a fresh start. Since I have been in the Senate, I have heard those who have attempted to justify the poor treatment of President Bush's judicial nominees based upon alleged poor treatment of President Clinton's judicial nominees. We have somehow gotten involved in this game of tit for tat, of recrimination, that does not serve the best interests of the American people. We have gotten into unprecedented obstruction of judicial nominees by filibuster, which has never in the history of this great Nation happened until recently, and it is a tragedy.

As some of my colleagues on this side of the aisle observed, if a minority of Democrats are successful in blocking a bipartisan majority in the Senate from an up-or-down vote on a judicial nominee, when the roles are reversed, which at some time in the future they may be, and a Democrat is in the White House, Republicans are going to want to use the same tactic on nominees of a Democratic President—something I believe would be wrong, but my views do not necessarily control what happens in this body.

The point is, we are on a downward spiral of destruction not only of this great institution, but damaging in the process the fine reputations of these individuals who have come forward to offer to serve the American people. We are treating them as common criminals. We are mischaracterizing their resumes, their reputations in the process, and I believe doing great harm in the process.

I want to say our colleagues on the other side of the aisle, who claim to be—in the words of Thomas Jefferson, supposedly, when he was asking Washington about the role of the Senate in our form of Government, he called the Senate the cooling saucer. But the truth is, rather than a cooling saucer when it comes to judicial confirmation, the Senate has become a stone wall, not a cooling saucer, particularly as it pertains to these nominees the minority Democrat leadership has decided to obstruct and prevent from an up-or-down vote.

I realize they are grasping at straws, but somehow they have grasped on to this notion that since they have not blocked 168 of President Bush's nominees, they should be congratulated for blocking only 4. Well, we learned this morning in the Judiciary Committee that that four may soon become five, and then possibly six.

My point is they simply cannot be congratulated for an unconstitutional, unprecedented filibuster and preventing up-or-down votes, which is democracy in action.

There is another thing. For example, the Senator from New York, who just spoke a few moments ago, who also serves on the Judiciary Committee, said something which I think bears some scrutiny. This morning he repeated an allegation he and others have made that somehow President Bush has hijacked the judiciary by nominating a narrow band of people who he claims are ideologically driven to overturn the law and run roughshod once they get on the courts.

They really need to make a decision what they believe. They either believe President Bush's nominees are all ideologically driven and determined to reach a particular result regardless of what the Congress says, regardless of their oath of office, where they put their hand on the Bible and agreed to serve as a judge and interpret the law, not make law, or this argument about being congratulated for somehow confirming 168 of these people, which simply does not stand up.

They have to make a choice. The truth is, they want it both ways. They really can't have it both ways.

Bill Pryor is simply an outstanding human being and a great attorney general. I believe he will be an outstanding judge. He is a deeply religious man. Some have criticized him for his deeply held beliefs. Unfortunately, sometimes in this debate, I worry that by criticizing somebody for their deeply held beliefs, which happen to be founded in their religious beliefs, we are setting a bar or perhaps building a wall against the opportunity for these people to participate in our government, particularly on the bench. That should not be the case. Our Constitution bars religious tests from service in public office.

General Pryor has demonstrated his ability to enforce the law as written, which is what he would do on the bench, interpret the law as written and not elevate his personal agenda or his personal beliefs above what the law says. Time and time again, he has done so.

I worry about two things in this process. One is obstruction, preventing a bipartisan majority from voting, and destruction of good human beings and their reputations they have worked a lifetime to achieve. They come here, honored to receive the nomination of our President to serve in these positions of great honor, and then they are placed in the dock where they become an accused and are expected to defend themselves against unwarranted and unjustified charges.

I wish we could see a fresh start to a process that does not serve either the nominees or this body or the American people well. I do not believe anyone should be congratulated for an unconstitutional obstruction of the democratic process going forward, when a bipartisan majority is ready to confirm these outstanding nominees, such as Bill Pryor. But that is what we have seen, obstruction and destruction of these fine individuals.

I see the distinguished chairman of the Judiciary Committee. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I thank my colleagues for their excellent remarks for and on behalf of Attorney General Pryor who is one of the best nominees I have seen in a long time, a person of great character.

Today we will again vote for cloture on the nomination of William Pryor for the Eleventh Circuit Court of Appeals. Denying undisputedly well-qualified nominees the up or down vote they deserve does not fulfill our Senatorial duties—it abdicates them. This filibuster not only damages our accountability to the people who elect us, but it erodes the credibility of the Senate itself.

Today, let me take a few moments to explain why every single Member of this body should vote to invoke cloture, and end debate, on the Pryor nomination so that he is afforded the dignity of an up-or-down vote that is all we are asking for.

Not even those most vigorously opposed to Bill Pryor's nomination contend that his record is insufficient. He has been a bold, vocal, and successful advocate for his state as Attorney General, an elected office in Alabama. Prior to and during his campaigns seeking re-election to the attorney general position in 1998 and 2002, he made his positions on the contentious issues of the day crystal clear—and he won his most recent election with almost 60 percent of the vote. Rarely has the Judiciary Committee reviewed such a full and unmistakably clear record for an appellate nominee; rarely has a nominee at his hearing been so honest, intelligent and forthright in his answers to every Senator's questions, even though he surely knew that his legal and policy positions on many, if not most, issues, clashed head-on with the positions of the liberal Democrats who questioned him.

The problem that those opposed to giving Bill Pryor an up-or-down vote in the Senate have is that they cannot credibly make any substantive arguments against him. So they oppose him based on what he has stated he personally believes. They cannot cast aspersions on his legal ability—the undisputed quality of his legal work as Attorney General of Alabama is reflected in several major cases in which Supreme Court majorities have agreed with his arguments. They cannot say he is only a one-party horse because so many Democrats, and many prominent African-American Democrats, in Alabama support him even though they disagree with him politically. They cannot really find anything substantive that might reflect poorly on his qualifications to sit on the federal bench.

Therefore, their accusations against General Pryor have relied on an all-too familiar script: he is a so-called states' rights fanatic; he is anti-environment; anti-disability rights; anti-women; opposes minority voting rights; and wants to turn America into a Christian theocracy. These sound bites are easy to make, but General Pryor's record speaks with far more authority than the fulminations against him. So his opponents attack his personal beliefs, even though in every instance in which a conflict between those beliefs and the law has arisen in Bill Pryor's career, he has unfailingly put the law first.

The most recent example is his response to Chief Justice Roy Moore's refusal to comply with the Federal injunction ordering removal of the Ten Commandments monument from the rotunda of the Alabama Supreme Court building. General Pryor said, "Although I believe the Ten Commandments are the cornerstone of our legal heritage and that they can be displayed constitutionally as they are in the U.S. Supreme Court building, I will not violate nor assist any person in the violation of this injunction. . . . We have a government of laws, not of men. I will exercise any authority provided to me, under Alabama law, to bring the State into compliance with the injunction of the federal court. . . ."

In fact, the committee received a letter from Justice Douglas Johnstone, the only Democrat on the Alabama Supreme Court, praising General Pryor's actions during this high-profile dispute in Alabama. He writes, "General Pryor immediately offered us all appropriate support of his office and fostered public support by announcing publicly that the injunction was due to be obeyed in the absence of a stay. . . . Before the Monument crises, General Pryor's political prospects, irrespective of any federal appointment, were brighter than most I have observed in my decades in politics. Now he is as full of political bullet holes as Fearless Fosdick. My personal acquaintance with him and observation of him over his years in office satisfy me that he fully expected the damage but did his duty, and is doing his duty and a splendid job of it regardless of the consequences. I am endorsing General Pryor because over the years he has proven his honesty and intelligence. I do not pretend to agree with him on all issues. I would rather have the honesty and intelligence than the agreement."

On the issue of abortion, General Pryor's record provides another example of his commitment to following the law even when it conflicts with his deeply held personal beliefs. After the Alabama legislature passed a partial-birth abortion ban in 1997, General Pryor issued guidance to State law enforcement officials to ensure that the law was enforced consistent with the Supreme Court's 1992 decision in Planned Parenthood v. Casey. Although there was considerable outcry against his decision from the pro-life community, the ACLU praised General Pryor's decision, emphasizing that his order had "[s]everely [l]imited" Alabama's ban. He issued similar guidance after the Supreme Court's 2000 ruling in Stenberg v. Carhart, which struck down another State's ban on partial-birth abortion. Again, the dictates of the law trumped his personal beliefs. He stuck with the law even though he totally disagreed with it.

The President has nominated a good and honest man with a sterling legal career, a bipartisan reputation for enforcing the law impartially as attorney general, and an enviable record of success before the nation's highest Court. At General Pryor's inauguration as Attorney General, he opened with the statement: "Equal under law today, equal under law tomorrow, equal under law forever." Despite the distortions, half-truths, and outright falsehoods we have heard about him, General Pryor is a diligent, honorable man whose loyalty as a public servant has been to the law and its impartial administration. He has told us under oath that he will continue to follow the law, just as he has demonstrated during his distinguished career in Alabama. Quoting again from Justice Johnstone's letter—Justice Johnstone is a Democrat—to our Committee: "The crucial question in judging a judicial candidate or nominees is not what sides of legal issues he or she has advocated but whether he or she has enough reverence for the rule of law, enough humility, and enough self-control to follow the law whether he or she likes it or not. My observation tells me General Pryor does."

A minority of the Senate is again attempting to prevent us from voting on Attorney General Pryor despite his outstanding record. Such an attempt is profoundly at odds with what the Constitution demands of us as Senators. The President and the American people have a right to an up or down vote on judicial nominees. Playing politics or political games with judicial nominees must stop and we must do our duty and vote on this excellent nominee, Bill Pryor.

Accordingly, I urge my colleagues not to deny Bill Pryor the courtesy of an up or down vote on the Senate floor. He deserves better, the President deserves better, and the majority of the Senate that stands ready to confirm him deserves better. Most importantly, the American people deserve the opportunity to hold their Senators accountable for the votes they cast on the President's judicial nominees. We must invoke cloture on Bill Pryor's nomination.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois is recognized.

Mr. DURBIN. Madam President, how much time remains on the Democratic side?

The PRESIDING OFFICER. There are 11 minutes 30 seconds remaining.

Mr. DURBIN. In the absence of the chairman, I will say a word or two about the nomination.

At the outset, I will say this may be the toughest part of this job—standing in judgment of other people. It is easy to deal with issues and abstractions and numbers and policy. But when you stand in judgment of another person, I think it is one of our most solemn responsibilities, complicated even more by the fact that many of the people who are in controversy here have very close friends in the Senate among my colleagues. In this case, my friend and colleague, Senator SESSIONS of Alabama, I believe counts William Pryor as one of his close friends. They have worked together for many years.

I can tell you, from his statements in committee and on the floor, he is totally committed to him and believes he would be a fine circuit court judge. That is why opposition to his nomination is all that much more difficult.

I come here today to oppose his nomination because, frankly, as I listened carefully to Attorney General Pryor's positions on the issues in the Judiciary Committee, it struck me that on issue after issue he has not only taken an extreme position but has been unashamed, unabashed, and unembarrassed to express it in some of the clearest language we have had before us. You have to ask yourself, if he is that strident, if he is that committed to these extreme positions, can he possibly perform his responsibilities as a member of the circuit court of appeals—a lifetime appointment—in the way that we expect?

We don't want judges to make laws but, rather, to interpret them. When somebody comes to this position with a long history and pedigree of taking these strongly held, extreme positions on the law, is it reasonable for us to believe they will cast them aside once taking the oath of office and then be dispassionate in the way they rule? I think that really strains credulity.

There are some who believe that if a nominee comes before us and says, "I will just apply the law," that is all we need to hear; that we can ignore what they have done beforehand. You cannot do that. You have to make an honest assessment.

We find time and again that nominees for the Federal circuit court—the second level before the Supreme Court—are those nominees with the strong ideological backgrounds. They are the ones who have run into controversy and trouble on the Senate floor.

I believe that this White House, if it wanted to, could focus more on finding common ground between Republicans and Democrats. We expect to receive conservative Republican nominees for all of these vacancies. That is a reflection of the President's philosophy.

In the case of Attorney General William Pryor, this goes beyond mainstream conservatism. Some of the things he has said relative to issues relating to judicial activism and the like are difficult for us to reconcile with the person who we want to be fair and dispassionate in his rulings.

Mr. Pryor stated:

> Our real last hope for federalism is the election of Governor George W. Bush as President of the United States, who has said his favorite justices are Antonin Scalia and Clarence Thomas.

He went on to say:

> Although the ACLU would argue that it is unconstitutional for me as a public official to do this in a Government building, let alone a football game, I will end my prayer for the next administration, "Please, God, no more Souters."

That is a reference to Supreme Court Justice Souter. These remarks don't lend themselves to the argument that Attorney General Pryor is going to be measured and moderate and fair if he is given this lifetime appointment to the circuit bench.

I have looked at his record on a variety of issues and I can tell you that, time and time again, what I have seen is a position that is hard to reconcile with the standard we should set for all judges to this position.

I yield the floor.

Mr. FEINGOLD. Mr. President, much of the debate on this nomination has focused on the views and qualifications of this nominee. I want to call the attention of the Senate to the violation of the rules of the Judiciary Committee that occurred when Mr. Pryor was considered in the committee. I will vote no on cloture because I believe that the committee rules were violated in reporting the nomination to the floor and that, before the Senate acts on this nomination, more investigation is needed of Mr. Pryor's involvement with the Republican Attorneys General Association and the truthfulness of his testimony on that topic.

We faced a similar procedural problem early this year in the committee. I thought we had reached a resolution of that dispute. A number of us lifted our objection to proceeding with floor votes on John Roberts and Justice Deborah Cook after we received assurances that the committee's rule IV would be reinstated and abided by from that time forward. That agreement was put to the test during consideration of the Pryor nomination, and I'm sorry to say that the Committee failed that test.

Just as we did in connection with the Roberts and Cook nominations in late February, in July, Democrats on the committee invoked rule IV and asked that a vote on the Pryor nomination not be taken. But once again, the rule was violated.

The interpretation of rule IV that the chairman of the Judiciary Committee followed in connection with the Pryor nomination conflicts with the text of the rule, the practice of the committee for 24 years under five separate chairmen, and the history of the adoption of the rule. It was as wrong in July as it was in February when the chairman first expressed it. I won't repeat those arguments today, but I ask unanimous consent that a copy of my statement in the Judiciary Committee from March 27 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATOR RUSS FEINGOLD—STATEMENT ON JUDICIARY RULES

Mr. Chairman, last week we readopted the Committee's rules. I had no problem with us taking that action, although as I said at our meeting, I think we need to have an opportunity to discuss that agenda item rather than acting off the floor without anytime for consideration. But with the understanding that we would have the opportunity to have a discussion and debate, I was fine with readopting the rules for this Congress.

As I understand it, the rules have been in effect throughout the year. I have no problem readopting those rules, which as I understand it, have been in effect this year in the debates we have had so far. But having done that, I want to make some comments on what happened in our meeting on February 27. I believe that a clear violation of the committee rules occurred on that day, and we really need to discuss this as a committee before proceeding with further business.

What happened on February 27 was a sad moment for our Committee and does not bode well for the harmonious functioning of the Committee this year. Indeed, since that day we have been in a free fall it seems to me. Communications have broken down among us and among our staffs. On the Democratic side, we feel unfairly taken advantage of, and I know there are bad feelings on your side as well. I am very sorry about this because we have much work to do for the country, and we can do that work much more efficiently and much more successfully if we work together with respect and good will than if we are constantly fighting with each other.

Mr. Chairman, you have the votes in this Committee to do pretty much whatever you want. But that does not mean that you should ignore the rights of those who disagree with you. That is what occurred at the February 27 meeting.

Let me quickly review the background of this dispute. The Chairman sought to have votes on circuit court nominees Justice Deborah Cook and Mr. John Roberts. A number of us on the Democratic side believed that those votes should not occur because those two nominees had not received an adequate hearing in this Committee. I'm not going to take the time to review our position on that score in any detail, but I do want to point out that we have not engaged in a policy of blanket obstruction of nominees in this Committee. We voted on Miguel Estrada. We voted on Jeffrey Sutton. We voted on Jay Bybee. We voted on Timothy Tymkovich. We will soon vote on Priscilla Owen.

Many of us voted against some or all of those nominations, but we agreed to have a vote because we thought that the Committee's consideration of the nominees had been sufficient for us to make up our minds. We have not sought to use Rule IV to obstruct the functioning of the Committee.

In the case of Justice Cook and Mr. Roberts, however, we had asked repeatedly for another hearing. We had asked, as an alternative, for a public meeting with the nominees. Having been rebuffed at every turn, we simply did not feel ready to proceed with votes on their nominations. We did not believe the Committee has been given adequate opportunity to assess the qualifications and examine the record of Justice Cook and Mr. Roberts.

But when we objected to a vote on February 27, the Chairman overruled the objection and forced a vote, in clear violation of Rule IV. This was an astonishing act in a body that functions in large because all members respect the rules and abide by them.

When an objection to proceeding to a vote was made, the proper course under our Committee's longstanding Rule IV was to hold a vote on a motion to end debate on the matter. The Rule provides that debate will be ended if that motion carries by a majority vote, including one member of the minority. In this case, our side was united in opposing ending debate, so the motion would have failed. It is, in effect, as the Chairman himself recognized in 1997 when the Rule was invoked in connection with the Bill Lann Lee nomination, a kind of filibuster rule in the Committee. The vote to end debate is like a cloture vote, and it cannot succeed unless at least one member of the minority assents.

Now Mr. Chairman, I have read your letter to Senator Daschle in which you attempt to justify your actions. With respect, Mr. Chairman, your interpretation of the rule is erroneous. In fact, it is clearly erroneous, and I don't use that term lightly.

Your position is that the Chairman of this Committee has unfettered power to call for a vote on a matter and that Rule IV is only designed to allow a majority of the committee to force what you call an "obstreperous Chairman" to hold a vote on a matter on the agenda when he doesn't want to. That interpretation conflicts with the text of the rule, the practice of the Committee for 24 years under five separate Chairmen, including the current Chairman, and with the history of the rule itself.

I want to start with the history because I think it so plainly shows what the rule is designed to do. The rule was adopted in 1979 when Sen. Kennedy chaired the Committee. The Committee at that time had 10 Democrats and 7 Republicans. You were on the Committee at the time, as was Senator Leahy.

At that time, there was no way at all to end debate in Committee if even one member wanted to continue debate. Senator Thurmond, who was the ranking member at the time, stated during the committee meeting: "The present rule is the Senator can talk as long as he wants to."

Recent years had seen controversial matters such as the Equal Rights Amendment stalled for long periods of time in Committee. The Civil Rights era had seen the Committee headed by a segregationist Chairman block civil rights legislation. Chairman Kennedy sought a new committee rule to allow him to bring a matter to a vote. His original proposal was simply to let the Chairman call a vote when he believed there had been sufficient debate. This is how the original proposal read, from the transcript of the Committee's meeting on January 24, 1979: "If the Chairman determines that a motion or amendment has been adequately debated, he may call for a vote on such motion or amendment, and the vote shall then be taken, unless the Committee votes to continue debate on such motion or amendment, as the case may be. The vote on a motion to continue debate on any motion or amendment shall be taken without debate."

That was the original proposal to change the right of unlimited debate. And if that rule had been adopted, and remained in effect until the present, what happened on February 27 would have been just fine because a majority of the committee would not have supported our request to continue debate.

But Chairman Kennedy's proposed rule was not adopted. Sen. Thurmond noted that the minority on the committee were opposed to the change. He stated: "We feel it would be a mistake, if there is going to be a change we do think there ought to be some compromise between the unlimited debate maybe and a majority. That is what I was discussing with Senator DeConcini. I felt maybe 12 members could cut off debate. Senator DeConcini suggested 11."

Mr. Chairman, during this 1979 markup—and I have to say that the transcript makes for fascinating reading—Democratic members like Sen. Howard Metzenbaum, Sen. Kennedy, and even Sen. Biden spoke about the need for the Committee to be able to conduct business and not be thwarted by what Sen. Metzenbaum called a "talkathon." On the other hand, Republican members of the Committee were wary of a rule change. And Mr. Chairman, you spoke against the rule that Sen. Kennedy proposed. You said the following: "I would be personally upset. There are not a lot of rights that each individual Senator has, but at least two of them are that he can present any amendments which he wants and receive a vote on it and number two, he can talk as long as he wants to as long as he can stand, as long as he feels strongly about an issue. I think these rights are far superior to the right of this Committee to rubber stamp legislation out on the floor.

Later you continued: I think it is a real mistake, Joe, and Mr. Chairman. I see the advantages of being able to expedite legislation and try to balance that. I think it is a real mistake to take away these rights.

Senator Thad Cochran was then a member of the committee and at the end of the meeting, he, echoing Sen. Thurmond, suggested a compromise. He said: "Mr. Chairman, I don't have anything to add other than except I do support writing into the rule the requirement that there be an extraordinary majority to shut off debate in our Committee. I think we can arrive at some number agreeable to everyone.

There was quite a lengthy discussion of the proposed rule change. One particularly significant remark was made by Senator Bob Dole, who was then on the Committee said: "[A]t least you could require the vote of one minority member to terminate debate. I'm sure you could always secure one vote over here."

The next week, the Committee reached agreement and adopted Rule IV, which has been in effect ever since. The transcript of the Committee's meeting indicates only that the rule change was acceptable to both sides. There is no further discussion or debate.

The text of the rule takes up Sen. Dole's idea, requiring at least one member of the minority to vote to end debate. The compromise ended the ability of one or a few Senators to tie up the Committee indefinitely. But it gave the majority the power to end debate over an objection if it could convince one member of the minority to agree. The Committee didn't adopt Sen. Thurmond's or Sen. Cochran's suggestion precisely, but it specified a super-majority to end debate, 10 out of the 17 member of the committee. Because ten of the 17 members of the Committee at the time were democrats, the new rule made it even more difficult for the majority to end debate by taking up Sen. Dole's suggestion and specifying that at least one member of the minority had to agree. That was the compromise reached, and that is the rule we have had for over two decades.

Mr. Chairman, the argument that the rule places no limit on the Chairman's ability to end debate is clearly answered by this history. It is clearly wrong. The committee rule was violated when Justice Cook and Mr. Roberts were reported over the objection of some members without a vote in the Committee to end the debate. There is simply no question about this.

You have mentioned a number of times that the Parliamentarian agreed with your interpretation of the Committee's rules. I do not believe that is accurate. What the Parliamentarian has told us is that if a point of order is made on the floor he would only look to make sure the Senate rules were followed. Those rules simply require a majority vote of the committee when a quorum is present. No Senate rule was violated on February 27, but a Committee rule, Rule IV, clearly was.

During the February 27 meeting, a new member of our Committee, the Senator from South Carolina, stated that if our intention of Rule IV prevailed, "you could not ever do any business, have any votes, unless the other side totally agreed." I just want to point out that that is not the result we seek at all. There is a big difference between the other side "totally agreeing" and having one member of the minority voting to end debate. The Senator from South Carolina actually described the situation in this Committee before Rule IV was adopted, but not after.

I do want to point out to my colleagues once again that it is hardly the case that we on the Democratic side have tried to block all action on judges using Rule IV. We voted on Miguel Estrada. We voted on Jeffrey Sutton. We voted on Jay Bybee. We voted on Timothy Tymkovich. We will vote on Priscilla Owen. In the last Congress we approved 100 of President Bush's nominees. I voted against a few of them, but I never tried to hold up a vote.

We tried to invoke Rule IV on February 27 only because of the special circumstances surrounding the Cook and Roberts nominations. We felt, and we still feel, that the Committee's consideration of these two nominees was inadequate. That's why we objected to the votes.

Now Mr. Chairman, this might seem like a petty matter. But is isn't. Honoring the rules of the Senate and the rules of the committees gives credibility and legitimacy to the work we do here. Rules that survive changing tides of political power are the hallmark of a democracy. In may ways our committee rules are analogous to the rule of law in our society. We have to respect those rules or we have nothing left.

Mr. Chairman, it is clear from the history of Rule IV that it we insisted on in 1979 by Republican Senators then in the minority to preserve their rights in Committee to debate matters fully and not just, in your own words at that time, "rubber stamp legislation out to the floor." The justification for ignoring the rule given in the letter to Sen. Daschle simply doesn't hold water when you look at the history and practice in this Committee. This kind of results-oriented approach to the rules of the Committee does not serve us well. The rules of this body, like the laws of this country, protect all of us. We must stand up to efforts to ignore them.

What happened in the Committee on February 27 with respect to Rule IV did not reflect well on the Committee or the Senate. I sincerely hope that these rulings will be reconsidered. The Committee must enforce its rules, not run roughshod over them. And if that means that we consider and discuss certain nominations a little longer before reporting them to the floor, so be it. That is what happens in a deliberative body governed by rules not fiat.

Thank you Mr. Chairman.

Mr. FEINGOLD. I want to emphasize that we have never sought to use rule IV to indefinitely delay a nomination in committee. With respect to Mr. Roberts and Justice Cook, we only wanted adequate hearings so that we could properly exercise our constitutional responsibility to advise and consent on the nomination. With respect to Mr. Pryor, we only wanted to complete an investigation that was well underway already. We have never tried to kill a nomination in committee by never voting on it, even though that was done dozens of times to President Clinton's nominees. But we should not be forced to vote on a nomination before we have all of the information that we feel is needed to make an informed recommendation to our colleagues in the full Senate.

We needed more time to investigate the issues raised by records from the Republican Attorneys General Association, RAGA, that the committee received. The documents raise what seem to me to be serious questions about the accuracy of Mr. Pryor's testimony before the Judiciary Committee and the answers he provided to written questions. We needed more time to contact the people who know about Mr. Pryor's activities as the Treasurer of RAGA and ask them questions. And we should have called Mr. Pryor back to ask him further questions in person and under oath. I don't know where this investigation might have led, but I do know that it was not nearly completed when the committee voted in July.

It was the committee's duty and responsibility to provide the full Senate with a complete record about a nominee. But, as we expected, once the committee voted, the investigation stopped. So there are still many unanswered questions.

Let me just cite a few examples of the questions that the RAGA documents raise. In answer to one of my written questions about who administered RAGA and who might have records of its activities, Mr. Pryor stated that RAGA was administered by the RNC and that to his knowledge all records were maintained by the RNC. He also stated that all solicitations for membership in RAGA were made by the staff of the RNC or the 5 State attorneys general who served on RAGA's executive committee. He failed to identify a single individual who worked for RAGA or raised money for RAGA.

The documents we received indicate that RAGA was administered for over a year by an individual who had previously been Mr. Pryor's campaign manager. She served as RAGA's finance director. That person did not work for the RNC. They also identify an RNC employee who previously had worked for Mr. Pryor on his campaign. Both of these individuals maintained records of RAGA at some point. But Mr. Pryor did not identify these individuals, even though our questions clearly sought that information.

The documents also show that solicitations were made by a finance committee of lobbyists and political fundraisers, in addition to RNC and RAGA staff and the attorneys general. The documents seem to indicate that Mr. Pryor was familiar with the finance committee and even participated in conference calls with them. Yet he failed to discuss the finance committee in his answers, even though, again, the questions specifically sought that information.

The documents also suggest that Mr. Pryor received reports specifying the companies that had contributed to RAGA. This is inconsistent with Mr. Pryor's testimony that he received only e-mail and oral reports of overall fundraising totals.

These are just a few examples. There may be good explanations for Mr. Pryor's testimony and answers, but we don't have them yet. And we should get them before we vote on the nomination. I will therefore vote no on cloture.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, how much time remains?

The PRESIDING OFFICER. On the Republican side, 7 minutes 41 seconds remain. Five minutes two seconds remain on the other side.

Mr. HATCH. I yield time to the Senator from Alabama.

Mr. SESSIONS. Madam President, there has been a repeated suggestion that somehow Alabama's brilliant, principled, courageous attorney general, who has stood firm time and again in serious types of disputes within the State legally, is extreme or radical or out of the mainstream. When you ask why and say show me something he has done that indicates that, they say, well, he struck down the Americans with Disabilities Act.

As I explained earlier, he appealed a portion of that act that dealt with 4 percent of the cases, cases against States; and the Supreme Court agreed with him and struck down that small portion of the act.

He was not against the disabled. He has great compassion for the disabled. It was a legal action taken by this Congress that upset and struck down legitimate States rights issues, and the Supreme Court, when reviewing it, agreed with Attorney General Pryor.

This is the kind of argument that has been raised. There is no basis to say this man is extreme. He stood firm on a matter of reapportionment in Alabama, which benefited the Democrats. He took complaints from the Republicans. He declared that the State reapportionment plan dictated by the Democratic majority that favored the Democrats was legally done and he defended it. He lost it in the court of appeals and he won it on behalf of the Democrats in the Supreme Court. At least their provision prevailed.

What Bill Pryor said and what he believed was it was his duty to defend Alabama law if it was constitutional. He found that it was, so he defended it, even though he personally would not have agreed with it.

In one of the affidavits that Senator LEAHY quoted Bob James III is complaining about Attorney General Pryor. In his affidavit, he said:

> The last conversation I recall with Bill Pryor occurred late in Governor James' last term after the Governor signed Alabama's "partial-birth" abortion law. When the law passed, Mr. Pryor instructed Alabama district attorneys not to enforce the law as to previable fetuses. In my review, this gutted the law and defeated its very purpose. An equivalent to Pryor's action would be for Attorney General Ashcroft to instruct U.S. attorneys not to enforce an act of Congress.

Everybody knows Bill Pryor is pro-life. Everybody knows Bill Pryor personally abhors partial-birth abortion. Why did he do this?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Because he was following the law.

I yield the floor and reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The assistant Democratic leader.

Mr. REID. Madam President, I ask permission of the distinguished manager of this matter, Senator LEAHY, if I may direct some questions to him.

Mr. LEAHY. Madam President, I understand I still have almost 5 minutes left. Of course.

Mr. REID. Through the Chair to the distinguished ranking member of the Judiciary Committee, is this the same William Pryor the Senate spent a great deal of time on previously and there was an attempt by the majority to invoke cloture and that failed? Is this the same person?

Mr. LEAHY. Madam President, I answer the distinguished senior Senator from Nevada by saying, yes, it is. I answer further, although he didn't ask this question, I am not aware of any votes that have changed since that time.

Mr. REID. Madam President, I direct a further question to my friend. Is he telling me then, in the waning days of this legislative session of the National Legislature that we are spending time on a vote that has already been taken—there will not be a single vote changed—when we have appropriations bills to complete, we have Internet taxation, and many other items we are trying to complete in a matter of days; that we are, for lack of a better description, wasting the Senate's time on a nomination that has already been rejected by the Senate?

Mr. LEAHY. Madam President, the senior Senator from Nevada is absolutely right. In fact, of those appropriations, we have held up the appropriations for our veterans, and we can't find time to vote on the floor. Appropriations for our law enforcement people are being held up and we can't find time to vote on the floor. Appropriations for the Federal judiciary, for the State Department, for housing, and a number of others are being held up, and we can't seem to find time to vote on the floor. But we are doing this revote when everybody knows the result will be precisely what it was the last time.

Mr. REID. Madam President, I further direct the Senator's attention to an article—I am not confident he has had time to read it because it is from a western newspaper, the L.A. Times. Is it true the vacancy rate on the Federal bench is at a 13-year low, as indicated in the headlines of today's L.A. Times?

Mr. LEAHY. Madam President, the Senator is absolutely right. The vacancy rate in the judiciary is at a 13-year low. It was at a high at the end of President Clinton's term because the Republican majority in the Senate had blocked over 60 of President Clinton's nominees, usually by either threatening filibusters or not even allowing them to have a vote.

In the 17 months that the Democrats were in charge of the Senate, we confirmed 100 of President Bush's nominees, which brought down that rate. In the 17 months the Republicans have been in charge, they have confirmed another 68. So the vacancy rate is at a 13-year low. In fact, I say to my friend from Nevada, President Bush, in less than 3 years, has seen more of his nominees confirmed than President Reagan did in his first 4 years, with a Republican majority in those 4 years, and he was the all-time champ.

Mr. REID. Madam President, I further direct a question to my friend, it is true, then, that this article written by David Savage states that experts who track Federal judgeships say Republican complaints about a Democratic filibuster has skewed the larger picture. The article further goes on to say, and I ask the Senator if he is aware of this, that 168 Federal judges have been approved and 4 turned down—168 to 4; is that the record as the Senator understands it?

Mr. LEAHY. Madam President, it is. As a good friend of mine in the Republican Party said the other day: PAT, I know this whole argument is bogus. I guess we are making it for fundraising letters. But I do know President Bush has had far more of his nominees confirmed with both Democrats and Republicans in the Senate than anybody has in decades.

Yes, it is true, and I do agree with my Republican friend that the argument is bogus. But the only objection I have to the bogus argument being made is that we should be voting on the money for our veterans. We should be voting on the money for our law enforcement. We should be voting on the money for housing. And, we should be passing those bills that, by law, we were supposed to have passed way back in September.

I ask unanimous consent that the entire L.A. Times article that has been referred to by the distinguished Senator from Nevada be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Nov. 6, 2003]

VACANCY RATE ON FEDERAL BENCH IS AT A 13-YEAR LOW

(By David G. Savage)

WASHINGTON.—The vacancy rate on the federal bench is at is lowest point in 13 years, because of a recent surge of judges nominated by President Bush and confirmed by the Senate.

The intense partisan battle over a handful of judges aside, Bush has already won approval of 168 judges, more than President Reagan achieved in his first term in the White House. And with 68 of his nominees winning confirmation in 2003 as of Wednesday, President Bush has had a better record this year than President Clinton achieved in seven of his eight year in office.

Experts who track federal judgeships say Republican complaints about Democratic filibuster of four judges have obscured the larger picture.

"The Bush administration has been spectacularly successful in getting the overwhelming proportion of its judicial nominations confirmed," said political scientist Sheldon Goldman at the University of Massachusetts, Amherst. "There are only a relative handful being filibustered and held up. And this contrasts with the dozens of Clinton nominees who were held up by the Republicans in the last six years of the Clinton administration. The truth is the Republicans have had an outstanding record so far."

The Republican-controlled Senate Judiciary Committee lists 39 vacancies among the 859 seats on the U.S. district courts and the U.S. courts of appeal—a 4.5% vacancy rate.

This is the fewest number of vacancies since 1990. During Clinton's term in office, the number of vacancies on the federal bench was never fewer than 50, according to the Administrative Office of the U.S. Courts.

Today, the Senate committee is set to vote on four more judicial nominees, including California Supreme Court Justice Janice Rogers Brown. She is likely to be opposed by almost all of the panel's Democrats, one of whom called her a "right-wing judicial activist" during a hearing two weeks ago.

If confirmed by the full Senate, Brown would fill a seat on the U.S. Court of Appeals in the District of Columbia that is vacant in part because Republicans blocked two candidates that Clinton nominated in 1999.

Washington lawyer Allen Snyder, a former clerk to U.S. Supreme Court Chief Justice William H. Rehnquist, had a hearing in the committee, but despite a lack of opposition, he failed to gain a confirmation vote in the Senate. White House lawyer Elena Kagan was denied even a hearing in the GOP-controlled Judiciary Committee. She has since become a dean of Harvard Law School.

Upon taking office, President Bush named Washington lawyers John Roberts and Miguel A. Estrada to the same appeals court. Roberts, also a former clerk to Rehnquist, won confirmation this year and is now the junior judge on the U.S. Court of Appeals for the District of Columbia. Democrats filibustered and blocked a final vote on Estrada, who subsequently withdrew.

In July, President Bush chose Brown to fill the vacancy.

Even if she wins a narrow approval today, the minority Democrats may block her from a final vote in the Senate. Besides Estrada, they have blocked votes on Mississippi Judge Charles W. Pickering Sr., Texas Supreme Court Justice Priscilla R. Owen and Alabama Atty. Gen. William H. Pryor Jr. Also waiting a final confirmation vote is Los Angeles Superior Court Judge Carolyn B. Kuhl, Bush's nominee to the U.S. 9th Circuit Court of Appeals.

Administration officials concede that most of Bush's judges are being approved, but they point to the blocking of the appeals court nominees as extraordinary.

The vacancy rate "has been getting lower, but the real problem is the showdown at the circuit courts. We have seen an unprecedented obstruction campaign against the president's nominees for the circuit courts," said John Nowacki, a Justice Department spokesman. The department's Web site says there are 41 vacancies on the federal bench, if the U.S. Court of Claims and the International Trade Court are included in the total.

The administration says Bush has made 46 nominations to the appeals court, but only 29 have won confirmation. "That's a 63% confirmation rate.

Clinton had an 80 percent confirmation rate at the same time," Nowacki said. "There is something different going on here. It's an obstruction at entirely different level."

Goldman, the University of Massachusetts professor, said both parties have blocked prospective judges they viewed as extreme, but they have done it in different ways.

"The Republicans obstructed quietly in the committee," Goldman said. "If they didn't want to approve you, you just didn't get a hearing. The Democrats have obstructed through the use of the filibuster, which is very open and visible."

During Clinton's final six years in office, Republicans controlled the Senate, and they refused to confirm more than 60 of his judicial nominees.

BENCH STRENGTH

Here's how President Bush's confirmed nominations to Federal judgeships compares with his three predecessors:

President George W. Bush: 2003: 68; 2002: 72; and 2001: 28**.

President Bill Clinton: 2000: 40*; 1999: 33*; 1998: 65*; 1997: 36*; 1996: 20*; 1995; 55*; 1994: 101; 1993: 28; and 1992: 66*.

President George H. W. Bush: 1991: 56*; 1990: 55*; and 1989: 15*.

President Ronald Reagan: 1988: 41*; 1987: 43*; 1986: 44; 1985: 84; 1984: 43; 1983: 32; 1982: 47; and 1981: 41.

*Senate controlled by opposition.

**Senate evenly divided until Sen. James M. Jeffords of Vermont left the Republican Party to become an independent.

Sources: Administrative Office of the U.S. Courts.

Mr. LEAHY. How much time is remaining?

The PRESIDING OFFICER. Ten seconds.

Mr. LEAHY. I will yield back my 10 seconds.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 1 minute to the distinguished Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to respond to some comments that were just made. The distinguished assistant Democratic leader asserts Mr. Pryor has been rejected before. He has not been rejected before. He has not been given an up-or-down vote. He has not been given a vote. We have a majority of Senators who supported him previously. A majority will support him, and it is absolutely wrong to say he has been rejected. He has not been given a vote.

For the first time in the history of this country, we are facing a filibuster of judges, and it is not right. It is time to deal with this situation. I hope our colleagues on the other side will yield. If not, I hope they hear from the American people.

I yield time back to the distinguished chairman of the Judiciary Committee.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I couldn't agree more with the distinguished Senator from Alabama. What is happening here is a very fine man, an excellent lawyer, an excellent attorney general in this country, one who has always stood for upholding the law even when he disagreed with it, which is the ultimate in judicial nominees, is being deprived of the dignity of an up-or-down vote, which has never been done before, other than in these four filibusters that the Democrats have waged in this body.

This is dangerous stuff. I admit during the Clinton years there were a few of our Republicans who wanted to filibuster some of their liberal judges, and we stopped it. Senator LOTT and I made it very clear that was not going to happen because not only is that a dangerous situation, politically it is a terrible situation, and it is something that should not happen in this body.

One of the Democrats' favorite tactics, which they used again before last week's failed cloture vote on Judge Pickering's nomination, is to try to excuse their indefensible treatment of the President's nominee by citing the raw number of President Bush's nominees confirmed by the Senate. That number now stands at 168. They trumpet this number, and then note they have blocked only 4. We know it will be a lot more than that. We already know the future nominations they are going to block, but the Democrats believe this sounds reasonable to the American people who hear it.

The more the real story gets out, the less acceptable it is to the American people. First, there are more Federal appellate vacancies today, 18, during President Bush's third year in office than there were at the end of President Clinton's second year in office, 15. Over half of President Bush's appeals court nominees have not been confirmed. There are 41 total vacancies on the Federal district and appellate benches, 22 of which are classified as judicial emergencies by the nonpartisan Administrative Office of the U.S. Courts. A staggering 67 percent of the vacant appeals court slots are judicial emergencies.

Here is the point. No raw number of confirmations means anything in and of itself, while there are not one but three filibusters—exemplary nominees going on now. We just voted out Janice Rogers Brown from the committee on a straight party-line vote, and it is clear they are going to filibuster this fine African-American justice who wrote the most majority decisions issued by the California Supreme Court last year. Their argument is: She is outside the mainstream. That is always the argument they bring up because she does not conform to the liberal ideology they demand.

Just think, one nominee, Miguel Estrada, has withdrawn after more than 2 years of a filibuster against him.

The Democrats are virtually certain to filibuster Justice Janice Rogers Brown, another DC Circuit nominee; and emergency vacancies continue to exist on our Federal courts.

Are we supposed to be grateful that only a small handful of President Bush's nominees are being filibustered? Is there an acceptable filibuster percentage the Democratic leadership has in mind? The mere fact that we have to ask these questions makes it crystal clear we have a broken process. Even one filibuster of a judicial nominee is one too many, and we are now up to four, and I might add there are others they have made very clear they are going to filibuster. These are appellate nominees. For the first time in history, these filibusters are occurring. I think it is shameful.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 310, the nomination of William H. Pryor, Jr., to be United States Circuit Judge for the Eleventh Circuit.

Bill Frist, Rick Santorum, Ben Nighthorse Campbell, Lindsey Graham, Norm Coleman, John Sununu, Jon Kyl, Mike DeWine, Wayne Allard, Elizabeth Dole, Pete Domenici, Mitch McConnell, Robert F. Bennett, Jeff Sessions, Michael B. Enzi, John Ensign, and John Cornyn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on Executive Calendar No. 310, the nomination of William Pryor, of Alabama, to be United States Circuit Judge for the Eleventh Circuit, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

I further announce that if present and voting the Senator from New Hampshire (Mr. SUNUNU) would vote "yes."

Mr. REID. I announce that the Senator from Massachusetts (Mr. DAYTON), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 43, as follows:

[Rollcall Vote No. 441 Ex.]

YEAS—51

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Domenici
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Kyl
Lott
Lugar
McCain
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Talent
Thomas
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Graham (FL)
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—6

Campbell
Dayton
Edwards
Kerry
Lieberman
Sununu

The PRESIDING OFFICER. On this vote, the yeas are 51 and the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

* * *

LEGISLATIVE SESSION

Mr. BENNETT. I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. BENNETT. I ask unanimous consent that we resume consideration of H.R. 2673.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pending:

Bennett/Kohl amendment No. 2073, of a technical nature.

Specter amendment No. 2080, to limit the use of funds to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that does not support the price of milk at the rate prescribed by law.

Mr. BENNETT. I understand there are a number of amendments to be offered. Senator DORGAN has approached me about one he would like to offer. I have no particular preference as to the order in which the amendments come. I understand some Senators wish to make comments before we get into the amending process. I do not see the Senators in the Chamber who told me they planned to make some kind of a statement.

Senator KOHL and I are open for business.

Mr. REID. If the Senator has given up the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2115

Mr. BINGAMAN. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2115.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide funds to implement and administer Team Nutrition programs, with an offset)

On page 5, line 1, strike "$188,022,000" and insert "$183,022,000".

On page 48, line 24, strike "$11,418,441,000" and insert "$11,423,441,000".

On page 48, line 26, strike "$6,718,780,000" and insert "$6,723,780,000".

On page 49, line 7, before the period, insert the following: ": *Provided further*, That not less than $15,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture".

Mr. BINGAMAN. Mr. President, this amendment is very straightforward. It would provide $5 million in additional funding to the nutrition education and training section of the School Lunch Program. The funds would serve to develop new programs and to implement existing programs in the Department of Agriculture Team Nutrition Program. Nutrition education programs are being chronically underfunded and have been for a great many years.

We have authorized in current law—the law about to expire, as I understand it—50 cents to be spent for every public school student to be served in this country. That is 50 cents per year. This is not 50 cents per day; this is 50 cents per year.

I was speaking to Senator BYRD from West Virginia and he said for nutrition education we ought to at least give them as much money as it costs to buy a candy bar. That is not an unreasonable goal to set for this great country. Last year, we did not begin to reach the 50 cents per student per year. Last year, we provided $10 million.

This chart shows the funding level beginning in 1996. In 1996, we provided $23.5 million. This is for the combined funding of the nutrition education training and the team nutrition. As I understand, this nutrition education training is essentially money that goes as grants to the States to help them provide some kind of nutrition instruction in their schools. We provided $23.5 million in 1996, $14.25 million in 1997, $11.75 million in 1998, and down to $10 million in 1999.

We are again, in the current fiscal year, being presented with an appropriations bill that calls for $10 million. My amendment would increase that by another $5 million.

This team nutrition component in this Department of Agriculture effort is an integrated behavior-based comprehensive plan for promoting nutritional health among our Nation's schoolchildren. We have over 47 million children in school in this country—that is kindergarten through 12th grade—47 million in the public school system.

There are three behavior-oriented strategies the Department of Agriculture has tried to pursue. One is to provide trading and technical assistance for child nutrition food service professionals; that is, the people who provide lunches and breakfasts and serve meals so that the meals being served meet certain nutritional standards.

The second strategy is to provide multifaceted, integrated nutritional education for children and their parents. This tries to build some kind of motivation on the part of young people to remain healthy, to be healthy, to maintain some type of healthy lifestyle.

The third strategy is to provide support for healthy eating and physical activity by involving school administrators and other school and community partners.

The Agriculture appropriations bill proposes $10 million for this year's funding. In my view, that is woefully inadequate. It is inadequate because without additional funds, many States are not able to provide any nutrition instruction.

Why is it important at this point in our Nation's history to concern ourselves with nutrition instruction? It is important because over the last two decades obesity rates have more than doubled among children and they have more than tripled among adolescent children in our society. Today, heart disease, cancer, stroke, and diabetes are responsible for two-thirds of the deaths in this country. The major risk factors for these diseases and conditions are established in childhood through unhealthy eating habits, physical inactivity, obesity, and tobacco use. Those are the main causes that lead to the problem of obesity that leads to the other problems I have recounted.

Today, one in seven young people are considered obese; one in three are overweight. This is a crisis. It is a crisis for the future and a crisis for our health system.

The Surgeon General estimates that at the minimum we spend each year $100 billion dealing in our health care system—this is taxpayer dollars—$100 billion in our health care system, through Medicare and Medicaid, and other health programs, on diseases that are directly attributable to obesity. That is a rough figure, obviously. But they think that is a modest or conservative figure.

You compare that $100 billion to $10 million and you have a very interesting comparison: $10 million is not 1 percent of $100 billion, it is not one-tenth of 1 percent of $100 billion; it is one one-hundredth of 1 percent of $100 billion. We have all heard, all our lives, the expression an ounce of prevention is worth a pound of cure. We are not asking for anything like that ratio. If we were doing that, we would say we should provide one-sixteenth as much. Instead, we are providing one one-hundredth of 1 percent as much on nutrition education as we are spending to deal with the problems that could be avoided.

Obese children are twice as likely as nonobese children to become obese adults. The overweight problem results in all sorts of physical diseases: heart disease, diabetes, cancer, depression, decreased self-esteem, and discrimination. They face discrimination throughout their lives as a result of this problem.

There are only 2 percent of children who currently consume a diet that meets the five main recommendations for a healthy diet the U.S. Department of Agriculture food guide calls for, so the Department of Agriculture is in the business of trying to give young people and adults throughout our society advice. They do issue a food guide, the food guide pyramid, they call it. But, unfortunately, there is no follow-through instruction in our schools to try to really assist in getting this information to young people at a time when it can dramatically affect their habits for the rest of their lives.

I believe nutrition education is vital to growing a generation of healthy adults in this country. This amendment would be a very modest step toward getting some additional funds for this purpose. It would provide funding at the State level for implementation and administration of nutrition education training.

This is a program that has existed on the statutes for years. Unfortunately, it has not been funded. It is time to begin getting these figures up to a more reasonable level.

As I say, Senator BYRD from West Virginia made a suggestion which I think would be a good goal for us to set. He said we should at least provide as much funding per student per year as it would cost each of them to buy a candy bar. That is not unreasonable. I hope we can take this modest step and move ahead.

Let me cite a little bit more information because there was a good hearing on this subject that occurred earlier this year. I want to cite the testimony of the Department of Agriculture on the very issue I am talking about. This was a hearing on the reauthorization of the authorizing legislation here, and the Department of Agriculture representative at that hearing testified about their position. This is testimony from Eric Bost, who is the Under Secretary for Food, Nutrition, and Consumer Services, testifying before the Agriculture Committee in the Senate. He said in that testimony that the administration supports:

> healthy school environments to address the epidemic of overweight and obesity among our children by providing financial incentives to schools that meet the dietary guidelines. . . .

He said:

> The immediate reasons for overweight among our children are clear and uncomplicated. . . .

Then he goes through a list, of which one of the items in the list is:

> the lack of strong program of nutrition education and physical education in many schools. . . .

That is exactly what I am talking about. We have no strong program. You cannot have a strong program when you are spending $10 million in a nation of 280 million people, with 47 million young people in our elementary schools and our high schools.

He goes on, in that same testimony, to state, unequivocally:

> We support expanded funding to support the delivery of education messages and materials in schools.

When you look at this chart, it is obvious we have not been expanding the funding. Funding has been stagnant for most of a decade. In fact, it has dropped from where it was in 1996, very substantially.

The reasons for my amendment are very clear. The justification for it is overwhelming. In a wealthy nation like this, we can do better. We cannot afford to do as little in this area as we have traditionally done. The new crisis we face with obesity among children is a strong wake-up call to all of us that we need to begin doing something significant in nutrition education.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, I was hoping to get a resolution of my amendment before we switch to another amendment.

The PRESIDING OFFICER. Is the Senator objecting to setting aside his amendment?

Mr. BINGAMAN. I do object at this point.

The PRESIDING OFFICER. Objection is heard.

The Senator from Utah.

Mr. BENNETT. Mr. President, I am thinking we should not plan on any votes until maybe 2 or 2:30. I understand there are some conflicts going on on both sides of the aisle. I would say to the Senator, if he is going to insist on a rollcall vote, we should stack it at that time.

I have a problem with the Senator's amendment in that the offset he cites is from buildings and facilities at the Department of Agriculture. One can say, well, you can always find an extra $5 million, but that is an account that is committed to lease payments and other contracts that have been established for a while. It is $5 million, which in the scheme of things is not all that much money, but the offset is a bit problematical. We did fund this program at the requested level of $10 million, so it is going above the level.

These are the only comments I have on the amendment. I say to the Senator, if he insists on a rollcall vote, we possibly could set a time some time after 2 or 2:30 where the votes might occur, and I would hope to stack some votes at that time on amendments.

Mr. BINGAMAN. Mr. President, could I just ask the manager a question through the Chair.

I would be interested—obviously, my purpose is to get more resources for this activity. If the manager and the ranking member think they would be able to find a better offset, or find some other way to provide some resources for this or think that is a possibility, then I would be glad to defer to them. I picked this offset because I could not get any suggestion from anyone at the staff level, at least, of a better way to do this. If you think there may be a way to do this, I would be anxious to hear about it.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I would like to make the comment that Senator BINGAMAN has brought a very important and relevant issue to the floor. I agree with him that the funding level is inadequate, but I agree with Senator BENNETT that finding an offset is not yet something we have been able to do.

I personally, if Senator BENNETT feels the same way, would be willing to work with Senator BINGAMAN to see if we can't find some way to provide a satisfactory offset and, at any rate, to do everything we can to improve the funding level for this important service, if not this year, in future years.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I thank my ranking member for his thoughtful analysis of this and concur. We will be happy to look through the bill and see if we can find an offset and, as he said, if not this year, then in future years, because I do think the issue the Senator from New Mexico has raised is a legitimate one.

AMENDMENT NO. 2115 WITHDRAWN

Mr. BINGAMAN. Mr. President, with that assurance, I will not go ahead and push this to a vote at this point. Let me thank my colleagues for their assurance and urge, if it is possible before we complete action on this appropriations bill, before it goes to the President for signature, that we find some additional funds this year. That would be most appreciated.

I will be glad to work with them with regard to next year as well. This obviously needs to be a multiyear effort, if we are going to get funding for nutrition education up to a level that actually has an impact. That would be my hope.

With that understanding, I withdraw the amendment and yield the floor.

The PRESIDING OFFICER. The amendment is withdrawn. No objection being heard to waiving the amendment before the Senate, the Senator from North Dakota is recognized.

AMENDMENT NO. 2116

Mr. DORGAN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 2116.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate on the importation of cattle with bovine spongiform encephalopathy)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SENSE OF SENATE ON IMPORTATION OF CATTLE WITH BOVINE SPONGIFORM ENCEPHALOPATHY.

(a) FINDINGS.—The Senate finds that—

(1) the United States beef industry is the single largest segment of United States agriculture;

(2) the United States has never allowed the importation of live cattle from a country that has been found to have bovine spongiform encephalopathy (referred to in this section as "BSE");

(3) the importation of live cattle known to have BSE could put the entire United States cattle industry at unnecessary risk;

(4) food safety is a top priority for the people of the United States; and

(5) the importation of beef and beef products from a country known to have BSE could undermine consumer confidence in the integrity of the food supply and present a possible danger to human health.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Agriculture—

(1) should not allow the importation of live cattle from any country known to have BSE unless the country complies with the animal health guidelines established by the World Organization for Animal Health; and

(2) should abide by international standards for the continued health and safety of the United States livestock industry.

Mr. DORGAN. Mr. President, I have to chair a Democratic Policy luncheon in a few moments. I say to the manager and ranking member, I have two amendments to this bill. This is one. I will come back posthaste following the luncheon and offer the other. I don't want to hold up this bill. I want to have both amendments considered. I know you want to complete work on this important appropriations bill.

Let me describe the amendment that I have now offered dealing with something I think is very important.

We have in this country a livestock industry that is $175 billion. It is a very large industry, an important industry. In North Dakota, it is roughly $500 million, and it is important to our State. Ranching and farming, of course, represent the bread and butter of our economy in North Dakota.

Let me talk about some of the difficulties we face in the beef and livestock industry. We have had in some recent years outbreaks of something called BSE or more commonly referred to as mad cow disease. It is devastating. It is heartbreaking to see the consequences of an outbreak of mad cow disease on producers in a country where it occurs.

I hold up a chart that shows a pretty graphic picture of piles and piles of dead cattle with a fellow up here who is looking at all these cattle that have been slaughtered as a result of mad cow disease. This was in March 1997. The costs to that industry in England were devastating.

Our neighbor to the north, Canada, had one animal diagnosed with mad cow disease, an animal that appeared sick when it was slaughtered in January. They apparently severed the head and put it in a cooler, and some 4 months later they tested it and discovered that the animal, slaughtered in January, had mad cow disease or BSE.

As a result, we closed our border to the live import of cattle from Canada. It has been a devastating time for Canadian producers. Our hearts go out to them. It is a difficult situation for them. But what is important for us is to protect our industry, our beef industry, our livestock industry.

Last week the Secretary of Agriculture indicated that she is moving now toward putting Canada to a "minimal risk" status with respect to the import of cattle which would set up the capability of importing live cattle from Canada. We are not now importing them. We import some slaughtered beef products but not live cattle.

The amendment I offer is rather simple. The United States, with most other countries, belongs to the World Organization for Animal Health. That organization has protocols, describing the timeline for when you might allow imports into your country from a country that has mad cow disease or BSE.

Let me read the sense of the Senate: It is the sense of the Senate that the Secretary of Agriculture should not allow the importation of live cattle from any country known to have BSE, better known as mad cow disease, unless the country complies with the animal health guidelines established by the World Organization for Animal Health, and, No. 2, should abide by the international standards for continued health and safety of the U.S. livestock industry.

What are those guidelines? The guidelines may be changed. I am told there are discussions to do so. I am not necessarily opposed to changing them. But whatever the guidelines are, they are. At the moment those guidelines talk about a country or zone with minimal BSE risk:

> The cattle population of a country or zone may be considered as presenting a minimal BSE risk should the country or zone comply with the following requirements:
>
> The last indigenous case of BSE was reported more than seven years ago.

There is another category more than 4 years ago.

In this case, the case of mad cow disease occurring in Canada, it was some 10 months ago, and it was disclosed only 6 months ago. We are talking now about opening the border to imports of cattle from Canada.

That could be a devastating risk to our livestock industry. We have a lot of ranchers trying to make a living. We ought to care about the risk posed to them if we import cattle from a country that had a case of BSE within recent months.

We have a lot to lose. Let me describe a circumstance, for example, with Japan. In the year 2000, beef consumption in Japan was at 1.577 million tons carcass weight equivalent. BSE was discovered in Japan in September 2001. That beef consumption dropped by 16 percent in 1 year. Compounding those problems, Japan just announced its second case of BSE in an animal less than 30 months of age. The most recent case is a cow 21 months of age. USDA is proposing a rule that would allow cattle 30 months or younger to be imported to the U.S.

We have organizations that say, well, it is not going to be a big problem. In fact, a Harvard risk assessment on BSE and its effects came to the conclusion: Even if infected animals entered into the U.S. animal agricultural system from Canada, the risk of it spreading extensively within the U.S. herd was low.

I am sorry. If we have a case of BSE, mad cow disease, in this country, the risk is dramatic for our beef industry, just as it was for Japan—a 16-percent reduction in beef consumption. It is a devastating blow to our industry if it occurs.

I believe at this point we ought to proceed with caution. We are not talking about 4 years or 7 years, which represents the guideline of the International Organization for Animal Health. We are talking just a matter of months past the time when a case of BSE was disclosed by our neighbors to the north. I regret that has happened to them. I know it is heartbreaking for them. I know they would like to move cattle into our marketplace as early as possible, but the fact is, our obligation is to try to find every way possible to prevent an outbreak of mad cow disease in this country because it would be devastating to a significant, vibrant industry, devastating to a lot of ranchers out there trying to make a living today.

We ought not have USDA move as quickly as they want to move. First, it is an abrogation of the guidelines we signed up for. The guidelines of the International Code of Animal Health don't describe a circumstance in which you change the rules and allow the importation of live cattle from a country which has had an experience with mad cow disease in just a matter of recent months.

The World Organization for Animal Health is made up of 164 nations, our Nation included, and Canada. One of the missions is to develop guidelines that relate to the rules that member nations use to protect themselves against diseases without setting up unjustifiable sanitary barriers. I agree with all that. But I am saying that the guidelines in this organization of which we are a member and to which we are a party are explicit. They do not include a circumstance in which we decide, some 6 months after the disclosure of mad cow disease, that we will take live cattle imported from that country into our marketplace. That poses significant risks to our producers.

The National Cattleman's Beef Association, NCBA, supports the amendment. The R-CALF organization supports this amendment. These are the two largest beef organizations in the United States. I offer it today hopeful for its consideration. It is a sense-of-the-Senate resolution.

As I indicated when I started, I have to chair a Democratic Policy Committee lunch in about 1 minute.

So what I would like to do is have this amendment be pending, and it would be preferable, if you want, to set it aside and take other amendments while I am at lunch. I will come back to the floor at 2 o'clock and say a few more words and perhaps I can get the ranking member and manager to agree to accept this amendment.

I yield the floor.

Mr. BENNETT. If the Senator will stay on the floor for a moment longer. If he doesn't talk when he comes back at 2 o'clock, we will accept the amendment now, at 1 o'clock; is that acceptable?

Mr. DORGAN. That is an offer I cannot refuse, although the not-talking proviso will not relate to my second amendment. I will come back—actually for the courtesy of the manager and ranking member, as I know they want to move the bill—and offer my second amendment. I am happy to do that if he is willing to take the amendment.

Mr. BENNETT. I am always happy to engage in a little humor with my friend. We served together as chairman and ranking member on another subcommittee. I assure him I am always happy to hear him at any time on any subject.

To move the bill forward, I have checked with Senator KOHL and he is fully in support of the Dorgan amendment. I have no objection to it. I ask unanimous consent that it be agreed to.

The PRESIDING OFFICER (Mr. BUNNING). If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2116) was agreed to.

Mr. BENNETT. Mr. President, I see the senior Senator from Delaware here. I don't think he will talk about mad cow disease. I am happy to yield what time he might require for his statement. I ask him in advance if he will tell us how much time he will use.

I send the message out to those enjoying lunch, or those who are at the White House, or wherever, that we intend to finish this bill today. The assistant Democratic leader has told me that it is his desire from the other side that we finish this bill today. So I hope Senators who have amendments will come to the floor in a timely fashion. We will do the best we can to deal with the amendments in a timely fashion so we can finish the bill and get it on its way.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

U.S. POLICY IN IRAQ

Mr. BIDEN. Mr. President, the chairman is correct. I don't plan on speaking on mad cow disease. I will speak for approximately 20 minutes. If anybody comes in with a relevant amendment, I will yield the floor. I am going to talk on the subject of Iraq.

Two days ago, the Congress completed action on the President's request for $87 billion. In fact, I think later today there is going to be a signing down at the White House for military operations reconstruction money, for Iraq, as well as Afghanistan, that relates to that $87 billion request.

The debate we had in the Congress over that issue reflected more than our concern about the amount of money. I think it reflected more than the sticker shock that the American people felt when they heard the $87 billion number. I think it reflected the fact that there is a crisis in confidence in the President's leadership in Iraq. To put it more straightforward, there is a grave doubt about the policy we are engaging in now and its prospects for success.

The American people not only have those doubts, but I know, and we all know on the floor, that a number of Members on both sides of this aisle have doubts about the policy. I voted for the $87 billion, and I believe we needed to do that. But we cannot afford to fail in Iraq, and there was no option but the one before us.

It seems to me that we are going to have great difficulty succeeding in Iraq unless we act more wisely, and I want to discuss that very briefly today. I will be coming to the floor next week with a much more expanded speech on this subject. In order for us to succeed, I think we have to simply change our policy. We have to change the policy we are pursuing now in several very important ways.

First, in order to determine whether or not we think this policy is working, it seems we have to understand the situation on the ground in Iraq. There are two realities in Iraq right now. One is that there is some real progress being made: Schools are being opened; hospitals are open; there is a number of reconstruction projects underway; the setting up of local councils is occurring and other things that are good. But all of that progress is being undermined by the other reality on the ground: our failure so far to get security, especially in the Sunni Triangle in Baghdad.

The failure to secure that area has undermined not only the progress we are making but, in my view, has created a circumstance where it becomes incredibly more difficult each day to get the kind of help we need to ultimately succeed. That is to the degree to which other nations, and to the degree to which Iraq is, and the degree to which the American people believe we are not making significant progress is the degree to which they withdraw their support or fail to offer support.

We need international support, we need the continued support of the Iraqi people, and we need the American people prepared to stay the course by spending billions of more dollars in order to get this done and, even more importantly, risking and losing American lives.

I am worried we are going to soon lose the support of the Iraqi people and the vast majority of the American people. The Iraqi people, to make it clear, are happy Saddam Hussein is no longer around. They very much want to build a better future. But the fact is, there has never been a government in Iraq that has been a democracy. In fact, as we all know, Iraq was a nation built and carved out of a colonial circumstance back at the end of the World War I, and it is very difficult, at best, to figure out how to put it together in any form of representative government. It is going to take some time.

So the job, No. 1, here for us, it seems to me, is getting the security right, controlling the streets, securing the weapons depots, getting much better intelligence. But that has always been the No. 1 job we have had, and all other success depends upon that occurring—better security. It has always been the administration's responsibility, not the Congress's responsibility, to figure out how to get the security on the ground correct.

For some time, I have refrained from any prescriptive outline as to what I think should be done because we cannot dictate that kind of policy in the Senate. That is a matter for Presidents to determine, administrations to lead. But I am very concerned that we are on a downward spiral in terms of the prospects of getting it right in Iraq.

Now, it seems to me, right now, we are not getting the job done. It is not because of the lack of bravery and commitment and steadfastness of American troops or American personnel. These are serious people. These are brave young women and men. It seems to me they have been put in a circumstance that makes it very difficult for them to succeed.

Let me lay out very briefly now, and in greater detail next week, what I believe we need to do to succeed.

The bottom line is pretty simple. Three groups can provide security in

Iraq: First, the Iraqis themselves; second, our U.S. troops and the few coalition partners we have with us there; and third, there is the possibility of a real international coalition of military forces.

Over the long term, obviously, the single best way to get security right in Iraq is for the Iraqis to provide that security through indigenous police forces and an indigenous army. That is our goal. Everyone agrees upon that goal. And it is their responsibility, ultimately. They can tell the good guys from the bad guys better than we can. But here is the rub: It takes time to build an effective—an effective—indigenous police force or military force.

When I was in Iraq in June, I was told by our experts there on the ground that it would take 5 years to recruit and train the 75,000 Iraqi police force that was needed. I was told it would take 3 years to recruit and train just 40,000 persons for the Army of Iraq—5 years for the police force and 3 years just to train 40,000 Iraqi soldiers.

We can and we are putting that effort into overdrive. Let's understand the risks that go into putting it into overdrive. The faster we go on our training, the poorer the training and less legitimate the police and army will be. Putting them in charge prematurely is a recipe for failure. They will lose the confidence of the Iraqi people, and we will lose the ability to recruit them to participate in the police force and/or in the military force.

Although it makes sense for us to try to speed up as rapidly as we can the training and the deployment of Iraqis, it is going to take time for it to work. Even on steroids, we are going to need a year at least before we can hand over the keys of security to the Iraqi people, the Iraqi military, and the Iraqi police.

The real question is, What do we do in the meantime? The reason I am so concerned about the meantime is that within a year, before we are even able, under this extended and intensive effort, to speed up the training and turn over the responsibility to the Iraqis, if we continue to have the attitude that pervades in Iraq today, or is beginning to pervade and is beginning to pervade in the United States that this is a difficult, if not hopeless, task, we are unlikely to accomplish the circumstance of being able to put the Iraqis in a position even a year from now. We have to do something now to make things better on the ground.

That brings us to option No. 2, and that is flood the zone with more U.S. troops. Putting in more troops now will allow us to get them out a lot faster. We especially need MPs, special forces, and civil affairs experts.

I listened to my friend JOHN MCCAIN—he and I have been on the same page on this issue for the last 5 months—I listened to him yesterday make a very compelling speech about the need to immediately increase, not decrease, the number of American forces. We understand—JOHN MCCAIN and I and others—that is not a very popular thing to say.

Guy's like me who thought the administration went about this war wrongly in the first place are in the dubious position of being in the Chamber suggesting to the Americans who don't like the war that we should put more forces in Iraq immediately in order to take them out totally sooner while the administration announces that in the rotation of American forces through next spring, we are going to rotate troops, but we are also going to draw down the total number of American troops. It is somewhat perverse. Here are BIDEN and MCCAIN talking about putting in more troops, and the administration is talking about taking out more troops.

The irony here is, we do not have control of the security on the ground. To the extent we don't, for every Chinook that is shot down, for every American who is killed, every Iraqi who is blown up, every Iraqi policeman who goes to a barracks now and is blown up, every Red Cross depot that is exploded—every one of those events undermines the willingness of the United States, the Iraqis, and the world to stay the course and do the job in Iraq.

I might note parenthetically, my real problem is the President has yet to tell the American people why this is so important. He keeps talking about and using the phrase, which is very catchy and very compelling—I am paraphrasing—if we don't fight the terrorists in Baghdad, we will fight them in New York, Washington, Seattle, or wherever. There is some truth to that.

The American people are a lot smarter. If you ask the American people if they think if we succeed in Baghdad or if we succeed in Iraq that is going to end terrorism in the United States, or conversely, whether or not that is the source of terrorism and the threat to the United States, about 60 percent of the American people will say no, they don't think that is it. They understand it. They understand the next terrorist attack, God forbid, in the United States is more likely to come from Somalia, Philippines, Iran, or any number of other countries, than it is going to be from something that has been planned in Baghdad.

That is not to suggest there is not terror in Baghdad; there is. But there are the beginnings of a classic counterinsurgency in Baghdad, aided and abetted by international terrorist operations that are beginning to mobilize in that area.

The real reason we have to succeed in Iraq and the real reason we had better get it straight pretty quickly before we lose the support of the American people is that if we fail to secure the peace in Baghdad and in Iraq, we are going to see a significantly emboldened and radicalized Iran with over 70 million people. We are going to see the prospect of—that fancy word we use in foreign policy circles—modernity in the Middle East evaporate. The idea that there are going to be more modern democratic states is going to diminish, not increase. We are going to see, I predict, a reconsideration of the attitude about whether to look East or West in Turkey from Ankara from an Islamic government. We are going to see the circumstances in Pakistan deteriorate because, sure as the devil, if things deteriorate in Iraq and we lose the peace there, we are going to lose it in Afghanistan as well. We will have two failed states.

It is absolutely essential that we succeed, even though most of us—I shouldn't say most; I speak for myself—even though I did not agree with the way the President went about the conduct of this war. The facts are, we are there and we must succeed.

What do we do? We need more civil affairs officers, we need more special forces, and we need more MPs. But this is hard stuff. Our forces are stretched way thin in Iraq already and in Afghanistan. We would have to bring folks back to Iraq for second or third tours, and that is a decision no one wants to make. We have to at least consider it if it would make our troops safer now, increase the chances of success and security in the triangle now being more likely than not because otherwise we just dribble this away.

Short of bringing in more U.S. troops, there are things we can do with our forces to get a better grip on security in the region. We have to deal with those ammo depots. There are more than 600,000 tons of ordnance in Iraq. That is one-third of all the munitions the United States of America possesses. Of that, less than 100,000 tons have been destroyed. There are also thousands of shoulder-fired missiles on the loose in Iraq, one of which probably brought down the helicopter last week. We are offering to buy those missiles back at 500 bucks a pop.

A recent Newsweek or Time Magazine article this week pointed out a young Iraqi came up to an American military person and said: Do you want to buy one of these missiles?

He said: Can you get more of them?

He said: Yes, I can get more of them. He got a whole truckload of them and brought them back. I think he got paid $40,000 for them. He said he would have brought back more except the truck was not big enough.

We have tens, hundreds, if not thousands, of these shoulder-held missiles on the loose in Iraq. We are paying $500 for the retrieval of each one, and more than 350 have been turned in. The black market price for purchasing those shoulder-held missile launchers is $5,000 a missile. That is kind of hard to compete with.

If we had more forces in place, we could do a better job of guarding those depots, but even without those forces we should be getting Iraqis to fence off the depots, put sensors on the gates, put more UAVs in the air to patrol them.

We have to destroy the weapons faster. Let me acknowledge this is not a simple task. There are hundreds of depots, many of them used, and we have to be very careful in destroying them. We need to protect civilian populations, and we lack enough demolition experts who know how to destroy this stuff without starting a California-size blaze. The administration has to make securing these weapons a top priority. We need to have better intelligence on the ground. It is really hard for our folks to tell the good guys from the bad guys and that is where intelligence comes in.

The Army itself is finding that our intelligence specialists and the reserves trained in civilian affairs and psychological operations do not get the training they need before they are sent to Iraq, so they are not producing very good intelligence.

We do not have enough competent interpreters. We have to get help to rebuild Iraq from their own intelligence network. Here, too, we need a much greater sense of urgency.

The second way to do this is for the United States to do it itself, but it is going to take more personnel and a different kind of personnel to do that. The President has made clear he is not going to do that.

There is another way to buy time until the Iraqis can fend for themselves, and that is to make Iraq the world's responsibility, not just our own. We had that opportunity before the war, and we blew it. We had that opportunity after the war, and we blew it. At the end of the summer, when it became clear the security situation was not getting better, the administration decided it had to reach out, but it did not do it very well. The President's speech to the United Nations was not very well received, so for a third time the administration squandered the opportunity to get international support in significant ways.

This is not totally our problem, but for the most part only Americans are being killed. I am convinced we have one last shot to bring the world in to Iraq, and we must do everything in our power to seize that opportunity. This is the meat of what I have to say. I would like to see President Bush not figuratively but literally go to Europe, call a summit and ask for help. We will have to give up more authority in order to get that help, but as I keep saying, and I have been saying for the last 6 months, we should stop treating Iraq as if it is some sort of prize we won. It is not authority I am looking to possess. We would be giving up nothing as it relates to our security interests.

There are three things we can and should do to get more countries invested in Iraq with troops, police, and resources. The first is we should make Iraq a NATO mission. The model we should be using is not Afghanistan but Bosnia, Kosovo. There is a NATO general in charge of all the troops there. It happens to be an American most of the time because America runs NATO; America commands NATO. So it should be a NATO operation.

We are not getting other NATO forces in because they do not want to work alongside of and/or under the command of a totally US-led operation that is not a NATO operation. So we should make Iraq a NATO mission.

General Abizaid would be put in charge of the new NATO command because the way it always works with NATO, as it does with the U.N., whoever is putting up most of the responsibility, putting up most of the money, most of the troops, gets to be the one in charge. So this should be a NATO operation.

Secondly, we should create a high commissioner for Iraq who reports not just to President Bush or the Secretary of Defense, but who reports to an international board of directors, reports to the NATO countries, reports to those countries that are participating. That is what we did in Kosovo. We never lost control of Kosovo, but there was a high commissioner. The high commissioner was not an American. The first one happened to be a Frenchman. The second one was a Dutchman. They reported to all of the capitals that were participating in the reconstruction of Kosovo.

We have a long way to go in Kosovo and a long way to go in Bosnia, but thank God, knock on wood, there are no American casualties. There have not been American casualties as a consequence of hostile fire. People are not killing one another in those two countries. A lot more has to be done. There is no pure democracy there, but there are not a million people in the mountains about to freeze, there are not 250,000 dead, and Americans are not being shot. The place is secure, and we are only paying 15 percent of the price in terms of money and troops. If we want to get the rest of the world into this deal, because—and people say, well, Joe, why would they even contemplate coming in? They are kind of happy to see us bog down.

The reason they would be happy to come in if they had the right environment is because they have as much at stake in a failed state of Iraq as we do. For the Europeans, Iraq is their front yard. It is our backyard. We have to create the environment in which they are willing to participate. So instead of having Mr. Bremer running the operation—and maybe Mr. Bremer should be the high commissioner. The phrase for that is "double hatted." There has to be a much larger investment by other countries. In return, they have to have much greater participation.

As much as people will not like hearing me say this, the second thing we have to do is change Bremer's function into that of a high commissioner reporting to Washington, London, Berlin, Paris, et cetera. Otherwise, we will not get the kind of participation we need.

Thirdly, we should transform the Iraqi Governing Council into a provisional government with greater sovereign powers. Putting NATO in charge of security in Iraq offers the possibility of building a truly multilateral force, with far more participation from Europeans, Asians, and neighboring countries. More countries will take part because they would be reporting to the North Atlantic Council, not to the Pentagon.

We are the North Atlantic Council as well. It is a model, as I said, that worked in the Balkans and now is beginning to work in Afghanistan. In the Balkans, for example, many non-NATO countries, including Russia and some Arab states, joined the effort because they were not joining the U.S. effort; they were joining a NATO effort.

The United States, in all of these models I am suggesting—and they are relatively drastic changes—would retain operational control on the ground with General Abizaid as head of this new NATO command. And we retain effective control in NATO, where the United States is the lead player.

Creating an International High Commissioner for Iraq and putting him or her in charge of reconstruction would also attract far more international participation. The recent donors conference in Madrid was a painful example of the price we pay for doing everything ourselves.

When you go into a country unilaterally, you get to handle the peace unilaterally. One we didn't need, the other we do.

Typically, as in the Balkans, the United States covers reconstruction efforts—pays for about 25 percent of the reconstruction costs after a major conflict. By that ratio, the $20 billion, or $18-point-something billion Congress just approved for Iraq reconstruction should have generated, in Madrid, about $60 billion from the rest of the world. Instead, we got $13 billion, of which $9 billion was loans.

As long as the CPA is the sole deciding authority on how Iraq will be rebuilt, other countries will be reluctant to fork over real money. They want a real say in how the money is spent.

Again, look at the model in the Balkans. Look at the model in gulf war No. 1, George the first, the first gulf war. We paid only about 20 percent of the total cost. The rest of the world came in and made up the remainder of that $60 billion.

What are we doing now? Again, in my view, the model we are operating under is broken. We should fix it. Otherwise, we own it all. This is not something we want to own alone.

If we go the route I am suggesting of a special representative who reports to the U.N. Security Council, of which we are a member—either way, that could be Bremer. Bremer could be double-hatted.

In Bosnia, the High Commissioner reports to a special steering committee led by the United States and the EEU. In Kosovo, the Secretary General of the United Nations designated a Special Representative who reports to the U.N. Security Council.

I ask a rhetorical question to any Americans who may be listening. Would it offend you that a high commissioner reporting to the U.N. Security Council was the model we were using? Would you be angry that we didn't own it all, that we weren't the one having to put up all the money, making all the decisions, and taking all the casualties? What is our reluctance?

I said, either way, in a de facto sense, we remain in charge.

Finally, it seems to me we should turn the Iraqi Governing Council into a true provisional government with more sovereign powers. This transfer of sovereignty should not be held hostage to the very important but very complicated and time-consuming process of writing a new constitution.

I happened to hear General Clark this morning on one of the morning news shows. He pointed this out. I thought it was a great example. He said: It took us 7 years to write our Constitution. Actually, it took a little longer. How would we have felt had the French said: We helped liberate you from the British; we are going to stay here as the regional power while you write your Constitution? I am not so sure we would have greeted that with a warm embrace.

So in order for this Iraqi Governing Council, which has not been all that responsible up to now in my view, to be able to function, it seems to me there has to be a transfer of authority that, in fact, should not be held hostage to the constitution having to be written first. It may require some changes in this provisional government to make it more representative, but that is what we should get on with now. Nothing would send a clearer message to the Iraqi people that the future is theirs to build and to inherit, and nothing would make it clearer to them that the enemies of that future are Saddam loyalists and international terrorists who are killing our troops, other than having sovereignty transferred to the Governing Council.

In conclusion, I am suggesting that the model we are operating under be changed.

No. 1, sovereignty, even requiring, if need be, more representation on the Governing Council, but more sovereignty transferred to the Governing Council.

No. 2, a high commissioner, in place of the system we have now, on the Bosnian model, reporting to more than one world capital—that may be Bremer being double-hatted, but it would be a high commissioner—and that to bring in the rest of the world to participate.

No. 3, that the military operation should be under NATO command and NATO responsibility.

I think by doing those things, we communicate several very important, practical, and substantive messages:

No. 1, we, the United States, have no designs on Iraq. We know we don't, but I am not sure the Iraqi people know we don't.

No. 2, it communicates the notion that we are not the sole determining power in that country, that it is not solely our problem, it is the world's problem.

No. 3, that the military operation is not a U.S. operation, it is a NATO operation.

All of those things, I believe, would significantly improve the prospects of success and significantly diminish the prospect that we will carry the entire load for as long as it takes.

I will elaborate on those points in more detail next week. But it seems to me we have to change the model now and begin the process. I thank the chairman for allowing me to speak and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to speak on an amendment that I think is coming up this afternoon. The reason I would like to have permission of the Senate to speak about it now is that I will not be able to be in the Chamber because of the Medicare conference.

AMENDMENT NO. 2078

Mr. GRASSLEY. Mr. President, I am speaking on the issue of the sense-of-the-Senate resolution by Senators DASCHLE, ENZI, JOHNSON, and THOMAS on the legislation that is now on the books called country-of-origin labeling.

I believe the American consumer has a right to know the country of origin of the meat they are purchasing, just as consumers know the origin of their clothes, their cars, and their cameras. Even the U.S. Department of Agriculture cites in its rule that recently came out that the survey findings show that country-of-origin labeling is of interest to the majority of consumers.

I said even the U.S. Department of Agriculture has said this because I happen to believe, in observing the U.S. Department of Agriculture over the last 12 months, that it has worked against the country-of-origin labeling legislation ever since it passed into law as part of the 2002 farm bill.

The initial cost estimates of the U.S. Department of Agriculture were outlandish, and thankfully the General Accounting Office called the U.S. Department of Agriculture on the basis of its claims. The U.S. Department of Agriculture then revised its cost estimates by lowering the potential cost of the program. This newly revised figure allowed for an overall cost range of between $582 million and $3.9 billion in the first years.

Upon closer examination, even the revised cost estimates of the Department of Agriculture appear to consistently overestimate the costs involved in implementing the country-of-origin labeling law due to the estimate's reliance upon industry-provided sources of material—not independent but from industry.

Clearly, the industry which is vehemently opposed to this legislation, it seems to me, would provide information which is self-serving. For that reason, I have a hard time accepting even the newest range of cost estimates even though it is far less than what came out last spring.

I am not here to say that everything the U.S. Department of Agriculture has done on this legislation is bad. The recently published proposed rules allow for the potential use of self-certification through affidavits to transfer original origin information from one level of the supply chain to the next. That leniency on self-certification is a good decision by the U.S. Department of Agriculture. Also, the Department estimates producers will have the least recordkeeping burden, with estimates that range between $180 to $443 per facility.

The reason I am giving U.S. Department of Agriculture credit for in part doing the right thing is that I want this process to continue. Clearly, I don't agree with every aspect of the recently published mandatory country-of-origin labeling law proposed rule, but at least the Department of Agriculture has given us something on which to chew. It is a decent start. We now have a 60-day comment period to improve the proposed rule.

I intend to not only do that myself but I intend to also let the Department know my views on it, and I am inviting Iowans—or let us say citizens from any State—to send in their information to the Department of Agriculture. They ought to even let their Congressmen and Senators know what they have told the Department about their view of this rule. This gives all of us a chance to get it even closer to the intent of the authors of the original legislation and to ensure that these rules and regulations aren't overly burdensome to the family farmer.

I believe we need to let the process go forward. The only way to do it is to protect funding for the mandatory country-of-origin labeling. That funding is in dispute because of action taken by the House of Representatives.

I hope through this sense-of-the-Senate resolution, we send a clear signal to the conferees that we should fund this program; in other words, funds going forward and the enforcement of the law that this Congress adopted in 2002 on the labeling of meat products.

It will be an awfully serious situation if we don't fund these rules and move forward with the enforcement of this law. People who don't want to fund it do not like the law, but it puts our entire food chain into jeopardy, on the one hand having to meet a law that went into effect in September 2002, and then in the next 12 months not having money to provide for the regulations to be carried out and make sure everybody knows exactly how this law is going to be enforced.

People who are opposed to this legislation ought to, if they do not like the law—obviously, I do like the law, and that is why I am for their sense-of-the-Senate resolution—introduce legislation and have it debated to see if they can repeal the old law. But they should not put the farmers, the processors, the wholesalers, the retailers, and eventually our consumers in jeopardy because of not having the money to move forward.

Not funding this is—as the other body has not funded it—subterfuge for the legislation not moving forward. Yet everybody is going to be involved with having a law on the books that is going into effect next year. The law is still the law. It is our job, if we put a law on the books, to make sure that it is enforced. If we don't want to enforce that law, we ought to repeal the law.

This issue of self-certification is very important. Originally, the idea from some people in the Department or the industry was that there ought to be third-party verification of the origin of the meat that the consumer is going to eat. Did it come from another country or did it come from America? Was it raised and processed here?

If you have third-party verification, you can understand why it costs the economy billions and billions of dollars. But that isn't how the Federal Government deals with the family farmers of America.

For all of the decades of farm programs we have had, the Federal Government has always dealt with the individual family farmer as an honest person. They would ask for certification from the farmer's point of view as to the law as he farmed, as he raised his crops, as he qualified for whatever help that might be involved from the Federal Treasury, and that the farmer was abiding by that law. There were always periodic and random audits that a farmer, including this farmer, would have to comply with, just as there might be a random audit of your income tax by the IRS. But the Federal Government has always assumed the farmer was honest when he certified something.

If that principle has been good for farm programs for the last 60 or 70 years, why isn't it good enough for a farmer claiming that livestock was raised in America and processed in America or whether it came across the line from some other country?

The last point I make is for the consumers of America and for the retailers of America.

For all of the years I have been in Congress, I have never heard from Montgomery Ward, Sears & Roebuck, Kohl Department Stores, or from Wal-Mart—I have never heard from anybody in America who processes or sells retail products—saying that products which come into this country from some other country shouldn't be labeled. I have never heard those business people complain about that. But all of a sudden, there is something to protect food for the consumer—just as we do with the consumer and any other retail product, not just to protect the consumer but to inform the consumer. Where does this product come from? T-shirts from Taiwan, South Korea, and China—you know it; it is on the label.

I have never heard any retailer or any wholesaler complain about that. But now that we are going to give the consumer the same knowledge about where their food comes from—from America or from some other country—somehow this is a big problem. You hear it from the packers, you hear it from the processors, and you hear it from the wholesaler and the retailer. For some ungodly reason, I am even hearing it from the national pork producers. I do not hear it from the Iowa pork producers. Are the national pork producers in bed with the big packers, the big processors, and the big retailers of America? Should the consumers of America not know whether that hog came from Canada or from a family farm in America?

The consumers are entitled to the same knowledge about the origin of the products they eat as what they wear on their body or what they use for a tool in their workplace. I think we need to move ahead with this country-of-origin labeling. That is why I hope my colleagues will support this sense-of-the-Senate resolution for a law that is on the books—a law that is going to go into effect in September of next year.

Why don't the people in the Congress of the United States who do not like that law and the interest groups outside that do not like that law have guts enough to come forward and repeal the law and have a clear-cut victory or a clear-cut defeat? Let us move on. Let us not have the subterfuge of not funding it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I extend my appreciation to the Senator from Iowa for his statement. I support the amendment that will be offered by the Democratic leader in a short time. It is important the American public recognizes speaking on behalf of the American consumer is a farmer, a Senator, but his first vocation is that as a farmer. We are so proud. I very much appreciate the strong, articulate statement of the Senator from Iowa on this most important subject. It affects my family, my children, my grandchildren. As the Senator said, if we buy a pair of pajamas, we know where they are made. When we buy a peach or beef steak, we should know where that comes from, also. I appreciate the statement.

I say through the Chair, to the chairman of the subcommittee, on our side, it appears we have about five more amendments. We have the Dorgan amendment, which we have heard about. We heard Senator LEAHY will offer an amendment on conservation technical assistance. Senator DASCHLE will offer a country-of-origin amendment. Senator FEINGOLD will offer a Buy America amendment. Senator JEFFORDS may offer an amendment on historic bonds. We are moving down the road with this legislation.

Mr. President, as I have already indicated, I rise in support of the Daschle amendment, which will be offered in the next little bit, and to express strong support of the Senate for the country-of-origin labeling requirements of the 2002 farm bill. I have a letter from agricultural and consumer groups across the country that support this amendment.

I ask unanimous consent this letter be printed in the RECORD. It is dated October 9 and is signed by 170 different organizations from all over America. These are organizations that cover the width and breadth of this land, including Oregon Cranberry Farmers' Association, Sustainable Earth, Texas Farmers Union, Montana Cattlemen's Association, Illinois Stewardship Alliance, Georgia Peanut Commission, Florida Fruit and Vegetable Association, American Meat Goat Association, Arkansas Farmers Union, American Corn Growers Association. It is important we recognize this is representative of groups all over America that support this amendment. This list could be multiplied by 10 if these organizations were given a little more time to gather signatures.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 9, 2003.

U.S. Senate,
Washington, DC.

DEAR SENATOR: We are writing in representation of millions of consumers and producers across America to express our strong support for full funding in the fiscal year 2004 agriculture appropriations bill for implementation of country-of-origin labeling (COOL).

Senator DASCHLE, Senator ENZI and Senator JOHNSON are prepared to offer a Sense of the Senate amendment instructing the agriculture appropriations conferees to remove language inserted into the House of Representatives spending bill, which prohibits the U.S. Department of Agriculture (USDA) from spending funds to implement COOL. We strongly urge you to support the efforts of Senators DASCHLE, ENZI and JOHNSON when the amendment is introduced.

A report recently released by the General Accounting Office (GAO) refutes the number one argument of opponents of COOL by clearly stating the $2 billion price tag attached by USDA was based on arbitrary assumptions and not well supported. Given this recent report and the fact that USDA has yet to release the preliminary rules of implementation, it is simply the right thing to do to maintain implementation funding and keep COOL.

Country-of-origin labeling is designed to provided information to consumers and help U.S. producers promote their own products in the marketplace. It does not need to be burdensome or expensive to producers. We believe that, given a choice, consumers will choose to purchase U.S.-produced products. COOL does not violate any of our trade agreements. In fact, the GAO report cited 48 of our 57 trading partners that require country-of-origin labeling on one or more of the covered commodities included in the U.S. law. Without mandatory COOL, consumers in the United States will be denied the ability to differentiate between U.S. and imported products, while consumers in our trading partners' countries maintain that right.

Please vote in support of the Daschle-Enzi-Johnson Sense of the Senate to maintain funding of COOL.

Sincerely,

National Farmers Union; American Farm Bureau Federation; R–CALF United Stockgrowers of America; Consumer Federation of America; Alabama Farmers Federation; Alabama Farmers Federation; Alabama Peanut Producers; American Agriculture Movement of Arkansas; American Agriculture Movement of Missouri; American Agriculture Movement of Oklahoma; American Agriculture Movement, Inc.; American Corn Growers Assoc. of Nebraska; American Corn Growers Association; American Meat Goat Association.

Arkansas Farmers Union; Beartooth Stockgrowers Association; Burleigh County Farm Bureau (ND); C.A.S.A. del Llano (TX); Calaveras County Cattlemen's Association; California Farmers Union; Cape Code Cranberry Growers' Association; Center for Rural Affairs (NE); Churches' Center for Land and People (WI); Citizens Organized Acting Together; Cochise-Graham Cattle Growers Assoc. (AZ); Community Alliance with Family Farmers (CA); Crazy Mountain Stockgrowers Assoc. (MT).

Creutzfeldt Jakob Disease Foundation; Dakota Resource Council (ND); Dakota Rural Action (SD); Eagle County Cattlemen's Association (CO); Fall River & Big Valley Cattlemen's Assoc. (CA); Florida Farm Bureau Federation; Florida Farmers, Inc.; Florida Fruit and Vegetable Assoc.; Florida Tomato Exchange; Georgia Peanut Commission; Grant County Cattlemen's Assoc. (WA); Holy Cross Cattlemen's Assoc. (CO); Idaho Farmers Union.

Illinois Farmers Union; Illinois National Farmers Organization; Illinois Stewardship Alliance; Independent Cattlemen's Assoc. of Texas; Indiana Farmers Union; Indiana National Farmers Organization; Institute for Agriculture and Trade Policy; Iowa Citizens for Community Improvement; Iowa Farmers Union; Kansas Cattlemen's Association; Kansas Farmers Union; Kansas Hereford Association.

Kansas National Farmers Organization; Kemper County Farm Bureau (MS); Kit Carson County Cattlemen's (CO); Land Stewardship Project (MN); Lincoln County Stockmans Assoc. (CO); Livestock Marketing Association; Madera County Cattlemen's Assoc. (CA); Malheur County Cattlemen's Assoc. (OR); McPherson County Farmers Union (KS); Merced-Mariposa Cattlemen's Assoc. (CA); Michigan Farmers Union; Mid-Nebraska Pride.

Minnesota Farmers Union; Missouri Farmers Union; Missouri National Farmers Organization; Missouri Rural Crisis Center; Missouri Stockgrowers Assocaition; Modoc County Cattlemen's Assoc. (CA); Montana Agri-Women; Montana Cattlemen's Association; Montana Farmers Union; Montana National Farmers Organizaton; Montana Stockgrowers Association; National Association of Counties.

National Assoc. of Farmer Elected Committees; National Campaign for Sustainable Agriculture; National Catholic Rural Life Conference; National Consumers League; National Family Farm Coalition; National Farmers Organization; National Potato Council; Nebraska Farmers Union; Nebraska Grange; Nebraska Livestock Marketing Association; Nebraska Women Involved in Farm Economics; Nevada Live Stock Association.

New Mexico Cattle Growers' Association; New Mexico Farm and Livestock Bureau; New Mexico Public Lands Council; New Mexico Wool Growers, Inc.; New York National Farmers Organization; North Dakota Farmers Union; North Dakota Livestock Marketing Assoc.; North Dakota Stockmen's Association; Northern Plains Resource Council; Ohio Farmers Union; Oklahoma Farmers Union; Oregon Cranberry Farmers' Alliance.

Oregon Farm Bureau Federation; Oregon Farmers Union; Oregon Livestock Producers Association; Organization for Competitive Markets; Park County Stockgrowers Assoc. (MT); Pennsylvania Farmers Union; Platte County Farm Bureau (NE); Powder River Basin Resource Council; Public Citizen; Rocky Mountain Farmers Union; Rural Advancement Foundation International-USA; Rural Roots (ID).

South Dakota Farmers Union; South Dakota Stockgrowers Association; South Eastern Montana Livestock Assoc.; South Texas Hereford Association; Southeast Wyoming Cattlefeeders Association; Southern Peanut Farmers Federation; Southern Research and Development Corp. (LA); Southern Sustainable Agriculture Working Group; Soybean Producers of America; Spokane Cattlemen's Association (WA); Stevens County Cattlemen's Association (WA); Sustainable Earth (IN).

Sustainable Food Center (TX); Texas Farmers Union; Union County Cattlemen's Association (OR); Utah Farmers Union; Virginia Angus Association; Washington Cattlemen's Association; Washington Farmers Union; Way Out West Rural Action Group (ID); Western Organization of Resource Councils; Wisconsin Farmers Union; Wyoming Stockgrowers Association; Yuma County Cattlemen's Association (CO).

Mr. REID. The reason the organizations signed up for this is because they support the right of American consumers to know the origin of the food we eat. In Nevada, the Cattleman's Association and Nevada Livestock Association strongly support this legislation.

We ask, after having heard the strong statement of the chairman of the Finance Committee, Senator GRASSLEY, who opposes this? That is interesting. It is the House of Representatives. It is the law that there be country-of-origin labeling.

The House of Representatives, in their version of this appropriations bill, wants to prevent any moneys going forward from the Federal Government to enforce the country-of-origin labeling. That is unfair.

Who does not support it? The House of Representatives. As I indicated, in their appropriations bill dealing with agriculture, they inserted a little provision that would not allow us to implement country-of-origin labeling. This amendment would silence our effort to inform consumers about the food they eat by telling them where their meat, lamb, fish, and vegetables originate.

I was happy for my wife to buy me a pair of shoes. This pair of shoes, by the way, is very comfortable. I stand a lot. These shoes are made in America. Allen Emmonds is the brand name. I had a choice. There was a Brazilian brand made for people who stand a lot like I do. There was a French brand. I bought American. I had a choice. The choice was very easy. I was happy to have that choice.

If I can go to a store and find out where the shoe is made, shouldn't I be able to go to a grocery store and find out where the steak I am going to buy comes from or the roast or the potatoes or the cauliflower, whatever the case might be. If you can do it for shoes, certainly it would seem you can do it for food.

This amendment in the House version of the bill would silence our effort to inform consumers about the food they eat. That is wrong. I cannot imagine anyone who would not want consumers to know what they are eating and from where it comes.

Who could be behind the position of the House? Is it just a bunch of very educated, in the way of farm products, Members of the House of Representatives? Is it just a group of enlightened staff people who suddenly said, we do not want them to enforce that law; it is not good politics; it is not good public policy for people to know where their food comes from.

In fact, why don't we just have Americans continue labeling this stuff "American" when it is not. That is what is happening now. That is a reason we need to stop this.

Why, then, is the House of Representatives so involved in this issue? It is quite clear. The authors of this House provision are people who have had looking over their shoulder people from the four major meatpackers in this country that oppose this labeling. This legislation comes from those packers. These packers, while they may not have a monopoly, have about as close as you can come to a monopoly. The packers control about 80 percent of the beef in the U.S. market.

If you think they had some hand in the House of Representatives putting this provision in the legislation, of course they did. The packers do not like the country-of-origin labeling because they want to continue to sell imported beef, in effect, made in the USA. They want to trick, to deceive, American consumers into believing they are buying food that is grown and made in America because it gives them an advantage to do so, just like my shoes, just like my American shoes.

Nope, this suit I am wearing is not made in America; most of my suits are. When I have a choice, I want to buy "Made in America." I want to do the same with my food—or at least have the knowledge of where my food comes from. As I said, most of the suits I wear are made in America. Hickey Freeman, made in America.

I am looking forward to an amendment that will be offered, as I indicated, by my friend from Wisconsin about buying American.

That is what is behind the House of Representatives' provision in the bill. They simply have been overwhelmed by the four meatpackers in this country that control 80 percent of the beef in our market. Of course, that is not what the critics of the country of origin say to the public, but the public arguments are not better. Critics of the program claim it is too expensive to put into effect. With a multitrillion-dollar budget, it is not too expensive. The General Accounting Office recently found that the U.S. Department of Agriculture estimate was arbitrary and not well supported. Most cost estimates place the costs much lower than the Department of Agriculture. The Department of Agriculture has made other mistakes.

Some argue that the country-of-origin label violates trade agreements. That is a specious argument because 48 of our 57 trading partners already require country-of-origin labeling for their commodities.

This allows foreign consumers to choose whether they want to support their own farmers and ranchers. American consumers deserve the same choice. The House of Representatives, with its country-of-origin rider, would deny that right for American consumers.

I believe, as some of my colleagues have said and will say, that U.S. farmers and ranchers produce the highest, best quality food in the world. I also believe that if American consumers are given the power of information, and the right to know, they will choose to buy American food products.

As many of my colleagues will recall, we had a full and extensive debate about country-of-origin labeling during the consideration of the farm bill. It was one of the most hotly debated provisions during the House and Senate conference on the bill, again, because of the power of the four meatpackers in this country. The outcome of all that debate—a county-of-origin labeling requirement—was a victory for American consumers and American farmers and ranchers.

The House, with its anticonsumer, antifarmer, antirancher rider, is trying to sneak a provision through the back door that they could not prevail on in open debate. We know what the rules are on appropriations bills. It is very difficult to strike things out of bills.

Americans have a right to know what they are eating. This harmful House rider would deny them that right.

When the opportunity comes, I will support, with a "yea" vote, the Daschle amendment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I rise also to talk a little bit about country-of-origin labeling. I guess I ought to tell the Senate, first, why I am inflicting my opinions on this subject on the Senate.

I have the honor of chairing the Subcommittee on Marketing, Inspection, and Product Promotion of the Agriculture Committee. I was not told, when I was given that assignment, that it included supervising the implementation of the country-of-origin labeling law, a law the Congress passed before I was here and on which I did not have an opportunity to express my opinion.

I know feelings run high regarding that law. I have had the opportunity to study the issue, and I have tried, from the beginning, to be an honest broker in this whole process, just to try to see that this law—which was passed before I got here and which is part of the law now—is implemented in a way that accomplishes what it was originally intended to accomplish.

In the course of doing that, I have, of course, read that statute. I have had a chance to talk to several of the Senators who were instrumental in writing it. It is pretty clear, from the statute, the gist of what the Congress intended. It is like reading an essay quickly; you sort of get the gist of it.

The problem I will get to in a minute is, when you go into the details of it, a lot of it is rather vague. That is going to raise problems in the implementation unless we do something. But I think the gist of it is pretty clear. I am going to restrict my remarks to beef even though, of course, the bill covers a whole wide range of different products. But for simplicity's sake, I will talk about beef.

From the bill, it is pretty clearly the intention is that all beef be labeled, that there be specific labels for American beef, that we begin to control what people are calling American beef.

The legislation references and, in some respects, in some sense, seems to want to be modeled on some existing labeling programs. But, as I will say in a minute, it does not make clear exactly what the legislation is. It puts the burden of compliance on the retailers, which is very significant in getting us where we are now with the implementation of it.

The legislation seems to contemplate that it be enforceable by the Department with some kind of a grace period. There is a section in the legislation relating to the grace period.

So if you read the legislation, it seems to me the gist of it, of what it intended, is pretty clear. I think what I have said is consistent with the conversations I have had with Senators who were very responsible and have acted in good faith from the beginning in writing this legislation and are now interested in its implementation.

The problem is, the legislation is vague in a lot of respects. It imposes a very serious potential liability on people, but in certain crucial aspects—in fact, in a lot of crucial aspects—it is really not clear exactly what they have to do to avoid that liability.

It is not that anybody intended the vagueness. I know what it is like when you are in the middle of a conference committee and trying to come up with legislation under all the pressures of time and the need to compromise and to check with a bunch of different people. It is hard to do something that has 100 percent precision under those circumstances.

Let me go through some of the respects in which I think the legislation is a little difficult to understand.

As I said before, the statute lists certain model programs, and references them, such as the Florida labeling statute. It does not make clear, however, whether those programs are safe harbors—in other words, whether the people who are supposed to comply with this and who do it in a way that those programs operate, are safe from liability.

As a matter of fact, the suggestion in the legislation is it is reasonably clear they are probably not safe because the legislation seems to require things that are not in some of these model programs. But if those models are not safe harbors, then what are they? What purpose do they really have? It is just not clear from the statute.

The statute makes clear, it seems to me, that you can only call something American beef if that beef was born, raised, and processed in the United States. I think it is pretty clear that was one of the major purposes of the statute. But it does not say what the label ought to say, and it really addresses in no respect whatsoever what you should put on the label for beef that you do not want to claim was born, raised, and processed in the United States. It requires that foreign beef, within the meaning of the statute, be labeled, but it gives no clue whatsoever as to what that label ought to say—again, even given the fact that the statute does assign substantial liability if you get it wrong.

So the intent is pretty clear, with regard to American beef, that it has to be born, raised, and processed in the United States if you want to call it American beef. It does not say exactly what that label should say and is very unclear and supplies really no guidance as to what the label should say if you do not want to call it American beef.

The statute prohibits a mandatory tracing system in order to determine whether a label is correct. It says you cannot have a mandatory tracing system, but at the same time it requires that there be some kind of verification system. It certainly is not clear, I think, to anybody how we can have a mandatory verification system that does not include a mandatory tracing system. Now, I am not saying it is impossible; I am saying it is not clear.

Again, there are very substantial liabilities for people who make the best guess they can from the statute and then get it wrong. The statute says the Department of Agriculture can enforce it at up to about $10,000, potentially, per violation. It does not say whether that is the exclusive means of enforcement.

The statute is not clear whether there is some private cause of action, whether a class action in State or Federal court could be brought against a retailer that does have the burden of compliance that fails in some respect to comply with the statute.

The statute does not say how this statute, the country-of-origin labeling law, relates to other labeling statutes. So it is not clear whether a violation of the country-of-origin labeling law is also a violation, for example, of the food safety laws or the other labeling laws or consumer protection laws or how that is going to relate to State consumer protection laws.

I do not raise these issues as if this were some kind of a law school exam. I raise them because it is very important to understand this is a statute that people are going to have to follow regardless of what the regulations say, at least within limits.

Let me go on to the next point because I think it is essential we make it in order to focus exactly on where we are now. We can concede, again, the good faith of both sides on this. We certainly can concede the good faith and intentions of the Senators who drafted this bill and the Congress that passed it.

What we know is that the statute unquestionably does this. It imposes a labeling requirement with substantial liability for retailers, the last business organization to handle the food before consumers get it, if they violate that labeling requirement.

What I want to suggest to the Senate is that what the regulations say, while, of course, it is important because it bears on how the statute might be interpreted, is a lot less important in determining how this is practically going to be construed and implemented than what the companies, the chief retailers in the country think, as their lawyers examine this law. How this law is implemented is going to depend on the advice the general counsel for Wal-Mart and Safeway and Giant give their executives as they consider how to implement this law.

I have the documents. I have talked to people in this position. Given the vagueness in the law and the potential liability in the law, they are advising their clients to take the most conservative position possible in order to protect themselves against the worst case scenario for liability. They are not going to take a risk of some big class action lawsuit against them or some huge investigation by the Department of Agriculture with all the attendant negative publicity because they have taken a chance and interpreted this law as requiring less than perhaps it would require.

This is why we are hearing back—all of us who have farm State constituents, and many who don't—from people in the production chain, in the distribution chain of food who are saying: This law is going to require us to do this and this and impose this cost and take that measure, not necessarily because of what was originally intended, but because the confusing aspects of the statute give rise to vagueness that creates the potential for liability that these companies are simply not going to risk. They are going to do what they have to do to protect themselves. Whatever it costs, they are going to do it and pass it down the production chain. That is my concern, that we end up, as a result of unintended vagueness in the law—I will concede to the Senate—passing these costs of production down where eventually they will settle on the weakest competitors in the food chain, which is, of course, the producers.

So my cattlemen and yours may end up having to bear all these extra costs that are generated because of these concerns, and we end up hurting the very people, along with consumers, we are trying to help in passing this law.

What are some of the things the retailers may do? We have been collecting a lot of information. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IBP, INC.

DEAR PRODUCER: As you know, federal law requires that country of origin labeling appear on all retail meats sold in the U.S. by September 30, 2004. The labels must state where the livestock was born, raised and slaughtered. USDA has stated self-certification will not be allowed, nor will the government step in to certify where livestock were born or raised. Retailers have also stated they will require verifiable records, and they do not plan to accept self-certification. Thus the responsibility for accurate documentation of these required facts rests exclusively on the livestock, meat and retail industries.

IBP, Inc's (part of the Tyson Foods family) major retail customers are already notifying us that we—and our suppliers—must have the recordkeeping systems in place this year to be able to comply with next year's mandate. Here is what our retail customers want us to do:

1. Sticker all covered commodities with country of origin information that complies with the law and USDA regulations. Provide enough signage to ensure one sign for each retail display in every shipment of product that cannot bear a label.

2. Contract to maintain records and a verifiable audit trail to establish the accuracy of the country of origin information that retailers receive from packers for covered commodities.

3. Indemnify retailers for any fines or other costs they incur as a result of the country of origin information that packers provide or fail to provide.

4. Segregate all covered commodities by country of origin throughout the production chain until they are delivered to the retailer, and maintain documentation verifying the efficacy of the packer's segregation plan.

5. Audits. Provide retailers with the results of an audit conducted by USDA or another certified independent third party to establish that packers have the systems in place to ensure the accuracy of the country of origin information that they provide retailers.

In order to meet these customer requirements, it will be necessary for you to provide IBP with verifiable information on the place of birth and every location where livestock was raised for each animal marketed. IBP, Inc. will require you, as our suppliers, to provide us evidence of your recordkeeping program for gathering and maintaining this information. Only you can document and verify the born-in, raised-in components of the law. The documentation costs—as well as the independent, third-party, verification costs—will also be your responsibility. Specifically, we will require you to:

1. Provide third-party verified documentation of where the livestock we purchase from you were born and raised.

2. Provide a signed legal affidavit with each load of livestock we purchase from you stating that there is a third-party verified audit trail in place that identifies where the livestock in each load were born and raised.

3. Provide IBP, Inc. access to your records so that we can perform random producer audits as necessary to satisfy our customers, verifying that an accurate audit trail is in place and that it is being verified by an acceptable third party.

4. Indemnify us for liability we incur that is a result of producer noncompliance.

For those of you raising market cattle or hogs you intend to sell to a packer after September 30, 2004, you should begin your documentation on all calves immediately and on all hogs no later than November 2003.

Many in the retail, meat and producer communities are concerned about the costs, benefits, legal and logistical challenges posed by this new law. As a result, there is a united industry effort to either repeal mandatory country of origin labeling for meat altogether or to convert it to a permanent, voluntary program. Either way, we need the producer community's help. If you share these concerns, we urge you to contact your Senators or Member of Congress, as well as your trade associations, and express your opinion.

Furthermore, we urge you to share your thoughts with your fellow producers and USDA by attending one of the USDA "listening sessions" on this issue, expected to occur this coming spring. USDA is charged with writing the regulations for the final, mandatory country of origin labeling law, and they need to hear from all affected parties. If you share our concerns, we hope you will attend any meeting in your area and speak out.

We will attempt to contact you within the next few months to learn about your proposed recordkeeping plans. In the meantime, if you have questions, please feel free to contact one of us and we will try to help you. If we are not available, you may ask for Bob Hansen in Hog Procurement, John Gerber in Cattle Procurement or John DeWitt in Cattle Procurement.

Sincerely,

BRUCE BASS,
Senior Vice President, Cattle Procurement.
GARY MACHAN,
Vice President, Hog Procurement.

Mr. TALENT. This is from IBP. They are packers. They are reporting what their major retail customers are notifying them that they have to do. Here is what the retail customers want us to do. I quote:

> Stick all covered commodities with country of origin information that complies with the law and USDA regulations. Provide enough signage to ensure one sign for each retail display in every shipment of product that cannot bear a label.
>
> Contract to maintain records and a verifiable audit trail to establish the accuracy of the country of origin information that retailers receive from packers for covered commodities.

I will not read the whole letter. But suffice it to say, the major retailers are going to reorganize their inventory and distribution lines so they can keep separate these different kinds of beef. That is going to generate cost. They are going to require that as much beef as possible be prepackaged. This is interesting. It may result, unfortunately, in their laying off some meat cutters and people on the premises of the store who have been cutting meat fresh there. They are going to get it prepackaged because then they have to do as little as possible at the store. That may tend to encourage vertical integration in the production chain, which is the opposite of what we want.

They are going to set up an audit system and require packers to have software and other kinds of records that will network into the retailers systems so they can trace back. And with every piece of meat they have in the counter, they are going to want to be able to trace that back to a particular cow so they can protect themselves in the event they are audited.

Then, of course, this will domino down the line of production. The packers are going to have to have this software. They are going to reorganize some of their warehousing and inventory facilities. The auction barns and feedlots are going to have to have software which is compliant with this whole system. I visited auction barns, and they showed me how they are going to have to change where the cows are. They are going to tell the producers that they are going to have to be able to be compliant and network into their systems of verification and tracing when they bring cows to the auction barns to sell.

I don't think we intended any of this. As I read the statute, I can't even stand here and tell you that the statute suggests that is absolutely the intention. But that is a possible, plausible interpretation of it. Even if the regulation said something entirely different, I don't think it would make any difference.

The statute is what imposes the liability. The statute is supreme over the regulation. And the lawyers for these various retailers who are interpreting this are going to look first and foremost at the statute. They are going to act in a manner that protects their clients from the downside risk of substantial liability that arises because of certain unintended but, I think, nevertheless very real vagaries and vagueness in the law.

What are we left with? We can allow this process to play itself out, basically not do anything as the effective date of the act approaches, which is October of next year. It is already having an impact because people are raising cattle right now that they are going to sell after October of next year and that they are going to have to be able to trace back. That is the reason we are beginning to hear the lead edges of the concerns about this because they don't know what they are supposed to do to comply with the law. They are concerned they may have to do all these things I have talked about.

We can allow it to play itself out, kind of like a tragic play that you watch and just hope for a surprise good ending, and maybe we will get one. Maybe all this will sort itself out.

We can repeal the law and replace it with something that is voluntary. I know that is what a lot of people want to do. That is probably what a lot of people in the House want to do. I am going to say in candor to the Senate that my evaluation of the risk here is such that I would prefer at this stage, if the only two choices are no mandatory law or the law we have now with the downside risks we have now, I would rather have no mandatory law.

But there is a third alternative. We can fix the law. We don't have to end it. We can mend it. We can go in and in the same good faith in which this law was passed and the same good faith in which Senators have spoken on the floor today, and look at the areas that have given rise to uncertainty within the retailing community and the whole rest of the chain of production of this food, all the way down to the producers we are trying to help, and we can say: We can make our intention clear; we can give you the level of certainty you need to be able to implement this law and comply with this law in the manner that we all are saying now we originally intended.

The law we passed in the farm bill doesn't have to be our final statement on the matter. We don't have to be getting into these kinds of arguments. That is a third alternative in which I would be very happy to participate.

I will say, I don't intend to support this sense-of-the-Senate resolution—not because I don't understand the frustration that has led up to it; not because I necessarily disagree with what I have heard on the Senate floor about the motives that may have been working in the House; not because I am against, personally, a mandatory country-of-origin labeling law; not because, as the Senator from Nevada said, I am against what he was saying about consumers knowing where their food comes from. Maybe there is a good niche market available. Maybe if we can do this in a way that works, consumers will look at this and they will want to buy that American beef and it will help our producers. That would be great.

But it does seem to me now that nobody is really satisfied with these regulations. Some people believe the regulations are an accurate reflection of the law, and they are not satisfied with the law. But they don't like the fact that the regulations are the way they are.

Then there are people who think the regulations are not an accurate reflection of the law, and they don't like the regulations the way they are. So it does seem to me that maybe the House has done the right thing—albeit, perhaps, for the wrong reason—in saying: Let's not implement the regulations.

I will say, if the House feels that not implementing the regulations means the law isn't going to go into effect, they need to consult some different lawyers. That law reads that the effective date is in October of next year. Whether there are regulations or not, that liability is going into effect then. If we have a level of discomfort, as I do at this stage, with how the statute reads, we better do something about it in time so the people we are trying to help will enjoy the benefits of the law we passed 2 years ago.

Mr. President, it has been an experience for me to investigate and oversee this implementation. At this point I will say I stand ready to work with anybody on either side in trying to make certain we get a result that is at least acceptable and, I hope, is good for our producers. In my discussions with Senators, I have come to have a great deal of respect for their sincerity and passion on this issue. I don't see, given that, why we cannot come up with something that will work better for everybody than what we have now.

With that, I will yield.

Mr. DURBIN. Will the Senator yield for a question?

Mr. TALENT. Yes.

Mr. DURBIN. In fairness, I have supported this policy. When I return home and meet with people in grocery store chains that serve his State and mine, they have raised some legitimate questions, as far as I am concerned, about how much is required. It seems to me to be not a great burden to ask them to put some notice, for example, that the bananas are from Costa Rica or from some other country. Most of their concerns seem to be directed toward meat and whether or not they can legitimately trace the meat, and through all the requirements of the legislation and how much time is involved. I come to this issue realizing that whenever regulation is proposed, it is usually the first defense of the opponents to say it is going to cost 10 times as much as you would imagine to implement it.

I ask the Senator from Missouri—and this is an honest question, and I have no predisposition on his position on this issue—can he say, as he is standing there in opposition to this, that the cost estimates coming out are reasonable, in light of what is being asked of these grocery chains?

Mr. TALENT. I appreciate the Senator's question. I am happy to answer him in complete candor. I have not had the capacity in my subcommittee and in my office to be able to quantify what the costs are. I do know that actors in the chain of production, who I don't think have a big ax to grind—I am not talking about the packers here—have told me they are very concerned with what they are going to have to do to comply with this. It is chiefly the retailers, but not just them; also auction barns, and I have had producer organizations come; and I think their sense is that the thing that we are basically intending—as the Senator is saying, let consumers know where the beef comes from—is something we probably could handle at an affordable level.

But there is enough uncertainty in this, which they are not willing to risk, and the Senator can understand that they don't want to face—or be the ones at risk of facing a huge liability if they get it wrong. So it is reasonable to believe that the potential cost of this is very substantial. I can say that to the Senator. I cannot say it is $2 billion or half a billion. I just cannot tell the Senator that.

Mr. DURBIN. I would like to raise another issue. Really, I didn't think about it until August. I heard from two different grocery chains—one based in Chicago and one in St. Louis—about this legislation, and it goes as follows: If you establish a burden on a grocery store or a chain to follow these regulations, it necessarily involves manpower. People will have to keep records and label products, and all of that is part of it.

How much? As the Senator said, and I agree, I cannot quantify it. I don't know how much that is. The point made to me is that the Wal-Marts of the world, which pay rock-bottom wages, with no health benefits, will be able to come up with the manpower at a much lower cost than some of the major grocery store chains, some of which are union-organized, that pay a living wage and health benefits. They say to us, you are once again giving a competitive advantage to the Wal-Marts of the world that pay these low wages, with no benefits, to the disadvantage of grocery store companies who are trying to be good neighbors and good corporate citizens and provide decent wages and benefits.

Has the Senator heard this observation?

Mr. TALENT. I have. I have heard a number of things from retailers. One chain told me they are probably going to have to end up laying off many meatcutters because more of it will be prepackaged. I mentioned that in my remarks. I have retailers telling me they are going to advertise less for beef.

One fellow said: I don't want a lot of beef if I have this potential liability. I will simply advertise more for chicken. It will hurt the smaller stores in the more rural areas, and the bigger unionized stores to some extent. In fairness to the Senators who supported this, and in good faith still support it, I want to say a lot depends on how exactly these companies interpret the law and what risk level they are willing to go to.

My concern as a lawyer—and I think the Senator would probably agree—is that their general counselors are going to say: We are not going to take a chance. Tell everybody all up and down the production chain, this is what we want from them, and they are going to have to bear the cost.

Mr. DURBIN. I thank the Senator.

Mr. TALENT. I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from South Dakota is recognized.

Mr. JOHNSON. Mr. President, I am a bit confounded. I have to admit that some of the great concerns expressed about country-of-origin labeling for meat are being raised at a time when USDA has not yet issued a final statement about what the regulations are even going to be.

The USDA has considerable discretion, based on the legislation that passed this body and is now part of the farm bill. So a lot of this frenzy going on is about final regulations that are not yet in place.

Let me add that we are soon going to see Senator DASCHLE offer an amendment, a sense-of-the-Senate amendment, relative to country-of-origin labeling that the Senate conferees sought to stay with the Senate approach and reject the House approach to delay implementation. That effort on the part of Senator DASCHLE, joined by our Republican colleague, Senator ENZI of Wyoming, and myself, is supported by some 135 agricultural organizations, as Senator REID has noted, including, I say to my friend and colleague from Missouri, Missouri Farmers Union, Missouri National Farmers Organization, Missouri Rural Crisis Center, and the Missouri Stockgrowers Association, not to mention the American Farm Bureau Federation and the National Farmers Union.

So from the left to the right, across the entire spectrum of agricultural and rural organizations, there is overwhelming support transcending party-line differences in support of this amendment that is going to be offered by Senator DASCHLE.

The amendment directs the Senate conferees to insist that the final Agriculture appropriations bill should not restrict or delay the implementation of country-of-origin labeling for meat.

Mr. President, there are interests in this country that have convinced the House to include language in its version of this year's Agriculture appropriations bill to interfere with the USDA rulemaking process by delaying for up to 1 full year implementation of country-of-origin labeling for meat and meat products only. The law in the current farm bill provides for country-of-origin labeling for fruit, vegetables, and for meat. But it is only meat that has been singled out for this delay, keeping in mind, of course, that the farm bill already provided for 2 years of delay in the implementation of a mandatory program as it is.

This interruption is simply not justified, and it serves to placate only those special interests who profit from the status quo by, frankly, camouflaging foreign meat products.

I understand there are certain interests that have foreign meat that comes into the country, and this is not a trade barrier. We are suggesting there be no trade barrier. If people want to eat Argentine beef or Mexican meat, they are certainly entitled to make that choice, but it ought to be a knowing choice. That is all we are suggesting, that people get to know the origin of their shoes, shirts, and auto parts.

Why should the United States be among the last of the industrialized democracies in the world to allow our consumers to know the origin of the meat products they feed their families? It is a very simple question. It would strike most people as common sense that in this day and age, people ought to have the opportunity to know the origin of the products they are buying, especially products they are feeding their families.

The farm bill already included a very lengthy 2-year implementation process for country-of-origin labeling, and USDA is now just half way through the rulemaking procedure. To prematurely disconnect country-of-origin labeling for meat from this process is unfair and will harm U.S. livestock producers and American consumers alike who stand to benefit from a country-of-origin labeling program.

We need to allow USDA to continue with the process of allowing the public, both those opposed and those supportive of country-of-origin labeling, to interact with USDA in their responsibility to implement this law for the fall of 2004.

There has been submitted for the RECORD a letter signed by 135 farm, ranch, and consumer organizations supportive of our bipartisan sense-of-the-Senate resolution.

Mr. President, these organizations represent more than 50 million Americans. Additionally, the most important and influential farm and consumer groups in the Nation support country-of-origin labeling, including the National Farm Bureau, the National Farmers Union, and the Consumer Federation of America. I think it can be fairly said this is as much, even more so, a consumer issue as it is a livestock producer issue.

It is now the job of the Senate to stand up for the majority of U.S. citizens and fix what special interests have convinced the House to do. A delay in implementation of country-of-origin labeling for meat is a seriously misguided effort because country-of-origin labeling is the only method we have now to differentiate and identify meat that comes from our country as opposed to meat that comes from other countries; for instance, meat that may come from a BSE-infected, mad-cow-infected country. We don't claim country-of-origin labeling is, per se, a food safety issue, but it certainly is a consumer confidence issue at a time when meat may very soon be coming into the United States from Canada, a country where BSE was recently identified. Now USDA is talking about allowing these younger cattle to come into the country from Canada, while at the same time our Japanese friends are telling us that BSE is, indeed, possible in these younger livestock.

If we are going to preserve confidence in the high quality product United States livestock producers have available, have created for the American consumer, then consumers need to be able to make a knowing choice. You can argue for them, these are decisions other people can make for you, that you ought to simply take on blind faith the food inspection and safety of the meat that is served in America, that is sold in America. Why shouldn't the United States be among the few industrialized democracies in the world that says: No, we will not allow you to make that choice; this is information you don't need, and we'll decide for you that you don't need this information?

Last week, USDA announced a plan to open the U.S. border to imports of Canadian live cattle, a plan that could be implemented in the first quarter of the 2004 calendar year. I am disappointed USDA appears more serious to opening our border to Canadian cattle than they are to implementing country-of-origin labeling. If they open floodgates to nearly 1 million head of Canadian cattle early in 2004, and if Congress simultaneously postpones the implementation of country-of-origin labeling for meat, the American consumers will have no way to determine whether they are buying Canadian or U.S. beef.

Again, if their choice is to buy Canadian beef, they certainly have the legal right to do so, but they ought to have an opportunity to know. They ought to have an opportunity to make that choice, and it ought to be a knowing choice. That is what makes the market forces in America work so well; the sales are transparent. People get to know the quality and origins and the value of the products they buy, and they let the best product win.

To camouflage origins of meat is contrary to those free market decision-making processes. It is no secret, country-of-origin delay, matched with the deluge of Canadian cattle imports, recklessly places consumer confidence at risk and could lead to serious economic harm for United States cattle ranchers.

Furthermore, postponing implementation of country-of-origin labeling for meat neglects demands of our most important and valuable export markets. Japan and South Korea have written to the Department of Agriculture seeking our assurances to provide country-of-origin labeling for all U.S. beef exports to those countries because those countries do not want Canadian beef to be commingled with our exports.

The same day USDA announced their plan to allow Canadian cattle into the U.S., it was reiterated by Japan that the U.S. ought to guarantee no beef from Canadian-born cattle is exported to Japan. The only method to certify origin of beef exports to Japan and our other important trade partners is to implement country-of-origin labeling.

A delay of country-of-origin labeling seriously jeopardizes our most important exports of beef, which will certainly lead to economic injury to America's cattle men and women.

We face a simultaneous problem: One, that our own consumers are being denied the information they need to have confidence, to make knowing choices about the meat they serve their families and, at the same time, we are putting in great jeopardy the export market.

Japan is the largest buyer of American beef in the world, and they are saying: Look, we don't want to buy your beef if you can't certify to us this is, in fact, American beef you are selling us, We can't do that right now because we don't have a country-of-origin system in place. So we find ourselves not only doing a disservice to American consumers and American families, but we also are setting ourselves up in a circumstance where we can take a catastrophic hit to our export markets at the same time.

Eighty-four percent of our major trade partners already have country-of-origin labeling for food products, including meat—84 percent. That means 48 of our 57 major trade partners already have country-of-origin labeling. Clearly this is not rocket science. It does not have to be costly. In fact, in the United States, we already have country-of-origin labeling in some niche areas. It is required that meat that goes into the School Lunch Program be American meat. It is self-certified. It seems to work. We have a Black Angus Program, and we have other programs that already work. They are not costly. It is not that expensive.

This notion that somehow country-of-origin labeling has to be some immensely expensive and complicated process is foolishness. If all we did was keep track of the meat that comes into the United States, that alone would be enough to be able to certify everything else is American without requiring anything in particular of American livestock producers.

Well, the packers and retailers would like us to think that country-of-origin labeling is some enormously expensive and burdensome program, and they have been working very hard at trying to frighten both producers and consumers to think just that. There have been letters that have gone out and there has been a lot of scare talk that has been going on, and there is no doubt they enjoy taking the profits of mingling foreign meat with U.S. meat, selling it all off as a premium product, without allowing consumers to make a knowing choice. I appreciate there are those from certain parts of the United States who enjoy the benefit of bringing in Mexican feeder calves, fattening them and then selling them as an American product. They are able to profit at a higher level than they would otherwise by not allowing American consumers to know what in fact it is they are buying.

We are not suggesting one cannot bring in feeder calves from anywhere one wants, one cannot bring in meat from anywhere one wants. We are suggesting consumers ought to know the difference.

Nearly a year ago, USDA said country-of-origin labeling would cost $2 billion. Then Senator DASCHLE and I asked the Government Accounting Office, the GAO, to assess whether USDA's cost was accurate. GAO said the Department of Agriculture's initial recordkeeping cost was "questionable and not well supported."

Now USDA has reduced their recordkeeping cost estimate by $1.5 billion of that $2 billion. Furthermore, country-of-origin labeling is not going to result in a mountain of red tape as some of the critics suggest. In fact, USDA's proposed rule states most livestock producers already maintain the types of records—birth, health, and so on—that would be relied upon to verify the origin of animals under country-of-origin labeling. People simply need to do what they are already doing.

Even if individuals have questions or concerns about country-of-origin labeling, the best way to ensure those questions and concerns are addressed is to allow USDA to continue forward with its very lengthy rulemaking process. It is through this process only that all parties can submit questions and develop alternatives to ensure implementation of country-of-origin labeling does not lead to red tape and overwhelming costs. We can move away from some of the scare talk and from some of the reckless rhetoric and in fact allow USDA to evaluate whatever issues are raised in a thoughtful, deliberative fashion, as they have the opportunity currently to do.

Every stakeholder group has 60 days to submit written comments to USDA with respect to their proposed rule to implement country-of-origin labeling. Then USDA will incorporate those comments into the final rule, which is not even going to be written until well into the year 2004.

USDA's proposed rule is far from perfect—I would be the first to say that—but compared to what it looked like nearly a year ago, USDA has been making improvements and has been making progress. With balanced public input and assurance that the implementation process will not be interrupted, maybe then those with questions and concerns can work with USDA in the coming year to help make the law and address the concerns they raise.

I commend Senator DASCHLE, Senator ENZI, and others in a bipartisan spirit, who have offered support for this amendment. I encourage my colleagues to support it. All this simply does is to say a law which is already law, which has been signed by the President, is part of the farm bill, is in the midst of the rulemaking process now, be allowed to go forward. Allow USDA to take the comments from the public, allow USDA to evaluate all of that, perhaps make still further changes on their way to a final regulation, and then we will see where we are.

To stop the process midway through the regulation listening process cannot possibly serve the American public, the American consumers, the American agricultural economy well.

Again, I thank Senator DASCHLE for his extraordinary leadership on this issue, and what he is trying to do to bring some sense to our deliberations on this Agriculture appropriations bill and to send some direction to the conferees to not prematurely pull the plug on the rulemaking process USDA is in the midst of now.

I urge my colleagues to be supportive of this sense-of-the-Senate amendment Senator DASCHLE is shortly going to formally introduce.

I yield the floor.

AMENDMENT NO. 2078

Mr. DASCHLE. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. ENZI, Mr. THOMAS, Mr. JOHNSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BURNS, Mr. BINGAMAN, Mr. BAUCUS, Mr. DORGAN, Mr. CONRAD, and Mr. KERRY proposes an amendment numbered 2078.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Expressing the sense of the Senate regarding country of origin labeling requirements)

On page 79, between lines 7 and 8, insert:

SEC. ___. SENSE OF SENATE REGARDING COUNTRY OF ORIGIN LABELING REQUIREMENTS.

It is the sense of the Senate that the conferees on the part of the Senate on this bill shall insist that no limits on the use of funds to enforce country of origin labeling requirements for meat or meat products be included in the conference report accompanying the bill.

Mr. DORGAN. Mr. President, will the Senator yield for a unanimous consent request?

Mr. DASCHLE. I would be happy to yield.

Mr. DORGAN. Mr. President, I ask unanimous consent if I might find my way into the order so I might also offer an amendment. I see the Senator from Wyoming, who I expect is wanting to speak, and because we will probably go back and forth, I wonder if I might get unanimous consent to be recognized following the presentation from the Senator from Wyoming. I know the Senator from South Dakota has now offered an amendment. My expectation would be the Senator from Wyoming will speak next, but might I receive consent to be recognized following the presentation from the Senator from Wyoming.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Democratic leader.

Mr. DASCHLE. Mr. President, I want to begin by complimenting the distinguished Senator from South Dakota for his remarkable statement. I am not sure anything is left to be said. I think he covered it so well and so eloquently.

He, as I think all of our colleagues recall, is the true author, the founder, the initiator of this issue during our deliberation on the farm bill itself. It is with great wisdom he spoke today and I think with great persuasion. We ought to listen to the Senator from South Dakota. Again, I thank him for all he has done to get us to this point and the efforts he has made to ensure we understand the consequences of our actions today.

Let me also thank the distinguished Senator from Wyoming, Mr. ENZI, for all of his work and help in making this amendment a bipartisan effort, to ensure that we, as colleagues interested in agriculture, a strong economy, and rural America, do the right thing with regard to this particular question involving better information and better choice for all consumers and an effort to help producers as well.

There are others also who have played a very significant role; my colleague from North Dakota, Senator DORGAN; Senator GRASSLEY, who gave a passionate speech earlier today on this amendment, Senator BURNS, Senator BINGAMAN, Senator BAUCUS, Senator CONRAD, Senator HARKIN, Senator THOMAS; a number of Senators have expressed themselves and have been the driving force from the very beginning as we have urged careful thought about how the Congress ought to proceed with regard to this question.

The Senator from South Dakota made several important points, but if there is one that is most important it is simply we are now in a very delicate, deliberate rulemaking stage. What our colleagues in the House have chosen to do is to say, we want that stage to end; we want to terminate rulemaking before we even see what the rule is; we want to make a decision about the decision prior to the time the decision has even been made.

For us through legislation to interject our own voice, without allowing the Department of Agriculture to respond, as they are required to do in the farm bill itself, passed last year, I think is terrible policy but also premature.

What we said in the farm bill, and what my colleague from South Dakota said so well this afternoon, is we ought to bring agriculture, consumer protection, and information into the modern era. As he noted, 48 other countries, 84 percent of our trading partners, already do that. They have already recognized the importance of good consumer information.

I find it ironic we can tell people where bananas come from, where lettuce comes from, where our clothing comes from, where just about everything else comes from, but we have those who say it is impossible for us to tell people from where our meat comes. When it comes to meat, we can tell people whether it is choice or whether it is prime, but we just cannot tell people from where it is imported. I do not think anybody can accept that logic.

If we can decide the difference between choice and prime, we can decide the difference between Mexico and the United States. That is all we are talking about, a recognition that consumers have just as much right to know where their meat comes from as they have a right to know how good the quality. When we passed the legislation, frankly on a overwhelming bipartisan basis, we said yes; we said the consumers ought to have that right.

That is what we are trying to do today: First, to allow the rulemaking process to go forward. But, second, to come down to a pretty fundamental question. It is pretty fundamental. Should consumers have the right to know? I believe the answer to that question is yes. I believe it is in keeping with a long tradition of legislation passed in this body, in both Republican and Democratic majorities.

I recall 13 years ago, so vividly, Congress passing legislation back then that we were told was impossible to enforce, impossible to administer. It was legislation that required nutrition labeling. Howard Metzenbaum, that Senator from Ohio who was a passionate advocate for consumers in so many ways, was the author of that legislation. I can recall at the time opponents of his bill said: We are going to see costs soar just as soon as this legislation is implemented; it is impractical to talk about how many calories, or what the nutrition balance is going to be, with every single product in the market. But Congress passed it anyway and, in fact, now the labeling law has become what is widely described as the most successful consumer information tool in all of history and now we consider it almost daily as a matter of course as we look at the labels when we buy the products, the packages.

There are those, in packing in particular, who have attempted to say for a lot of reasons that this legislation could carry that same ominous effect on the market once more. Four meatpackers control 80 percent of the meat market. They operate multibillion-dollar empires. We know how powerful they are and we know when they speak there are a lot of people who listen. But I believe we ought to go beyond what special interest concerns there are. We ought to have a right to know. When there is mad cow disease, as we have seen in Canada, if we are going to import meat from Canada, we ought to know those circumstances exist. And before we buy, if we have a choice between American beef and imported beef, whether it is Canada or Mexico or anyplace else, consumers ought to know. Consumers ought to have the right to make that choice for themselves.

I believe this may be one of the single most important consumer bills that our Congress is going to take up in this session of this Congress. We are told by the packers especially that this is too expensive, that we simply can't afford to implement the plan. Estimates rose as high as $2 billion. In fact, even USDA expressed real concern about the cost, advocating a review of the costs.

We did just that. We asked the General Accounting Office, as my colleague from South Dakota said, to look at the facts. Forget all the assertions; forget all the hyperbole. Let's really look at what the cost will be. They did that. They reported back not long ago and they said the cost is not $2 billion; it isn't even half of the $2 billion that was originally alleged to be the cost of the implementation of this rule. In fact they said the cost in the first year would be less than $600 million—about $582 million. I believe the USDA cost estimates are still too high because they don't take into account the extraordinary economic benefits that could be derived with this information.

Studies have shown that if we have this kind of information the actual sales of U.S. meat could increase anywhere from 1 percent to 5 percent, and that isn't taking into account bringing down the per-product cost. So, clearly, it is a fraction of the cost that was originally attributed to this rule.

The second problem we have with regard to the rule and the effort to thwart the rule is the packers are simply requiring too much paperwork and recordkeeping from the rule itself. We have to fix that. We have to ensure that we make this a practical application. I believe we can do that as well. I believe we can create the kind of opportunity for practical application of common sense just as we have shown in so many other instances—as we have shown with meat labeling, as we have shown with grading, as we have shown with consumer information provided routinely now throughout the marketplace.

I believe what we ought to do, in short, is give USDA the authority and the opportunity to work their will, to do what we hired them to do, to give us the rule, to allow us to analyze it. If we have problems at some point down the road, we can change it. We can ask the administration to work with us to come up with something better. But at least let's give them that opportunity to produce what they are required to produce under law.

I believe that is the right course of action. That is what this amendment says. It simply says, with a bipartisan voice, that we believe we are on the right track. We believe producers would benefit if consumers knew they could buy products made, produced, and marketed in this country. That is what the amendment says, and I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise to join the chorus of support for this amendment and to thank Senator DASCHLE for all his efforts on its behalf. Since I got to the Senate, Senator DASCHLE and I have been working on something I call the packer concentration. It is big business in this country that takes on the small producers of this country and beats them to a pulp.

When I first got here, I was a little leery about whether that happened. I am now firmly convinced and know it happens because of the way the lobbyists come in and grind on any of these bills we pass.

We did pass in the Senate country-of-origin labeling. It is part of the law right now. The USDA is supposed to be working toward putting that into place. But the packer concentration has worked on their friends in the USDA and said we have to make this so tough that nobody will want to do it. It will run up the costs so much that nobody will want to pay for it. That is kind of the status we were in for a while.

We have been making a little progress on it as it got closer to having a rule published. Now we have the chance to send the instructions, it is a sense of the Senate, to send the instructions to the conference committee to say that what we did before ought to move on. We are not changing the law. We are suggesting that it ought to continue so we can get a clearer definition of what is really happening so we can make sure that country-of-origin labeling happens for our producers and our consumers and to make sure it does not run up high costs.

At present, the Senate bill on appropriations is silent on country-of-origin labeling, effectively allowing it to be implemented as the law intended by September 2004.

The position of the House on this issue is much different, however. The House has stripped funding for the implementation of country-of-origin labeling for meat and meat products in their version of this legislation. The action of the House cannot go unchallenged by the Senate, which is why Senators DASCHLE and THOMAS and JOHNSON and I are introducing this amendment today.

I have discussed this matter with my colleagues and it has become clear that there is need for education regarding country-of-origin labeling. Many of them were not here for the farm bill debate. For those who were, the issue of country-of-origin labeling may not be familiar because it was not debated on the Senate floor. Country-of-origin labeling was included in the bill by way of an Agriculture Committee vote, and the final details of the law were worked out during a conference with the House.

Country of origin labeling is relevant for agricultural producers and consumers alike. In fact, the country of origin labeling law is based on the Consumer Right-to-Know Act of 2001, which I cosponsored. The law requires the U.S. Department of Agriculture to put in place a system for U.S. retailers to inform their customers when they buy beef, lamb, pork or other perishable agricultural commodities as to what country that product originated.

Food labeling can help increase consumer confidence by assuring consumers they are making informed and knowledgeable decisions about the products they buy. Consumers should know if the meat they are bringing home to feed their families has been produced here, or if it was imported from a country that may have fewer environmental, health and safety regulations on livestock production. The Consumer Federation of America and the National Consumers League advocate country of origin labeling and demonstrate consumer support for the program.

Producers support country of origin labeling too. On October 9, 132 producer and consumer groups from across the nation sent a letter to Senators indicating their support for country of origin labeling funding and my amendment. The letter was signed by groups such as the National Farmers Union, the American Farm Bureau Federation, the National Association of Counties, and the Wyoming Stockgrowers Association. They know that country of origin labeling will be a shot in the arm for agricultural producers because it will add value to American-grown food.

In the case of meat, the law intends for retailers to designate a product as having a U.S. country of origin only if the meat is from an animal that was born, raised and slaughtered in the United States. For beef alone, a recent study by the University of Florida indicated that a consumer's willingness to pay additional money for labeled beef is estimated to be worth $3.5 billion.

That is $3.5 billion of additional sales. Right now a lot of people think that a USDA stamp means the beef was grown in the United States—not true. Opponents claim that today's beef prices are higher than they have been in recent memory. True. They claim the country-of-origin labeling is unnecessary. Wrong. I hate to break it to them, but prices are high because the Canadian border is closed. Packers have been forced to rely more heavily on U.S. products. Without country-of-origin labeling, the packers will switch to the flood of Canadian beef that will pass through our border as soon as it opens. If country-of-origin labeling is implemented, consumers will know if packers have chosen to pass up U.S. beef for Canadian beef.

Opponents refuse to recognize the benefits country-of-origin labeling has for both producers and consumers. That is how we have reached our current position and seen funding for the implementation of country-of-origin labeling stripped from the House bill.

Those who perpetrated this action in the House claim that they need more time to consider the ramifications of country-of-origin labeling. Time is one thing that the debate surrounding country-of-origin labeling has had. This issue was debated in the years before its inclusion in the farm bill. Since the law was passed, 2 years were granted for rulemaking to ensure its thorough implementation. During that time, opponents of country-of-origin labeling have waged a campaign to frighten and bully those who stand to benefit from its proper implementation. Livestock producers have been told that they will be saddled with tremendous burdens that aren't even mandated by the law.

The move to strip funding in the House bill did not arise as a noble gesture to protect producers by giving more time and thought to implementation, it is a covert attempt to gut and rescind country of origin labeling. Removing funding for implementation did not improve the process, it stopped the process cold. For those who have genuine concerns regarding the implementation of country of origin labeling, the answer is not to put off implementing the law, but to implement it properly.

Our conferees should not accept the House position. Instead, we should continue to fund the program. As we continue to receive genuine concerns, we should fund implementation and allow those concerns to be brought to the USDA where they will be addressed. We have a process for stopping the whole thing if it is not addressed. This is the legitimate way to solve problems, as opposed to avoiding them. In fact, this approach has already been successful.

On Monday, the USDA released their proposed rule for the mandatory country-of-origin label program. The process is working. The rule is not what it should be. It is time for people of this country to comment on that rule. I am sure you will hear comments about how difficult the rule is. But that is why we have a rulemaking process—so people can give their input. Then we can see if the Department of Agriculture follows that input. If they don't, we, in oversight, can stop the process. We shouldn't stop the process before it gets started. The process is working.

Since coming out with the voluntary rule, the USDA has responded to the concerns of industry and produced a better product than they were talking about originally. It is important to keep the regulations simple for producers and retailers. In the case of livestock producers, they do not even produce a product that is covered by the law.

Muscle cuts and ground meat products are covered but live animals are not. In addition, regulations should be simple for the retailer because they are the only recipient of information from the supplier. They don't produce the information.

The proposed rule addresses some of the liability concerns raised by retailers by clarifying that retailers will not be liable for the accuracy of information provided to them by suppliers. That is where they get their meat. In addition, rather than requiring stores to maintain the records they used to establish country of origin for 2 years, local grocery stores only have to maintain those records for 7 days after the product's sale. There are still areas of concern that need to be addressed, but the 60 day comment period before the final rule gives everyone an opportunity to improve it. That is what we ought to be doing.

The USDA included a cost benefit analysis in the proposed rule. Within that analysis is a breakdown their expected impacts to specific portions of the production chain. I was encouraged to see that the relative impact for producers was minimal. Even the USDA acknowledged that the cost for producers will be modest and primarily for recordkeeping. The USDA estimates that the cost per producer will be between $180 and $443. Unfortunately, the information is meaningless because it is based on an average per producer. Producers range largely in the size of their operations. The information that will assist producers understand the potential impact of the rule is the cost per product, or per head in my State. It is clear that the cost would be lower than $180 for someone with only a few head of cattle. The USDA did indicate that the rule should not have a disproportionate or larger impact on smaller producers.

I was pleased to see that the USDA had shifted down from their original $2 billion estimate for record keeping costs to $582 million. Although still high, this shift agrees with what I have been saying all along. The USDA's original cost estimate for record keeping was inflated and unsupported. The outrageous cost was based on an assumption that the an hour of recordkeeping for the producer was worth $25. My producers would love to have that cost for their recordkeeping time. It also assumed that an hour spent by retailers on recordkeeping was worth $50. Again, retailers would like to get $50 on that. I am sure that some ranchers and grocery store owners in Wyoming would love to be paid what the USDA thought 1 hour of recordkeeping was worth. In their proposed rule, the USDA admits that these are unsupported numbers and significantly scaled down the total recordkeeping costs. I think they will be scaled down considerably.

However, the USDA indicates that the total cost for implementation could range from $582 million to $3.9 billion. I am concerned with the $3.3 billion gap in these numbers. I think that takes away from the credibility. This is a proposed rule and the ultimate cost will depend entirely on its implementation. If the USDA takes comments of industry and producer into account, the implementation costs will be on the lower end of the estimate, or lower than the estimate, just like the case of the recordkeeping costs.

Finally, the USDA reports a potential for staggering costs but fails to recognize the benefits and potential for increased sales in their analysis. As I said earlier, a study has indicated that labeling beef as to its country of origin will increase consumer eagerness to pay for a product they prefer by a total of as much as $3.5 billion. The USDA did not accept this and other studies on the benefits of country-of-origin labeling and they did not conduct their own benefit analysis. They were unable to quantify the benefit using their own information so they did not include any benefit in their study. However, failure to study something does not mean it does not exist.

Even allowing for no benefit, the USDA stated a 1 to 5 percent increase in consumer demand would offset the costs to the economy of country-of-origin labeling. That is a powerful statement. Even a minimal increase in market share will cover the cost of the program.

Again, the key to the success of this program is how it is implemented. We are at the stage of the rules being published, the 60 days of comment. We still have a chance to make a difference on the rules and bring the costs down and simplify them for the producer and retailer. It is for this reason my colleagues and I are proposing the amendment today.

The Senate supports country-of-origin labeling. For those Senators who have concern with country-of-origin labeling, defunding the program is not an effective way to deal with those concerns. Our amendment states it is the sense of the Senate that conferees on the part of the Senate on this bill shall insist that no limits on the use of funds to enforce country-of-origin labeling for meat or meat products be included in the conference report. If my colleagues support country-of-origin labeling, they should vote for this amendment. If some of my colleagues have concerns about the implementation of country-of-origin labeling, they should vote for my amendment and ensure that USDA has the funding available to improve the rule. We passed the law and now we must remain vigilant to be sure it is implemented properly.

As I mentioned, even if your State is not a producer of meat and meat products, worry about your consumers so that they know from where their meat product came. I urge my colleagues to help me do that by passing this amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague from South Dakota, Mr. DASCHLE, has proposed his amendment. I would like to speak in support of that amendment. Other colleagues have already spoken. This is an important amendment to consider.

Let me talk about the issue. We call it, this debate in the Congress, country-of-origin labeling: COOL. That does not mean anything to anybody. The question with this amendment and this issue is, Should the American people be able to determine where the meat they are purchasing at the meat counter comes from? Should they be able to know where this product comes from?

We have a roomful of people wearing neckties in this Chamber. If anyone looks at their necktie, they can find from the label where that necktie comes from. The same is true with shirts and shoes and trousers. The same is true with much of what we use in our daily lives. We require labeling. We demand it. Why? Because the consumer is advantaged by having it. Except meat and meat products. Go to the grocery store; take a look at the grocery store shelf and evaluate the meat. Consumers do not have the foggiest idea where the products came from—none.

Why is it important to be able to identify the origin of meat or meat products you purchase in this country? For a number of reasons. We produce the highest quality food in the world by far. Why? Because we have the highest standards, and we demand conformance to those standards. The American people, if they want to choose U.S.-grown beef, U.S.-produced beef or beef products or meat or meat products, at this point they cannot do it because the labeling does not exist.

Now, the labeling of meat and meat products has been done routinely in many other areas of the world. Other countries do it. It is not impossible. It is not even prohibitively expensive. It is just if you have the will to do it, you do it. In our country, at this point, we have not had the will.

Finally, the Congress passed a piece of legislation saying you must. We have a requirement that there be country-of-origin labeling, meat and meat products be labeled as to their origin, where they were produced.

Now the House of Representatives has passed an amendment that says they are going to shut off funding for that at a time when the Department of Agriculture has already dragged its feet in implementing it because they do not want to implement it.

Let me describe where this is important. Let me describe a May 1999 inspection in Hermosillo, Mexico, when inspectors went into a plant in this little town in Mexico. I will tell you what they found. U.S. inspectors paid a rare visit, we are told, to the plant in May 1999 and were greeted by filth and flies. They cut off trade at once—or at least they thought they did.

From the U.S. Department of Agriculture:

> Shanks and briskets [were] contaminated with feces . . . . In the refrigerator . . . . A disease-condemned carcass was observed ready for boning and distribution in commerce.

Even before the inspectors left Mexico, Mexican officials were at work to restore this plant's right to sell meat to Americans. Over the following months, this plant regained its export license, switched owners, changed names, and yet the USDA has never returned.

So an American consumer buying meat from this plant, can they know it? Will they know it? Will they have information that tells them this is where the meat comes from? The answer at this point, regrettably, is, no, they will not know whether that meat comes from the most regulated laboratory or most inspected plant in the United States or from this plant in Mexico where inspectors were greeted by filth and flies and a disease-condemned carcass ready for boning and distribution in commerce.

Is it important for the American people to distinguish between cuts of meat that come from an inspected facility in this country that meets rigorous standards and a facility as described in this article that comes from that community in Mexico?

What about the issue of BSE or mad cow disease? We now hear this week we have another case of mad cow disease in Japan; a 21-month-old bull is the country's ninth known case. It is devastating for the Japanese, I know, to have cases of mad cow disease or BSE. We know our neighbors to the north have had a case of mad cow disease. In January, a sick cow, staggering in a lot, was nonetheless slaughtered with other cows. They severed the head and put the head on a shelf, and that head sat on the shelf for 4 months. Finally, they sent it away for testing, to discover that the cow they slaughtered in January, in May was determined to have had mad cow disease.

As a result, the Secretary of Agriculture cut off shipments of live cattle from Canada into this country. Why is that important? Because our beef herd is free of mad cow disease and has always been free of it. It is devastating to a beef industry, an industry in just North Dakota worth $500 million—half a billion. It is devastating to that industry to have an outbreak of mad cow disease. We want to protect our industry. That is why I offered the amendment earlier this afternoon that has been accepted. But we had USDA moving quickly last week to create what is called minimum risk for classification for Canada so younger animals from Canada can move into this marketplace. Should the American people, can the American people, determine where their meat comes from—Canada, Mexico, Japan, or the U.S.?

The answer, for those of us who strongly support country-of-origin labeling laws, is the American people deserve that opportunity and need the right to know where their meat and meat products come from; they need to be able to make selections as consumers in a thoughtful, intelligent way.

Regrettably, that is not now the case. That is why the Congress previously passed legislation. Regrettably, the Department of Agriculture is dragging its feet, and the House of Representatives, in my judgment, has caved in to the big economic interests that want to scuttle this all together. They don't want to have anything to do with meat labeling. They say it costs too much.

Only in this town would we not laugh out loud at the cost estimates that come from the USDA. They are a joke. Only in this town would it become part of legitimate debate and thoughtful discussion about how many billions—yes, billions—of dollars this would cost, they claim, to administer. That is complete, sheer, utter nonsense and USDA knows it.

The question for this Congress is, Will it stand behind its previous decision and its previous judgment to require country-of-origin labeling on behalf of the American consumer? Will it stand behind that? I hope the answer is yes. If that answer is yes, then we need to support this bipartisan amendment that is offered by my colleague from South Dakota.

One final point. In the haste to try to discredit the country-of-origin labeling, the Department of Agriculture put out a notice that this would cost billions of dollars and they also indicated that it would have zero benefits. Does anyone really believe an estimate of the cost of the implementation of this law would provide no benefits—no benefits—to this country and the consumers of this country?

That is why this attack on the country-of-origin labeling is a joke. It is why we must adopt this amendment. We must stand for the American consumer. I know big economic interests swing big clubs in this area. I have been in conference committees where we thought we had this done before long ago and we had folks from the meat industry out in the halls buttonholing people. The fact is, we need to get this done, and it needs to be done now. That is why I support the amendment offered by my colleague from South Dakota.

While I have the floor, might I also indicate that the amendment I indicated to the Senator from Utah that I intended to offer is ready. I can offer it at the pleasure of the Senator from Utah and the Senator from Wisconsin. Senator BURNS from Montana and I are both in the Chamber, and both of us would like to speak in support of our amendment. We very much hope the manager and the ranking member will be taking the amendment. But if not, of course, we will want a record vote.

I will certainly offer the amendment on behalf of myself and Senator BURNS at your pleasure. So I would be happy to hear what the Senator from Utah would like to have happen with respect to that amendment.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, in an effort to establish a glidepath for us to bring this particular airplane in for a landing, in consultation with the assistant Democratic leader, I intend to offer a unanimous consent request that would set a time agreement for the debate on the country-of-origin labeling amendment. It would be my intention, once that time has expired, that we would turn to the amendment the Senator from North Dakota and the Senator from Montana wish to offer. At that time, I would be prepared to attach a time agreement to their offering of that amendment, as well as offering a time agreement to attach to the amendment to be offered by the Senator from Vermont, Mr. LEAHY. As far as I know, those are the only three amendments remaining that would require a rollcall vote.

So I say to the Senator from North Dakota, I would ask him to support my unanimous consent request that I will now propound, with the commitment on my part that as soon as the time has expired on the country-of-origin labeling amendment, we would then go to his amendment. I think the appropriate thing would be for him to offer his amendment at that time and then go directly into debate of that amendment.

With that explanation, Mr. President, I ask unanimous consent that the time until 4:30 this afternoon be equally divided for debate on the Daschle amendment No. 2078; provided, that at 4:30 the amendment be temporarily set aside and a vote occur in relation to the amendment at a time to be determined by the majority leader, after consultation with the Democratic leader; provided further, that no amendments be in order to the amendment prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I have spoken to the managers of the bill and indicated to them that Senator HARKIN cannot be here until 4 o'clock, so I would ask unanimous consent that the request be modified to allow Senator HARKIN 15 minutes, beginning at 4 o'clock.

Mr. BENNETT. Mr. President, I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Idaho.

Mr. CRAIG. Mr. President, reserving the right to object, am I to assume by that addition to the unanimous consent request that we are now looking at an hour and 15 minutes of additional debate or just 15 of your 30 minutes locked in for Senator HARKIN?

Mr. REID. Just 15 of the 30 minutes for Senator HARKIN.

Mr. CRAIG. All right. Am I also to assume we would move to other amendments and we would see a series of stacked votes on this amendment and others?

Mr. BENNETT. It is my understanding—if this unanimous consent request is agreed to—that debate on the Daschle amendment will cease at 4:30; we will then address the other amendments—only two of which I know of would require a rollcall vote—and if the majority leader and the Democratic leader so determine, we would then have a series of stacked votes on those three amendments.

Mr. CRAIG. I thank the Senator.

Mr. BENNETT. Now, if other amendments arise, we can deal with them, but at the moment this is what we believe we have before us.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, if I could respond briefly to my friend from Utah and all the Senate—staff and other Senators listening—if there are other amendments in addition to the Dorgan and Leahy amendments, the two managers should be advised forthwith because we would expect this bill to be completed and the voting to start at 5:30 today.

Mr. BENNETT. I thank the assistant Democratic leader and repeat his plea to Senators on our side of the aisle. If there are additional amendments, the time to call them to our attention is rapidly running out.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Idaho?

Mr. BENNETT. Mr. President, I ask how much time would the Senator like?

Mr. CRAIG. Ten minutes.

Mr. BENNETT. Mr. President, I yield 10 minutes to the Senator from Idaho in opposition to the Daschle amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor this afternoon to oppose the Daschle amendment but with some degree of reluctance. I say that because in the 106th and the 107th Congresses I have been an outspoken advocate of country-of-origin labeling.

I agree with a fair amount of the argument that has already been made today, that there is a clear consumer right to know, that there ought to be an identification trail or process by which we do, in effect, identify cuts of meat for the consumer.

I am a firm believer that, as a U.S. consumer, I have a right to know what I am eating and from where it comes. I think it is a little foolish to compare it with a silk tie or a piece of clothing. You do not just run cattle out of a factory. If you know the livestock process, you do not just label them at the time of birth. Maybe we will be. Maybe we will be putting a computer chip in the ear of every calf born and establish an identification trail from birth through to slaughter. I do not know. That may well be in the future of the livestock industry of this country. That might be a part of a process of national identification that the national cattle industry is talking about now as an important part of a trail.

What I spent time doing the last week is reading the new regulations that are being proposed by USDA. While the Senator from North Dakota stood on the floor and said, you just cannot believe those cost estimates, everybody out there in farmland believes them. Every cow and calf producer and every hog producer suggests that $10 a head in real costs to comply is probably fairly realistic and that if you fail to comply or if you break the chain of compliance, you are up for a $10,000 fine. That is something I don't think I want to put my producers into at this moment, especially when they don't understand the regulations and I can't understand the regulations.

There is a joke moving around out in cattle country today. If you go out and buy a truckload of cattle, you better take a trailer along to pull the paperwork with you because this is going to become a very complicated process.

I talked to a sale ring operator about an hour ago. We don't have many livestock auctions left in our country today, but there are a few operating in Idaho. He is trying to figure out, when 75 or 100 small farm, ranch producers come with their cattle to his sale ring—and I am talking about an area where you have a lot of small herds of 100 or less, not large herds, as we think about them today out West or anywhere else in the country—how do you identify all of these cattle and put them together? Are they all going to be ear tagged? Do they have to be? Is that going to be a requirement? We don't know.

More importantly, if you run those animals on public land and they are not in that nice, controlled, fenced, irrigated pasture—and almost all of my livestock run on public land during some time in the year, and I am talking about mountains and canyons and valleys and brush country—the ear tag that gets put in the ear as calves probably isn't there when they come home in the fall because they tore it off going through a brush thicket. That is the character of the industry.

No, it isn't a controlled and simple industry. We have thousands of producers out there today. Most everybody thinks there is the big rancher out there with thousands of head of cows. Not true. Well over 80 percent of the livestock is produced in herds of 50 or less. That is just the reality of the industry. Large feedlot operators put all of those cattle together, bring them to their feedlots. How does that paper trail exist? That is really the issue at hand.

I am a believer in country-of-origin labeling. I do believe the cost we are talking about here, as projected by USDA, has reality to it. Recordkeeping for development and operation, first year: $582 million; $458 million in the outyears to maintain and operate; direct cost, $582 million to $3.9 billion. Well, they back that off a little bit, but in reality we are still looking at direct cost to an industry that is struggling now to get back on its feet of about $1.7 billion.

Is there a cry and a demand to know? I am not sure there is. But I want to know. I do want a reasonable and realistic approach to accomplishing this. Go read the new proposed regulations that are out for comment today. Try to tell me how you create and follow an ID trail through that maze, and the two or three or four times a feeder animal might change ownership from the time they are birthed on the ranch until they are a nice cut of beef on a supermarket shelf. That we are not confident of.

You can darn well bet the processor and the retailer are going to try to pass that cost on, and they can at the consumer shelf. But I know the producer can't. The producer can't say to the feedlot operator or to the slaughterhouse: Well, because of this new regulation, you are going to have to pay me another $1 or $1.50 or $3 or $4, whatever it costs. That simply doesn't happen at that level of production, and it never has.

To liken this to a tie or to liken this to one or two products that may be produced by one or two producers around the country and therefore very easy to label and very easy to know where from whence it comes, when you are talking about thousands of producers, large and small, aggregate numbers being put together for purposes of feeding and finishing—and what about commingling on the slaughterhouse floor? How do you manage that kind of situation?

By the way, I don't think the Senator from Wyoming or the Senator from South Dakota mentioned, if you are selling a hamburger at McDonald's, you don't have to worry about it because you don't qualify. These regulations don't address you. Fifty percent of the industry's meat today is sold through fast foods, and they don't have to play the game. If you are a poultry raiser, do you have to play the game? No; you are exempt.

Why are we looking at this in a rather sporadic pattern? If we are going to develop uniformity, if we are truly going to search for the right to know and a label that deals with country of origin, should not all meat products be labeled in a way that the consumer knows from whence they come? I think that is the right and the appropriate thing to do. We ought not handicap the producer.

My livestock farmers and ranchers are split, to my knowledge, right down the middle. My Idaho cattle association opposes the regulation. I have the farm bureau who supports the regulation. I have the farmers union who I think continues to support it. I have our calf folks who strongly support it. Yet what I feel I am doing, if I vote to advance this rule into a fixed regulation, is putting some of those small producers out of business. I don't want to do that. There ought to be a simple way to do it, and yet what we have seen is a very complicated process.

With that process, with those costs, I do believe it is reasonable for the U.S. Department of Agriculture to argue there may not be a benefit to it in relation to the cost.

The national livestock industry is working at this moment to voluntarily put a national identification program together. We ought to be able to track our livestock. We should be able to know. When it comes to mad cow disease, you darn bet we ought to be able to track it and to assure that we keep our livestock herds safe and clean, and we have to date. We are not Johnny-come-latelies to this. We have had strict protocol for a decade or more to make sure we are not a Japan and that we are not a Canada, nor are we a Great Britain. And we are not because our livestock herds are clean, well managed, and USDA has done its homework. They deserve credit for it. You don't need to add a new paper trail to it just to assure there is safety.

But I am still going to say we ought to try. I don't know that this is the way to do it. I don't know that you shove this out over the industry and force it down on them from the top down. There is a voluntary effort today to try to get this in place. If this were a pilot program or if we weren't going to implement it for a year but make sure we vetted it appropriately and established a pilot program in different livestock areas of the country—the western public land grazing industry is a good deal different from that in the South or that in the Midwest where herds are controlled and fenced and somewhat confined in the ability to shape herds and keep them, yet these rules and regulations are not reflective of those differences, and they are differences of real importance.

I don't know how we get there. At least I do believe that what we are proposing—and I should not say "we," USDA, and they have already backed off some of their numbers and come with different ones—is maybe not the way to go. As someone who voted for country-of-origin labeling, I did it with S. 544 in the 106th and S. 617. In 1998, we did it again. Senator BURNS of Montana and I looked at the grading system to try to find a way to get where we all want to get. Now we are saying: OK, we have a freight train on the track. She is building up speed. It is just a regulatory process. We are only into the comment period. Let that train roll down the track. Let's start implementing it.

By the way, if you get caught up in it and you get fined $10,000 because you couldn't comply, you didn't comply, it was impossible to comply, and you broke the paper trail or the chain of identification, so be it.

I can't do that to my farmers and ranchers. I won't do that if it is my vote that does it. I am still going to insist we ought to try to comply in different ways to maintain a chain of understanding, a chain of information and knowledge and identification as to a point of origin where that meat came from. But remember, half of the meat you will consume after this becomes law will not be regulated by this law. So is there a blanket protection? No. Is there a consumer right to know? Well, 50 percent.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator is recognized for 10 minutes.

Mr. BENNETT. Mr. President, I was interested to have one of the Senators point out that most Senators don't know anything about this because it was done in conference committee, and I certainly qualify as one who didn't know anything about it at the time the conference committee came to the floor. I have had a crash course in country of origin labeling since I became chairman.

I have come to several conclusions, which I will share with the Senate. No. 1, the bill was very badly written. I don't think there is any question about that. The idea of having consumer information with respect to food is a perfectly legitimate idea. It does indeed fit the pattern of consumers, and I have no problem with it. But it is clear, as we get into the details of this, that the bill that originally required it is very badly written. It uses the phrase, for example, "born, raised, and slaughtered in the United States."

I ask this question: What if you only get two out of three of those? What does that do to you with respect to the piece of beef you are talking about? Suppose it was born in one country, fed in another, and slaughtered in a third? That is not likely, but it is entirely possible. And from which country does it come?

You can say it is clearly not American beef if it was born in Canada, fed at feedlots in the U.S, and for some purpose, shipped to Mexico to be slaughtered, packed, and sent back. But what country is its country of origin? If you say it was born in Canada, it is Canadian.

Why does the law say "born, raised, and slaughtered"—those three categories—if only one matters?

This is an interesting challenge because we have critters walking around on the range right now that were born somewhere prior to the passage of this law, and on which there are no records, which are going to end up in the food supply as hamburger or pot roast. Who is going to certify where they came from, with no records having been kept? That could be an argument for delaying the implementation of this legislation.

Ultimately, I say with some facetiousness but some seriousness, we are talking about a situation where, in order to comply with the law, every animal has to have a birth certificate and a passport. The passport has to be stamped every time it crosses State lines. Someone called me and said: Bob, we have to pass this because there are all kinds of piglets being born in Canada and then being shipped to the United States. I find that they are shipped to the United States within days after their birth. They are born in Canada, but they are shipped here, truly as piglets, almost within days or weeks after birth, and then the entire processing takes place in the United States. These are American jobs, American facilities that are handling them.

Do we say, because of their birth, they are Canadian, but because they are raised and slaughtered in the United States, does that make them naturalized American citizens or American pork, if you will? The law is badly written, and it clearly needs work or we would not be having this argument. Everyone I hear who opposes the Daschle amendment begins his statement by saying: I am in favor of country-of-origin labeling. But they are opposed to this particular legislation as it stands.

One of the other things that is wrong with it, in my view, is the $10,000-per-violation provision. If I am running a supermarket, and someone says, here is some American beef, and I am potentially liable for a $10,000 violation for every single one of those hamburger patties because each sale is a separate circumstance, I am going to say to the producer: I will not take your beef unless you are prepared to indemnity me against any lawsuits that might come from the Trial Lawyers Association if some consumer activist comes in here and can prove that particular hamburger pattie originated in Canada. I am not going to run that risk.

I think the Senator from Missouri was exactly right when he said the lawyers will be telling their corporate boards: Assume the worst and be as careful as you possibly can. Again, we have critters out there on the range that were born before the law was passed that are going to end up in the meat locker, and how are they going to be labeled? If they are mislabeled, there is a $10,000 fine for every pot roast that comes from those particular cows.

I am not sure the House solution is the right solution. I am not prepared to go to conference saying I will stand with the House language, because I think there is an alternative that might well be worked out, and should be worked out in conference, to say this is how we buy a little more time to deal with the uncertainties we have here, and we hope give the authorizing committee the opportunity to take another bite at the apple and see if they cannot write a country-of-origin labeling law that makes more sense than the present one.

But the Daschle amendment, by its nature, and by the debate and legislative history that is being laid down, is saying you enforce the law exactly as it stands, no changes. For that reason, I intend to vote against the Daschle amendment because I think there needs to be changes, and I think the debate demonstrates there needs to be changes. I hope the Daschle amendment is defeated.

When we get to conference, I hope the House language is modified and we use the vehicle of the conference to try to prod the authorizing committee in the direction of rewriting the basic bill so it can become workable.

One final example of how the statute is written that is unworkable, in my opinion, is that it prohibits the use of an identification mechanism to verify origin of the covered commodity. The Senator talked about putting an ear tag on the cow. That is illegal under this law. He is talking about the expense of it. It is the commonsense way to tag cattle. It is illegal, the way this thing is written.

So, as I say, as I have become acquainted with the whole matter, coming to it completely fresh and completely uneducated as to the issues before I had to look at it, I find myself in favor of the argument that consumers should know from which country the food comes. I have no problem with that at all, but I am convinced the law, as presently written, was so hastily put together that it has serious problems that cannot be fixed by regulations from USDA. I think they are acting in good faith in the regulations they drafted.

The question came up in the hearing when Secretary Veneman was asked: Why are you proposing such a cumbersome regulation?

She said: Because we believe it complies with the law.

She was asked: Whose interpretation tells you this complies with the law?

She said: The United States Department of Justice. The lawyers in the Justice Department looked at the law and said you have to have these burdensome regulations.

So I think there is a solution to this. I think we can work our way through it in time. There is time between now and November for us not to argue about should we implement the law as it stands, or should we prevent the law from going forward as it stands, but do what I think is the commonsense thing, which is simply rewrite the law.

Based on all of the research and evidence that has gone into the drawing of the regulation, we can now do it with a little more leisure and more intelligence than was done the first time around.

I yield the floor.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be taken equally from both sides.

Mr. BAUCUS. Mr. President, I rise today to state my support for country-of-origin labeling. Manufactured goods sold in the United States have carried mandatory country-of-origin labels since the 1930s. Most of our major trading partners, including Europe and Japan, already require American producers to provide this information on our agricultural exports. Today as the landscape of international trade continues to change and expand, our Nation's fruits, vegetables and meats need to carry the same important information.

Country-of-origin labeling will have two primary benefits. First, it will add value to our domestic commodities. American agriculture produces the highest quality products in the world, and they should be rewarded for that. Second, it will enable consumers to be knowledgeable about their purchases at the grocery store.

I am very concerned that the House eliminated funding for the implementation of country-of-origin labeling in their version of the 2004 Agriculture appropriations bill. It is important that the Senate conferees insist that no limits on the use of funds to enforce country-of-origin labeling requirements be included in the conference report. I urge my colleagues to support this sense-of-the-Senate resolution.

I understand that there are concerns about the implementation of country-of-origin labeling. I think country-of-origin labeling can and should be done in a way that does not overburden the retailer, the packer, or the producer.

And although the USDA's proposed rules for the implementation of country-of-origin labeling are an improvement over the previously proposed guidelines, I still believe that the proposed rules make country-of-origin more burdensome than it needs to be.

We need to let this implementation to go through so we can all work together to create a program that is simple, cost-efficient, and does not overburden the parties involved.

Mr. SMITH. Mr. President, I rise today in reference to the Senator's sense-of-the-Senate. Obviously, there are strong emotions on this issue. One of the problems with this program is the ambiguous nature by which Congress authorized it. In particular, I would call my colleagues' attention to the most recent regulation proposed by USDA.

During consideration of the 2002 farm bill, Congress wisely exempted processed foods from country of origin labeling requirements. The complex nature of such labeling would have discouraged the use of U.S. grown products as ingredients and thus would have harmed, not helped, American agriculture. Yet there is tremendous confusion in the food industry and at USDA, I might add, on what constitutes a processed product as it relates to country-of-origin labeling.

I also would like to remind my colleagues that many of these processed products, for example, frozen produce, are already required to be labeled. Frozen processed products of foreign origin are required to be labeled for country-of-origin under section 304 of the Tariff Act and have been so required since the Tariff Act was passed in 1930. I certainly do not believe it was the intention of Congress to create a costly, duplicative program that provides absolutely no benefit to American growers, consumers, or producers.

Some canned products would be covered by the program while others would not be covered. USDA's determination that frozen breaded shrimp is covered by the legislation is another example. As many of my colleagues are aware, USDA is using the Perishable Agricultural Commodities Act, PACA, as a blueprint for implementation of the Country-of-Origin Labeling program. Yet, at time of passage, breading is the type of process that would disqualify produce from getting a designation under PACA. It seems to me we are going to great lengths and undoubtedly expending great resources to mandate marking on processed products that it was no one's intention to cover.

It is just this type of confusion that USDA references in its cost-benefit analysis. We should not be concerned about whether or not we agree with the accuracy of the estimated costs. The fact is that the agricultural economy can not afford any of them. We ought to be clear that to the extent this program has support by producers, no one advocating extending its reach to processed foods. I reiterate my understanding that when the processed food exemption was included, Congress sought to avoid this excessive cost and the resulting confusion.

In fact, after reviewing USDA's proposed rule as mandated by the law, John Graham, administrator of OMB's Office of Information and Regulatory Affairs, OIRA, sent a letter to USDA's undersecretary for Marketing and Regulatory programs, Bill Hawks, which stated "These figures indicate that this is one of the most burdensome rules to be reviewed by this administration."

USDA's cost-benefit analysis raised several disturbing points. First, the USDA has said that "Current evidence on country-of-origin labeling, however, does not suggest that U.S. producers will receive sufficiently higher farm prices for U.S.-labeled products to cover the costs of labeling. Moreover, it is even possible that producers could face lower farm prices as a result of labeling costs being passed back from retailers and processors."

The USDA has also said that "Annual costs to the U.S. economy in terms of reduced purchasing power resulting from a loss in productivity after a 10-year period of adjustment are estimated to range from $138 million to $596 million."

I do not believe that when adopting Country-of-Origin Labeling legislation Congress intended to create such an expensive program that is detrimental to American agriculture, nor do I believe it was the intention to include processed products, including frozen produce. I hope we can work together to clarify the intention and the breadth of impact of this legislation and minimize the costs of its implementation. However, I do not believe that such a sufficient clarification can be achieved by simply defunding one portion of the program.

Mr. BINGAMAN. Mr. President, while I have the floor, I would like also to say a few words about an amendment the Senate will be debating later today. The amendment will be offered by Senator DASCHLE and relates to country-of-origin labeling of meat and produce.

I have long supported mandatory labeling of country of origin and was pleased this provision was included in the farm bill the President signed into law last year. New Mexico Cattle Growers and the New Mexico Farm Bureau strongly endorsed this legislation.

I do believe consumers have a right to know where there food is coming from. I am disappointed that there are some in the meat packing industry and the administration that are trying to block implementation of this important legislation. Grudingly, the administration last month released a proposed rule for mandatory labeling.

I believe the administration's proposed rules are far more complicated than they need to be. However, I hope Congress will allow the comment period and rule making to continue to give both proponents and opponents of labeling a fair opportunity to weigh in on this issue.

I am pleased to cosponsor the Daschle amendment and hope that it passes.

Mrs. HUTCHISON. Mr. President, I rise in opposition to implementing the mandatory country-of-origin labeling, also known as COOL.

This Legisition would devastate the U.S. meat industry, cost thousands of American jobs and raise food prices for the customers the law purports to benefit.

The USDA recently found the U.S. livestock industry would incur significannt costs and virtually no benefits from mandatory COOL. It concluded there was little evidence that mandatory country-of-origin labeling would lead to an increase in demand for commodities bearing the U.S. label, nor would it result in increased food safety. Rather, it found that COOL would impose up to $4 billion on ag industries in the first year and up to $600 million annually after the program had been in place for a decade. Inevitably, these costs would be passed on to consumers in the form of higher prices at the supermarket.

A recent Texas A&M University study estimated that changes brought about by mandatory country-of-origin labeling would cost nearly 2,000 jobs in south Texas alone. Mandatory COOL would force many small producers with fewer and than 50 head of cattle out of business entirely. This would be a devastating blow just when our economy is beginning to show signs of recovery.

In addition to the impact on consumers and the American meat industry, the imposition of COOL raises serious trade ramifications that could invite retaliation from important trade partners. In the midst of negotiating free and fair trade agreements with nations around the globe, imposing severe restrictions such as COOL hamper our efforts to break down trade barriers and grow the global economy.

No one disputes that food safety is critical. But both supporters and opponents of COOL have stated this is a marketing issue and not one of food safety. When questioned by Congressman CHARLES STENHOLM of Texas in a recent House Agriculture hearing on this issue, every witness, including supporters such as the American Farm Bureau Federation and the National Farmers Union agreed COOL should not be associated with food safety, but with the marketing of agriculture products.

U.S. agricultural industries provide the highest quality products in the world. Congressional actions should help, not hinder, their efforts. Imposing severe, costly restrictions that amount to nothing more than a marketing ploy is not the way to proceed.

I urge my colleagues to vote against the sense-of-the-Senate amendment and commit to a thoughtful and thorough debate on this important issue.

Mr. THOMAS. Mr. President, I rise to speak on country-of-origin myths versus facts.

No. 1, Myth: U.S. consumers do not care about country-of-origin labeling.

Facts: That is not what people in Wyoming and national surveys indicate. Consumers overwhelmingly support labeling because it provides product information, increased consumer choice and the chance to support American agriculture.

Two, of the largest consumer groups in the United States, Consumer Federation of America and the National Consumers League, strongly support mandatory COOL.

No. 2, Myth: Country-of-origin labeling violates our international trade agreement commitments.

Facts: Country-of-origin labeling law does not violate international trading agreements.

Marking products is allowed by international trading rules. Under Article IX of GATT, countries can require marks of origin on imported products. Many nations already require country-of-origin labeling on a variety of food products. A recent GAO study found that 48 of our 57 top trading partners require labeling for at least one of the commodities covered by COOL and 41 require labeling of meat at retail.

No. 3, Myth: The cost of compliance with the country-of-origin labeling law will be extravagant in the first year and will increase consumer food costs.

Facts: The USDA incorrectly assumed that new record keeping system requirements would meet to be established and implemented. The Majority of producers already keep records that can provide the required information.

GAO reports that USDA exaggerated its initial cost project. The $1.9 billion estimate was found to be "questionable and not well supported."

USDA current estimates are equally flawed. Consumer organizations estimate the average cost to individual consumers will only be about 13 cents per week.

Also, consumer surveys support COOL.

Fresh Trends, a 2002 survey, found that 86 percent of consumer respondents favor country-of-origin labeling. Of the 86 percent of consumers favoring COOL, 78 percent prefer mandatory labeling over voluntary labeling. And 60 percent of those questioned have been produce items in U.S. supermarkets that were grown in other countries. Also, 48 percent of the people identified South America as a source of produce, 33 percent Mexico, 12 percent Central America.

North Carolina State University, in February 2003, found that 74 percent of consumers believe the U.S. shouldn't buy all its food from other countries even if it is cheaper than food produced and sold here. Four out of 5 U.S. consumers believe that U.S.-grown food is fresher and safer. And 92 percent prefer to eat meat produced in the United States. Those surveyed were undecided about the safety of meat from outside the United States. Only 5 percent questioned are uncertain about U.S. produced meats. And two-thirds of consumers would pay more for food grown in the U.S. rather than abroad.

Florida Department of Agriculture & Consumer Services found that 37 percent of consumers would pay between 10 and 20 percent more for U.S. fruits and vegetables. More than two-thirds of consumers note the country where fresh produce is grown. Also, 56 percent of consumers believe that U.S. produce is safer than imported produce. And 62 percent of consumers would purchase U.S. produce if it had a COOL label. If price and appearance were equal, 61 percent of consumers would select U.S.-grown produce.

Colorado State University, in March 2003, found that 75 percent of consumers prefer to buy beef with country-of-origin labeling. And 73 percent of consumers would be willing to pay more for beef with country-of-origin labeling. Also, 69 percent of consumers are willing to pay more for steaks labeled, "USA Guaranteed: Born and Raised in the United States" than for those with no origin label. And 56 percent of that 69 percent were wiling to pay premiums.

Tarrance Group and Northern Illinois University, in June 2001, found that 81 percent of those surveyed want their food to come from the United States.

I urge passage of COOL.

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator LEAHY, in offering an amendment to the fiscal year 2004 Agriculture appropriations bill that would preserve funding for our Nation's working lands conservation programs. This amendment parallels legislation I have cosponsored along with the Senator from Vermont. It would prohibit the U.S. Department of Agriculture, USDA, from diverting funding from key working lands programs, such as the Environmental Quality Incentives Program, EQIP, and the Farm and Ranchland Protection Program, FRPP, to pay for technical assistance.

The 2002 farm bill made it clear that the USDA should expand the opportunities for farmers across the country to participate in voluntary conservation programs that balance stewardship goals with on-farm production. This has not happened though.

In fiscal year 2003, the USDA transferred over $90 million away from working lands conservation programs to pay for technical assistance of the Conservation Reserve Program, CRP. This diversion of funds prevented countless numbers of farmers from signing up for working lands incentive programs. Unless this problem is corrected, the Department estimates that at least $77 million will be diverted in the coming fiscal year.

For many States, including my own, conservation programs are a critical source of Federal assistance and are a valuable tool for helping small and specialty crop growers enhance their production while caring for the land. Funds from these programs reach an array of producers, including fruit and vegetable farmers, dairy farmers, and ranchers. The amendment being introduced today ensures that conservation payments would reach a broad range of farmers.

Our amendment does not set new policy, rather, it reinforces the mandates Congress made in the 2002 farm bill. Congress recognized the importance of conservation in agriculture by significantly increasing funding for the working lands conservation programs. With the additional resources provided by the farm bill, Congress intended the USDA to expand the opportunity for farmers to practice farm and ranchland stewardship. Congress also anticipated the need to fund technical assistance for CRP and provided specific language in the 2002 farm bill directing the Department to use mandatory funding to pay for CRP technical assistance.

Unfortunately, the USDA has not followed through on congressional intent. Over the past year, the USDA has diverted over $90 million from working lands incentive programs. Without corrective action, farmers' conservation options will be curtailed even more severely as the USDA transfers funding away from working lands incentive programs to pay for technical assistance for other programs in the Department.

The amendment simply, but explicitly, states that the USDA may not take funding from working lands conservation programs to pay for CRP technical assistance. This clarification will allow our working lands programs to retain the funding that Congress provides. It does not add or subtract funding, rather it makes sure that the funds are used by the program for which Congress intended.

Let me also emphasize that the amendment does not require USDA to shut down CRP in fiscal year 2004. It continues to allow the USDA to exercise its authority to provide CRP technical assistance through mandatory funding, exactly as Congress originally directed in the 2002 farm bill.

In closing, I join my distinguished colleagues today because I believe it is time that Congress step in and protect our working lands programs from being raided by the USDA. Until we can reach a broader agreement on implementation of the 2002 farm bill provision on conservation technical assistance, it is imperative that we hold our working lands conservation programs harmless. I urge my colleagues to support the amendment, and I yield the floor.

Mr. CRAPO. Mr. President, I appreciate what my colleagues are trying to do. Clearly there is a problem.

When we passed the farm bill, we made an unprecedented investment in conservation.

First as chairman of the Agriculture Subcommittee with jurisdiction over conservation, then as the ranking member of the subcommittee, I worked closely with my colleagues on both sides to increase funding for EQIP and WHIP and the Farm and Ranchland Protection Program and to create the Grasslands Reserve Program and increase the acreage for CRP and WRP.

Unfortunately, I am unable to support this amendment, because while it attempts to correct an injustice, it does not fix the problem.

This amendment, if enacted into law, would stop the CRP program in its tracks.

The Conservation Reserve Program is one of the most successful conservation programs in agriculture. It is a win-win for agriculture and the environment. It benefits landowners and wildlife. In fact, it has been proved to be the most effective federal program for production of waterfowl in the United States.

In Idaho, we had more than 55,000 acres recently accepted into the program. If this amendment were enacted, those acres could not be enrolled because of lack of technical assistance funding.

Likewise, I have been a strong proponent for the Continuous CRP program. This important program provides tremendous benefits for the environment and maintains working lands. I have continually encouraged USDA to enroll more CRP acreage in this important part of the CRP program. However, this program would come to a screeching halt without technical assistance funding.

I share my colleagues' concerns and interest in finding a solution, but this is not a full solution. I cannot support an amendment that would have such a disastrous effect on the CRP program.

As chairman of the subcommittee, I am committed to working with Agriculture Committee Chairman COCHRAN and Ranking Member HARKIN and other interested members to find a solution.

I urge my colleagues to seek a workable solution that protects all of our conservation programs.

Ms. COLLINS. Mr. President, I am pleased to cosponsor this amendment, along with my colleagues Senators LEAHY and SNOWE. This amendment will protect the funding for important working lands conservation programs, the Environmental Quality Incentives Program, EQIP, the Farm and Ranchland Protection Program, FRPP, the Wildlife Habitat Improvement Program, WHIP, and the Grassland Reserve Program, GRP. It will do so by prohibiting the U.S. Department of Agriculture from diverting funds from these working lands conservation programs in order to fund the technical assistance costs of another conservation program, the Conservation Reserve Program, CRP.

Working lands conservation programs provide vital assistance to a large number of farmers, but they are especially critical to small and specialty crop growers, such as the potato and blueberry growers in my State of Maine. These programs help farmers manage their land in ways that improve production while, at the same time, protecting the environment, reducing agricultural runoff, and enhancing wildlife habitat.

Unfortunately, despite the large increase in funding for these programs contained in the Farm Bill of 2002, a significant number of family farmers who wish to participate in these programs—who seek assistance in their efforts to change their farming practices in order to improve water quality and availability in their communities, or to restore wetlands—have been turned away.

They have been turned away because the U.S. Department of Agriculture decided to divert funds from these working lands conservation programs in order to pay for technical assistance for the Conservation Reserve Program. Although the Conservation Reserve Program is itself a worthy program, it serves a different purpose than the working land conservation programs. The most significant of the differences between these programs is that the Conservation Reserve Program provides payments to farmers who take farmland out of production, while the working land conservation programs provide assistance to farmers who want to keep farming their land—but to do so in a way that helps the environment.

When we enacted the farm bill of 2002, we recognized the value of both of these types of programs, the Conservation Reserve Program and the working lands conservation programs, and provided significant funding for both types of programs. The Department of Agriculture's decision to divert funds from the working lands conservation programs in order to pay for technical assistance for the Conservation Reserve Program is not consistent with the carefully crafted balance reached in the farm bill. It is also inconsistent with the commitment made by Congress and the administration to America's farmers and ranchers—a commitment to provide assistance to those who wish to participate in voluntary conservation programs while keeping their land in agricultural production.

This amendment closes the loophole that the U.S. Department of Agriculture has used to divert funds from these working lands conservation programs in order to pay for other priorities that the Department deems more important. With this amendment, we keep the commitment made to our farmers and ranchers in the farm bill of 2002—a commitment to support and assist them as they work to enhance their stewardship of the land. For these reasons, I urge my colleagues to support the amendment.

Mr. BENNETT. Mr. President, I suggest the absence of a quorum and request that the time for the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Further, I ask unanimous consent that the time running on the Daschle amendment be set aside and reserved.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. And that we now allow the Senator from North Dakota to proceed with his amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. REID. Mr. President, if the Senator will yield, this would not prohibit Senator HARKIN from coming later and speaking if desires.

Mr. BENNETT. It would be my intention, when Senator HARKIN arrives to speak on the Daschle amendment, to ask that the Senator from North Dakota summarize his remarks to allow the Senator from Iowa to speak. I ask if the Senator from North Dakota would agree to do that.

Mr. DORGAN. Mr. President, I missed the comment by the Senator from Utah.

Mr. BENNETT. When Senator HARKIN arrives—we have been saving time for him—I ask if the Senator from North Dakota would summarize his statement at that point and allow Senator HARKIN to make his comments on the Daschle amendment, after which we could then return to the Dorgan amendment.

Mr. DORGAN. If Senator HARKIN arrives on the floor, I will begin slowing down, if that is the question, and come to a complete stop at an appropriate moment.

I do not intend to speak at great length on this amendment. I know my colleague, Senator BURNS, also wishes to speak, as well as my colleague, Senator CONRAD, wishes to speak. My expectation is that the presentations will all be relatively brief, but I certainly would respect the interests of the Senator from Utah.

Mr. BENNETT. Could we enter into an agreement that the total time consumed on the Dorgan amendment, without allocation to one side or the other, would be 30 minutes under the control of Senator DORGAN?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me understand, the 30 minutes would be under my control?

Mr. BENNETT. That is correct, so that anyone who wished to speak would have to get the permission of Senator DORGAN, and that 30 minutes might be interrupted by Senator HARKIN's presentation, but the full 30 would be under the control of the Senator from North Dakota.

Mr. DORGAN. I understand.

AMENDMENT NO. 2117

Mr. DORGAN. Mr. President, I can send the amendment to the desk if we wish to consider it now. My thought was it would be accepted and probably be put in a managers' amendment. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. SMITH). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. BURNS, Mrs. CLINTON, and Mr. LEAHY, proposes an amendment numbered 2117.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase funding for guaranteed broadband loans, with an offset)

On page 47, line 13, strike "$335,963,000" and insert "$647,000,000".

On page 48, line 2, strike "$9,116,000" and insert "$15,116,000".

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . REDUCTION IN TRAVEL AMOUNTS.

Notwithstanding any other provision of this Act, each amount provided by this Act for travel expenses is reduced by the pro rata percentage required to reduce the total amount provided by this Act for such expenses by $6,000,000.

Mr. DORGAN. Mr. President, if I might describe this amendment—and I will do so rather briefly because I spoke about it yesterday—I think we are on the road perhaps to having this amendment accepted, in which case we would not need a recorded vote. As I indicated, I offer this amendment with my colleagues, Senator BURNS of Montana and Senator CONRAD of North Dakota. This amendment deals with a provision we put in the farm bill having the rural utility services create a broadband loan program.

During consideration of the farm bill, which we enacted in the Congress, we provided a very important provision that will provide for loans for the build-out of broadband capability throughout rural areas of our country.

The build-out was part of $100 million in direct spending to subsidize $3.5 billion of loan funds at good interest rates that would entice those who are interested in building out the infrastructure of broadband capability to rural areas to begin doing so.

Now, why is that important? It is important because if someone is on the wrong side of the digital divide and they do not have broadband capability in rural areas, their opportunity for economic development is gone. So we have been trying to find ways to help develop the build-out of the infrastructure for broadband capability in all areas of the country, especially and including rural areas.

The $100 million in that bill was going to provide an opportunity for $3.5 billion in broadband loans over the 6 years, as I indicated.

The Rural Utility Service announced they were going to combine $40 million in the farm bill for the first 2 years and package that up. They said they would make $1.4 billion in loans available for broadband buildout. As a result of that, they would provide not only loans but $80 million in loan guarantees, and so they would have $1.295 billion of loans at the Treasury rate of interest.

This is easily the biggest broadband loan program in the history of this country. Why is it important? Let me give an example, going back to the 1930s. In the 1930s, very few farms and rural areas were wired for electricity, so we created the Rural Electrification Act, the REA Program, and began stringing lines to the rural reaches of America. That program was remarkably successful in providing to small towns and family farms in this country the capability of using electricity to enhance their productivity. When we electrified rural America, we dramatically increased the productivity of America's family farms.

We now are in a circumstance where we talk about the information revolution and the new technology and information and something called broadband. Broadband simply describes the diameter of the pipes through which information flows. If you have dial-up connections, you have a computer, and you know there is a certain timeframe moving around your computer and moving around the Internet. If you have broadband or advanced communications services, it is a bigger pipe and you can move vast amounts of data very quickly.

The opportunity to do that is critically important to small areas, rural areas of the country in order for them to attract economic opportunity and economic development. Without it, they are consigned to a future without that kind of economic opportunity. That is why we are trying to provide it here, just as we did in the underlying 1996 act which I helped write. We talked about advanced services then, comparable services at comparable rates. You have broadband in most big cities now. The question is, will rural areas have the same opportunities?

What happened was RUS put this money together and they were going to put out nearly $1.3 billion of loans at 4.9 percent. Again, easily the most significant program of building out information infrastructure. What happened was they set a July 31 deadline for applications. They received applications for $1 billion in loans. That means there are people out there very anxious to move this capability out to rural areas. That is a big deal. This is not just some theoretical argument. This is talking about whether, in the rural reaches of America, you will have economic opportunity and jobs and growth again.

We have $1 billion in loan applications. Now the language that has been included in the Agriculture appropriations bill essentially eliminates the broadband section of the farm bill. It will put some money into loans, yes, but does so without the mandatory spending for it and would essentially cut in half the loan levels.

That is particularly bothersome because what is going to happen is they are going to have to start over down at USDA with a much smaller amount of money and much less impact on broadband capability.

The proposal I offer with my colleagues would provide an additional $6 million. This does not make us whole, but instead of going from $20 million down to $9 million, roughly we go back up to $15 million. It is not the full money we need, but it would increase the $9.1 million to $15.1 million. This is not a massive amount of money, given the bill we are talking about. It just is not. But it is very important for us to pass this amendment because otherwise we will have had a significant start, with great promise, and will have brought this to a grinding halt, and we will have the promise of broadband buildout all across rural America only to find out Congress put the brakes on it. That is not something we want to do.

I mentioned yesterday, recently when I was in my hometown of 300 people, a small community in northwestern North Dakota, I walked into what used to be my old boyhood home. I asked the folks if I could just stop in and see it. I hadn't been there for many years. The young woman who now lives there with her husband and children said she was happy to show me my old home. I looked around. In her kitchen—I hope she won't mind me saying this—on the shelf she had a piece of equipment. I couldn't recognize it at first, but it had a camera attached to it, and the camera was taking a picture of something on a spool, hanging on a metal spool. It was a bracelet. She said: I am taking a picture of this bracelet. Then I scan it and put it on the Internet, on eBay, because I sell things on eBay.

Here is a woman in a very small community in western North Dakota who is a merchant selling products on eBay. It shows that all over this country people have enterprising hopes about what they want to do, what kind of business they want to be engaged in. But if we do not have the capability to build out broadband services to rural areas, we will forever consign them to a dismal economic future.

Let me make one final point. That little town I grew up in, Regent, ND, a wonderful community, is part of Headinger County. My home county is larger than the State of Rhode Island. When I left it, there were 5,000 people living there. There are now 2,800 citizens living in Headinger County. The State demographer says in the year 2020 they expect it to be 1,800 people; 5,000 to 1,800 in a county the size of Rhode Island, slightly larger.

Those people want opportunity. They want to build and grow. They want some hope for the future. That woman, in that little home selling on eBay, represents that spark of enterprise, that hope that maybe things can be better. Maybe you can build businesses in those rural areas. But you simply cannot do it if you don't move ahead with this program we put in the farm bill.

I introduced legislation about 3 years ago. Much of it was put in the farm bill to create these loan funds. I was astounded to learn this appropriations bill effectively emasculates the funding that would have been automatic for the 6-year period, that would have created this aggressive broadband buildout. That is why we have to restore some of this funding. It is important.

People say it is a little issue. It is not a little issue to people in my hometown or other hometowns all across this country, living in rural areas, who want to make a living and want to have some hope for the future. That is what this is about.

We have already had a pattern and a template for how this works. It is the old REA Program. It worked in a wonderful way to electrify rural America and offer people light and hope. This is the same proposition. Let's not miss this opportunity.

Mr. President, I indicated Senator BURNS, Senator CONRAD, Senator CLINTON, and Senator LEAHY are cosponsors. I ask unanimous consent they be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I yield some time to the Senator from Montana, followed by time to my colleague from North Dakota. I yield 5 minutes to the Senator from Montana and if he wishes more, there is certainly more available.

Mr. BURNS. I thank my friend from North Dakota.

Mr. President, if anyone in this body said the Government could invest $40 million and, in less than a year, generate commitments to invest or leverage $1.2 billion in job-creating, productivity-enhancing and life-improving infrastructure in some of America's most rural and remote areas, I would suspect the Members of this body and the public at large would judge that to be a successful and exciting economic development strategy. That is exactly what has happened.

This broadband loan program is administered by the Rural Utility Service of the United States Department of Agriculture. In 10 short months the RUS broadband loan program has generated about $1 billion in applications, primarily in Treasury rate-of-interest loans that contain at least 20 percent equity leverage. That is a pretty good return.

Let me build on what my friend from North Dakota said. I was pretty small when the debate on REA started, the Rural Electrification Administration.

There is not one Senator in this body who has not gone to an annual meeting of an REA. My first line is always: If it had not been for REA, in the country areas we would be watching television by candlelight. That is a truism. Now we are in a different era. We are in an era when there is an infrastructure of the deployment of broadband. Broadband expanded services is as important to downtown America as it is to rural areas because of their ability to communicate instantly and to move massive amounts of information instantly.

We have heard of the digital divide. This is a just one small step that closes that gap or that divide. It is working. Figures back it up. I was as surprised as anyone when this funding was taken out of the bill because it was not working. That wasn't the reason at all. Broadband technologies, whether delivered by fiber, licensed or unlicensed spectrum, or satellite, have the power to transform communities.

High-speed access to the Internet is becoming as important to the rural economic development as good roads or good sewers or even electricity itself. It opens worlds of opportunities for rural businesses, farmers, and ranchers and provides up-to-the-minute market information; and rural schools for distance learning.

We still have a boarding school in my State of Montana. You take your high school students to school on Monday morning and you do not see them until Friday night. That is remote. That is frontier.

This technology is also a way to expand curriculum and allow those young people to have the same educational opportunities as young people in the more urban areas.

Think about what it does to the rural areas as far as telemedicine. We know we have an aging population in rural areas. I have 14 counties that have no doctors at all. The delivery of health care is completely different than it was years ago.

We have as much obligation to make sure there is a buildup of broadband as we had with electricity after World War II. I know what was in our house. Our house didn't have electricity until about 1949–1950. I know that it transformed rural America. This provides the same possibility.

With this amendment, we have restored a tool which investors can use to build up this important piece of infrastructure which will become very important to rural America.

If the Federal Government could invest $40 million and in less than a year generate commitments to invest about $1.2 billion in job creating, productivity enhancing, life improving infrastructure in some of America's most rural and emote areas, I suspect most members of the body and the public at large would judge that to be a successful and exciting economic development strategy.

That is exactly what has happened in the broadband loan program administered by the Rural Utilities Service RUS, of the United States Department of Agriculture. In ten short months, the RUS broadband loan program has generated about a billion in applications primarily for treasury rate of interest loans that contain at least 20 percent equity leverage.

Broadband technologies whether delivered by fiber, licensed or unlicensed spectrum or satellite have the power to transform communities. High-speed access to the Internet is becoming as important to rural economic development as good roads and sewers. It opens worlds of opportunity for rural business, offers farmers up to the minute market information, rural schools the chance to offer advanced placement courses and rural health care facilities access to the finest medical advice and services available.

While many areas served by companies and cooperatives in the RUS telecommunications program had modern advanced services, too many rural communities were far outside the service territory of these broadband pioneers. The RUS broadband loan program offered an exciting opportunity to close this digital divide.

As one of the co-authors of the broadband loan provisions contained in the farm bill, I strongly believe that the Senate must keep faith with the carriers, cooperatives, communities and consumers who have been inspired to launch plans to bring broadband services to hometown America.

The broadband loan program builds on a proven sixty-eight year model which has brought modern telephone, electric and water infrastructure to rural areas. The farm bill added a new broadband title to the Rural Electrification Act. It also created a reliable, predictable multi-year stream of mandatory funding to instill confidence that sufficient funds would be available until expended to encourage investment.

Unfortunately, the funding for this program which is so vital to the economic health of rural America has been severely cut. We should be doing everything possible to incentivize broadband buildout in rural America rather than targeting this creative program which promises to bring huge benefits to vast areas of the country. I call on my colleagues to support the Dorgan-Burns amendment to restore funding to this critical program. It is very important.

I thank the Chair.

Mr. DORGAN. Mr. President, I yield 5 minutes to Senator CONRAD from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank my colleague, Senator DORGAN, for proposing this amendment and our friend and neighbor, Senator BURNS from Montana, for cosponsoring it. This is an important amendment. I was among the handful of negotiators of the farm bill representing the Senate as we negotiated with the House on the final provisions. These provisions were especially important to those of us who represent the most rural areas in the country. If you do not have broadband access in the modern world, you are left out and left behind, and your economic prospects are badly diminished.

On the other hand, if you are part of this extraordinary development, all of a sudden distance and the barriers of distance fall away.

We know the greatest difficulty for our State has been our distance from markets. That is what has disadvantaged the economic opportunity for people from North Dakota, Montana, and South Dakota. I see the Senator from Idaho—his State as well, and Wyoming, and so many other States in the heartland of America.

The provisions that were put into the farm bill were designed to give us a chance to open new opportunities and to reduce the barriers of distance. Twenty million dollars is a modest amount of money. But in the appropriations bill they cut it by more than 50 percent—to $9.1 million. We all know that amount of money in and of itself is not going to make an extraordinary difference. But that is not how it works. That small amount of money leverages much larger amounts of loans. It is more than 30 to 1. On a $6 million amount, you would increase, by at least $180 million, loans that are available across the country. I have been told it may be more than $300 million because what you are doing with a small amount of money is leveraging a large amount of lending to build broadband in the rural parts of this country.

This is a matter of fairness. It is a matter of economic development. It is a matter of keeping the promise that was made in the farm bill. Nothing could be more clear. Nothing could be more important in terms of economic opportunity in the rural parts of the country than to make sure they are part of this developing technology.

In the 1950s, Dwight Eisenhower recognized the importance of having a nation connected by an interstate highway system. He proposed the legislation that provided for Federal funding.

That is precisely what this does with the new technology—to provide broadband that ties America together that provides opportunity.

Every year, I put on an event in North Dakota which we call "Marketplace for Entrepreneurs." Last year, there were 8,000 people in attendance. We have hundreds of classes. Some of them are on how you write a business plan or how to use the Internet or how to use broadband to develop your business, to expand your business, to create a business.

There is nothing more hopeful in terms of opportunity in rural areas than to have this new technology available.

Congress ought not to turn its back on a promise just made and cut the funding.

I am told now this $6 million will provide an additional loan amount of over $275 million—$6 million becomes $275 million in loans all across the rural part of the country. Why? How can that be? How can $6 million turn into $275 million? It is because you need just a little bit of a guarantee to get over the hump to cause lenders to make these loans. It gives some additional assurance that it is going to be repaid. It is very interesting. History shows that in fact the money is repaid. It works.

I urge my colleagues to support this legislation.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Ten minutes 20 seconds.

Mr. DORGAN. Mr. President, I will take one final minute, and I think we are finished speaking on this side. And I will yield back the remainder of my time when we are finished.

Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Let me finish this discussion by adding another point. There is a book titled "Distance is Dead." The book describes the information revolution. From almost anyplace you are a click away from anywhere. In North Dakota, we are a click away from the Hudson River. We are as close to Manhattan as the Hudson River with telecommunication and new technologies. But that is only the case if you have the buildout of broadband, if you have the capability to allow people to use this Internet in the way that most urban areas are able to do it.

We have in rural areas—I have mentioned my hometown—much that others aspire to recreate in our country: strong schools, good neighbors, great places to raise kids. We have a lot of things that make these small towns in rural areas wonderful places to live. But we need jobs there. We need economic opportunity development there.

If distance is dead, then opportunity is born in rural areas with information technology. If we are a click away from anywhere, if we are a nanosecond away by clicking a mouse and providing information anywhere, any time, then we have opportunities to attract businesses and create jobs in these wonderful areas of America's heartland. But if we do not have the buildout of the infrastructure, if you do not have similar opportunities with broadband development in rural areas, then you have what is called a digital divide.

If you are on the wrong side of that digital divide, if you live on the wrong side of that digital divide, you are in big trouble; your community is going nowhere. That is why this is an important issue. It is why we have been working on it for some long while and why this amendment deserves to be approved.

We have no further speakers. I know Senator BENNETT has other things he wishes to do with the bill. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. There has been no objection to this amendment raised on this side. I ask now for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Dakota.

The amendment (No. 2117) was agreed to.

Mr. BENNETT. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, I understand now that Senator LEAHY has an amendment that he would like to offer and debate. I ask the Senator if he would agree to a half an hour time limit on his amendment.

Mr. LEAHY. Mr. President, is the Senator from Utah suggesting a half hour evenly divided?

Mr. BENNETT. Yes, half an hour evenly divided.

Mr. LEAHY. I think that would be enough, but just to be on the safe side, I will check with a couple of Members. Could we say 40 minutes evenly divided? I assume I will be able to yield some of that back.

Mr. BENNETT. Mr. President, I am happy to propound a unanimous consent agreement that there be 40 minutes equally divided devoted to the Leahy amendment with no second-degree amendments allowed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2119

Mr. LEAHY. Mr. President, I send to the desk an amendment on behalf of myself, Senator SNOWE, Senator JEFFORDS, Senator COLLINS, Senator REED of Rhode Island, and Senator CLINTON. I ask, first, that the pending amendment be laid aside and that I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Ms. SNOWE, Mr. JEFFORDS, Ms. COLLINS, Mr. REED and Mrs. CLINTON, proposes an amendment numbered 2119.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict the use of funds for certain conservation programs)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . USE OF FUNDING FOR CERTAIN CONSERVATION PROGRAMS.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to carry out the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) using funds made available under paragraphs (4) through (7) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

Mr. LEAHY. Mr. President, this amendment is quite straightforward. We offered it to restore the conservation funding commitment Congress and the administration made to farmers and ranchers in the 2002 farm bill. I was one of the conferees in that farm bill. I remember we went all night long. We went weekend after weekend. The final bill was a very delicately put together compromise between Republicans and Democrats in both bodies and the administration, between those in the East, those in the West, those in the Midwest. It was a very delicate balance because of the amount of money involved and how it would be allocated.

It was especially important because in this bill there was concern when it was passed whether those in the East would vote for the bill. Our amendment addressed the problem that Senators, if not all Senators, have been hearing about.

Despite the historic conservation funding levels of the 2002 farm bill, the family farmers and ranchers trying to restore wetlands are offering to change the way they farm to improve air and water quality are rejected when they seek USDA help. Producers are turning away because of a Department of Agriculture decision earlier this year to divert $158.7 million from working lands conservation programs, to pay for the conservation reserve and wetlands reserve. It goes directly against the clear directive in the 2002 farm bill. That directed the USDA use mandatory funds for the Commodity Credit Corporation to pay for CRP and WRP technical assistance.

This may sound technical, but the fact is, by not following what the Congress voted for, Republicans and Democrats alike, we end up having the administration raid the farm bill, raid working lands programs.

This chart shows what happens: $57 million diverted from EQIP, the Environmental Quality Incentives Program;

$18 million diverted from the Farmland and Rangeland Protection Program; $9.6 million diverted from the Grasslands Reserve Program; and $5.6 million from the WHIP, Wildlife Habitat Incentives Program, to pay for technical assistance.

All these are included for different reasons. The Wildlife Habitat Incentives Program helps those who fish and hunt. They were part of the overall compromise. Their money is gone.

The language of the statute, a relevant colloquy, supports this interpretation, and the General Accounting Office concurred in a recent memo that we settled a very clear intent of the Congress how that money be spent. I ask unanimous consent that memo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES
GENERAL ACCOUNTING OFFICE,
Washington, DC, October 8, 2002.

Hon. HERB KOHL,
Chairman,
Hon. THAD COCHRAN,
Ranking Minority Member, Subcommittee on Agriculture, Rural Development, & Related Agencies, Committee on Appropriations, U.S. Senate.
Hon. HENRY BONILLA,
Chairman, Subcommittee on Agriculture, Rural Development, FDA & Related Agencies, Committee on Appropriations, House of Representatives.

FUNDING FOR TECHNICAL ASSISTANCE FOR CONSERVATION PROGRAMS ENUMERATED IN SECTION 2701 OF THE 2002 FARM BILL

This responds to your letters of August 30, 2002 (from Chairman Bonilla) and September 16, 2002 (from Chairman Kohl and Ranking Minority Member Cochran) requesting our opinion on several issues relating to funding technical assistance for the wetlands reserve program (WRP) and the farmland protection program (FPP). You asked for our views on the following issues:

(1) Does the annual limit on fund transfers imposed by 15 U.S.C. §714i (known as the section 11 cap) apply to Commodity Credit Corporation (CCC) funds used for technical assistance provided the WRP and FPP as authorized by the Farm Security and Rural Investment Act of 2002 (2002 Farm Bill).

(2) Is the Department of Agriculture's Conservation Operations appropriation available for technical assistance for the WRP and the FPP? and

(3) Did the Office of Management and Budget's (OMB) July 18, 2002, decision not to apportion funds for technical assistance for the WRP and the FPP violate the Impoundment Control Act.[1]

For the reasons given below, we conclude that:

(1) the section 11 cap does not apply to funds for technical assistance provided for the conservation programs enumerated in section 3841, title 16, U.S.C., as amended by section 2701 of the 2002 Farm Bill;

(2) the Conservation Operations appropriation is not an available funding source for the WRP and the FPP operations and associated technical assistance; and

(3) OMB's failure to initially apportion WRP and FPP funds was a programmatic delay and did not constitute an impoundment under the Impoundment Control Act. Further, since OMB has approved recently submitted apportionments for these two programs, and since budget authority for both the WRP and the FPP was made available for obligation, there was no impoundment of funds in fiscal year 2002.

BACKGROUND

Section 2701 of the 2002 Farm Bill, Pub. L. No. 107–171, 116 Stat. 278, 279 (enacted on May 13, 2002) (codified at 16 U.S.C. §§3841 and 3842) amended section 1241 of the Food Security Act of 1985, 16 U.S.C. §3841, to provide that the Secretary of Agriculture (Secretary) shall use the funds of the CCC to carry out seven conservation programs, including the provision of technical assistance to, or on behalf of, producers. The WRP and the FPP are among the conservation programs named in the 2002 Farm Bill that are to be funded with CCC funds.

In its June 19, 2002, apportionment request, the Department of Agriculture (Agriculture) asked OMB to apportion a total of $587,905,000 in CCC funds to the Natural Resources Conservation Service (NRCS) for both financial and technical assistance related to section 3841 conservation programs. SF 132, Apportionment and Reapportionment Schedule for Farms Security and Rural Investment Programs, Account No. 1221004, July 18, 2002. Of the amount requested, Agriculture designated $68.7 million for technical assistance to be provided under the conservation programs. In its July 18, 2002, apportionment, OMB apportioned all of the funds for financial and technical assistance requested for the conservation programs, except $22.7 million designated for WRP and FPP technical assistance. Id. OMB reports that it did not apportion funds for WRP and FPP technical assistance at that time, because OMB believed that the section 11 cap, 15 U.S.C. §714i, limited the amount of funds that could be transferred from CCC to other government agencies for technical assistance associated with the section 3841 conservation programs, and that CCC funding of WRP and FPP technical assistance would exceed the section 11 cap. Letter from Philip J. Perry, General Counsel, OMB, to Susan A. Poling, Managing Associate General Counsel, GAO, September 16, 2002. In discussions with Agriculture regarding the use of CCC funds in excess of the section 11 cap for section 3841 technical assistance, OMB indicated to Agriculture that either CCC funds subject to the section 11 cap or Agriculture's Conservation Operations appropriation could be used to fund this technical assistance, Id.

OMB reports that Agriculture recently submitted a new apportionment request for $5.95 million for WRP technical assistance (as well as the Conservation Reserve Program) which OMB approved on September 3, 2002. Id. OMB also reports that Agriculture submitted a new apportionment request for an additional $2 million in FPP financial assistance, which OMB approved on September 11, 2002, bringing the total apportionment for the FPP to the $50 million authorized by section 3841. Id.

DISCUSSION

1. Section 11 Cap

The question whether the section 11 cap (15 U.S.C. §714i) applies to technical assistance provided through the conservation programs authorized by 16 U.S.C. §§3481, 3482, is one of statutory construction. It is a well-established rule of statutory construction that statutes should be construed harmoniously so as to give maximum effect to both whenever possible. B–259975, Sept. 18, 1995, 96–1 CPD §124; B–258163, Sept. 29, 1994. Based upon the language of the relevant statutes, we can read the statutes in a harmonious manner, and, in doing so, we conclude that the section 11 cap does not apply to technical assistance provided under the section 3841 conservation programs.

The section 11 cap is set fort in 15 U.S.C. §714i, which states, in pertinent part:

"The Corporation may, with the consent of the agency concerned, accept and utilize, on a compensated or uncompensated basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, including any bureau, office, administration, or other agency of the Department of Agriculture . . . . The Corporation may allot to any bureau, office, administration, or other agency of the Department of Agriculture or transfer to such other agencies as it may request to assist it in the conduct of its business any of the funds available to it for administrative expenses . . . After September 30, 1996, *the total amount of all allotments and fund transfers from the Corporation under this section* (including allotments and transfers for automated data processing or information resource management activities) for a fiscal year may not exceed the total amount of the allotments and transfers made under this section in fiscal year 1995."

(Emphasis added.) We note that the section 11 funding limitation applies only to funds transferred by the CCC to other agencies under the authority of section 11.

The 2002 Farm Bill, which amended subsection (a) of section 3841, directs the Secretary to use CCC funds to carry out the WRP and the FPP and five other conservation programs, including the provision of technical assistance as part of these programs. As amended, 16 U.S.C. §3841 provides, in pertinent part, as follows:

"For each of fiscal years 2002 through 2007, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under subtitle D (*including the provision of technical assistance*):

* * * * *

(2) The wetlands reserve program under subchapter C of chapter 1.

* * * * *

(4) The farmland protection program under subchapter B of chapter 2, using, to the maximum extent practicable—(A) $50,000,000 in fiscal year 2002 * * *"

16 U.S.C. §3841(a) (emphasis added). Section 3841 provides independent authority for the provision of technical services to these programs.

The 2002 Farm Bill also added a new subsection (b) to section 3841. It is this provision that has generated the current dilemma: "Nothing in this section affects the limit on expenditures for technical assistance imposed by section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i)." 16 U.S.C. §3841(b). When read in the context of section 11, section 3841(b) makes clear that the section 11 cap applies only to funds transferred under section 11. Section 11 specifically imposes the cap on "fund transfers . . . under this section." Section 11 by its terms clearly does not apply to amounts transferred under other authority, such as section 3841(a). And we read section 3841(b) to make plain that, while the section 11 cap continues to apply to amounts transferred under section 11, it does not apply to amounts transferred by section 3841(a).

Accordingly, reading the above provisions harmoniously, we conclude that: (1) the section 11 cap by its own terms applies only to

CCC funds transferred to other agencies under section 11; (2) 16 U.S.C. §3841(a) provides independent authority for the Secretary to fund the seven conservation programs named in that section out of CCC funds; and (3) 16 U.S.C. §3841(b) makes it clear that, while the section 11 cap still applies to funds transferred by the CCC to other government agencies for work performed pursuant to the authority of section 11, the section 11 cap does not apply to the seven conservation programs that are funded with CCC funds under the authority of 16 U.S.C. §3841(a).

Our conclusion that the section 11 cap does not apply to the seven conservation programs of section 3841(a) is confirmed by a review of the legislative history of the 2002 Farm Bill, which shows that the Congress was attempting to make clear that section 3841 technical assistance was not affected by the section 11 cap. The legislative history to the 2002 Farm bill unambiguously supports the view that the Congress did not intend the section 11 cap to limit the funding for technical assistance provided under the section 3841 conservation programs. In discussing the cap, the Conference Committee stated: "The Managers understand the critical nature of providing adequate funding for technical assistance. For that reason, *technical assistance should come from individual program funds*." H.R. Conf. Rep. No. 107–424 at 497 (May 1, 2002) (emphasis added). In discussing administration and funding of these conservation programs, the Conference Committee further explained that:

"The Managers provide that funds for technical assistance shall come directly from the mandatory money provided for conservation programs under Subtitle D, (Section 2701).

In order to ensure implementation, the Managers believe that technical assistance must be an integral part of all conservation programs authorized for mandatory funding. Accordingly, the Managers have provided for the payment of technical assistance from program accounts. The Managers expect technical assistance for all conservation programs to follow the model currently used for the EQIP whereby the Secretary determines, on an annual basis, the amount of funding for technical assistance. Furthermore, the Managers intend that the funding will cover costs associated with technical assistance, such as administrative and overhead costs."

H.R. Conf. Rep. No. 107–424 at 498–499 (2002) (Emphasis added).

The "EQIP model" that the conferees referred to was established in the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104–127, Subtitle E, 341, 110 Stat. 888, 1007 (1996) (1996 Farm Bill). For fiscal years 1996 through 2002, the Secretary was to use CCC funds to carry out the CRP, WRP and the Environmental Quality Incentives programs (EQIP). (Former 16 U.S.C. §3841 (a)). More specifically, the 1996 Farm bill authorized the Secretary to use CCC funds for technical assistance (as well as cost-share payments, incentive payments, and education) under the EQIP program. 16 U.S.C. 3841(b). While the 1996 Farm Bill authorized the use of CCC funds to carry out the CRP and WRP programs, it did not specifically authorize the funding of technical assistance out of program funds as it did for EQIP.

Importantly, five days before enactment of the 2002 Farm Bill when the Senate was considering the Conference Report on the Farm Bill, a colloquy among Senators Harkin, Chairman, Senate Agriculture, Nutrition and Forestry Committee, Lugar, its Ranking Republican Member, and Cochran, an Agriculture Committee member, makes it unmistakably clear that the section 11 cap was not meant to apply to the provision of technical assistance with respect to any of the conservation programs named in 16 U.S.C. §3841(a):

"Mr. LUGAR. Mr. President, I wish to engage in a colloquy with the distinguished Senators from Iowa and Mississippi. Mr. President, the 1996 farm bill contained a provision which led to serious disruption in the delivery of conservation programs. Specifically, the 1996 act placed a cap on the transfers of Commodity Credit Corporation funds to other government entities. Is the distinguished Senator from Iowa aware of the so-called "section 11 cap?"

Mr. HARKIN. I thank the Senator from Indiana for raising this issue, because it is an important one. The Section 11 cap prohibited expenditures by the Commodity Credit Corporation beyond the Fiscal Year 1995 level to reimburse other government entities for services. Unfortunately, in the 1996 farm bill, many conservation programs were unintentionally caught under the section 11 cap. As a result, during the past 6 years, conservation programs have had serious shortfalls in technical assistance. There was at least one stoppage of work on the Conservation Reserve Program. The Appropriations Committees have had to respond to the problem ad hoc by redirecting resources and providing emergency spending to deal with the problem. This has been a problem not just in my state of Iowa or in your states of Indiana and Mississippi; it has been a nationwide constraint on conservation.

Mr. COCHRAN. I thank the Chairman for the clarification, and I would inquire whether the legislation under consideration here today will fix the problem of the section 11 cap for conservation programs.

Mr. HARKIN. I thank the Senator from Mississippi for his attention to this important issue. *Section 2701 [16 U.S.C. §3841] of the Farm Security and Rural Investment Act of 2002 recognizes that technical assistance is an integral part of each conservation program.* Therefore, technical assistance will be funded through the mandatory funding for each program provided by the bill. As a result, *for directly funded programs*, such as the Conservation Security Program (CSP) and the Environmental Quality Incentives Program (EQIP), *funding for technical assistance will come from the borrowing authority of the Commodity Credit Corporation, and will no longer be affected by section 11 of the CCC Charter Act.*

For those programs such as the CRP, WRP, and the Grasslands Reserve Program (GRP), which involve enrollment based on acreage, the technical assistance funding will come from the annual program outlays apportioned by OMB-again, from the borrowing authority of the CCC. *These programs, to will no longer be affected by section 11 of the CCC Charter Act.* This legislation will provide the level of funding necessary to cover all technical assistance costs, including training; equipment; travel; education, evaluation and assessment, and whatever else is necessary to get the programs implemented.

Mr. LUGAR. I thank the Chairman for that clarification. With the level of new resources and new workload that we are requiring from the Department, and specifically the Natural Resources Conservation Service, I hear concerns back in my state that program delivery should not be disrupted, and the gentleman has reassured me that it will not."

148 Cong. Rec. S3979, 4020 (daily ed. May 8, 2002) (emphasis added).

In our view, the Congress intended all funding for the seven conservation programs authorized in section 3841 (§2701 of the 2002 Farm Bill), including funding for technical assistance, to be mandatory funding drawn from individual program funds, rather than from CCC's administrative funds that are subject to the section 11 cap. Accordingly, based on the language of 3841, we conclude that the section 11 cap does not apply to funds for technical assistance provided under the conservation programs enumerated in section 3841.

2. Availability of the Conservation Operations Appropriation

The next issue is whether the Department of Agriculture's Conservation Operations appropriation is available for technical assistance for the WRP and the FPP. As noted above, this issue arose when OMB advised Agriculture that its Conservation Operations appropriation could be used to fund this technical assistance. For the reasons that follow, we conclude that Agriculture may not use its Conservation Operations appropriation to fund the WRP and FPP.

The fiscal year 2002 Appropriation for the Conservation Operations account provides in pertinent part:

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

"For necessary expenses for carrying out the provisions of the Act of April 27, 1935, (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agriculture related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase . . . ."

Pub. L. No. 107–76, 115 Stat. 704 at 717, 718 (2001). In addition to its availability to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. §590a–f), the fiscal year 2002 Conservation Operations appropriation is also available to carry out a variety of other specified programs such as those authorized by 7 U.S.C. §428a, 7 U.S.C. §2209b, 7 U.S.C. §2250a, §202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. §1592(c)): section 706(a) of the Organic Act of 1944 (7 U.S.C. §2225), for employment under 5 U.S.C. §3109 and 16 U.S.C. §590e-2. OMB asserts that the language of the Conservation Operations appropriation and the Act of April 27, 1935 cited therein are broad enough to encompass the technical assistance that Agriculture will provide under the WRP, the FPP and the other section 3841 conservation programs. Since the technical services provided by Agriculture under the WRP and the FPP (and other section 3841 conservation programs) fall within the general purposes articulated in the fiscal year 2002 Conservation Operations appropriation, OMB considers the Conservation Operations appropriation as an additional available source of funding for technical assistance provided as part of the section 3841 conservation programs. In other words, the Conservation Operations appropriation is available to continue financing for the FPP and the WRP, when, in OMB's view, the section 11 cap limits the availability of CCC funds for those programs. We do not agree.

First, the Conservation Operations appropriation identifies specific programs that it is available to fund, including the authority to carry out the provisions of the Act of April 27, 1935 (16 U.S.C. §590a–f) cited by OMB above. However, none of the specific statutory programs identified in the Conservation Operations appropriation include the FPP or the WRP found in 16 U.S.C. §§3838h–3838l and 3837–3737f, respectively. The FPP and the WRP were authorized by Title XII of the Food Security Act of 1985, as amended, and the provisions of the Food Security Act of 1985 are not among the statute listed in the Conservation Operations appropriation as an object of that appropriation. Thus, the Conservation Operations appropriation by its own terms does not finance Agriculture programs and activities under the Food Security Act.[67]

Second, even if the language of the Conservation Operations appropriation could reasonably be read to include the WRP and the FPP, section 3841, as amended by the 2002 Farm Bill, very specifically requires that funding for technical assistance will come from the "funds, facilities, and authorities" of the CCC. Indeed, the statute is unequivocal—the Secretary "shall use the funds" of the CCC to carry out the seven conservation programs, including associated technical assistance. It is well settled that even an expenditure that may be reasonably related to a general appropriation may not be paid out of that appropriation where the expenditure falls specifically within the scope of another appropriation. 63 Comp. Gen. 433, 427–428, 432 (1984); B–290005, July 1, 2002.[8]

Third, this view is supported by the Senate colloquy on the 2002 Farm Bill Conference report:

"Mr. COCHRAN. It is then my understanding that, under the provisions of this bill, the technical assistance necessary to implement the conservation programs will not come at the expense of the good work already going on in the countryside in conservation planning, assistance to grazing lands, and other activities supported within the NRCS conservation operations account. And, further, this action will relieve the appropriators of an often reoccurring problems.

Mr. HARKIN. Both gentlemen are correct. The programs directly funded by the CCC–EQIP, FPP, WHIP, and the CSP—as well as the acreage programs—CRP, WRP, and the GRP—*include funding for technical assistance that comes out of the program funds. And this mandatory funding in no way affects the ongoing work of the NRCS Conservation Operations Program.*"

148 Cong. Rec. S3979, 4020 (daily ed. May 8, 2002) (emphasis added).

This colloquy underscores the understanding that the 2002 Farm Bill specifically requires that funding for technical assistance will come from the borrowing authority of the CCC and will not interfere with other activities supported by the Conservation Operations appropriation.

Furthermore, before passage of the 1996 Farm Bill, which made a number of conservation programs, including the WRP, mandatory spending programs, the WRP received a separate appropriation for that purpose. In other words, before the 1996 farm bill provided CCC funding to run the program, the WRP was not funded out of the Conservation Operations appropriation. Pub. L. No. 103–330, 108 Stat. 2453 (1994); Pub. L. No. 102–142, 105 Stat. 897 (1991). Moreover, Agriculture has previously concluded that the Conservation Operations appropriation is not available to fund technical assistance with respect to programs authorized under provisions of the Food Security Act. Their reasoning tracks ours—the provisions of the Food Security Act are not among the statutes cited in the Conservation Operations appropriation. Memorandum from Stuart Shelton, Natural Resources Division to Larry E. Clark, Deputy Chief for Programs, Natural Resources Conservation Service and P. Dwight Holman, Deputy Chief for Management, Natural Resources Conservation Service, October 7, 1998 (Conservation Operations appropriation is not available to fund technical assistance for the Conservation Research Program); GAO/RCED–99–247R, Conservation Reserve Program Technical Assistance, at 9 (Aug. 5, 1999).

Thus, the Conservation Operations appropriation is not an available funding source for WRP and FPP operations and associated technical assistance. To the extent that Agriculture might have used the Conservation Operations appropriation for WRP, Agriculture would need to adjust its accounts accordingly, deobligating amounts it had charged to the Conservation Operations appropriation and charging those amounts to the CCC funds. We note that in this event OMB would need to apportion additional amounts from CCC funds to cover such obligations.

3. Impoundment Control Act

The last question is whether OMB's July 18, 2002, decision not to apportion funds for technical assistance for the WRP and the FPP constitutes an impoundment under the Impoundment Control Act of 1974. Based upon the most recent information provided by OMB, to the extent OMB did not initially apportion funds for the FPP or the WRP, the deal was programmatic and did not constitute an impoundment of funds. Also, based on information recently provided by OMB, no impoundment of funds is occurring with respect to the FPP or the WRP.

We generally define an impoundment as any action or inaction by the President, the Director of OMB or any federal agency that delays the obligation or expenditure of budget authority provided in law. Glossary of Terms Used in the Federal Budget Process, Exposure Draft, GAO/AFMD–2.1.1, Page 52 (1993). However, our decisions distinguish between programmatic withholdings outside the reach of the Impoundment Control Act and withholdings of budget authority that qualify as impoundments subject to the Act's requirements. B–290659, July 24, 2002. Sometimes delays are due to legitimate program reasons. Programmatic delays typically occur when an agency is taking necessary steps to implement a program even if funds temporarily go unobligated. Id. Such delays do not constitute impoundments, and do not require the sending of a special message to the House of Representatives and the Senate under 2 U.S.C. §684(a). Id.

Here, OMB initially did not apportion funds for WRP and FPP technical assistance because it believed the section 11 cap was applicable and would be exceeded. OMB's General Counsel states that OMB reserved apportioning budget authority to discuss its funding concerns with Agriculture. These funding concerns generated a "vigorous and healthy internal legal discussion" between the Department of Agriculture and OMB. Letter from Nancy Bryson, General Counsel, Department of Agriculture to the Honorable Tom Harkin, Chairman, Senate Committee on Agriculture, Nutrition and Forestry, September 24, 2002. Since OMB delayed apportionment of technical assistance funds because of uncertainty concerning the applicability of statutory restrictions and since OMB approved Agriculture's subsequent apportionment requests, we conclude that OMB did not impound funds under the Impoundment Control Act. *See* B–290659, July 24, 2002 (delay in obligating funds because of uncertainty whether statutory conditions were met did not constitute an impoundment).

As noted above, according to OMB, Agriculture recently submitted revised apportionment requests for technical assistance for both the FPP and the WRP, and OMB has approved the revised apportionments. For the FPP, Agriculture requested an additional apportionment for financial assistance of $2 million, bringing the total amount available for obligation to $50 million. Thus, the entire $50 million in FPP funds authorized by section 3841 have been apportioned. Since OMB advises that it has apportioned the full funding amount and that is available for obligation, these funds were not impounded for the FPP.

As for the WRP funding, as noted above, on June 19, 2002, Agriculture asked OMB to apportion a total of $20,655,000 for WRP technical assistance. OMB did not apportion this amount. SF 132, Apportionment and Reapportionment Schedule for Farms Security and Rural Investment Programs, Account No. 1221004, July 18, 2002. On August 30, 2002, Agriculture requested an apportionment of WRP (and CRP) technical assistance for totaling $5,950,000. SF 132, Apportionment and Reapportionment Schedule for Commodity Credit Corporation Reimbursable Agreements and Transfers to State and Federal Agencies, Account No. 12X4336. On September 3, 2002, OMB approved this request and apportioned $5,950,00. Id. Since OMB apportioned the budget authority for the WRP and it was made available for obligation, there was no impoundment of funds in fiscal year 2002.

While the present record does not establish an impoundment of the fiscal year 2002 funds appropriated for the WRP and the FPP, we will continue to monitor this situation to ensure that any impoundment that might occur in fiscal year 2003 for conservation programs is timely reported.

We hope you find this information useful. If you have any questions, please contact Susan Poling, Managing Associate General Counsel, or Thomas Armstrong, Assistant General Counsel, at 202–512–5644. We are sending copies of this letter to the Secretary of Agriculture, Director of the Office of Management and Budget, the Chairmen and Ranking Minority Members of the House and Senate Agriculture Committees and other interested Congressional committees. This letter will also be available on GAO's home page at *http//www.gao.gov*.

ANTHONY H. GAMBOA,
General Counsel.

Mr. LEAHY. This bipartisan amendment simply overrides the USDA decision and prevents funds from the Working Lands Incentive Programs such as EQIP, FRPP, GRP, and WHIP from being diverted. We are simply saying USDA should follow the law as any other Department has to follow the law.

I have been in the Senate a long time. I have been a member of the Senate Agriculture Committee for nearly 30 years. I am a former chairman of that committee. I have long been an advocate for the CRP program. Some of my colleagues may be concerned how this impacts CRP.

I assure everyone the amendment is a first step toward solving the dilemma the administration put us in by ignoring the 2002 farm bill. We need to solve the problem this year. Supporting the amendment assures it will be raised during conference.

We cannot allow this or any other administration, but especially one that has demonstrated total disregard for the environment, to pick winners and losers among the conservation programs. If we do not address this, we will continue to rob Peter to pay Paul and it defies the direct will of the Congress—again, the direct will in an agreement that was negotiated between Republicans, Democrats, House, Senate, and the administration. We have tried to hold our end of the deal. The administration has not.

We provided $6.5 billion for working lands programs in the 2002 farm bill. We want farmers to manage working lands to produce our food and fiber but also to enhance water quality and to enhance wildlife habitat. We are trying to put together a win-win situation: We enhance our water, improve wildlife habitat, and we still raise our food and fiber.

For example, EQIP helps share the cost of a whole lot of land management practices that help the environment, including more efficient use of fertilizers and pesticides, and greater use of innovative technologies to handle animal waste. It gives farmers the tools they need.

Every farmer and rancher I have heard from wants the money there. Every farmer and rancher I have heard from says: How come we are not following what the law requires?

If we continue to divert money, we are going to see programs such as EQIP, WHIP, and FRPP continue to face significant backlogs.

Let me show you this chart. This gives you an example of the unfunded applications.

In fiscal year 2002, USDA reported a $500 million backlog in the State of Texas, as I look at this chart. The national total is almost $1.5 billion—$1,486,000,944. There is a $17 million backlog in Arkansas, a $20 million backlog in California, a $36 million backlog in Florida, a $66 million backlog in Kansas, a $200 million backlog in Missouri, a $106 million backlog in Nebraska and, as I said, a $500 million backlog in Texas.

My little State of Vermont has a $7 million backlog. But look how much bigger it is in the rest of these States. So we have to go back. We know 70 percent of the American landscape is private land. We know farming dramatically affects the health of America's rivers, lakes, and bays. We have to go back to what we agreed when we passed the farm bill.

When farmers and ranchers take steps to improve air and water quality or assist rare species, they face new costs, new risks, or a loss of income. These conservation programs help share these costs, underwrite these risks, or offset these losses of income.

It helps our farmers and ranchers. They want it. They thought we agreed on it. We thought we had agreed on it. We should go back to what we agreed to.

My amendment, a bipartisan amendment, does that. It tells the administration to honor the 2002 farm bill by fully funding working lands conservation programs. The failure to adequately fund these working lands conservation programs is having a dramatic impact on both farmers and the farm economy.

Mr. President, how much time is remaining to the senior Senator from Vermont?

The PRESIDING OFFICER. Ten minutes 30 seconds.

Mr. LEAHY. Mr. President, I reserve the remainder of my time.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

● Mr. KERRY. Mr. President, today I submit into the RECORD a statement regarding my position on an amendment offered by Senators LEAHY and SNOWE to the agriculture appropriations bill. Their bipartisan amendment was aimed at preventing the USDA from using funds from working lands incentive programs to pay for the technical assistance costs of the Conservation Reserve Program. Although I supported the amendment from Senators LEAHY and SNOWE, I believe it underscores the urgent need to prioritize conservation funding and ensure that all conservation programs authorized in the 2002 farm bill, from the Grassland Reserve Program to the Conservation Reserve Program, receive full funding. Robbing one important program to pay for another does not help us achieve our collective goal of improving conservation on farmlands and in rural communities.●

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I appreciate the intent of the amendment my colleague from Vermont is offering. It is an attempt to ensure USDA will carry out mandatory conservation programs as Congress intended in the farm bill, as he has explained.

However, the effect of the Leahy amendment would be to freeze the largest conservation program, the Conservation Reserve Program, until a permanent fix for the problem the Senator has outlined has been found.

I am not a member of the authorizing committee, but I am told by many who are this was not the intent of Congress, that they are not anxious to have the Conservation Reserve Program frozen for any reason, for any purpose, so the Leahy amendment is opposed by many members of the authorizing committee, including its chairman, Senator COCHRAN.

I asked Senator COCHRAN if he would be interested in speaking on this amendment, and he smiled and very graciously delegated that responsibility to me. I am grateful for the confidence, but I feel less equipped perhaps than the chairman himself might be.

Nonetheless, the effect of the Leahy amendment would mean money would flow out of EQIP, WHIP, FRPP, and other programs to pay for the technical assistance for the Wetlands Reserve Program. Many members of the authorizing committee, along with conservation groups and farm groups, agree there is a problem, but not that there is a consensus as to how to solve the problem.

The Senator from Vermont has offered one proposal. But as yet, within the authorizing committee, there is not a great deal of support for that proposal that I am aware of.

Mr. LEAHY. Will the Senator yield?

Mr. BENNETT. I am happy to yield.

Mr. LEAHY. During the debate on the farm bill, there was a colloquy. The distinguished senior Senator from Mississippi, Mr. COCHRAN, asked the then-chairman of the Senate Agriculture Committee "whether the legislation under consideration here today will fix the problem of the section 11 cap for conservation programs."

The Senator from Iowa responded it would, and he said:

> As a result, for directly funded programs, such as the Conservation Security Program and the Environmental Quality Incentives Program, funding for technical assistance will come from the borrowing authority of the Commodity Credit Corporation. . . .
>
> For programs such as the CRP, WRP, and the Grasslands Reserve Program . . . funding will come from the annual program outlays . . . from the borrowing authority of the CCC.

This was all carefully worked out. This GAO report shows it was the intent of Congress to do it the way we are funding. Unfortunately, there are those at the Department of Agriculture who will admit that privately but will not admit it publicly.

We are just trying to put the money back where it was. We are not trying to rob any of the others. I am saying they should get the money it was said they would get.

As we showed, in Texas alone, we have a $500 million deficit they assumed had been promised to them. But now, because the reallocation is not going there, hunters, those who fish, farmers, ranchers—they all agree they ought to get the money they asked for. They are good stewards of their land, but a lot of the applications to make sure they are good stewards of the land came about because we promised them the money, and now we are pulling it back. That is my concern. The GAO study makes it very clear it was intended this way.

I thank the Senator for yielding to me to point that out.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I am not arguing, and I do not know anyone who is arguing, that we do not have a problem, nor am I arguing the Congress ought to ignore it or put it off. However, I do believe it is a fix that ought to be crafted in the Senate authorizing committee, the committee which the Senator from Vermont chaired at one point, the Committee on Agriculture, Nutrition, and Forestry. The chairman of that committee has also expressed his opposition to this amendment.

Because I am not a member of the committee, I am not equipped to get into all of the details pro and con, other than to stand here as a surrogate for the chairman and say I believe this belongs in the authorizing committee and not on this appropriations bill. For that reason, I intend to vote against it. I understand a large number of members of the Agriculture Committee also intend to vote against it.

I do not have an argument, as I say, with the substance of the problem. The Senator from Vermont is correct when he talks about the fact that we have a problem or the problem needs to be addressed. I am simply opposing the amendment on the grounds this is not the vehicle with which to do it, and the particular approach he has adopted does not enjoy a consensus that would justify us going forward at this particular time.

I would hope he would be able to craft a solution that would enjoy that kind of consensus, and that we could return to this issue as a Senate and get it resolved at some point in the future.

Mr. LEAHY. Mr. President, I appreciate what the Senator from Utah has said. He is a dear friend of mine. I try to emulate him so much, I even go to the same barber as he does. But in his State, Utah, they are $4.753 million behind what they thought they had been promised.

I couldn't agree more. I have been on the Appropriations Committee for more than a quarter of a century. I don't like to see problems fixed in the Appropriations Committee that could have been fixed in the authorizing committee. But we did fix it in the authorizing committee. We did put in a GAO study. A colloquy between Senator COCHRAN and Senator HARKIN and others makes it very clear we fixed it there. It is USDA that is not following the law.

That is why Texas is behind $500 million in this area, Nebraska is behind $106 million, and Missouri is behind $200 million. I will just read some of these figures. I hope people understand this is not an attack on the CRP program. I support CRP. I voted many times for the CRP in 29 years. What this amendment does is prevent the administration from raiding other conservation programs. Unfortunately, the administration pits conservation programs against one another. What they should do is take it out of the CCC account, as we said in the law.

But I hope when Senators vote, they realize, if they are from Arizona, they have $30 million in their State's EQIP unfunded application. If you are from Arizona, you have $30 million that your farmers are looking for. If you are from Alabama, you have $10 million they are looking for. If you are from Colorado, you have $36 million you are looking for; Florida, $36 million; if you are from Iowa, you have $30 million you are looking for but have not received. If you are from Kansas, you have backlogs of $66 million; Louisiana, $11 million; Missouri, $200 million; Nebraska, $106 million; Montana, $52 million; Oklahoma, nearly $25 million; Tennessee, $21 million; West Virginia, $15 million.

Obviously, every Senator can vote any way he or she wants, but I don't know, if I were from a State that had a backlog of $10 million, as Alabama does, or $30 million, as Arizona does, or $17 million, as Arkansas does, or $35 million, as Colorado does, or $36 million, as Florida does, or $30 million, as Iowa does, or $66 million, as Kansas does, or $12 million, as Louisiana does, or $200 million, as Missouri does, or $51 million, as Montana does, $106 million, as Nebraska does, $500 million, as Texas does, or $25 million, as Oklahoma does, or $8 million, as Pennsylvania does, I think I might want to vote for this and not go back and tell my State, "Sorry."

I ask unanimous consent to print in the RECORD the fiscal year 2002 EQIP unfunded applications that we now face.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FY–2002 EQIP UNFUNDED APPLICATIONS

State	FY–2002 Backlog
Alabama	$10,244,510
Alaska	4,164,056
Arizona	30,581,190
Arkansas	17,689,860
California	19,911,881
Colorado	35,966,766
Connecticut	7,135,488
Delaware	2,618,440
Florida	36,467,046
Georgia	14,021,176
Hawaii	2,327,794
Idaho	9,064,742
Illinois	16,836,480
Indiana	4,733,120
Iowa	29,066,020
Kansas	66,157,013
Kentucky	4,080,336
Louisiana	11,786,034
Maine	6,167,328
Maryland	2,524,905
Massachusetts	2,008,260
Michigan	6,839,033
Minnesota	13,581,380
Mississippi	10,331,727
Missouri	200,343,682
Montana	51,678,240
Nebraska	106,772,528
Nevada	1,366,340
New Hampshire	2,363,200
New Jersey	15,879,913
New Mexico	30,194,736
New York	13,321,362
North Carolina	8,192,823
North Dakota	10,774,308
Ohio	14,921,919
Oklahoma	24,688,762
Oregon	15,827,422
Pacific Basin	34,185
Pennsylvania	8,316,990
Puerto Rico	740,709
Rhode Island	551,043
South Carolina	15,288,390
South Dakota	14,666,850
Tennessee	21,413,600
Texas	502,051,618
Utah	4,753,280
Vermont	7,960,070
Virginia	6,236,576
Washington	6,365,088
West Virginia	14,915,086
Wisconsin	8,334,480
Wyoming	14,686,650
Total	1,486,944,435

Mr. LEAHY. Mr. President, the Senator from Utah is back. If he would like, I would be prepared to yield back all time. I do ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be and there is.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. One thing I want to bring to the attention of the Senate now: In today's Congress Daily PM—meaning the afternoon edition—the second paragraph communicates:

> Democrats block consideration late Wednesday of fiscal year 2004 military construction conference report.

I want the record to be spread that that simply is not true. Whoever gave this reporter this information was either trying to mislead the reporter or simply didn't know what they were talking about. There was never any effort made last night to move the military construction bill in any way. We are ready to move this at any time. We believe the conference reports which have been completed—Military Construction, Energy and Water; those are the two I know of—should be completed immediately.

I want everyone to understand, not last night nor any other time have we ever blocked consideration of the fiscal year 2004 Military Construction appropriations conference report. In fact, not only did we not block it, no one asked us to participate in anything dealing with that conference report. I wish they had. I hope maybe tonight we can do something about this.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, we are currently drawing up a unanimous consent request that would lock down the time. Does the Senator from Vermont yield back the remainder of his time?

Mr. LEAHY. If the Senator from Utah intends to, yes, I will.

Mr. BENNETT. The Senator from Utah is willing to yield back the remainder of the time in opposition to the Senator's amendment. We have an amendment that will be offered by the Senator from Pennsylvania on which it is my intention to have a voice vote and accept. We are getting the exact language, but it is my intention that the Senator from Pennsylvania be given 15 minutes.

I would ask if Senator HARKIN is still planning to come over to take his 15 minutes of debate on the Daschle amendment. If he is, that would mean we could vote on the Leahy amendment and the Daschle amendment and then on final passage around 5:30.

Mr. REID. If I could say to my friend, Senator HARKIN originally wanted to take 15 minutes on the Daschle amendment. But now what he would like to do is take 5 minutes on the Leahy amendment and 5 minutes on the Daschle amendment. So we actually save 5 minutes in the process. I hope that we can agree at this stage that Senator HARKIN be recognized to speak for 5 minutes on the Leahy amendment and 5 minutes on the Daschle amendment. It is my understanding Senator DASCHLE wishes to speak prior to the vote on his amendment.

Mr. BENNETT. It is my understanding that he does as well. We are working all of that out.

Mr. REID. He wanted 10 minutes on that.

Mr. BENNETT. We will work that out in a way that will protect every Senator's rights. But to move us along now, time having been yielded back on the Leahy amendment, I would ask that the Chair recognize the Senator from Pennsylvania for 15 minutes to lay down his amendment. During that 15-minute period, we will codify all of these various agreements and bring that unanimous consent request forward.

Mr. REID. It seems we should get this tied down very quickly. I don't see why we can't do that.

Mr. BENNETT. It is my intention.

Mr. REID. Why don't we do it right now. It is my understanding we are going to vote on Daschle, Leahy, and final passage; is that correct?

Mr. BENNETT. It was my intention to vote on Leahy first.

Mr. REID. Leahy, Daschle, and then you have some amendments you need to clear.

Mr. BENNETT. Then I have some perfecting amendments and then final passage.

Mr. REID. I would ask unanimous consent that Senator SPECTER be recognized to speak for 15 minutes on his amendment and that that be determined by a voice vote, as approved by the two managers; that following that, Senator HARKIN be recognized to speak for 5 minutes for the Leahy amendment and 5 minutes for Senator DASCHLE's amendment, and Senator DASCHLE be recognized for 10 minutes; and following that, there be votes on or in relation to both amendments, Leahy being first; and that there be no second-degree amendments in order to either amendment.

Mr. BENNETT. The Senator has summarized the situation very well, as he always does. I hope the Senate will agree to that unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, I was trying to hear that. I ask for at least 10 minutes on the Leahy amendment and 10 minutes on the Daschle amendment. I may not take it all.

Mr. REID. Mr. President, I so modify my request to the Senate.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. BENNETT. Mr. President, I ask a further modification: That I be given an additional 5 minutes, if necessary, for a response.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, further, following the cleared amendments, all Members can be ready for a vote on final passage because I also ask unanimous consent that there be no further amendments in order other than those mentioned, including the amendments cleared by the two managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 2080

Mr. SPECTER. Madam President, I ask unanimous consent that we now consider my amendment No. 2080, which is pending.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. SPECTER. Madam President, this amendment provides that none of the funds made available by this act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support in a manner that does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002.

That bill provides, in unequivocal terms, that the price of milk shall be supported at the rate equal to $9.90 per hundredweight for milk containing 3.67 percent butterfat.

On July 8, 20 Senators wrote to the Secretary of Agriculture calling on the Secretary to observe the law with respect to that pricing. I ask unanimous consent that the text of this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 8, 2003.

Hon. ANN VENEMAN,
Secretary of Agriculture, Department of Agriculture, Washington, DC.

DEAR SECRETARY VENEMAN: We are writing in support of the National Milk Producer Federation's request for immediate action concerning the Commodity Credit Corporation, CCC, purchase prices for dairy products. Since the current prices reflect only those costs incurred for commercial sales, the market price for individual products has fallen below support levels, thus allowing the price of milk used to produce them to fall below the statutory support level for milk of $9.90 per hundredweight. Accordingly, it is imperative that action be taken to adjust the support program purchase price levels for cheese, butter and nonfat dry milk to reflect the significant additional costs manufacturers face when selling products to CCC.

Class III milk prices have fallen below the milk price support level, and cheese prices have fallen below their respective CCC purchase price levels, because the CCC dairy commodity purchase prices do not compensate for the significant additional costs manufacturers face when they sell products to the CCC. As a result, manufacturers often sell dairy commodities to commercial customers at prices well below the CCC support purchase prices. During the months for which the Class III prices have fallen below support, market prices for cheddar block and barrel cheese have been several cents below their respective support purchase prices.

Without question, our dairy farmers are suffering and need our help. Congress has done its part through enactment of the Farm Bill. It is now time for your Department to follow through and ensure that the price support program operates as we intended. The adjustments outlined above can move us a long way toward accomplishing this vital goal.

Thank you for your time and attention to this matter. We look forward to a timely response.

Sincerely,

Arlen Spector; Jack Reed; Barbara A. Mikulski; Max Baucus; Russel D. Feingold; Paul Sarbanes; Frank Lautenberg; Jim Jeffords; Patty Murray; Ted Kennedy; Patrick Leahy;

Charles Schumer; Mark Dayton; Tim Johnson; Susan Collins; Olympia Snowe; Joe Biden; John F. Kerry; Hillary Rodman Clinton; Herb Kohl; Norman Coleman.

Mr. SPECTER. Madam President, I was lead signatory of the letter. No Senator had received a reply, until today, when we were given a copy of a letter dated August 13, 2003—that is a date stamp, not the date of the letter, which purports to respond to that letter.

In effect, the letter from J.B. Penn, Under Secretary, Farm and Foreign Agriculture Services, concedes that the law was not being followed. The relevant portion reads, in part:

> [W]e appreciate your concern that many dairy sector representatives believe that cheese manufacturers are reluctant to sell to CCC, which, in turn, causes monthly Class III milk prices (milk use for cheese) to fall below the $9.90 per hundredweight price support level.

Omitting some language not directly relevant, the concluding sentence of the paragraph is:

> The perception is that these additional requirements and the requisite costs lead to the reluctance.

I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES
DEPARTMENT OF AGRICULTURE,
Washington, DC, August 13, 2003.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: On behalf of Secretary Veneman, thank you for your letter of July 8, 2003, jointly signed by your colleagues, regarding the Commodity Credit Corporation (CCC) dairy product purchase prices.

We appreciate your concern that many dairy sector representatives believe that cheese manufacturers are reluctant to sell to CCC, which, in turn, causes monthly Class III milk prices (milk used for cheese) to fall below the $9.90 per hundredweight price support level. As you know, CCC has requirements in addition to those of commercial sales, primarily for packaging materials, additional storage, additional financing, and Department of Agriculture (USDA) grading. The perception is that these additional requirements and requisite costs lead to the reluctance.

Cheese prices have increased in recent weeks to $1.59 per pound. This is 46 cents per pound above the CCC purchase price and will result in a July Class III milk price above $9.90. Cheese prices have increased because May and June milk production was below a year ago, and there is concern in the market that cheese stocks are inadequate.

We concur that there are extra costs to sell cheese to CCC when compared to the commercial market. However, the fact is, even under current conditions and prices, CCC purchased an average of 1.4 million pounds of cheese per week in January through June. To address industry's concerns, USDA officials have met with representatives of the National Milk Producers Federation and the International Dairy Food Association to discuss the issue. USDA continues to evaluate the situation to determine if any action is required under USDA's milk price support program. Your comments will be taken into consideration as we consider these choices.

Again, thank you for your letter. A similar letter is being sent to your colleagues.

Sincerely,

J.B. PENN,
Under Secretary, Farm and Foreign Agricultural Services.

Mr. SPECTER. Madam President, the consequence has been that the class III price of milk used to make cheese has been below the $9.90 support price 17 times since January 2000 and has been as low as $8.57 in November 2000 and $9.11 in February 2003.

The Secretary might make an argument that the average price isn't at $9.90, but factually that argument could not be made. What we are doing essentially is asking the Secretary of Agriculture to observe the law. It doesn't seem to me that that is too much to ask. We are not trying to rewrite the substantive law on milk pricing because it was enacted in 2002. But we are utilizing this appropriations bill to require that the Secretary observe the law, with the interdiction that she cannot spend any money under this bill unless she does observe the law with respect to this milk price.

We have had a considerable discussion back and forth as to whether the amendment would be accepted. I am prepared to vote on it, but I don't want to burden the record with a vote. I say to the distinguished chairman of the subcommittee of the distinguished Appropriations Committee, where I have served with the Senator from Utah for the past 13 years, in the absence of a recorded vote, which I think would be overwhelming, I am prepared to accept a voice vote. But I would like assurances that the manager will fight to keep this in conference.

Mr. BENNETT. Madam President, I will respond to the Senator by telling him I am in favor of his amendment and will carry that attitude into conference and do the best I can to see to it that it survives.

Mr. SPECTER. This may be risky, but I direct the same question to the distinguished ranking member, the Senator from Wisconsin, my longstanding friend, Mr. KOHL.

Mr. KOHL. I feel as does Senator BENNETT. I will do my best to see that it stays in conference.

Mr. SPECTER. That is very assuring. I am delighted to proceed, as I have discussed with the managers, to have a voice vote and have the amendment in effect accepted, if that is still agreeable to the distinguished Senator from Utah.

Mr. BENNETT. I thank the Senator from Pennsylvania. I believe that, in the interest of time, a voice vote would be sufficient. I think we should have a voice vote rather than just accept the amendment by unanimous consent, so that the record does show that a formal vote took place.

Mr. SPECTER. I ask for the voice vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2080) was agreed to.

Mr. SPECTER. Madam President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Madam President, I thank the Chair and the Senator from Utah and the Senator from Wisconsin.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa is recognized.

Mr. HARKIN. I understand I am allowed 10 minutes to speak on the Leahy amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Madam President, first, I commend the Senator from Vermont for raising the issue of funding for technical assistance for farm bill conservation programs. The technical assistance, as provided by the staff of the Natural Resource Conservation Service and other qualified providers such as engineers or agronomists, includes planning, designing, construction and implementation of conservation practices on agricultural land—this assistance is essential to allow farmers, ranchers, and landowners to carry out conservation practices.

This amendment, as I understand it, would cut off funding for technical assistance for the Conservation Reserve Program. For that reason, I cannot support the amendment.

Cutting off technical assistance would effectively preclude new enrollments in the CRP program, including the continuous CRP and the Conservation Reserve Enhancement Program, otherwise known as CREP, thus hurting the environment, wildlife, and land owners.

Mr. LEAHY. Madam President, will the Senator yield on that point just for 20 seconds?

Mr. HARKIN. I only have 10 minutes. I will have to ask for more time if I can.

Mr. LEAHY. I wanted to point out this amendment doesn't take it out of the CRP. As the Senator knows—he serves on the Agriculture Committee—I have been a strong supporter of CRP straight through. It is just that the original farm bill took it out of CCC.

What is happening now is the administration is playing one off against the other with these various conservation programs instead of going to CCC like they are supposed to. All my amendment says is not to take it out of CRP—I am a strong supporter of CRP—but allow the Farm Bill to stand and take it out of CCC as they were supposed to in the first place.

Mr. HARKIN. I appreciate the explanation of the Senator from Vermont. As I understand it, I ask the Senator from Vermont, does this not prevent the transfer of money from donor programs?

Mr. LEAHY. This amendment simply follows the farm bill, and the distinguished Senator from Iowa was the chairman of that conference for the Senate. It was the farm bill on which we agreed.

Mr. HARKIN. I could be wrong. I want to understand, if I can make a few more comments, and let the Senator from Vermont see if this is a correct interpretation. Prior to the passage of the farm bill in 2002, there was a shortage of technical assistance funding because the 1996 farm bill limited technical assistance funding to that amount available under section 11 of the CCC. That was $56 million a year. This became known as the section 11 cap.

The 2002 farm bill corrected this problem by providing an alternative source for technical assistance funds. What we did was we included a provision in the conservation title of the farm bill that technical assistance funding would come directly from the funds provided for each conservation program.

This approach was not novel or untested. Congress relied on similar language in the 1996 farm bill providing funding for technical assistance for the EQIP program, the Environmental Quality Incentives Program, directly from EQIP funds and outside the section 11 cap. We adopted this approach for all environmental programs to ensure there would be adequate funding for technical assistance. We all agreed on that approach. That is in the 2002 farm bill.

Soon after the passage of the farm bill, we got a big shock from the Bush administration because they announced that the section 11 cap still applied, despite the language we had put in the farm bill.

Despite the opinion of Nancy Bryson, General Counsel at USDA, and despite the opinion of the GAO, the General Accounting Office, that the 2002 farm bill provided new authority for funding technical assistance, not subject to the section 11 cap, the White House, through OMB and then the Department of Justice, decided that the farm bill's conservation program funds could not be used for technical assistance because they were limited to the section 11 cap, thereby, largely blocking implementation of the conservation programs.

We attempted to fix this in the fiscal year 2003 omnibus appropriations bill. As a result, funds from the dollar-limited conservation programs are now used to pay for technical assistance for all the conservation programs, including the Conservation Reserve Program and the Wetlands Reserve Program, which are acreage limited programs.

Senator LEAHY, I believe, is correct that we now have a situation in which money that the farm bill provided for some conservation programs is being diverted to pay for technical assistance for others. Because of this problem, there is less conservation money going to producers and landowners than was intended or provided in the farm bill.

In fiscal year 2003, almost $91 million in conservation funds were lost because that amount of money was taken from some programs and used to provide technical assistance for other programs. If the White House had implemented the farm bill as intended and as we got the opinion from the general counsel at USDA, this would not have happened.

However, two wrongs don't make a right, and my problem, as I understand it, with the Leahy amendment—and I stand to be corrected by the author of the amendment—is that what would happen under this amendment is it would effectively mean that under the Conservation Reserve Program, we would not be able to enroll any new land. We would not be able to continue the continuous sign-up in the CRP program. We would not be able to continue the agreements we have in the CREP, the Conservation Reserve Enhancement Program.

That is why, as I understand the Senator's amendment, it says that the donor programs are not available for technical assistance funds for CRP, but doesn't provide an alternative source.

I ask the Senator from Vermont, does his amendment take away the section 11 cap? If we do away with the section 11 cap unequivocally and we go back to what we provided in the 2002 farm bill, then maybe the Senator's amendment is fine. That is not the way I read it.

I yield to the Senator to correct me if I am wrong.

Mr. LEAHY. Madam President, the Senator who helped put together that farm bill knows the farm bill itself took away the section 11 caps. My amendment in no way takes money from CRP or anything else. It simply builds a firewall around EQIP, FRPP, GRP and WHIP, which is what we all agreed to at the time when the chairmen of the House and Senate Agriculture Committees and others were trying to make sure they had votes to pass the farm bill. These programs were essential to get the support from the East where most of the tax dollars come to pay for this farm bill.

This amendment does not take from CRP. We are simply telling USDA to take it from the CCC. It tells the USDA to go back to the farm bill, which spoke of taking this money from the CCC. It just builds a firewall. That is all; nothing more, nothing less. The reason I care this much about it is that it was pointed out during the farm bill debate that the bulk of the money was going to the Midwest, yet the tax dollars were coming from much more populous States, mostly through the Northeast, to pay for it. Almost all the money was going to the Midwest and other farm areas, but this is the one area that we got anything.

EQIP is the only area where the Northeast States get some assistance—so it doesn't sound parochial, the backlog in my State is less than $8 million. The backlog in Iowa is about $29 million. We just want to build the firewall. That is all.

When the Congress, in a bill that had been debated for weeks and negotiated for weeks, tells the Department of Agriculture to do something, I like to think they are going to do something. GAO says they are not following our clear intent.

Mr. HARKIN. I agree with the Senator that USDA should have followed the farm bill and the White House simply choose not to do so.

Mr. LEAHY. What we are saying is just build the firewall, not rob Peter to pay Paul from these conservation programs, especially CRP, which I support. CRP is used in the Senator's State of Iowa a great deal. I have always supported the other Senators.

All I am saying is go back to CCC where this is supposed to be. That is all.

Mr. HARKIN. Madam President, I say to the Senator from Vermont that we go back to CCC, but the section 11 cap still applies and there would be no funding technical assistance for CRP. The Senator has to know that under the Senator's amendment, new enrollments for CRP will effectively come to an end.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. Madam President, I ask for at least 5 more minutes, after yielding time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Madam President, I understand what the Senator is doing, but two wrongs do not make a right. Now, if the Senator wants to have an amendment that would lift the section 11 cap, or that would clearly spell out that the farm bill once again in 2002—what we did—bypassed the section 11 cap, that is fine.

As I understand it, as I read his amendment, as my staff has informed me, as I have looked at it, that is not what the amendment does. The amendment simply, as the Senator said, builds firewalls. By building firewalls, that goes against what we did in the 2003 omnibus bill, because in the omnibus bill we provided for a mechanism that said we could then use these funds for technical assistance, and that is exactly what we are doing.

Again, I say that the Senator from Vermont is correct in that we have a situation in which money that the farm bill provided for some conservation programs is being diverted to pay for technical assistance for others. I am all for changing that but not in the way the Senator wants, because the way the Senator wants effectively cuts off signing up for the CRP program.

I am a big supporter of the EQIP program, and FPP and WHIP and GRP. That is fine, and they should be fully funded, as they were in our farm bill, but we cannot abandon the CRP program. That is exactly what the effect of this amendment would do.

Those of us from those States in which we have the CRP program or the CRP program in which we have continuous signup, this would take money away from this very effective program. Almost all states have land enrolled in CRP and there are 23 states that have CREPs—new enrollments in those and continuous CRP would come to a halt.

We could solve this problem of TA funding for CRP and WRP for, according to estimates from USDA, $100 million a year or for $300 million from fiscal year 2004 to fiscal year 2006. Three hundred million dollars would take care of the whole thing. Yet the administration will not provide this money at all.

The President requested nearly $900 million this year for Iraq to have funds for irrigation equipment and the protection of marshlands in the Supplemental. So we have $900 million to go to Iraq for irrigation equipment and protection of marshlands, and $300 million would take care of our entire country in terms of the Conservation Reserve Program and the Wetlands Reserve Program for three years.

There are ways of fixing this, I say to my friend from Vermont, and ways that we agreed upon in the farm bill. The Senator from Vermont and I were together on the farm bill. We agreed on how to do this, but this is not the way to do it now.

Mr. LEAHY. If the Senator will yield, I thought in the unanimous consent request we divided the 5 minutes. I am told we did not so it is still the time of the Senator, but I would say all I want to do is what we did in the bill. I want the USDA to follow the bill, and I would read a colloquy. It says:

> . . . funding for technical assistance will come from the borrowing authority of the Commodity Credit Corporation, and will no longer be affected by section 11 of the CCC Charter Act. For those programs such as the CRP, WRP, and the Grasslands Reserves Program, which involve enrollment based on acreage, the technical assistance funding will come from the annual program outlays apportioned by OMB—again, from the borrowing authority of the CCC. These programs, too, will no longer be affected by section 11 of the CCC Charter Act.

That was on the floor from the statement of the distinguished Senator from Iowa as the manager of that bill.

I do not know how much clearer I can say it. We are trying to get the Department of Agriculture to follow the law.

I know the Senator from Iowa has been a supporter of all of these programs, as I have of the programs that affect his State, not those of us in the East. I am just saying I want the Department of Agriculture to stick to the agreement they made with the conferees at the time we passed the bill, and the only way it seems we can get them to do that is to restate it in this amendment.

Mr. HARKIN. I would join with the Senator in any kind of an amendment to get rid of the section 11 cap. That is the answer right there, get rid of the section 11 cap.

We effectively did that in the farm bill. The administration says no. Well, an amendment to that line would do that.

In closing, the major wildlife groups in this country, from Ducks Unlimited, Izaak Walton League of America, National Audubon Society, Pheasants Forever, the Wildlife Society, and Wildlife Management Institute do not support this amendment. They sent a letter to both Chairman BENNETT and Ranking Member KOHL that said they can't support this amendment if it would have a chilling effect on CRP.

Again, I find myself in a strange position because in many ways I agree with the Senator from Vermont. He is right in what he is trying to do in terms of saying that we have to have more funding for technical assistance, but not in this manner because it would effectively stop the CRP program.

The PRESIDING OFFICER. The Senator's time on the Leahy amendment has expired.

The Senator from Utah.

Mr. BENNETT. As I understand it, Senator HARKIN still has 10 minutes to speak on the Daschle amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. I am sorry. I did not realize the parliamentary situation. Are these two votes going to be lumped together?

Mr. BENNETT. Yes, the two votes will be stacked. We have reserved 10 minutes for the Senator from Iowa to speak on the Leahy amendment and 10 minutes for him to speak on the Daschle amendment. If he wishes to yield back his 10 minutes on the Daschle amendment, there will be no objection.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2078

Mr. HARKIN. Madam President, the 2002 farm bill included an important program, known as country-of-origin labeling, that adds value to farm products and gives consumers more information about the origin of foods they buy for their families. Opponents of the law have used scare tactics and false information in an attempt to water down or overturn this important program.

Unfortunately, the opponents of the law persuaded the House Appropriations agricultural subcommittee to cancel funding to carry out this program as it applies to labeling for meat. This is the wrong course. USDA needs the funding to continue the rule making process so the program is workable as it was intended by the farm bill.

A large number of other countries have country-of-origin labeling. The General Accounting Office has found that of the 57 U.S. trading partners, 48 require country-of-origin labeling for one or more of the commodities covered by our country-of-origin labeling law.

In this country, over 135 organizations, from the American Farm Bureau Federation, the National Farmers Union, and the Consumer Federation of America—broad support—support country-of-origin labeling for meat. These organizations represent the will of producers and consumers across our country.

Several academic studies in the last year have examined the benefits of country-of-origin labeling for meat. For example, the International Agricultural Trade and Policy Center at the University of Florida found that the benefits of labeling beef clearly outweighed the costs. Research by Colorado State University found that consumers were willing to pay an 11-percent premium on steak and a 24-percent premium for country-of-origin labeling on hamburger.

This research reflects the desire for country-of-origin labeling of meat. Country-of-origin labeling for meat is law. It is law right now. It became law when President Bush signed the 2002 farm bill. Whether or not the Agriculture appropriations bill funds the program, the law still requires meat to be labeled. Removing funding essentially creates a situation where retailers will still be legally required to label meat but USDA will have no funding to provide oversight and work out in a meaningful manner any problems that exist within the meat-labeling regulations.

Then again next year the same debate will come before Congress, asking us to remove funding, asking us for delay country-of-origin labeling for meat for another year. This is just a 1-year bill. The law is already there on the books. Removing funding as the House Appropriations Committee did does not solve any problems. It only creates more problems down the road for the program that is already in the law and that would provide consumers the information they want.

Madam President, it was interesting that in the House appropriations bill, they cut out funding for country-of-origin labeling for meat but, guess what, they left the money in there for country-of-origin labeling for peanuts. They left the money in there for country-of-origin labeling for fish. They left the money for country-of-origin labeling in there for vegetables. They left the money for country-of-origin labeling in there for fruit. But not meat.

Right away you have to ask yourself a question: What is this all about? Why would they say consumers ought to have the right to know where their fish comes from, but not their meat? Why would they say consumers ought to have the right to know where their peanuts come from, but not their meat?

The fact is, a few in this country—a few, and I mean a few—are trying to overcome in the appropriations process what they could not succeed in doing when we passed the farm bill. They were there. They testified. They had their proposals. They didn't want country-of-origin labeling. We voted on it and it was passed in the House, it was passed in the Senate, it was kept in conference, and the President signed it. Now they are attempting to undo that through the appropriations process. That is why we have to speak loudly and clearly that we want to make sure the law is carried forward.

As I pointed out, even if you don't fund it, retailers will still have to abide by the law. They will still have to give us country-of-origin labeling on meat. It just means the Department of Agriculture will not be able to help them clear up any confusion that may arise. That is the worst possible position in which we could put our retailers. We ought to give them the assistance, the help, the support, the advice, the consultation the Department of Agriculture should do to implement this law.

Before I close, I want to take a moment to say I am pleased the Senate supported the amendment by Senators DORGAN and BURNS, which I cosponsored, to increase the funding level of the Rural Broadband Loan Program. I worked to include the loan program in the 2002 farm bill to help bring high-speed Internet to rural farm communities across the country.

Since its launch, there have been more than $1 billion in loan applications to build the broadband infrastructure. This extra funding will go a long way to ensure this program remains strong and can provide the resources needed to ensure rural America keeps faith with its urban neighbors in the 21st century.

In closing, I don't know if I will have time to speak again on the bill. I think we are coming close to voting. First, let me commend the chairman and ranking member for putting together a great Agriculture appropriations bill. I thank them for accepting the rural broadband provisions, as well as many other very good provisions. If we can past the amendment that was just offered here, I think we will have a tremendous Agriculture appropriations bill.

I commend the chairman and commend the ranking member for the excellent job they have done on this bill.

I yield the floor.

Mr. BENNETT. I thank the Senator for his courtesy and kind words. I must now confess error. When we entered into the unanimous consent agreement, we inadvertently left off an opportunity for the chairman of the Agriculture Committee to offer an amendment. I apologize to Senator COCHRAN for that oversight.

I ask unanimous consent that an additional 10 minutes be set aside, equally divided, between Senator COCHRAN and any opponents to his amendment, to be taken care of before we proceed to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, I suggest the absence of a quorum to allow Senator COCHRAN to come to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Senator COCHRAN is in the cloakroom and will be coming on to the floor momentarily. I simply want to once again apologize to him for our inadvertence in leaving his amendment off the list. I appreciate the indulgence of Senators to have this additional 5 to 10 minutes for the opportunity to dispose of this particular amendment.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 2120

Mr. COCHRAN. Madam President, I send an amendment to the desk under the unanimous consent request and ask it be stated.

The PRESIDING OFFICER. Without objection, the pending amendments will be laid aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 2120.

Mr. COCHRAN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide plant variety protection)

On page 19, line 26, before the period, insert the following: ": *Provided further*, That, in the case of the term of protection for the variety for which certificate number 8200179 was issued, on the date of enactment of this Act, the Secretary of Agriculture shall issue a new certificate for a term of protection of 10 years for the variety, except that the Secretary may terminate the certificate (at the end of any calendar year that is more than 5 years after the date of issuance of the certificate) if the Secretary determines that a new variety of seed (that is substantially based on the genetics of the variety for which the certificate was issued) is commercially viable and available in sufficient quantities to meet market demands".

Mr. COCHRAN. Madam President, the Plant Variety Protection Act codifies our international commitments under treaties for protection of plant varieties. The law gives plant varieties 20 years of protection, similar to a patent, in order to preserve the quality of the variety. The law currently does not provide any mechanism to provide for periods of additional protection for varieties that are still commercially valuable.

The original PVPA certificate for Marshall ryegrass was issued prior to the adoption of the latest changes pursuant to international negotiations and, as a result, were protected for less than the current 20-year period. My amendment would provide an additional period of PVPA protection of up to 10 years for one of the most if not the most heavily used varieties of ryegrass used by livestock producers around the country.

The Secretary would be authorized to cancel this protection as soon as a new variety of this valuable feed grass is developed.

There are letters which I will send to the desk for inclusion in the RECORD in support of this amendment. One is from OreGro Seeds Incorporated in Oregon; another is from a second company, Smith Seed Services in Oregon; another from Plantbreeding Seed Production, Seed Trade, member of an organization called the Barenbrug Group.

I ask unanimous consent all of these letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OREGRO SEED, INC.,
Shedd, OR, July 11, 2003.

Re plant variety protection for Marshall Ryegrass.

Hon. GORDON SMITH,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH, We understand that Senator Cochran is introducing legislation that will extend the PVP for Marshall Ryegrass. This legislation is of critical importance to the Oregon grass seed industry, and we urge you to give this measure your strongest support.

Your strong support for the Oregon seed industry is greatly appreciated, and we also urge you to contact Senator Cochran's office to express your support for this important issue.

Sincerely,

DON HERB.

SMITH SEED SERVICES,
Halsay, OR, July 11, 2003.

Re legislation from Senator Cochran.

Hon. GORDON SMITH,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH, Senator Cochran is introducing legislation to extend the PVP production for Marshall annual ryegrass. This legislation is critically important to the Oregon grass seed industry. I strongly urge your support for this legislation.

Smith Seed is one of the largest producer and shipper of forage and turf grass seed in Oregon. We have about 100 to 120 employees and represent a grower base of over 300 independent grass seed farmer producers. We ship in excess of 160 million pounds of seed annually to domestic and international accounts.

Your strong support for this important legislation for the Oregon seed industry is greatly appreciated, and I also ask that you contact Senator Cochran's office to express your support.

Thank you for your service and support of the Oregon seed industry.

Sincerely,

PAUL ZEHR.

BARENBRUG USA,
Tangent, OR, July 11, 2003.

Re legislation from Senator Cochran.

Hon. GORDON SMITH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: We are aware that Senator Cochran, (Miss R) is introducing legislation in the upcoming Senate Agricultural Committee in DC next week, to extend the Plant Variety Protection (PVP) for Marshall annual ryegrass. This legislation is of vital importance to the long term viability of the US and Oregon grass seed industry, and in the strongest possible way, we ask for your support of this important measure.

Barenbrug USA is an Oregon based grass seed breeding, production and wholesale marketing company. We employ more than 150 workers, and buy seed from family farmers on over 40,000 acres in Oregon and the Northwest. We consider ourselves to be one of the leaders in this industry, and one of the largest grass seed companies in the world.

By extending the PVP on this variety, the value level of grass seed sales in the US South and South East will be maintained. By not extending the PVP, there is a significant chance that named ryegrass varieties will again be seen as commodities and no longer be sold at price levels which assure returns for the entire seed value chain, including the seed growers. All seed of ryegrass varieties is produced in Oregon, hence our interest in this discussion and our request to you.

We sincerely appreciate your support during session for this legislation that is critical to the US and Oregon grass seed industry, and also ask that you contact Senator Cochran's office to voice your strong support.

Thank you for your record of dedicated service and support of our industry. Please advise if you have any questions or comments.

Sincerely,

MARC W. COOL, M.SC.
Vice President/COO.

Mr. COCHRAN. Madam President, I also have a letter from the Livestock Producers Association and a letter from the State of Mississippi's Department of Agriculture and Commerce.

I ask unanimous consent that the letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIVESTOCK PRODUCERS ASSOCIATION,
Tylertown, MS, April 4, 2003.

Hon. THAD COCHRAN,
U.S. Senate, Washington, DC.

DEAR SIR: I am writing to ask for your help in getting the Plant Variety Protection (PVP) certification extended for Marshall Ryegrass.

Marshall Ryegrass has been an integral part of many Mississippi cattle operations for many years and without the assurance of PVP, there is great concern that the integrity of the variety would be compromised.

Grass varieties often lose their identity quickly after PVP expires and in light of the fact that there is not a clearly superior product for winter forage production, I feel that maintaining the genuine Marshall strain is very important to the cattle producers of our state.

We need Marshall, not an inferior substitute.

Sincerely,

MIKE PIGOTT,
Manager.

STATE OF MISSISSIPPI, DEPARTMENT OF AGRICULTURE AND COMMERCE,
Jackson, MS, February 11, 2003.

Hon. THAD COCHRAN,
U.S. Senator, Mississippi, Washington, DC.

DEAR SENATOR COCHRAN: This letter is written in concern for the protection of Marshall Ryegrass under the Plant Variety Protection Act (PVPA). The patent on this grass has expired, and I—as well as others—would like to have the patent extended on this variety of grass.

Marshall Ryegrass is extremely popular among Mississippi farmers who plant winter grazing crops. The loss of the patent protection can and will lead to widespread deception and mislabeling of poor quality grazing grasses. Due to this concern, it is my request that Congress enact legislation that will restore the PVPA protection for the Marshall Ryegrass variety.

Any assistance you can provide will be appreciated.

Sincerely,

LESTER SPELL, Jr.,
Commissioner.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN. Madam President, I am prepared to yield back the time on the amendment. I yield the time on the amendment.

The PRESIDING OFFICER. Time is yielded.

Mr. KOHL. I yield our time.

Mr. BENNETT. Madam President, I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2120) was agreed to.

Mr. BENNETT. Madam President, I understand that I had 5 minutes allocated to me under the unanimous consent agreement. I am prepared to yield that back and proceed to a vote.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BENNETT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Madam President, it is my understanding that all time has been yielded. We are, therefore, ready to vote.

VOTE ON AMENDMENT NO. 2119

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

Mr. BENNETT. Madam President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 56, as follows:

[Rollcall Vote No. 442 Leg.]

YEAS—38

Akaka
Biden
Bingaman
Breaux
Byrd
Cantwell
Carper
Chafee
Clinton
Collins
Corzine
DeWine
Dodd
Dole
Enzi
Fitzgerald
Graham (FL)
Gregg
Hollings
Jeffords
Kennedy
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Murray
Nelson (FL)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Voinovich
Wyden

NAYS—56

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Chambliss
Cochran
Coleman
Conrad
Cornyn
Craig
Crapo
Daschle
Dayton
Domenici
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham (SC)
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Johnson
Kohl
Kyl
Lincoln
Lott
Lugar
McCain
McConnell
Murkowski
Nelson (NE)
Nickles
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Talent
Thomas
Warner

NOT VOTING—6

Campbell
Edwards
Kerry
Lieberman
Miller
Sununu

The amendment (No. 2119) was rejected.

AMENDMENT NO. 2078

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be 2 minutes of debate equally divided prior to a vote in relation to the Daschle amendment. I further ask unanimous consent that the remaining two votes in this series, this one and the vote on final passage, be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I yield back all of the remaining time.

The PRESIDING OFFICER. All time is yielded back.

Mr. BENNETT. Mr. President, I move to table the Daschle amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 58, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS—36

Allard
Allen
Bayh
Bennett
Bond
Brownback
Bunning
Chafee
Chambliss
Cochran
Coleman
Cornyn
Corzine
Craig
Crapo
Dole
Durbin
Fitzgerald
Frist
Hatch
Hutchison
Inhofe
Kyl
Lautenberg
Lincoln
Lugar
McCain
McConnell
Nelson (FL)
Nickles
Pryor
Roberts
Santorum
Stevens
Talent
Voinovich

NAYS—58

Akaka
Alexander
Baucus
Biden
Bingaman
Boxer
Breaux
Burns
Byrd
Cantwell
Carper
Clinton
Collins
Conrad
Daschle
Dayton
DeWine
Dodd
Domenici
Dorgan
Ensign
Enzi
Feingold
Feinstein
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Leahy
Levin
Lott
Mikulski
Murkowski
Murray
Nelson (NE)
Reed
Reid
Rockefeller
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Thomas
Warner
Wyden

NOT VOTING—6

Campbell
Edwards
Kerry
Lieberman
Miller
Sununu

The motion was rejected.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, with the motion to table having failed, I ask for a voice vote on the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2078.

The amendment (No. 2078) was agreed to.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, we are ready to move to final passage. I have some housekeeping details before we do that.

AMENDMENTS NOS. 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2085, 2130, 2131, 2132, 2133, AND 2134, EN BLOC

Mr. BENNETT. Mr. President, I send to the desk a group of amendments, all of which have been cleared on both sides, and I ask unanimous consent that they be considered en bloc and that they be approved en bloc by voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendments.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 2121

(Purpose: To increase funding for the removal of trees that have been adversely affected by the emerald ash borer, with offsets)

On page 3, line 12, strike "$119,289,000" and insert "$118,789,000".

On page 5, line 1, strike "$188,022,000" and insert "$187,022,000".

On page 17, line 16, after "eradication zones" insert "; and of which not less than $1,500,000 (in addition to any other funds made available for eradication or containment) shall be used by the Emerald Ash Borer Task Force for the removal of trees that have been adversely affected by the emerald ash borer, with a priority for the removal of trees on public property or that threaten public safety".

AMENDMENT NO. 2122

(Purpose: To require the Secretary of Agriculture to report to Congress on acquisitions made by the Department of Agriculture of articles, materials, or supplies manufactured outside the United States)

On page 6, line 12, strike the period at the end and insert ": *Provided further*, That of such amount, sufficient funds shall be available for the Secretary of Agriculture, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Agriculture during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Agriculture that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Agriculture shall make the report publicly available by posting the report on an Internet website.".

AMENDMENT NO. 2123

(Purpose: To permit the use of remaining fiscal year 2003 funds to carry out the program of loans and loan guarantees to provide access to broadband telecommunications services in rural areas)

On page 76, strike lines 1 through 5 and insert the following:

SEC. 749. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $20,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)) for fiscal year 2004.

AMENDMENT NO. 2124

(Purpose: To control and alleviate the cormorant problem in the State of Michigan)

On page 17, line 16, before the colon, insert the following: "; and of which up to $275,000 may be used to control or alleviate the cormorant problem in the State of Michigan".

AMENDMENT NO. 2125

(Purpose: To provide minimum funding for certain types of agricultural management assistance)

On page 78, strike lines 8 through 16, and insert the following:

SEC. 759. AGRICULTURAL MANAGEMENT ASSISTANCE.

Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1542(b)(4)(B)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(2) by adding at the end the following:

"(iii) CERTAIN USES.—Of the amounts made available to carry out this subsection for each fiscal year, the Commodity Credit Corporation shall use not less than—

"(I) $15,000,000 to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service; and

"(II) $2,000,000 to provide organic certification cost share assistance through the Agricultural Marketing Service.".

AMENDMENT NO. 2126

(Purpose: To authorize the Secretary of Agriculture to make funding and other assistance available through the emergency watershed protection program to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and to waive cost sharing requirements for the funding and assistance)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 __. EMERGENCY WATERSHED PROTECTION PROGRAM.

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized hereafter to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and to waive cost sharing requirements for the funding and assistance.

AMENDMENT NO. 2127

(Purpose: To expand the business size restrictions of the Rural Business Enterprise Grant Program for Oakridge, OR)

At the appropriate place, insert the following:

"The Secretary may waive the requirements regarding small and emerging rural business as authorized under the Rural Business Enterprise Grant program for the purpose of a lease for the Oakridge Oregon Industrial Park."

AMENDMENT NO. 2128

(Purpose: To provide funds to carry out the historic barn preservation program, with an offset)

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $2,000,000.

On page 58, line 19, strike "$90,435,000" and insert "$88,435,000".

AMENDMENT NO. 2129

(Purpose: To modify the requirements for a water and waste disposal grant to the Alaska Department of Community and Economic Development)

At the appropriate place, insert the following:

SEC. ___. WATER AND WASTE DISPOSAL GRANT TO THE ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

Notwithstanding any other provision of law—

(1) the Alaska Department of Community and Economic Development may be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is up to 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska;

(2) the Alaska Department of Community and Economic Development may be allowed to pass the grant funds through to the local government entity that will provide water and sewer service to the hospital; and

AMENDMENT NO. 2085

(Purpose: To permit the enrollment in the conservation reserve program of certain land on which trees have been planted)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. CONSERVATION RESERVE PROGRAM.

Land shall be considered eligible land under section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) for purposes of enrollment into the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) if the land—

(1) is planted to hardwood trees as of the date of enactment of this Act; and

(2) was enrolled in the conservation reserve program under a contract that expired before the date of enactment of this Act.

AMENDMENT NO. 2130

(Purpose: To prohibit the use of funds to purchase chickens treated with fluoroquinolone)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. PROHIBITION OF USE OF FUNDS TO PURCHASE CHICKEN TREATED WITH FLUOROQUINOLONE.

After December 31, 2003, none of the funds made available by this Act may be used to purchase chickens or the products of chickens for use in any program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), unless the supplier provides certification that the supplier does not feed or administer fluoroquinolone to chickens produced by the supplier.

AMENDMENT NO. 2131

(Purpose: To provide loan guarantees for major projects for certain renewable energy systems)

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . RENEWABLE ENERGY SYSTEM LOAN GUARANTEES.

Title IX of The Farm Security and Rural Investment Act of 2002 is amended by adding the following new section:

Sec. : Renewable Energy System Loan Guarantees.

"LOAN GUARANTEES FOR CERTAIN PROJECTS.—

"(1) DEFINITION OF SUBSIDY COSTS.—In this subsection, the term 'subsidy costs' has the meaning given the term 'cost' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(2) PROJECTS.—Subsection (c)(1) shall not apply to a loan guarantee made under this subsection to carry out a project if—

"(A) the loan will be used—

"(i) to purchase a renewable energy system that has, as 1 of its principal purposes, the commercial production of an agricultural commodity; and

"(ii) to promote a solution to an environmental problem in a rural area of the State in which the project will be carried out;

"(B) the lender of the loan exercises due diligence with respect to theborrower of the loan;

"(C) the borrower of the loan pays in full, before the guarantee is issued, a guarantee fee in the amount of the estimated subsidy cost of the guarantee, as determined by the Director of the Office of Management and Budget;

"(D) except as provided in subparagraph (E), the principal amount of the loan is not more than $25,000,000;

"(E) the principal amount of the loan is more than $25,000,000, but is not more than $75,000,000, if the Secretary—

"(i) approves the loan application; and

"(ii) does not delegate the authority described in clause (i);

"(F) the project requires no Federal or State financial assistance, other than the loan guarantee provided under this subsection; and

"(G) the project complies with all necessary permits, licenses, and approvals required under the laws of the State.

"(3) COST SHARING.—

"(A) IN GENERAL.—The amount of a loan guarantee under this subsection for a project described in paragraph (2) shall not exceed 80 percent of the total project cost.

"(B) SUBORDINATION.—Any financing for the non-Federal share of the total project cost shall be subordinated to the federally guaranteed portion of the total project cost.

"(4) LOAN GUARANTEE LIMITS.—The loan guarantee limitations applicable to the business and industry guarantee loan program authorized under section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) shall apply to loan guarantees made under this subsection.

"(5) MAXIMUM AMOUNT.—

"(A) INDIVIDUAL LOANS.—The amount of principal for a loan under this subsection for a project described in paragraph (2) shall not exceed $75,000,000.

"(B) ALL LOANS.—The total outstanding amount of principal for loans under this subsection for all projects described in paragraph (2) shall not exceed $500,000,000.

"(C) The Secretary shall publish a proposed rule to carry out this section within 120 days of enactment of this Act."

AMENDMENT NO. 2132

(Purpose: To clarify the Secretary may use competitive research grant funds for certain requests for proposals)

On page 71, line 2, before the period, insert the following: ", including requests for proposals for grants for critical emerging issues described in section 401(c)(1) of that Act for which the Secretary has not issued requests for proposals for grants in fiscal 2002 or 2003".

AMENDMENT NO. 2133

(Purpose: To increase funding for guaranteed broadband loans, with an offset)

On page 47, line 13, strike "$335,963,000" and insert "$647,000,000".

On page 48, line 2, strike "$9,116,000" and insert "$15,116,000".

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. REDUCTION IN TRAVEL AMOUNTS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, each amount provided by this Act for travel expenses is reduced by the pro rata percentage required to reduce the total amount provided by this Act for such expenses by $6,000,000.

(b) REPORT.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to subsection (a).

AMENDMENT NO. 2134

(Purpose: To modify the requirements for a water and waste disposal grant to the city of Postville, Iowa)

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. WATER AND WASTE DISPOSAL GRANT TO THE CITY OF POSTVILLE, IOWA.

Notwithstanding any other provision of law, the city of Postville, Iowa, shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service in the city.

AMENDMENT NO. 2128

Mr. JEFFORDS. Mr. President, I thank Chairman BENNETT and Ranking Member KOHL for their leadership in crafting the Senate's version of the 2004 Agriculture appropriations bill. I appreciate their willingness to work with me to include $2 million in funding for the Historic Barn Preservation Program. This program was authorized in the 2002 farm bill, but until now has not received any funding.

Our Nation's aging barns are important symbols of our agricultural heritage, and we must see that they remain a part of our landscapes. This program was established to preserve barns that are in danger of falling beyond repair due to decades of deferred maintenance. To qualify, a barn must be at least 50 years old. Preservationists are especially concerned with the oldest barns, many are more than 200 years old and some date back as far as 1790.

Before this program can be successfully implemented. Congress must give it adequate funding. My amendment, which would provide $2 million in funding for the barn preservation program, will address the growing demand for historic preservation in our rural communities by documenting and researching appropriate techniques and best practices for protecting these treasures.

I am not alone in urging funding for the barn preservation program. Last June, I led a bipartisan group of 24 Senators who sent a letter to the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies urging that $10 million be included for this program.

The Historic Barn Preservation Program also enjoys support from the preservation community. The National Trust for Historic Preservation has endorsed this program as well as numerous State preservation groups from across the country. We all recognize that preservation of these barns will not only ensure their survival for generations to come, it will provide practical benefits to the farmers that own them and the communities and economies that surround them.

Clearly, working structures such as these barns have as much to offer to our understanding of U.S. history as the birthplaces of our leaders or battlefields where our soldiers fought and died. These barns have served various functions, whether as military hospitals, refuges for slaves making their way along the Underground Railroad, local school buildings or temporary shelters for families moving west as our country's border expanded to the Pacific Coast.

In my home State of Vermont, the State Historic Preservation Office currently administers a small grant program for barn preservation that has been funded by the Vermont Legislature since 1993. While this program has been very successful, applications continue to significantly outnumber the grants made through this program. For example, out of 60 annual requests, the program only has the resources to fund 15 to 20 of those requests.

Federal funding through the new national Historic Barn Preservation Program will help address the growing backlog of requests for barn preservation grants in Vermont and across the country.

Mr. President, I again thank the two managers of this bill and urge my colleagues to support this amendment.

AMENDMENT NO. 2130

Mrs. CLINTON. Mr. President, I am pleased to offer an amendment to the Agriculture appropriations bill that will mean healthier food for school kids in New York and across the country.

The amendment prohibits the use of funds from this bill for the purchase of chickens or products of chickens, unless the supplier provides certification that the supplier does not feed or administer fluoroquinolone to chickens produced by that supplier.

This is a modest step forward in dealing with the growing problem of antibiotic resistance.

The antibiotics we are dealing with in this amendment are called fluoroquinolones. Fluoroquinolones, a class of antibiotics that include Cipro, are the first choice in treating severe food poisoning and other diseases in humans.

The Food and Drug Administration has determined that the use of fluoroquinolones in poultry contributes to increasing numbers of people becoming infected with antibiotic resistant Campylobacter, which causes severe abdominal pains, fever, and diarrhea. In essence, by using fluoroquinolones in our food, we are ensuring that more and more people will become resistant to certain infections, meaning more and more sick people.

Corporate America is already responding to this pressing issue. The fast food chains McDonald's, Wendy's, and others have pledged not to use chicken that has been treated with fluoroquinolones in an effort to protect their customers.

But the USDA continues to purchase chicken for the National School Lunch Program that has been treated with fluoroquinolones despite warnings about health risks and the availability of chickens that have not been treated with fluoroquinolones, and so do the schools that receive USDA money through the lunch program. The New York City Board of Education, for example, does not have a policy in place to ensure that chickens that New York City school kids eat have not been fed fluoroquinolones. And there are approximately 820,000 New York City school students and 1.4 million students across New York State that are in the School Lunch Program.

Tyson, Gold Kist, and Purdue are all leading chicken producers that have committed to stop using fluoroquinolones in their chickens. The USDA and schools across the country could purchase chicken from these producers and others that do not use fluoroquinolones, without experiencing a negative economic impact.

So this amendment says that no School Lunch Program funds can be used by the USDA or the schools to purchase chickens from suppliers that have not provided certification to the Secretary that they do not feed or administer fluoroquinolone to the chickens they produce.

It is so important that we take this step. Children are at a greater risk to suffer from food borne illness and infections from antibiotic-resistant bacteria. Data from the Centers for Disease Control show that between 1990 and 1999 the number of food-borne illness outbreaks in schools rose 10 percent per year. Over this time period, 16,000 children have gotten sick from school outbreaks.

All this amendment says is that children eating chicken provided by the School Lunch Program should be protected as much as customers at McDonald's and Wendy's.

I am pleased that the Senate is taking a first step today to protect our school children from possible resistant infections by approving this amendment. I thank Senators BENNETT and KOHL for their support, and I look forward to working with my colleagues to ensure that this provision is retained in conference.

Mr. BENNETT. Mr. President, at the request of the majority leader, I would like to have Senator DOMENICI recognized for a short colloquy and Senator WARNER recognized for a short announcement.

The PRESIDING OFFICER. The Senator from New Mexico.

MENTAL HEALTH PARITY

Mr. DOMENICI. Mr. President, there have been a lot of questions as to the status of the mental parity bill and where we are going and what our plans are from those who have been working on it for a long time. I remind everyone that this bill has been supported by large numbers of Senators.

We have had our difficulties the last year. Without going into detail, we have had difficulties trying to get this worked out for hearings in the House. We are in a position where we cannot get that done.

Now we are in a position where we can tell the Senators that the committee of jurisdiction, under the leadership of JUDD GREGG, is looking at a substitute which seems acceptable to the community that helped us on the bill and that the chairman indicates will have a high priority in his committee the early part of next year. That means we should be passing mental parity in the first couple of months of the next session.

I note the presence on the floor of my principal cosponsor, since the demise of Senator Wellstone, Senator KENNEDY. We have discussed this at length. I believe he concurs that this is the best approach. Our majority leader agrees. The minority leader agrees, as does the chairman of the committee of jurisdiction.

I would be pleased if Senator KENNEDY will comment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we are talking about the Wellstone Mental Health Act. Senator DOMENICI and Paul Wellstone worked in this area and were leaders in mental health parity. There are now 67 cosponsors of this legislation. For a number of reasons, we have not been able to get this matter either scheduled or considered.

As I understand what Senator DOMENICI is now saying, from his conversations with the Republican leader, we will have some assurance that we will have this matter before the Senate.

I just talked with the chairman of the HELP Committee, Senator GREGG, who said he would make this a first order, a priority in the next session.

I think what the community is looking for is assurance there would be Senate action. I understand from Senator DOMENICI he is fully committed to work and make sure the Senate is going to have an opportunity to address this issue in the early weeks of this next session. Am I correct?

Mr. DOMENICI. Absolutely. There is no diminution of interest on my part. I started this many years ago. We did pass it. Now we have to pass it on a full scale, and we will. We have to wait now for reasons out of our control, but it will get done early next year.

Mr. KENNEDY. Mr. President, with the assurances of the Senator from New Mexico as a senior member of this body and one all of us know, I have great confidence in him and know of his strong passion in this area. I think it is enormously important for our communities across this country, and I certainly welcome those assurances.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I want to acknowledge as well the efforts the Senator from New Mexico has made to get us to this point. Many of us had hoped we could complete our work on the bill in the Senate this year. I know it is a disappointment to him we have not been able to do that, but with the assurances he has given us tonight, working with the chairman, the ranking member, and certainly the majority leader, it would be my hope the very first legislation we take up in the second session will be this legislation. We will work with him, and I hope we could have that commitment from people on both sides of the aisle. I appreciate his efforts tonight to bring us to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to address the members of the Senate Armed Services Committee on both sides of the aisle. The House of Representatives is remaining in session until the wee hours of the night in the hopes they can receive from the Senate a conference report with sufficient signatures on it by which we can get the bill passed early next week. I am working with my distinguished ranking member, Senator LEVIN, and others. To those who can sign it at this point in time, I would greatly appreciate it.

I ask Senator LEVIN be given a chance to reply.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I did not hear the beginning of that statement, but we are awaiting the document so we can read it. We would be happy to give an answer as promptly as we can, after the document is completed, but I understand there is some unfinished business and uncertainty that needs to be looked at.

Mr. WARNER. The Senator is correct. Given that this could well mean many Senators will leave, I just wish to put them on notice we have this one shot to get it done so we can have it on the calendar next week.

Mr. LEVIN. I think we all hope it gets finished, but it is not finished yet.

Mr. WARNER. I thank the Chair.

AMENDMENT NO. 2135

Mr. BENNETT. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas, Mrs. HUTCHISON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mrs. HUTCHISON, proposes an amendment numbered 2135.

Mr. BENNETT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . TEXAS RICE SAFEGUARD INITIATIVE.

(a) IN GENERAL.—In order to provide a safeguard against the further decline of the rice industry and wildlife habitat in Texas, and to provide information to the congress in anticipation of and preparation for the 2007 bill, the Secretary of Agriculture shall conduct the initiative required under this section.

(b) ADMINISTRATIVE IMPROVEMENTS.—As an integral part of the safeguard initiative—the Secretary of Agriculture shall review the administration and enhance the enforcement of section 1105(a)(1)(E) of Public Law 107–171 as it relates to and is applied to the control of noxious weeds and the proper application and implementation of the conserving use requirements on rice base acreage in Texas.

(c) REPORTS TO CONGRESS.—The Secretary shall review and evaluate the costs, benefits and effects of the safeguard initiative on rice producers, including tenant rice producers, the rice milling and processing industry, wildlife habitat, and the economies of rice farming areas in Texas, detailed by each of these affected interests and by the program variables involved in the safeguard initiative under subsections (b) and (c), including whether or not producers on a farm have qualified plantings. The Secretary shall provide to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives an annual report detailing the progress and findings of the initiative not later than February 1 of each of the years 2005 through 2007.

Mr. BENNETT. The amendment has been cleared on both sides. It was inadvertently left out of the other stack of amendments that were submitted. I ask that the amendment pass on a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2135) was agreed to.

Mr. BENNETT. Mr. President, we have come to final passage. May I take the opportunity once again to thank Senator KOHL and his staff for the cooperative way in which they have worked to get us to this point. I appreciate very much the support of all Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah.

AMENDMENT NO. 2084, VITIATED

Mr. BENNETT. Mr. President, I ask unanimous consent to vitiate the adoption of amendment No. 2084.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2073

Mr. BENNETT. Mr. President, I ask unanimous consent to adopt the pending Kohl amendment, No. 2073.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2073) was agreed to.

Mr. BENNETT. Mr. President, I ask unanimous consent that following the vote on final passage, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate——

Mr. BYRD. Mr. President, may we have order in the Senate so we can understand what the Senator is saying.

The PRESIDING OFFICER. The Senator is correct. The Senate will come to order.

Mr. BENNETT. I ask unanimous consent that following the vote on final passage, the Senate insist on its amendments, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate to consist of the members of the subcommittee and Senators STEVENS and BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I ask unanimous consent to reconsider the votes of all the amendments that have been sent forward and for that motion to be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

Mr. BENNETT. I have nothing further to say.

INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS

Mr. HARKIN. The 2002 farm bill reauthorized and increased funding for the Initiative for Future Agriculture and Food Systems, IFAFS, competitive grants program, a program originally authorized as section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998. The Initiative supports outcome-oriented, integrated research, extension, and education competitive grants to address critical emerging agricultural and rural issues related to four key areas: future food production, environmental quality and natural resource management, farm income, and rural economic and business and community development.

The farm bill provides $140 million in mandatory funds from the Commodity Credit Corporation for IFAFS in fiscal year 2004. The appropriations bill before us contains a provision which prohibits the Department from implementing IFAFS in fiscal year 2004. However, the bill also allows the Department to use 20 percent of funding appropriated for the National Research Initiative, NRI, to carry out a competitive grants program under the same terms and conditions as those provided in the farm bill for IFAFS. The bill as amended also requires the Department, in implementing this provision, to request grant proposals, among the four critical emerging issues required by law, for which the Department has not issued requests for proposals for grants in fiscal year 2002 or 2003.

I ask the distinguished chairman and ranking member if it is their understanding that in requiring this funding set-aside to be carried out under the same "terms and conditions" as the IFAFS program that the Senate bill intends for the Department to ensure that over time, all four statutorily-designated purposes for IFAFS spending are subjects for requests for proposals and reflected in the overall research portfolio of this portion of the NRI?

Mr. BENNETT. The Senator is correct.

Mr. KOHL. I agree that the Department should fulfill their responsibility to give effect to all the provisions of the IFAFS program.

Mr. HARKIN. Is it further the understanding of the Senator that the language added by amendment today requires the Department to request proposals that specifically enhance farm income and rural economic, business, and community development?

Mr. BENNETT. Yes. It is my understanding that these two critical emerging issues have not been funded in the previous two fiscal years.

Mr. KOHL. I would also concur, and would add that it would be my hope the Department would give particular consideration to farm income-enhancing projects that advance the statutory priority mission area related to small and medium-size farm viability and competitiveness.

Mr. HARKIN. I thank the distinguished chairman and ranking member. I would also point out to my colleagues that the 2002 farm bill provided specific direction for the Department to pursue grant making for integrated research, education, and extension in key areas related to rural and agriculturally-based development and farm profitability and rural entrepreneurship. I would inform my colleagues that it is my intent to ensure the Department solicits proposals in at least some of these critical areas during fiscal year 2004.

CONSERVATION TECHNICAL ASSISTANCE PROGRAM

Mr. ENZI. Mr. President, I wish to thank my colleague from Utah, the distinguished chairman of the Senate Agriculture Appropriations Subcommittee, for his leadership in bringing this important spending bill to the floor. Wyoming is greatly impacted by this bill, and Senator BENNETT's leadership is very much appreciated. Because of this tremendous impact on Wyoming, I would like to ask my colleague if he would join me in a colloquy to discuss one of the programs that is funded in his bill. Specifically, I would like to discuss the Department of Agriculture's Conservation Technical Assistance Program that is administered through the Natural Resources Conservation Service and its potential impact on land management planning on private lands within the U.S. Forest Service's Thunder Basin National Grasslands.

Mr. BENNETT. I would be glad to join my colleague from Wyoming in a discussion and I agree with him that this is an important program for the West, and, if it is implemented properly, it should help States such as Wyoming and Utah, maximize local conservation efforts by allowing them to target dollars where they are needed most.

Mr. ENZI. I would like to share one example of an effort in Wyoming that has already benefited from this program and which I feel could greatly benefit in the future from its continued participation. Three years ago I met with officials from the Thunder Basin Prairie Ecosystem Association, the Department of Interior and the U.S. Department of Agriculture to discuss the role that private landowners could play in developing land management plans on Western National Grasslands. The Landowners Association presented a revolutionary proposal to combine the talent and resources of all local landowners to develop an Ecosystem Assessment and to enter into a series of Ecosystem Management Strategy and Conservation Agreements with the Forest Service and the U.S. Fish and Wildlife Service that would integrate a comprehensive, multispecies land management proposal for more than 260,000 acres of Federal and private lands within the U.S. Forest Service's Thunder Basin National Grasslands.

Their proposal was to first establish a scientific baseline where they cataloged what was on the land and what species existed. Then they proposed to use that baseline to make ecosystem-wide management decisions that would make the land as a whole more vibrant and more sustainable for a number of species, including the black-tailed prairie dog, the black footed ferret and the sage grouse. What they would not do was make management plans based on the presence or absence of any one specific species or to pit different species' habitat requirements against each other. Their goal was to make the land healthier as a whole so that all species would be better off.

As a result of their efforts the Department of Interior was able to provide an initial grant to the Association through the Landowner's Incentive Program of $150,000 that allowed them to assemble an advisory committee made up of national grasslands experts that has helped them develop scientific research and monitoring protocols that are now being used to establish baseline information on area wildlife and ecosystem concerns. In fiscal year 2003, we funded this program at $175,000 which allowed the association to continue its monitoring efforts and to host a symposium in Wyoming on cooperative land use efforts. These funds, however, fell short of what the association was hoping to accomplish and their 5-year goals have been pushed back due to this lack of funding.

I would like to see this group funded again in fiscal year 2004 to ensure that their efforts have not been wasted. It would be most effective, however, if the association was funded at $582,000 out of the Conservation Technical Assistance at NRCS so the group could get back on track and complete its planning process on schedule.

I ask my colleague if he has any thoughts on whether or not we could recommend funding this program through the NRCS?

Mr. BENNETT. I agree with my colleague that this appears to be a worthy project whose goals of habitat protection and species restoration are consistent with the expressed goals of the Conservation Technical Assistance Program. I believe this innovative effort should be considered for funding by the Department of Agriculture, and I encourage them to work with the association to make these funds available.

Mr. ENZI. I thank my colleague for his thoughts and once again express my appreciation for his leadership in these important issues. I thank the chair for the opportunity to discuss this program.

CONTROL OF GEESE IN THE STATE OF NEW YORK

Mr. SCHUMER. Mr. President, I would like to take a moment to thank Senator KOHL for his generosity in including the increase of $200,000 for the control of the numerous species of birds that cause hardship throughout New York. When making the request, I meant for the money to be increased specifically to address needs of the Hudson Valley and parts on Long Island to control their populations of geese and ask that the report specifically refer to "an increase of $200,000 for the control of geese in the State of New York."

Mr. KOHL. I thank the Senator for bringing this to our attention. We will do what we can.

PROJECTS OF INTEREST IN LOUISIANA

Ms. LANDRIEU. Mr. President, I thank the chairman and ranking member of the Senate Agriculture Appropriations Subcommittee for the opportunity to address several issues as the Agricultural Appropriations Bill for fiscal year 2004 is considered on the floor of the Senate as well as in a conference with House Agricultural Appropriations Bill for fiscal year 2004. It is my intention in this statement to express positions with respect to several areas of particular importance to me and my State of Louisiana that the chairman and ranking member will take during conference with the House. I would also like to thank both the chairman and ranking member for the number of my requests that were addressed in S. Rept. 108–107.

There are several instances in the report where the committee expresses its desire that the agency give consideration to projects of interest and concern to entities in Louisiana. This reflects the committee's finding that these projects are worthy and deserve consideration by the agency. Therefore, I urge you and the chairman of the Appropriations Subcommittee on Agriculture, Senator BENNETT, to join me in further announcing our desire that the Secretary of Agriculture give consideration to the following projects when granting any available funds through programs for which these projects may be eligible.

First, the Union-Lincoln Parish Water Supply Initiative is a crucial project which has focused on the depletion of the Sparta Aquifer, a natural aquifer which is the primary source of drinking water for North Louisiana and Southern Arkansas. The Sparta Groundwater Conservation District recently released initial information from its analysis of the Sparta formation indicating that demand must be cut from a projected 72 million gallons per day to 54 million gallons per day over the next 10 years. To offset this gap between demand and available supply, alternative sources including river water, reservoir water, as well as possible other aquifers must be examined. The committee recognized this need on page 112 of S. Rept. 108–107.

Second, the Bawcomville Flood Control Pumps, originally constructed in 1955, protect two residential communities against flooding from the Ouachita River. Additional pumping capacity is required to reduce interior flooding and accommodate urbanization. The committee recognized this need on p. 110 of S. Rept. 108–107.

Third, the Southern Training and Social Service Complex is of vital importance to the communities and economy of central Louisiana. This facility will provide a sports program and afterschool juvenile program for at-risk youths in the central Louisiana area. The committee recognized this need on p. 111 of S. Rept. 108–107.

Fourth, the Town of Golden Meadow, LA, requires improvements to the drainage infrastructure on one of its main thoroughfares, Jefferson Street. The committee recognized this need on p. 110 of S. 108–107.

Fifth, the Town of Golden Meadow, LA, requires a multi-purpose building that would serve as the center for emergency response during hurricanes and other catastrophic times. The committee recognized this need on p. 110 of S. 108–107.

Sixth, Continental Structural Plastics in Spring Hill, LA, requires plastic extruding equipment to manufacture plastic railroad ties for the proposed new railroad line that would bring needed economic development in the area. The committee recognized this need on p. 111 of S. 108–107.

Lastly, the Greater Ouachita Port Commission seeks to establish a facility that will provide for the operation of a river port and commercial park, comprehensively connecting Ouachita Parish and the surrounding area to international trade and commerce. The committee recognized this need on p. 111 of S. Rept. 108–107.

Mr. KOHL. I would be pleased to assist you in any way with these worthy projects. Additionally, I will entertain the possibility of joining you in addressing the Secretary of Agriculture by way of a letter regarding these specific projects and, if appropriate, will encourage our colleague, Chairman BENNET, to participate as well.

AGRO-TERRORISM

Mr. HARKIN. Mr. President, it is widely felt that we need to do more to protect field crops, farm animals and food processing and distribution of food from terrorist acts. I understand that is the view of the Departments of Agriculture and Homeland Security. State and local governments and the private sector all play an integral role in detecting, deterring, and responding to acts of agro-terrorism.

We need coordination among the States in regard to subjects like laboratory capacity and testing protocols; training and education protocols; the tracking of animal and food product movements; and post-incident actions such as rapid response teams, common incident command structures, quarantine procedures, public information management strategies, and coordination with the Centers for Disease Control and Prevention and State and local public health authorities.

I believe that the Department of Agriculture needs to be as supportive as possible of such efforts.

Mr. KOHL. Mr. President, the Senator from Iowa raises a good point. Although funds are tight, we should work to determine how we can improve our Federal agro-terrorism defenses and work to help the States improve their efforts as well. The potential economic loss from such an event is huge. The danger to human lives could be dramatic. I would like to work with the Senator from Iowa to see what we can do to improve our efforts in this area in conference.

Mr. BENNETT. Mr. President, the Senators from Iowa and Wisconsin raise a very important issue. We all hope that we will never have to find out how good the systems designed to block or mitigate against agro-terrorism are because of an actual attack. But, unfortunately we live in a world where we must prepare for such threats to the maximum extent feasible within our available resources. This is an area where the conference committee should explore the options that are before us to improve our Nation's defensive systems against threats to our agriculture and food systems.

GINSENG

Mr. FEINGOLD. I have long advocated for the honest and accurate labeling of ginseng products. Some products previously claimed to include a product known as 'Siberian Ginseng,' a bush that is distinctly different from ginseng root. I was pleased when portions of the Ginseng Truth in Labeling Act, a bill I introduced in the 107th Congress, were included in the Farm Security and Rural Investment Act of 2002. These provisions promote fair trade practices and accurate labeling of ginseng products sold in the United States.

The Food and Drug Administration (FDA) has issued a direct final rule regarding the labeling of dietary supplements containing ginseng (68 Fed. Reg. 167, August 28, 2003), and indicated that the industry must currently be in compliance with this labeling law. However, FDA has noted in correspondence that it had a number of other priorities that:

> . . . required the use of many of the Agency's limited resources, including enforcement resources, which would otherwise have been available for other important FDA programs and activities.

I want to thank the chairman and the ranking member of the Agriculture

Appropriations Subcommittee for their work on determining funding priorities for FDA. I ask if the ranking member would participate with me in a brief colloquy on this subject.

Mr. KOHL. On behalf of our home State of Wisconsin, where 97 percent of the U.S. ginseng crop is produced, 85 percent of the country's ginseng being grown in Marathon County alone, I will happily engage in a colloquy.

Mr. FEINGOLD. Now that we have this ginseng labeling law on the books, enforcement action is needed. Many of my constituents are concerned that some domestic and foreign companies continue to label and market certain products as ginseng when they are in fact a distinctly different product. We must give ginseng growers the support they deserve by enforcing this law that also helps consumers make informed choices about the ginseng that they consume.

The FDA Foods program has the primary responsibility for assuring that dietary supplements in this country are safe, sanitary, nutritious, wholesome, and honestly labeled. Is it your understanding that this bill contains the resources for FDA to carry out such enforcement action?

Mr. KOHL. That is my understanding.

Mr. FEINGOLD. I thank my friend, Mr. KOHL, the Senior Senator from Wisconsin.

USDA EFFORTS TO ERADICATE THE EMERALD ASH BORER

Mr. LEVIN. Mr. President, I am pleased that S. 1427 acknowledges the problem posed by the emerald ash borer. To date, tens of thousands of Ash trees in my home State of Michigan have died due "to infestations of the emerald ash borer," and I am glad that this bill provides $1 million for efforts to remove Ash trees that have been claimed by this invasive species.

I appreciate the efforts made by the Agricultural Appropriations Subcommittee to acknowledge and address the devastation caused by the emerald ash borer in Michigan, Ohio and Ontario, Canada, and which is threatening to spread.

The provision of funds contained in this legislation will assist local communities in removing trees that have been killed by this invasive species. It is also my understanding that USDA's Animal Plant Health Inspection Service—APHIS—provided $14.8 million in fiscal year 2003 funds to assist with efforts to contain and eradicate the emerald ash borer.

Michigan's Governor, Jennifer Granholm, has requested that USDA provide $33 million in fiscal year 2004 funds for further efforts to combat this pest. These funds are vitally needed; however, efforts to combat the emerald ash borer should not be dependent upon the provision of emergency funds each new fiscal year. USDA must develop a multi-year plan for eradicating the ash borer.

Mr. KOHL. I agree. The continued presence of the emerald ash borer threatens the ash tree population not only in Michigan, but across our nation. USDA should develop a clear plan for eradicating the ash borer. The committee shares your concerns about the presence of the emerald ash borer in Michigan and other states and asks that APHIS provide Congress with a report on the plan and estimated cost of eradicating the pest.

WINE GRAPE FOUNDATION BLOCK FUNDING

Mrs. MURRAY. Senator KOHL, in fiscal year 2003, Congress provided $150,000 to the Agriculture Research Service in Prosser, WA, to help with the development of a foundation block of certified. "clean" rootstock.

The rapid expansion of the Washington wine industry has raised concerns that new vineyards will use noncertified, diseased rootstock that could economically devastate the Washington wine industry.

I recently learned that ARS did not dedicate all of the fiscal year 2003 funding to this project, but other research projects as well.

The fiscal year 2004 Agriculture Appropriations bill provides $150,000 to ARS to continue this project. The intent of this project is clear and not subject to interpretation by ARS. I ask that the record reflect that this funding is to develop a wine grape foundation block. In addition, I ask that the conference report accompanying the agriculture bill include language directing ARS to allocate this funding in a manner consistent with congressional intent.

Senator KOHL, do you agree with the intent of this project?

Mr. KOHL. Yes, Senator MURRAY, I agree. Thank you for bringing this issue to my attention. I will work in conference to do what I can to support your request and to include language in the final statement of managers.

Mrs. MURRAY. Thank you Senator KOHL for your support on this issue. This project is critical to the long-term health and viability of my State's wine grape growers and vintners.

Mr. NELSON of Nebraska. Resource conservation is an essential element of our nation's agriculture programs that has proven to be very popular with farmers and ranchers. The incentives incorporated in programs such as the Farmland Protection Program, the Conservation Reserve Program, and the Environmental Quality Incentives Program, have not only heightened the awareness and value of good conservation practices, but they have made it possible for families to constitute limited production and be compensated for protecting fragile resources. The success of these programs is that family farms can retain their economic viability and continue to contribute to the stability of communities throughout the nation.

Conservation programs have touched on many fragile resources, but have not sufficiently encouraged the protection of the historic heritage that is embodied in historic buildings, structures, objects, and archaeological sites on farmland. Congress has declared that the spirit and direction of the nation is reflected in its historic heritage, and that the preservation of this heritage is in the public interest. Therefore, I believe we must work together to protect our common heritage embedded on these private lands.

Senator KOHL, today I am requesting a report to the U.S. Congress from the United States Department of Agriculture evaluating their conservation programs under the Natural Resources Conservation Service and all other USDA county-based farm agencies with the objective of determining what affirmative and programmatic actions are being taken to conserve and protect archaeological and historical resources on agricultural lands. Furthermore, this report should also provide or suggest new methods or program modifications to the conservation programs which will increase the protection of historical and archaeological resources on agricultural lands and help determine the manner in which these type of lands can be included within the overall goal of natural resources protection.

Finally, I am requesting that this report be completed within 120 days of enactment of the Fiscal Year 2004 Agriculture appropriations bill.

Senator KOHL, will you support this request and work towards its inclusion in the final conference report of the fiscal year 2004 Agriculture appropriations bill?

Mr. KOHL. Senator NELSON, I appreciate you bringing this matter to my attention. I will work to include this provision during conference negotiations of this bill.

CHINO BASIN MANURE MANAGEMENT PROJECT

Mrs. FEINSTEIN. Will the Senator yield for a colloquy?

Mr. BENNETT. I am pleased to do so.

Mrs. FEINSTEIN. I thank my distinguished colleague and the chairman of the Agricultural Appropriations Subcommittee. As the committee completes its work on the floor and heads to conference to finalize this important bill, I want to call the committee's attention to a unique project in California that has national implications.

I want to call the committee's attention to the Chino Basin Manure Management Project in Southern California. This project is funded through the National Resources Conservation Service of the U.S. Department of Agriculture.

In fiscal year 2002, this committee provided $10 million for the Chino Basin project. Half of the money was spent for regional flood control, and the other half went to the development and construction of an anaerobic digester facility.

The Manure Management Project is cosponsored by the Inland Empire Utilities Agency and the Milk Producers Council, both in San Bernardino County. The purpose of this project was to explore an innovative and effective solution to the problems associated with vast quantities of animal pollution which naturally results from large-scale dairy operations.

This project collects manure from several thousand local dairy cows, transporting it to a local facility equipped with an industrial size anaerobic digester. The animal waste is placed in a closed, sealed vat, where it is then simultaneously starved of oxygen and heated for several days.

Under normal circumstances, we would typically think of manure as both a cost and a pollutant. However, the end result of this project is the development of two marketable products: methane gas and organic fertilizer. The methane is used in the production of electricity, and the project's proponents are currently in the process of developing a market for the resulting fertilizer.

In addition to creating marketable methane and fertilizer, this project also produces an impressively long list of additional benefits, including improved air quality, reduced groundwater contamination, and even improved health of the cows at the dairy.

A recent estimate indicates that if all the manure in the Chino area was processed in anaerobic digesters this would eventually produce approximately 50 megawatts of renewable electric power per year. Even more significantly, it will also remove significant amounts of air pollutants. For example, the current operational digester removes 15,000 tons of carbon dioxide or its equivalent from the atmosphere per year. The next anaerobic digester built because of its larger capacity will likely triple that amount to about 45,000 tons of CO_2 or its equivalent per year.

The Inland Empire Utility Agency and the Milk Producers Council are seeking funding to expand and refine the application of this and similar technologies. The cost of a second digester is approximately $9 million dollars, and they have already received a commitment from the California Energy Commission for the balance of the necessary funds.

The Inland Empire Utility Agency and the Milk Producers Council are requesting that a $5 million grant be inserted into this appropriations bill.

The first plant—a demonstration of this technology—was built on time and on budget, and is successfully operating today. Although the next phase of this project was contemplated as part of their original program, the National Resources Conservation Service has informed Inland Empire and the Milk Producers Council that funds are unavailable at this time.

The National Resources Conservation Service highlights and salutes this project nationally, as this project has become a de facto "national demonstration project." Communities, water districts, dairymen, and even Indian tribes from across the Nation have gone to Chino to examine this unique partnership between the Chino Basin dairy industry and the local water agency.

The Inland Empire Utilities Agency and Milk Producers Council's request deserves consideration by this committee in the pending appropriations bill. I ask the subcommittee chairman to consider this project as the appropriations bill is finalized.

Mr. BENNETT. I thank the Senator for calling this to the committee's attention.

Mrs. FEINSTEIN. I thank the Senator. I hasten to point out another attribute of this project. As the water quality problems on the Santa Ana River are gradually resolved—and this project certainly contributes to resolving some of those problems—the supply of clean, usable water in Southern California is expanded. It is yet another way to ensure that the Quantification Settlement Agreement on the Colorado River is implemented in a timely and meaningful manner. Utah and the rest of the Colorado Basin States should welcome these types of investment in Southern California.

Mr. BENNETT. Again, I thank the Senator for bringing this issue to my attention. I look forward to working with my colleague on this issue in conference.

MINORITY FARMERS AND CIVIL RIGHTS AT USDA

Mrs. LINCOLN. Mr. President, I rise today to express my concern about the status of minority farmers in the United States and to indicate my hope to the chairman and the ranking member that the final Agriculture appropriations bill for fiscal year 2004 will include meaningful increases in programs that are priorities to the minority farm community.

It is no secret that minority farmers in the United States are an endangered species. In the early 1920s, African Americans owned between 16 million and 19 million acres of land, most of it in the rural South, which includes my home State of Arkansas. At that time, there were over 920,000 farms operated by African Americans in the United States.

However, by the end of the 20th century, African Americans owned only a quarter of the land that they had held a century prior, and the number of African American farmers in the United States had fallen from a peak of almost 1 million to only about 20,000. Scholars estimate that, between 1920 and 1940, African Americans were losing land at a rate of 350,000 acres annually.

Sadly, USDA has done little to address this issue. In fact, many people believe, and I am inclined to agree with them that, if anything, USDA has contributed to the problem. Black farmers have long alleged discrimination at the hands of the Department of Agriculture. Because of this discrimination, thousands of farmers were denied access to USDA loans and other programs and many lost their farms because of the competitive disadvantage at which this placed them.

In the 1990s, these farmers filed a class action suit against USDA seeking redress for this discrimination. As a result of this suit, USDA and the claimants entered into a consent decree. Under that agreement, hundreds of millions of dollars have been paid to African American farmers who were discriminated against by the Department of Agriculture.

While this case was a start, it can never fully compensate black farmers for their losses. In addition, it did little to address the needs of minority farmers—African Americans, Hispanics, and others, who continue to seek to farm today. We can't just look back. We must look forward to keep minorities in farming and to encourage others to begin farming. We can start with the appropriations bill for fiscal year 2004. Comparing the bill before us today with the bill passed by the House of Representatives, I must say that the House-passed bill is better for minority farmers. Recognizing that money is tight and that the chair and ranking member have worked arduously to craft a bipartisan bill, I have decided not to offer an amendment to this bill to increase funding for programs that affect minority farmers, such as the Office of Civil Rights and the 2501 Outreach Program for Socially Disadvantaged Farmers. However, it is my sincere hope that as this bill goes to conference committee, the chair and the ranking member will work with their counterparts in the House of Representatives to craft a final bill that closely resembles the House bill with regards to minority farmers and civil rights at the Department of Agriculture.

Mr. HARKIN. Mr. President, I concur with the remarks made by the Senator from Arkansas and also express my support for increased funding for civil rights and for minority farmers at the Department of Agriculture.

In the most recent farm bill, the Committee on Agriculture once again took up the issue of civil rights at USDA. Dismayed by continued complaints from both clients and employees about the inhospitable atmosphere towards minorities at USDA, the farm bill created, for the first time, the position of Assistant Secretary for Civil Rights. That position has been filled for several months now, and I am hopeful that the Assistant Secretary for Civil Rights will be able to create positive movement in this regard. It is past time for USDA to shed the shameful nickname, "The Last Plantation," that many have given it due to its civil rights atmosphere.

The House recognized the necessity of doing more for socially disadvantaged farmers and USDA employees earlier this year when it passed by voice vote an amendment to the Agriculture appropriations bill that increased funding for several important civil rights functions. First, it increased funding for the Office of Civil Rights by several million dollars. These additional funds will enable the Department to clear out its backlog of hundreds of civil rights complaints, many of which stagnate for months and months. We need to wipe the slate clean. As long as USDA is unable to deal with this backlog it will be difficult for it to concentrate on its primary task; preventing such complaints from arising in the first place and making the Department of Agriculture hospitable to all farmers regardless of race, sex, or creed.

The House-passed amendment also increased funding for the section 2501 Program for Socially Disadvantaged Farmers. Despite being the primary program by which to make USDA programs available to minority farmers, the section 2501 program has been flat-funded for several years. The Senate bill before us today provides a little over $3 million for the section 2501 program. This modest increase over last year's funding is a commendable start, but it is not nearly enough. The House bill, on the other hand, increased funding by $5 million to a total of over $8 million. The level provided in the House bill is clearly more consistent with the need to reach out to minority and socially-disadvantaged farmers. I hope that the chairman and ranking member of the committee will agree to the House funding levels for this program in the conference committee.

Mr. BENNETT. The concerns that my colleagues have raised in this regard are important ones and ones that I share. I will do all that I can to address their concerns about minority farmers and civil rights at USDA as we reconcile the Senate and House bills in conference.

Mr. KOHL. I concur with the comments of my colleagues and pledge to work in conference to address their concerns relating to increased funding for the Office of Civil Rights and for the section 2501 Program for Socially Disadvantaged Farmers to the levels agreed to in the House-passed bill.

MCGOVERN-DOLE FOOD AID

Mr. BROWNBACK. Mr. President, the Senate Agriculture appropriations bill only includes $25 million for the McGovern-Dole International Food for Education and Child Nutrition Program. The Bush administration has said that $25 million is not a level adequate to achieve the objectives of this important program. I agree with the administration that $25 million is woefully inadequate and would like to see the Senate fund this program at the $300 million level for which it was originally authorized. However, at a minimum, I contend that the Senate should accept the $56.8 million currently in the House bill.

McGovern-Dole food aid is vitally important because it: one, provides humanitarian assistance by reducing incidence of hunger among the nearly 300 million chronically hungry school-age children and also promotes maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants and children five years old and under, two, enhances literacy and primary education by increasing school attendance of those 120 million school-age children who currently do not attend school—sixty percent of which are girls, and three, reduces terrorism by fostering goodwill toward the United States.

I would like to know the chairman's position on funding for McGovern-Dole food aid.

Mr. BENNETT. I appreciate my colleague bringing this matter to my attention. I agree with my colleague that this is a vital international food aid program that provides much needed humanitarian assistance and increases school enrollment. Thus, I pledge to the Senator from Kansas that I will work in conference to secure the House level of $56.8 million.

Mr. BROWNBACK. I thank the distinguished chairman and look forward to working with him on this matter.

CONSERVATION CROPPING SYSTEMS PROJECT

Mr. CONRAD. Mr. President, I commend the leadership of the Appropriations Committee, and particularly Subcommittee Chairman BENNETT and Senator KOHL for their work on this bill. I wanted to bring to the subcommittee's attention the lack of information on conservation cropping techniques in transitional climate areas.

Conservation cropping systems have proven very effective in reducing soil erosion, saving moisture and increasing yields in arid regions of the country. Unfortunately, the adoption of this type of system has been difficult in climate transition areas where precipitation is more abundant and predictable because there was little or no immediate economic advantage to doing so. Efforts are getting underway to study the use of conservation cropping techniques in southeastern North Dakota, northeastern South Dakota and western Minnesota, a transition area between subhumid and semiarid climates. The goal of the study would be to identify conservation rotations, cover crops, seeding techniques, and residue management practices that would make conservation tillage acceptable and profitable in these climate transition areas. It is my hope that in conference a small Federal investment could be directed to this important study.

Mr. DORGAN. The southeast region of North Dakota is very unique. It has one of the largest concentrations of wetlands. As a result, most of the research that has been conducted on conservation cropping systems does not adapt well to this region. Crops in this region can range from flax to alfalfa to edible peas to corn to wheat. Further, previous studies have not included many of the crops that can be grown in this region or shown how different cropping systems can be made profitable. With the high cost of crop inputs and low commodity prices, producers are looking for ways to make a profit. This study will provide producers with a very good tool to measure one crop rotation against another, thereby increasing their profitability.

Mr. KOHL. I thank my colleagues from North Dakota for bringing this issue to our attention. I agree that such a study on conservation cropping systems in transitional climate areas would be very beneficial, particularly for farmers, and I would be happy to try to assist you in conference.

AMENDMENT NO. 2088

Mr. HARKIN. Mr. President, I say to Senators AKAKA and KOHL, I would like to clarify a specific matter related to amendment no. 2088 to S. 1427 concerning the protection of downed animals. First of all, I applaud their efforts to protect this Nation's food supply and minimize the suffering of nonambulatory animals. The clarification I have concerns animals raised by farmers and then custom processed so that all of the meat and meat products from that animal will be for the farmer's personal use. I understand that this amendment does not affect a Federally inspected facility's ability to engage in this type of processing. Am I correct that consistent with 21 U.S.C. 623(a), this section does not affect the ability of establishments at which inspection occurs under the Federal Meat Inspection Act, 21 U.S.C. 601, to slaughter animals or prepare meat or meat food products on a custom basis where the animal is raised by the person and the meat and meat products are for the exclusive use of the person and the person's household, nonpaying guests, and employees?

Mr. AKAKA. That my understanding.

Mr. KOHL. That is my understanding.

Mr. HARKIN. Thank you for that clarification.

ASIAN LONG-HORNED BEETLE

Ms. STABENOW. Mr. President, I rise to engage in a colloquy with the distinguished senior Senator from

Michigan and the distinguished ranking member of the Agriculture Appropriations Subcommittee. As the ranking member knows, on September 4, 2003, the Asian long-horned beetle was discovered in Woodbridge, Ontario, and the area is under quarantine as the Canadians try to eradicate the infestations. Despite the quarantine in Ontario, the Asian long-horned beetle presents a real threat to Michigan. Currently, there are 180 trash trucks from Ontario that are sent to Michigan's landfills every day. Despite the fact that it is illegal to dump yard waste in Michigan's landfills, these trash trucks have been found to contain this illegal waste. According to a September 22, 2003 report by the Michigan Department of Environmental Quality, MDEQ, entitled, "Report on Waste Inspections at Michigan Landfills," more than 25 percent of the Ontario waste inspected contained yard waste. Waste originating in Ontario had the highest percentage of loads containing yard waste of all out-of-state waste that comes into Michigan, despite Michigan's prohibition. Our Michigan communities are extremely concerned that APHIS has not thoroughly examined the potential threat of infestation that these Canadian trash trucks present.

Mr. LEVIN. Mr. President, I join the junior Senator from Michigan in her concern for this potentially devastating problem. The Canadian yard waste, which includes tree branches and trimmings, poses a serious threat of spreading the Asian long-horned beetle to Michigan. According to the USDA, these beetles lay their eggs in grooves that they chew into the tree's branches and trunk. The beetle requires 1 to 2 years to completely develop from an egg to an adult and feeds on the host tree during that time. Branches and tree scraps brought into Michigan as yard waste could contain beetle eggs and larvae that are embedded in the bark. The Asian long-horned beetle is extremely destructive to hardwood trees, particularly maple, poplar and willow trees. Michigan's tree population has already been severely damaged by the spread of the emerald ash borer beetle, which has killed over 6 million trees in Southeast Michigan and caused over $162 million in damage. The USDA must act immediately to prevent another devastating infestation, the Asian long-horned beetle, from spreading into Michigan.

Mr. KOHL. Mr. President, I thank the distinguished Senators from Michigan and concur with them that this is a problem that must be immediately addressed. I will work in conference to include in the statement of managers language requiring APHIS to do a comprehensive review of their procedures and regulations, and report to Congress by January 1, 2004, on whether or not these regulations and procedures are adequate to prevent the Asian long-horned beetle from entering into Michigan in Canadian trash trucks.

Mr. LEVIN. I thank the distinguished ranking member of the subcommittee.

Ms. STABENOW. I thank the distinguished ranking member of the subcommittee.

PHYTOPHTHORA ROOT ROT

Ms. STABENOW. Mr. President, I rise to engage in a colloquy with the distinguished senior Senator from Michigan and the ranking member of the Agriculture Appropriations Subcommittee. As the ranking member knows, phytophthora root rot is destroying crops and ravaging soil throughout the State of Michigan. Many growers are reporting major losses, despite following recommended control strategies, and it is devastating our cucumber, pole bean and soybean crops. Michigan State University is examining ways to contain and eradicate root rot and they need $184,000 to conduct this critical research. Would the distinguished ranking member work with us in conference to obtain this critical funding?

Mr. LEVIN. Mr. President, I join the Senator from Michigan in asking the distinguished ranking member to give this important project consideration in conference. Phytophthora root rot is a fungus that is destroying crops and once the soil is infested, it must be taken out of production for 10 years. Currently, methyl bromide, which has been used by fresh market growers to control the disease, is scheduled to be phased out in 2005. New research is needed to develop tools that can effectively contain and eradicate this devastating disease.

Mr. KOHL. Mr. President, I thank the distinguished Senators from Michigan, and I will be happy to work with them in conference to obtain funding for this critical phytophthora root rot research at Michigan State University.

Mr. LEVIN. I thank the distinguished ranking member of the subcommittee.

Ms. STABENOW. I thank the distinguished ranking member of the subcommittee.

Mr. LEVIN. Mr. President, I wish to ask my colleagues from Utah and Wisconsin if they are aware of the great need to control erosion and sediment in the Great Lakes region.

Mr. BENNETT. I am told that approximately 63 million tons of topsoil erodes from cropland in the Great Lakes basin each year, reducing agricultural productivity. I am willing to address this problem.

Mr. DEWINE. In the past, this subcommittee has been very supportive of the Great Lakes Basin Soil Erosion and Sediment Control Program. The Great Lakes Basin program is a federal—state partnership, and its goal is to protect and improve Great Lakes water quality by controlling erosion and sedimentation; limiting the input of associated nutrients and toxic contaminants; and minimizing off-site sources of damages to harbors, streams, fish and wildlife habitat, recreational facilities and the basin's system of public works.

Mr. KOHL. The chairman and I understand the importance of this program to the Great Lakes region, and we will do what we can to support the House funding allocation for this program in conference.

GRAPE GENOMICS RESEARCH CENTER AND VITICULTURE CONSORTIUM

Mrs. FEINSTEIN. Mr. President, I wish to express my support for the Fiscal Year 2004 Agriculture appropriations bill and to commend the leadership of the subcommittee for crafting this bill under very difficult financial constraints.

I wish to thank the subcommittee for recognizing the importance of the winegrape and wine industry for the U.S. economy and the economy of California. Winegrapes account for two-thirds of the total U.S. grape crop. Furthermore, grapes are the highest value fruit crop in the U.S. and are the seventh largest agricultural crop in our nation. For my home State of California, the winegrape industry produces $33 billion for the economy, making winegrapes the State's largest agricultural crop. Yet, unlike most of our Nation's largest crops, winegrapes receive no direct farm subsidies.

I would like to ask Ranking Member KOHL about two items in this legislation that involve cooperative research efforts that are essential to the future of the winegrape and wine industry. First, the House legislation includes $3 million in ARS funding for a Grape Genomics Research Center at the University of California at Davis. It is important that this funding level be maintained in the final version of this bill. Funding for such projects is crucial since cooperative research has been behind the success of the winegrape industry. Investment in research must continue if we are to withstand the rigid competition from our world neighbors who would love to replace our industry with their own products. This can only be done with the cooperation of the U.S. Congress to ensure the American wine industry has the necessary resources to continue the cutting edge research and development that has kept this industry competitive.

In California, winegrapes are grown in areas being rapidly developed into urban uses. If our winegrape and wine industry is to continue to thrive, we must be more efficient with our land; we must produce grapes more resistant to diseases; and we must be good neighbors to the surrounding environment. This proposed $3 million investment in viticulture research will ensure that already successful collaborative efforts among the grape and wine industry, universities, and USDA is continued in the years to come. It is a wonderful investment into our industry's future. I ask Senator KOHL that in conference with our House colleagues, we make every effort to ensure this important funding in the House bill is kept in the final version of the fiscal year 2004 Agricultural appropriations bill.

Mr. KOHL. Mr. President, I would like to take a moment to respond to the Senator from California by saying that I appreciate the value of sound research programs that use a combination of the expertise of the industry involved, the best scientists in our universities, and the outstanding scientific resources within the Department of Agriculture. As Senator FEINSTEIN noted, we have fiscal restraints with which we must abide. I assure the Senator that I will bring an open mind to the conference and will try to craft the best possible legislation.

I certainly will do what I can in conference to see that this research continues, and I will carefully consider the $3 million proposed for the Grape Genomics Center at UC Davis.

Mrs. FEINSTEIN. Mr. President, once again, I thank the subcommittee, and I wish to raise one more issue that relates to getting the best possible use of the research dollars. Both the Senate and House bills include funding for the Viticulture Consortium at last year's level of $1.8 million from CSREES. I remain hopeful that this funding level can be increased to $2.5 million. The Viticulture Consortium is a truly unique and effective research program that addresses unmet national research needs important to the winegrape growing industry. The consortium is an active partnership of Federal, State, and industry resources which enhances research coordination, improves research efficiency, and eliminates duplication of effort. This is a collaborative program administered by Cornell University, Penn State University, and the University of California. Research proposals have been received from 20 States and research priorities are developed by a national network of key industry research and extension representatives known as the American Viticulture and Enology Research Network, AVERN. This type of collaborative program can serve as a model for research involving other commodities.

Again, recognizing the limits facing us, I ask the leaders of the subcommittee to work with me to provide a modest increase in the funding level for the Viticulture Consortium in this bill.

Mr. KOHL. I appreciate this unique effort to use a cooperative approach to get the most output out of each scarce research dollar appropriated to the winegrape and wine industry. I also look forward to working with the Senator on this issue, not only in the upcoming conference, but also in the future to see how the Viticulture Consortium can continue to expand on its excellent work.

AMENDMENT NO. 2090

Mr. HARKIN. Mr. President, I comment on the Hatch-Harkin-Durbin amendment No. 2090 adopted by the Senate yesterday. This action taken by the Senate is an important step in our continuing efforts to assure that Americans have access to high quality dietary supplements to maintain and improve their health.

Over 158 million Americans take dietary supplements to maintain and improve their health. From vitamin C to calcium to glucosamine to beta carotene, there is a full range of healthful supplements that are part of the daily lives of people all over this country.

Consumer expenditures on these products reached a reported $17.1 billion in 2000, double the amount spent just 6 years earlier. And, according to a recent report by the Food and Drug Administration, the use of dietary supplements is likely to grow due to factors such as the aging of the baby-boom generation, increased interest in self-sufficiency, and advances in science that are uncovering new relationships between diet and disease.

In response to efforts by the Food and Drug Administration to inappropriately cut off consumers' access to some supplements, in 1994, the House and Senate unanimously approved the Dietary Supplement Health and Education Act, DSHEA. I was pleased to have played a role in crafting this important legislation. This law balanced continued consumer access to vitamins, minerals and other dietary supplements, increased scientific research on the benefits and risks of supplements and needed consumer protections.

DSHEA provides a number of important consumer protections. It requires that claims made on supplement labels, packaging and accompanying material be "truthful, non-misleading and substantiated." In addition, the act prohibits manufacturers from making claims that products are intended to diagnose, treat, cure or prevent a disease.

DSHEA also provides for good manufacturing practice standards setting requirements for potency, cleanliness and stability of products. It requires that manufacturers submit adequate information as to the safety of any new ingredients contained in dietary supplements before those products can be sold.

DSHEA also provided the Federal Government a number of avenues for the removal of unsafe dietary supplements from the marketplace. If the FDA determines that a product poses an unreasonable risk when taken as directed, the product can be removed from the market. If the Secretary determines that a product poses an imminent hazard to the public health, he can remove the product from sale.

Finally, in order to promote expanded scientific research on the benefits and health effects of dietary supplements, DSHEA mandated the establishment of the Office of Dietary Supplements within the National Institutes of Health. This research is crucial to expanding reliable information to the American people.

Unfortunately, despite some recent improvement, the history of implementation of DSHEA by the FDA has been poor. The Food and Drug Administration has failed to use the many tools provided by DSHEA. It has failed to carefully review claims for truthfulness. It has failed to put in place new good manufacturing practice standards. It has failed to aggressively remove from the market illegal street drug knock-offs and other products which are in clear violation of DSHEA requirements.

Part of the problem has been resources. The FDA needs adequate resources to appropriately implement and enforce DSHEA. Congress has responded by regularly providing funds over the last several years beyond those requested in the President's budget, reaching $9.7 million in fiscal year 2003.

The amendment we approved yesterday would increase funding for implementation and enforcement of DSHEA by at least 17.5 percent. It requires FDA to spend no less than $11.4 million for this purpose, $1 million more than requested by the administration. This is a substantial and necessary increase. I would like to see even more devoted to this purpose. In fact, S. 1538, legislation Senator HATCH and I introduced earlier this year would increase FDA funding to $20 million next year, rising to $65 million per year within 5 years. We will continue to work to gain adoption of this more aggressive approach.

I thank the chair and ranking member of the Agriculture Appropriations subcommittee for their willingness to work with us and gain approval of this important consumer protection amendment. I also want to express my support for an amendment Senator DURBIN offered to expedite the FDA's action on dietary supplements containing ephedra. The FDA should make a decision promptly on this matter and it should be based on sound science.

Mr. GRASSLEY. Mr. President, prior to the 1996 farm bill, the annual cost-share assistance payment limitation for the Agricultural Conservation Program, ACP, was $3,500. With the advent of the Environmental Quality Incentive Program, EQIP, in 1996, the annual cost-share assistance payment limit was increased to $10,000 per year.

EQIP also instituted another change, rather than single year agreements, conservation agreements under EQIP were set at a minimum of 5 years to improve conservation benefits and increase farm payments. Hence, the 1996 law set a 5-year payment limitation of $50,000 for those rare instances in which a participant received the maximum $10,000 annual payment each of 5 years.

Between 1996 and 2002, the national average EQIP cost share amount per farm per 5-year contract was less than $10,000, or less than 20 percent of the $50,000 payment limitation.

Between 1996 and 2002, for animal waste storage structures, one of the most expensive practices eligible for EQIP assistance, the national average per farm per 5-year contract amount has been $13,573, also considerably below the $50,000 payment limitation at that time.

The 2002 farm bill increased the payment limitation nine-fold to $450,000 over the 6-year life of the farm bill.

The $450,000 limit was arrived at in the House-Senate conference committee. The Senate version of the farm bill had a 5-year $150,000 limitation. The House bill had a $200,000 limitation.

Amazingly, on the very last day of the farm bill conference the payment limit was increased to $450,000, three times greater than what the Senate had approved. This new number showed up out of nowhere, with virtually no discussion or debate in public.

The Senate bill contained an important provision related to the payment limit. All payments were made directly attributable to real persons by Social Security number. This direct attribution provision was intended to prevent participants from forming dummy corporations and partnerships for the purpose of getting around the payment limit and collecting multiple payments.

This provision was retained in the conference committee, so that at least the $450,000 limit was to apply to an individual or an entity regardless of the number of farming sites in an operation or the number or type of business arrangements the EQIP operator was engaged in.

In promulgating rules and guidance for the implementation of EQIP, however, USDA has decided to allow the $450,000 to be multiplied by the number of partners in a single farming operation. This essentially makes the limitation meaningless, since it allows business structures to be arranged to collect multiple payments.

While no single person could collect more than $450,000, relatives, employees, farmhands and others could be made partners that each could collect up to the maximum amount.

Farmer demand for EQIP remained very high throughout the 1996 farm bill period and its $50,000 multi-year limitation. Demand outstripped funding.

Congress responded in 2002 by increasing total funding for EQIP five fold, and I was heavily involved with that effort.

However, by simultaneously increasing the payment limit nine fold, the new $1 billion per year funding level may not result in more farmers being served, which was Congress' intention.

The ranking systems in many States being put in place to determine who wins EQIP contracts and who goes on the waiting list appears to be favoring the large farm/large contract applicants.

My amendment would scale the payment limit back to $300,000. This is still double the amount passed by the Senate in 2002, and more than adequate for 97.8 percent of EQIP participants.

My amendment does not scale back funding for EQIP. Rather, it provides that dollars appropriated by this bill cannot be used to pay USDA salaries and expenses to operate the EQIP program with payments greater than $300,000 per agricultural operation.

Adoption of this amendment will allow more farmers to participate in the program in the coming year. Adoption of the amendment will result in a fairer distribution of dollars within the program. Adoption of this amendment will prevent EQIP resources from being gobbled up by a few large contracts to mega farms.

This is a fair compromise, a good compromise. It provides access to the program by all types of farms and all sizes of farms, but it puts a limit on the amount of taxpayer support any one operation can receive.

If we do not pass this amendment, I think by the time of the next farm bill there will be lots of media attention focused on how this environmental quality cost share program has become a new subsidy program, paying out six and seven figure checks, for the Nation's biggest operations. And there will be questions about why an environmental program is leading to concentration and consolidation.

A $450,000 payment limit has no effect on 98.9 percent of all livestock operations. A $300,000 payment limit has no effect on 97.8 percent of all livestock operations. That means my amendment only affects 1.1 percent of livestock operations.

The 1.1 percent of mega-operations will still be eligible for $300,000. They just will not be able to take such a big piece of such a small pie. I do not think it is unreasonable to reduce full funding for the largest 1.1 percent of livestock operations so that more family farmers can participate.

So what I am saying is let's be careful. Let's be balanced. Let's increase the payment limitation, and avoid a "sky's the limit" approach.

Mr. ROBERTS. Mr. President, I rise today to provide a few brief comments on the Agriculture appropriations bill and to also make a few comments regarding my friend and colleague, the distinguished new chairman of the subcommittee, the Senator from Utah.

The chairman has done an outstanding job putting this bill together under a difficult budget allocation, and I congratulate him for his work.

I also want to make a few comments regarding several programs in this bill that are of particular interest to me in my role as the chairman of the Intelligence Committee.

I urge the chairman and the members of the subcommittee who will sit on the conference to support as much funding as possible for USDA's homeland security funding request and the Dole-McGovern International School Lunch Program.

Both of these programs are vital to our ongoing war against terrorism.

The USDA homeland security funds will support the rapid response animal and plant health diagnostics networks established last year by USDA.

These networks will allow us to respond quickly to an animal or disease outbreak that occurs, whether naturally occurring or intentionally introduced.

While this may not seem like a serious risk, I can tell you that the threat is real. We know some of the 9/11 hijackers had agriculture training, and the former Soviet Union had weaponized many of these diseases. The intentional introduction of any of these diseases would have a devastating impact on both the agriculture and national economies.

Regarding the Dole-McGovern program, it often provides the only meal that many students—particularly those in the Middle East—receive each day.

Young girls go to school so they can receive these meals. They gain an education, they broaden their horizons, and it will eventually help to bring greater stability to that part of the world.

Young boys go to schools where they can receive a meal and instruction in math and science instead of radicalism and extremism. Many terrorist recruiters get their youngest members through the offer of a warm, nutritious meal each day.

We must give these students the opportunity to be fed and get a basic education, rather than spending their days learning how to fire an AK-47. Thus, I urge support for these programs as this bill moves to conference.

Before yielding the floor, I also wish to make a few comments regarding our new subcommittee chairman.

When I first heard he would become chairman of the subcommittee, I didn't know whether to congratulate him or send him a sympathy card.

I have spent the better part of the years I have had the privilege to serve Kansas in the House and Senate wandering around in what you might call the agriculture policy pasture. For a short time, I even served as the head of the sometimes powerful House Agriculture Committee.

What my ears in that pasture have taught me is that if you spend much time dealing with agriculture policy, you often end up feeling like your are straddling the barbed wire fence. The issues are never easy.

There are often strong and very real policy differences among the farm groups and varying regions of the country. They are some of the most difficult issues I have ever faced, and they have certainly been known to tie this bill up in past years.

Earlier, it appeared that many of those issues would bog the bill down again this year.

However, as we would say in Dodge City, he took the bull by the horns and charged ahead. I know that it has not been easy, but I also want the chairman to know that I think he has done a remarkable job.

He managed to balance a severely reduced budget allocation in a manner that was fair to all members and regions of the country, and he has worked to find the middle ground on many issues. As a result of his efforts, we will spend only 1 or 2 days on the bill this year, instead of the week or more we spent in recent years.

He has taken what is often a thankless job and has performed admirably. He deserves both the thanks and praise of the Senate.

I say to the chairman, job well done.

Mr. McCAIN. Mr. President, the agriculture appropriations bill funds several important programs at the Department of Agriculture, the Food and Drug Administration, and other domestic food services provided through the Department of Health and Human Services. These funding programs are critically important to our Nation's farmers, families, and children.

Considering the importance of this bill, and at this critical time, I am once again greatly disappointed to report the amount of flagrant porkbarrel spending in this bill. This year's agriculture spending bill includes nearly $300 million in questionable earmarks. Despite the obvious need to eliminate the excessive special interest earmarks in the agriculture appropriations bill, the appropriators tacked on 395 of the usual garden-variety, special interest earmarks. Sadly, it appears that the porkbarrel "business as usual" attitude reigns once again.

Let's take a look at some of the porkbarrel projects in this year's agriculture appropriations bill:

An increase of $300,000 over the fiscal year 2003 level for research on alternative swine research;

An increase of $1.4 million over the fiscal year 03 level for dairy forage research in Madison, WI;

An increase of $1 million for research on taramix control using China beetles in Reno, NV;

A $100,000 increase for the development of commercially approved vaccines for catfish in Auburn, IL;

An increase of $450,000 over the fiscal year 03 level for a laboratory in Parlier, CA, to study the Glassy-winged sharpshooter and Pierce's disease;

A $150,000 increase to study grape genetics in Geneva, NY;

An additional $300,000 for potato storage research in Madison, WI;

An additional $200,000 for research on seafood waste at the University of Alaska;

An additional $300,000 for the U.S. Vegetable Laboratory in Charleston, SC;

An unrequested earmark of $631,000 for alternative salmon products in Alaska;

An earmark of $358,000 for alternative tobacco uses in Maryland;

An earmark of $442,000 for apple fire blight in Michigan and New York;

An earmark of $278,000 for asparagus technology and production in the State of Washington;

An earmark of $200,000 for berry research in Alaska;

$600,000 for cool season legume research in Idaho, Washington and North Dakota;

$234,000 for cranberry and blueberry disease and breeding studies in New Jersey;

A whopping $2 million for exotic pet diseases in California;

$844,000 for soybean research in Illinois;

$596,000 for peanut research in Alabama;

$502,000 for wheat sawfly research in Montana;

$450,000 for agricultural-based industrial lubricants in Iowa;

$690,000 for agriculture waste utilization in WV—pretty fancy term for fertilizer;

$150,000 for salmon quality standards in Alaska;

$250,000 for the National Wild Turkey Federation, located in South Carolina;

$300,000 for potato pest management in Wisconsin;

$2 million to address chronic wasting disease in Wisconsin;

$250,000 to address chronic wasting disease in Utah—maybe we should study chronic wasting disease right here in Washington, because the amount of waste that goes on in this city has reached chronic levels, and that is stating it mildly;

$1 million for grasshopper and Mormon cricket activities in Utah;

$300,000 for grasshopper and Mormon cricket activities in Nevada;

$150,000 for beaver control in Kentucky;

$225,000 for blackbird control in Kansas;

$350,000 for evaluating native plant materials in Alaska;

$600,000 for cranberry production in Massachusetts and Wisconsin.

Here is the clincher: the report accompanying this bill directs the Secretary of Agriculture to take all necessary measures to maximize and to provide a fair allocation of resources under the farm bill to the State of Alaska. This directive is seen as necessary because the committee is deeply disturbed that Alaska has largely been ignored thus far in the implementation of the farm bill passed in 2002. We certainly would not want Alaska to suffer from a lack of Federal dollars now would we?

Even the reliable earmarks like shrimp aquaculture and peanut research are included. Shrimp aquaculture in Arizona and other states has been a consistent beneficiary of taxpayer dollars for 11 years, with this year's earmark being $4.2 million. Unfortunately, there is little explanation included to justify why targeted Federal dollars for earmarked projects are more important than other programs to protect food safety or more directly support farm programs in this bill.

I am confident that many of my colleagues will maintain the importance of the need to fully fund these and many of the other projects in their respective States. That is fine. I do not fault them for it. In fact, let me state clearly, that I do not question the merits of these projects. Most of them, I am sure, are very important and worthy for Federal funds.

It is the process with which I have a serious problem. The Appropriations Committee has effectively usurped the power of the authorizing committees and acts as one, all-powerful funding machine. Projects are often funded with little or no background study, and are approved after simply being requested by a fellow Senator. These same projects are directed to certain States and localities, completely circumventing the proper, competitive-based awards process. Additionally, the Appropriations Committee routinely uses directive language to force cabinet secretaries and agency heads to use scarce taxpayer dollars to fund members' pet projects, while not alloting them a single dime with which to fulfill the requirements imposed upon them by the appropriators.

This spending spree is an outrage. As all of my colleagues know, CBO recently projected a potentially debilitating $480 billion deficit for 2004. More importantly, we are at war. President Bush is poised to sign a supplemental appropriation of $87 billion for the ongoing military operations in Iraq and Afghanistan. Every one of us has asked ourselves the same question: "where is that money going to come from?" I have an idea Mr. President. Let's start with this bill. Let's eliminate all of the unrequested earmarks, all of the special deals, all of the pork and all of the waste. Let's prove to the American taxpayer that we in Washington do not see them as simply a cash cow for our every financial whim.

I urge my colleagues to work harder to curb our habit of funneling resources to parochial interests. Serving the public good must continue to be our mandate, and we can only live up to that charge by keeping the process free of unfair and unnecessary spending that unduly burdens the American taxpayer.

Ms. MURKOWSKI. Mr. President, I would like to speak on amendment 2094, which was successfully added to the fiscal year 2004 Agriculture appropriations bill yesterday. This amendment restores decreased funding for food stamp recipients in Alaska and Hawaii. Senators STEVENS, INOUYE, and AKAKA have joined me in cosponsoring this amendment.

The U.S. Department of Agriculture estimates the cost of food items in Alaska and Hawaii, rather than researching the actual cost for these items. This method of estimating prices rather than researching prices led to a negative update that slashed benefits for the most vulnerable Alaskans and Hawaiians. The cuts in benefits, which took effect on October 1 of this year, essentially locks low income residents of Alaska and Hawaii into trying to buy this year's food at last year's prices. This just does not work.

Please allow me to give a few examples about the actual cost of food around my State. In the general store in Port Graham, a remote village in the southcentral part of Alaska that is only accessible by boat or aircraft, one gallon of milk costs $11.59. In the village of Hoonah, which is a remote village located on an island west of our State capitol of Juneau, oranges cost nearly $5 a pound.

Cutting the benefits for folks who are already paying far above the national average for food is unconscionable. This amendment, which is fully offset, says that the most vulnerable Alaskans and Hawaiians should not be stripped of their ability to put food on the table for their families.

This amendment will make a real difference for those in Alaska and Hawaii who are working to become self-sufficient.

Mr. BENNETT. Mr. President, last year Congress created the Public Television Station Digital Transition Grant Program within the U.S. Department of Agriculture to help public television continue broadcasting to rural America in the digital age.

As with any first year program there are some fine points that need to be ironed out. I am concerned about potential inequities in the distribution of funds that may result from the grant competition.

I support awarding grants to public television stations that provide a broadcast service to rural populations, regardless of the location of their main transmitter. If a public television station's digital transmitter serves less than 500,000 people it should be considered rural and automatically given the highest score for rurality.

The Department's use of Per capital Income, PCI, as a factor in determining an applicant's score is appropriate. However, I encourage the Department to weight PCI by population. Unless a score is weighted by population, it may result in an inequitable score if a small portion of the coverage area reaches an enclave of higher income viewers. Highest priority should be given to rurality and critical need in scoring applications. The weighted PCI score should not exceed 15 percent of the total score.

Furthermore, I believe that it would be beneficial for the Department to consult with public televisions stations through their national trade organization to assess the critical needs of the stations.

Finally, I support the sue of funds for purchasing equipment necessary to allow local control over digital content and programming through the use of multicasting and datacasting technologies.

I urge the Department to take the necessary steps to address these concerns.

Mr. President, I would like to note in the RECORD some Utah projects that are important to reference as a Senate priority as we conference this bill with the House. It is important that report language be included noting an application that will be submitted to USDA for Rural Community Advancement Program funding and placing a priority upon its consideration. This RCAP application will be for potable water, fire protections, and waste water extensions in Wellsville, Utah.

I also note the importance of providing Natural Resource Conservation Service dollars for ditch, canal, and irrigation improvements in Wellsville, UT, as well as watershed protection funding under Public Law 566 for piping and lining the Washington Fields Canal in the vicinity of St. George and Washington County, UT. The WFC provides water to 4800 acres of farmland and is currently in very poor condition. Given the significant growth in this area and the listing of two endangered species in the river system, this funding is important to save water that is currently wasted and that could augment stream flows not only for the community, but as needed for environmental and conservation purposes.

Finally, I am supportive of several projects to bring drinking water to Kane County residents through the Kane County Water Conservancy District in southern Utah. These projects, including the Strawberry/Movie Ranch, Meadow View Heights, and Johnson Canyon projects, are necessary because of the ongoing drought in Utah, the degraded existing water systems, and increased demand caused by development. These projects are of great value, and I hope that the USDA would seriously consider applications for loans and grants under the authorized program for water and waste disposal. The Johnson Canyon project, in particular, is of great importance to Kane County residents. Due to the severe drought and other factors, the well that supplies water to Johnson Canyon residents has shown a dramatic decrease in the drinking water quality, and individuals are now faced with installing reverse osmosis systems for their drinking water. In fact, because of the high level of total dissolved solids in the water, the well has become an inferior source, and the State of Utah recommends that an inferior source should not be allowed if a better source of water is available. The district has found higher quality water, and this project will allow development of this important resource.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Hampshire (Mr. SUNUNU) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER (Mrs. DOLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 444 Leg.]

YEAS—93

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine

Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Ensign

NOT VOTING—6

Campbell
Edwards
Kerry
Lieberman
Miller
Sununu

The bill (H.R. 2673), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House.

The Presiding Officer (Mrs. DOLE) appointed Mr. BENNETT, Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. CRAIG, Mr. BROWNBACK, Mr. STEVENS, Mr. KOHL, Mr. HARKIN, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, Ms. LANDRIEU, and Mr. BYRD conferees on the part of the Senate.

Ms. SNOWE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—S. 1806

Mr. MCCONNELL. Madam President, there is an issue that has been rule 14'd and is on the calendar, the Protection of Lawful Commerce in Arms Act, which has 54 cosponsors. It overwhelmingly passed the House back in April 285 to 140. This legislation is important to millions of Americans who want to be able to exercise their second amendment rights. There is simply no reason we should not be able to complete action on this bill expeditiously—there are not many measures around here that have that many cosponsors—that is, unless people want to delay its consideration with unrelated amendments.

In an effort to address this matter fairly and efficiently, I have indicated to my good friend and colleague, the assistant Democratic leader, that I will propound the following consent request as a way to possibly expedite consideration of this measure which is supported by a substantial majority of our colleagues on a bipartisan basis.

Therefore, Madam President, I ask unanimous consent that at a time to be determined by the majority leader in consultation with the Democratic leader, the Senate proceed to consideration of S. 1806; that there be 6 hours of general debate on the bill equally divided; that the only amendments in order be two relevant amendments offered by each side, with each first-degree amendment subject to a second-degree amendment which shall be relevant to the first degree amendment; provided further that each first-degree amendment be limited to 1 hour of debate evenly divided, and each second-degree amendment be limited to 30 minutes of debate equally divided; provided further that upon expiration of all time, the Senate immediately proceed to a vote on all pending amendments; after disposition of the pending amendments, the bill be read a third time, and the Senate immediately proceed to a vote on final passage, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, I share the distinguished Senator's desire to pass this most important legislation. In fact, I am a cosponsor of this bill, which has been introduced on a bipartisan basis by Senators CRAIG and BAUCUS. This legislation would protect firearm and ammunition manufacturers from lawsuits related to deliberate and illegal misuse of their products. It will protect the rights of Americans who choose to legally purchase and use their products. So the legislation makes sense.

As a gun owner since I was a young boy, I believe law-abiding citizens have a constitutional right to keep and bear arms. I also believe the rights of the responsible gun owner should not be compromised or jeopardized by individuals who use firearms to commit crimes. The vast majority of Nevada gun owners use their guns safely, and I will work in a bipartisan fashion to safeguard their rights. I will work to pass this bill, and I think we have the votes to pass it.

However, in a short time I will object to this consent request by my friend because it does not advance our shared goal of enacting this bill into law. In fact, this request, in my opinion, would set us back in our efforts to pass the legislation. We need to take the time necessary to debate and vote on the amendments that Senators want to offer to this bill, and then we need to pass it.

I think this late in the session, with the constraints that are obviously present with everybody, it just would not help us. I will work with my friend and anyone else to get a unanimous consent agreement both sides can agree to.

For now, on behalf of Senator JACK REED of Rhode Island and others, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Kentucky.

Mr. MCCONNELL. My friend from Nevada is certainly correct. At this late stage in the session, the only way we could advance this proposal to completion would be with a consent agreement that allowed us to deal only with relevant amendments. One of the concerns is that we could end up having amendments on minimum wage or hate crimes or other issues that are completely unrelated to the underlying subject matter. So it was my belief that the consent agreement I just offered was reasonable in the sense that it did allow relevant amendments to the underlying bill, but it also gives us an opportunity to reach completion.

I want to modify my request a couple of more times and see if it might be more enticing to my good friend from Nevada. I modify my prior unanimous consent request as follows: That there be 8 hours instead of 6, 8 hours of general debate on the bill equally divided, and that the only amendments in order be three relevant amendments offered by each side instead of two, with each first-degree amendment subject to a second-degree amendment which shall be relevant to the first-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, I really do believe we can work with Senators on our side and a few on the other side to come up with a reasonable approach to this legislation that I think has an outstanding chance of passing. We can't do it now. We are wrapping up this session of the legislature. Even though my friend has suggested relevant amendments, we need to take a little bit of time to work this through. The time that has been suggested by my friend is something that may or may not work.

I just say to everyone within the sound of my voice, we need some time to work this out. We will be happy to cooperate in any way we can, but there are too many objections on this side to move forward at this time.

On behalf of Senator REED of Rhode Island and others, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Kentucky.

Mr. MCCONNELL. Madam President, let me propound one last unanimous consent request, again bearing in mind that the only chance of moving this legislation forward this late in the session would be with a time agreement with relevant amendments. The underlying bill being supported by 54 cosponsors, we suspect well more than 60 are advocating this legislation. Let me try to entice my good friend one more time by further modifying my second request in the following way: I ask unanimous consent that there be 10 hours of general debate on the bill equally divided, and that the only amendments in order be 4 relevant amendments offered by each side, with each first-degree amendment subject to a second-degree amendment, which shall be relevant to the first-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Madam President, reserving the right to object, on certain issues, I am fairly easy to entice, but the fact is, on this, I have a significant number of Senators on this side who are not able to be enticed at this stage. On their behalf, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCONNELL. Madam President, this is a very important piece of legislation that should be enacted in this Congress. It is apparent it will not be done in the first session of the 108th Congress. There are not many measures around here that have 54 cosponsors and probably with support well in excess of 60. I hope we can work together in the early part of the next session and advance this legislation to final passage, with relevant amendments, so it does not become a measure that attracts every single good cause some Senator may want to propose totally unrelated to the underlying question of whether gun manufacturers should be held responsible for acts perpetrated by individuals using their product—a fundamentally unfair trend developing in the country that should be stopped before it goes any further.

I yield the floor.

Mr. REID. Madam President, if I may respond, I think the approach that we get into the legislation early next year is the way it will be passed. There will be a decision made early on by the leadership on both sides, I am sure, as to if it is necessary to attempt to invoke cloture on this matter. We will have lots of time early next year to do this.

I look forward to working with my friend from Kentucky to move forward on this most important legislation.

Mr. McCONNELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNET TAX NONDISCRIMINATION ACT

Mr. McCAIN. Madam President, pursuant to the order of October 30, 2003, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 150, the Internet Tax Moratorium bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 150) to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, which had been reported from the Committee on Commerce, Science and Transportation and referred to the Committee on Finance and discharged, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Internet Tax Non-discrimination Act of 2003".

[SEC. 2. AMENDMENT OF INTERNET TAX FREEDOM ACT.

[Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt.) is amended—

[(1) by striking "taxes during the period beginning on October 1, 1998, and ending on November 1, 2003—" and inserting "taxes:";

[(2) by striking paragraph (1) and inserting the following:

["(1) Taxes on Internet access."; and

[(3) by striking "multiple" in paragraph (2) and inserting "Multiple".

[SEC. 2. REPEAL OF EXCEPTION.

[Section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 nt.) is amended by striking paragraph (10).

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

"(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes:

"(1) Taxes on Internet access.

"(2) Multiple or discriminatory taxes on electronic commerce.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "unless" and all that follows through "1998".

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,".

(c) CLARIFICATION.—The second sentence of section 1104(5), and the second sentence of section 1101(e)(3)(D) (as redesignated by subsection (b)(1) of this Act), of the Internet Tax Freedom Act (47 U.S.C. 151 note) are each amended by inserting ", except to the extent such services are used to provide Internet access" before the period.

SEC. 3. 3-YEAR SUNSET FOR PRE-OCTOBER, 1998, TAX EXCEPTION.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

"SEC. 1104. PRESERVATION OF PRE-OCTOBER, 1998, STATE AND LOCAL TAX AUTHORITY UNTIL 2006.

"(a) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

"(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

"(b) TERMINATION.—This section shall not apply after October 1, 2006.

"(c) TAX ON INTERNET ACCESS.—Notwithstanding section 1105(10), in this section the term 'tax on Internet access' includes the enforcement or application of any preexisting tax on the sale or use of Internet services if that tax was generally imposed and actually enforced prior to October 1, 1998.".

SEC. 4. UNIVERSAL SERVICE.

Nothing in the Internet Tax Freedom Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs authorized by section 254 of the Communications Act of 1934.

Mr. McCAIN. Madam President, I ask unanimous consent that the bill as thus amended be treated as original text for the purpose of amendment; provided there be no point of order waived by virtue of this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reported amendment is agreed to. The bill will be considered as original text. No point of order will be waived.

AMENDMENT NO. 2136

Mr. McCAIN. Madam President, I send a substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for Mr. ALLEN, for himself, Mr. WYDEN, Mr. BURNS, Mr. ENSIGN, Mr. SUNUNU, Mr. WARNER, Mr. SMITH, Mr. LEAHY, Mr. GRASSLEY, Mr. HATCH, Mr. McCAIN, Mr. BAUCUS, Mrs. BOXER, Mr. CHAMBLISS, and Mrs. LINCOLN, proposes an amendment numbered 2136.

Mr. McCAIN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47

U.S.C. 151 note) is amended to read as follows:

"(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes:

"(1) Taxes on Internet access.

"(2) Multiple or discriminatory taxes on electronic commerce.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows: .

"(10) TAX ON INTERNET ACCESS.

"(A) IN GENERAL.—The term 'tax on Internet access' means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

"(B) GENERAL EXCEPTION.—The term 'tax on Internet access' does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.".

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,".

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting "The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting "The term 'Internet access' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

SEC. 3. 3-YEAR SUNSET FOR PRE-OCTOBER, 1998, TAX EXCEPTION.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

"SEC. 1104. PRESERVATION OF PRE-OCTOBER, 1998, STATE AND LOCAL TAX AUTHORITY UNTIL 2006.

"(a) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

"(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

"(b) TERMINATION.—This section shall not apply after October 1, 2006.

"(c) TAX ON INTERNET ACCESS.—Notwithstanding section 1105(10), in this section the term 'tax on Internet access' includes the enforcement or application of any preexisting tax on the sale or use of Internet services if that tax was generally imposed and actually enforced prior to October 1, 1998.".

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

"SEC. 1106. ACCOUNTING RULE.

"(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

"(b) DEFINITIONS.—In this section:

"(1) CHARGES FOR INTERNET ACCESS.—The term 'charges for Internet access' means all charges for Internet access as defined in section 1105(5).

"(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term 'charges for telecommunications services' means all charges for telecommunications services except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

"SEC. 1107. EFFECT ON OTHER LAWS.

"(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

"(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

"(2) in effect on February 8, 1996.

"(b) 911 AND E-911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E-911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E-911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E-911 services.

"(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.".

Mr. MCCAIN. I say to my friends on both sides of the issue, I think we now have the proper legislative agenda in preparation for amendments. Before I make an opening statement, I thank Senators ALLEN and WYDEN for their hard work on this issue. I also pay my respects to the Senator from Ohio, Senator VOINOVICH, and the Senator from Tennessee, Senator ALEXANDER, who have taken a deep and abiding interest in this issue and have a very real understanding of it. This is a complex and difficult set of issues associated with the Internet.

I apologize for leaving out my dear friend from Delaware, Senator CARPER, who probably knows more than the other two put together; at least, he believes so.

Again, these are difficult and complex issues. They have been affected significantly by changes in technology over the years. When we first did this moratorium issue, it was much simpler than it is today. As the Internet has obtained dramatically new capabilities with dramatic changes in its nature, the issue has changed. The Senators from Ohio, Tennessee, and Delaware have raised significant and valid concerns. We believe we have tried to address those concerns.

Definitions certainly are critical in addressing this issue. Words have meaning and importance when we are talking about this issue before us. I hope we can give fair consideration to the concerns and the proposals made by the opposition to this bill or those who would like to see it significantly modified.

Again, I thank my friends from Virginia and Oregon who have worked tremendously for years in the committee on this issue. I think the Senator from Oregon can remind me how many hearings we have had on this particular issue, but it must be in double digits—more than 10—over the past 6 or 7 years. Those hearings have been certainly appropriate, because each time we have had them the technology changed and the issues changed.

Madam President, this bill would ensure that consumers would never have to pay a toll when they access the Information Highway. Whether consumers log onto the Internet via cable modem, DSL, dial-up, or another technology that has yet to be invented, under S. 150 they will not see any State and local taxes on their monthly Internet bill. Now would their monthly Internet bills increase because of State and local taxes on Internet access that are passed down to consumers. Plainly and simply, this is a pro-consumer, pro-innovation, and pro-technology bill.

S. 150, which was introduced in January by Senator ALLEN, would make permanent the current Federal prohibition on State and local taxes on Internet access contained in the Internet Tax Freedom Act of 1998 (ITFA). It also would extend permanently the current moratorium in ITFA on multiple or discriminatory state and local taxes on e-commerce transactions.

In addition, this bill would extend by 3 years the current grandfather clause contained in ITFA. This clause permits States that imposed or enforced a tax on Internet access prior to the passage of ITFA in 1998 to continue taxing Internet access. After 2006, this grandfathering protection would lapse.

Five years ago, Congress took appropriate action when it passed the IFTA, legislation that encouraged the growth and the adoption of the Internet by exempting Internet access from State and local taxation, and by protecting e-commerce transactions from multiple or discriminatory taxation.

As my colleagues know, over the past decade, the Internet has grown from a tool used primarily by academics and scientists for research purposes to a broadly utilized communications, information, entertainment, and commercial medium, as well as an important vehicle for political participation. Indeed, the Internet has started to become a fixture and core component of modern American life that has created and continues to generate social and economic opportunities throughout the United States. This was our goal then and it continues to be our goal today.

There is little doubt that the development and growth of the Internet was aided by the moratorium. For example, in the past 5 years and with the help of ITFA, household use of the Internet has doubled. At the time of the legislation's enactment in 1998, 26 percent of United States households had Internet access. By 2001—the year that the moratorium was extended for a 2 year period—just over 50 percent of U.S. households had Internet access. By the end of 2002, approximately 64 percent of American households had Internet access. However, despite these significant growth rates, Internet access adoption rates remain low relative to other basic technologies. Broadband access in particular remain low. Indeed, in 2002, only 15 percent of American households had broadband Internet access. This means that a significant number of American consumers still have not gained the full benefits that Internet technologies promise.

Today, we have the opportunity to extend permanently the Internet tax moratorium and thus fulfill our promise to consumers that Government taxes will not inhibit the offering of affordable Internet access. By supporting S. 150, we can continue to promote the adoption of the Internet by our citizens as well as encourage innovation relating to this technology. Just as Internet access evolved from basic dial-up service to broadband services since the enactment of ITFA, a permanent extension of the Internet tax moratorium is expected to encourage businesses to further evolve Internet technologies and consumers to continue adopting such technologies.

I am fully aware that State and local government groups are concerned about certain aspects of this bill and, in particular, worry that this legislation will result in significant revenue losses to the States and localities. As many of you know, I have worked closely with the co-sponsors of the legislation in an attempt to accommodate many of the concerns of the States and local governments. In fact, I am a co-sponsor of the substitute amendment to S. 150 only because I was satisfied that the amendment's co-sponsors had compromised as much as they reasonably could with the States and localities. What we present today is a good-faith effort to address State and local worries while still keeping intact one of the key goals of S. 150: to keep Internet access tax free from taxation.

I point in particular to our efforts to clarify that traditional telephone services would not become tax-exempt as a result of this legislation. Nor will this legislation prevent the States from imposing property, income, and other non-transactional taxes on Internet access providers. Nor would this bill make tax-free any service packaged with Internet access solely by virtue of such bundling. In addition, in order to give currently grandfathered States a reasonable amount of time to adjust their budgets, the bill extends the existing grandfathering provision by 3 years instead of terminating it immediately.

I also am aware that some of my colleagues object to the Internet tax moratorium because they believe that Congress has no role in how States and localities tax Internet access. I respect the views of those Members, but I also respectfully disagree with them on this matter. Interstate communications—including the Internet—are part and parcel of interstate commerce, which Congress has the constitutional right to regulate. This means that Congress does indeed have the right to determine how the Federal Government, the States, and localities tax the Internet.

There is also the argument that this extension is an unfunded mandate. On this point, it is important to note that this bill would not impose any additional responsibilities on State or local governments. Rather, S. 150 only says that States and localities may not impose taxes on Internet access. That's it. Furthermore, Congress made sure that ITFA held the Federal Government to the same standards as those imposed on the States. The act expresses the sense of Congress that no new Federal taxes on Internet access should be enacted. The Federal Government is in this with the States and localities because keeping Internet access tax-free is a core goal of our national economic policy.

With respect to the question of whether it's wise to make Internet access tax free, this body has a long history of giving tax incentives to commercial activities that we believe help our society. The Internet is a technology that is a source of and vehicle for significant economic benefits. The proponents of this legislation strongly believe the Internet clearly merits the tax incentives provided by S. 150. But this debate is not just about economic benefits.

During my presidential candidacy, one of the many rewarding experiences I had was seeing how the Internet served as a medium for political participation. Hundreds of thousands of people logged on to may campaign website where they were able to access information and organize. For me, keeping Internet access tax-free is about protecting consumers' wallets, but it also is about improving our political process and the right and ability of those citizens to participate fully in that process.

I recognize that there are others who wish to continue to make the Internet tax moratorium temporary. Their premise is that Internet technologies continue to evolve and thus Internet access may develop into a service the States and localities would wish to tax. I would respond that this moratorium should be permanent to continue encouraging those very Internet-related innovations. By making this moratorium permanent, the businesses that invest in and provide Internet access technologies will be able to operate in a predictable tax environment. This will result in continued investment in this very important medium.

I will be very candid on this point, though: If a permanent moratorium passes and 3, 4, 5 years down the road we find that the effects of this moratorium were other than what we intend today, I will join my colleagues in reviewing this issue and work to amend the legislation to correct any unforeseen problems with it. But that should only happen if and when there is a legitimate problem. That doesn't need to happen, and it shouldn't have to happen, on a predetermined schedule.

Today, however, we are here to vote on a bill that enjoys strong bi-partisan support—further evidence of the fact that this Senate believes in a permanent extension of the moratorium and the consumer and business benefits such an extension will bring. Likewise, H.R. 49, the Internet Tax Nondiscrimination Act, which is similar to S. 150, also enjoyed significant support in the House of Representatives. Indeed, the House passed H.R. 49 in September with strong bipartisan support, including support from the House leadership of both parties.

S. 150 has been thoroughly vetted and considerably negotiated. It was approved by the Senate Committee on Commerce, Science, and Transportation in July after the committee held hearings on the bill. In October, the Senate Committee on Finance discharged S. 150 after that committee examined the bill. Throughout this legislative process, the various stakeholders have met several times to try to come as close to a middle ground as possible without sacrificing the basic goals of this legislation. I believe that this bill is a strong attempt to address the concerns and needs of all the relevant stakeholders.

For all of the reasons stated, I urge my colleagues to support this bill and add it to the long line of pro-consumer legislation we have passed this year—including the Do Not Call Registry and spam legislation. Let us again join together to give American consumers affordable access to the Internet, a crucial medium of communications, information, commerce, and political participation.

I look forward to hearing the debate and discussion by my colleagues on both sides of the issue. We hope to have an amendment proposed by the Senators from Delaware, Ohio, and Tennessee, and we would like to debate that. Others would like to speak on that amendment, so we will not have a time certain set for that amendment. But we hope we can have it at a fairly early time in the morning. My understanding is we will be back in at 9:30.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Madam President, I thank the chairman of the Commerce Committee, Senator McCAIN, for beginning the discussion in the kind of tone I think we want to have for this debate. We have on the floor a number of Senators who have been the most interested in this issue. I tell them I think they represent the most thoughtful people not just in the Senate but in public life. We obviously have differences of opinion, but I think we are going to have an important debate, in a thoughtful fashion. The decibel level has certainly gotten pretty high in recent days on this issue.

I am very appreciative to the Senate Democrats who are supportive of the position Senator ALLEN and I have put together, particularly Senators LEAHY, BOXER, LINCOLN, and BAUCUS, all of whom joined as original sponsors of the managers' effort.

I wish to spend a few minutes tonight—I know other colleagues are anxious to talk—to describe how we got to this point and why I believe the approach Senator ALLEN and I are taking is a wise one.

About 7 years ago, after I came to the Senate, I began to think about how the Senate could write the rules of electronic commerce so as to be fair to all sides while at the same time allowing this tremendously exciting medium, the Internet, to flourish.

We were seeing early on problems with respect to how the Internet was regulated around the country. We saw discrimination. We saw in some jurisdictions, for example, if you bought the newspaper the traditional way, the snail-mail route, you would end up not paying a tax, but if you bought the online edition of that paper, you would pay a tax. That, it seemed to us, was a discrimination against technology. So about 7 years ago, I said the bedrock of our effort ought to be technological neutrality. The Internet should not get a preference, nor should the Internet be discriminated against.

I went to Senator McCAIN and Senator LEAHY of Vermont, really known as the Senate's Mr. Internet. He was up on these issues when I think a lot of people thought a monitor was a television set. The two of them joined me in a bipartisan effort to pass this law that has now been on the books for more than 5 years.

When Senator ALLEN came to the Senate, he and I teamed up for a number of years on this issue, and, of course, other Senators who have come to this body.

I say in beginning the debate, many of those who now oppose the extension of the law we are proposing are using the very same arguments they made 5 years ago that have not been borne out. For example, we were told years ago that the States would not be able to collect various taxes—property taxes, corporate taxes, and other kinds of taxes. We were told that all across America, Main Streets would shrivel up and die because of Internet sales. We were told that States would lose an enormous amount of revenue. I want to respond to each one of those arguments tonight.

First, with respect to loss of revenue, not one jurisdiction has come forward and given an example of how they are hurt by their inability to discriminate against electronic commerce. All the bill says is you cannot discriminate against electronic commerce, and not one State has come forward and given an example of how they have been hurt by their inability to discriminate against electronic commerce.

Not one independent study has been done in the last 5 years indicating that the States would lose revenue as a result of this bill.

Finally, with respect to this question of Main Street and the retail stores, what we have seen is during the period this law has been in effect, Internet sales have gone from 1 percent to 2 percent. I think it is fair to say our legislation has not exactly emptied the malls of America. In fact, in most of our malls, it is still pretty hard to find a parking spot.

As we go at this issue, it is important to look at the record, and particularly it is interesting to note it in the context of what was discussed tonight.

I have noted that a number of our colleagues, particularly from the rural areas—the Dakotas and other areas—have talked about the importance—and I share their view—of building the network out; of using funds, whether it be tax credits or Government moneys, to facilitate broadband to rural areas. Their effort is one that I support. But think about the consequences of our saying tonight on the floor of the Senate: Let's use Government dollars to help companies build out the network, promote broadband in rural areas. We will say that tonight, but tomorrow we will end up sticking it to consumers with new taxes with respect to Internet access.

In effect, the policies we are talking about promoting tonight with Government dollars—and many Senators are on legislation to offer tax credits to promote broadband to rural areas which would, in effect, be negated by the effort some are offering to allow for these taxes on Internet access.

Senator ALLEN and I have spent many months trying to work with the State and local governments to address their concerns. We have had months of negotiations, and those negotiations all went on before our distinguished colleagues—the Senators from Tennessee, Ohio, and Delaware—came into the debate.

I note that in the effort to try to find common ground, Senator ALLEN and I agreed to a number of requests that were made by State and local officials. We agreed, for example, to the request from State and local officials for new statutory language further tightening the definition of "Internet access."

We agreed to the request for new statutory language on what is called bundling, which is, in effect, where you have Internet access bundled with information technology services other than Internet access, and it is important to separate the two for taxable purposes.

In addition, we agreed to the requests from State and local officials for new statutory language protecting a variety of other taxes, such as property and income taxes, that were never affected by the original legislation we authored, but we thought in the name of trying to find common ground, we would add that as well.

We have agreed to a request for a savings clause on universal service and a variety of regulatory proceedings.

Finally, we have agreed to allow States grandfathered so as to protect existing treatment under their State laws of these services 3 more years of Internet access taxes.

I say as we begin tonight, Senator ALLEN and I in 2 months of negotiations agreed to five requests from State and local officials to try to find common ground on this matter, and I ask tonight, what has been offered in return? What have been offered in return are essentially these projections that say vast sums are going to be lost to the States if this legislation that Senator ALLEN and I have proposed is extended.

I just ask Senators to note the language associated with these projections. The language is always, this bill could cost such-and-such; and the sum is, of course, a very large number. Never is it presented in terms of any kind of independent study that this law has, in fact, cost revenue or would cause revenue to be lost in the future.

After Senator ALLEN and I made these five separate concessions in an effort to find common ground, we now have these various projections that, for all practical purposes, we are trying to convince the Senate that Western civilization is going to end if we urge that this law be updated.

I know colleagues are anxious to talk, and I certainly want to give them that opportunity. I close with one last point as we begin this discussion.

I think colleagues know the technology sector has taken a real pounding in the last couple of years, but what we have seen in the last few months is that the technology sector is beginning to have a resurgence. We have begun to see, both with respect to the stock market and capital investment in the sector, the technology area is really beginning to come back.

I say to my colleagues in the Senate, I think that if, in fact, the Senate unravels the law of the last 5 years, fails to allow us to update this law, the progress that has been seen in the technology sector in the last few months could well unravel.

If, in fact, the more than 7,000 taxing jurisdictions in this country are allowed to take a bite out of the Internet, and we have the Internet access area broken down into its subparts and all of them are taxed, I think that could derail the very impressive progress we have seen in the technology sector in the last few months.

Let us not put in place a regime of multiple and discriminatory taxes on electronic commerce, if for no other reason than it would send a horrendous message to this sector where finally in the last few months we are beginning to see some resurgence.

I see my good friend from Virginia on his feet. I want to tell him how much I appreciate his cooperation. When I began this effort, he was a Governor and was supportive of our efforts then. I am pleased to have had a chance to team up with him as a member of the Commerce Committee.

I also say, because we have Senators who do not share the view of Senator ALLEN and myself—Senator VOINOVICH, Senator ALEXANDER, and Senator CARPER—that my door continues to be open to all Senators, including Senators who do not share our view, in an effort to try to find common ground.

Senator ALLEN and I thought the five concessions we made during 8 weeks of negotiations were part of an effort to be sensitive to the concerns of State and local bodies. Obviously, we have not done that to the satisfaction of all and our door remains open to all Senators.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Virginia.

Mr. REID. Will the Senator from Virginia yield for a unanimous consent request? In fact, I have two of them.

Mr. ALLEN. I yield.

UNANIMOUS CONSENT REQUEST—H.R. 2559

Mr. REID. I appreciate it very much. It will just take a few minutes. I have two unanimous consent requests. I ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 2559, the Military Construction appropriations bill; that the conference report be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. VOINOVICH. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I would simply say that is unfortunate. This is a military construction conference report. I cannot believe there is any controversy on that. I appreciate my friend yielding to me.

UNANIMOUS CONSENT REQUEST—H.R. 1828

I ask unanimous consent that the order entered with respect to H.R. 1828, the Syria Accountability Act, be changed to reflect that the time for consideration of the measure be reduced to 60 minutes—the original time was 90 minutes—that the time be divided as follows: 30 minutes for Senator SPECTER and 15 minutes each under the control of Senators LUGAR or BOXER or their designees; that at 9 a.m., Friday, November 7, the Senate then proceed to consider the measure under the limitations as provided under the previous order as modified above, with the remaining provisions remaining in effect.

The PRESIDING OFFICER. Is there objection?

Mr. VOINOVICH. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I, again, extend my appreciation to the Senator from Virginia for yielding. I will speak at more length at a later time on why I think it was important that these unanimous consents be approved tonight.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise this evening to ask my colleagues to support S. 150, the Internet Tax Nondiscrimination Act, and the substitute or managers' amendment that has recently been adopted.

I thank our chairman of the Commerce Committee, JOHN MCCAIN, our commodore, on his great navigational skills as we worked through this measure. I also thank my colleague from Oregon, Senator WYDEN, for his great leadership, assistance, and true partnership in trying to get this measure through for greater opportunity for Americans.

I also thank others who are on this amendment, Senators GRASSLEY, HATCH, SUNUNU, LEAHY, BAUCUS, BOXER, LINCOLN, SMITH, the high-tech task force chairman, Senator JOHN ENSIGN, Senator WARNER of Virginia, Senator BURNS, who is chairman of the Internet Caucus, and the Senator who is in the chair right now, Mr. CHAMBLISS. All have helped work on this reasonable compromise.

There have been a number of concerns to this measure raised by our opponents. We have had several months of negotiations. I am confident the bill as it is presented to us on the Senate floor strikes an appropriate balance between protecting every American from harmful regressive taxes on Internet access while ensuring that necessary protections are in place for State and local governments to maintain their existing revenue base.

The fundamental principle driving this legislation is very simple and clear, and that is the Internet must remain as accessible as possible to all people in all parts of America forever. This was a principle established in the 1998 legislation when Congress passed the Internet Tax Freedom Act and it is the principle I ask all Senators to keep in mind as we consider this legislation this evening and tomorrow.

My colleagues have heard me say on many occasions that I believe we ought to be promoting freedom and opportunities for all Americans. We need to be advancing ideas, concepts, and policies that help create more jobs and prosperity rather than more taxes and burdens.

The Internet itself is one of our country's greatest tools and symbols of innovation and individual empowerment. In my view, the Internet is the greatest invention for the dissemination of ideas and thoughts since the Gutenberg press. When Martin Luther nailed his 95 theses to the church at Wittenberg, if it were not for the Gutenberg press no one would have read those documents and those thoughts.

So today, we have the Internet for the dissemination of ideas. It is an individualized empowerment zone where individuals are able to access information, communicate, get knowledge, information, as well as engage in commerce. It is a tool for education. It is a tool for information and commerce. And when we are looking at that, I ask, why would there be some who would want to burden that? I think we ought to be trusting free people and free enterprise. We ought to be on the side of freedom, because that is what has allowed the Internet to flourish, rather than the side of those who would want to make this advancement in technology easier to tax for tax collectors.

Some people ask, why is the Federal Government involved in this? Well, heck, if there is anything that is in interstate commerce by its architecture, by its design, by its structure, it is the Internet. One of the great things about the Internet is that it is not confined to boundaries of States or even countries for that matter. For those of us who thought opening up to China was a question that we needed to broach, I thought the fact that the Internet was available and to the extent that the Chinese people could get more ideas from outside of China and not filtered through their government, that was a reason to hopefully open up China for greater prosperity and freedom.

This legislation provides and promotes equal access to the Internet for all Americans. It obviously is designed to protect Americans from harmful and regressive taxes on Internet access services, as well as preventing duplicative and predatory taxes on Internet transactions. Specifically, as this measure is before us now, it does several things.

First, it extends permanently the current Federal prohibition of State and local taxation of Internet access service.

Second, it makes permanent the ban on all multiple and discriminatory taxes relating to electronic commerce. It ensures that several jurisdictions, for example, cannot tax the same transaction simply because the transaction happens to occur over the Internet.

Third, our legislation repeals the so-called grandfathering provision over a 3-year period.

Fourth, we make clear the original intent of the Internet Tax Freedom Act by updating the definition of Internet access to ensure that the moratorium applies consistently to all consumers.

If we are going to exempt Internet access services from taxation permanently, then I believe it makes sense to do so in a manner that applies to all methods of Internet access, regardless of how a consumer chooses to access the Internet, whether by digital subscriber line, otherwise known as DSL connections, by wireless connection, cable modem service, satellite, or dial-up service.

Fifth, and lastly, this legislation makes very clear that nothing in this measure prevents the collection or remittance of State and Federal universal service fees. The Internet tax moratorium that has been in place for 5 years has contributed to the extending of Internet access to over 127 million citizens, about 45 percent of the population of America. Unfortunately, that did expire Friday. Every day that it lapses, there is the opportunity for consumers to be susceptible to pestering new taxes on Internet access services as well as taxes on e-mail, instant messages, spam filters, and even Web searches. For every dollar in taxation added to the cost of Internet access, we can expect to see the loss of utilization of the Internet by thousands of American families, especially lower income families.

According to the Pew Internet and American Life Project, 30 percent of non-internet users say cost is a major reason they remain offline. Additionally, another 43 percent of non-internet users agreed with the statement that the Internet is too expensive.

So, for about half the country who are still not on line, keeping access affordable is vital, and that means keeping access free from State, local, and Federal taxation. The guiding principle is clear, of course: To keep it accessible to all people in all parts of the country forever. This is the position I have held since 1997, since my days as Governor in Virginia when I was one of only four Governors with this position.

I cannot ever envision a time where we believe it desirable for any government, State, local, or Federal, to tax access to the Internet. I cannot envision any time in our future where it will make sense to have multiple taxes on the Internet. Nor can I imagine any time in the future where there ought to be discriminatory taxes or predatory taxes on the Internet.

Yet if the Senate fails to take action or vote for this legislation, such Members of this body will be permitting and in effect advocating taxing the Internet.

There are more people empowered by the Internet today because the Federal policy of the United States has consciously allowed Internet innovators, investors, entrepreneurs, and consumers to remain free from onerous taxation of access to the Internet.

As many of you know, when this was first enacted there were dozens of States and local taxing commissars who were, back then, right in the beginning, imposing disparate taxes on a consumer's ability to surf the Internet. Since the last expiration of the Internet Tax Freedom Act in 2001, some States have begun taxing the high-speed component of broadband Internet access services. They are asserting that certain portions of high-speed broadband Internet access are telecommunications services rather than Internet access and the States are thereby circumventing the original intentions of the law.

Working with Chairman McCAIN and Senator WYDEN and Senator SUNUNU in the Commerce Committee, we updated the definition of Internet access to assure that all access services, regardless of the technology used to deliver the service, are covered by the moratorium and therefore exempt from State and local taxation.

There have been some misleading statements, some clever hyperbole, and some statements that are just flat-out wrong. I want to set the record straight.

They have raised a number of concerns, the proponents of higher taxes, with this legislation, indicating that we have expanded the moratorium on Internet access to include all telecommunications services making tax free even traditional services like local and long distance telephone communications.

They have also raised a question of whether or not this bill would prohibit States from imposing property taxes, income taxes, or corporate taxes on telecommunications carriers and Internet service providers.

I want Members of this body to understand and be clear on the facts and the truth about this legislation. This bill does not affect traditional voice or long distance telephone services or any other communications service that is not directly used to provide Internet access. This bill, S. 150, does not affect a State's ability to collect income taxes, property taxes, or other corporate taxes, such as franchising fees, that are unrelated to Internet access.

The facts are, S. 150 does not unnecessarily expand the moratorium on Internet access; rather, the legislation clarifies and updates the original intentions of the Internet Tax Freedom Act to include high-speed Internet access services. Only because some States and localities have attempted, and in fact are circumventing the original law by taxing portions of high-speed Internet access, did the definition of Internet access need to be updated.

The impact of broadband and efforts to stop broadband from being deployed by this taxing approach that is going on, that we are trying to cure, will have a very significant impact on small towns and rural areas. Our colleague, CONRAD BURNS of Montana, likes to talk about how you have to get broadband out in the country, and he would say there is a lot of dirt you have to dig through just to get from one light bulb to another. The same applies to getting broadband out into the communities and out into the country. If you have higher costs imposed on Internet access and then on top of it all you are putting higher costs on the investment for the transport, that means fewer people in a less populated area will be able to afford broadband, thereby denying them opportunities that one would have, whether it is for information, for education, for knowledge, or for commerce, for small businesses and people who live in rural areas.

Another fact: In this bill it only makes permanent the tax moratorium on Internet access services, which is simply the ability to get access to the Internet. Once a consumer has accessed the Internet, the moratorium does not affect the services that are purchased, used, or sold over the Internet that would otherwise be taxable, even if such services are bundled together with Internet access services.

So, in summary, the fact is, by allowing this moratorium to expire, the Senate has opened the door for States and localities to begin imposing regressive taxes on Internet access services. By taxing Internet access, States and localities are actually contributing, and would be contributing, to the economic digital divide. The more expensive we allow the State and local tax commissars to make Internet access, the less likely people are going to be able to buy these advanced services, such as high-speed broadband connections, Internet protocol software, wireless or WiFi devices, and many other multimedia applications.

At a time when technology, as my friend Senator WYDEN has said, and the Internet are growing and improving almost every aspect of our daily lives, where access to the Internet is not a nicety but a necessity for Americans, imposing new taxes on access or levying taxes that discriminate against the Internet as a form of commerce will never be sound policy for America. As a tool, the Internet breaks down economic and educational barriers, leveling the playing field for millions of Americans.

There are those who say it shouldn't be permanent; let's make it shorter. When you talk to business investors—and let's go back to rural and small town areas. When someone is making a business investment they want to have some credibility and stability and predictability as to making these millions of dollars of investment to get into a smaller market. What is going to be our rate of return? When are we going to recoup the tens of millions of dollars it takes to get into these areas?

We just heard an argument on the Agriculture bill about loans to get broadband. It is a lifeline for folks out in the country, in rural areas. There are all sorts of incentives that people are for.

Businesses making those investments have to figure out when are they going to get a return on the investment. If you tax a transport or make it for a short duration of time, they are going to say: Gosh, there are going to be taxes on it in a few years so there will be fewer customers. We just can't risk that investment to get out into those areas.

So, more than ever, I really do believe we ought to listen to good, sound business reasoning, common sense and logic. In fact, most economists and technology experts agree that we need to be encouraging the deployment of the next generation broadband Internet connections and bring our communications infrastructure into the 21st century.

Economists at the Brookings Institution estimate that widespread high-speed broadband access would increase our national gross domestic product by $500 billion annually by 2006.

Failure to pass this legislation with a permanent moratorium and with an updated and clear definition of Internet access like the one this amendment provides, will leave broadband Internet access susceptible and open to harmful taxation. In many States and localities, those taxes could go up as high as 25 percent.

Any additional tax burdens on the Internet will mean additional costs many Americans cannot afford, forcing the poor in our society to reduce or even forego their use of the Internet as a tool for exploration, information, education, and individual opportunity.

More than ever before, when our economy is finally moving forward in the right direction, the people of this country need security with regard to their financial future. Businesses need certainty that prices for Internet access will remain affordable to consumers if they are expected to build out high-speed networks to rural and small-town communities. In a society, indeed a world, where the quality of life and economic power is directly proportionate to one's access to knowledge, we must close the economic digital divide rather than exacerbate it with State and local taxes.

I call on my colleagues to join with the chairman, our commodore, Senator MCCAIN, Senator WYDEN, and all of us in supporting the Internet Tax Nondiscrimination Act and permanently extending the Internet moratorium on tax access and multiple and discriminatory taxes. As we vote on amendments to what would be this Internet access tax issue—and there will be amendments—I respectfully ask my colleagues as we look at these amendments to be leaders who stand strong for freedom and opportunity for all Americans.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, like my friend from Virginia, I am a former Governor, as were Senator ALEXANDER, Senator GRAHAM, and Senator VOINOVICH. We served as chief executives of our States. I loved being Governor. I have never talked to anybody who didn't like the job. As a matter of fact, I enjoy being here and working with my friends JOHN MCCAIN, RON WYDEN, and others.

When I was privileged to be Governor of Delaware, we actually cut taxes 7 out of 8 years. We also balanced our budget 8 years in a row. Among the things I didn't like as Governor was when the Federal Government came in and tried to tell us in Delaware we had to spend money for some purpose but never provided the revenues to pay for that expenditure. Similarly, I never liked it when the Federal Government came in and unilaterally reduced our revenue base for programs we needed in our State to educate our kids, to provide health care, child care, environmental protection, and transportation. I never liked it when the Federal Government came in and tried to undercut our ability to raise revenues for those purposes and never provided an offset to make up the difference in the revenue that was taken away by the Federal action.

I remember as Governor coming here and testifying in the early to mid 1990s. I believe Governor Voinovich did as well. We called on the Federal Government to stop placing unfunded mandates on State and local governments. The message is pretty simple. Don't tell us to spend money for things and expect us to use our revenues. Don't come in and restrict our ability to collect revenues without providing something to make up for it. Our voices were heard. In 1995, legislation was adopted to stop unfunded mandates and dictates by the Federal Government which had an adverse effect on my State and other States.

I believe—correct me if I am wrong—that 91 Senators voted in 1995 for the unfunded mandates bill. Sixty-three of the 91 Senators who voted for that bill in 1995 are still here in the Senate.

In 1998, when Congress adopted an Internet tax moratorium, it was in essence on an unfunded mandate. The Congress agreed to restrict the ability of State and local governments to raise revenues in three areas. The moratorium which was adopted in 1998 said State and local governments could not tax access to the Internet. For the monthly bills we receive from AOL and other Internet providers, State and local governments cannot add a tax to that Internet access bill.

Similarly, if there was an Internet transaction multiple States would like to tax or multiple counties within a State would like to tax, those multiple taxes were essentially stopped by the 1998 moratorium.

Thirdly, discriminatory taxes against transactions over the Internet were banned as well. For example, we don't have a sales tax in our State, but in my State you could, of course, buy from a local merchant a good or a product and not pay a sales tax or tax of any kind. If any State were to pass a law that said if we were to make the purchase of the same good over the Internet we would have to pay a tax, that would be a discriminatory tax. That is not permitted under the 1998 Internet tax moratorium.

The Internet tax moratorium which was adopted 5 years ago was adopted in order to give Internet commerce a chance to grow and to mature. States didn't like having their ability to raise revenues as they saw fit restricted by the Federal Government. But they excepted 11 States that were actually doing that kind of thing, and their ability to raise revenues was grandfathered in.

For the last 5 years—initially the Internet tax moratorium was for, I think, 2 or maybe 3 years—when it was about to expire, the question was, should we renew it? I believe it was in 2001 when it was about to expire that Congress renewed it for an additional 2 years. It did not broaden the kind of three principal activities that were covered in the initial moratorium that said the same three applied. State and local governments, unless they are grandfathered in, can't begin taxing access to the Internet. State and local governments could not have multiple taxes on the same transactions over the Internet. Further, this ban on discriminatory taxes was upheld for another 2 years. Last Friday that 5-year ban expired, as I think most of us know. Certainly Senators VOINOVICH and ALEXANDER and I would like to see the moratorium, the ban, on the Internet tax access, multiple taxes, and the ban on discriminatory taxes extended.

This is not an argument about taxes on access to the Internet. I think we actually agree on that. There should not be taxes imposed by State and local governments unless they are already grandfathered in on access to the Internet. That is not what this is all about. This is not about whether or not we are going to tax anybody's e-mail. We are not going to do that. We are not interested in that. One of our colleagues, Senator VOINOVICH, will have more to say about that later. He may offer a sense of the Senate to make it absolutely clear that nobody around here is interested in taxing access to the Internet.

But as we look to nurture our economy and economic activity that is driven in part by commerce over the Internet, let us remember there is another set of voices that need to be heard. They are the voices of the people who are running our State governments, the folks who are running our cities and our counties and trying to do so in an environment where their revenue base continues to diminish. Their responsibilities to educate our kids don't diminish. In fact, those responsibilities are getting tougher as we impose academic standards and raise our expectations in our schools. We need to provide some kind of health care for people, young and old. Those needs are not diminishing. In fact, the burden through Medicaid on State and local governments, if anything, is increasing, not diminishing.

I was Governor during good times. I don't know if it was easy to be Governor from 1992 to 2000, but it was a heck of a lot easier than today. Today, instead of dealing with budget surpluses and figuring out how to invest or use the budget surpluses or how to cut taxes in order to return a portion of the surpluses, State and local governments are scraping for every dime to try to meet the needs of their States.

The question to consider today and tomorrow and perhaps next week is, What right do we have as a Federal legislature, as a Congress, to step in and mandate the reduction in the tax base, the revenue base, of State and local governments? What right do we have to do that? What right do we have to do that in the face of the Constitution? What right do we have to do that in light of the legislation adopted in 1995 banning unfunded mandates? We have heard from Governors and mayors from every corner, county council men and women, commissioners, we heard from folks from every corner of this country saying, Abide by the law you voted for in 1995 banning unfunded mandates.

I close with where I started. I have not talked to one Senator who says he or she is for taxing access to the Internet. We are not. I have not heard from any Senator, Democrat or Republican, from any part of this country, who says they are for taxing any person's e-mails. We are not. By the same token, my friends, I don't believe we should be for stepping in, beyond a very narrow moratorium on which we already spoke in those three areas, to broaden that moratorium to further undermine the revenue base of our State and local governments, during very difficult times for all of them, without giving that action in this proposal a whole lot more thought and debate and discussion. We will have that opportunity today and tomorrow.

I say to Senator VOINOVICH, Senator GRAHAM, Senator ALEXANDER, and others who have joined and will join in offering an amendment tomorrow, including Senator HOLLINGS, Senator STEVENS, Senator DORGAN, Senator FEINSTEIN, Senator LAUTENBERG, and others, I am proud to join in this initiative. It is possible in the end, I believe, to come up with a policy that is fair to State and local governments and is fair to those who would seek to expand our economy and to do so through Internet commerce.

Tomorrow we will have the opportunity to vote on an amendment offered by Senator ALEXANDER, Senator GRAHAM, Senator VOINOVICH, and myself to do just that. I look forward to further debate on that amendment and the opportunity for an up-or-down vote on that amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I thank my colleague from Delaware, my colleague from the State of Tennessee, and my colleague from the State of Florida for standing up—all of us former Governors—to deal with a matter that will have great impact on our respective citizens for many years ahead. We want to make sure that whatever we do makes sense.

Before I begin, I would like to set the record straight that this debate is about federalism, unfunded mandates, and protecting States' ability to collect taxes. It has nothing to do with taxing e-mail.

I have made the issue of unfunded Federal mandates a top priority during my 36 years of public service. At every level of government—as a State representative, county auditor, county commissioner, lieutenant governor, mayor of the City of Cleveland, Governor of Ohio for 8 years—I have seen firsthand how the relationship of the Federal Government with its State and local counterparts affects our citizens and the communities in which they live. My background has fueled my passion for the issue of federalism and the need to balance the Federal Government's power with powers that our Founding Fathers envisioned to the States.

This very body was created, in part, to guarantee that States had adequate, equal means to assert their interest before the Federal Government. Our forefathers provided that each State has two Senators to protect States rights and federalism, and prior to 1913 those Senators were elected by their legislatures to guarantee that they would protect federalism. I believe strongly that the relationship between the Federal Government and State and local governments should be one of partnership. That is why I vowed when I was elected to the Senate, I would work to find ways in which the Federal Government can improve the way it works with these levels of government to serve the American people.

I have also been concerned about the tendency of the Federal Government to preempt the functions of State and local governments and force on them new responsibilities, particularly without also providing the funding to pay for these new responsibilities.

Seventeen years ago, in 1986, I spoke to the Volunteers of the National Archives regarding the relationship of the Constitution to America's cities and the revolution of federalism. I brought to the attention of the audience my observation, since my early days in government, regarding the course American government has been taking:

> We have seen the expansion of the federal government into new, non-traditional domestic policy areas. We have experienced a tremendous increase in the proclivity of Washington both to preempt state and local authority and to mandate actions on state and local governments. The cumulative effect of a series of actions by the Congress, the Executive Branch and the U.S. Supreme Court have caused some legal scholars to observe that while constitutional federalism is alive in scholarly treatises, it has expired as a practical political reality.

In 1991, I started a long crusade when I became a member of the National Governors Association, working with the State and Local Government Coalition to do something about unfunded mandates. In fact, as Governor of Ohio, I requested that a study be done to examine unfunded mandates. It was the first of its kind in any State. It captured just how bad the mandate problem was in real dollars. Between 1992 and 1995, Ohio had unfunded mandates of almost $2 billion. These efforts were strongly supported by Senator Kempthorne, Senator Roth, Senator Glenn, Congressmen Robert Portman, Tom Davis, and Bill Clinger and culminated with the passage of the unfunded mandates legislation in the Senate on March 15, 1995.

As a matter of fact, for the first time in my life I set foot in the Senate when the Senate passed that Unfunded Mandate Relief Act. I was in the Rose Garden representing State and local government when President Clinton signed the legislation on March 22, 1995. In fact, I have that pen proudly displayed in my Senate office.

This milestone concluded a lengthy and coordinated effort by State and local government officials and their congressional allies to reduce the economic burden of Federal unfunded mandates and the adverse impact they have on State and local services.

By the way, this was the second plank in the Contract With America that was developed in 1994. I will never forget when we were in Williamsburg and committed ourselves to the Contract With America. The Senator from Virginia was present at that time in the capacity of Governor of Virginia.

I believed then and I believe today that mandates forced us to cut vital services and cut taxes. Mandates also rob our citizens and elected officials of perhaps the most fundamental responsibility of government, prioritizing government services. The Unfunded Mandates Reform Act does not prohibit unfunded mandates, but it does slow down the process of enacting a mandate and forces each Senator and House Member to go on record that we want to mandate or prevent action by State or local governments without providing the resources with which to pay for it. It ensures that Congress is informed and accountable when considering an unfunded mandate for pending legislation. The law was designed specifically to ensure an up-or-down vote on whether to impose a mandate.

The mandate we are debating is exactly what the Unfunded Mandates Reform Act was designed to address. This is the first time this Act has been used on the Senate floor since it was enacted in 1995. When this legislation passed the Senate in March of 1995, the vote was an overwhelming 91-to-9 vote. Of the 91 Senators supporting the bill, 50 are still here today, and of the 9 nays, 7 Senators are still in office. In addition, 14 Members of the House—voting in favor of unfunded mandates reform—have moved over to the Senate. So we have 64 Senators today who voted for this bill in 1995 in their respective Chambers.

The bill currently under consideration, the Internet Tax Nondiscrimination Act of 2003, sponsored by my good friend from Virginia, Senator ALLEN, and Senator WYDEN and Senator McCAIN, has included unfunded mandates by the Congressional Budget Office.

In fact, I want to quote from the Commerce Committee's report dated September 29, 2003, in which CBO said:

> By extending and expanding the moratorium on certain types of state and local taxes, S. 150 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act. CBO estimates that the mandate would cause state and local governments to lose revenue beginning in October 2006; those losses would exceed the threshold established in [the unfunded mandates relief legislation]. While there is some uncertainty about the number of states affected, CBO estimates that the direct costs to states and local governments would probably total between $80 and $120 million annually... . .

Furthermore, they went on to say:

> Depending on how the language altering the definition of what telecommunications services are taxable is interpreted, that language also could result in substantial revenue losses for states and local governments. It is possible that states could lose revenue if services that are currently taxed are redefined as Internet access under the definition of S. 150.

Finally, the report states that CBO cannot estimate the magnitude of these losses.

Mr. President, let me reiterate, CBO said: Depending on how the definition is interpreted, the loss of revenue to the States and local governments could be substantial.

If CBO cannot calculate the potential loss of revenue to the States, why in the world would we change the definition of Internet access? And why in the world would we make the new definition permanent?

Even FCC Commissioner Michael Powell said the telecommunications industry is in flux and that few industry experts could agree on a definition in view of the rapid changes in technology.

Senator WYDEN, in his presentation earlier this evening, made the allegation that no State will lose money under this proposal. We asked the National Governors Association to contact the tax commissioners from various States and here are some of the findings: Kentucky will lose $265 million; Iowa, $45 to $50 million; Maine, $35 million; Michigan, $360 million; New Jersey, $600 million; Ohio, $55 million; Oklahoma, $159 million; Tennessee, $358 million; Utah, $92 million; Washington, $33 million.

That is a lot of money—a lot of money—and States will lose tax revenue under this proposal.

In my own State, I spent a lot of time with our Ohio Tax Commissioners Office and the Office of Budget and Management. According to the Department of Taxation in Ohio, we will be losing about $700 million over our 2-year biannual budget period.

Last week, my staff was on a conference call with SBC Communications, Bell South, Sprint, the Tennessee Revenue Director, and the Ohio Tax Commissioner's Office. The telecommunications companies did not dispute the Ohio Tax Department's estimates.

So let's be honest about it. If this permanent moratorium goes through with the current definition, there is no question in the world that States are going to lose money.

At the end of that conversation, by the way, the only thing we got out of it was that there was uncertainty, confusion, and speculation regarding what this all meant.

In addition, we are going to be losing $350 million, at least, as a result of this proposal today.

If we pass S. 150, Congress will, in effect, force States to raise taxes or cut services in order to make up the difference. In other words, all 50 States will be forced to debate whether to raise taxes, cut services, or come to Congress for more money. Mr. President, unlike Congress, by law all states must balance their budgets. They don't have the option of printing more money like the federal government.

States have to balance their budgets and if they don't spend within their means, they are forced to make a choice to either cut services or raise taxes. Of course, that is something we have not done. And I mention, that some of my colleagues say States are not fiscally responsible. I would like to say that most of the States in the United States of America are much more fiscally responsible than this body, in which we have increased spending and added to our burgeoning deficit.

Mr. President, the newspapers in Ohio get it. The Cincinnati Enquirer, one of the most conservative papers in Ohio, understands:

> One reason governors, mayors and county officials oppose expanding the Internet tax ban is that telecom companies are racing as fast as they can to convert most services to the Internet. If just about everything gets tax-exempt under a broader "Internet access" definition, states and localities would take a huge tax revenue hit.
>
> The development of DSL, broadband and cable Internet service were just the sort of new access technology that Voinovich and others hoped would result from the tax moratorium, but they don't want it expanded to kill existing tax revenues.

The Akron Beacon-Journal also understands:

> In short, critical programs would be put in jeopardy, from mental health care to public schools.

Even the Washington Post understands:

> What's driving this legislation is that telecommunications companies and Internet service providers see an opportunity not only to make the tax moratorium permanent—in itself a bad idea—but to save what could amount to billions in additional taxes. The law frees service providers from having to pay taxes on telephone service they use to provide Internet access. And as the Internet becomes a more effective medium for providing phone service and delivering products

such as downloaded movies, software and music, the legislation could sweep such offerings within the ambit of services that states are prohibited from taxing.

The Internet shouldn't be subject to conflicting taxes, but that's no reason to argue that it shouldn't be taxed at all. There should be a level playing field for taxing Internet access, whether it comes through ordinary dial-up, cable modems or high-speed telephone lines.

The last thing Congress should do now to cash-strapped states is pass a law that would not only permanently put Internet access off limits for taxation but also deprive them of revenue that they now collect.

And they go on—I will finish the quote—

Proponents of the law are busy demagoguing the issue, suggesting, as Senate sponsor Ron Wyden (D-OR) put it the other day, that users "could be taxed every time they read their local newspaper online or check the score of a football game." Congress should step back from the brink, temporarily extend the moratorium and sort this all out in a way that doesn't intrude on state prerogatives.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cincinnati Enquirer, Oct. 31, 2003]

HALLOWEEN SCARE: INTERNET TAXES

(By Tony Lang)

Sen. George Voinovich of Ohio has been boiled in a witches' cauldron this week by critics angered that he helped block an expanded ban of taxes on Internet services. The current Internet Tax Moratorium, which he supports, expires Saturday.

Anti-tax groups making Voinovich out to be the devil incarnate are roasting the wrong guy. Voinovich favors keeping the tax moratorium on Internet access. He helped negotiate the Internet Tax Freedom Act of 1997, supported its renewal in 2001 and opposes new taxes on telecommunication services. And yes, he strongly opposes a tax on e-mail.

But he and other senators do object to new legislation which would expand the definition of "Internet access" and not only exempt some telecom services now taxed but also some income, property and other business taxes. That legislative change could cost state and local governments between $4 billion and $8.75 billion a year by 2006, the Multistate Tax Commission estimates. The Congressional Budget Office agrees losses would be substantial.

Voinovich, a states-rights federalist, argues it would be unconstitutional for the Federal government to abolish existing State and local tax revenue streams. It also would violate the 1995 Unfunded Mandates Relief Act, which then-Gov. Voinovich lobbied for and U.S. Rep. Rob Portman of Terrace Park sponsored. That law attempts to bar Congress from imposing a mandate on states without paying for it.

One reason governors, mayors and county officials oppose expanding the Internet tax ban is that telecom companies are racing as fast as they can to convert most services to the Internet. If just about everything gets tax-exempted under a broader "Internet access" definition, States and localities would take a huge tax revenue hit. The development of DSL broadband and coaxial cable Internet service were just the sort of new access technology that Voinovich and others hoped would result from the tax moratorium, but they don't want it expanded to kill existing tax revenues. The loss in Ohio services is calculated at $450 million.

The world won't end tomorrow if the tax moratorium expires. It lapsed for a month in 2001 before Congress extended it. The House already passed a bill (H.R. 49) on Sept. 17 making the Internet tax ban permanent. This week, Sens. Voinovich, Lamar Alexander of Tennessee, Ernest Hollings of South Carolina, Frank Lautenberg of New Jersey and Maria Cantwell of Washington State put a legislative "hold" on S. 150, and according to Senate rules of "unanimous consent," it will take some cutting and pasting before all agree to bring it to a floor vote.

Ohio Gov. Bob Taft wrote to urge the Senate Finance Committee to limit the tax ban to Internet access only. Internet sales are a different matter. The Capitol Hill in-fighting over taxing e-commerce is even more bloodcurdling, and as rife with falsehoods. The tax ban doesn't mean the Internet is a tax-free zone. But Internet sales, according to the Department of Commerce, accounted for only 1.3 percent of all retail sales in 2002. Still it's no wonder Lamar Alexander is leery of sales tax bans. Tennessee has no State income tax. Someday, States may settle on some simple point-of-origin sales tax system for mail order, catalog and Internet sales, but meantime Congress should keep its hands off and limit itself to protecting interstate commerce and lively tax competition between states.

[From the Beacan Journal, Oct. 30, 2003]

RESPONSIBLE GEORGE

Sen. George Voinovich finds himself in a familiar position. The Ohio Republican has angered many in his party. His offense? He wants Congress to act responsibly. He has correctly questioned aspects of legislation that would extend the Internet Tax Freedom Act, the five-year-old moratorium on State and local taxation of Internet services set to expire on Saturday.

Voinovich isn't alone. Sen. Lamar Alexander, a Tennessee Republican, has echoed his concerns. So have many Republican governors, including Bob Taft of Ohio. They do not oppose the ban. (Voinovich helped to negotiate the original moratorium.) They recognize the need to encourage Web businesses. What they find troubling is the breadth of the extension.

In September, the House approved legislation that would make the ban permanent. The Senate is considering a similar bill. Both would expand the definition of Internet services to such an extent that State and local governments would risk a substantial erosion of their tax base. Not surprisingly, the revised definition was inserted in haste, more ideologically driven that practical.

No surprise, either, that Voinovich, a former governor, would spot the difficulty ahead. States collect taxes on local and long-distance telephone services. Telecommunications companies are increasingly looking to "bundle" products, offering a collection of services, including Internet access. The proposed extension would permit the bundled items to be viewed as one product. Thus, products that currently are taxed, such as a local phone service, would be exempt.

The amount of revenue lost? Ohio would surrender an estimated $350 million a year. The potential bleeding explains why Bob Taft fired a letter to Charles Grassley of Iowa, the chairman of the Senate Finance Committee. The governor stressed the "devastating" impact on States.

The Multistate Tax Commission (an association of State tax directors) estimates the proposed extension would drain at least $4 billion a year from all State treasuries and as much as $8.75 billion by 2006. Again, these are funds States already collect, and many States face a fiscal crunch as severe as any in the past 50 years.

In short, critical programs would be put in jeopardy, from mental health care to public schools.

George Voinovich certainly knows unfunded mandates. He has long railed against the feds making demands and leaving States to pick up the tab. In this instance, Congress would tamper with established ways of States raising essential revenue, leaving governors and State lawmakers to cover the difference.

Better, the responsible argument goes, to extend the current ban on taxing Internet services for a period of time, allowing lawmakers to think harder about their next step.

[From the Washington Post, Nov. 4, 2003]

TAX AND CLICK

State and local governments have broad power to tax as they see fit—everything from clothes and food to electricity and telephone service. Nearly everything, that is, except the Internet. Under a supposedly temporary law passed in 1998 and already extended once, Congress prohibited States from taxing Internet access fees, the monthly charges imposed by Internet service providers. Proponents argued that the nascent engine of the Internet shouldn't be slowed by taxing it and that it would take time to devise a system to prevent duplicative or discriminatory taxes. Now, with the tax moratorium having expired on Saturday, Congress is poised to make the ban permanent, broaden its reach and wipe out existing taxes that had been grandfathered in under the previous law. With State budgets under stress and the Internet thriving, this is an unnecessary—and costly—incursion on States' rights.

The argument for permanently barring taxes on Internet services centers on two issues. One is the argument that taxing Internet access, whether through phone lines or cable modems, would amount to double taxation, because the phone lines and cable service are already taxed. That's true, but purchasing Internet access provides a separate—and separately taxable—bundle of services. Terming this double taxation is like saying that a shopper who pays tax on a pair of slacks should then be exempt from being taxed on a shirt bought with it.

The other argument is that taxing Internet access would worsen and prolong the digital divide, the computer gap between rich and poor. This may be a problem, but prohibiting taxation is not the answer. It's not the extra few cents on a monthly bill that's stopping the less well-off from Googling their way to the middle class. A policy to erase the digital divide, however laudable, doesn't justify the no-tax solution. The federal government wants to spur home ownership for low-income families—surely a bigger problem than lack of Internet access—but that doesn't lead it to tell local governments that they can't impose property taxes.

What's driving this legislation is that telecommunications companies and Internet service providers see an opportunity not only to make the tax moratorium permanent—in itself a bad idea—but to save what could amount to billions in additional taxes. The law frees service providers from having to pay taxes on telephone service they use to

> provide Internet access. And as the Internet becomes a more effective medium for providing phone service and delivering products such as downloaded movies, software and music, the legislation could sweep such offerings within the ambit of services that states are prohibited from taxing.
>
> The Internet shouldn't be subject to conflicting taxes, but that's no reason to argue that it shouldn't be taxed at all. There should be a level playing field for taxing Internet access, whether it comes through ordinary dial-up, cable modems or high-speed telephone lines. The last thing Congress should do now to cash-strapped States is pass a law that would not only permanently put Internet access off limits for taxation but also deprive them of revenue that they now collect. Proponents of the law are busy demagoguing the issue, suggesting, as Senate sponsor RON WYDEN (D-Ore.) put it the other day, that users "could be taxed every time they send an e-mail, every time they read their local newspaper online or check the score of a football game." Congress should step back from the brink, temporarily extend the moratorium and sort this all out in a way that doesn't intrude on State prerogatives.

Mr. VOINOVICH. Mr. President, I have made the point that I have strong concerns with the pending legislation because it is an unfunded mandate. At the same time, I think it would be wrong for Congress to do nothing and allow taxes on Internet access.

As I have said emphatically, I am against taxes on e-mail and the Internet. It is no secret that my interest in the current moratorium dates back to my time as Governor. During my tenure as Governor, I was also chairman of the National Governors Association. As chairman, I asked Governor Mike Leavitt to be the lead Governor on the Internet economy and its effects on State government and federalism. The NGA efforts on this important topic led to the current moratorium on Internet taxes which was signed into law in 1998, and then again in 2001.

Our goal then is the same as my goal today: to encourage the growth of the Internet as a driving force in our economy.

Let's look at the facts.

Under the original 3-year moratorium from 1998 to 2001, the Internet rapidly expanded to all corners of our country. The point I am trying to make is that with the current moratorium that we have, we have seen unbelievable expansion in the Internet. That is what we wanted to have. That is why we put the moratorium in effect.

In February 2002, the National Telecommunications and Information Administration at the Department of Commerce issued a report entitled "a Nation Online: How Americans Are Expanding Their Use of the Internet." It is just unbelievable what has happened during that period of time. My point is, the Internet flourished in all segments of society during the original moratorium, and I think it is safe to assume that Internet usage continues to increase every day.

The question is, how do we continue to support the growth of the Internet and bring parity for all Internet service providers without causing undue harm to our State and local governments that have been experiencing serious budget shortfalls?

S. 150 would, for the first time since 1998, change the definition of Internet access and, without a clear understanding of the definition's impact, rush to make it permanent.

The fact is, Internet technologies are changing more rapidly than ever. Companies are moving quickly to provide multiple services over a single line, including Internet access, voice communication, data service, and entertainment service. It does not make sense to change and make permanent the definition of Internet access when the technologies and the different ways Internet services are being offered is changing so rapidly.

My colleagues, Senators ALEXANDER, GRAHAM, and CARPER, and I will introduce an amendment that simply keeps current law in place and offers language to level the playing field for DSL, wireless, cable, and satellite Internet services. Basically, what we are offering will be a 2-year moratorium. We will amend the current definition of the Internet tax moratorium to preclude the taxing of DSL.

Many States today, under the grandfather clause of the tax moratorium, have been collecting taxes on DSL. Several other States, because of a loophole in the definition, have started collecting taxes on DSL connections. What we are proposing—and it is very fair—is that in consideration of this body extending this moratorium for only 2 years, States such as Ohio and others that are now collecting Internet taxes will give them up at the end of a 2-year period. This gives them adequate time to prepare, in terms of their budget, for the loss of the revenues.

Clearly, the States are willing to give up taxes that they are now collecting on the Internet in consideration of not going forward with a permanent moratorium with the definition that is now contained in the bill before us. In other words, the fear of what could happen under the definition of the bill that is before us today in the managers' amendment is so large that they are saying: We will give up that money just so it lasts for 2 years. During this time, we can work on a definition that will make sense.

I believe that is a very fair proposal. It means we will be reducing taxes on the Internet in many of our States that are now collecting taxes.

Last but not least, on October 29, the Wall Street Journal wrote an editorial entitled "Taxing Your E-Mail." The Journal claimed that a few Republicans have decided to dress up as tax-and-spend Democrats for Halloween. The fact is, the Wall Street Journal article completely misstated what we are trying to do here tonight. The reference to taxing e-mail is nonsense.

In fact the Cincinnati Enquirer followed up the Wall Street Journal by saying on October 31, quote:

> Anti-tax groups making VOINOVICH out to be the devil incarnate are roasting the wrong guy. VOINOVICH favors keeping the tax moratorium on Internet access. He helped negotiate the Internet Tax Freedom Act of 1998, supported its renewal in 2001 and opposes new taxes on telecommunication services. And yes, he strongly opposes a tax on e-mail.

In fact, I am going to be introducing an amendment tomorrow that is a Sense of the Senate to make it very clear that this is not about taxing e-mail. I think it is important my colleagues understand that. This is not what this legislation is about.

I am hoping tomorrow we will have an opportunity to vote on this bill and this amendment. I hope my colleagues will be fair enough to understand how serious this matter is to the future of our States and to federalism. I hope we are successful tomorrow with our amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, there have been some comments by my colleagues that the people who are concerned about this issue and who are at risk are Governors, State legislators, mayors, county commissioners, and other officials at the State and local level. I beg to disagree. The people who are at risk include that child who is in an overcrowded classroom. The people who are at risk are those persons who have suffered a heart attack and are waiting for the emergency medical service to arrive. The people who are at risk include that woman whose car is broken down on a dark highway and who is waiting for the State trooper to come give assistance.

Under this concept of federalism that our Government has followed since its beginning, those responsibilities—education, emergency response, law enforcement—have been placed in the hands of the States. It is their responsibility to provide for a governmental structure of State and local response that will fulfill those and literally thousands of other responsibilities.

It has been said that federalism is the most significant governmental concept which has been developed by the United States. It is a philosophy which has always been in flux. We are looked down upon in this Chamber by two of the figures who represent the divisions within federalism: Our first Vice President, John Adams, who was a strong advocate of a central government; Thomas Jefferson, our second Vice President, who was an equally strong advocate of responsibility being placed as close as possible to where the people affected by that action of government live.

Federalism depends upon certain fundamental principles. One, it depends upon the principle of a respectful relationship between the central government and the States. It depends upon the ability to accept diversity.

Most countries have a ministry of education which is responsible for education on a nationwide basis. We have gone a different course. We have 50 States which have the primary responsibility for education from prekindergarten to graduate school. We have the concept that the States should be given significant latitude so they can be the laboratories for experimentation in our Nation.

We also believe under federalism that there should be, to the greatest degree possible, a matching of power and responsibility. If the States, for instance, have a certain set of responsibilities, they should have the commensurate power to organize to meet those responsibilities and to determine what level of revenues are going to be necessary to meet those responsibilities and from what source or sources those revenues should come.

We recognize that under our Constitution, the Federal Government has ultimate authority. If there is a conflict between the States and the national government, the national government prevails. That concept was engrained in our Nation through the Civil War which settled the question of which level of government was supreme.

The Federal Government should not use this power that it has in an arrogant manner but, rather, with discretion and respect. State governments have all power that is not delegated to the Federal Government. But they, too, should not use that residual power in an arrogant way but recognize that, while they are serving specifically the constituents of their State, they also are serving ends that benefit the Nation. Education is the most obvious example of a responsibility which has national service but which is directed at the State and local school district level.

Mr. President, the term "situational Federalist" has come into vogue to describe people who will be Federalist, particularly in representing the role of State and local government when the ends to be met will be achieved through decentralization, and they are not Federalist when the ends they seek to achieve will be better accomplished through centralizing power.

I reject the concept of "situational Federalism." I believe, for this great, large, diverse, dynamic country to best function, we in Washington should be very respectful of the role of the States, even when the end result of that may be a policy position with which we do not necessarily agree.

I think we have arrived at one of those moments tonight. In this case, almost everyone in this Chamber supports the principle that is in the national interest to have an expansion of access to this wonderful new world made possible by the Internet. But we believe we should carry out that objective with discretion. That is what we have done to date. We have incrementally, 2 years at a time, extended the moratorium on the ability of State and local governments to have taxation of access to the Internet; and we have been carefully defining just what the range of that moratorium on taxation would be. And outside of that definition, we have given the States and local governments significant authority. That authority has resulted in a not insignificant totality of the revenue of State governments.

As an example, last year, on a nationwide basis, State governments collected between $4 billion and $9 billion of revenue from sources which this legislation would render immediately and permanently nontaxable. I believe that is not an example of the respectful way in which the Federal Government should deal with our Federal partners at the State level.

As Senator VOINOVICH has said, and as Senator CARPER and as Senator ALEXANDER will say, we will make a proposal tomorrow that I think represents that appropriate respectful relationship. It does what we have done now twice before—provide for a 2-year moratorium on Internet access. It keeps, with one exception, the same definition of interstate access that we have had from the beginning of this series of moratoriums. It does not preemptorily eliminate the ability of those States that were grandfathered in to continue to collect those taxes. It will anticipate a gradual phaseout of that grandfather status, but not one that could have a shock effect on the ability of those 11 States, which does not include my State, and which does not include the State of the Presiding Officer. We should not look at this parochially from our own interests but, rather, what best serves our responsibilities as Federalists.

Mr. President, I intend to speak at somewhat greater length tomorrow as we get into the details of why we believe S. 150, as submitted, is not in our tradition of federalism, and to suggest an alternative, which will be offered by four of us who are now colleagues, but previously in our life did have the responsibility of the chief executive of one of our 50 States, and therefore know from personal experience the challenges that States have in educating its young people, providing critical law enforcement and emergency services to our people, and the necessity of having the capacity to fund those services, which is the equivalent of the responsibility itself. I believe the proposal that will be offered tomorrow is a reasoned proposal that assures that there will be no further encroachment on access to the Internet through increased taxation, while at the same time respecting the fact that taxation on telecommunications revenues represents a significant capability of the States to meet their obligations.

Mr. President, with that somewhat philosophical introduction, I look forward to a debate on the specifics of this issue when we meet again tomorrow.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the Senator from Florida for his remarks and say to him and the Presiding Officer and Senator CARPER how much I appreciate the opportunity to work with them on this issue. They have been leaders in our country, in our States, among the best Governors we have had over the last number of years, and I welcome the chance to work with them. I thank Senators ALLEN and WYDEN for their hard work on this issue. They have been working at it for a long time. I respect that and appreciate it. I thank Senator MCCAIN for his congeniality and his efforts to move things along. He and the majority leader, last week, agreed to give us an opportunity, as they have done tonight, and for tomorrow, to make our case, state our issues, have votes that we want to have, and I am grateful for that during a busy season. It would have been easier to just let this go by. There are a lot of issues before the Senate, but there are a bipartisan group of us who think this is very important as well. Each of you have stated tonight—and I don't need to restate it—why that is so.

I think it is a part of the tradition of the Senate that it be the saucer in which the coffee cools. What we have found over the last several days is, as our colleagues on both sides of the aisle have looked at this unfunded Federal mandate that affects internet access, they have more questions about it. There are more people who are deeply concerned about the proposal of the distinguished Senators from Virginia and Oregon.

So I am appealing tonight, and will be doing so tomorrow, especially to those Members of the Senate who have been mayors and Governors, who have been legislators, city council men and women, to look at this and the issues of Federalism. In sort of a reverse partisanship, I want to appeal to my colleagues on this side of the aisle, for whom the idea of unfunded Federal mandates has been a central part of our beliefs. It was the center of our Republican resurgence in 1994, the heart of the Contract With America. S. 1, the No. 1 Senate bill that the new Republican majority leader, Bob Dole, introduced in 1995, was the Unfunded Mandates Reform Act. So this is important stuff for the Republican Party.

In listening, though, to the issues that are being discussed tonight, let me see if I can summarize some of what I believe I have heard and discuss for a moment the amendment that I will be sending to the desk, or have already forwarded to the desk, on behalf of several of us.

The question tonight is whether and to what extent we will allow State and local governments to tax Internet access. That is the issue. There are really two arguments among those of us who are arguing. The first one is—and I may be alone in this, but I don't think so—I don't like any unfunded Federal mandate. I supported the idea of a moratorium on State and local taxation of access to the Internet when it all began. Most of us did. That was in the mid-nineties. It is hard to think back that far. The Internet was an infant in a crib then and none of us wanted it to be squashed in its infancy.

Then after 3 years, along came various advocates who said: Let's give it another 2 years. That very narrow ban on Internet access, which didn't cost very much money—probably so little money during that time it didn't qualify under the Unfunded Mandates Reform Act as an unfunded Federal mandate—so it was extended 2 years.

Now the advocates of the other position are coming along and saying: We want to make this ban permanent, and we want to broaden the definition of what we mean by "Internet access," so what we have here is not such a complex issue. We have really two questions: Do we want a permanent ban, or do we want a 2-year ban? The second is, Do we want to extend the same definition of "Internet access" we now have with a minor change, or do we want a broad definition of "Internet access" that might cost State and local governments billions of dollars? That is really the issue that will be presented when we vote most likely tomorrow.

I send to the desk, but do not call up, an amendment on behalf of myself, Mr. CARPER, Mr. HOLLINGS, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAHAM, Mr. DORGAN, Mrs. FEINSTEIN, Mr. LAUTENBERG, and ask that it be filed.

I wish to discuss three issues. One is the strange case of amnesia that seems to have set in, especially on my side of the aisle, about unfunded Federal mandates. The Presiding Officer made an eloquent discussion of that issue. So did other speakers.

The second is, I would like to discuss specifically why this is an unfunded Federal mandate under the specific terms of the budget law which was amended in 1995.

Finally, I want to say a word about the amendment which we will offer, which we believe is a better extension of the ban on Internet access than that proposed by Senator ALLEN and Senator WYDEN.

I very well remember 1994 and 1995. Senator VOINOVICH remembered he was in Williamsburg, VA, when the Governors met. I remember that Senator VOINOVICH, then a Governor, was the acknowledged leader of State and local forces who were deeply concerned about the practice of Washington politicians passing laws claiming credit and then sending the bills to mayors and Governors. Nothing really made us Governors much madder than that, people getting elected to Congress and presuming they had suddenly arrived here in Washington, that they had a great idea about children with disabilities, and they would order us to do it and then order us to pay for it, or at least pay for half of it.

We cared about children with disabilities, too, and we felt as if we were elected to make those decisions. We found nothing in our laws and constitutions about how the Federal Government ought to define for us what our tax base ought to be or ought to be telling us all of these things.

I vividly remember the new Republican majority leader of the Senate, Bob Dole, coming to Williamsburg that very meeting Senator VOINOVICH mentioned. Governor Allen, now Senator, was presiding. Thirty Republican Governors were there. Speaker Gingrich and Majority Leader Bob Dole came. Speaker Gingrich talked about the Contract With America. We Republicans can remember that—300 Republican candidates standing on the steps of this U.S. Capitol saying: Here is our 10-point plan; elect us, and if we break our promise, throw us out. That is what we said. That is what we Republicans said. What was our promise? The heart of that promise was no unfunded Federal mandates.

Senator Dole knew that. It wasn't just a matter of the House of Representatives. He came to Williamsburg, VA. He pulled out a copy of the Constitution. He must have done it 100 times in the next year because I was with him 100 times in the next year when he did it. We were both campaigning in Presidential primaries, and he would read the tenth amendment. He would read:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

That was Bob Dole in 1994 and 1995. He was good to his word.

We have a practice of the Senate. The majority leader will pick the most important bill and make it his bill and call it S. 1. S. 1 that year for Senator Dole, the new Republican majority leader, was the Unfunded Mandates Reform Act of 1995. As Senator VOINOVICH said earlier, it passed 91 to 9. Sixty-three of the Senators who voted for it then are serving in this body today. Twelve of them were House Members then.

There was a lot of steam in that argument then. I would like to read just a paragraph from a backgrounder put out by the Heritage Foundation in December of 1994. This is just a little while after the Governors met. This paragraph says:

> Throughout much of American history, especially since the New Deal—

This is how they were looking at it—

> the Federal Government increasingly has encroached upon the fiscal and constitutional prerogatives of State and local government. Today this imbalance has reached a crisis point, and the States are fighting back. Through a variety of initiatives, they are demanding that Federal mandates be funded and, in many cases, even are challenging the authority of the Federal Government to impose these mandates, whether funded or not. With the new more State friendly Congress—

That is us, the Republican Congress—

> States and localities have a historic opportunity not only to effect mandate relief, but also to restore balance in State-Federal relations.

Then they begin to list in this Heritage Foundation document some of the ways States and localities that seemed to have reached their limit are fighting back. They are publicizing the costs of unfunded mandates. They are holding their Congressmen accountable. They are challenging Congress's authority to impose the mandates. They are suing the Government for the violation of the tenth amendment. They are lobbying Congress to pass mandate relief legislation—no-money, no-mandate constitutional amendments.

They are considering a collective action to challenge the Federal Government's right to pass laws that impose duties on States without paying the bill.

This was the mood in 1994 and 1995, and this was a major reason why the Republican majority was elected. I hope we don't forget that. I know at the time a great many of our colleagues remember it because they talked about it eloquently in their speeches when the Unfunded Mandates Reform Act was enacted in 1995.

Senator LOTT said:

> It is things like unfunded mandates that drive good people out of office.

Senator THOMAS said: I served in the Wyoming Legislature and a good deal of our budget was committed, before we ever got to Cheyenne, to unfunded mandates.

Senator FEINSTEIN, a cosponsor of our amendment, said: I was president of the board of supervisors. I was mayor. I saw the development of these unfunded mandates firsthand and in doing so I probably speak for the mayors and local officials all across the Nation.

Senator NICKLES, chairman of the Budget Committee, said: I used to serve in the State legislature and we really resented the idea that the Federal Government would come in and mandate how we would spend our resources.

I am reading speeches from the CONGRESSIONAL RECORD of Members of this body in 1995, who voted to ban unfunded Federal mandates.

Senator HUTCHISON of Texas said: Almost one-third of the increase in the Texas State budget over the past 3 years has been the result of unfunded Federal mandates—one-third, she underlined.

Senator BURNS talked about the impact of unfunded mandates.

Senator BENNETT told a beautiful story about encountering a mayor during a campaign in his State in Utah, and he ended up with the mayor saying, well, if I had a U.S. Senator in front of me with his undivided attention, the one thing I would say to him is stop the unfunded mandates.

That is just a few of the things that were said. So the question now then is, is this really an unfunded Federal mandate? Well, that is not too hard to figure out. Some of my colleagues seemed surprised when I suggested this might be, so I have put a letter on every Senator's desk.

I ask unanimous consent that the letter be printed in the RECORD.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 2003.

Hon. LAMAR ALEXANDER,
U.S. Senate, Washington, DC.

DEAR SENATOR: This letter responds to the three questions you posed in your letter of November 4, 2003, regarding S. 150, the Internet Tax Nondiscrimination Act.

1. How much revenue is being collected by state and local governments from taxes on DSL?

CBO estimates that state and local governments currently collect at least $40 million per year in taxes on DSL service (Digital Subscriber Line—a high-speed data transmission over regular telephone wires). They are likely to collect revenues totaling more than $80 million per year by 2008 due to growth in the use of high-speed Internet access. These collections are primarily sales and use taxes on DSL service.

2. What would be the revenue loss to state and local governments under the managers' amendment to S. 150?

Based on the version of the proposed amendment CBO received late this afternoon (S150MGR.6), CBO has determined that the bill would create intergovernmental mandates as defined in the Unfunded Mandates Reform Act. We estimate that those mandates would impose costs on state and local governments in at least one of the next five years that would exceed the threshold established in that act ($60 million in 2004, increasing to $66 million in 2008). We have identified three major impacts, each of which would, by itself, exceed the threshold:

Revenue losses of $80 million to $120 million per year, starting in 2007, to state and local governments that are already taxing Internet access and were covered by the "grandfather clause" contained in the Internet Tax Freedom Act. Some of these are taxes on DSL services. We have no information to suggest that other states will impose taxes on Internet access in the near term.

Other states are currently imposing taxes on charges for the portions of DSL services they do not consider Internet access. Those states would lose at least $40 million in sales and use taxes on DSL services in 2004, and at least $75 million by 2008. The preemption of DSL taxes would stem from section 2(c) of the amendment, which defines "Internet access."

Substantial revenue losses that could result from:

(a) The inability of state and local governments to collect transactions taxes (including sales and use taxes and gross receipts taxes) on certain types of telecommunications services. For example, if technological change shifts traditional telecommunications services to the Internet, those services—for example local and long distance phone calls—could be included, for free, when a customer purchases Internet access;

(b) The free inclusion of content (movies, music, and written works) with Internet access in response to the tax exemption provided by this bill. Such content is subject to sales and use taxes under current law but might increasingly be available at no charge as part of an Internet access package.

CBO does not have sufficient information to estimate these revenue losses, but we believe they could grow to be large. There is some question, however, as to what types of transactions could not be taxed under the bill; under some interpretations, these revenue losses could remain quite small. The issue might ultimately have to be resolved in the courts.

3. How much tax revenues do state and local governments collect on telecommunication services?

Based on information from industry representatives, state and local governments, and federal statistical sources, CBO estimates that state and local governments currently collect more than $20 billion annually from taxes on telecommunications services. Such taxes generally fall into two categories: transactions taxes and business taxes. Transactions taxes (for example, gross receipts taxes, sales taxes on consumers, and taxes on 911 service) account for about two-thirds of the total.

In arriving at this estimate, CBO took into account the fact that some companies are challenging the applicability of taxes to their services, and thus may not be collecting such taxes, even though states and local governments feel they are obligated to do so. Such potential liabilities are not included in the estimate.

If you would like further details on the information provided in this letter, we would be pleased to provide it. The staff contacts for this legislation are Sarah Puro and Theresa Gullo.

Sincerely,

ROBERT A. SUNSHINE
(For Douglas-Holtz-Eakin, Director).

Mr. ALEXANDER. There is a letter that I received yesterday from the Congressional Budget Office on every Senator's desk. It describes the three ways in which the proposed ban on State and local Internet access taxes by Senator ALLEN and Senator WYDEN violate the Federal Budget Act—specifically, the amendments of the Unfunded Mandates Reform Act of 1995.

These are the three ways: One, there is a revenue loss of $80 million to $120 million per year to State and local governments already taxing Internet access. There are 11 such States.

Second, there are losses of $40 million to $75 million of taxes on DSL services that States now collect. That is the second violation of an unfunded mandate.

Third, and this makes the point it is not only an unfunded mandate, it is potentially a great big unfunded mandate. The Congressional Budget Office says in its letter that the third way this proposal violates the Budget Act is "substantial revenue losses that could occur" when technological change shifts traditional communication services to the Internet—for example, local and long distance phone calls—or when content, music, movies, written works is provided free with Internet access.

This may sound complicated but it is not so complicated. Basically, what this says is it already is happening, that your telephone company or your cable TV company will provide your Internet access. CBO says that State and local governments today now collect more than $20 billion annually from transaction sales and use taxes on telecommunications services.

What this letter further says is that the Allen-Wyden proposal will take an undetermined amount of this $20 billion and ban the ability of State and local governments to include that as part of their tax base. It is enough, according to the CBO letter, to define it as an unfunded Federal mandate. But they say they cannot tell the exact amount of the $20 billion that might be exempt from State and local taxation.

The Multistate Tax Commission said it could tell. It estimated $4 billion to $5 billion. That is an awful lot of money. The Senator from Ohio, the Presiding Officer, in his argument read a list of what State revenue officers have told him, and what they estimate it might take.

The problem is the broader definition of Internet access, which is contained in the bill of the distinguished Senators from Virginia and Oregon, raises the likelihood that some—maybe a lot—of the $20 billion that is now used by State and local governments to pay for schools, State parks and to keep other taxes down, would be taken away from their tax base.

What do we then do about it? Well, we think we have a suggestion which we hope tomorrow our colleagues in the Senate, if we are able to vote on it, then will agree with us. Our suggestion is an extension of the current ban on Internet access for 2 years, with the same narrow definition that we now have, with the exception that we would make sure that in 23 States which do not now tax DSL, that is telephone service that delivers broadband, they would not be allowed to do that.

So in taking the issues that I heard from the distinguished Senators from Virginia and Oregon, I would summarize them this way: They argue that the Internet is so valuable that we need to override this law we have against unfunded Federal mandates. I agree it is valuable but it is not an infant. It is a pretty big boy. It is out there in the world. We know what it is and it should stand on its own now.

The telephone is also a magnificent invention. We do not exempt it from taxation. The television is a magnificent invention. We do not exempt it from taxation.

If we really think in the Congress that the Internet deserves to be completely exempt from State and local taxation, then why do we not pay for it? Why do we not pass a law that we might call the Unfunded Federal Mandate Reimbursement Act and just let every mayor and every Governor send us a bill every year and we will send them a check. If it turns out to be $20 billion, we will send them $20 billion. If it turns out to be $4 billion, we will send them $4 billion because we will have said the Internet is so important that we in Congress think it ought to be subsidized, that there should be relief from taxation, and so we are going to pay for it. That would be the honest thing to do, rather than just to say we think it is important but you pay for it.

That is what we said with how we helped disabled children. That is what we said with stormwater runoff. That is what we said with clean water. We think it is a great idea, you pay for it. That is why we are in Washington. We print money. You balance budgets. We think it is a good idea, you pay for it. That is what the fuss is about.

The second thing I have heard is it is in interstate commerce and we could not touch it. Telephones are in interstate commerce. We do not keep States and local governments from taxing telephones. Televisions are in interstate commerce. Buses are in interstate commerce. Planes are in interstate commerce. Catalog sales are in interstate commerce. Severance taxes are in interstate commerce. A great big part of every State and local government's budget is made up of a tax base that included items that are in interstate commerce. So that argument does not wash at all.

Taxing broadband, that is a good point. Broadband is coming fast. We do not want to interfere with that so our conclusion is, let us stop it in the 23 States that do not now tax broadband. Let us put DSL and cable—that is the broadband is delivered—on an equal playing field. In the States that do tax DSL, they can continue that for the 2 years of the ban.

Multiple taxation, that was raised by the Senator from Virginia. Well, we are extending the current language and it bans multiple taxation. Discriminatory taxation, we propose to extend the current language, and that bans discriminatory taxation.

State and local taxation on Internet access, we would propose to extend the ban on Internet access taxation for 2 years so we can think this through. So we have taken care of that as well. Tomorrow, when hopefully we will be voting on this, we will have this choice: Do you want a permanent ban on Internet access taxation, or do you want a 2-year ban? Do you want a broad definition of what we mean by Internet access, a definition that could cost States a significant share of their State or local tax base, or do you want a narrow definition, virtually the same one we have today?

I believe the prudent thing for us to do is to take the law that we have today, slightly modify it to put DSL and cable on an equal playing field, extend it for 2 years, and let us continue the debate we are having about how to define the two words "Internet access." That is really the problem. I agree with the Senator from Oregon. He has worked long and hard on this. There have been many meetings. We just don't agree on what the definition of Internet access is.

But until we can agree, we should not put this potentially huge unfunded Federal mandate into the law. So tomorrow I hope to bring up this amendment I have filed tonight. I hope our colleagues will compare it with the proposal of the Senator from Virginia and Oregon, and I hope they will adopt ours.

I also have a point of order I could raise, which would cause the Senate to consider whether the Allen-Wyden amendment is an unfunded Federal mandate. If there is a motion to waive the point of order, which I believe would be sustained by the Chair, then Senators would have an opportunity to cast a vote for or against an unfunded Federal mandate. But I am going to reserve that option and hope that sometime tomorrow we can have a clear up-or-down vote on the amendment which I offer with a number of other Senators.

I look forward to the debate tomorrow.

Mr. WYDEN. Mr. President, very briefly, because Senator LAUTENBERG has not had a chance to speak and he has been gracious enough to just give me a couple of minutes to respond to our friend from Tennessee, I think he knows we have a difference of opinion on this issue, but I want him to know how much I appreciate the way he has worked with this Senator. I think he is going to be a great addition to the Senate. I look forward to the many issues where we are going to find common ground, even though this is not one of them.

Just briefly on this unfunded mandate question, I think it is clear that, with the more than 7,000 taxing jurisdictions in our country, if ever there was something that was inherently interstate in nature, it is the Internet. I think we can just imagine the kind of chaos if even a small fraction of these 7,600 taxing jurisdictions took a bite out of the Internet. We would have a crazy quilt of laws with respect to the Internet.

There are a whole host of activities where the Federal Government has essentially made it clear they were inherently interstate in nature and you do not hear the States expressing any grievances. You don't hear States complaining that they can't tax airline tickets or mail or a variety of other things because we are talking about something that is so crystal clear in terms of its very nature—in effect, the essence of article I, section 8, of the Constitution—that this has been an area where the Federal Government has said it is not appropriate to let thousands of local and State jurisdictions simply make a mishmash out of a regulatory regime that needs to be uniform in nature.

I know we are going to talk more about that tomorrow. I am going to go through, tomorrow, the history of the Unfunded Mandates Act that supports the position Senator ALLEN and I have taken.

Two other points very quickly and then I do want to let our friend from New Jersey have some time for which he has been patiently waiting. With respect to the telecommunications services issue which the Senator from Tennessee has discussed, I want to make it clear that Senator ALLEN and I have done everything but hire a sky writer to fly over the Capitol, to make it clear that telecommunications services, which can be taxed today, would and should be taxed in the future. It is absolutely clear with respect to all the work we have tried to do, both in the committee and working with various State and local officials, we feel very strongly about it. It is what the bundling issue has been all about in terms of separating out Internet access, which should not be taxed, and telecommunications services, which ought to be taxed.

Senator ALLEN and I continue to be interested in working with colleagues to try to find common ground in this area, but the two of us have done everything except march down the street with a sandwich board, trying to argue that telecommunications services must be taxed and that it is Internet access about which we are concerned.

Finally, the last point I would make is we need to have a discussion in the Senate with respect to what the competitive playing field will look like under the amendment at least as outlined tonight by the Senator from Tennessee. We have already seen a competitive disadvantage established, given the developments in the last few years between cable and telecommunications. It is the view of the Senator from Virginia and I, as two Members of the Commerce Committee who have focused on this issue for many months, that we think the competitive disadvantage, which has been established in the last few years between cable and telecommunications, will widen under the proposal the Senate is going to be asked to look at tomorrow as an alternative. We are going to have a chance to discuss it.

Again, I express my appreciation to the Senator from Tennessee with respect to how he has handled this issue. We have a difference of opinion on it, but I admire the Senator from Tennessee very much and I look forward to working closely with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 2559

Mr. REID. Mr. President, I direct the attention of my friend from Tennessee to Homeland Security and to Leave No Child Behind. If he wants to find some unfunded mandates, have him come to Nevada and find out what those two pieces of legislation have done—I should say that piece of legislation, Leave No Child Behind, and what we have done to the State of Nevada and every other State by not properly funding the Leave No Child Behind Act and what we have done with all of our demands on State and local government with our unfunded mandates relating to homeland security. That is the subject of another speech.

Mr. President, I ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 2559, the Military Construction appropriations bill.

I do this because, in the State of Nevada, Nellis Air Force Base and the Fallon Naval Air Training Center are desperately in need of construction starts and completion of jobs that are already underway.

So I hope my friends on the other side will allow this very important conference report to be agreed to and the motion to reconsider be laid upon the table, and that be done with no intervening action or debate.

I so move.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first I thank my colleague from Oregon and my colleague from Virginia for the hard work they did to get us to this point where we have an opportunity to review some of the problems we have seen in the Internet tax area. I had an early opportunity to review and carefully consider S. 150, and I support the stated purpose of this legislation. I agree that the American consumer should be encouraged and not taxed to access the Internet.

I also agree with the stated purpose of this legislation, that the Federal Government should ensure tax-free access to the Internet, irrespective of the technology the consumer uses, whether it is the regular dial-up modem, cable modem, DSL, wireless, or satellite.

My concerns with this legislation don't stem from its stated purposes. My concerns are with the legislation's unstated purposes and unintended consequences which most State, county, and local tax experts believe would jeopardize important revenue streams, such as the gross receipts tax, that were permitted under the first two iterations of the Internet tax moratorium.

The Internet tax moratorium bill was conceived in 1998 as a proconsumer legislative attempt aimed at increasing American access to the Internet. Now that the bill has been rewritten and greatly expanded, it has as a result become another corporate giveaway of potentially enormous and devastating proportions.

According to the Commerce Committee report accompanying S. 150, the original enactment of this legislation in 1998 imposed a temporary moratorium on "certain taxes that could have a detrimental effect on the continued expansion of Internet use in the United States."

In 1999, only 26 percent of United States households had Internet access, according to the Department of Commerce. In September 2001, 51 percent of United States households had Internet access. In 2002, according to the Forrester Research firm, 64 percent—quite a jump in a year—of U.S. households had Internet.

The number of households with Internet access has more than doubled in 4 years, from 26 percent in 1998 to 64 percent in 2002. I am sure the rate of Internet access today is even higher.

Many households, however, only have basic dial-up access to the Internet and haven't moved to the faster broadband access services.

Clearly, the supporters of this bill can't blame an access tax that isn't being imposed for the digital divide that exists between people who have Internet access and those who do not, or between households which can afford broadband or wireless Internet access service and those households which still use the narrowband dial-up.

Nevertheless, I would support an extension of the moratorium on Internet access taxes. By temporary, I am talking about a couple of years. But to make the moratorium permanent, as this bill would do, in my view is an abdication of responsibility on our part.

I cannot and will not support a permanent moratorium that is so poorly defined that it won't just apply to access taxes. I cannot and will not support a moratorium that will deprive the States of $4 billion to $9 billion in revenues by the year 2006, according to the Multi-State Tax Commission and the National Governors Association. Based on the language in the bill reported out of the Commerce Committee, my home State of New Jersey by itself stands to lose $833 million in annual revenues. Other States also stand to lose hundreds of millions of dollars as well. Maybe some Senators are willing to look the other way and not address the problems with this bill. So be it. But I cannot do that. Even under the managers' amendment, which is a modest improvement, the annual revenue loss for New Jersey is believed to be somewhere around $600 million. My question is: Why are we doing this to States when they are facing the biggest fiscal crisis they have seen since World War II or even the Depression years?

A permanent, poorly crafted moratorium? No way. I cannot in good conscience support something so far reaching.

That is why I support an amendment I believe will be offered by some of my colleagues, Senators ALEXANDER, CARPER, and VOINOVICH, to extend the existing moratorium for only 2 years, and to fix the discrepancy in the way DSL and cable modem are treated for tax purposes.

I realize even if this amendment is offered and agreed to, States such as New Jersey will still lose much-needed revenue, but at least we can and must minimize the impact.

I yield the floor.

Mr. WYDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, prior to wrap-up, this completes the debate and discussion for this evening. It is my understanding that Senators from Tennessee, Ohio, and Delaware have an amendment that has been filed and they will call it up when we begin our continued debate on this legislation tomorrow morning at 9:30. I hope we can limit our debate on that amendment and have a vote on it and then take up other amendments. It is still the intention of the majority leader to finish this legislation tomorrow. I hope we can achieve that goal.

I know everybody would like to go home on Friday afternoon, but I have been assured by the majority leader we will remain until completion of the legislation.

I think it has been a good debate tonight. I thank all of my colleagues. I look forward to disposing of the amendments tomorrow when we reconvene at 9:30.

I yield the floor to the distinguished Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 1828

Mr. REID. Mr. President, I will propound a unanimous consent request regarding the Syria Accountability Act in just a minute.

This is an important piece of legislation that requires our immediate attention.

This bill would establish economic sanctions against Syria, unless the President certifies that Syria has ceased all support for international terrorism and has gotten out of the weapons of mass destruction business.

As we have known for some time, Syria supports and sponsors Hizballah and other terrorist groups. Hizballah, of course, was responsible for the deadly attack against 298 of our marines in Lebanon 20 years ago, and they have also been behind repeated attacks against Israeli civilians over the years.

It is also no secret that the Baathists of Syria and Iraq shared a common view of the world. They are anti-western, corrupt, and dangerous. Our intelligence experts have noted a significant amount of weapons and terror traffic between Iraq and Syria leading up to the war. This would be consistent with reports that Syria offered sanctuary to senior figures from the Iraqi regime.

And now, as our brave men and women fight a low-intensity conflict in Iraq, it is becoming clear that many of the threats that they face result from the porous border with Syria, and the failure of Syria to crack down on cross-border terrorism.

Make no mistake: This bill is critical to our troops, and to restoring peace in the Middle East. It is also critical to holding Syria accountable for their shabby record on terrorism and human rights.

I am hopeful my colleagues on the other side will pass it without further delay.

To my knowledge, no amendment has been filed tonight. I hope tomorrow morning we can pass the Syria Accountability Act. We can shorten the time to 1 hour. Under the present consent agreement which has been approved before this body, we will move to it for an hour and half at any time the majority leader wishes. We have waited a long time to get to this. I hope we can do it tomorrow.

I hope that also tomorrow—and I was willing to do it tonight, but it has been rejected on two separate occasions—we can pass the Military Construction appropriations bill. I don't understand why we can't do that. We could have this matter on the President's desk in a matter of hours. After it is signed, places such as Nellis Air Force Base and Fallon Naval Air Training Center would be able to start construction projects that are badly needed. Both of those bases are terribly busy because of what is going on in the Middle East and because of the training for our naval airmen and Air Force airmen. I know the people at Nellis badly need this money.

I ask consent that the order entered with respect to H.R. 1828, the Syria Accountability Act, be changed to reflect the time for consideration be reduced to 60 minutes; that there be 30 minutes under the control of Senator SPECTER, 15 minutes each for Senators LUGAR and BOXER, or their designees; and at 9 a.m. tomorrow morning the Senate proceed to the measure under limitations provided under the previous order as modified above with the remaining provisions of the order now in order to remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I would hope that the majority would allow the Senate, before we take our weekend break, to do these two pieces of legislation—the Syria Accountability Act and the military construction conference report. I hope we can do that. These are non-partisan measures. I don't know what advantage any of us have by taking a few minutes and passing them. I hoped we could do military construction in tonight's wrap-up. It is something that needs to be done that no one disputes. No one needs it more than the military of our country.

I yield the floor.

MORNING BUSINESS

Mr. McCAIN. Mr. President, I ask unanimous consent there be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ARMED FORCES RELIEF TRUST

Mr. GRAHAM of South Carolina. I rise today to commend an initiative recently launched by the National Association of Broadcasters and its local radio and television station members.

With more than 140,000 military personnel stationed in Afghanistan, Iraq and around the world, the resources needed to take care of our troops and their families are strained. As an Air Force reservist, I have seen firsthand the financial and emotional difficulties that many families face when a family member is on an extended deployment.

Of course, the military takes care of its own. But, as the war on terror continues and needs escalate, the military cannot do it alone. To respond to this growing need, the four military aid societies have joined together to create a single umbrella organization: the Armed Forces Relief Trust.

In support of this new relief organization, local commercial radio and television stations are airing radio and television public service announcements, asking viewers and listeners to contribute to the Trust. The over-the-air broadcast medium continues to be the most effective way to rapidly disseminate information to the public. Last year, the four military emergency assistance programs disbursed more than $109 million in interest-free loans and grants to more than 145,000 individuals and families in need. With the help of America's local radio and television stations, I am convinced that the Trust will be able to assist even more military families.

I applaud the efforts of local broadcasters to support the families of those who defend us every day.

THE CRIMINAL SPAM ACT OF 2003

Mr. LEAHY. Mr. President, in June of this Year, I introduced S. 1293, the Criminal Spam Act, together with my friend Senator HATCH and several of our colleagues on the Judiciary Committee. In September, the committee unanimously voted to report the bill to the floor. Two weeks ago, the Senate adopted portions of the bill as an amendment to S. 877, the CAN SPAM Act. The bill has been cleared from the Democratic cloakroom for weeks.

Unfortunately, this important measure is hung up on the Republican side because of an anonymous "hold" by some Republican Senator.

The Criminal Spam Act targets the most pernicious and unscrupulous spammers—those who use trickery and deception to induce others to relay and view their messages. Ridding America's inboxes of deceptively delivered spam will significantly advance our fight against junk e-mail.

Why would anyone want to prevent passage of this important legislation? It is bipartisan. It is non-controversial. It enjoys broad support from businesses, consumer groups, and civil liberties groups alike. The administration has only good things to say about it, and I know of no individual or organization that opposes it.

The answer must be that someone on the other side of the aisle is playing politics with this bill, holding it up for some reason that has nothing to do with it—or for no reason at all.

We could pass the Criminal Spam Act today, the House could act quickly and we could start prosecuting the worst of the worst spammers without delay. Instead, a single Republican Senator is allowing these individuals to continue to flood the Internet with their unwanted ads.

The Internet is a valuable asset to our Nation, to our economy, and to the lives of Americans. We should act now to secure its continued viability and vitality.

NATIONAL CONSUMER CREDIT REPORTING SYSTEM IMPROVEMENT ACT OF 2003

Mr. BUNNING. Mr. President, I rise today in support of S. 1753, the National Consumer Credit Reporting System Improvement Act of 2003. As we all know, reauthorization of the Fair Credit Reporting Act is a very important issue for the financial services industry and for consumers. When I talk to my friends in this sector, it is always the first thing they ask about. It touches everyone and their money and our national economy. It is critical that we act on it before adjournment. I believe that the Banking Committee under the leadership of Chairman SHELBY has created a fair, bipartisan bill and I urge my colleagues to support it.

We have been talking about this issue for several years. We have held a number of hearings on it. We looked it over pretty thoroughly, and I think we have come up with a reasonable approach. Most importantly, we have to act now because this bill is also important to our overall economy.

Last week we had great economic news. Our economy is roaring back and that is good news for everyone. But if we fail to pass this bill, it could end up being a serious speed bump on the road to a better economy. If there is one thing that markets hate, it is uncertainty. They want to know where we are and where we are going. For better or worse, the markets think we are going to pass this bill. They think we are going to outline a stable path for financial institutions when it comes to the sharing of information. Any talk or any sign from Congress that makes the markets think that we aren't going to pass this bill would create a great deal of uncertainty in the financial markets. Now that our economy is really coming to life, that is the last thing we need. If the markets think we are going to let the FCRA lapse, they are going to get very jittery very quickly. I can understand that. This is a sensitive, complicated area. I don't think any of us wants the FCRA to lapse.

We need Federal preemption in this area. I think it would be a mistake to let States and localities all try to impose their own privacy rules. There are trillions of dollars at stake. We have to be very careful. But if we fail to pass this bill, we open a Pandora's box of States and localities writing their own rules, and the markets and financial institutions just are not prepared for that. We can't let that happen. We don't need that uncertainty now. Who knows what would happen.

On a personal note, I am very pleased that the bill contains strong identity theft and privacy protections, including my amendment on Social Security number truncation that will help prevent thieves who go "dumpster diving" or try to steal credit reports from mail boxes. Identity theft is a growing problem in America. The Internet is making it easier for thieves to obtain consumer information. My amendment will help fight this growing menace. Under this bill, consumers can block out their Social Security number on their credit reports. It is just the sort of simple, commonsense approach that will help consumers without burdening business.

I would also like to talk about the amendments that are going to be offered by my colleagues from California. They are based, in large part, on a California bill, SB1. I am sure California has a fine legislature. And I am sure their representatives try their best to represent their California constituents. But I do not think the California legislature represents the people of Kentucky or the other States very well: That is not their job. If we adopt the amendments to be offered by my friends, it would have the effect of imposing California's rules on the rest of the Nation. That is a bad idea that will only lead to the economic uncertainty we have to avoid.

If California wants to try to craft their own rules and work with Federal regulators, I say more power to them—but not if it puts a crimp on the national economy or starts rewriting the rules for the other 49 States. Our credit system is a national system and it needs a national standard. Standards that may work in California or Kentucky may not work for the country as a whole. Usually I am all for taking power away from Washington and sending it back to the States and local government. But on this bill we cannot ignore the fact that credit rules and markets and money are all part of a broader, national economy that requires a unified, Federal approach. To let States undermine that would be a recipe for disaster.

S. 1753 is a fair and balanced bill that sets a fair and balanced standard for our entire Nation. It is bipartisan, it is common sense, and it is a prudent solution to a pressing problem for our financial institutions.

ADDITIONAL STATEMENTS

HONORING BENJAMIN AND ALEC WILLIAMS

• Mr. CRAPO. Mr. President, today I honor Benjamin Richard Williams and Alec David Williams for receiving the Eagle Scout Award. As an Eagle Scout myself, I know first hand the dedication and hard work involved in attaining this prestigious award. These two brothers, from my home State of Idaho, are exceptional individuals who have accomplished much in their young lives. Allow me a moment to tell you about them.

In addition to his rank of Eagle Scout, Ben has served diligently in the Boy Scout organization, most recently as Senior Patrol Leader. He has also been heavily involved in extra-curricular activities at Boise High School. Ben is a cross-country runner and is involved in his school's jazz and marching bands. All of this while keeping a very impressive 3.95 GPA.

Alec is here with us in the Senate today, serving our country as a congressional page. We appreciate his valuable service in this capacity. Alec has served in several capacities in the Boy Scouts, most recently as the assistant senior patrol leader. Alec is also an exceptional student with a 4.0 GPA. Attaining the rank of Eagle Scout is one more accomplishment to add to his already impressive list.

I commend Benjamin and Alec on receiving their Eagle Scout Awards. Through the leadership and service opportunities provided in the Scouting program, Ben and Alec are better prepared to serve their families and America's communities. I wish them continued success in all of their endeavors.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE APPROVAL OF THE USE OF $10,623,873 PROVIDED BY THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, PUBLIC LAW 108–7, THE CONSOLIDATED APPROPRIATIONS RESOLUTION, 2003—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Appropriations:

To the Congress of the United States:

Consistent with Division C, District of Columbia Appropriations Act of Public Law 108–7, the Consolidated Appropriations Resolution, 2003, I am notifying the Congress of the proposed use of $10,623,873 provided in Division C under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia." This will reimburse the District for the costs of public safety expenses related to security events and responses to terrorist threats.

The details of this action are set forth in the enclosed letter from the Director of the Office of Management and Budget.

GEORGE W. BUSH.
THE WHITE HOUSE, *November 6, 2003.*

MESSAGE FROM THE HOUSE—November 5, 2003

The House passed the following bill, in which it requests the concurrence of the Senate.

H.R. 2898. An act to improve homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 wireless services, and for other purposes.

MESSAGES FROM THE HOUSE

At 11:54 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2443. An act to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes;

H.R. 2620. An act to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes;

H.R. 3214. An act to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes;

H.R. 3348. An act to reauthorize the ban on undetectable firearms;

H.R. 3349. An act to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004; and

H.R. 3379. An act to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the "Francis X. McCloskey Post Office Building".

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3365) to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income.

ENROLLED BILLS SIGNED

At 12:11 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker of the House of Representatives has signed the following enrolled bills:

S. 677. An act to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes; and

S. 924. An act to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

The enrolled bills, previously signed by the Speaker of the House, were signed on today, November 6, 2003, by the President pro tempore (Mr. STEVENS).

At 6:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1442), to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1904) to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes, and asks for a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Agriculture for consideration of the House bill and the Senate amendments, and modifications committed to conference: Mr. GOODLATTE, Mr. BOEHNER, Mr. JENKINS, Mr. GUTKNECHT, Mr. HAYES, Mr. STENHOLM, Mr. PETERSON of Minnesota, and Mr. DOOLEY of California.

From the Committee on Resources, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Mr. POMBO, Mr. MCINNIS, Mr. WALDEN of Oregon, Mr. RENZI, Mr. GEORGE MILLER of California, and Mr. INSLEE.

From the Committee on the Judiciary, for consideration of sections 106 and 107 of the House bill, and sections 105, 106, 1115, and 1116 of the Senate amendment and modifications committed to conference: Mr. SENSENBRENNER, Mr. SMITH of Texas, and Mr. CONYERS.

At 6:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2622) to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as managers of the conference on the part of the House:

For consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. OXLEY, Mr. BEREUTER, Mr. BACHUS, Mr. CASTLE, Mr. ROYCE, Mr. NEY, Mrs. KELLY, Mr. GILLMOR, Mr. LATOURETTE, Mrs. BIGGERT, Mr. SESSIONS, Mr. FRANK, Mr. KANJORSKI, Mr. SANDERS, Ms. WATERS, Mr. WATT of North Carolina, Mr. GUTIERREZ, Ms. HOOLEY of Oregon, and Mr. MOORE.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2443. An act to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation; and

H.R. 3379. An act to designate the facility of the United States Postal Service located at 3210 East 10th Street in Bloomington, Indiana, as the "Francis X. McCloskey Post Office Building"; to the Committee on Governmental Affairs.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3349. An act to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 6, 2003, she had presented to the President of the United States the following enrolled bills:

S. 677. An act to revise the boundary of the Black Canyon of the Gunnison National Park and Gunnison Gorge National Conservation Area in the State of Colorado, and for other purposes.

S. 924. an act to authorize the exchange of lands between an Alaska Native Village Corporation and the Department of the Interior, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5124. A communication from the Assistant Secretary for Fish and Wildlife, and Parks, Division of Migratory Bird Management, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Permits; Regulations

Governing Rehabilitation Activities and Permit Exceptions" (RIN1018–AH87) received on October 30, 2003; to the Committee on Environment and Public Works.

EC–5125. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, two reports required by the Travel and Transportation Reform Act of 1998; to the Committee on Environment and Public Works.

EC–5126. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, a copy of the Fiscal Year 2003 Commercial and Inherently Governmental Activities Inventories for the Commission, Office of the Inspector General; to the Committee on Environment and Public Works.

EC–5127. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans States of Montana and Wyoming; Revisions to the Administrative Rules of Montana; New Source Performance Standards for Wyoming and Montana" (FRL#7573–2) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5128. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona" (FRL#7573–9) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5129. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL#7580–5) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5130. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; Puerto Rico" (FRL#7581–1) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5131. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Bay Area Air Quality Management District" (FRL#7577–1) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5132. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans for Kentucky: Permit Provisions for Jefferson County, Kentucky" (FRL#7582–6) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5133. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Disapproval of State Implementation Plan Revisions, Antelope Valley, Butte County, Mojave Desert, and Shasta County Air Quality Management Districts and Kern County Air Pollution Control District" (FRL#7583–5) received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5134. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Common Rule on Governmentwide Debasement and Suspension (Non-Procurement) and Government Requirements for Drug-Free Workplace" received on October 28, 2003; to the Committee on Environment and Public Works.

EC–5135. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report relative to updating Medicare's payment rates for physician services; to the Committee on Finance.

EC–5136. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Availability of Information and Records to the Public" (RIN0690–AF91) received on October 30, 2003; to the Committee on Finance.

EC–5137. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Losses Claimed and Income to be Reported from Lease In/Lease Out Transactions" received on October 28, 2003; to the Committee on Finance.

EC–5138. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Universal Service Fund Reimbursements (Uniform Issue List Number: 61.40–01)" received on October 28, 2003; to the Committee on Finance.

EC–5139. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "No Portion of Bonds May be Used for Skyboxes, Airplanes, Gambling Establishments, Etc." (Rev. Rule 2003–116) received on October 28, 2003; to the Committee on Finance.

EC–5140. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "September 11th Victim Compensation Fund" (Rev. Rule 2003–115) received on October 28, 2003; to the Committee on Finance.

EC–5141. A communication from the Assistant Secretary, Border and Transportation Security, Department of Homeland Security, transmitting, the Department's Annual Report of the Task Force on the Prohibition of Importation of Products of Forced or Prison Labor from the People's Republic of China; to the Committee on Finance.

EC–5142. A communication from the Regulations Coordinator, Centers for Medicare Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Payment; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2004" (RIN0938–AL96) received on October 31, 2003; to the Committee on Finance.

EC–5143. A communication from the Regulations Coordinator, Centers for Medicare Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program, Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2004 Payment Rates" (RIN0938–AL19) received on October 31, 2003; to the Committee on Finance.

EC–5144. A communication from the Regulations Coordinator, Centers for Medicare Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Review of National Determinations and Local Coverage Determinations" (RIN0938–AK60) received on October 31, 2003; to the Committee on Finance.

EC–5145. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, relative to nuclear nonproliferation in South Asia; to the Committee on Foreign Relations.

EC–5146. A communication from the Chairman, National Capital Planning Commission, transmitting, the Commission's 2004–2009 Strategic Plan; to the Committee on Governmental Affairs.

EC–5147. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the Advisory Neighborhood Commission; to the Committee on Governmental Affairs .

EC–5148. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the People's Counsel Agency Fund for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC–5149. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the People's Counsel Agency Fund for Fiscal Year 2001; to the Committee on Governmental Affairs.

EC–5150. A communication from the Auditor of the District of Columbia, transmitting, a report entitled "Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 3rd Quarter of Fiscal Year 2003"; to the Committee on Governmental Affairs.

EC–5151. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the Public Safety Call Center's response to reports of a fire at 1617 21st Street, NW.; to the Committee on Governmental Affairs.

EC–5152. A communication from the Auditor of the District of Columbia, transmitting, a report relative to the District of Columbia Public School System's Fiscal Years 2001 and 2002 Cellular Telephone Service Expenditures; to the Committee on Governmental Affairs.

EC–5153. A communication from the Director, Strategic Human Resources Policy Division, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Group Life Insurance Program: Removal of Premiums and Age Bands from Regulation" (RIN3206–AJ46) received on October 30, 2003; to the Committee on Governmental Affairs.

EC–5154. A communication from the Director, Center for Employee and Family Support Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Health Insurance Premium Conversion" (RIN3206–AJ34) received on October 30, 2003; to the Committee on Governmental Affairs.

EC–5155. A communication from the Director, Center for Employee and Family Support Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Health Benefits Children's Equity" received on October 30, 2003; to the Committee on Governmental Affairs.

EC–5156. A communication from the Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Financial Disclosure Requirements for Interests in Revocable Inter Vivos

Trusts" (RIN3209–AA00) received on October 28, 2003; to the Committee on Governmental Affairs.

EC–5157. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–209, "Debarnment Procedures Temporary Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5158. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–200, "Kivie Kaplan Way Designation Act of 2003"; to the Committee on Governmental Affairs.

EC–5159. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–198, "Draft Master Plan for Public Reservation 13 Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5160. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–197, "Voluntary Transfer of Leave Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5161. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–196, "Identity Theft Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5162. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–185, "Public School Enrollment Integrity Clarification Temporary Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5163. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–182, "Self Storage Act of 2003"; to the Committee on Governmental Affairs.

EC–5164. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–183, "Sexual Minority Youth Assistance League Equitable Real Property Tax Relief Temporary Act of 2003"; to the Committee on Governmental Affairs.

EC–5165. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–184, "Expansion of the Golden Triangle Business Improvement District Temporary Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5166. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report relative to D.C. Act 15–181, "Standard Valuation and Nonforfeiture Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC–5167. A communication from the Chair, Equal Opportunity Employment Commission, transmitting, pursuant to law, the Commission's Strategic Plan for Fiscal Years 2004–2009; to the Committee on Health, Education, Labor, and Pensions.

EC–5168. A communication from the Director, National Science Foundation, transmitting, pursuant to law, the Foundation's Strategic Plan for Fiscal Years 2003–2008; to the Committee on Health, Education, Labor, and Pensions.

EC–5169. A communication from the Counsel for Legislation and Regulations, Office of Community Planning and Development, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Environmental Review Procedures for Entities Assuming HUD's Environmental Responsibilities" (RIN2501–AC83) received on October 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5170. A communication from the Assistant Secretary of Labor, Employment and Training Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Unemployment Compensation—Trust Find Integrity Rule: Birth and Adoption Unemployment Compensation; Removal of Restrictions" (RIN1205–AB33) received on October 30, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5171. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to victims of sexual assault; to the Committee on Health, Education, Labor, and Pensions.

EC–5172. A communication from the Regulations Coordinator, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Control of Communicable Diseases; Restrictions on African Rodents, Prairie Dogs, and Certain Other Animals" (RIN9010–ZA21) received on November 3, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5173. A communication from the Regulations Coordinator, Centers for Disease Control and Prevention, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Possession, Use, and Transfer of Select Agents and Toxins" (RIN0920–AA09) received on November 3, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–5174. A communication from the Associate General Counsel for General Law, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "January 2004 Revision of Patent Cooperation Treaty Application Procedure" (RIN–651–AB61) received on November 4, 2003; to the Committee on the Judiciary.

EC–5175. A communication from the Director, Regulations and Forms Services, Citizenship and Immigration Services, transmitting, pursuant to law, the report of a rule entitled "Adding and Removing Institutions to and From the List of Recognized American Institutions of Research" (RIN1615–AA72) received on October 29, 2003; to the Committee on the Judiciary.

EC–5176. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting, pursuant to law, the report of a rule entitled "Controlled Substances Registration and Reregistration Application Fees" (RIN1117–AA70) received on October 30, 2003; to the Committee on the Judiciary.

EC–5177. A communication from the National Service Officer, American Gold Star Mothers, Inc., transmitting, pursuant to law, the annual CPA Audit Report of the American Gold Star Mothers, Inc.; to the Committee on the Judiciary.

EC–5178. A communication from the Associate Librarian of Congress and Register of Copyrights and the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, transmitting, pursuant to law, a report relative to the Vessel Hull Design Protection Act; to the Committee on the Judiciary.

EC–5179. A communication from the Chief Justice, Supreme Court of the United States, transmitting, a report relative to the proceedings of the Judicial Conference of the United States; to the Committee on the Judiciary.

EC–5180. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Department's activities in relation to the Equal Credit Opportunity Act; to the Committee on the Judiciary.

EC–5181. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Methamphetamine Anti Proliferation Act" (RIN1117–AA69) received on October 30, 2003; to the Committee on the Judiciary.

EC–5182. A communication from the Assistant Attorney General for Administration, Justice Management Division, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Exemption Two Privacy Act Systems of Records of the Civil Rights Division from Certain Subsections of the Privacy Act: Central Civil Rights Division Index File and Associated Records, CRT–001; and Files on Employment Civil Rights Matters Referred by the Equal Employment Opportunity Commission, CRT–007" received on October 29, 2003; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 286. A bill to revise and extend the Birth Defects Prevention Act of 1998 (Rept. No. 108–188).

S. 648. A bill to amend the Public Health Service Act with respect to health professions programs regarding the practice of pharmacy (Rept. No. 108–189).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1043. A bill to provide for the security of commercial nuclear power plants and facilities designated by the Nuclear Regulatory Commission (Rept. No. 108–190).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1086. A bill to encourage the development and promulgation of voluntary consensus standards by providing relief under the antitrust laws to standards development organizations with respect to conduct engaged in for the purpose of developing voluntary consensus standards, and for other purposes.

S. 710. A bill to amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

S. 1685. A bill to extend and expand the basic pilot program for employment eligiblity verification, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Con. Res. 77. A concurrent resolution expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Janice R. Brown, of California, to be United States Circuit Judge for the District of Columbia Circuit.

D. Michael Fisher, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Mark R. Filip, of Illinois, to be United States District Judge for the Northern District of Illinois.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN:

S. 1829. A bill to amend the Child Nutrition Act of 1966 and the Richard B. Russell National School Lunch Act to improve the nutrition and health of children in the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK:

S. 1830. A bill to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes; to the Committee on Foreign Relations.

By Mr. SMITH (for himself and Mr. LAUTENBERG):

S. 1831. A bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing; to the Committee on Finance.

By Mr. DASCHLE:

S. 1832. A bill to entitle the Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003; read the first time.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. AKAKA, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, and Mr. SCHUMER):

S. 1833. A bill to improve the health of minority individuals; to the Committee on Health, Education, Labor, and Pensions.

By Ms. STABENOW:

S. 1834. A bill to waive time limitations in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, Ohio, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War; to the Committee on Armed Services.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 1835. A bill to extend the effective period of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) for 10 years; to the Committee on the Judiciary.

By Mr. GRAHAM of South Carolina (for himself, Mr. CORNYN, and Mr. GRASSLEY):

S. 1836. A bill to amend chapter 85 of title 28, United States Code, to provide for greater fairness in legal fees payable in civil diversity litigation after an offer of settlement; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 1837. A bill to combat money laundering and terrorist financing and for other purposes; to the Committee on the Judiciary.

By Mr. DASCHLE (for Mr. KERRY):

S. 1838. A bill to require payments to State and local governments for infrastructure and social services needs in the same amount as the amount of relief and reconstruction funds provided to Iraq; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN (for himself and Mr. MCCAIN):

S. Res. 260. A resolution expressing the sense of the Senate that the Secretary of Health and Human Services should take action to remove dietary supplements containing ephedrine alkaloids from the market; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 261. A resolution to authorize testimony, document production, and legal representation in the State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormick; considered and agreed to.

By Ms. SNOWE (for herself, Mrs. DOLE, Mr. BAUCUS, Mr. GRAHAM of South Carolina, and Mr. BAYH):

S. Res. 262. A resolution to encourage the Secretary of the Treasury to initiate expedited negotiations with the People's Republic of China on establishing a market-based currency valuation and to fulfill its commitments under international trade agreements; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 491

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 585

At the request of Mr. NELSON of Florida, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 585, a bill to amend title 10, United States Code, to repeal the requirement for reduction of SBP survivor annuities by dependency and indemnity compensation.

S. 698

At the request of Mr. BUNNING, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 698, a bill to clarify the status of the Young Men's Christian Association Retirement Fund for purposes of the Internal Revenue Code of 1986.

S. 875

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 875, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 1513

At the request of Mr. SCHUMER, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1513, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form or become members of labor organizations, and for other purposes.

S. 1531

At the request of Mr. HATCH, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1531, a bill to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1679

At the request of Mr. BUNNING, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1679, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for roof systems.

S. 1685

At the request of Mr. GRASSLEY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1685, a bill to extend and expand the basic pilot program for employment eligiblity verification, and for other purposes.

S. 1707

At the request of Ms. STABENOW, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1707, a bill to amend title 39, United States Code, to provide for free mailing privileges for personal correspondence and certain parcels sent from within the United States to members of the Armed Forces serving on active duty abroad who are engaged in military operations involving armed conflict against a hostile foreign force, and for other purposes.

S. 1818

At the request of Mr. GRAHAM of South Carolina, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1818, a bill to provide grants to law enforcement agencies that ensure that law enforcement officers employed by such agency are afforded due process when involved in a case that may lead to dismissal, demotion, suspension, or transfer.

AMENDMENT NO. 2080

At the request of Ms. COLLINS, her name was added as a cosponsor of amendment No. 2080 proposed to H.R. 2673, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

AMENDMENT NO. 2110

At the request of Mr. SCHUMER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 2110 proposed to H.R. 2673, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE (for himself, Mr. KENNEDY, Mr. BINGAMAN, Mr. AKAKA, Mrs. CLINTON, Mr. CORZINE, Mr. DODD, Mr. DURBIN, Mr. EDWARDS, Mr. INOUYE, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, and Mr. SCHUMER):

S. 1833. A bill to improve the health of minority individuals; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, 40 years ago, the famous and inspirational civil rights activist Fannie Lou Hamer rallied the Nation with her statement, "I am sick and tired of being sick and tired." Her words still resonate with millions of Americans today. Whether we are talking about African Americans, Latinos, Asian Americans or American Indians, the fact is that minorities continue to live sicker and die younger in America. We know that African Americans are one-third more likely than all other Americans to die from cancer. They have the highest rate of hypertension in the world. Latinos have the least insurance, with one in three having no coverage at all. American Indian tribes struggle with what can only be called epidemics of diabetes, with rates near 50 percent in certain tribes. The tremendous gains that we have witnessed in science and medicine have benefited millions of our citizens, but too often they are out of reach for minorities.

It is a privilege to join my colleagues to introduce the Healthcare Equality and Accountability Act. Our goal is to produce major improvements in all aspects of minority health care. It expands health insurance coverage. It supports better access to services that are culturally and linguistically appropriate. It strengthens the safety-net. It promotes the development of new and better ways to treat diseases that disproportionately affect minorities.

It also increases the diversity of the health care workforce. Many studies show that minority health professionals dramatically increase access to care and the delivery of good care to minority patients. Despite their importance, however, the percentage of minority health professionals is shockingly low. African Americans, Latinos and American Indians account for almost 25 percent of the Nation's population—but they account for less than 10 percent of the Nation's doctors, less than 5 percent of dentists, and only 12 percent of nurses.

Our bill will increase the number of minority health professionals by expanding existing pipeline programs and developing new ones. It also provides additional scholarship support to enable more minority and low-income students to make their careers in health care.

Another critical need addressed by this bill is accountability. It holds health care agencies and institutions, public and private, accountable for the care delivered to their minority populations as well as their health outcomes. It reauthorizes the Office of Minority Health, increases the effectiveness of the Office for Civil Rights and establishes a new Office for Health Disparities within the Office for Civil Rights. It also establishes compliance offices in each of the Federal agencies, to ensure that the policies, programs and practices of each agency are in compliance with title VI of the Civil Rights Act, which prohibits discrimination based on race, ethnicity or national origin.

We can't just talk about racial and ethnic health disparities. We have to do more to eliminate them. All Americans deserve fair and equitable treatment in health care. The administration has said time and time again that it is committed to improving minority health. But, the President's own budget eliminated all funds for workforce diversity training programs, and all funds for the Community Access Program, despite the overwhelming evidence that minority health providers and community health centers dramatically improve access to care and quality of care for minority populations. The President's budget also reduced funds for the Office of Minority Health, and it has made the Office for Civil Rights virtually powerless to carry out its mission.

Vast numbers of minority Americans are needlessly suffering because of administration's neglect. We cannot turn our back on the needs of nearly one-third of the Nation's population. Whether we are talking about health insurance, language access, disease prevention, or public hospitals and community health centers, the need is great and the time is now. I urge my colleagues to support this bill, so that we do what is so clearly needed to improve the health and health care for millions of minority Americans.

By Ms. STABENOW:

S. 1834. A bill to waive time limitations in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, Ohio, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War; to the Committee on Armed Services.

Ms. STABENOW. Mr. President, today I rise to introduce a bill that would waive rigid time limitations in order to allow the Medal of Honor to be awarded to Gary Lee McKiddy, of Miamisburg, OH, for acts of valor while a helicopter crew chief and door gunner with the 1st Cavalry Division during the Vietnam War. There is a companion bill in the House of Representatives, H.R. 369, which was introduced by Representative SANDER LEVIN and is cosponsored by a bipartisan group of forty-three Members of Congress.

I think it is important that my colleagues hear the heroic story of Sergeant Gary Lee McKiddy. Sergeant McKiddy served with the 1st Cavalry Division in Vietnam. He was a helicopter crew chief and a door gunner. On May 6, 1970, Sergeant McKiddy's helicopter came under enemy fire and received several damaging blows, causing the helicopter to crash and start burning. Through investigations, the Army arrived at the conclusion that Sergeant McKiddy was thrown free of the helicopter and was out of harm's way, but bravely returned to the burning helicopter and found Specialist Four James Skaggs, who was unconscious, and carried him to safety. Sergeant McKiddy then returned to the wreckage to help rescue the pilot, Warrant Officer Tommy Whiddon, when the aircraft's fuel cells exploded, killing Warrant Officer Whiddon and Sergeant McKiddy.

I think we all can agree that this is an incredible story of bravery, honor, and selflessness. Specialist Four Skaggs wrote in a letter, "Gary McKiddy was awarded the Silver Star for these acts of heroism but not the Medal of Honor because there were no witnesses. I don't understand how he could be awarded the Silver Star based on this information but no the Medal of Honor. There has never been any doubt in my mind about what happened that day. I am totally convinced Gary McKiddy earned and deserves the Medal of Honor."

Sergeant McKiddy's brother, Rick, lives in Warren, MI. Rick McKiddy, other family members, and Specialist Four Skaggs have been fighting for Sergeant McKiddy's Medal of Honor for 20 years to no avail. They've contacted countless persons at the Pentagon and have taken their case to anyone who will listen. They've exhausted their resources. I think that Sergeant McKiddy deserves a second chance. It is time for Congress to act.

As we all know, the Medal of Honor is defined as "the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States." Unfortunately, the time limit for the application for the Medal of Honor ran out before an application was submitted on Sergeant McKiddy's behalf. The bill that I am introducing today waives the time limit on the application and requests that the President award Sergeant McKiddy the Medal of Honor.

With Veteran's Day quickly approaching, I think this is a very fitting way to honor not only Sergeant McKiddy, but all of those men and women who have given their lives for our country.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO AWARD MEDAL OF HONOR TO GARY LEE MCKIDDY FOR VALOR DURING THE VIETNAM WAR.

(a) Waiver of Time Limitations.—Notwithstanding the time limitations in section 3744(b) of title 10, United States Code, or any other time limitation, the President is authorized and requested to award the Medal of Honor under section 3741 of such title to Gary Lee McKiddy, of Miamisburg, Ohio, for the acts of valor referred to in subsection (b).

(b) Action Described.—The acts of valor referred to in subsection (a) are the conspicuous acts of gallantry and intrepidity at the risk of his life and beyond the call of duty of Gary Lee McKiddy, between October 25, 1969, and May 6, 1970, and particularly on May 6, 1970, the day he died during a combat operation in Cambodia while serving as a Specialist Four in the 1st Cavalry Division of the United States Army.

(c) Posthumous Award.—The Medal of Honor may be awarded under this section posthumously as provided in section 3752 of title 10, United States Code.

By Mr. HATCH (for himself and Mr. Leahy):

S. 1835. A bill to extend the effective period of the Undetectable Firearms Act of 1988 (18 U.S.C. 922 note) for 10 years; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce, along with my colleague Senator Patrick Leahy, and Ranking Democrat Member of the Judiciary Committee, legislation to reauthorize the Undetectable Firearms Act. I want to thank Senator Leahy for joining with me in introducing this bill and for his cooperation in working together on this important issue.

This reauthorization will extend the existing ban on the manufacture, sale, importation, shipping, possession, transfer, or receipt of firearms that could not be detected by a metal detector or x-ray machine. Everyone in this Chamber knows how deeply I care for the Second Amendment and the individual's right to own and bear arms. I want everyone to understand that this ban does not ban a single firearm in production today. It prevents any individual or company from creating an undetectable firearm.

I urge my colleagues to support the measure.

Mr. LEAHY. Mr. President, I am pleased to join with Senator Hatch to introduce legislation to extend the Undetectable Firearms Act for ten years. I appreciate working with the Chairman of the Judiciary Committee and thank him for his leadership on this legislation.

The Undetectable Firearms Act became law in 1988, long before the tragic attacks on our country on September 11, 2001. The Undetectable Firearms Act also known as the "plastic gun law" made it illegal to manufacture, import, possess, or transfer a firearm that is not detectable by walk-through metal detectors or airport x-ray machines. This law has been extended once, and is due to expire on December 10, 2003.

It is critical that this bill does not expire at the end of this year. Over the past two years, Congress has done tremendous work to make America a safer place and prevent any more terrorist attacks. We need to act today to ensure that Americans are not needlessly vulnerable to attacks at airports, schools, and other public buildings.

I urge all my colleagues to support this legislation to extend the Undetectable Firearms Act for the next ten years.

By Mr. GRASSLEY:

S. 1837. A bill to combat money laundering and terrorist financing and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise to speak in support of a bill that I am introducing today, the Combating Money Laundering and Terrorist Financing Act of 2003.

Money laundering is a significant threat to our country because it undermines our national security, promotes corruption and funds terrorism. Money laundering operations as a whole include such mechanisms as structured transactions, wire fraud, over- and under-invoicing, and other activities designed to defraud and hide profits from illegal activities. All of these transactions undermine legitimate financial institutions by promoting corruption, funding criminal and terrorist operations, and by providing a method of profiting from illegal transactions such as drug trafficking and weapons sales.

We know that money laundering is the functional equivalent of a war industry for terrorist groups. Terrorist groups do not function in a bubble but will use whatever means available to obtain funding for their cause. Our attention and rhetoric are focused on identifying and halting those mechanisms used specifically by terrorist organizations such as charitable organizations, money service businesses and alternative remittance systems which are often referred to as hawalas. Frankly, the tools used to launder and disguise funds for terrorist organizations are similar, and quite often identical to, those used by many drug traffickers and criminal organizations to clean their own dirty money.

No matter how the funds are obtained and ultimately used, they are still dirty, and if we are ever going to get ahead of the curve, we must design a better way to identify and halt this flow of illegal funds. The bill I am introducing today includes several provisions that will strengthen our current money laundering and terrorist financing laws to enhance our ability to identify and eliminate various avenues used to launder money, whether it be for drug traffickers, criminal organizations or terrorists.

This bill adds several provisions to the list of specified unlawful activities within the RICO statute that serve as predicates for the money laundering statute including: burglary and embezzlement, illegal money transmitting businesses, alien smuggling, child exploitation and obscenity. It would close a loophole on securities fraud by including the purchase of securities with the sale of securities as a money laundering offense, and adds the unlawful use of Social Security numbers to the list of money laundering offenses.

It adds a provision to the civil forfeiture statute to include the forfeiture of property outside the U.S. territorial boundaries if it was used in the planning of the terrorist act that occurred within the jurisdiction of the United States and includes a parallel transaction provision which provides that all parts of a parallel or dependent financial transaction are considered a money laundering offense if one part of that transaction involves the proceeds of an unlawful activity.

Our best response to money laundering and terrorist financing threats is a comprehensive and coordinated response which must be laid out in an effective strategy. This bill also reauthorizes the National Money Laundering and Financial Crimes Strategy Act through 2006. This yearly strategy must identify the risks and threats we face. Without a comprehensive strategy, we cannot begin to implement laws and regulations that will effectively combat money laundering sources and shut down the system as a whole. Only when we have a systematic approach to money laundering will we be able to avoid the duplication and inconsistencies that currently plague our efforts.

This legislation is important to identifying particular money laundering operations and putting them out of business. I encourage you to pass this legislation to ensure our national security against the continued threat posed by terrorist financing and financial crimes.

By Mr. DASCHLE (for Mr. KERRY):

S. 1838. A bill to require payments to State and local governments for infrastructure and social services needs in the same amount as the amount of relief and reconstruction funds provided to Iraq; to the Committee on Finance.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, rebuilding Iraq is critical to peace and stability in the Mideast and to help win the war on terrorism. Today, American families and American cities are also hurting and I believe they deserve the same assistance we are providing for families and cities in Iraq. While keeping our commitments abroad, we must not neglect our homeland.

Today, President Bush signed into law an $87 billion supplemental appropriations bill that includes $20.3 billion for reconstructing Iraq and to assist Iraqi families. I opposed this legislation because I do not believe this plan is the most effective way to protect American soldiers and to advance our interests. Providing assistance to help rebuild Iraq is the right thing to do; however, we must also provide equal consideration and equal funding to resolve America's domestic problems. That is why I am introducing the American Parity Act to ensure that any additional spending for Iraq's post-war reconstruction plan is balanced dollar-for-dollar with new investments in education, health care, transportation, housing, social services and public safety needs across the United States.

President Bush's economic approach has left State and city governments facing billions in budget deficits forced lay offs, education cuts, Medicaid cuts, reductions in critical social service programs and tax increases.

State and city governments need our help to protect their public services, rebuild America's roads and bridges, and ensure resources are available to help unemployed and impoverished Americans. My legislation will authorize payments to States and cities to assist them with their social service and infrastructure needs in the same amount as provided for relief and reconstruction in Iraq. Local governments will receive at least one-third of the total funds authorized.

These funds will be used to help America's children, seniors, and struggling families who depend upon affordable health care, quality education and public transportation programs that are facing massive cuts in order to balance state and local budgets across the Nation. These funds will assist in the development of our economy and create jobs.

Health insurance has become too expensive. Double-digit increases in health care premiums make it hard for Americans and businesses alike to afford health care. Today, more than 44 million Americans have no health insurance. More than ever, these Americans need access to Medicaid and other health care programs that help with the high cost of prescription drugs. However, many of these programs are endangered by state and local budget cuts. The American Parity Act will help State and local governments continue to provide health care assistance.

In our changing global economy, every American needs access to quality schools and advanced skills to succeed in our rapidly changing economy. In order for our American business to grow, we need workers to be more innovative and more productive than those of our competitors. My legislation will help cities provide additional resources to improve educational programs, modernize and rebuild crumbling schools, reduce class size, improve special education and help pay teachers.

Our Nation is facing an affordable housing crisis. Recent changes in the housing market have limited the availability of affordable rental housing across the country and have dramatically increased the cost of those that remain. In 2001, more than 14 million families spent over half of their income on housing. This bill will provide funding so that states and cities produce housing for working families.

We must show the same commitment to rebuilding Main Street as we have shown in rebuilding Iraq. American citizens deserve access to the same benefits and services we are so nobly providing to the people of Iraq. The American Parity Act will help States and cities cope with their current fiscal crisis and help ease potential cuts in programs critical to the most vulnerable in our Nation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was order to be printed in the RECORD, as follows:

S. 1838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The President has proposed a multibillion dollar reconstruction project for Iraq.

(2) The President's plan includes resources to rebuild potable water and wastewater treatment facilities; schools and health facilities; ports and airports; the electric power system, roads, and bridges; railroad infrastructure; solid waste management services; irrigation systems; and selected local government buildings.

(3) State and local governments in the United States have their own unmet infrastructure and social services needs.

(4) State and local governments represent a significant segment of the national economy whose economic health is essential to national economic prosperity.

(5) Present national economic problems have imposed considerable hardships on State and local government budgets.

(6) Those governments, because of their own fiscal difficulties, are being forced to take budget-related actions which tend to undermine Federal Government efforts to stimulate the economy.

(7) Efforts to stimulate the economy through reductions in Federal Government tax obligations or increased spending on Federal programs are weakened when State and local governments are forced to increase taxes or cut spending.

(8) Efforts by the Federal Government to stimulate the economic recovery will be substantially enhanced by a program of emergency Federal Government assistance to State and local governments to help prevent those governments from taking budget-related actions which undermine the Federal Government efforts to stimulate economic recovery.

(9) State and local governments deserve, at a minimum, the same level of Federal investment to address infrastructure and social services shortfalls as the amount of relief and reconstruction funds provided to Iraq.

SEC. 2. FINANCIAL ASSISTANCE AUTHORIZED.

(a) PAYMENTS TO STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury shall, in accordance with the provisions of this Act, make payments to States and local governments to coordinate budget-related actions by such governments with Federal Government efforts to stimulate economic recovery.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the Secretary of the Treasury for fiscal year 2003 for payments under this Act an amount equal to at least the total amount appropriated for fiscal year 2003 under the heading "Iraq Relief and Reconstruction Fund" in the Emergency Wartime Supplemental Appropriations Act, 2003, and any amounts appropriated for such Fund in any subsequent appropriation Act. Such amounts shall be in addition to, and not in lieu of, other amounts appropriated for payments to States and local governments.

(c) AVAILABILITY TO LOCAL GOVERNMENTS.—Not less than one-third of the amount appropriated pursuant to the authorization in subsection (b) shall be made available to local governments under the applicable laws of a given State.

SEC. 3. ALLOCATION.

The Secretary of the Treasury shall establish a formula, within 30 days after the date of the enactment of this Act, for determining the allocation of payments under this Act. The formula shall give priority weight to the following factors:

(1) The unemployment rate in relation to the national average unemployment rate.

(2) The duration of the unemployment rate above such average.

(3) Median income.

(4) Population.

(5) The poverty rate.

SEC. 4. USE OF FUNDS BY STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Funds received under this Act may be used only for priority expenditures. For purposes of this Act, the term "priority expenditures" means only—

(1) ordinary and necessary maintenance and operating expenses for—

(A) primary, secondary, or higher education, including school building renovation;

(B) public safety;

(C) public health, including hospitals and public health laboratories;

(D) social services for the disadvantaged or aged;

(E) roads, transportation, and water infrastructure; and

(F) housing; and

(2) ordinary and necessary capital expenditures authorized by law.

(b) CERTIFICATIONS BY STATE AND LOCAL GOVERNMENTS.—The Secretary of the Treasury may accept a certification by the chief executive officer of a State or local government that the State or local government has used the funds received by it under this Act only for priority expenditures, unless the Secretary determines that such certification is not sufficiently reliable to enable the Secretary to carry out this Act. The Secretary shall prescribe by rule the time and manner in which the certification must be filed.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 260—EXPRESSING THE SENSE OF THE SENATE THAT THE SECRETARY OF HEALTH AND HUMAN SERVICES SHOULD TAKE ACTION TO REMOVE DIETARY SUPPLEMENTS CONTAINING EPHEDRINE ALKALOIDS FROM THE MARKET

Mr. DURBIN (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 260

Whereas, a RAND Corporation study commissioned by the Department of Health and Human Services found no evidence for long-term efficacy of ephedrine alkaloids for weight loss and that there is no credible science showing that ephedrine or dietary supplements containing ephedrine alkaloids, as those products are used by the general population, improve athletic performance;

Whereas ephedrine alkaloids can—

(1) increase heart rate and blood pressure;

(2) stimulate the central nervous system; and

(3) lead to strokes, seizures, psychosis, cardiac arrhythmia, heart attacks, and deaths;

Whereas the Food and Drug Administration has received approximately 16,500 adverse events reports for consumers who have used dietary supplements containing ephedrine alkaloids, including approximately 155 reports of death;

Whereas the Inspector General of the Department of Health and Human Services has noted with concern that about 60 percent of persons suffering adverse events related to the use of dietary supplements containing ephedrine alkaloids are under the age of 40;

Whereas a study published in the Journal of Neurology found that there may be an association between the use of more than 32 milligrams per day of ephedra and an increased risk of hemorragic stroke, but the daily dose recommended by the dietary supplement industry is about 3 times that much;

Whereas a study published in Mayo Clinical Proceedings found that in 36 out of 37 serious cardiovascular events associated with ephedrine alkaloids examined, the patient had consumed doses of a dietary supplement containing ephedrine alkaloids at or below the dose recommended by the manufacturer;

Whereas a study commissioned by the Food and Drug Administration to review reports of ephedrine alkaloid-related adverse events (including serious adverse events such as seizures, strokes, and death), which resulted in publication in the New England Journal of Medicine of an article in 2000, found that 31 percent of the reports were definitely or probably related to ephedrine alkaloid use and an additional 31 percent were possibly related to ephedrine alkaloid use;

Whereas a study published in the Annals of Internal Medicine concluded that—

(1) the risk for an adverse reaction after the use of ephedra is substantially greater than with other herbal products; and

(2) the sale of ephedra as a dietary supplement should be restricted or banned to prevent serious adverse reactions in the general population;

Whereas approximately 30 members of the United States Army have died after taking a dietary supplement containing ephedrine alkaloids, and the Department of Defense has banned the sale of dietary supplements containing ephedrine alkaloids from military commissaries worldwide because of safety concerns;

Whereas the American Medical Association has called on the Secretary of Health and Human Services to ban the sale of dietary supplements containing ephedrine alkaloids;

Whereas the National Football League, the International Federation of Football Associations, the National Collegiate Athletics Association, the Commissioner of the National Association of Baseball with regard to the Minor Leagues, Major League Soccer, the National Basketball Association, and the International Olympics Committee have banned the use of ephedrine alkaloids by their athletes;

Whereas 3 States, representing 65,000,000 Americans, have banned dietary supplements containing ephedrine alkaloids;

Whereas major drug store chains representing 17,300 stores nationwide have pulled ephedrine alkaloid-containing dietary supplements from their shelves; and

Whereas the largest specialty retailer of dietary supplements in the country, which has 5,300 stores nationwide, has pulled ephedrine alkaloids from its shelves: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Secretary of Health and Human Services has authority under subsections (a) and (f) of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) to determine that dietary supplements containing ephedrine alkaloids—

(A) present a significant or unreasonable risk of illness or injury;

(B) pose an imminent hazard to public health or safety; or

(C) contain poisonous or deleterious substances that may render dietary supplements injurious to health;

(2) there is sufficient evidence to make such a determination; and

(3) the Secretary should take immediate action to remove dietary supplements containing ephedrine alkaloids from the marketplace.

SENATE RESOLUTION 261—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN THE STATE OF COLORADO V. DANIEL RAPHAEL EGGER, SARAH JANE GERALDI, JENNIFER MELISSA GREENBERG, LISA GALE KUNKEL, BONNIE CATHERINE McCORMICK

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 261

Whereas, in the cases of State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormack, pending in the Arapahoe County Court, Colorado, testimony and documents have been requested from an employee in the office of Senator Wayne Allard;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate and their employees with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That employees of Senator Allard's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormick, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Allard and his staff in the actions referenced in section one of this resolution.

SENATE RESOLUTION 262—TO ENCOURAGE THE SECRETARY OF THE TREASURY TO INITIATE EXPEDITED NEGOTIATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA ON ESTABLISHING A MARKET-BASED CURRENCY VALUATION AND TO FULFILL ITS COMMITMENTS UNDER INTERNATIONAL TRADE AGREEMENTS

Ms. SNOWE (for herself, Mrs. DOLE, Mr. BAUCUS, Mr. GRAHAM of South Carolina, and Mr. BAYH) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 262

Whereas the currency of the People's Republic of China has been tightly pegged to the United States dollar at the same fixed level of 8.28 yuan to the dollar since 1994;

Whereas the Government of the People's Republic of China has significantly intervened in foreign exchange markets in order to hold the value of their currency within its tight and artificial trading band, resulting in enormous growth in China's dollar reserves, estimated to be over $346,000,000,000 as of June 2003, an increase by 43 percent from June 2002;

Whereas the People's Republic of China has seen significant increases in production capability, productivity, and foreign direct investment since initially pegging the yuan to the dollar, which would generally lead toward upward pressure on the currency value;

Whereas this peg, in the face of growing pressure, clearly represents a manipulation of China's currency;

Whereas the undervaluation of China's currency distorts the value of exports from China and the price of foreign products for Chinese consumers;

Whereas the value of China's currency has had and continues to have a negative impact on the United States manufacturing sector, contributing to significant job losses and business closures;

Whereas the G-7 Finance Ministers and Central Bank Governors in September of this year stated that "more flexibility in exchange rates is desirable for major countries or economic areas to promote smooth and widespread adjustments in the international financial system, based on market mechanisms."; and

Whereas the market-based valuation of currencies is a key component to the health of global trade and the stability of the world economy: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Secretary of the Treasury to initiate expedited negotiations with the Government of the People's Republic of China, bilaterally or through the International Monetary Fund, for the purpose of ensuring a market-based exchange rate valuation to permit effective balance of payments adjustments and to eliminate the unfair advantage; and

(2) encourages the People's Republic of China to continue to act on its commitments to the trade rules and principles of the international community of which it is now a member.

Ms. SNOWE. Mr. President, I rise today to submit a Sense of the Senate resolution to encourage the Department of the Treasury to initiate expedited negotiations with the People's Republic of China on establishing a market-based currency valuation and to fulfill its commitments under international trade agreements.

The resolution explains why China's currency policy is an unfair manipulation which violates international trading rules and puts American manufacturers at a disadvantage. We cannot continue to allow this exploitation to continue to the detriment of our workers. Therefore, this resolution sends a strong message to the administration that we must increase our efforts to bring about a market-based valuation of China's currency.

In an open trading system, manipulation of currency—either by frequent intervention or by a calculated undervaluation of one's currency through a fixed exchange rate—undermines the concept of comparative advantage by creating market distortions. These disruptions not only affect trade but also result in the loss of real jobs for U.S. manufacturers. This is particularly devastating in my State, which has lost over 17,300 manufacturing jobs since July 2000.

Congress granted Permanent Normal Trade Relations (PNTR) for China because we knew that China would become a major player in international markets whether we wanted them to or not. After all, China already enjoyed total access to our market while we did not have the same benefit. Perhaps most importantly, we supported PNTR because a China in the World Trade Organization is bound by the same international trade rules as the United States or any of our other trading partners. While many were optimistic about the increased market access to the world's largest population, few dared to expect this to be an easy path.

I have heard from company after company who have had to face the reality that they can no longer compete with unfairly priced Chinese products. Some argue they were forced to close their doors because of China's low labor costs, and others argue it is the lack of labor and environmental regulations in China that makes us uncompetitive. However, the full extent of China's advantage is the combination of an artifically undervalued currency, unfair non-tariff barriers, and low cost of production.

While we all want wages, labor rights, and environmental protection to improve in China, the biggest concern that every manufacturer brings to my attention is that they can't compete with a currency undervaluation that economists estimate could be as high as 40 percent. This serves as a de facto subsidy that no competitor can surmount.

The damage manufacturing has sustained is nothing short of alarming. From July 2000 through July 2003, almost 2.7 million U.S. manufacturing jobs have been eliminated. New England alone lost more than 214,000 manufacturing jobs between June 1993 through June 2003, with fully 78 percent of those losses, 166,000 jobs, occurring since January of 2001. The job losses have been so focused on the manufacturing sector that a manufacturing worker had a 50 times greater chance of losing his or her job than did other workers.

For these reasons, I have been among a core group in Congress that has called on the administration to take strong action with regards to the foreign manipulation of currencies. I was pleased to work with my colleagues to ask the Treasury Secretary to make China's currency the top priority of his recent trip to Asia.

Secretary Snow took the message to China that the manipulation of its currency must end and that China should take steps to freely float its currency. I was pleased with his action and I was further encouraged by the fact that President Bush raised the same concern with his counterpart at the APEC Summit.

The administration has placed a high priority on this issue, but I am concerned about the findings of Treasury's recent report on currency manipulation. The Secretary of the Treasury is required to determine yearly if foreign countries "manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade." The law then requires that Treasury initiate expedited negotiations with these countries.

However, in the face of compelling evidence of the deliberate currency manipulation by the Chinese government to gain an unfair trade advantage, that report downplayed the nature of China's exchange rate policy, stating that "no major trading partner of the United States meets the technical requirements for designation." I believe that the facts clearly illustrate that the definition has been met.

China has seen significant increases in production capability, productivity, and foreign direct investment since the initial peg, which would generally lead towards upward pressure on the currency value. In response, the government of the People's Republic of China has had to significantly intervene in its foreign exchange markets in order to hold the value of their currency within its tight and artificial trading band. This manipulation has resulted in enormous growth in China's dollar reserves, estimated to be over $346 billion as of June 2003, an increase of 43 percent from June 2002.

In addition, China's policy is clearly in violation of article IV of the WTO which says members "shall not by exchange rate action frustrate the intent" of the WTO, which is to create fair and open markets for global commerce. China has joined the world trading system—it must now play by its rules and adhere to these principles.

This resolution is about restoring some sense of order to the global trading community which has been distorted by the policy of the Chinese government to unfairly subsidize every single export through the manipulation of its currency. It is my hope that the strong message sent by this Sense of the Senate will result in a renewed vigor and resolve to bring China's currency into the free market.

AMENDMENTS SUBMITTED & PROPOSED

SA 2115. Mr. BINGAMAN proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

SA 2116. Mr. DORGAN proposed an amendment to the bill H.R. 2673, supra.

SA 2117. Mr. DORGAN (for himself, Mr. Burns, Mr. Conrad, Mrs. Clinton, Mr. Leahy, Mr. Harkin, and Mr. Johnson) submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2673, supra; which was ordered to lie on the table.

SA 2119. Mr. LEAHY (for himself, Ms. Snowe, Mr. Jeffords, Ms. Collins, Mr. Reed, and Mrs. Clinton) proposed an amendment to the bill H.R. 2673, supra.

SA 2120. Mr. COCHRAN proposed an amendment to the bill H.R. 2673, supra.

SA 2121. Mr. LEVIN (for himself and Ms. Stabenow) proposed an amendment to the bill H.R. 2673, supra.

SA 2122. Mr. KOHL (for Mr. Feingold) proposed an amendment to the bill H.R. 2673, supra.

SA 2123. Mr. KOHL (for Mr. Dorgan) proposed an amendment to the bill H.R. 2673, supra.

SA 2124. Mr. KOHL (for Ms. Stabenow (for herself and Mr. Levin)) proposed an amendment to the bill H.R. 2673, supra.

SA 2125. Mr. KOHL (for Mr. Leahy) proposed an amendment to the bill H.R. 2673, supra.

SA 2126. Mr. BENNETT proposed an amendment to the bill H.R. 2673, supra.

SA 2127. Mr. KOHL (for Mr. Wyden) proposed an amendment to the bill H.R. 2673, supra.

SA 2128. Mr. KOHL (for Mr. Jeffords) proposed an amendment to the bill H.R. 2673, supra.

SA 2129. Mr. BENNETT (for Ms. Murkowski) proposed an amendment to the bill H.R. 2673, supra.

SA 2130. Mr. KOHL (for Mrs. Clinton) proposed an amendment to the bill H.R. 2673, supra.

SA 2131. Mr. BENNETT (for Mr. Craig) proposed an amendment to the bill H.R. 2673, supra.

SA 2132. Mr. KOHL (for Mr. Harkin) proposed an amendment to the bill H.R. 2673, supra.

SA 2133. Mr. KOHL (for Mr. Dorgan (for himself, Mr. Burns, Mrs. Clinton, Mr. Harkin, and Mr. Leahy)) proposed an amendment to the bill H.R. 2673, supra.

SA 2134. Mr. KOHL (for Mr. Harkin) proposed an amendment to the bill H.R. 2673, supra.

SA 2135. Mr. BENNETT (for Mrs. Hutchison) proposed an amendment to the bill H.R. 2673, supra.

SA 2136. Mr. McCAIN (for himself, Mr. Allen, Mr. Wyden, Mr. Burns, Mr. Ensign, Mr. Sununu, Mr. Warner, Mr. Smith, Mr. Leahy, Mr. Grassley, Mr. Hatch, Mr. Baucus, Mrs. Boxer, Mr. Chambliss, and Mrs. Lincoln) proposed an amendment to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

SA 2137. Mr. McCAIN (for Mr. Domenici (for himself and Mr. Bingaman)) submitted an amendment intended to be proposed by Mr. McCain to the joint resolution H.J. Res. 63, to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts.".

SA 2138. Mr. McCAIN (for Mr. Domenici (for himself and Mr. Bingaman)) proposed an amendment to the joint resolution H.J. Res. 63, supra.

SA 2139. Mr. McCAIN (for Mr. Domenici) proposed an amendment to the joint resolution H.J. Res. 63, supra.

SA 2140. Mr. ALEXANDER (for himself, Mr. Carper, Mr. Hollings, Mr. Stevens, Mr. Voinovich, Mr. Graham, of Florida, Mr. Dorgan, Mrs. Feinstein, Mr. Lautenberg, and Mr. Conrad) submitted an amendment intended to be proposed to amendment SA 2136 proposed by Mr. McCain (for himself, Mr. Allen, Mr. Wyden, Mr. Burns, Mr. Ensign, Mr. Sununu, Mr. Warner, Mr. Smith, Mr. Leahy, Mr. Grassley, Mr. Hatch, Mr. Baucus, Mrs. Boxer, Mr. Chambliss, and Mrs. Lincoln) to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2115. Mr. Bingaman proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 5, line 1, strike "$188,022,000" and insert "$183,022,000".

On page 48, line 24, strike "$11,418,441,000" and insert "$11,423,441,000".

On page 48, line 26, strike "$6,718,780,000" and insert "$6,723,780,000".

On page 49, line 7, before the period, insert the following: ": *Provided further*, That not less than $15,025,000 shall be available to implement and administer Team Nutrition programs of the Department of Agriculture".

SA 2116. Mr. DORGAN proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. SENSE OF SENATE ON IMPORTATION OF CATTLE WITH BOVINE SPONGIFORM ENCEPHALOPATHY.

(a) Findings.—The Senate finds that—

(1) the United States beef industry is the single largest segment of United States agriculture;

(2) the United States has never allowed the importation of live cattle from a country that has been found to have bovine spongiform encephalopathy (referred to in this section as "BSE");

(3) the importation of live cattle known to have BSE could put the entire United States cattle industry at unnecessary risk;

(4) food safety is a top priority for the people of the United States; and

(5) the importation of beef and beef products from a country known to have BSE could undermine consumer confidence in the integrity of the food supply and present a possible danger to human health.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of Agriculture—

(1) should not allow the importation of live cattle from any country known to have BSE unless the country complies with the animal health guidelines established by the World Organization for Animal Health; and

(2) should abide by international standards for the continued health and safety of the United States livestock industry.

SA 2117. Mr. DORGAN (for himself, Mr. Burns, Mr. Conrad, Mrs. Clinton, Mr. Leahy, Mr. Harkin, and Mr. Johnson) submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 47, line 13, strike "$335,963,000" and insert "$647,000,000".

On page 48, line 2, strike "$9,116,000" and insert "$15,116,000".

On page 79, between lines 7 and 8, insert the following:

SEC. 7___. REDUCTION IN TRAVEL AMOUNTS.

Notwithstanding any other provision of this Act, each amount provided by this Act for travel expenses is reduced by the pro rata percentage required to reduce the total amount provided by this Act for such expenses by $6,000,000.

SA 2118. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, strike lines 1 through 5 and insert the following:

SEC. 749. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $20,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)) for fiscal year 2004.

SA 2119. Mr. LEAHY (for himself, Ms. SNOWE, Mr. JEFFORDS, Ms. COLLINS, Mr. REED, and Mrs. CLINTON) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7__. USE OF FUNDING FOR CERTAIN CONSERVATION PROGRAMS.

None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to carry out the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) using funds made available under paragraphs (4) through (7) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

SA 2120. Mr. COCHRAN proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 19, line 26, before the period, insert the following: ": *Provided further*, That, in the case of the term of protection for the variety for which certificate number 8200179 was issued, on the date of enactment of this Act, the Secretary of Agriculture shall issue a new certificate for a term of protection of 10 years for the variety, except that the Secretary may terminate the certificate (at the end of any calendar year that is more than 5 years after the date of issuance of the certificate) if the Secretary determines that a new variety of seed (that is substantially based on the genetics of the variety for which the certificate was issued) is commercially viable and available in sufficient quantities to meet market demands".

SA 2121. Mr. LEVIN (for himself and Ms. STABENOW) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 3, line 12, strike "$119,289,000" and insert "$118,789,000".

On page 5, line 1, strike "$188,022,000" and insert "$187,022,000".

On page 17, line 16, after "eradication zones" insert "; and of which not less than $1,500,000 (in addition to any other funds made available for eradication or containment) shall be used by the Emerald Ash Borer Task Force for the removal of trees that have been adversely affected by the emerald ash borer, with a priority for the removal of trees on public property or that threaten public safety".

SA 2122. Mr. KOHL (for Mr. FEINGOLD) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 6, line 12, strike the period at the end and insert ": *Provided further*, That of such amount, sufficient funds shall be available for the Secretary of Agriculture, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Agriculture during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Agriculture that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Agriculture shall make the report publicly available by posting the report on an Internet website.".

SA 2123. Mr. KOHL (for Mr. DORGAN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 76, strike lines 1 through 5 and insert the following:

SEC. 749. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $20,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)) for fiscal year 2004.

SA 2124. Mr. KOHL (for Ms. STABENOW (for herself and Mr. LEVIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 17, line 16, before the colon, insert the following: "; and of which up to $275,000 may be used to control or alleviate the cormorant problem in the State of Michigan".

SA 2125. Mr. KOHL (for Mr. LEAHY) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 78, strike lines 8 through 16, and insert the following:

SEC. 759. AGRICULTURAL MANAGEMENT ASSISTANCE.

Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1542(b)(4)(B)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(2) by adding at the end the following:

"(iii) CERTAIN USES.—Of the amounts made available to carry out this subsection for each fiscal year, the Commodity Credit Corporation shall use not less than—

"(I) $15,000,000 to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service; and

"(II) $2,000,000 to provide organic certification cost share assistance through the Agricultural Marketing Service.".

SA 2126. Mr. BENNETT proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . EMERGENCY WATERSHED PROTECTION PROGRAM.

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized hereafter to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and to waive cost sharing requirements for the funding and assistance.

SA 2127. Mr. KOHL (for Mr. WYDEN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

"The Secretary may waive the requirements regarding small and emerging rural business as authorized under the Rural Business Enterprise Grant program for the purpose of a lease for the Oakridge Oregon Industrial Park."

SA 2128. Mr. KOHL (for Mr. JEFFORDS) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 42, between lines 13 and 14, insert the following:

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008*o*), $2,000,000.

On page 58, line 19, strike "$90,435,000" and insert "$88,435,000".

SA 2129. Mr. BENNETT (for Ms. MURKOWSKI) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . WATER AND WASTE DISPOSAL GRANT TO THE ALASKA DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

Notwithstanding any other provision of law—

(1) the Alaska Department of Community and Economic Development may be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is up to 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska;

(2) the Alaska Department of Community and Economic Development may be allowed to pass the grant funds through to the local government entity that will provide water and sewer service to the hospital; and

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SA 2130. Mr. KOHL (for Mrs. CLINTON) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . PROHIBITION OF USE OF FUNDS TO PURCHASE CHICKEN TREATED WITH FLUOROQUINOLONE.

After December 31, 2003, none of the funds made available by this Act may be used to purchase chickens or the products of chickens for use in any program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), unless the supplier provides certification that the supplier does not feed or administer fluoroquinolone to chickens produced by the supplier.

SA 2131. Mr. BENNETT (for Mr. CRAIG) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . RENEWABLE ENERGY SYSTEM LOAN GUARANTEES.

Title IX of The Farm Security and Rural Investment Act of 2002 is amended by adding the following new section—

"SEC. . RENEWABLE ENERGY SYSTEM LOAN GUARANTEES.

"Loan Guarantees for Certain Projects.—

"(1) Definition of subsidy costs.—In this subsection, the term 'subsidy costs' has the meaning given the term 'cost' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(2) Projects.—Subsection (c)(1) shall not apply to a loan guarantee made under this subsection to carry out a project if—

"(A) the loan will be used—

"(i) to purchase a renewable energy system that has, as 1 of its principal purposes, the commercial production of an agricultural commodity; and

"(ii) to promote a solution to an environmental problem in a rural area of the State in which the project will be carried out;

"(B) the lender of the loan exercises due diligence with respect to theborrower of the loan;

"(C) the borrower of the loan pays in full, before the guarantee is issued, a guarantee fee in the amount of the estimated subsidy cost of the guarantee, as determined by the Director of the Office of Management and Budget;

"(D) except as provided in subparagraph (E), the principal amount of the loan is not more than $25,000,000;

"(E) the principal amount of the loan is more than $25,000,000, but is not more than $75,000,000, if the Secretary—

"(i) approves the loan application; and

"(ii) does not delegate the authority described in clause (i);

"(F) the project requires no Federal or State financial assistance, other than the loan guarantee provided under this subsection; and

"(G) the project complies with all necessary permits, licenses, and approvals required under the laws of the State.

"(3) Cost sharing.—

"(A) In general.—The amount of a loan guarantee under this subsection for a project described in paragraph (2) shall not exceed 80 percent of the total project cost.

"(B) Subordination.—Any financing for the non-Federal share of the total project cost shall be subordinated to the federally guaranteed portion of the total project cost.

"(4) Loan guarantee limits.—The loan guarantee limitations applicable to the business and industry guarantee loan program authorized under section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) shall apply to loan guarantees made under this subsection.

"(5) Maximum amount.—

"(A) Individual loans.—The amount of principal for a loan under this subsection for a project described in paragraph (2) shall not exceed $75,000,000.

"(B) All loans.—The total outstanding amount of principal for loans under this subsection for all projects described in paragraph (2) shall not exceed $500,000,000.

"(C) The Secretary shall publish a proposed rule to carry out this section within 120 days of enactment of this Act".

SA 2132. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 71, line 2, before the period, insert the following: ", including requests for proposals for grants for critical emerging issues described in section 401(c)(1) of that Act for which the Secretary has not issued requests for proposals for grants in fiscal 2002 or 2003".

SA 2133. Mr. KOHL (for Mr. DORGAN (for himself, Mr. BURNS, Mrs. CLINTON, Mr. HARKIN, and Mr. LEAHY)) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 47, line 13, strike "$335,963,000" and insert "$647,000,000".

On page 48, line 2, strike "$9,116,000" and insert "$15,116,000".

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . REDUCTION IN TRAVEL AMOUNTS.

(a) In General.—Notwithstanding any other provision of this Act, each amount provided by this Act for travel expenses is reduced by the pro rata percentage required to reduce the total amount provided by this Act for such expenses by $6,000,000.

(b) Report.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to subsection (a).

SA 2134. Mr. KOHL (for Mr. HARKIN) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

On page 79, between lines 7 and 8, insert the following:

SEC. 7 . WATER AND WASTE DISPOSAL GRANT TO THE CITY OF POSTVILLE, IOWA.

Notwithstanding any other provision of law, the city of Postville, Iowa, shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service in the city.

SA 2135. Mr. BENNETT (for Mrs. HUTCHISON) proposed an amendment to the bill H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

SEC. . TEXAS RICE SAFEGUARD INITIATIVE.

(a) In General.—In order to provide a safeguard against the further decline of the rice industry and wildlife habitat in Texas, and to provide information to the Congress in anticipation of and preparation for the 2007 farm bill, the Secretary of Agriculture shall conduct the initiative required under this section.

(b) Administrative Improvements.—As an integral part of the safeguard initiative, the Secretary of Agriculture shall review the administration and enhance the enforcement of section 1105(a)(1)(E) of Public Law 107–171 as it related to and is applied to the control of noxious weeds and the proper application and implementation of the conserving use requirements on rice base acreage in Texas.

(c) Reports to Congress.—The Secretary shall review and evaluate the costs, benefits and effects of the safeguard initiative on rice producers, including tenant rice producers, the rice milling and processing industry, wildlife habitat, and the economies of rice farming areas in Texas, detailed by each of these affected interests and by the program variables involved in the safeguard initiative under subsections (b) and (c), including whether or not producers on a farm have qualified plantings. The Secretary shall provide to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives an annual report detailing the progress and findings of the initiative not later than February 1 of each of the years 2005 through 2007.

SA 2136. Mr. MCCAIN (for himself, Mr. ALLEN, Mr. WYDEN, Mr. BURNS, Mr. ENSIGN, Mr. SUNUNU, Mr. WARNER, Mr. SMITH, Mr. LEAHY, Mr. GRASSLEY, Mr. HATCH, Mr. BAUCUS, Mrs. BOXER, Mr. CHAMBLISS, and Mrs. LINCOLN) proposed an amendment to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Tax Nondiscrimination Act".

SEC. 2. PERMANENT EXTENSION OF INTERNET TAX FREEDOM ACT MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

"(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes:

"(1) Taxes on Internet access.

"(2) Multiple or discriminatory taxes on electronic commerce.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

"(10) TAX ON INTERNET ACCESS.—

"(A) IN GENERAL.—The term 'tax on Internet access' means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

"(B) GENERAL EXCEPTION.—The term 'tax on Internet access' does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.".

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking "except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,".

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting "The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting "The term 'Internet access" does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

SEC. 3. 3-YEAR SUNSET FOR PRE-OCTOBER, 1998, TAX EXCEPTION.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

"SEC. 1104. PRESERVATION OF PRE-OCTOBER, 1998, STATE AND LOCAL TAX AUTHORITY UNTIL 2006.

"(a) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

"(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

"(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

"(b) TERMINATION.—This section shall not apply after October 1, 2006.

"(c) TAX ON INTERNET ACCESS.—Notwithstanding section 1105(10), in this section the term 'tax on Internet access' includes the enforcement or application of any preexisting tax on the sale or use of Internet services if that tax was generally imposed and actually enforced prior to October 1, 1998.".

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

"SEC. 1106. ACCOUNTING RULE.

"(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

"(b) DEFINITIONS.—In this section:

"(1) CHARGES FOR INTERNET ACCESS.—The term 'charges for Internet access' means all charges for Internet access as defined in section 1105(5).

"(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term 'charges for telecommunications services' means all charges for telecommunications services except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.".

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

"SEC. 1107. EFFECT ON OTHER LAWS.

"(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

"(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

"(2) in effect on February 8, 1996.

"(b) 911 AND E–911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E–911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E–911 services.

"(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.".

SA 2137. Mr. MCCAIN (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) submitted an amendment intended to be proposed by Mr. MCCAIN to the joint resolution H.J. Res. 63, to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts."; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution, together with the table of contents in subsection (b) of this section, may be cited as the "Compact of Free Association Amendments Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this joint resolution is as follows:

TITLE I—APPROVAL OF U.S.-FSM COMPACT AND U.S.-RMI COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, U.S.-FSM COMPACT AND U.S.-RMI COMPACT; SUPPLEMENTAL PROVISIONS

Sec. 101. Approval of U.S.-FSM Compaot of Free Association and U.S.-RMI Compact of Free Association.
(a) Federated States of Micronesia.
(b) Republic of the Marshall Islands.
(c) References to the Compact, the U.S.-FSM Compact and the U.S.-RMI Compact; References to Subsidiary Agreements or Separate Agreements.
(d) Amendment, Change, or Termination in the U.S.-FSM Compact, the U.S.-RMI Compact and Certain Agreements.
(e) Subsidiary Agreements Deemed Bilateral.
(f) Entry Into Force of Future Amendments to Subsidiary Agreements.
Sec. 102. Agreements With Federated States of Micronesia.
(a) Law Enforcement Assistance.
(b) Agreement on Audits.
Sec. 103. Agreements With and Other Provisions Related to the Republic of the Marshall Islands.
(a) Law Enforcement Assistance.
(b) EJIT.
(c) Section 177 Agreement.
(d) Nuclear Test Effects.
(e) Espousal Provisions.
(f) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.
(g) Rongelap.
(h) Four Atoll Health Care Program.
(i) Enjebi Community Trust Fund.
(j) Bikini Atoll Cleanup.
(k) Agreement on Audits.
(l) Kwajalein.
Sec. 104. Interpretation of and United States Policy Regarding U.S.-FSM Compact and U.S.-RMI Compact.
(a) Human Rights.
(b) Immigration and Passport Security.
(c) Nonalienation of Lands.
(d) Nuclear Waste Disposal.
(e) Impact of Compacts on the State of Hawaii, Guam, the Commonwealth of the

Northern Mariana Islands and American Samoa; Related Authorization and Continuing Appropriation.
(f) Foreign Loans.
(g) Sense of Congress Concerning Funding of Public Infrastructure.
(h) Reports and Reviews.
(i) Construction of Section 141(f).
(j) Construction of Section 216 of the U.S.-FSM Compact.
(k) Construction of Section 217 of the U.S.-RMI Compact.
(l) Inflation Adjustment.
(m) Promotion of Telecommunications.
(n) Participation by Secondary Schools in the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program.
Sec. 105. Supplemental Provisions.
(a) Domestic Program Requirements.
(b) Relations With the Federated States of Micronesia and the Republic of the Marshall Islands.
(c) Continuing Trust Territory Authorization.
(d) Survivability.
(e) Noncompliance Sanctions; Actions Incompatible With United States Authority.
(f) Continuing Programs and Laws.
(g) College of Micronesia.
(h) Trust Territory Debts to U.S. Federal Agencies.
(i) Judicial Training.
(j) Technical Assistance.
(k) Prior Service Benefits Program.
(l) Indefinite Land Use Payments.
(m) Communicable Disease Control Program.
(n) User Fees.
(o) Treatment of Judgments of Courts of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
(p) Establishment of Trust Funds; Expedition of Process.
Sec. 106. Construction Contract Assistance.
(a) Assistance to U.S. Firms.
(b) Authorization of Appropriations.
Sec. 107. Prohibition.
Sec. 108. Compensatory Adjustments.
(a) Additional Programs and Services.
(b) Further Amounts.
Sec. 109. Authorization and Continuing Appropriation.
Sec. 110. Payment of Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau Employed by the Government of the United States in the Continental United States.

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

Sec. 201. Compacts of Free Association, as Amended Between the Government of the United States of America and the Government of the Federated States of Micronesia and Between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

(a) Compact of Free Association as amended between the Government of the United States of America and the Government of the Federated States of Micronesia.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self-Government.
Article II—Foreign Affairs.
Article III—Communications.
Article IV—Immigration.
Article V—Representation.
Article VI—Environmental Protection.
Article VII—General Legal Provisions.

TITLE TWO—ECONOMIC RELATIONS

Article I—Grant Assistance.
Article II—Services and Program Assistance.
Article III—Administrative Provisions.
Article IV—Trade.
Article V—Finance and Taxation.

TITLE THREE—SECURITY AND DEFENSE RELATIONS

Article I—Authority and Responsibility.
Article II—Defense Facilities and Operating Rights.
Article III—Defense Treaties and International Security Agreements.
Article IV—Service in Armed Forces of the United States.
Article V—General Provisions.

TITLE FOUR—GENERAL PROVISIONS

Article I—Approval and Effective Date.
Article II—Conference and Dispute Resolution.
Article III—Amendment.
Article IV—Termination.
Article V—Survivability.
Article VI—Definition of Terms.
Article VII—Concluding Provisions.

(b) Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self-Government.
Article II—Foreign Affairs.
Article III—Communications.
Article IV—Immigration.
Article V—Representation.
Article VI—Environmental Protection.
Article VII—General Legal Provisions.

TITLE TWO—ECONOMIC RELATIONS

Article I—Grant Assistance.
Article II—Services and Program Assistance.
Article III—Administrative Provisions.
Article IV—Trade.
Article V—Finance and Taxation.

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Article I—Authority and Responsibility.
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Article I—Approval and Effective Date.
Article II—Conference and Dispute Resolution.
Article III—Amendment.
Article IV—Termination.
Article V—Survivability.
Article VI—Definition of Terms.
Article VII—Concluding Provisions.

TITLE I—APPROVAL OF U.S.-FSM COMPACT AND U.S.-RMI COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, U.S.-FSM COMPACT AND U.S.-RMI COMPACT; SUPPLEMENTAL PROVISIONS

SEC. 101. APPROVAL OF U.S.-FSM COMPACT OF FREE ASSOCIATION AND THE U.S.-RMI COMPACT OF FREE ASSOCIATION; REFERENCES TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREEMENTS.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association, as amended with respect to the Federated States of Micronesia and signed by the United States and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-FSM Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-FSM Compact, to an effective date for and thereafter to implement such U.S.-FSM Compact.

(b) REPUBLIC OF THE MARSHALL ISLANDS.—The Compact of Free Association, as amended with respect to the Republic of the Marshall Islands and signed by the United States and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-RMI Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-RMI Compact, to an effective date for and thereafter to implement such U.S.-RMI Compact.

(c) REFERENCES TO THE COMPACT, THE U.S.-FSM COMPACT, AND THE U.S.-RMI COMPACT; REFERENCES TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREEMENTS.—

(1) Any reference in this joint resolution (except references in Title II) to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of Public Law 99-239, January 14, 1986, 99 Stat. 1770. Any reference in this joint resolution to the "U.S.-FSM Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution. Any reference in this joint resolution to the "U.S.-RMI Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution.

(2) Any reference to the term "subsidiary agreements" or "separate agreements" in this joint resolution shall be treated as a reference to agreements listed in section 462 of the U.S.-FSM Compact and the U.S.-RMI Compact, and any other agreements that the United States may from time to time enter into with either the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands, or with both such governments in accordance with the provisions of the U.S.-FSM Compact and the U.S.-RMI Compact.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE U.S.-FSM COMPACT AND U.S.-RMI COMPACT AND CERTAIN AGREEMENTS.—

(1) Any amendment, change, or termination by mutual agreement or by unilateral action of the Government of the United States of all or any part of the U.S.-FSM Compact or U.S.-RMI Compact shall not enter into force until after Congress has incorporated it in an Act of Congress.

(2) The provisions of paragraph (1) shall apply—

(A) to all actions of the Government of the United States under the U.S.-FSM Compact or U.S.-RMI Compact including, but not limited to, actions taken pursuant to sections 431, 441, or 442;

(B) to any amendment, change, or termination in the Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(a)(2) of the U.S.-FSM Compact and the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(a)(5) of the U.S.-RMI Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact section 177, and section 215(a) of the U.S.-FSM Compact and section 216(a) of the U.S.-RMI Compact, the terms of which are incorporated by reference into the U.S.-FSM Compact and the U.S.-RMI Compact; and

(D) to the following subsidiary agreements, or portions thereof:

(i) Articles III, IV, and X of the agreement referred to in section 462(b)(6) of the U.S.-RMI Compact;

(ii) Article III and IV of the agreement referred to in section 462(b)(6) of the U.S.-FSM Compact.

(iii) Articles VI, XV, and XVII of the agreement referred to in section 462(b)(7) of the U.S.-FSM Compact and U.S.-RMI Compact.

(e) Subsidiary Agreements Deemed Bilateral.—For purposes of implementation of the U.S.-FSM Compact and the U.S.-RMI Compact and this joint resolution, the Agreement Concluded Pursuant to Section 234 of the Compact of Free Association and referred to in section 462(a)(1) of the U.S.-FSM Compact and section 462(a)(4) of the U.S.-RMI Compact shall be deemed to be a bilateral agreement between the United States and each other party to such subsidiary agreement. The consent or concurrence of any other party shall not be required for the effectiveness of any actions taken by the United States in conjunction with either the Federated States of Micronesia or the Republic of the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of such subsidiary agreement (or any provision thereof) as regards the mutual responsibilities of the United States and the party in conjunction with whom the actions are taken.

(f) Entry Into Force of Future Amendments to Subsidiary Agreements.—No agreement between the United States and the government of either the Federated States of Micronesia or the Republic of the Marshall Islands which would amend, change, or terminate any subsidiary agreement or portion thereof, other than those set forth in subsection (d) of this section shall enter into force until 90 days after the President has transmitted such agreement to the President of the Senate and the Speaker of the House of Representatives together with an explanation of the agreement and the reasons therefor. In the case of the agreement referred to in section 462(b)(3) of the U.S.-FSM Compact and the U.S.-RMI Compact, such transmittal shall include a specific statement by the Secretary of Labor as to the necessity of such amendment, change, or termination, and the impact thereof.

SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

(a) Law Enforcement Assistance.—Pursuant to sections 222 and 224 of the U.S.-FSM Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) Agreement on Audits.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-FSM Compact and the agreement referred to in section 462(b)(4) of the U.S.-FSM Compact, including the following authorities:

(1) General authority of the Comptroller General to audit.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Federated States of Micronesia under Articles I and II of Title Two of the U.S.-FSM Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Federated States of Micronesia.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 232 of the U.S.-FSM Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) Comptroller General access to records.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least five years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Federated States of Micronesia.

(3) Status of Comptroller General representatives.—The Comptroller General and his duly authorized representatives shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Federated States of Micronesia.

(4) Audits defined.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Federated States of Micronesia has met the requirements set forth in the U.S.-FSM Compact, or any related agreement entered into under the U.S.-FSM Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Federated States of Micronesia pursuant to such grants or assistance.

(5) Cooperation by Federated States of Micronesia.—The Government of the Federated States of Micronesia will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE REPUBLIC OF THE MARSHALL ISLANDS.

(a) Law Enforcement Assistance.—Pursuant to sections 222 and 224 of the U.S.-RMI Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Marshall Islands to develop and adequately enforce laws of the Marshall Islands and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) Ejit.—

(1) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that the President of the United States shall negotiate with the Government of the Marshall Islands an agreement whereby, without prejudice as to any claims which have been or may be asserted by any party as to rightful title and ownership of any lands on Ejit, the Government of the Marshall Islands shall assure that lands on Ejit used as of January 1, 1985, by the people of Bikini, will continue to be available without charge for their use, until such time as Bikini is restored and inhabitable and the continued use of Ejit is no longer necessary, unless a Marshall Islands court of competent jurisdiction finally determines that there are legal impediments to continued use of Ejit by the people of Bikini.

(2) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided

that if the impediments described in paragraph (1) do arise, the United States will cooperate with the Government of the Marshall Islands in assisting any person adversely affected by such judicial determination to remain on Ejit, or in locating suitable and acceptable alternative lands for such person's use.

(3) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that paragraph (1) shall not be applied in a manner which would prevent the Government of the Marshall Islands from acting in accordance with its constitutional processes to resolve title and ownership claims with respect to such lands or from taking substitute or additional measures to meet the needs of the people of Bikini with their democratically expressed consent and approval.

(c) SECTION 177 AGREEMENT.—

(1) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in furtherance of the purposes of Article I of the Subsidiary Agreement for Implementation of Section 177 of the Compact, the payment of the amount specified therein shall be made by the United States under Article I of the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") only after the Government of the Marshall Islands has notified the President of the United States as to which investment management firm has been selected by such Government to act as Fund Manager under Article I of the Section 177 Agreement.

(2) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in the event that the President determines that an investment management firm selected by the Government of the Marshall Islands does not meet the requirements specified in Article I of the Section 177 Agreement, the United States shall invoke the conference and dispute resolution procedures of Article II of Title Four of the Compact. Pending the resolution of such a dispute and until a qualified Fund Manager has been designated, the Government of the Marshall Islands shall place the funds paid by the United States pursuant to Article I of the Section 177 Agreement into an interest-bearing escrow account. Upon designation of a qualified Fund Manager, all funds in the escrow account shall be transferred to the control of such Fund Manager for management pursuant to the Section 177 Agreement.

(3) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that if the Government of the Marshall Islands determines that some other investment firm should act as Fund Manager in place of the firm first (or subsequently) selected by such Government, the Government of the Marshall Islands shall so notify the President of the United States, identifying the firm selected by such Government to become Fund Manager, and the President shall proceed to evaluate the qualifications of such identified firm.

(4) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that at the end of 15 years after the effective date of the Compact, the firm then acting as Fund Manager shall transfer to the Government of the Marshall Islands, or to such account as such Government shall so notify the Fund Manager, all remaining funds and assets being managed by the Fund Manager under the Section 177 Agreement.

(d) NUCLEAR TEST EFFECTS.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in approving the Compact, the Congress understands and intends that the peoples of Bikini, Enewetak, Rongelap, and Utrik, who were affected by the United States nuclear weapons testing program in the Marshall Islands, will receive the amounts of $75,000,000 (Bikini); $48,750,000 (Enewetak); $37,500,000 (Rongelap); and $22,500,000 (Utrik), respectively, which amounts shall be paid out of proceeds from the fund established under Article I, section 1 of the subsidiary agreement for the implementation of section 177 of the Compact. The amounts specified in this subsection shall be in addition to any amounts which may be awarded to claimants pursuant to Article IV of the subsidiary agreement for the implementation of Section 177 of the Compact.

(e) ESPOUSAL PROVISIONS.—

(1) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that it is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

(2) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in furtherance of the intention of Congress as stated in paragraph (1) of this subsection, the Section 177 Agreement is hereby ratified and approved. It is the explicit understanding and intent of Congress that the jurisdictional limitations set forth in Article XII of such Agreement are enacted solely and exclusively to accomplish the objective of Article X of such Agreement and only as a clarification of the effect of Article X, and are not to be construed or implemented separately from Article X.

(f) DOE RADIOLOGICAL HEALTH CARE PROGRAM; USDA AGRICULTURAL AND FOOD PROGRAMS.—

(1) MARSHALL ISLANDS PROGRAM.—Notwithstanding any other provision of law, upon the request of the Government of the Republic of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermo-nuclear "Bravo" test, pursuant to Public Laws 95-134 and 96-205.

(2) AGRICULTURAL AND FOOD PROGRAMS.—

(A) IN GENERAL.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first fifteen years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands) shall provide technical and other assistance—

(i) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak, as provided in subparagraph (C); and

(ii) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes.

(B) POPULATION CHANGES.—The President shall ensure the assistance provided under these programs reflects the changes in the population since the inception of such programs.

(C) PLANTING AND AGRICULTURAL MAINTENANCE PROGRAM.—

(i) IN GENERAL.—The planting and agricultural maintenance program on Enewetak shall be funded at a level of not less than $1,300,000 per year, as adjusted for inflation under section 218 of the U.S.-RMI Compact.

(ii) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $1,300,000, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for grants to carry out the planting and agricultural maintenance program.

(3) PAYMENTS.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that payments under this subsection shall be provided to such extent or in such amounts as are necessary for services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

(g) RONGELAP.—

(1) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that because Rongelap was directly affected by fallout from a 1954 United States thermonuclear test and because the Rongelap people remain unconvinced that it is safe to continue to live on Rongelap Island, it is the intent of Congress to take such steps (if any) as may be necessary to overcome the effects of such fallout on the habitability of Rongelap Island, and to restore Rongelap Island, if necessary, so that it can be safely inhabited. Accordingly, it is the expectation of the Congress that the Government of the Marshall Islands shall use such portion of the funds specified in Article II, section 1(e) of the subsidiary agreement for the implementation of section 177 of the Compact as are necessary for the purpose of contracting with a qualified scientist or group of scientists to review the data collected by the Department of Energy relating to radiation levels and other conditions on Rongelap Island resulting from the thermonuclear test. It is the expectation of the Congress that the Government of the Marshall Islands, after consultation with the people of Rongelap, shall select the party to review such data, and shall contract for such review and for submission of a report to the President of the United States and the Congress as to the results thereof.

(2) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided

that the purpose of the review referred to in paragraph (1) of this subsection shall be to establish whether the data cited in support of the conclusions as to the habitability of Rongelap Island, as set forth in the Department of Energy report entitled: "The Meaning of Radiation for Those Atolls in the Northern Part of the Marshall Islands That Were Surveyed in 1978", dated November 1982, are adequate and whether such conclusions are fully supported by the data. If the party reviewing the data concludes that such conclusions as to habitability are fully supported by adequate data, the report to the President of the United States and the Congress shall so state. If the party reviewing the data concludes that the data are inadequate to support such conclusions as to habitability or that such conclusions as to habitability are not fully supported by the data, the Government of the Marshall Islands shall contract with an appropriate scientist or group of scientists to undertake a complete survey of radiation and other effects of the nuclear testing program relating to the habitability of Rongelap Island. Such sums as are necessary for such survey and report concerning the results thereof and as to steps needed to restore the habitability of Rongelap Island are authorized to be made available to the Government of the Marshall Islands.

(3) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that it is the intent of Congress that such steps (if any) as are necessary to restore the habitability of Rongelap Island and return the Rongelap people to their homeland will be taken by the United States in consultation with the Government of the Marshall Islands and, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(4) There are hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for fiscal year 2005, $1,780,000; for fiscal year 2006, $1,760,000; and for fiscal year 2007, $1,760,000, as the final contributions of the United States to the Rongelap Resettlement Trust Fund as established pursuant to Public Law 102-154 (105 Stat. 1009), for the purposes of establishing a food importation program as a part of the overall resettlement program of Rongelap Island.

(h) FOUR ATOLL HEALTH CARE PROGRAM.—

(1) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article II of the Agreement for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the "Section 177 Agreement") shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utrik who were affected by the consequences of the United States nuclear testing program, pursuant to the program described in Public Law 95-134 (91 Stat. 1159) and Public Law 96-205 (94 Stat. 84) and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws). Nothing in this subsection shall be construed as prejudicial to the views or policies of the Government of the Marshall Islands as to the persons affected by the consequences of the United States nuclear testing program.

(2) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that at the end of the first year after the effective date of the Compact and at the end of each year thereafter, the providing agency or agencies shall return to the Government of the Marshall Islands any unexpended funds to be returned to the Fund Manager (as described in Article I of the Section 177 Agreement) to be covered into the Fund to be available for future use.

(3) In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that the Fund Manager shall retain the funds returned by the Government of the Marshall Islands pursuant to paragraph (2) of this subsection, shall invest and manage such funds, and at the end of 15 years after the effective date of the Compact, shall make from the total amount so retained and the proceeds thereof annual disbursements sufficient to continue to make payments for the provision of health services as specified in paragraph (1) of this subsection to such extent as may be provided in contracts between the Government of the Marshall Islands and appropriate United States providers of such health services.

(i) ENJEBI COMMUNITY TRUST FUND.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that notwithstanding any other provision of law, the Secretary of the Treasury shall establish on the books of the Treasury of the United States a fund having the status specified in Article V of the subsidiary agreement for the implementation of Section 177 of the Compact, to be known as the "Enjebi Community Trust Fund" (hereafter in this subsection referred to as the "Fund"), and shall credit to the Fund the amount of $7,500,000. Such amount, which shall be ex gratia, shall be in addition to and not charged against any other funds provided for in the Compact and its subsidiary agreements, this joint resolution, or any other Act. Upon receipt by the President of the United States of the agreement described in this subsection, the Secretary of the Treasury, upon request of the Government of the Marshall Islands, shall transfer the Fund to the Government of the Marshall Islands, provided that the Government of the Marshall Islands agrees as follows:

(1) ENJEBI TRUST AGREEMENT.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that the Government of the Marshall Islands and the Enewetak Local Government Council, in consultation with the people of Enjebi, shall provide for the creation of the Enjebi Community Trust Fund and the employment of the manager of the Enewetak Fund established pursuant to the Section 177 Agreement as trustee and manager of the Enjebi Community Trust Fund, or, should the manager of the Enewetak Fund not be acceptable to the people of Enjebi, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of $250,000,000.

(2) MONITOR CONDITIONS.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that upon the request of the Government of the Marshall Islands, the United States shall monitor the radiation and other conditions on Enjebi and within one year of receiving such a request shall report to the Government of the Marshall Islands when the people of Enjebi may resettle Enjebi under circumstances where the radioactive contamination at Enjebi, including contamination derived from consumption of locally grown food products, can be reduced or otherwise controlled to meet whole body Federal radiation protection standards for the general population, including mean annual dose and mean 30-year cumulative dose standards.

(3) RESETTLEMENT OF ENJEBI.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in the event that the United States determines that the people of Enjebi can within 25 years of January 14, 1986, resettle Enjebi under the conditions set forth in paragraph (2) of this subsection, then upon such determination there shall be available to the people of Enjebi from the Fund such amounts as are necessary for the people of Enjebi to do the following, in accordance with a plan developed by the Enewetak Local Government Council and the people of Enjebi, and concurred with by the Government of the Marshall Islands to assure consistency with the government's overall economic development plan:

(A) Establish a community on Enjebi Island for the use of the people of Enjebi.

(B) Replant Enjebi with appropriate food-bearing and other vegetation.

(4) RESETTLEMENT OF OTHER LOCATION.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that in the event that the United States determines that within 25 years of January 14, 1986, the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in paragraph (2) of this subsection, then the fund manager shall be directed by the trust instrument to distribute the Fund to the people of Enjebi for their resettlement at some other location in accordance with a plan, developed by the Enewetak Local Government Council and the people of Enjebi and concurred with by the Government of the Marshall Islands, to assure consistency with the government's overall economic development plan.

(5) INTEREST FROM FUND.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that prior to and during the distribution of the corpus of the Fund pursuant to paragraphs (3) and (4) of this subsection, the people of Enjebi may, if they so request, receive the interest earned by the Fund on no less frequent a basis than quarterly.

(6) DISCLAIMER OF LIABILITY.—In the joint resolution of January 14, 1986 (Public Law 99-239) Congress provided that neither under the laws of the Marshall Islands nor under the laws of the United States, shall the Government of the United States be liable for any loss or damage to person or property in respect to the resettlement of Enjebi by the people of Enjebi, pursuant to the provision of this subsection or otherwise.

(j) BIKINI ATOLL CLEANUP.—

(1) DECLARATION OF POLICY.—In the joint resolution of January 14, 1986 (Public Law 99-239), the Congress determined and declared that it is the policy of the United States, to be supported by the full faith and credit of the United States, that because the United States, through its nuclear testing and other activities, rendered Bikini Atoll unsafe for habitation by the people of Bikini, the United States will fulfill its responsibility for restoring Bikini Atoll to habitability, as set forth in paragraph (2) and (3) of this subsection.

(2) CLEANUP FUNDS.—The joint resolution of January 14, 1986 (Public Law 99-239) authorized to be appropriated such sums as necessary to implement the settlement agreement of March 15, 1985, in The People of Bikini, et al. against United States of America, et al., Civ. No. 84-0425 (D. Ha.).

(3) CONDITIONS OF FUNDING.—In the joint resolution of January 14, 1986 (Public Law 99-239) the Congress provided that the funds referred to in paragraph (2) were to be made

available pursuant to Article VI, Section 1 of the Compact Section 177 Agreement upon completion of the events set forth in the settlement agreement referred to in paragraph (2) of this subsection.

(k) AGREEMENT ON AUDITS.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-RMI Compact and the agreement referred to in section 462(b)(4) of the U.S.-RMI Compact, including the following authorities:

(1) GENERAL AUTHORITY OF THE COMPTROLLER GENERAL TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Republic of the Marshall Islands under Articles I and II of Title Two of the U.S.-RMI Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Republic of the Marshall Islands.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 232 of the U.S.-RMI Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) COMPTROLLER GENERAL ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least five years after the date such grant or assistance was provided and in a manner that permits such grants, assistance and payments to be accounted for distinct from any other funds of the Government of the Republic of the Marshall Islands.

(3) STATUS OF COMPTROLLER GENERAL REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Republic of the Marshall Islands.

(4) AUDITS DEFINED.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Republic of the Marshall Islands has met the requirements set forth in the U.S.-RMI Compact, or any related agreement entered into under the U.S.-RMI Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Republic of the Marshall Islands pursuant to such grants or assistance.

(5) COOPERATION BY THE REPUBLIC OF THE MARSHALL ISLANDS.—The Government of the Republic of the Marshall Islands will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

(l) KWAJALEIN.—

(1) STATEMENT OF POLICY.—It is the policy of the United States that payment of funds by the Government of the Marshall Islands to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982, or as amended or superseded, and any related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligation and responsibilities under Title Three of the U.S.-RMI Compact and the subsidiary agreements concluded pursuant to the U.S.-RMI Compact.

(2) FAILURE TO PAY.—

(A) IN GENERAL.—If the Government of the Marshall Islands fails to make payments in accordance with paragraph (1), the Government of the United States shall initiate procedures under section 313 of the U.S.-RMI Compact and consult with the Government of the Marshall Islands with respect to the basis for the nonpayment of funds.

(B) RESOLUTION.—The United States shall expeditiously resolve the matter of any nonpayment of funds required under paragraph (1) pursuant to section 313 of the U.S.-RMI Compact and the authority and responsibility of the Government of the United States for security and defense matters in or relating to the Marshall Islands. This paragraph shall be enforced, as may be necessary, in accordance with section 105(e).

(3) DISPOSITION OF INCREASED PAYMENTS PENDING NEW LAND USE AGREEMENT.—Until such time as the Government of the Marshall Islands and the landowners of Kwajalein Atoll have concluded an agreement amending or superseding the land use agreement reflecting the terms of and consistent with the Military Use Operating Rights Agreement dated October 19, 1982, any amounts paid by the United States to the Government of the Marshall Islands in excess of the amounts required to be paid pursuant to the land use agreement dated October 19, 1982, shall be paid into, and held in, an interest bearing escrow account in a United States financial institution by the Government of the Republic of the Marshall Islands. At such time, the funds and interest held in escrow shall be paid to the landowners of Kwajalein in accordance with the new land use agreement. If no such agreement is concluded by the date which is five years after the date of enactment of this resolution, then such funds and interest shall, unless otherwise mutually agreed between the Government of the United States of America and the Government of the Republic of the Marshall Islands, be returned to the U.S. Treasury.

(4) NOTIFICATIONS AND REPORT.—

(A) The Government of the Republic of the Marshall Islands shall notify the Government of the United States of America when an agreement amending or superseding the land use agreement dated October 19, 1982, is concluded.

(B) If no agreement amending or superseding the land use agreement dated October 19, 1982 is concluded by the date five years after the date of enactment of this resolution, then the President shall report to Congress on the intentions of the United States with respect to the use of Kwajalein Atoll after 2016, on any plans to relocate activities carried out on Kwajalein Atoll, and on the disposition of the funds and interest held in escrow under paragraph (3).

(5) ASSISTANCE.—The President is authorized to make loans and grants to the Government of the Marshall Islands to address the special needs of the community at Ebeye, Kwajalein Atoll, and other Marshallese communities within the Kwajalein Atoll, pursuant to development plans adopted in accordance with applicable laws of the Marshall Islands. The loans and grants shall be subject to such other terms and conditions as the President, in the discretion of the President, may determine are appropriate.

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING U.S.-FSM COMPACT AND U.S.-RMI COMPACT.

(a) HUMAN RIGHTS.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress notes the conclusion in the Statement of Intent of the Report of The Future Political Status Commission of the Congress of Micronesia in July, 1969, that "our recommendation of a free associated state is indissolubly linked to our desire for such a democratic, representative, constitutional government" and notes that such desire and intention are reaffirmed and embodied in the Constitutions of the Federated States of Micronesia and the Republic of the Marshall Islands. Congress also notes and specifically endorses the preamble to the U.S.-FSM Compact and the U.S.-RMI Compact, which affirms that the governments of the parties to the U.S.-FSM Compact and the U.S.-RMI Compact are founded upon respect for human rights and fundamental freedoms for all. The Secretary of State shall include in the annual reports on the status of internationally recognized human rights in foreign countries, which are submitted to Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, "22 U.S.C. 2151n, 2304" a full and complete report regarding the status of internationally recognized human rights in the Federated States of Micronesia and the Republic of the Marshall Islands.

(b) IMMIGRATION AND PASSPORT SECURITY.—

(1) NATURALIZED CITIZENS.—The rights of a bona fide naturalized citizen of the Federated States of Micronesia or the Republic of the Marshall Islands to enter the United

States, to lawfully engage therein in occupations, and to establish residence therein as a nonimmigrant, to the extent such rights are provided under section 141 of the U.S.-FSM Compact and U.S.-RMI Compact, shall not be deemed to extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(2) Passports.—It is the sense of Congress that up to $250,000 of the grant assistance provided to the Federated States of Micronesia pursuant to section 211(a)(4) of the U.S.-FSM Compact, and up to $250,000 of the grant assistance provided to the Republic of the Marshall Islands pursuant to section 211(a)(4) of the U.S.-RMI Compact (or a greater amount of the section 211(a)(4) grant, if mutually agreed between the Government of the United States and the government of the Federated States of Micronesia or the government of the Republic of the Marshall Islands), be used for the purpose of increasing the machine-readability and security of passports issued by such jurisdictions. It is further the sense of Congress that such funds be obligated by September 30, 2004 and in the amount and manner specified by the Secretary of State in consultation with the Secretary of Homeland Security and, respectively, with the government of the Federated States of Micronesia and the government of the Republic of the Marshall Islands. The United States Government is authorized to require that passports used for the purpose of seeking admission under section 141 of the U.S.-FSM Compact and the U.S.-RMI Compact contain the security enhancements funded by such assistance.

(3) Information-sharing.—It is the sense of Congress that the governments of the Federated States of Micronesia and the Republic of the Marshall Islands develop, prior to October 1, 2004, the capability to provide reliable and timely information as may reasonably be required by the Government of the United States in enforcing criminal and security-related grounds of inadmissibility and deportability under the Immigration and Nationality Act, as amended, and shall provide such information to the Government of the United States.

(4) Transition; construction of sections 141(a)(3) and 141(a)(4) of the U.S.-FSM Compact and U.S.-RMI Compact.—The words "the effective date of this Compact, as amended" in sections 141(a)(3) and 141(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact shall be construed to read, "on the day prior to the enactment by the United States Congress of the Compact of Free Association Amendments Act of 2003.".

(c) Nonalienation of Lands.—Congress endorses and encourages the maintenance of the policies of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands to regulate, in accordance with their Constitutions and laws, the alienation of permanent interests in real property so as to restrict the acquisition of such interests to persons of Federated States of Micronesia citizenship and the Republic of the Marshall Islands citizenship, respectively.

(d) Nuclear Waste Disposal.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress understands that the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Republic of the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the U.S.-FSM Compact and the U.S.-RMI Compact.

(e) Impact of the U.S.-FSM Compact and the U.S.-RMI Compact on the State of Hawaii, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa; Related Authorization and Continuing Appropriation.—

(1) Statement of congressional intent.—In reauthorizing the U.S.-FSM Compact and the U.S.-RMI Compact, it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction.

(2) Definitions.—For the purposes of this title—

(A) the term "affected jurisdiction" means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the State of Hawaii; and

(B) the term "qualified nonimmigrant" means a person, or their children under the age of 18, admitted or resident pursuant to section 141 of the U.S.-RMI or U.S.-FSM Compact, or section 141 of the Palau Compact who, as of a date referenced in the most recently published enumeration is a resident of an affected jurisdiction. As used in this subsection, the term "resident" shall be a person who has a "residence," as that term is defined in section 101(a)(33) of the Immigration and Nationality Act, as amended.

(3) Authorization and continuing appropriation.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $30,000,000 for grants to affected jurisdictions to aid in defraying costs incurred by affected jurisdictions as a result of increased demands placed on health, educational, social, or public safety services or infrastructure related to such services due to the residence in affected jurisdictions of qualified nonimmigrants from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. The grants shall be—

(A) awarded and administered by the Department of the Interior, Office of Insular Affairs, or any successor thereto, in accordance with regulations, policies and procedures applicable to grants so awarded and administered, and

(B) used only for health, educational, social, or public safety services, or infrastructure related to such services, specifically affected by qualified nonimmigrants.

(4) Enumeration.—The Secretary of the Interior shall conduct periodic enumerations of qualified nonimmigrants in each affected jurisdiction. The enumerations—

(A) shall be conducted at such intervals as the Secretary of the Interior shall determine, but no less frequently than every five years, beginning in fiscal year 2003;

(B) shall be supervised by the United States Bureau of the Census or such other organization as the Secretary of the Interior may select; and

(C) after fiscal year 2003, shall be funded by the Secretary of the Interior by deducting such sums as are necessary, but not to exceed $300,000 as adjusted for inflation pursuant to section 217 of the U.S. FSM Compact with fiscal year 2003 as the base year, per enumeration, from funds appropriated pursuant to the authorization contained in paragraph (3) of this subsection.

(5) Allocation.—The Secretary of the Interior shall allocate to the government of each affected jurisdiction, on the basis of the results of the most recent enumeration, grants in an aggregate amount equal to the total amount of funds appropriated under paragraph (3) of this subsection, as reduced by any deductions authorized by subparagraph (C) of paragraph (4) of this subsection, multiplied by a ratio derived by dividing the number of qualified nonimmigrants in such affected jurisdiction by the total number of qualified nonimmigrants in all affected jurisdictions.

(6) Authorization for health care reimbursement.—There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to reimburse health care institutions in the affected jurisdictions for costs resulting from the migration of citizens of the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau to the affected jurisdictions as a result of the implementation of the Compact of Free Association, approved by Public Law 99-239, or the approval of the U.S.-FSM Compact and the U.S.-RMI Compact by this resolution.

(7) Use of DOD medical facilities and national health service corps.—

(A) DOD medical facilities.—The Secretary of Defense shall make available, on a space available and reimbursable basis, the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who are properly referred to the facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau and the affected jurisdictions.

(B) National health service corps.—The Secretary of Health and Human Services shall continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Republic of the Marshall Islands to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(C) Authorization of appropriations.—There are authorized to be appropriated to carry out this paragraph such sums as are necessary for each fiscal year.

(8) Reporting requirement.—Not later than one year after the date of enactment of this joint resolution, and at one year intervals thereafter, the Governors of Guam, the State of Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa may provide to the Secretary of the Interior by February 1 of each year their comments with respect to the impacts of the Compacts on their respective jurisdiction. The Secretary of the Interior, upon receipt of any such comments, shall report to the Congress not later than May 1 of each year to include the following:

(A) The Governor's comments on the impacts of the Compacts as well as the Administration's analysis of such impact.

(B) Any adverse consequences resulting from the Compacts and recommendations for corrective action to eliminate those consequences.

(C) With regard to immigration, statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report.

(D) With regard to trade, an analysis of the impact on the economy of American Samoa resulting from imports of canned tuna into the United States from the Federated States of Micronesia, and the Republic of the Marshall Islands.

(9) RECONCILIATION OF UNREIMBURSED IMPACT EXPENSES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President, to address previously accrued and unreimbursed impact expenses, may at the request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands, reduce, release, or waive all or part of any amounts owed by the Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands (or either government's autonomous agencies or instrumentalities), respectively, to any department, agency, independent agency, office, or instrumentality of the United States.

(B) TERMS AND CONDITIONS.—

(i) SUBSTANTIATION OF IMPACT COSTS.—Not later than 120 days after the date of the enactment of this resolution, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall each submit to the Secretary of the Interior a report, prepared in consultation with an independent accounting firm, substantiating unreimbursed impact expenses claimed for the period from January 14, 1986, through September 30, 2003. Upon request of the Secretary of the Interior, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall submit to the Secretary of the Interior copies of all documents upon which the report submitted by that Governor under this clause was based.

(ii) CONGRESSIONAL NOTIFICATION.—The President shall notify Congress of his intent to exercise the authority granted in subparagraph (A).

(iii) CONGRESSIONAL REVIEW AND COMMENT.—Any reduction, release, or waiver under this Act shall not take effect until 60 days after the President notifies Congress of his intent to approve a request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands. In exercising his authority under this section and in determining whether to give final approval to a request; the President shall take into consideration comments he may receive after Congressional review.

(iv) EXPIRATION.—The authority granted in subparagraph (A) shall expire on February 28, 2005.

(10) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are hereby authorized to the Secretary of the Interior for each of fiscal years 2004 through 2023 such sums as may be necessary for grants to the governments of Guam, the State of Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa, as a result of increased demands placed on educational, social, or public safety services or infrastructure related to service due to the presence in Guam, Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa of qualified nonimmigrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(f) FOREIGN LOANS.—Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands.

(g) SENSE OF CONGRESS CONCERNING FUNDING OF PUBLIC INFRASTRUCTURE.—It is the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and not less than 30 percent of the total amount of section 211 funds allocated to each of the States of the Federated States of Micronesia, shall be invested in infrastructure improvements and maintenance in accordance with section 211(a)(6). It is further the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be invested in infrastructure improvements and maintenance in accordance with section 211(d).

(h) REPORTS AND REVIEWS.—

(1) REPORT BY THE PRESIDENT.—Not later than the end of the first full calendar year following enactment of this resolution, and not later than December 31 of each year thereafter, the President shall report to Congress regarding the Federated States of Micronesia and the Republic of the Marshall Islands, including but not limited to—

(A) general social, political, and economic conditions, including estimates of economic growth, per capita income, and migration rates;

(B) the use and effectiveness of United States financial, program, and technical assistance;

(C) the status of economic policy reforms including but not limited to progress toward establishing self-sufficient tax rates;

(D) the status of the efforts to increase investment including: the rate of infrastructure investment of U.S. financial assistance under the U.S.-FSM Compact and the U.S.-RMI Compact; non-U.S. contributions to the trust funds, and the level of private investment; and

(E) recommendations on ways to increase the effectiveness of United States assistance and to meet overall economic performance objectives, including, if appropriate, recommendations to Congress to adjust the inflation rate or to adjust the contributions to the Trust Funds based on non-U.S. contributions.

(2) REVIEW.—During the year of the fifth, tenth, and fifteenth anniversaries of the date of enactment of this resolution, the Government of the United States shall review the terms of the respective Compacts and consider the overall nature and development of the U.S.-FSM and U.S.-RMI relationships including the topics set forth in subparagraphs (A) through (E) of paragraph (1). In conducting the reviews, the Government of the United States shall consider the operating requirements of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands and their progress in meeting the development objectives set forth in their respective development plans. The President shall include in the annual reports to Congress for the years following the reviews the comments of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands on the topics described in this paragraph, the President's response to the comments, the findings resulting from the reviews, and any recommendations for actions to respond to such findings.

(3) BY THE COMPTROLLER GENERAL.—Not later than the date that is three years after the date of enactment of this joint resolution, and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report on the Federated States of Micronesia and the Republic of the Marshall Islands including the topics set forth in paragraphs (1) (A) through (E) above, and on the effectiveness of administrative oversight by the United States.

(i) CONSTRUCTION OF SECTION 141(f).—Section 141(f)(2) of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia and of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be construed as though, after "may by regulations prescribe", there were included the following: ", except that any such regulations that would have a significant effect on the admission, stay and employment privileges provided under this section shall not become effective until 90 days after the date of transmission of the regulations to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Resources, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives".

(j) INFLATION ADJUSTMENT.—As of Fiscal Year 2015, if the United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2009 through 2013 is greater than United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2004 through 2008 (as reported in the Survey of Current Business or subsequent publication and compiled by the Department of Interior), then section 217 of the U.S.-FSM Compact, paragraph 5 of Article II of the U.S.-FSM Fiscal Procedures Agreement, section 218 of the U.S.-RMI Compact, and paragraph 5 of Article II of the U.S.-RMI Fiscal Procedures Agreement shall be construed as if "the full" appeared in place of "two-thirds of the" each place those words appear. If an inflation adjustment is made under this subsection, the base year for calculating the inflation adjustment shall be fiscal year 2014.

(k) PARTICIPATION BY SECONDARY SCHOOLS IN THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY (ASVAB) STUDENT TESTING PROGRAM.—In furtherance of the provisions of Title Three, Article IV, Section 341 of the U.S.-FSM and the U.S.-RMI Compacts, the purpose of which is to establish the privilege to volunteer for service in the U.S. Armed Forces, it is the sense of Congress that, to facilitate eligibility of FSM and RMI secondary school students to qualify for such service, the Department of Defense may extend the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program (STP) and the ASVAB Career Exploration Program to selected secondary Schools in the FSM and the RMI to the extent such programs are available to Department of Defense Dependent Schools located in foreign jurisdictions.

SEC. 105. SUPPLEMENTAL PROVISIONS.

(a) DOMESTIC PROGRAM REQUIREMENTS.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in the Federated States of Micronesia or the Republic of the Marshall Islands are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

(b) Relations With the Federated States of Micronesia and the Republic of the Marshall Islands.—

(1) Appropriations made pursuant to Article I of Title Two and subsection (a)(2) of section 221 of article II of Title Two of the U.S.-FSM Compact and the U.S.-RMI Compact shall be made to the Secretary of the Interior, who shall have the authority necessary to fulfill his responsibilities for monitoring and managing the funds so appropriated consistent with the U.S.-FSM Compact and the U.S.-RMI Compact, including the agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and U.S.-RMI Compact (relating to Fiscal Procedures) and the agreements referred to in section 462(b)(5) of the U.S.-FSM Compact and the U.S.-RMI Compact (regarding the Trust Fund).

(2) Appropriations made pursuant to subsections (a)(1) and (a)(3) through (6) of section 221 of Article II of Title Two of the U.S.-FSM Compact and subsection (a)(1) and (a)(3) through (5) of the U.S.-RMI Compact shall be made directly to the agencies named in those subsections.

(3) Appropriations for services and programs referred to in subsection (b) of section 221 of Article II of Title Two of the U.S.-FSM Compact or U.S.-RMI Compact and appropriations for services and programs referred to in sections 105(f) and 108(a) of this joint resolution shall be made to the relevant agencies in accordance with the terms of the appropriations for such services and programs.

(4) Federal agencies providing programs and services to the Federated States of Micronesia and the Republic of the Marshall Islands shall coordinate with the Secretaries of the Interior and State regarding provision of such programs and services. The Secretaries of the Interior and State shall consult with appropriate officials of the Asian Development Bank and with the Secretary of the Treasury regarding overall economic conditions in the Federated States of Micronesia and the Republic of the Marshall Islands and regarding the activities of other donors of assistance to the Federated States of Micronesia and the Republic of the Marshall Islands.

(5) United States Government employees in either the Federated States of Micronesia or the Republic of the Marshall Islands are subject to the authority of the United States Chief of Mission, including as elaborated in section 207 of the Foreign Service Act and the President's Letter of Instruction to the United States Chief of Mission and any order or directive of the President in effect from time to time.

(6) Interagency Group on Freely Associated States' Affairs.—

(A) In general.—The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance and recommendations on implementation of the U.S.-FSM Compact and the U.S.-RMI Compact to Federal departments and agencies.

(B) Secretaries.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall be represented on the Interagency Group.

(7) United States appointees to joint committees.—

(A) Joint economic management committee.—

(i) In general.—The three United States appointees (United States chair plus two members) to the Joint Economic Management Committee provided for in section 213 of the U.S.-FSM Compact and Article III of the U.S.-FSM Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-FSM Compact shall be United States Government officers or employees.

(ii) Departments.—It is the sense of Congress that 2 of the 3 appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) Additional scope.—Section 213 of the U.S.-FSM Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the plan dealing with the sectors identified in subsection (a) of section 211".

(B) Joint economic management and financial accountability committee.—

(i) In general.—The three United States appointees (United States chair plus two members) to the Joint Economic Management and Financial Accountability Committee provided for in section 214 of the U.S.-RMI Compact and Article III of the U.S.-RMI Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-RMI Compact shall be United States Government officers or employees.

(ii) Departments.—It is the sense of Congress that 2 of the 3 appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) Additional scope.—Section 214 of the U.S.-RMI Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211".

(8) Oversight and coordination.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall ensure that there are personnel resources committed in the appropriate numbers and locations to ensure effective oversight of United States assistance, and effective coordination of assistance among United States agencies and with other international donors such as the Asian Development Bank.

(9) The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact and referred to in section 462(b)(5) of the U.S.-FSM Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact and referred to in section 462(b)(5) of the U.S.-RMI Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. It is the sense of Congress that the appointees should be designated from the Department of State, the Department of the Interior, and the Department of the Treasury.

(10) The Trust Fund Committee provided for in Article 7 of the U.S.-FSM Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact shall be a nonprofit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation, or ordinance shall be deemed to be preempted by this joint resolution. The Trust Fund Committee provided for in Article 7 of the U.S.-RMI Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact shall be a non-profit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation, or ordinance shall be deemed to be preempted by this joint resolution.

(c) Continuing Trust Territory Authorization.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Republic of the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or the joint resolution of January 14, 1986 (Public Law 99-239).

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) Survivability.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the U.S.-FSM Compact and the U.S.-RMI Compact, any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact which remain effective after the termination of the U.S.-FSM Compact or U.S.-RMI Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(e) Noncompliance Sanctions; Actions Incompatible With United States Authority.—Congress expresses its understanding that the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to the Federated States of Micronesia or the Republic of the Marshall Islands pursuant to the U.S.-FSM Compact or the U.S.-RMI Compact, including the agreements referred to in sections 462(a)(2) of the U.S.-FSM Compact and

462(a)(5) of the U.S.-RMI Compact. Congress further expresses its intention that any such act on the part of either such Government will be viewed by the United States as a material breach of the U.S.-FSM Compact or U.S.-RMI Compact. The Government of the United States reserves the right in the event of such a material breach of the U.S.-FSM Compact by the Government of the Federated States of Micronesia or the U.S.-RMI Compact by the Government of the Republic of the Marshall Islands to take action, including (but not limited to) the suspension in whole or in part of the obligations of the Government of the United States to that Government.

(f) CONTINUING PROGRAMS AND LAWS.—

(1) FEDERATED STATES OF MICRONESIA AND REPUBLIC OF THE MARSHALL ISLANDS.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 222 of the Compact, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and to the Republic of the Marshall Islands:

(A) CONTINUATION OF THE PROGRAMS AND SERVICES OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—Except as provided in clauses (ii) and (iii), the programs and services of the Department of Homeland Security, Federal Emergency Management Agency shall continue to be available to the Federated States of Micronesia and the Republic of the Marshall Islands to the same extent as such programs and services were available in fiscal year 2003.

(i) Paragraph (a)(6) of section 221 of the U.S.-FSM Compact and paragraph (a)(5) of the U.S-RMI Compact shall each be construed as though the paragraph reads as follows: "the Department of Homeland Security, United States Federal Emergency Management Agency."

(ii) Subsection (d) of section 211 of the U.S-FSM Compact and subsection (e) of section 211 of the U.S-RMI Compact shall each be construed as though the subsection reads as follows: "Not more than $200,000 (as adjusted for inflation pursuant to section 217 of the U.S.-FSM Compact and section 218 of the U.S.-RMI Compact) shall be made available by the Secretary of the Interior to the Department of Homeland Security, Federal Emergency Management Agency to facilitate the activities of the Federal Emergency Management Agency in accordance with and to the extent provided in the Federal Programs and Services Agreement."

(iii) The Secretary of State, in consultation with the Department of Homeland Security and the Federal Emergency Management Agency, shall immediately undertake negotiations with the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands regarding disaster assistance and shall report to the appropriate committees of Congress no later than June 30, 2004, on the outcome of such negotiations, including recommendations for changes to law regarding disaster assistance under the U.S.-FSM Compact and the U.S.-RMI Compact, and including subsidiary agreements as needed to implement such changes to law. If an agreement is not concluded, and legislation enacted which reflects such agreement, before the date which is five years after the date of enactment of this Joint Resolution, the following provisions shall apply:

"Paragraph (a)(6) of section 221 of the U.S.-FSM Compact and paragraph (a)(5) of section 221 of the U.S.-RMI Compact shall each be construed and applied as if each provision reads as follows:

"The U.S. Agency for International Development shall be responsible for the provision of emergency and disaster relief assistance in accordance with its statutory authorities, regulations and policies. The Republic of the Marshall Islands and the Federated States of Micronesia may additionally request that the President make an emergency or major disaster declaration. If the President declares an emergency or major disaster, the Department of Homeland Security (DHS), the Federal Emergency Management Agency (FEMA) and the U.S. Agency for International Development shall jointly (a) assess the damage caused by the emergency or disaster and (b) prepare a reconstruction plan including an estimate of the total amount of Federal resources that are needed for reconstruction. Pursuant to an interagency agreement, FEMA shall transfer funds from the Disaster Relief Fund in the amount of the estimate, together with an amount to be determined for administrative expenses, to the U.S. Agency for International Development, which shall carry out reconstruction activities in the Republic of the Marshall Islands and the Federated States of Micronesia in accordance with the reconstruction plan. For purposes of Disaster Relief Fund appropriations, the funding of the activities to be carried out pursuant to this paragraph shall be deemed to be necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq).

"DHS may provide to the Republic of the Marshall Islands and the Federated States of Micronesia preparedness grants to the extent that such assistance is available to. the States of the United States. Funding for this assistance may be made available from appropriations made to DHS for preparedness activities.".

(B) TREATMENT OF ADDITIONAL PROGRAMS.—

(i) CONSULTATION.—The United States appointees to the committees established pursuant to section 213 of the U.S.-FSM Compact and section 214 of the U.S.-RMI Compact shall consult with the Secretary of Education regarding the objectives, use, and monitoring of United States financial, program, and technical assistance made available for educational purposes.

(ii) CONTINUING PROGRAMS.—The Government of the United States—

(I) shall continue to make available to the Federated States of Micronesia and the Republic of the Marshall Islands for fiscal years 2004 through 2023, the services to individuals eligible for such services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to the extent that such services continue to be available to individuals in the United States; and

(II) shall continue to make available to eligible institutions in the Federated States of Micronesia and the Republic of the Marshall Islands, and to students enrolled in such institutions, and in institutions in the United States and its territories, for fiscal years 2004 through 2023, grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) to the extent that such grants continue to be available to institutions and students in the United States.

(iii) SUPPLEMENTAL EDUCATION GRANTS.—In lieu of eligibility for appropriations under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), other than subtitle C of that Act (29 U.S.C. 2881 et seq.) (Job Corps), title II of the Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.; commonly known as the Adult Education and Family Literacy Act), title I of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2321 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and subpart 3 of part A, and part C, of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b et seq., 42 U.S.C. 2751 et seq.), there are authorized to be appropriated to the Secretary of Education to supplement the education grants under section 211(a)(1) of the U.S.-FSM Compact and section 211(a)(1) of the U.S.-RMI Compact, respectively, the following amounts:

(I) $12,230,000 for the Federated States of Micronesia for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 217 of the U.S.-FSM Compact, for each of fiscal years 2005 through 2023; and

(II) $6,100,000 for the Republic of the Marshall Islands for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for each of fiscal years 2005 through 2023,

except that citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who attend an institution of higher education in the United States or its territories, the Federated States of Micronesia, or the Republic of the Marshall Islands on the date of enactment of this joint resolution may continue to receive assistance under such subpart 3 of part A or part C, for not more than 4 academic years after such date to enable such citizens to complete their program of study.

(iv) FISCAL PROCEDURES.—Appropriations made pursuant to clause (iii) shall be used and monitored in accordance with an agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Interior, and in accordance with the respective Fiscal Procedures Agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and section 462(b)(4) of the U.S.-RMI Compact. The agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Interior shall provide for the transfer, not later than 60 days after the appropriations made pursuant to clause (iii) become available to the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, from the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, to the Secretary of the Interior for disbursement.

(v) FORMULA EDUCATION GRANTS.—For fiscal years 2005 through 2023, except as provided in clause (ii) and the exception provided under clause (iii), the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall not receive any grant under any formula-grant program administered by the Secretary of Education or the Secretary of Labor, nor any grant provided through the Head Start Act (42 U.S.C. 9831 et seq.) administered by the Secretary of Health and Human Services.

(vi) TRANSITION.—For fiscal year 2004, the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii).

(vii) TECHNICAL ASSISTANCE.—The Federated States of Micronesia and the Republic of the Marshall Islands may request technical assistance from the Secretary of Education, the Secretary of Health and Human Services, or the Secretary of Labor the terms of which, including reimbursement, shall be negotiated with the participation of the appropriate cabinet officer for inclusion in the Federal Programs and Services Agreement.

(viii) Continued eligibility for competitive grants.—The Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for competitive grants administered by the Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor to the extent that such grants continue to be available to State and local governments in the United States.

(ix) Applicability.—The Republic of Palau shall remain eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii) until the end of fiscal year 2007, to the extent the Republic of Palau was so eligible under such provisions in fiscal year 2003.

(C) The Legal Services Corporation.

(D) The Public Health Service.

(E) The Rural Housing Service (formerly, the Farmers Home Administration) in the Marshall Islands and each of the four States of the Federated States of Micronesia: *Provided*, That in lieu of continuation of the program in the Federated States of Micronesia, the President may agree to transfer to the Government of the Federated States of Micronesia without cost, the portfolio of the Rural Housing Service applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested by the Federated States of Micronesia).

(2) Tort claims.—The provisions of section 178 of the U.S.-FSM Compact and the U.S.-RMI Compact regarding settlement and payment of tort claims shall apply to employees of any Federal agency of the Government of the United States (and to any other person employed on behalf of any Federal agency of the Government of the United States on the basis of a contractual, cooperative, or similar agreement) which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact or this joint resolution, except for provisions of Title Three of the Compact and of the subsidiary agreements related to such Title, in such area to which such Agreement formerly applied.

(3) PCB cleanup.—The programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands for the cleanup of PCBs imported prior to 1987. The Secretary of the Interior and the Secretary of Defense shall cooperate and assist in any such cleanup activities.

(g) College of Micronesia.—Until otherwise provided by Act of Congress, or until termination of the U.S.-FSM Compact and the U.S.-RMI Compact, the College of Micronesia shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(h) Trust Territory Debts to U.S. Federal Agencies.—Neither the Government of the Federated States of Micronesia nor the Government of the Marshall Islands shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(i) Judicial Training.—

(1) In general.—In addition to amounts provided under section 211(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact, the Secretary of the Interior shall annually provide $300,000 for the training of judges and officials of the judiciary in the Federated States of Micronesia and the Republic of the Marshall Islands in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council and in accordance with and to the extent provided in the Federal Programs and Services Agreement and the Fiscal Procedure Agreement, as appropriate.

(2) Authorization and continuing appropriation.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $300,000, as adjusted for inflation under section 218 of the U.S.-FSM Compact and the U.S.-RMI Compact, to carry out the purposes of this section.

(j) Technical Assistance.—Technical assistance may be provided pursuant to section 224 of the U.S.-FSM Compact or the U.S.-RMI Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the Natural Resources Conservation Service, the Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470–470t), shall be on a nonreimbursable basis. During the period the U.S.-FSM Compact and the U.S.-RMI Compact are in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the Federated States of Micronesia and the Republic of the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Any funds provided pursuant to sections 102(a), 103(a), 103(b), 103(f), 103(g), 103(h), 103(j), 105(c), 105(g), 105(h), 105(i), 105(j), 105(k), 105(l), and 105(m) of this joint resolution shall be in addition to and not charged against any amounts to be paid to either the Federated States of Micronesia or the Republic of the Marshall Islands pursuant to the U.S.-FSM Compact, the U.S.-RMI Compact, or their related subsidiary agreements.

(k) Prior Service Benefits Program.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

(l) Indefinite Land Use Payments.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(m) Communicable Disease Control Program.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, and the governments of the affected jurisdictions, such sums as may be necessary for purposes of establishing or continuing programs for the control and prevention of communicable diseases, including (but not limited to) cholera, tuberculosis, and Hansen's Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands and the governments of the affected jurisdictions in designing and implementing such a program.

(n) User Fees.—Any person in the Federated States of Micronesia or the Republic of the Marshall Islands shall be liable for user fees, if any, for services provided in the Federated States of Micronesia or the Republic of the Marshall Islands by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

(o) Treatment of Judgments of Courts of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.—No judgment, whenever issued, of a court of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, against the United States, its departments and agencies, or officials of the United States or any other individuals acting on behalf of the United States within the scope of their official duty, shall be honored by the United States, or be subject to recognition or enforcement in a court in the United States, unless the judgment is consistent with the interpretation by the United States of international agreements relevant to the judgment. In determining the consistency of a judgment with an international agreement, due regard shall be given to assurances made by the Executive Branch to Congress of the United States regarding the proper interpretation of the international agreement.

(p) Establishment of Trust Funds; Expedition of Process.—

(1) In general.—The Trust Fund Agreement executed pursuant to the U.S.-FSM Compact and the Trust Fund Agreement executed pursuant to the U.S.-RMI Compact each provides for the establishment of a trust fund.

(2) Method of establishment.—The trust fund may be established by—

(A) creating a new legal entity to constitute the trust fund; or

(B) assuming control of an existing legal entity including, without limitation, a trust fund or other legal entity that was established by or at the direction of the Government of the United States, the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, or otherwise for the purpose of facilitating or expediting the establishment of the trust fund pursuant to the applicable Trust Fund Agreement.

(3) Obligations.—For the purpose of expediting the commencement of operations of a trust fund under either Trust Fund Agreement, the trust fund may, but shall not be obligated to, assume any obligations of an existing legal entity and take assignment of any contract or other agreement to which the existing legal entity is party.

(4) Assistance.—Without limiting the authority that the United States Government

may otherwise have under applicable law, the United States Government may, but shall not be obligated to, provide financial, technical, or other assistance directly or indirectly to the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands for the purpose of establishing and operating a trust fund or other legal entity that will solicit bids from, and enter into contracts with, parties willing to serve in such capacities as trustee, depositary, money manager, or investment advisor, with the intention that the contracts will ultimately be assumed by and assigned to a trust fund established pursuant to a Trust Fund Agreement.

SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.

(a) ASSISTANCE TO U.S. FIRMS.—In order to assist the Governments of the Federated States of Micronesia and of the Republic of the Marshall Islands through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within the Federated States of Micronesia or the Republic of the Marshall Islands, the United States shall consult with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands with respect to any such contracts, and the United States shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments—

(1) to the maximum extent possible, employ citizens of the Federated States of Micronesia and the Republic of the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Republic of the Marshall Islands, provide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as "United States firms"). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of the Federated States of Micronesia or the Republic of the Marshall Islands if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 107. PROHIBITION.

All laws governing conflicts of interest and post-employment of Federal employees shall apply to the implementation of this Act.

SEC. 108. COMPENSATORY ADJUSTMENTS.

(a) ADDITIONAL PROGRAMS AND SERVICES.—In addition to the programs and services set forth in section 221 of the U.S.-FSM Compact and the U.S.-RMI Compact, and pursuant to section 222 of the U.S.-FSM Compact and the U.S.-RMI Compact, the services and programs of the following United States agencies shall be made available to the Federated States of Micronesia and the Republic of the Marshall Islands: the Small Business Administration, Economic Development Administration, the Rural Utilities Services (formerly Rural Electrification Administration); the programs and services of the Department of Labor under subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.; relating to Job Corps); and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) FURTHER AMOUNTS.—

(1) The joint resolution of January 14, 1986 (Public Law 99-239) provided that the governments of the Federated States of Micronesia and the Marshall Islands may submit to Congress reports concerning the overall financial and economic impacts on such areas resulting from the effect of title IV of that joint resolution upon Title Two of the Compact. There were authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as necessary, but not to exceed $40,000,000 for the Federated States of Micronesia and $20,000,000 for the Marshall Islands, as provided in appropriation acts, to further compensate the governments of such islands (in addition to the compensation provided in subsections (a) and (b) of section 111 of the joint resolution of January 14, 1986 (Public Law 99–239) for adverse impacts, if any, on the finances and economies of such areas resulting from the effect of title IV of that joint resolution upon Title Two of the Compact. The joint resolution of January 14, 1986 (Public Law 99–239) further provided that at the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in section 111 of that resolution not have been appropriated, such amount not yet appropriated may be appropriated, without regard to divisions between amounts authorized in section 111 for the Federated States of Micronesia and for the Marshall Islands, based on either or both such government's showing of such adverse impact, if any, as provided in that subsection.

(2) The governments of the Federated States of Micronesia and the Republic of the Marshall Islands may each submit no more than one report or request for further compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239) and any such report or request must be submitted by September 30, 2009. Only adverse economic effects occurring during the initial 15-year term of the Compact may be considered for compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239).

SEC. 109. AUTHORIZATION AND CONTINUING APPROPRIATION.

(a) There are authorized and appropriated to the Department of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, such sums as are necessary to carry out the purposes of sections 105(f)(1) and 105(i) of this Act, sections 211, 212(b), 215, and 217 of the U.S.-FSM Compact, and sections 211, 212, 213(b), 216, and 218 of the U.S.-RMI Compact, in this and subsequent years.

(b) There are authorized to be appropriated to the Departments, agencies, and instrumentalities named in paragraphs (1) and (3) through (6) of section 221(a) of the U.S.-FSM Compact and paragraphs (1) and (3) through (5) of section 221(a) of the U.S.-RMI Compact, such sums as are necessary to carry out the purposes of sections 221(a) of the U.S.-FSM Compact and the U.S.-RMI Compact, to remain available until expended.

SEC. 110. PAYMENT OF CITIZENS OF THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU EMPLOYED BY THE GOVERNMENT OF THE UNITED STATES IN THE CONTINENTAL UNITED STATES.

Section 605 of Public Law 107–67 (the Treasury and General Government Appropriations Act, 2002) is amended by striking "or the Republic of the Philippines," in the last sentence and inserting the following: "the Republic of the Philippines, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau,".

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

SEC. 201. COMPACTS OF FREE ASSOCIATION, AS AMENDED BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA AND BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS.

(a) COMPACT OF FREE ASSOCIATION, AS AMENDED, BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia is as follows:

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationship as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the people of the Federated States of Micronesia have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the Federated States of Micronesia in creating and maintaining their close and mutually beneficial relationship through the free and voluntary association of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and budgetary self-reliance of the Federated States of Micronesia; and

Recognizing that their relationship until the entry into force on November 3, 1986 of the Compact was based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the people of the Federated States of Micronesia have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they, through their freely-expressed wishes, have adopted a Constitution appropriate to their particular circumstances; and

Recognizing that the Compact reflected their common desire to terminate the Trusteeship and establish a government-to-government relationship which was in accordance with the new political status based on the freely expressed wishes of the people of the Federated States of Micronesia and appropriate to their particular circumstances; and

Recognizing that the people of the Federated States of Micronesia have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of the Government of the Federated States of Micronesia into the Compact by the people of the Federated States of Micronesia constituted an exercise of their sovereign right to self-determination; and

Recognizing the common desire of the people of the United States and the people of the Federated States of Micronesia to maintain their close government-to-government relationship, the United States and the Federated States of Micronesia:

NOW, THEREFORE, MUTUALLY AGREE to continue and strengthen their relationship of free association by amending the Compact, which continues to provide a full measure of self-government for the people of the Federated States of Micronesia; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact, as amended, by the Governments of the United States and the Federated States of Micronesia; and that, during such relationship of free association, the respective rights and responsibilities of the Government of the United States and the Government of the Federated States of Micronesia in regard to this relationship of free association derive from and are as set forth in this Compact, as amended.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The people of the Federated States of Micronesia, acting through the Government established under their Constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Government of the Federated States of Micronesia has the capacity to conduct foreign affairs and shall do so in its own name and right, except as otherwise provided in this Compact, as amended.

(b) The foreign affairs capacity of the Government of the Federated States of Micronesia includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of its commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting its individual citizens.

(c) The Government of the United States recognizes that the Government of the Federated States of Micronesia has the capacity to enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of its foreign affairs, the Government of the Federated States of Micronesia confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Government of the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of the Federated States of Micronesia shall consult, in the conduct of its foreign affairs, with the Government of the United States.

(b) In recognition of the foreign affairs capacity of the Government of the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Federated States of Micronesia on matters that the Government of the United States regards as relating to or affecting the Government of the Federated States of Micronesia.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Federated States of Micronesia for travel outside the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact, as amended, or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on November 2, 1986, are, as of that date, no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Government of the Federated States of Micronesia has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communications assistance as mutually agreed.

(b) On May 24, 1993, the Government of the Federated States of Micronesia elected to undertake all functions previously performed by the Government of the United States with respect to domestic and foreign communications, except for those functions set forth in a separate agreement entered into pursuant to this section of the Compact, as amended.

Section 132

The Government of the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact, as amended, in accordance with the terms of separate agreements entered into pursuant to this section of the Compact, as amended.

Article IV

Immigration

Section 141

(a) In furtherance of the special and unique relationship that exists between the United States and the Federated States of Micronesia, under the Compact, as amended, any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions (the "United States") without regard to paragraph (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5) or (7)(B)(i)(II):

(1) a person who, on November 2, 1986, was a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become and remains a citizen of the Federated States of Micronesia;

(2) a person who acquires the citizenship of the Federated States of Micronesia at birth, on or after the effective date of the Constitution of the Federated States of Micronesia;

(3) an immediate relative of a person referred to in paragraphs (1) or (2) of this section, provided that such immediate relative is a naturalized citizen of the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence, and further provided, that, in the case of a spouse, such spouse has been married to the person referred to in paragraph (1) or (2) of this section for at least five years, and further provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99-239 as it was in effect on the day prior to the effective date of this Compact, as amended;

(4) a naturalized citizen of the Federated States of Micronesia who was an actual resident there for not less than five years after attaining such naturalization and who satisfied these requirements as of April 30, 2003, who continues to be an actual resident and holds a certificate of actual residence, and whose name is included in a list furnished by the Government of the Federated States of Micronesia to the Government of the United States no later than the effective date of the Compact, as amended, in form and content acceptable to the Government of the United States, provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99-239 as it was in effect on the day prior to the effective date of this Compact, as amended; or

(5) an immediate relative of a citizen of the Federated States of Micronesia, regardless of the immediate relative's country of citizenship or period of residence in the Federated

States of Micronesia, if the citizen of the Federated States of Micronesia is serving on active duty in any branch of the United States Armed Forces, or in the active reserves.

(b) Notwithstanding subsection (a) of this section, a person who is coming to the United States pursuant to an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for admission under the Compact and the Compact, as amended. This subsection shall apply to any person who is or was an applicant for admission to the United States on or after March 1, 2003, including any applicant for admission in removal proceedings (including appellate proceedings) on or after March 1, 2003, regardless of the date such proceedings were commenced. This subsection shall have no effect on the ability of the Government of the United States or any United States State or local government to commence or otherwise take any action against any person or entity who has violated any law relating to the adoption of any person.

(c) Notwithstanding subsection (a) of this section, no person who has been or is granted citizenship in the Federated States of Micronesia, or has been or is issued a Federated States of Micronesia passport pursuant to any investment, passport sale, or similar program has been or shall be eligible for admission to the United States under the Compact or the Compact, as amended.

(d) A person admitted to the United States under the Compact, or the Compact, as amended, shall be considered to have the permission of the Government of the United States to accept employment in the United States. An unexpired Federated States of Micronesia passport with unexpired documentation issued by the Government of the United States evidencing admission under the Compact or the Compact, as amended, shall be considered to be documentation establishing identity and employment authorization under section 274A(b)(1)(B) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1324a(b)(1)(B). The Government of the United States will take reasonable and appropriate steps to implement and publicize this provision, and the Government of the Federated States of Micronesia will also take reasonable and appropriate steps to publicize this provision.

(e) For purposes of the Compact and the Compact, as amended:

(1) the term "residence" with respect to a person means the person's principal, actual dwelling place in fact, without regard to intent, as provided in section 101(a)(33) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(33), and variations of the term "residence," including "resident" and "reside," shall be similarly construed;

(2) the term "actual residence" means physical presence in the Federated States of Micronesia during eighty-five percent of the five-year period of residency required by section 141(a)(3) and (4);

(3) the term "certificate of actual residence" means a certificate issued to a naturalized citizen by the Government of the Federated States of Micronesia stating that the citizen has complied with the actual residence requirement of section 141(a)(3) or (4);

(4) the term "nonimmigrant" means an alien who is not an "immigrant" as defined in section 101(a)(15) of such Act, 8 U.S.C. 1101(a)(15); and

(5) the term "immediate relative" means a spouse, or unmarried son or unmarried daughter less than 21 years of age.

(f) The Immigration and Nationality Act, as amended, shall apply to any person admitted or seeking admission to the United States (other than a United States possession or territory where such Act does not apply) under the Compact or the Compact, as amended, and nothing in the Compact or the Compact, as amended, shall be construed to limit, preclude, or modify the applicability of, with respect to such person:

(1) any ground of inadmissibility or deportability under such Act (except sections 212(a)(5) and 212(a)(7)(B)(i)(II) of such Act, as provided in subsection (a) of this section), and any defense thereto, provided that, section 237(a)(5) of such Act shall be construed and applied as if it reads as follows: "any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable";

(2) the authority of the Government of the United States under section 214(a)(1) of such Act to provide that admission as a nonimmigrant shall be for such time and under such conditions as the Government of the United States may by regulations prescribe;

(3) Except for the treatment of certain documentation for purposes of section 274A(b)(1)(B) of such Act as provided by subsection (d) of this section of the Compact, as amended, any requirement under section 274A, including but not limited to section 274A(b)(1)(E);

(4) Section 643 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104-208, and actions taken pursuant to section 643; and

(5) the authority of the Government of the United States otherwise to administer and enforce the Immigration and Nationality Act, as amended, or other United States law.

(g) Any authority possessed by the Government of the United States under this section of the Compact or the Compact, as amended, may also be exercised by the Government of a territory or possession of the United States where the Immigration and Nationality Act, as amended, does not apply, to the extent such exercise of authority is lawful under a statute or regulation of such territory or possession that is authorized by the laws of the United States.

(h) Subsection (a) of this section does not confer on a citizen of the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, as amended, or to petition for benefits for alien relatives under that Act. Subsection (a) of this section, however, shall not prevent a citizen of the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may be admitted, to lawfully engage in occupations, and reside in the Federated States of Micronesia, subject to the rights of the Government of the Federated States of Micronesia to deny entry to or deport any such citizen or national as an undesirable alien. Any determination of inadmissibility or deportability shall be based on reasonable statutory grounds and shall be subject to appropriate administrative and judicial review within the Federated States of Micronesia. If a citizen or national of the United States is a spouse of a citizen of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall allow the United States citizen spouse to establish residence. Should the Federated States of Micronesia citizen spouse predecease the United States citizen spouse during the marriage, the Government of the Federated States of Micronesia shall allow the United States citizen spouse to continue to reside in the Federated States of Micronesia.

(b) In enacting any laws or imposing any requirements with respect to citizens and nationals of the United States entering the Federated States of Micronesia under subsection (a) of this section, including any grounds of inadmissibility or deportability, the Government of the Federated States of Micronesia shall accord to such citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries.

(c) Consistent with subsection (a) of this section, with respect to citizens and nationals of the United States seeking to engage in employment or invest in the Federated States of Micronesia, the Government of the Federated States of Micronesia shall adopt immigration-related procedures no less favorable than those adopted by the Government of the United States with respect to citizens of the Federated States of Micronesia seeking employment in the United States.

Section 143

Any person who relinquishes, or otherwise loses, his United States nationality or citizenship, or his Federated States of Micronesia citizenship, shall be ineligible to receive the privileges set forth in sections 141 and 142. Any such person may apply for admission to the United States or the Federated States of Micronesia, as the case may be, in accordance with any other applicable laws of the United States or the Federated States of Micronesia relating to immigration of aliens from other countries. The laws of the Federated States of Micronesia or the United States, as the case may be, shall dictate the terms and conditions of any such person's stay.

Article V

Representation

Section 151

Relations between the Government of the United States and the Government of the Federated States of Micronesia shall be conducted in accordance with the Vienna Convention on Diplomatic Relations. In addition to diplomatic missions and representation, the Governments may establish and maintain other offices and designate other representatives on terms and in locations as may be mutually agreed.

Section 152

(a) Any citizen or national of the United States who, without authority of the United States, acts as the agent of the Government of the Federated States of Micronesia with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen or national to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign Agents Registration Act of 1938, the Federated States of Micronesia shall be considered to be a foreign country.

(b) Subsection (a) of this section shall not apply to a citizen or national of the United States employed by the Government of the Federated States of Micronesia with respect to whom the Government of the Federated

States of Micronesia from time to time certifies to the Government of the United States that such citizen or national is an employee of the Federated States of Micronesia whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

Article VI

Environmental Protection

Section 161

The Governments of the United States and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Government of the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

(1) shall continue to apply the environmental controls in effect on November 2, 1986 to those of its continuing activities subject to section 161(a)(2), unless and until those controls are modified under sections 161(a)(3) and 161(a)(4);

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq., to its activities under the Compact, as amended, and its related agreements as if the Federated States of Micronesia were the United States;

(3) shall comply also, in the conduct of any activity requiring the preparation of an Environmental Impact Statement under section 161(a)(2), with standards substantively similar to those required by the following laws of the United States, taking into account the particular environment of the Federated States of Micronesia: the Endangered Species Act of 1973, as amended, 87 Stat. 884, 16 U.S.C. 1531 et seq.; the Clean Air Act, as amended, 77 Stat. 392, 42 U.S.C. Supp. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), as amended, 86 Stat. 896, 33 U.S.C. 1251 et seq.; Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (the Ocean Dumping Act), 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.; the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States and of the Federated States of Micronesia, as may be mutually agreed from time to time with the Government of the Federated States of Micronesia; and

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under section 161(a)(2), written standards and procedures, as agreed with the Government of the Federated States of Micronesia, to implement the substantive provisions of the laws made applicable to U.S. Government activities in the Federated States of Micronesia, pursuant to section 161(a)(3).

(b) The Government of the Federated States of Micronesia shall continue to develop and implement standards and procedures to protect its environment. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Federated States of Micronesia, taking into account its particular environment, shall continue to develop and implement standards for environmental protection substantively similar to those required of the Government of the United States by section 161(a)(3) prior to its conducting activities in the Federated States of Micronesia, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major Federal actions significantly affecting the quality of the human environment, the regulatory regime established under sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact, as amended, and its related agreements from any environmental standard or procedure which may be applicable under sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact, as amended, and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the Government of the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the Government of the Federated States of Micronesia.

(f) The laws of the United States referred to in section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact, as amended, and its related agreements only to the extent provided for in this section.

Section 162

The Government of the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to section 161(a) for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this section.

(b) Actions brought pursuant to this section may be initiated only by the Government of the Federated States of Micronesia.

(c) Administrative agency actions arising under section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706.

(d) The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the United States District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States.

(e) The judicial remedy provided for in this section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by section 161.

(f) In actions pursuant to this section, the Government of the Federated States of Micronesia shall be treated as if it were a United States citizen.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Government of the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided the Government of the Federated States of Micronesia under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Government of the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact, as amended, or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceased with respect to the Federated States of Micronesia on November 3, 1986, the date the Compact went into effect.

Section 172

(a) Every citizen of the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Government of the Federated States of Micronesia and every citizen of the Federated States of Micronesia shall be considered to be a "person" within the meaning of the Freedom of Information Act, 5 U.S.C.

552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701–706, except that only the Government of the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by sections 161 and 162.

Section 173

The Governments of the United States and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact, as amended, and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Federated States of Micronesia pursuant to this Compact, as amended, and its related agreements and by the Government of the Federated States of Micronesia in the United States pursuant to this Compact, as amended, and its related agreements.

Section 174

Except as otherwise provided in this Compact, as amended, and its related agreements:

(a) The Government of the Federated States of Micronesia, and its agencies and officials, shall be immune from the jurisdiction of the court of the United States, and the Government of the United States, and its agencies and officials, shall be immune from the jurisdiction of the courts of the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to November 3, 1986;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the November 3, 1986; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of the Compact shall be adjudicated in the same manner as a claim adjudicated according to section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor courts, which shall have jurisdiction therefore, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Government of the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Federated States of Micronesia in any civil case in which an exception to foreign state immunity is set forth in the Foreign Sovereign Immunities Act (28 U.S.C. 1602 et seq.) or its successor statutes.

Section 175

(a) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern mutual assistance and cooperation in law enforcement matters, including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners, as well as other law enforcement matters. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188–95, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100–15, shall be applicable to the transfer of prisoners under the separate agreement; and

(b) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern requirements relating to labor recruitment practices, including registration, reporting, suspension or revocation of authorization to recruit persons for employment in the United States, and enforcement for violations of such requirements.

Section 176

The Government of the Federated States of Micronesia confirms that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of the Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

Section 177 of the Compact entered into force with respect to the Federated States of Micronesia on November 3, 1986 as follows:

"(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia, or Palau for loss or damage to property and person of the citizens of the Marshall Islands, or the Federated States of Micronesia, resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

"(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

"(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of $150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact."

The Compact, as amended, makes no changes to, and has no effect upon, Section 177 of the Compact, nor does the Compact, as amended, change or affect the separate agreement referred to in Section 177 of the Compact including Articles IX and X of that separate agreement, and measures taken by the parties thereunder.

Section 178

(a) The Federal agencies of the Government of the United States that provide the services and related programs in the Federated States of Micronesia pursuant to Title Two are authorized to settle and pay tort claims arising in the Federated States of Micronesia from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under section 178(a) that cannot be settled under section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Federated States of Micronesia shall, in the separate agreement referred to in section 231, provide for:

(1) the administrative settlement of claims referred to in section 178(a), including designation of local agents in each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to section 178(a).

(d) The provisions of section 174(d) shall not apply to claims covered by this section.

(e) Except as otherwise explicitly provided by law of the United States, neither the Government of the United States, its instrumentalities, nor any person acting on behalf of the Government of the United States, shall be named a party in any action based on, or arising out of, the activity or activities of a recipient of any grant or other assistance provided by the Government of the United States (or the activity or activities of the recipient's agency or any other person or entity acting on behalf of the recipient).

Section 179

(a) The courts of the Federated States of Micronesia shall not exercise criminal jurisdiction over the Government of the United States, or its instrumentalities.

(b) The courts of the Federated States of Micronesia shall not exercise criminal jurisdiction over any person if the Government of the United States provides notification to the Government of the Federated States of Micronesia that such person was acting on behalf of the Government of the United States, for actions taken in furtherance of section 221 or 224 of this amended Compact, or any other provision of law authorizing financial, program, or service assistance to the Federated States of Micronesia.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211—Sector Grants

(a) In order to assist the Government of the Federated States of Micronesia in its efforts to promote the economic advancement, budgetary self-reliance, and economic self-sufficiency of its people, and in recognition of the special relationship that exists between the Federated States of Micronesia and the United States, the Government of the United States shall provide assistance on a sector grant basis for a period of twenty years in the amounts set forth in section 216, commencing on the effective date of this Compact, as amended. Such grants shall be used for assistance in the sectors of education, health care, private sector development, the environment, public sector capacity building, and public infrastructure, or for other sectors as mutually agreed, with priorities in the education and health care sectors. For each year such sector grant assistance is made available, the proposed division of this amount among these sectors shall be certified to the Government of the United States by the Government of the Federated States of Micronesia and shall be subject to the concurrence of the Government of the United States. In such case, the Government of the United States shall disburse the agreed upon amounts and monitor the use of such sector grants in accordance with the provisions of this Article and the Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Federated States of Micronesia ("Fiscal Procedures Agreement") which shall come into effect simultaneously with this Compact, as amended. The provision of any United States assistance under the Compact, as amended, the Fiscal Procedures Agreement, the Trust Fund Agreement, or any other subsidiary agreement to the Compact, as amended, shall constitute "a particular distribution . . . required by the terms or special nature of the assistance" for purposes of Article XII, section 1(b) of the Constitution of the Federated States of Micronesia.

(1) EDUCATION.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support and improve the educational system of the Federated States of Micronesia and develop the human, financial, and material resources necessary for the Government of the Federated States of Micronesia to perform these services. Emphasis should be placed on advancing a quality basic education system.

(2) HEALTH.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support and improve the delivery of preventive, curative and environmental care and develop the human, financial, and material resources necessary for the Government of the Federated States of Micronesia to perform these services.

(3) PRIVATE SECTOR DEVELOPMENT.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support the efforts of the Government of the Federated States of Micronesia to attract foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to core labor standards, and maintaining progress toward privatization of state-owned and partially state-owned enterprises, and engaging in other reforms.

(4) CAPACITY BUILDING IN THE PUBLIC SECTOR.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support the efforts of the Government of the Federated States of Micronesia to build effective, accountable and transparent national, state, and local government and other public sector institutions and systems.

(5) ENVIRONMENT.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to increase environmental protection; conserve and achieve sustainable use of natural resources; and engage in environmental infrastructure planning, design construction and operation.

(6) PUBLIC INFRASTRUCTURE.—

(i) U.S. annual grant assistance shall be made available in accordance with a list of specific projects included in the plan described in subsection (c) of this section to assist the Government of the Federated States of Micronesia in its efforts to provide adequate public infrastructure.

(ii) INFRASTRUCTURE AND MAINTENANCE FUND.—Five percent of the annual public infrastructure grant made available under paragraph (i) of this subsection shall be set aside, with an equal contribution from the Government of the Federated States of Micronesia, as a contribution to an Infrastructure Maintenance Fund (IMF). Administration of the Infrastructure Maintenance Fund shall be governed by the Fiscal Procedures Agreement.

(b) HUMANITARIAN ASSISTANCE.—Federated States of Micronesia Program. In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available to the Government of the Federated States of Micronesia, on its request and to be deducted from the grant amount made available under subsection (a) of this section, a Humanitarian Assistance - Federated States of Micronesia ("HAFSM") Program with emphasis on health, education, and infrastructure (including transportation), projects. The terms and conditions of the HAFSM shall be set forth in the Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Government of the Federated States of Micronesia Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended which shall come into effect simultaneously with the amendments to this Compact.

(c) DEVELOPMENT PLAN.—The Government of the Federated States of Micronesia shall prepare and maintain an official overall development plan. The plan shall be strategic in nature, shall be continuously reviewed and updated through the annual budget process, and shall make projections on a multi-year rolling basis. Each of the sectors named in subsection (a) of this section, or other sectors as mutually agreed, shall be accorded specific treatment in the plan. Insofar as grants funds are involved, the plan shall be subject to the concurrence of the Government of the United States.

(d) DISASTER ASSISTANCE EMERGENCY FUND.—An amount of two hundred thousand dollars ($200,000) shall be provided annually, with an equal contribution from the Government of the Federated States of Micronesia, as a contribution to a "Disaster Assistance Emergency Fund (DAEF)." Any funds from the DAEF may be used only for assistance and rehabilitation resulting from disasters and emergencies. The funds will be accessed upon declaration by the Government of the Federated States of Micronesia, with the concurrence of the United States Chief of Mission to the Federated States of Micronesia. The Administration of the DAEF shall be governed by the Fiscal Procedures Agreement.

Section 212—Accountability.

(a) Regulations and policies normally applicable to United States financial assistance to its state and local governments, as reflected in the Fiscal Procedures Agreement, shall apply to each sector grant described in section 211, and to grants administered under section 221 below, except as modified in the separate agreements referred to in section 231 of this Compact, as amended, or by United States law. The Government of the United States, after annual consultations with the Federated States of Micronesia, may attach reasonable terms and conditions, including annual performance indicators that are necessary to ensure effective use of United States assistance and reasonable progress toward achieving program objectives. The Government of the United States may seek appropriate remedies for noncompliance with the terms and conditions attached to the assistance, or for failure to comply with section 234, including withholding assistance.

(b) The Government of the United States shall, for each fiscal year of the twenty years during which assistance is to be provided on a sector grant basis under section 211, grant the Government of the Federated States of Micronesia an amount equal to the lesser of (i) one half of the reasonable, properly documented cost incurred during each fiscal year to conduct the annual audit required under Article VIII (2) of the Fiscal Procedures Agreement or (ii) $500,000. Such amount will not be adjusted for inflation under section 217 or otherwise.

Section 213—Joint Economic Management Committee

The Governments of the United States and the Federated States of Micronesia shall establish a Joint Economic Management Committee, composed of a U.S. chair, two other members from the Government of the United States and two members from the Government of the Federated States of Micronesia. The Joint Economic Management Committee shall meet at least once each year to review the audits and reports required under this Title, evaluate the progress made by the Federated States of Micronesia in meeting the objectives identified in its plan described in subsection (c) of section 211, with particular focus on those parts of the plan dealing with the sectors identified in subsection (a) of section 211, identify problems encountered, and recommend ways to increase the effectiveness of U.S. assistance made available under this Title. The establishment and operations of the Joint Economic Management Committee shall be governed by the Fiscal Procedures Agreement.

Section 214—Annual Report

The Government of the Federated States of Micronesia shall report annually to the President of the United States on the use of United States sector grant assistance and other assistance and progress in meeting mutually agreed program and economic goals. The Joint Economic Management Committee shall review and comment on the report and make appropriate recommendations based thereon.

Section 215—Trust Fund

(a) The United States shall contribute annually for twenty years from the effective date of this Compact, as amended, in the amounts set forth in section 216 into a Trust Fund established in accordance with the Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund ("Trust Fund Agreement"). Upon termination of the annual financial assistance under section 211, the proceeds of the fund shall thereafter be used for the purposes described in section 211 or as otherwise mutually agreed.

(b) The United States contribution into the Trust Fund described in subsection(a) of this section is conditioned on the Government of the Federated States of Micronesia contributing to the Trust Fund at least $30 million, prior to September 30, 2004. Any funds received by the Federated States of Micronesia under section 111 (d) of Public Law 99-239 (January 14, 1986), or successor provisions, would be contributed to the Trust Fund as a Federated States of Micronesia contribution.

(c) The terms regarding the investment and management of funds and use of the income of the Trust Fund shall be set forth in the separate Trust Fund Agreement described in subsection (a) of this section. Funds derived from United States investment shall not be subject to Federal or state taxes in the United States or the Federated States of Micronesia. The Trust Fund Agreement shall also provide for annual reports to the Government of the United States and to the Government of the Federated States of Micronesia. The Trust Fund Agreement shall provide for appropriate distributions of trust fund proceeds to the Federated States of Micronesia and for appropriate remedies for the failure of the Federated States of Micronesia to use income of the Trust Fund for the annual grant purposes set forth in section 211. These remedies may include the return to the United States of the present market value of its contributions to the Trust Fund and the present market value of any undistributed income on the contributions of the United States. If this Compact, as amended, is terminated, the provisions of sections 451 through 453 of this Compact, as amended, shall govern treatment of any U.S. contributions to the Trust Fund or accrued interest thereon.

Section 216—Sector Grant Funding and Trust Fund Contributions

The funds described in sections 211, 212(b) and 215 shall be made available as follows:

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 212(b) (amount up to)	Trust Fund Section 215	Total
2004	76.2	.5	16	92.7
2005	76.2	.5	16	92.7
2006	76.2	.5	16	92.7
2007	75.4	.5	16.8	92.7
2008	74.6	.5	17.6	92.7
2009	73.8	.5	18.4	92.7
2010	73	.5	19.2	92.7
2011	72.2	.5	20	92.7
2012	71.4	.5	20.8	92.7
2013	70.6	.5	21.6	92.7
2014	69.8	.5	22.4	92.7
2015	69	.5	23.2	92.7
2016	68.2	.5	24	92.7
2017	67.4	.5	24.8	92.7
2018	66.6	.5	25.6	92.7
2019	65.8	.5	26.4	92.7
2020	65	.5	27.2	92.7
2021	64.2	.5	28	92.7
2022	63.4	.5	28.8	92.7
2023	62.6	.5	29.6	92.7

Section 217—Inflation Adjustment

Except for the amounts provided for audits under section 212(b), the amounts stated in this Title shall be adjusted for each United States Fiscal Year by the percent that equals two-thirds of the percent change in the United States Gross Domestic Product Implicit Price Deflator, or 5 percent, whichever is less in any one year, using the beginning of Fiscal Year 2004 as a base.

Section 218—Carry-Over of Unused Funds

If in any year the funds made available by the Government of the United States for that year pursuant to this Article are not completely obligated by the Government of the Federated States of Micronesia, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Article II

Services and Program Assistance

Section 221

(a) SERVICES.—The Government of the United States shall make available to the Federated States of Micronesia, in accordance with and to the extent provided in the Federal Programs and Services Agreement referred to in section 231, the services and related programs of:

(1) the United States Weather Service;

(2) the United States Postal Service;

(3) the United States Federal Aviation Administration;

(4) the United States Department of Transportation;

(5) the Federal Deposit Insurance Corporation (for the benefit only of the Bank of the Federated States of Micronesia), and

(6) the Department of Homeland Security, and the United States Agency for International Development, Office of Foreign Disaster Assistance.

Upon the effective date of this Compact, as amended, the United States Departments and Agencies named or having responsibility to provide these services and related programs shall have the authority to implement the relevant provisions of the Federal Programs and Services Agreement referred to in section 231.

(b) PROGRAMS.—

(1) With the exception of the services and programs covered by subsection (a) of this section, and unless the Congress of the United States provides otherwise, the Government of the United States shall make available to the Federated States of Micronesia the services and programs that were available to the Federated States of Micronesia on the effective date of this Compact, as amended, to the extent that such services and programs continue to be available to State and local governments of the United States. As set forth in the Fiscal Procedures Agreement, funds provided under subsection (a) of section 211 will be considered to be local revenues of the Government of the Federated States of Micronesia when used as the local share required to obtain Federal programs and services.

(2) Unless provided otherwise by U.S. law, the services and programs described in paragraph (1) of this subsection shall be extended in accordance with the terms of the Federal Programs and Services Agreement referred to in section 231.

(c) The Government of the United States shall have and exercise such authority as is necessary to carry out its responsibilities under this Title and the separate agreements referred to in amended section 231, including the authority to monitor and administer all service and program assistance provided by the United States to the Federated States of Micronesia. The Federal Programs and Services Agreement referred to in amended section 231 shall also set forth the extent to which services and programs shall be provided to the Federated States of Micronesia.

(d) Except as provided elsewhere in this Compact, as amended, under any separate agreement entered into under this Compact, as amended, or otherwise under U.S. law, all Federal domestic programs extended to or operating in the Federated States of Micronesia shall be subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs and services when operating in the United States.

(e) The Government of the United States shall make available to the Federated States of Micronesia alternate energy development projects, studies, and conservation measures to the extent provided for the Freely Associated States in the laws of the United States.

Section 222

The Government of the United States and the Government of the Federated States of Micronesia may agree from time to time to extend to the Federated States of Micronesia additional United States grant assistance, services and programs, as provided under the laws of the United States. Unless inconsistent with such laws, or otherwise specifically precluded by the Government of the United States at the time such additional grant assistance, services, or programs are extended, the Federal Programs and Services Agreement referred to section 231 shall apply to any such assistance, services or programs.

Section 223

The Government of the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact, as amended, or as may be mutually agreed thereafter.

Section 224

The Government of the Federated States of Micronesia may request, from time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws. If technical assistance is granted pursuant to such a request, the Government of the United States shall provide the technical assistance in a manner which gives priority consideration to the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions, and equivalent consideration to the Federated States of Micronesia with respect to other states in Free Association with the United States. Such assistance shall be made available on a reimbursable or non-reimbursable basis to the extent provided by United States law.

Article III

Administrative Provisions

Section 231

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 of this Compact, as amended, as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Federated States of Micronesia, and other arrangements in connection with the assistance, services, or programs furnished by the Government of the United States, are set forth in a Federal Programs and Services Agreement which shall come into effect simultaneously with this Compact, as amended.

Section 232

The Government of the United States, in consultation with the Government of the Federated States of Micronesia, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Further, in accordance with the Fiscal Procedures Agreement described in subsection (a) of section 211, the Comptroller General of the United States shall have such powers and authorities as described in sections 102 (c) and 110 (c) of Public Law 99–239, 99 Stat. 1777–78, and 99 Stat. 1799 (January 14, 1986).

Section 233

Approval of this Compact, as amended, by the Government of the United States, in accordance with its constitutional processes, shall constitute a pledge by the United States that the sums and amounts specified as sector grants in section 211 of this Compact, as amended, shall be appropriated and paid to the Federated States of Micronesia for such period as those provisions of this Compact, as amended, remain in force, subject to the terms and conditions of this Title and related subsidiary agreements.

Section 234

The Government of the Federated States of Micronesia pledges to cooperate with, permit, and assist if reasonably requested, designated and authorized representatives of the Government of the United States charged with investigating whether Compact funds, or any other assistance authorized under this Compact, as amended, have, or are being, used for purposes other than those set forth in this Compact, as amended, or its subsidiary agreements. In carrying out this investigative authority, such United States Government representatives may request that the Government of the Federated States of Micronesia subpoena documents and records and compel testimony in accordance with the laws and Constitution of the Federated States of Micronesia. Such assistance by the Government of the Federated States of Micronesia to the Government of the United States shall not be unreasonably withheld. The obligation of the Government of the Federated States of Micronesia to fulfill its pledge herein is a condition to its receiving payment of such funds or other assistance authorized under this Compact, as amended. The Government of the United States shall pay any reasonable costs for extraordinary services executed by the Government of the Federated States of Micronesia in carrying out the provisions of this section.

Article IV

Trade

Section 241

The Federated States of Micronesia is not included in the customs territory of the United States.

Section 242

The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia which shall apply during the period of effectiveness of this title:

(a) Unless otherwise excluded, articles imported from the Federated States of Micronesia, subject to the limitations imposed under section 503(b) of title V of the Trade Act of 1974 (19 U.S.C. 2463(b)), shall be exempt from duty.

(b) Only tuna in airtight containers provided for in heading 1604.14.22 of the Harmonized Tariff Schedule of the United States that is imported from the Federated States of Micronesia and the Republic of the Marshall Islands during any calendar year not to exceed 10 percent of apparent United States consumption of tuna in airtight containers during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty-free treatment under this paragraph for any calendar year shall be counted against the aggregated quantity of tuna in airtight containers that is dutiable under rate column numbered 1 of such heading 1604.14.22 for that calendar year.

(c) The duty-free treatment provided under subsection (a) shall not apply to—

(1) watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;

(2) buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such Schedule;

(3) textile and apparel articles which are subject to textile agreements; and

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

(d) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(a)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from the Federated States of Micronesia which are not exempt from duty under subsections (a), (b), (c), and (d) of section 242 shall be subject to the rates of duty set forth in column numbered 1-general of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 244

(a) All products of the United States imported into the Federated States of Micronesia shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

(b) The provisions of subsection (a) shall not apply to advantages accorded by the Federated States of Micronesia by virtue of their full membership in the Pacific Island Countries Trade Agreement (PICTA), done on August 18, 2001, to those governments listed in Article 26 of PICTA, as of the date the Compact, as amended, is signed.

(c) Prior to entering into consultations on, or concluding, a free trade agreement with governments not listed in Article 26 of PICTA, the Federated States of Micronesia shall consult with the United States regarding whether or how subsection (a) of section 244 shall be applied.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Federated States of Micronesia. Should the Government of the Federated States of Micronesia act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Federated States of Micronesia may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as the Government of the Federated States of Micronesia deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Federated States of Micronesia, domiciled therein, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States, provided that such citizen of the Federated States of Micronesia is neither a citizen nor a resident of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall have authority to impose tax upon income derived by a resident of the Federated States of Micronesia from sources without the Federated States of Micronesia, in the same manner and to the same extent as the Government of the Federated States of Micronesia imposes tax upon income derived from within its own jurisdiction. If the Government of the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of the Federated States of Micronesia who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Federated States of Micronesia shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. However, the relief from liability to the United States Government referred to in the preceding sentence means only relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1986. For purposes of this section, the term "resident of the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Federated States of Micronesia for a period of 183 or more days during any taxable year.

(b) If the Government of the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in section 254(a).

Section 255

For purposes of section 274(h)(3)(A) of the United States Internal Revenue Code of 1986, the term "North American Area" shall include the Federated States of Micronesia.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Federated States of Micronesia and its people from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Federated States of Micronesia by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Federated States of Micronesia, subject to the terms of the separate agreements referred to in sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Government of the Federated States of Micronesia shall refrain from actions that the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Federated States of Micronesia.

(b) The consultations referred to in this section shall be conducted expeditiously at senior levels of the two Governments, and the subsequent determination by the Government of the United States referred to in this section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Federated States of Micronesia:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or overflight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Federated States of Micronesia or the Republic of the Marshall Islands, the Government of the United States shall not store in the Federated States of Micronesia or the Republic of the Marshall Islands any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by section 314(b).

(d) No material or substance referred to in this section shall be stored in the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in section 161(e) shall have no effect on the obligations of the Government of the United States under this section or on the application of this subsection.

(f) The provisions of this section shall apply in the areas in which the Government of the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval of the Government of the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Federated States of Micronesia are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to section 321(a), it may request the Government of the Federated States of Micronesia to satisfy those requirements through leases or other arrangements. The Government of the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Federated States of Micronesia. In making any requests pursuant to section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Federated States of Micronesia are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact, as amended, and its related agreements, the Government of the United States, exclusively, has assumed and enjoys, as to the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of November 2, 1986.

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Federated States of Micronesia.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 (with the exception of any person described in section 141(a)(5) who is not a citizen of the Federated States of Micronesia) shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States as long as such person has resided in the United States for a period of less than one year, provided that no time shall count towards this one year while a person admitted to the United States under the Compact, or the Compact, as amended, is engaged in full-time study in the United States. Any person described in section 141(a)(5) who is not a citizen of the Federated States of Micronesia shall be subject to United States laws relating to selective service.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from the Federated States of Micronesia, as may be nominated by the Government of the Federated States of Micronesia, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195.

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to section 342(b) of this Compact, as amended.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Federated States of Micronesia shall continue to maintain a Joint Committee empowered to consider disputes arising under the implementation of this Title and its related agreements.

(b) The membership of the Joint Committee shall comprise selected senior officials of the two Governments. The senior United States military commander in the Pacific area shall be the senior United States member of the Joint Committee. For the meetings of the Joint Committee, each of the two Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, the Joint Committee shall meet annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The Joint Committee also shall meet promptly upon request of either of its members. The Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree. Upon notification by the Government of the United States, the Joint Committee of the United States and the Federated States of Micronesia shall meet promptly in a combined session with the Joint Committee established and maintained by the Government of the United States and the Republic of the Marshall Islands to consider matters within the jurisdiction of the two Joint Committees.

(d) Unresolved issues in the Joint Committee shall be referred to the Governments for resolution, and the Government of the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Government of the Federated States of Micronesia under Titles One, Two and Four and to the responsibility of the Government of the Federated States of Micronesia to assure the well-being of its people.

Section 353

(a) The Government of the United States shall not include the Government of the Federated States of Micronesia as a named party to a formal declaration of war, without that Government's consent.

(b) Absent such consent, this Compact, as amended, is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Federated States of Micronesia, which arise out of armed conflict subsequent to November 3, 1986, and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) The Government of the United States and the Government of the Federated States of Micronesia are jointly committed to continue their security and defense relations, as set forth in this Title. Accordingly, it is the intention of the two countries that the provisions of this Title shall remain binding as long as this Compact, as amended, remains in effect, and thereafter as mutually agreed, unless earlier terminated by mutual agreement pursuant to section 441, or amended pursuant to Article III of Title Four. If at any time the Government of the United States, or the Government of the Federated States of Micronesia, acting unilaterally, terminates this Title, such unilateral termination shall be considered to be termination of the entire Compact, in which case the provisions of section 442 and 452 (in the case of termination by the Government of the United States) or sections 443 and 453 (in the case of termination by the Government of the Federated States of Micronesia), with the exception of paragraph (3) of subsection (a) of section 452 or paragraph (3) of subsection (a) of section 453, as the case may be, shall apply.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Government of the Federated States of Micronesia, and in view of the existence of the separate agreement regarding mutual security concluded with the Government of the Federated States of Micronesia pursuant to sections 321 and 323, that, even if this Title should terminate, any attack on the Federated States of Micronesia during the period in which such separate agreement is in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Federated States of Micronesia in accordance with its constitutional processes.

(c) As reflected in Article 21(1)(b) of the Trust Fund Agreement, the Government of the United States and the Government of the Federated States of Micronesia further recognize, in view of the special relationship between their countries, that even if this Title should terminate, the Government of the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Federated States of Micronesia or the Republic of the Marshall Islands.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

Pursuant to section 432 of the Compact and subject to subsection (e) of section 461 of the Compact, as amended, the Compact, as amended, shall come into effect upon mutual agreement between the Government of the United States and the Government of the Federated States of Micronesia subsequent to completion of the following:

(a) Approval by the Government of the Federated States of Micronesia in accordance with its constitutional processes.

(b) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Federated States of Micronesia and that Government shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact, as amended, or of its related agreements.

Section 422

In the event the Government of the United States or the Government of the Federated States of Micronesia, after conferring pursuant to section 421, determines that there is a dispute and gives written notice thereof, the two Governments shall make a good faith effort to resolve the dispute between themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in section 422, either party to the dispute may refer it to arbitration in accordance with section 424.

Section 424

Should a dispute be referred to arbitration as provided for in section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this section within 30 days of referral of the dispute to arbitration pursuant to section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) Unless otherwise provided in this Compact, as amended, or its related agreements, the Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four, and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact, as amended. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of the Federated States of Micronesia.

Article III

Amendment

Section 431

The provisions of this Compact, as amended, may be further amended by mutual agreement of the Government of the United States and the Government of the Federated States of Micronesia, in accordance with their respective constitutional processes.

Article IV

Termination

Section 441

This Compact, as amended, may be terminated by mutual agreement of the Government of the Federated States of Micronesia and the Government of the United States, in accordance with their respective constitutional processes. Such mutual termination of this Compact, as amended, shall be without prejudice to the continued application of section 451 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 442

Subject to section 452, this Compact, as amended, may be terminated by the Government of the United States in accordance with its constitutional processes. Such termination shall be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended. Such termination of this Compact, as amended, shall be without prejudice to the continued application of section 452 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 443

This Compact, as amended, shall be terminated by the Government of the Federated States of Micronesia, pursuant to its constitutional processes, subject to section 453 if the people represented by that Government vote in a plebiscite to terminate the Compact, as amended, or by another process permitted by the FSM constitution and mutually agreed between the Governments of the United States and the Federated States of Micronesia. The Government of the Federated States of Micronesia shall notify the Government of the United States of its intention to call such a plebiscite, or to pursue another mutually agreed and constitutional process, which plebiscite or process shall take place not earlier than three months after delivery of such notice. The plebiscite or other process shall be administered by the Government of the Federated States of Micronesia in accordance with its constitutional and legislative processes. If a majority of the valid ballots cast in the plebiscite or other process favors termination, the Government of the Federated States of Micronesia shall, upon certification of the results of the plebiscite or other process, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

(a) Should termination occur pursuant to section 441, economic and other assistance by the Government of the United States shall continue only if and as mutually agreed by the Governments of the United States and the Federated States of Micronesia, and in accordance with the parties' respective constitutional processes.

(b) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement entered into consistent with those subsections, if termination occurs pursuant to section 441 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended.

(c) In view of the special relationship of the United States and the Federated States of Micronesia described in subsection (b) of this section, if termination occurs pursuant to section 441 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall be entitled to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement governing the distribution of such proceeds.

Section 452

(a) Should termination occur pursuant to section 442 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Should termination occur pursuant to section 442 before the twentieth anniversary of the effective date of the Compact, as amended:

(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, economic and other assistance by the United States shall continue only if and as mutually agreed by the Governments of the United States and the Federated States of Micronesia.

(2) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(c) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 442 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall continue to be eligible to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 453

(a) Should termination occur pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to section 443, the Government of the United States and the Government of the Federated States of Micronesia shall promptly consult with regard to their future relationship. Except as provided in subsection (c) and (d) of this section, these consultations shall determine the level of economic and other assistance, if any, which the Government of the United States shall provide to the Government of the Federated States of Micronesia for the period ending on the twentieth anniversary of the effective date of this Compact, as amended, and for any period thereafter, if mutually agreed.

(c) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(d) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall continue to be eligible to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 454

Notwithstanding any other provision of this Compact, as amended:

(a) The Government of the United States reaffirms its continuing interest in promoting the economic advancement and budgetary self-reliance of the people of the Federated States of Micronesia.

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact, as amended, only, and without prejudice to the views of the Government of the United States or the Government of the Federated States of Micronesia as to the nature and extent of the jurisdiction of either of them under international law, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the former administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Federated States of Micronesia" and "the Republic of the Marshall Islands" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Compact" means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99-239 (Jan. 14, 1986) and went into effect with respect to the Federated States of Micronesia on November 3, 1986.

(e) "Compact, as amended" means the Compact of Free Association Between the United States and the Federated States of Micronesia, as amended. The effective date of the Compact, as amended, shall be on a date to be determined by the President of the United States, and agreed to by the Government of the Federated States of Micronesia, following formal approval of the Compact, as amended, in accordance with section 411 of this Compact, as amended.

(f) "Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(g) "Government of the Republic of the Marshall Islands" means the Government established and organized by the Constitution of the Republic of the Marshall Islands including all the political subdivisions and entities comprising that Government.

(h) The following terms shall be defined consistent with the 1998 Edition of the Radio Regulations of the International Telecommunications Union as follows:

(1) "Radiocommunication" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service, or the radio astronomy service.

(3) "Broadcasting Service" means a radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission.

(4) "Broadcasting Station" means a station in the broadcasting service.

(5) "Assignment (of a radio frequency or radio frequency channel)" means an authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(6) "Telecommunication" means any transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

(i) "Military Areas and Facilities" means those areas and facilities in the Federated States of Micronesia reserved or acquired by the Government of the Federated States of Micronesia for use by the Government of the United States, as set forth in the separate agreements referred to in section 321.

(j) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(k) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

(a) The Government of the United States and the Government of the Federated States of Micronesia previously have concluded agreements pursuant to the Compact, which shall remain in effect and shall survive in accordance with their terms, as follows:

(1) Agreement Concluded Pursuant to Section 234 of the Compact;

(2) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(3) Agreement between the Government of the United States of America and the Federated States of Micronesia Regarding Aspects of the Marine Sovereignty and Jurisdiction of the Federated States of Micronesia.

(b) The Government of the United States and the Government of the Federated States of Micronesia shall conclude prior to the date of submission of this Compact, as amended, to the legislatures of the two countries, the following related agreements which shall come into effect on the effective date of this Compact, as amended, and shall survive in accordance with their terms, as follows:

(1) Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as amended which includes:

(i) Postal Services and Related Programs;

(ii) Weather Services and Related Programs;

(iii) Civil Aviation Safety Service and Related Programs;

(iv) Civil Aviation Economic Services and Related Programs;

(v) United States Disaster Preparedness and Response Services and Related Programs;

(vi) Federal Deposit Insurance Corporation Services and Related Programs; and

(vii) Telecommunications Services and Related Programs.

(2) Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175(a) of the Compact of Free Association, as amended;

(3) Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia on Labor Recruitment Concluded Pursuant to Section 175(b) of the Compact of Free Association, as amended;

(4) Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact of Free Association, as Amended, of Free Association Between the Government of the United States of America and Government of the Federated States of Micronesia;

(5) Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund;

(6) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 211(b), 321 and 323 of the Compact of Free Association, as Amended; and the

(7) Status of Forces Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Concluded Pursuant to Section 323 of the Compact of Free Association, as Amended.

Section 463

(a) Except as set forth in subsection (b) of this section, any reference in this Compact, as amended, to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended.

(b) Any reference in Articles IV and Article VI of Title One and Sections 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act, the Administrative Procedure Act or the Immigration and Nationality Act constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended, or as it may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

Article VII

Concluding Provisions

Section 471

Both the Government of the United States and the Government of the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, no later than the entry into force date of this Compact, as amended, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact, as amended, or in the case of subsection (d) of section 141, as soon as reasonably possible thereafter.

Section 472

This Compact, as amended, may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association, as amended, which shall enter into force upon the exchange of diplomatic notes by which the Government of the United States of America and the Government of the Federated States of Micronesia inform each other about the fulfillment of their respective requirements for entry into force.

DONE at Pohnpei, Federated States of Micronesia, in duplicate, this fourteenth (14) day of May, 2003, each text being equally authentic.

Signed (May 14, 2003) For the Government of the United States of America:

Signed (May 14, 2003) For the Government of the Federated States of Micronesia:

(b) COMPACT OF FREE ASSOCIATION, AS AMENDED, BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands is as follows:

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS

Affirming that their Governments and their relationship as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the people of the Republic of the Marshall Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the Republic of the Marshall Islands in creating and maintaining their close and mutually beneficial relationship through the free and voluntary association of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and budgetary self-reliance of the Republic of the Marshall Islands; and

Recognizing that their relationship until the entry into force on October 21, 1986 of the Compact was based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the people of the Republic of the Marshall Islands have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they, through their freely-expressed wishes, have adopted a Constitution appropriate to their particular circumstances; and

Recognizing that the Compact reflected their common desire to terminate the Trusteeship and establish a government-to-government relationship which was in accordance with the new political status based on the freely expressed wishes of the people of the Republic of the Marshall Islands and appropriate to their particular circumstances; and

Recognizing that the people of the Republic of the Marshall Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of the Government of the Republic of the Marshall Islands into the Compact by the people of the Republic of the Marshall Islands constituted an exercise of their sovereign right to self-determination; and

Recognizing the common desire of the people of the United States and the people of the Republic of the Marshall Islands to maintain their close government-to-government relationship, the United States and the Republic of the Marshall Islands:

NOW, THEREFORE, MUTUALLY AGREE to continue and strengthen their relationship of free association by amending the Compact, which continues to provide a full measure of self-government for the people of the Republic of the Marshall Islands; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact, as amended, by the Governments of the United States and the Republic of the Marshall Islands; and that, during such relationship of free association, the respective rights and responsibilities of the Government of the United States and the Government of the Republic of the Marshall Islands in regard to this relationship of free association derive from and are as set forth in this Compact, as amended.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The people of the Republic of the Marshall Islands, acting through the Government established under their Constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Government of the Republic of the Marshall Islands has the capacity to conduct foreign affairs and shall do so in its own name and right, except as otherwise provided in this Compact, as amended.

(b) The foreign affairs capacity of the Government of the Republic of the Marshall Islands includes:

(1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and nonliving resources from the sea, seabed or subsoil to the full extent recognized under international law;

(2) the conduct of its commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting its individual citizens.

(c) The Government of the United States recognizes that the Government of the Republic of the Marshall Islands has the capacity to enter into, in its own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of its foreign affairs, the Government of the Republic of the Marshall Islands confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Government of the Republic of the Marshall Islands for membership or other participation in regional or international organizations as may be mutually agreed.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Government of the Republic of the Marshall Islands shall consult, in the conduct of its foreign affairs, with the Government of the United States.

(b) In recognition of the foreign affairs capacity of the Government of the Republic of the Marshall Islands, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Republic of the Marshall Islands on matters that the Government of the United States regards as relating to or affecting the Government of the Republic of the Marshall Islands.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Republic of the Marshall Islands in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Republic of the Marshall Islands undertaken with the assistance or through the agency of the Government of the United States pursuant to this section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Republic of the Marshall Islands in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Republic of the Marshall Islands and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Republic of the Marshall Islands for travel outside the Republic of the Marshall Islands, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact, as amended, or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on October 20, 1986, are, as of that date, no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Government of the Republic of the Marshall Islands has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communications assistance as mutually agreed.

(b) The Government of the Republic of the Marshall Islands has elected to undertake all functions previously performed by the Government of the United States with respect to domestic and foreign communications, except for those functions set forth in a separate agreement entered into pursuant to this section of the Compact, as amended.

Section 132

The Government of the Republic of the Marshall Islands shall permit the Government of the United States to operate telecommunications services in the Republic of the Marshall Islands to the extent necessary to fulfill the obligations of the Government of the United States under this Compact, as amended, in accordance with the terms of separate agreements entered into pursuant to this section of the Compact, as amended.

Article IV

Immigration

Section 141

(a) In furtherance of the special and unique relationship that exists between the United States and the Republic of the Marshall Islands, under the Compact, as amended, any person in the following categories may be admitted to lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions (the "United States") without regard to paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5) or (7)(B)(i)(II):

(1) a person who, on October 21, 1986, was a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become and remains a citizen of the Republic of the Marshall Islands;

(2) a person who acquires the citizenship of the Republic of the Marshall Islands at birth, on or after the effective date of the Constitution of the Republic of the Marshall Islands;

(3) an immediate relative of a person referred to in paragraphs (1) or (2) of this section, provided that such immediate relative is a naturalized citizen of the Republic of the Marshall Islands who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence, and further provided, that, in the case of a spouse, such spouse has been married to the person referred to in paragraph (1) or (2) of this section for at least five years, and further provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended;

(4) a naturalized citizen of the Republic of the Marshall Islands who was an actual resident there for not less than five years after attaining such naturalization and who satisfied these requirements as of April 30, 2003, who continues to be an actual resident and holds a certificate of actual residence, and whose name is included in a list furnished by the Government of the Republic of the Marshall Islands to the Government of the United States no later than the effective date of the Compact, as amended, in form and content acceptable to the Government of the United States, provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended; or

(5) an immediate relative of a citizen of the Republic of the Marshall Islands, regardless of the immediate relative's country of citizenship or period of residence in the Republic of the Marshall Islands, if the citizen of the Republic of the Marshall Islands is serving on active duty in any branch of the United States Armed Forces, or in the active reserves.

(b) Notwithstanding subsection (a) of this section, a person who is coming to the United States pursuant to an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for admission under the Compact and the Compact, as amended. This subsection shall apply to any person who is or was an applicant for admission to the United States on or after March 1, 2003, including any applicant for admission in removal proceedings (including appellate proceedings) on or after March 1, 2003, regardless of the date such proceedings were commenced. This subsection shall have no effect on the ability of the Government of the United States or any United States State or local government to commence or otherwise take any action against any person or entity who has violated any law relating to the adoption of any person.

(c) Notwithstanding subsection (a) of this section, no person who has been or is granted citizenship in the Republic of the Marshall Islands, or has been or is issued a Republic of the Marshall Islands passport pursuant to any investment, passport sale, or similar program has been or shall be eligible for admission to the United States under the Compact or the Compact, as amended.

(d) A person admitted to the United States under the Compact, or the Compact, as amended, shall be considered to have the permission of the Government of the United States to accept employment in the United States. An unexpired Republic of the Marshall Islands passport with unexpired documentation issued by the Government of the United States evidencing admission under the Compact or the Compact, as amended, shall be considered to be documentation establishing identity and employment authorization under section 274A(b)(1)(B) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1324a(b)(1)(B). The Government of the United States will take reasonable and appropriate steps to implement and publicize this provision, and the Government of the Republic of the Marshall Islands will also take reasonable and appropriate steps to publicize this provision.

(e) For purposes of the Compact and the Compact, as amended:

(1) the term "residence" with respect to a person means the person's principal, actual dwelling place in fact, without regard to intent, as provided in section 101(a)(33) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(33), and variations of the term "residence," including "resident" and "reside," shall be similarly construed;

(2) the term "actual residence" means physical presence in the Republic of the Marshall Islands during eighty-five percent of the five-year period of residency required by section 141(a)(3) and (4);

(3) the term "certificate of actual residence" means a certificate issued to a naturalized citizen by the Government of the Republic of the Marshall Islands stating that the citizen has complied with the actual residence requirement of section 141(a)(3) or (4);

(4) the term "nonimmigrant" means an alien who is not an "immigrant" as defined in section 101(a)(15) of such Act, 8 U.S.C. 1101(a)(15); and

(5) the term "immediate relative" means a spouse, or unmarried son or unmarried daughter less than 21 years of age.

(f) The Immigration and Nationality Act, as amended, shall apply to any person admitted or seeking admission to the United States (other than a United States possession or territory where such Act does not apply) under the Compact or the Compact, as amended, and nothing in the Compact or the Compact, as amended, shall be construed to limit, preclude, or modify the applicability of, with respect to such person:

(1) any ground of inadmissibility or deportability under such Act (except sections 212(a)(5) and 212(a)(7)(B)(i)(II) of such Act, as provided in subsection (a) of this section), and any defense thereto, provided that, section 237(a)(5) of such Act shall be construed and applied as if it reads as follows: "any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means

of support in the United States, is deportable;"

(2) the authority of the Government of the United States under section 214(a)(1) of such Act to provide that admission as a nonimmigrant shall be for such time and under such conditions as the Government of the United States may by regulations prescribe;

(3) except for the treatment of certain documentation for purposes of section 274A(b)(1)(B) of such Act as provided by subsection (d) of this section of the Compact, as amended, any requirement under section 274A, including but not limited to section 274A(b)(1)(E);

(4) section 643 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, and actions taken pursuant to section 643; and

(5) the authority of the Government of the United States otherwise to administer and enforce the Immigration and Nationality Act, as amended, or other United States law.

(g) Any authority possessed by the Government of the United States under this section of the Compact or the Compact, as amended, may also be exercised by the Government of a territory or possession of the United States where the Immigration and Nationality Act, as amended, does not apply, to the extent such exercise of authority is lawful under a statute or regulation of such territory or possession that is authorized by the laws of the United States.

(h) Subsection (a) of this section does not confer on a citizen of the Republic of the Marshall Islands the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, as amended, or to petition for benefits for alien relatives under that Act. Subsection (a) of this section, however, shall not prevent a citizen of the Republic of the Marshall Islands from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may be admitted to lawfully engage in occupations, and reside in the Republic of the Marshall Islands, subject to the rights of the Government of the Republic of the Marshall Islands to deny entry to or deport any such citizen or national as an undesirable alien. Any determination of inadmissibility or deportability shall be based on reasonable statutory grounds and shall be subject to appropriate administrative and judicial review within the Republic of the Marshall Islands. If a citizen or national of the United States is a spouse of a citizen of the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall allow the United States citizen spouse to establish residence. Should the Republic of the Marshall Islands citizen spouse predecease the United States citizen spouse during the marriage, the Government of the Republic of the Marshall Islands shall allow the United States citizen spouse to continue to reside in the Republic of the Marshall Islands.

(b) In enacting any laws or imposing any requirements with respect to citizens and nationals of the United States entering the Republic of the Marshall Islands under subsection (a) of this section, including any grounds of inadmissibility or deportability, the Government of the Republic of the Marshall Islands shall accord to such citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries.

(c) Consistent with subsection (a) of this section, with respect to citizens and nationals of the United States seeking to engage in employment or invest in the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall adopt immigration-related procedures no less favorable than those adopted by the Government of the United States with respect to citizens of the Republic of the Marshall Islands seeking employment in the United States.

Section 143

Any person who relinquishes, or otherwise loses, his United States nationality or citizenship, or his Republic of the Marshall Islands citizenship, shall be ineligible to receive the privileges set forth in sections 141 and 142. Any such person may apply for admission to the United States or the Republic of the Marshall Islands, as the case may be, in accordance with any other applicable laws of the United States or the Republic of the Marshall Islands relating to immigration of aliens from other countries. The laws of the Republic of the Marshall Islands or the United States, as the case may be, shall dictate the terms and conditions of any such person's stay.

Article V

Representation

Section 151

Relations between the Government of the United States and the Government of the Republic of the Marshall Islands shall be conducted in accordance with the Vienna Convention on Diplomatic Relations. In addition to diplomatic missions and representation, the Governments may establish and maintain other offices and designate other representatives on terms and in locations as may be mutually agreed.

Section 152

(a) Any citizen or national of the United States who, without authority of the United States, acts as the agent of the Government of the Republic of the Marshall Islands with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.), that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen or national to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign Agents Registration Act of 1938, the Republic of the Marshall Islands shall be considered to be a foreign country.

(b) Subsection (a) of this section shall not apply to a citizen or national of the United States employed by the Government of the Republic of the Marshall Islands with respect to whom the Government of the Republic of the Marshall Islands from time to time certifies to the Government of the United States that such citizen or national is an employee of the Republic of the Marshall Islands whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

Article VI

Environmental Protection

Section 161

The Governments of the United States and the Republic of the Marshall Islands declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Republic of the Marshall Islands. In order to carry out this policy, the Government of the United States and the Government of the Republic of the Marshall Islands agree to the following mutual and reciprocal undertakings:

(a) The Government of the United States:

(1) shall, for its activities controlled by the U.S. Army at Kwajalein Atoll and in the Mid-Atoll Corridor and for U.S. Army Kwajalein Atoll activities in the Republic of the Marshall Islands, continue to apply the Environmental Standards and Procedures for United States Army Kwajalein Atoll Activities in the Republic of the Marshall Islands, unless and until those Standards or Procedures are modified by mutual agreement of the Governments of the United States and the Republic of the Marshall Islands;

(2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq., to its activities under the Compact, as amended, and its related agreements as if the Republic of the Marshall Islands were the United States;

(3) in the conduct of any activity not described in section 161(a)(1) requiring the preparation of an Environmental Impact Statement under section 161(a)(2), shall comply with standards substantively similar to those required by the following laws of the United States, taking into account the particular environment of the Republic of the Marshall Islands; the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.; the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), as amended, 33 U.S.C. 1251 et seq.; Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (the Ocean Dumping Act), 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.; the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States and the Republic of the Marshall Islands as may be agreed from time to time with the Government of the Republic of the Marshall Islands;

(4) shall, prior to conducting any activity not described in section 161(a)(1) requiring the preparation of an Environmental Impact Statement under section 161(a)(2), develop, as agreed with the Government of the Republic of the Marshall Islands, written environmental standards and procedures to implement the substantive provisions of the laws made applicable to U.S. Government activities in the Republic of the Marshall Islands, pursuant to section 161(a)(3).

(b) The Government of the Republic of the Marshall Islands shall continue to develop and implement standards and procedures to protect its environment. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Republic of the Marshall Islands, taking into account its particular environment, shall continue to develop and implement standards for environmental protection substantively similar to those required of the Government of the United States by section 161(a)(3) prior to its conducting activities in the Republic of the Marshall Islands, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Republic of the Marshall Islands.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major Federal actions significantly affecting the quality of the human environment, the regulatory regime established under sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact, as amended, and its related agreements from any environmental standard or procedure which may be applicable under sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount interest of the Government of the United States to do so, consistent with Title Three of this Compact, as amended, and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the Government of the Republic of the Marshall Islands shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the Government of the Republic of the Marshall Islands.

(f) The laws of the United States referred to in section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact, as amended, and its related agreements only to the extent provided for in this section.

Section 162

The Government of the Republic of the Marshall Islands may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to section 161(a) for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this section.

(b) Actions brought pursuant to this section may be initiated only by the Government of the Republic of the Marshall Islands.

(c) Administrative agency actions arising under section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706.

(d) The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the United States District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States.

(e) The judicial remedy provided for in this section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under section 172(b), which relate to the activities of the Government of the United States and its officers and employees governed by section 161.

(f) In actions pursuant to this section, the Government of the Republic of the Marshall Islands shall be treated as if it were a United States citizen.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Government of the Republic of the Marshall Islands shall be granted access to facilities operated by the Government of the United States in the Republic of the Marshall Islands, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Republic of the Marshall Islands for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Republic of the Marshall Islands under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided the Government of the Republic of the Marshall Islands under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Government of the Republic of the Marshall Islands shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact, as amended, or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceased with respect to the Marshall Islands on October 21, 1986, the date the Compact went into effect.

Section 172

(a) Every citizen of the Republic of the Marshall Islands who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Government of the Republic of the Marshall Islands and every citizen of the Republic of the Marshall Islands shall be considered to be a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701–706, except that only the Government of the Republic of the Marshall Islands may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by sections 161 and 162.

Section 173

The Governments of the United States and the Republic of the Marshall Islands agree to adopt and enforce such measures, consistent with this Compact, as amended, and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Republic of the Marshall Islands pursuant to this Compact, as amended, and its related agreements and by the Government of the Republic of the Marshall Islands in the United States pursuant to this Compact, Compact, as amended, and its related agreements.

Section 174

Except as otherwise provided in this Compact, as amended, and its related agreements:

(a) The Government of the Republic of the Marshall Islands, and its agencies and officials, shall be immune from the jurisdiction of the court of the United States, and the Government of the United States, and its agencies and officials, shall be immune from the jurisdiction of the courts of the Republic of the Marshall Islands.

(b) The Government of the United States accepts responsibility for and shall pay:

(1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to October 21, 1986;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of October 21, 1986; and

(3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of the Compact shall be adjudicated in the same manner as a claim adjudicated according to section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor courts, which shall have jurisdiction therefore, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

(d) The Government of the Republic of the Marshall Islands shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Republic of the Marshall Islands in any civil case in which an exception to foreign state immunity is set forth in the Foreign Sovereign Immunities Act (28 U.S.C. 1602 et seq.) or its successor statutes.

Section 175

(a) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern mutual assistance and cooperation in law enforcement matters, including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners, as well as other law enforcement matters. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186, and 3188–95, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100–15, shall be applicable to the transfer of prisoners under the separate agreement; and

(b) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern requirements relating to labor recruitment practices, including registration, reporting, suspension or revocation of authorization to recruit persons for employment in the United States, and enforcement for violations of such requirements.

Section 176

The Government of the Republic of the Marshall Islands confirms that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of the Republic of the Marshall Islands to grant relief from judgments in appropriate cases.

Section 177

Section 177 of the Compact entered into force with respect to the Marshall Islands on October 21, 1986 as follows:

"(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia, (or Palau) for loss or damage to property and person of the citizens of the Marshall Islands, or the Federated States of Micronesia, resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

"(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

"(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of $150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact."

The Compact, as amended, makes no changes to, and has no effect upon, Section 177 of the Compact, nor does the Compact, as amended, change or affect the separate agreement referred to in Section 177 of the Compact including Articles IX and X of that separate agreement, and measures taken by the parties thereunder.

Section 178

(a) The Federal agencies of the Government of the United States that provide services and related programs in the Republic of the Marshall Islands pursuant to Title Two are authorized to settle and pay tort claims arising in the Republic of the Marshall Islands from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under section 178(a) that cannot be settled under section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Republic of the Marshall Islands shall, in the separate agreement referred to in section 231, provide for:

(1) the administrative settlement of claims referred to in section 178(a), including designation of local agents in each State of the Republic of the Marshall Islands; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

(2) arbitration, referred to in section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to section 178(a).

(d) The provisions of section 174(d) shall not apply to claims covered by this section.

(e) Except as otherwise explicitly provided by law of the United States, this Compact, as amended, or its related agreements, neither the Government of the United States, its instrumentalities, nor any person acting on behalf of the Government of the United States, shall be named a party in any action based on, or arising out of, the activity or activities of a recipient of any grant or other assistance provided by the Government of the United States (or the activity or activities of the recipient's agency or any other person or entity acting on behalf of the recipient).

Section 179

(a) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over the Government of the United States, or its instrumentalities.

(b) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over any person if the Government of the United States provides notification to the Government of the Republic of the Marshall Islands that such person was acting on behalf of the Government of the United States, for actions taken in furtherance of section 221 or 224 of this amended Compact, or any other provision of law authorizing financial, program, or service assistance to the Republic of the Marshall Islands.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211 - Annual Grant Assistance

(a) In order to assist the Government of the Republic of the Marshall Islands in its efforts to promote the economic advancement and budgetary self-reliance of its people, and in recognition of the special relationship that exists between the Republic of the Marshall Islands and the United States, the Government of the United States shall provide assistance on a grant basis for a period of twenty years in the amounts set forth in section 217, commencing on the effective date of this Compact, as amended. Such grants shall be used for assistance in education, health care, the environment, public sector capacity building, and private sector development, or for other areas as mutually agreed, with priorities in the education and health care sectors. Consistent with the medium-term budget and investment framework described in subsection (f) of this section, the proposed division of this amount among the identified areas shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands, through the Joint Economic Management and Financial Accountability Committee described in section 214. The Government of the United States shall disburse the grant assistance and monitor the use of such grant assistance in accordance with the provisions of this Article and an Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall Islands ("Fiscal Procedures Agreement") which shall come into effect simultaneously with this Compact, as amended.

(1) EDUCATION.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the educational system of the Republic of the Marshall Islands and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services. Emphasis should be placed on advancing a quality basic education system.

(2) HEALTH.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the delivery of preventive, curative and environmental care and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services.

(3) PRIVATE SECTOR DEVELOPMENT.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to attract foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to core labor standards, maintaining progress toward privatization of state-owned and partially state-owned enterprises, and engaging in other reforms.

(4) Capacity building in the public sector.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to build effective, accountable and transparent national and local government and other public sector institutions and systems.

(5) Environment.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to increase environmental protection; establish and manage conservation areas; engage in environmental infrastructure planning, design construction and operation; and to involve the citizens of the Republic of the Marshall Islands in the process of conserving their country's natural resources.

(b) Kwajalein Atoll.—

(1) Of the total grant assistance made available under subsection (a) of this section, the amount specified herein shall be allocated annually from fiscal year 2004 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) to advance the objectives and specific priorities set forth in subsections (a) and (d) of this section and the Fiscal Procedures Agreement, to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll. This United States grant assistance shall be made available, in accordance with the medium-term budget and investment framework described in subsection (f) of this section, to support and improve the infrastructure and delivery of services and develop the human and material resources necessary for the Republic of the Marshall Islands to carry out its responsibility to maintain such infrastructure and deliver such services. The amount of this assistance shall be $3,100,000, with an inflation adjustment as provided in section 218, from fiscal year 2004 through fiscal year 2013 and the fiscal year 2013 level of funding, with an inflation adjustment as provided in section 218, will be increased by $2 million for fiscal year 2014. The fiscal year 2014 level of funding, with an inflation adjustment as provided in section 218, will be made available from fiscal year 2015 through fiscal year 2023 (and thereafter as noted above).

(2) The Government of the United States shall also provide to the Government of the Republic of the Marshall Islands, in conjunction with section 321(a) of this Compact, as amended, an annual payment from fiscal year 2004 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) of $1.9 million. This grant assistance will be subject to the Fiscal Procedures Agreement and will be adjusted for inflation under section 218 and used to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll with emphasis on the Kwajalein landowners, as described in the Fiscal Procedures Agreement.

(3) Of the total grant assistance made available under subsection (a) of this section, and in conjunction with section 321(a) of the Compact, as amended, $200,000, with an inflation adjustment as provided in section 218, shall be allocated annually from fiscal year 2004 through fiscal year 2023 (and thereafter as provided in the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) for a grant to support increased participation of the Government of the Republic of the Marshall Islands Environmental Protection Authority in the annual U.S. Army Kwajalein Atoll Environmental Standards Survey and to promote a greater Government of the Republic of the Marshall Islands capacity for independent analysis of the Survey's findings and conclusions.

(c) Humanitarian Assistance—Republic of the Marshall Islands Program.—In recognition of the special development needs of the Republic of the Marshall Islands, the Government of the United States shall make available to the Government of the Republic of the Marshall Islands, on its request and to be deducted from the grant amount made available under subsection (a) of this section, a Humanitarian Assistance—Republic of the Marshall Islands ("HARMI") Program with emphasis on health, education, and infrastructure (including transportation), projects and such other projects as mutually agreed. The terms and conditions of the HARMI shall be set forth in the Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended, which shall come into effect simultaneously with the amendments to this Compact.

(d) Public Infrastructure.—

(1) Unless otherwise agreed, not less than 30 percent and not more than 50 percent of U.S. annual grant assistance provided under this section shall be made available in accordance with a list of specific projects included in the infrastructure improvement and maintenance plan prepared by the Government of the Republic of the Marshall Islands as part of the strategic framework described in subsection (f) of this section.

(2) Infrastructure Maintenance Fund.—Five percent of the annual public infrastructure grant made available under paragraph (1) of this subsection shall be set aside, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to an Infrastructure Maintenance Fund. Administration of the Infrastructure Maintenance Fund shall be governed by the Fiscal Procedures Agreement.

(e) Disaster Assistance Emergency Fund.—Of the total grant assistance made available under subsection (a) of this section, an amount of two hundred thousand dollars ($200,000) shall be provided annually, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to a Disaster Assistance Emergency Fund ("DAEF"). Any funds from the DAEF may be used only for assistance and rehabilitation resulting from disasters and emergencies. The funds will be accessed upon declaration of a State of Emergency by the Government of the Republic of the Marshall Islands, with the concurrence of the United States Chief of Mission to the Republic of the Marshall Islands. Administration of the DAEF shall be governed by the Fiscal Procedures Agreement.

(f) Budget and Investment Framework.—The Government of the Republic of the Marshall Islands shall prepare and maintain an official medium-term budget and investment framework. The framework shall be strategic in nature, shall be continuously reviewed and updated through the annual budget process, and shall make projections on a multi-year rolling basis. Each of the sectors and areas named in subsections (a), (b), and (d) of this section, or other sectors and areas as mutually agreed, shall be accorded specific treatment in the framework. Those portions of the framework that contemplate the use of United States grant funds shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands.

Section 212 - Kwajalein Impact and Use

The Government of the United States shall provide to the Government of the Republic of the Marshall Islands in conjunction with section 321(a) of the Compact, as amended, and the agreement between the Government of the United States and the Government of the Republic of the Marshall Islands regarding military use and operating rights, a payment in fiscal year 2004 of $15,000,000, with no adjustment for inflation. In fiscal year 2005 and through fiscal year 2013, the annual payment will be the fiscal year 2004 amount ($15,000,000) with an inflation adjustment as provided under section 218. In fiscal year 2014, the annual payment will be $18,000,000 (with no adjustment for inflation) or the fiscal year 2013 amount with an inflation adjustment under section 218, whichever is greater. For fiscal year 2015 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) the annual payment will be the fiscal year 2014 amount, with an inflation adjustment as provided under section 218.

Section 213 - Accountability

(a) Regulations and policies normally applicable to United States financial assistance to its state and local governments, as set forth in the Fiscal Procedures Agreement, shall apply to each grant described in section 211, and to grants administered under section 221 below, except as modified in the separate agreements referred to in section 231 of this Compact, as amended, or by U.S. law. As set forth in the Fiscal Procedures Agreement, reasonable terms and conditions, including annual performance indicators that are necessary to ensure effective use of United States assistance and reasonable progress toward achieving program objectives may be attached. In addition, the United States may seek appropriate remedies for noncompliance with the terms and conditions attached to the assistance, or for failure to comply with section 234, including withholding assistance.

(b) The Government of the United States shall, for each fiscal year of the twenty years during which assistance is to be provided on a sector grant basis under section 211 (a), grant the Government of the Republic of the Marshall Islands an amount equal to the lesser of (i) one half of the reasonable, properly documented cost incurred during such fiscal year to conduct the annual audit required under Article VIII (2) of the Fiscal Procedures Agreement or (ii) $500,000. Such amount will not be adjusted for inflation under section 218 or otherwise.

Section 214 - Joint Economic Management and Financial Accountability Committee

The Governments of the United States and the Republic of the Marshall Islands shall establish a Joint Economic Management and Financial Accountability Committee, composed of a U.S. chair, two other members from the Government of the United States and two members from the Government of the Republic of the Marshall Islands. The Joint Economic Management and Financial Accountability Committee shall meet at least once each year to review the audits and reports required under this Title and the Fiscal Procedures Agreement, evaluate the progress made by the Republic of the Marshall Islands in meeting the objectives identified in its framework described in subsection (f) of section 211, with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211, identify problems encountered, and recommend ways to increase the effectiveness of U.S. assistance made available under this Title. The establishment and operations of the Joint Economic Management and Financial Accountability Committee shall be governed by the Fiscal Procedures Agreement.

Section 215 - Annual Report

The Government of the Republic of the Marshall Islands shall report annually to the President of the United States on the use of United States sector grant assistance and other assistance and progress in meeting mutually agreed program and economic goals. The Joint Economic Management and Financial Accountability Committee shall review and comment on the report and make appropriate recommendations based thereon.

Section 216 - Trust Fund

(a) The United States shall contribute annually for twenty years from the effective date of the Compact, as amended, in the amounts set forth in section 217 into a trust fund established in accordance with the Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Implementing Section 216 and Section 217 of the Compact, as Amended, Regarding a Trust Fund ("Trust Fund Agreement"), which shall come into effect simultaneously with this Compact, as amended. Upon termination of the annual grant assistance under section 211 (a), (d) and (e), the earnings of the fund shall thereafter be used for the purposes described in section 211 or as otherwise mutually agreed.

(b) The United States contribution into the Trust Fund described in subsection (a) of this section is conditioned on the Government of the Republic of the Marshall Islands contributing to the Trust Fund at least $25,000,000, on the effective date of the Trust Fund Agreement or on October 1, 2003, whichever is later, $2,500,000 prior to October 1, 2004, and $2,500,000 prior to October 1, 2005. Any funds received by the Republic of the Marshall Islands under section 111(d) of Public Law 99-239 (January 14, 1986), or successor provisions, would be contributed to the Trust Fund as a Republic of the Marshall Islands' contribution.

(c) The terms regarding the investment and management of funds and use of the income of the Trust Fund shall be governed by the Trust Fund Agreement. Funds derived from United States investment shall not be subject to Federal or state taxes in the United States or any taxes in the Republic of the Marshall Islands. The Trust Fund Agreement shall also provide for annual reports to the Government of the United States and to the Government of the Republic of the Marshall Islands. The Trust Fund Agreement shall provide for appropriate distributions of trust fund proceeds to the Republic of the Marshall Islands and for appropriate remedies for the failure of the Republic of the Marshall Islands to use income of the Trust Fund for the annual grant purposes set forth in section 211. These remedies may include the return to the United States of the present market value of its contributions to the Trust Fund and the present market value of any undistributed income on the contributions of the United States. If this Compact, as amended, is terminated, the provisions of sections 451–453 of the Compact, as amended, and the Trust Fund Agreement shall govern treatment of any U.S. contributions to the Trust Fund or accrued income thereon.

Section 217 - Annual Grant Funding and Trust Fund Contributions

The funds described in sections 211, 212, 213(b), and 216 shall be made available as follows:

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 213(b)	Trust Fund Section 216 (a&c)	Kwajalein Impact Section 212	Total
2004	35.2	.5	7	15.0	57.7
2005	34.7	.5	7.5	15.0	57.7
2006	34.2	.5	8	15.0	57.7
2007	33.7	.5	8.5	15.0	57.7
2008	33.2	.5	9	15.0	57.7
2009	32.7	.5	9.5	15.0	57.7
2010	32.2	.5	10	15.0	57.7
2011	31.7	.5	10.5	15.0	57.7
2012	31.2	.5	11	15.0	57.7
2013	30.7	.5	11.5	15.0	57.7
2014	32.2	.5	12	18.0	62.7
2015	31.7	.5	12.5	18.0	62.7
2016	31.2	.5	13	18.0	62.7
2017	30.7	.5	13.5	18.0	62.7
2018	30.2	.5	14	18.0	62.7
2019	29.7	.5	14.5	18.0	62.7
2020	29.2	.5	15	18.0	62.7
2021	28.7	.5	15.5	18.0	62.7
2022	28.2	.5	16	18.0	62.7
2023	27.7	.5	16.5	18.0	62.7

Section 218 - Inflation Adjustment

Except as otherwise provided, the amounts stated in this Title shall be adjusted for each United States Fiscal Year by the percent that equals two-thirds of the percent change in the United States Gross Domestic Product Implicit Price Deflator, or 5 percent, whichever is less in any one year, using the beginning of Fiscal Year 2004 as a base.

Section 219 - Carry-Over of Unused Funds

If in any year the funds made available by the Government of the United States for that year pursuant to this Article are not completely obligated by the Government of the Republic of the Marshall Islands, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Article II

Services and Program Assistance

Section 221

(a) SERVICES.—The Government of the United States shall make available to the Republic of the Marshall Islands, in accordance with and to the extent provided in the Federal Programs and Services Agreement referred to in Section 231, the services and related programs of:

(1) the United States Weather Service;

(2) the United States Postal Service;

(3) the United States Federal Aviation Administration;

(4) the United States Department of Transportation; and

(5) the Department of Homeland Security, and the United States Agency for International Development, Office of Foreign Disaster Assistance.

Upon the effective date of this Compact, as amended, the United States Departments and Agencies named or having responsibility to provide these services and related programs shall have the authority to implement the relevant provisions of the Federal Programs and Services Agreement referred to in section 231.

(b) PROGRAMS.—

(1) Other than the services and programs covered by subsection (a) of this section, and to the extent authorized by the Congress of the United States, the Government of the United States shall make available to the Republic of the Marshall Islands the services and programs that were available to the Republic of the Marshall Islands on the effective date of this Compact, as amended, to the extent that such services and programs continue to be available to State and local governments of the United States. As set forth in the Fiscal Procedures Agreement, funds provided under subsection (a) of section 211 shall be considered to be local revenues of

the Government of the Republic of the Marshall Islands when used as the local share required to obtain Federal programs and services.

(2) Unless provided otherwise by U.S. law, the services and programs described in paragraph (1) of this subsection shall be extended in accordance with the terms of the Federal Programs and Services Agreement.

(c) The Government of the United States shall have and exercise such authority as is necessary to carry out its responsibilities under this Title and the Federal Programs and Services Agreement, including the authority to monitor and administer all service and program assistance provided by the United States to the Republic of the Marshall Islands. The Federal Programs and Services Agreement shall also set forth the extent to which services and programs shall be provided to the Republic of the Marshall Islands.

(d) Except as provided elsewhere in this Compact, as amended, under any separate agreement entered into under this Compact, as amended, or otherwise under U.S. law, all Federal domestic programs extended to or operating in the Republic of the Marshall Islands shall be subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs and services when operating in the United States.

(e) The Government of the United States shall make available to the Republic of the Marshall Islands alternate energy development projects, studies, and conservation measures to the extent provided for the Freely Associated States in the laws of the United States.

Section 222

The Government of the United States and the Government of the Republic of the Marshall Islands may agree from time to time to extend to the Republic of the Marshall Islands additional United States grant assistance, services and programs, as provided under the laws of the United States. Unless inconsistent with such laws, or otherwise specifically precluded by the Government of the United States at the time such additional grant assistance, services, or programs are extended, the Federal Programs and Services Agreement shall apply to any such assistance, services or programs.

Section 223

The Government of the Republic of the Marshall Islands shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Republic of the Marshall Islands at no cost to the Government of the United States as of the effective date of this Compact, as amended, or as may be mutually agreed thereafter.

Section 224

The Government of the Republic of the Marshall Islands may request, from the time to time, technical assistance from the Federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws. If technical assistance is granted pursuant to such a request, the Government of the United States shall provide the technical assistance in a manner which gives priority consideration to the Republic of the Marshall Islands over other recipients not a part of the United States, its territories or possessions, and equivalent consideration to the Republic of the Marshall Islands with respect to other states in Free Association with the United States. Such assistance shall be made available on a reimbursable or non-reimbursable basis to the extent provided by United States law.

Article III

Administrative Provisions

Section 231

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 of this Compact, as amended, as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Republic of the Marshall Islands, and other arrangements in connection with the assistance, services, or programs furnished by the Government of the United States, are set forth in a Federal Programs and Services Agreement which shall come into effect simultaneously with this Compact, as amended.

Section 232

The Government of the United States, in consultation with the Government of the Republic of the Marshall Islands, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Further, in accordance with the Fiscal Procedures Agreement described in subsection (a) of section 211, the Comptroller General of the United States shall have such powers and authorities as described in sections 103(m) and 110(c) of Public Law 99–239, 99 Stat. 1777–78, and 99 Stat. 1799 (January 14, 1986).

Section 233

Approval of this Compact, as amended, by the Government of the United States, in accordance with its constitutional processes, shall constitute a pledge by the United States that the sums and amounts specified as grants in section 211 of this Compact, as amended, shall be appropriated and paid to the Republic of the Marshall Islands for such period as those provisions of this Compact, as amended, remain in force, provided that the Republic of the Marshall Islands complies with the terms and conditions of this Title and related subsidiary agreements.

Section 234

The Government of the Republic of the Marshall Islands pledges to cooperate with, permit, and assist if reasonably requested, designated and authorized representatives of the Government of the United States charged with investigating whether Compact funds, or any other assistance authorized under this Compact, as amended, have, or are being, used for purposes other than those set forth in this Compact, as amended, or its subsidiary agreements. In carrying out this investigative authority, such United States Government representatives may request that the Government of the Republic of the Marshall Islands subpoena documents and records and compel testimony in accordance with the laws and Constitution of the Republic of the Marshall Islands. Such assistance by the Government of the Republic of the Marshall Islands to the Government of the United States shall not be unreasonably withheld. The obligation of the Government of the Marshall Islands to fulfill its pledge herein is a condition to its receiving payment of such funds or other assistance authorized under this Compact, as amended. The Government of the United States shall pay any reasonable costs for extraordinary services executed by the Government of the Marshall Islands in carrying out the provisions of this section.

Article IV

Trade

Section 241

The Republic of the Marshall Islands is not included in the customs territory of the United States.

Section 242

The President shall proclaim the following tariff treatment for articles imported from the Republic of the Marshall Islands which shall apply during the period of effectiveness of this title:

(a) Unless otherwise excluded, articles imported from the Republic of the Marshall Islands, subject to the limitations imposed under section 503(b) of title V of the Trade Act of 1974 (19 U.S.C. 2463(b)), shall be exempt from duty.

(b) Only tuna in airtight containers provided for in heading 1604.14.22 of the Harmonized Tariff Schedule of the United States that is imported from the Republic of the Marshall Islands and the Federated States of Micronesia during any calendar year not to exceed 10 percent of apparent United States consumption of tuna in airtight containers during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty-free treatment under this paragraph for any calendar year shall be counted against the aggregated quantity of tuna in airtight containers that is dutiable under rate column numbered 1 of such heading 1604.14.22 for that calendar year.

(c) The duty-free treatment provided under subsection (a) shall not apply to:

(1) watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;

(2) buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such Schedule;

(3) textile and apparel articles which are subject to textile agreements; and

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

(d) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Republic of the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(a)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from the Republic of the Marshall Islands which are not exempt from duty under subsections (a), (b), (c), and (d) of section 242 shall be subject to the rates of duty set forth in column numbered 1-general of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 244

(a) All products of the United States imported into the Republic of the Marshall Islands shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

(b) The provisions of subsection (a) shall not apply to advantages accorded by the Republic of the Marshall Islands by virtue of their full membership in the Pacific Island Countries Trade Agreement (PICTA), done on August 18, 2001, to those governments listed in Article 26 of PICTA, as of the date the Compact, as amended, is signed.

(c) Prior to entering into consultations on, or concluding, a free trade agreement with governments not listed in Article 26 of PICTA, the Republic of the Marshall Islands shall consult with the United States regarding whether or how subsection (a) of section 244 shall be applied.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Republic of the Marshall Islands. Should the Government of the Republic of the Marshall Islands act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Republic of the Marshall Islands may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as the Government of the Republic of the Marshall Islands deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact, as amended, be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Republic of the Marshall Islands, domiciled therein, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States, provided that such citizen of the Republic of the Marshall Islands is neither a citizen nor a resident of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall have authority to impose tax upon income derived by a resident of the Republic of the Marshall Islands from sources without the Republic of the Marshall Islands, in the same manner and to the same extent as the Government of the Republic of the Marshall Islands imposes tax upon income derived from within its own jurisdiction. If the Government of the Republic of the Marshall Islands exercises such authority as provided in this subsection, any individual resident of the Republic of the Marshall Islands who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Republic of the Marshall Islands shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. However, the relief from liability to the United States Government referred to in the preceding sentence means only relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1986. For purposes of this section, the term "resident of the Republic of the Marshall Islands" shall be deemed to include any person who was physically present in the Republic of the Marshall Islands for a period of 183 or more days during any taxable year.

(b) If the Government of the Republic of the Marshall Islands subjects income to taxation substantially similar to that which was imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in section 254(a).

Section 255

For purposes of section 274(h)(3)(A) of the U.S. Internal Revenue Code of 1986, the term "North American Area" shall include the Republic of the Marshall Islands.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands.

(b) This authority and responsibility includes:

(1) the obligation to defend the Republic of the Marshall Islands and its people from attack or threats thereof as the United States and its citizens are defended;

(2) the option to foreclose access to or use of the Republic of the Marshall Islands by military personnel or for the military purposes of any third country; and

(3) the option to establish and use military areas and facilities in the Republic of the Marshall Islands, subject to the terms of the separate agreements referred to in sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Republic of the Marshall Islands the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Government of the Republic of the Marshall Islands shall refrain from actions that the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands.

(b) The consultations referred to in this section shall be conducted expeditiously at senior levels of the two Governments, and the subsequent determination by the Government of the United States referred to in this section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Republic of the Marshall Islands shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Republic of the Marshall Islands:

(1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or

(2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner that would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or overflight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Republic of the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Republic of the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by section 314(b).

(d) No material or substance referred to in this section shall be stored in the Republic of the Marshall Islands except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

(e) Any exercise of the exemption authority set forth in section 161(e) shall have no effect on the obligations of the Government of the United States under this section or on the application of this subsection.

(f) The provisions of this section shall apply in the areas in which the Government of the Republic of the Marshall Islands exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Republic of the Marshall Islands, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval of the Government of the Republic of the Marshall Islands.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Republic of the Marshall Islands are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Republic of the Marshall Islands in addition to those for which specific arrangements are concluded pursuant to section 321(a), it may request the Government of the Republic of the Marshall Islands to satisfy those requirements through leases or other arrangements. The Government of the Republic of the Marshall Islands shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Republic of the Marshall Islands. In making any requests pursuant to section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Republic of the Marshall Islands at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Republic of the Marshall Islands are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact, as amended, and its related agreements, the Government of the United States, exclusively, has assumed and enjoys, as to the Republic of the Marshall Islands, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of October 20, 1986.

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Republic of the Marshall Islands. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Republic of the Marshall Islands.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 (with the exception of any person described in section 141(a)(5) who is not a citizen of the Republic of the Marshall Islands) shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States as long as such person has resided in the United States for a period of less than one year, provided that no time shall count towards this one year while a person admitted to the United States under the Compact, or the Compact, as amended, is engaged in full-time study in the United States. Any person described in section 141(a)(5) who is not a citizen of the Republic of the Marshall Islands shall be subject to United States laws relating to selective service.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from the Republic of the Marshall Islands, as may be nominated by the Government of the Republic of the Marshall Islands, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195.

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to section 342(b) of this Compact, as amended.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Republic of the Marshall Islands shall continue to maintain a Joint Committee empowered to consider disputes arising under the implementation of this Title and its related agreements.

(b) The membership of the Joint Committee shall comprise selected senior officials of the two Governments. The senior United States military commander in the Pacific area shall be the senior United States member of the Joint Committee. For the meetings of the Joint Committee, each of the two Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, the Joint Committee shall meet annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The Joint Committee also shall meet promptly upon request of either of its members. The Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree. Upon notification by the Government of the United States, the Joint Committee of the United States and the Republic of the Marshall Islands shall meet promptly in a combined session with the Joint Committee established and maintained by the Government of the United States and the Government of the Federated States of Micronesia to consider matters within the jurisdiction of the two Joint Committees.

(d) Unresolved issues in the Joint Committee shall be referred to the Governments for resolution, and the Government of the Republic of the Marshall Islands shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Government of the Republic of the Marshall Islands under Titles One, Two and Four and to the responsibility of the Government of the Republic of the Marshall Islands to assure the well-being of its people.

Section 353

(a) The Government of the United States shall not include the Government of the Republic of the Marshall Islands as a named party to a formal declaration of war, without that Government's consent.

(b) Absent such consent, this Compact, as amended, is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Republic of the Marshall Islands, which arise out of armed conflict subsequent to October 21, 1986, and which are:

(1) petitions to the Government of the United States for redress; or

(2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) The Government of the United States and the Government of the Republic of the Marshall Islands are jointly committed to continue their security and defense relations, as set forth in this Title. Accordingly, it is the intention of the two countries that the provisions of this Title shall remain binding as long as this Compact, as amended, remains in effect, and thereafter as mutually agreed, unless earlier terminated by mutual agreement pursuant to section 441, or amended pursuant to Article III of Title Four. If at any time the Government of the United States, or the Government of the Republic of the Marshall Islands, acting unilaterally, terminates this Title, such unilateral termination shall be considered to be termination of the entire Compact, as amended, in which case the provisions of section 442 and 452 (in the case of termination by the Government of the United States) or sections 443 and 453 (in the case of termination by the Government of the Republic of the Marshall Islands), with the exception of paragraph (3) of subsection (a) of section 452 or paragraph (3) of subsection (a) of section 453, as the case may be, shall apply.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Government of the Republic of the Marshall Islands, and in view of the existence of the separate agreement regarding mutual security concluded with the Government of the Republic of the Marshall Islands pursuant to sections 321 and 323, that, even if this Title should terminate, any attack on the Republic of the Marshall Islands during the period in which such separate agreement is in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Republic of the Marshall Islands in accordance with its constitutional processes.

(c) As reflected in Article 21(1)(b) of the Trust Fund Agreement, the Government of the United States and the Government of the Republic of the Marshall Islands further recognize, in view of the special relationship between their countries, that even if this Title should terminate, the Government of Republic of the Marshall Islands shall refrain from actions which the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands or the Federated States of Micronesia.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

Pursuant to section 432 of the Compact and subject to subsection (e) of section 461 of the Compact, as amended, the Compact, as amended, shall come into effect upon mutual agreement between the Government of the United States and the Government of the Republic of the Marshall Islands subsequent to completion of the following:

(a) Approval by the Government of the Republic of the Marshall Islands in accordance with its constitutional processes.

(b) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Republic of the Marshall Islands and that Government shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact, as amended, or of its related agreements.

Section 422

In the event the Government of the United States or the Government of the Republic of the Marshall Islands, after conferring pursuant to section 421, determines that there is a dispute and gives written notice thereof, the two Governments shall make a good faith effort to resolve the dispute between themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Republic of the Marshall Islands cannot be resolved within 90 days of written notification in the manner provided in section 422, either party to the dispute may refer it to arbitration in accordance with section 424.

Section 424

Should a dispute be referred to arbitration as provided for in section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments that is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this section within 30 days of referral of the dispute to arbitration pursuant to section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) Unless otherwise provided in this Compact, as amended, or its related agreements, the Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four, and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact, as amended. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of the Republic of the Marshall Islands.

Article III

Amendment

Section 431

The provisions of this Compact, as amended, may be further amended by mutual agreement of the Government of the United States and the Government of the Republic of the Marshall Islands, in accordance with their respective constitutional processes.

Article IV

Termination

Section 441

This Compact, as amended, may be terminated by mutual agreement of the Government of the Republic of the Marshall Islands and the Government of the United States, in accordance with their respective constitutional processes. Such mutual termination of this Compact, as amended, shall be without prejudice to the continued application of section 451 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 442

Subject to section 452, this Compact, as amended, may be terminated by the Government of the United States in accordance with its constitutional processes. Such termination shall be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended. Such termination of this Compact, as amended, shall be without prejudice to the continued application of section 452 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 443

This Compact, as amended, shall be terminated by the Government of the Republic of the Marshall Islands, pursuant to its constitutional processes, subject to section 453 if the people represented by that Government vote in a plebiscite to terminate the Compact. The Government of the Republic of the Marshall Islands shall notify the Government of the United States of its intention to call such a plebiscite, which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by the Government of the Republic of the Marshall Islands in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, the Government of the Republic of the Marshall Islands shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

Article V

Survivability

Section 451

(a) Should termination occur pursuant to section 441, economic and other assistance by the Government of the United States shall continue only if and as mutually agreed by the Governments of the United States and the Republic of the Marshall Islands, and in accordance with the countries' respective constitutional processes.

(b) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement entered into consistent with those subsections, if termination occurs pursuant to section 441 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended.

(c) In view of the special relationship of the United States and the Republic of the Marshall Islands described in subsection (b) of this section, if termination occurs pursuant to section 441 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall be entitled to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 452

(a) Should termination occur pursuant to section 442 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this amended Compact shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Article One and sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Should termination occur pursuant to section 442 before the twentieth anniversary of the effective date of this Compact, as amended:

(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, economic and other assistance by the United States shall continue only if and as mutually agreed by the Governments of the United States and the Republic of the Marshall Islands.

(2) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(c) In view of the special relationship of the United States and the Republic of the

Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 442 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall continue to be eligible to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 453

(a) Should termination occur pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Upon receipt of notice of termination pursuant to section 443, the Government of the United States and the Government of the Republic of the Marshall Islands shall promptly consult with regard to their future relationship. Except as provided in subsections (c) and (d) of this section, these consultations shall determine the level of economic and other assistance, if any, which the Government of the United States shall provide to the Government of the Republic of the Marshall Islands for the period ending on the twentieth anniversary of the effective date of this Compact, as amended, and for any period thereafter, if mutually agreed.

(c) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended.

(d) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall continue to be eligible to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 454

Notwithstanding any other provision of this Compact, as amended:

(a) The Government of the United States reaffirms its continuing interest in promoting the economic advancement and budgetary self-reliance of the people of the Republic of the Marshall Islands.

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact, as amended, only, and without prejudice to the views of the Government of the United States or the Government of the Republic of the Marshall Islands as to the nature and extent of the jurisdiction of either of them under international law, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the former administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Republic of the Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Compact" means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99–239 (Jan. 14, 1986) and went into effect with respect to the Republic of the Marshall Islands on October 21, 1986.

(e) "Compact, as amended" means the Compact of Free Association Between the United States and the Republic of the Marshall Islands, as amended. The effective date of the Compact, as amended, shall be on a date to be determined by the President of the United States, and agreed to by the Government of the Republic of the Marshall Islands, following formal approval of the Compact, as amended, in accordance with section 411 of this Compact, as amended.

(f) "Government of the Republic of the Marshall Islands" means the Government established and organized by the Constitution of the Republic of the Marshall Islands including all the political subdivisions and entities comprising that Government.

(g) "Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(h) The following terms shall be defined consistent with the 1978 Edition of the Radio Regulations of the International Telecommunications as follows:

(1) "Radiocommunication" means telecommunication by means of radio waves.

(2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radiocommunication service, or the radio astronomy service.

(3) "Broadcasting Service" means a radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission.

(4) "Broadcasting Station" means a station in the broadcasting service.

(5) "Assignment (of a radio frequency or radio frequency channel)" means an authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(6) "Telecommunication" means any transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

(i) "Military Areas and Facilities" means those areas and facilities in the Republic of the Marshall Islands reserved or acquired by the Government of the Republic of the Marshall Islands for use by the Government of the United States, as set forth in the separate agreements referred to in section 321.

(j) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(k) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

(a) The Government of the United States and the Government of the Republic of the Marshall Islands previously have concluded agreements, which shall remain in effect and shall survive in accordance with their terms, as follows:

(1) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(2) Agreement Between the Government of the United States and the Government of the Marshall Islands by Persons Displaced as a Result of the United States Nuclear Testing Program in the Marshall Islands;

(3) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding the Resettlement of Enjebi Island;

(4) Agreement Concluded Pursuant to Section 234 of the Compact; and

(5) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

(b) The Government of the United States and the Government of the Republic of the Marshall Islands shall conclude prior to the date of submission of this Compact to the legislatures of the two countries, the following related agreements which shall come into effect on the effective date of this Compact, as amended, and shall survive in accordance with their terms, as follows:

(1) Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as Amended, which include:

(i) Postal Services and Related Programs;

(ii) Weather Services and Related Programs;

(iii) Civil Aviation Safety Service and Related Programs;

(iv) Civil Aviation Economic Services and Related Programs;

(v) United States Disaster Preparedness and Response Services and Related Programs; and

(vi) Telecommunications Services and Related Programs.

(2) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 (a) of the Compact of Free Association, as Amended;

(3) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands on Labor Recruitment Concluded Pursuant to Section 175 (b) of the Compact of Free Association, as Amended;

(4) Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall Islands;

(5) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Implementing Section 216 and Section 217 of the Compact, as Amended, Regarding a Trust Fund;

(6) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended; and,

(7) Status of Forces Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Concluded Pursuant to Section 323 of the Compact of Free Association, as Amended.

Section 463

(a) Except as set forth in subsection (b) of this section, any reference in this Compact, as amended, to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended.

(b) Any reference in Article IV and VI of Title One, and Sections 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act, the Administrative Procedure Act or the Immigration and Nationality Act constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended, or as it may be amended thereafter on a nondiscriminatory basis according to the constitutional processes of the United States.

Article VII

Concluding Provisions

Section 471

Both the Government of the United States and the Government of the Republic of the Marshall Islands shall take all necessary steps, of a general or particular character, to ensure, no later than the entry into force date of this Compact, as amended, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact, as amended, or, in the case of subsection (d) of section 141, as soon as reasonably possible thereafter.

Section 472

This Compact, as amended, may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Republic of the Marshall Islands.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association, as amended, which shall enter into force upon the exchange of diplomatic notes by which the Government of the United States of America and the Government of the Republic of the Marshall Islands inform each other about the fulfillment of their respective requirements for entry into force.

DONE at Majuro, Republic of the Marshall Islands, in duplicate, this thirtieth (30) day of April, 2003, each text being equally authentic.

Signed (May 14, 2003) For the Government of the United States of America:

Signed (May 14, 2003) For the Government of the Federated States of Micronesia:

Approved , 2003.

SA 2138. Mr. McCAIN (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the joint resolution H.J. Res. 63, to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts."; as follows:

Strike the preamble and insert the following:

Whereas the United States (in accordance with the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the United Nations Charter, and the objectives of the international trusteeship system of the United Nations) fulfilled its obligations to promote the development of the people of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned;

Whereas the United States, the Federated States of Micronesia, and the Republic of the Marshall Islands entered into the Compact of Free Association set forth in title II of Public Law 99-239, January 14, 1986, 99 Stat. 1770, to create and maintain a close and mutually beneficial relationship;

Whereas the United States, in accordance with section 231 of the Compact of Free Association entered into negotiations with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands to provide continued United States assistance and to reaffirm its commitment to this close and beneficial relationship; and

Whereas these negotiations, in accordance with section 431 of the Compact, resulted in the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", which, together with their related agreements, were signed by the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands on May 14, and April 30, 2003, respectively: Now, therefore, be it

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SA 2139. Mr. McCAIN (for Mr. DOMENICI) proposed an amendment to the joint resolution H.J. Res. 63, to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts."; as follows:

Amend the title so as to read: "A joint resolution to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts.".

SA 2140. Mr. ALEXANDER (for himself, Mr. CARPER, Mr. HOLLINGS, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAHAM of Florida, Mr. DORGAN, Mrs. FEINSTEIN, Mr. LAUTENBERG, and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 2136 proposed by Mr. McCAIN (for himself, Mr. ALLEN, Mr. WYDEN, Mr. BURNS, Mr. ENSIGN, Mr. SUNUNU, Mr. WARNER, Mr. SMITH, Mr. LEAHY, Mr. GRASSLEY, Mr. HATCH, Mr. BAUCUS, Mrs. BOXER, Mr. CHAMBLISS, and Mrs. LINCOLN) to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 10 and insert the following:

SEC. 2. 2-YEAR EXTENSION OF MORATORIUM.

(a) IN GENERAL.—Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt) is amended—

(1) by striking "2003—" and inserting "2005:";

(2) by striking paragraph (1) and inserting the following:

"(1) Taxes on Internet access."; and

(3) by striking "multiple" in paragraph (2) and inserting "Multiple".

On page 3, beginning with line 10, strike through line 2 on page 4 and insert the following:

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting "The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.".

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting "The term 'Internet access' does not include telecommunications services, except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.".

(3) 2-YEAR GRANDFATHER FOR STATE AND LOCAL TAX LAWS AFFECTED BY CHANGE IN DEFINITION.—The amendments made by paragraphs (1) and (2) take effect on the date of enactment of this Act but shall not apply until November 2, 2005, with respect to a law imposing a tax that was generally imposed and actually enforced prior to November 6, 2003.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Thursday, November 6, 2003, at 9:30 a.m. on Robert Crandell, Floyd Hall, and Louis Thompson to be members of the Amtrak Reform Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, November 6, 2003 at 10 a.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 6, 2003, at 9:30 a.m. in Dirksen Room 226.

I. Nominations

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; Janice R. Brown to be U.S. Circuit Judge for the District of Columbia Circuit; D. Michael Fisher to be U.S. Circuit Judge for the Third Circuit; James B. Comey to be Deputy Attorney General; Michael J. Garcia to be Assistant Secretary of U.S. Immigration and Customs Enforcement; and Mark R. Filip to be U.S. District Court Judge for the Northern District of Illinois

II. Bills

S. 710, Anti-Atrocity Alien Deportation Act of 2003 [Leahy, Hatch]; H.R. 1086, the Standards Development Organization Advancement Act of 2003 [Sensenbrenner]; S. 1685, Basic Pilot Program Extension and Expansion Act of 2003 [Grassley, Kyl]; S. Con. Res. 77, Expressing the sense of Congress supporting vigorous enforcement of the Federal obscenity laws [Sessions, Hatch]; and H.R. 1437, To improve the United States Code [Sensenbrenner, Conyers].

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, November 6, 2003 at 2:30 p.m. to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Thursday, November 6, 2003, at 2:30 p.m. on Lunar Exploration.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, November 6, 2003, at 2:00 p.m., for a hearing entitled "DOD's Improper Use of First and Business Class Airline Travel."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. SESSIONS. I ask unanimous consent that Marie Rapert, with Senator INHOFE, be allowed the privilege of the floor during the next rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that the request for floor privileges that I made earlier be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I ask unanimous consent that Dr. Prabhat Hajela, a congressional fellow in my office, be granted the privilege of the floor for the duration of the consideration of H.R. 7623.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1832

Mr. MCCAIN. I understand S. 1832, introduced earlier today, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 1832) entitled "Senator Paul Wellstone Mental Equitable Treatment Act of 2003."

Mr. MCCAIN. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The objection is heard.

The bill will be read the second time on the next legislative day.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MCCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 261, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 261) to authorize testimony and document production and legal representation for the State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormick.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in related criminal trespass actions in Arapahoe County Court in the State of Colorado. In these actions, five defendants have been charged with criminally trespassing on the premises of Senator WAYNE ALLARD's Englewood, CO, office on April 24, 2003. Upon its closing that day, the defendants refused repeated requests to leave Senator ALLARD's office, and, as a result, were arrested. Trials on the charge of trespass are scheduled to be held on or about December 8, 2003. The State has subpoenaed a member of the Senator's staff who witnessed the defendants' conduct. The enclosed resolution would authorize that staff member, and any other employees of Senator ALLARD's office from whom evidence may be required, to testify and produce documents in connection with these actions. The enclosed resolution also authorizes representation by Senate Legal Counsel of Senator ALLARD and his staff in these actions.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 261) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 261

Whereas, in the case of State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormick, pending in the Arapahoe County Court, Colorado, testimony and documents have been requested from an employee in the office of Senator Wayne Allard;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate and their employees with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, that employees of Senator Allard's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of Colorado v. Daniel Raphael Egger, Sarah Jane Geraldi, Jennifer Melissa Greenberg, Lisa Gale Kunkel, Bonnie Catherine McCormick, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Allard and his staff in the actions referenced in section one of this resolution.

REAUTHORIZING CERTAIN SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

Mr. McCAIN. I ask unanimous consent the Agriculture Committee be discharged from further consideration of H.R. 3232, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3232) to reauthorize certain school lunch and child nutrition programs for fiscal year 2004.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. I ask unanimous consent the bill be read the third time, passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3232) was read the third time and passed.

EXEMPTING CERTAIN COASTAL BARRIER PROPERTY FROM FINANCIAL ASSISTANCE AND FLOOD INSURANCE LIMITATIONS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 352, S. 1643.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1643) to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Insurance Act of 1968.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL ASSISTANCE; FLOOD INSURANCE.

The limitations on Federal expenditures or financial assistance in [section 6] *section 5* of the Coastal Barrier Resources Act (16 U.S.C. 3504) and the limitations on flood insurance coverage in section 1321(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4028(a)) shall not apply to lots 15, 16, 25, and 29 within the Jeremy Cay Subdivision on Edisto Island, South Carolina, depicted on the [map] *reference map* entitled "John H. Chafee Coastal Barrier Resources System Edisto Complex M09/M09P" dated January 24, 2003.

Mr. McCAIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 1643), as amended, was read the third time and passed, as follows:

S. 1643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINANCIAL ASSISTANCE; FLOOD INSURANCE.

The limitations on Federal expenditures or financial assistance in section 5 of the Coastal Barrier Resources Act (16 U.S.C. 3504) and the limitations on flood insurance coverage in section 1321(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4028(a)) shall not apply to lots 15, 16, 25, and 29 within the Jeremy Cay Subdivision on Edisto Island, South Carolina, depicted on the reference map entitled "John H. Chafee Coastal Barrier Resources System Edisto Complex M09/M09P" dated January 24, 2003.

CORRECTION OF ERROR ON THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 351, S. 1066.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1066) to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System.

There being no objection, the Senate proceeded to consider the bill, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. EXCLUSION OF CERTAIN LAND FROM THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM.

[(a) IN GENERAL.—The John H. Chafee Coastal Barrier Resources System shall not include any land in Matagorda Dunes subdivision or Bahia de Matagorda subdivision, located in Matagorda County, Texas.

[(b) MAPS.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior shall modify the maps referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)) to reflect the exclusion of land under subsection (a).]

SECTION 1. REPLACEMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP.

(a) IN GENERAL.—The map described in subsection (b) is replaced by the map entitled "John H. Chafee Coastal Barrier Resources System Matagorda Peninsula Unit T07/T07P" and dated July 12, 2002.

(b) DESCRIPTION OF REPLACED MAP.—The map referred to in subsection (a) is the map relating to the John H. Chafee Coastal Barrier System unit designated as Coastal Barrier Resources System Matagorda Peninsula Unit T07/T07P that is subtitled "T07/T07P" and included in the set of maps entitled "Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)).

(c) AVAILABILITY.—The Secretary of the Interior shall keep the replacement map referred to in subsection (a) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

Mr. McCAIN. Mr. President, I ask unanimous consent that the committee substitute amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1066), as amended, was read the third time and passed.

REPLACING CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 354, S. 1663.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1663) to replace certain Coastal Barrier Resources System maps.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to consider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1663) was read the third time and passed, as follows:

S. 1663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPLACEMENT OF CERTAIN COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 2 maps subtitled "NC–07P", relating to the Coastal Barrier Resources System unit designated as Coastal Barrier Resources System Cape Fear Unit NC–07P, that are included in the set of maps entitled "Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), are hereby replaced by 2 other maps relating to those units entitled "Coastal Barrier Resources System Cape Fear Unit, NC–07P" and dated February 18, 2003.

(b) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

CONGRATULATING SHIRIN EBADI FOR WINNING THE 2003 NOBEL PEACE PRIZE

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 244, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 244) congratulating Shirin Ebadi for winning the 2003 Nobel Peace Prize and commending her for her lifetime of work to promote democracy and human rights.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motions to reconsider be laid upon the table en bloc, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 244) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 244

Whereas Shirin Ebadi is the winner of the 2003 Nobel Peace Prize;

Whereas Shirin Ebadi has fought to support basic human rights in Iran through her work as a lawyer, judge, lecturer, writer, and activist;

Whereas Shirin Ebadi believes that conflict should be resolved peacefully through dialogue and mutual understanding;

Whereas Shirin Ebadi supports democracy and democratic elections and has defended those who have been attacked for exercising their freedom of speech;

Whereas Shirin Ebadi argues for an interpretation of Islamic law that is in harmony with democracy and vital human rights such as equality before the law, freedom of religion, and freedom of speech;

Whereas Shirin Ebadi has been a leader in promoting the human rights of women and girls; and

Whereas Shirin Ebadi has been arrested numerous times for her courageous defense of basic human rights and democratic ideals, sacrificing her own freedom for the freedom of others: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Shirin Ebadi for winning the 2003 Nobel Peace Prize; and

(2) commends Shirin Ebadi for her lifetime of work to promote democracy and human rights.

COMPACT OF FREE ASSOCIATION AMENDMENTS ACT OF 2003

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 350, H.J. Res. 63.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 63) to approve the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia," and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands," and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, I rise today to support passage of H.J. Res. 63, legislation to approve and extend the Compacts of Free Association between the United States and the Federated States of Micronesia, FSM, and the United States and the Republic of the Marshall Islands, RMI. As chairman of the Senate Committee on Energy and Natural Resources with jurisdiction over these islands, I am pleased that we are ready to pass this legislative package. We have made great progress in a short amount of time. The administration did not transmit the joint resolution to the Senate until July 14, 2003, and the original Compact expired on September 30. Since that time, we have been on an extension. However, in just over 3 months, Congress has completed its work and is now poised to enact the agreements that will govern our mutually beneficial relationship for the next 20 years.

The legislation now before the Senate encompasses a broad array of important policy issues, including funding, education, labor, disaster assistance, and immigration matters. Consequently, a number of committees have assisted the Energy and Natural Resources Committee in reaching this bipartisan agreement. For helping us resolve these numerous issues, I would like to thank Budget Committee Chairman NICKLES and Ranking Member Senator CONRAD; Health, Education, Labor and Pensions Committee Chairman GREGG and Ranking Member Senator KENNEDY; Labor, Health and Human Services and Education Appropriations Subcommittee Chairman SPECTER and Ranking Member Senator HARKIN; and Environment and Public Works Committee Chairman INHOFE and Ranking member Senator JEFFORDS. Thanks also to the staff from these committees for their assistance.

I must of course express my appreciation to the members of the Senate Energy and Natural Resources Committee. In particular, I would like to commend the leadership, provided by Senator BINGAMAN, the ranking member of the committee and Senator CRAIG, chair of the Public Lands and Forests Subcommittee. A special thanks to Senator AKAKA, a great friend and voice for the islands. The committee is grateful for his assistance in this effort. Finally, I would like to thank Kellie Donnelly and Allen Stayman of the committee staff for their hard work and dedication throughout this process.

Enactment of the amended Compacts will continue a remarkable relationship first forged after World War II. It is important to remember that these islands were occupied by Japan and experienced some of the bloodiest fighting during World War II. After the war, the islands were placed under the United Nations' trusteeship system. The United States served as U.N. trustee and in that capacity, aided the islands' transition into self-governing nations, freely associated with the United States. With the ratification of the original Compact of Free Association in 1986, a unique relationship with these islands was formed.

The Compact of Free Association has guided our Nation's relationship with the FSM and RMI for the past 17 years. Most would agree that the original Compact has been a success. Indeed, the Compact has achieved its goals of, 1, establishing full self-governance for the islands and ending the U.N. trusteeship; and 2, securing our mutual defense interests. One final goal remains, to assist Micronesia and the Marshall Islands in their efforts to advance economic self-sufficiency. The amended Compacts aim to achieve this goal.

The amended Compacts also seek to improve upon the original. After nearly 20 years of free association, the United States has learned a great deal and has identified areas in need of improvement. The legislation now before us continues U.S. economic assistance and each nation, including the United States, has increased oversight and accountability responsibilities via the Joint Economic Management Committees that have been established.

In order to realize the goal of economic self-reliance for the islands, the amended Compacts establish and capitalize trust funds for the FSM and RMI, respectively. Properly managed, the trust funds will provide an ongoing source of revenue when annual payments by the United States end in 2023.

H.J. Res. 63 further provides annual funding to address the migration impacts to neighboring Hawaii, Guam, the Northern Mariana Islands, and American Samoa. In the wake of September 11, the Compacts' immigration provisions have been strengthened. In addition, funding is provided for food importation programs and judicial training.

Importantly, the amended Compacts maintain our Nation's defense rights in the western Pacific. It should be noted that the FSM and RMI have proven to be two of our country's most steadfast allies in this region of the world. The United States has a "strategic denial right," that is, the right to deny access to the islands by the military forces of other nations. In addition, the United States has a "defense veto" that allows our Government to veto local actions that are determined to be incompatible with our defense responsibilities. The amended Compacts also seek to continue access to the U.S. military facilities at Kwajalein for the next 50 to 70 years.

The major policy issues of education and disaster assistance that are addressed in the amended Compacts have a very real impact on the daily lives of Micronesian and Marshallese citizens. Federal education programs have been available to the FSM and the RMI under the current Compact since 1986 and the administration testified that it assumed their continuation when it renegotiated the Compact. The Compact's goal of moving the islands to economic self-sufficiency will fail without these programs or funds to replace them.

In response to concerns expressed by the House and Senate Education Committees, we have reached agreement on an alternative approach to the education issue. The amended Compacts maintain the vital education programs of Pell Grants and the Individuals with Disabilities and Education Act. The remaining Federal formula grant education programs are terminated. In their place, a straight authorization is provided, $12,230,000 for the FSM and $6,100,000 for the RMI. This authorization creates a new discretionary grant program for the islands. The intent is to shift funding for these island's programs from their formula allocation of the national appropriation for these programs, to a separate appropriation of equal value.

In both chambers, the Labor, HHS, and Education Appropriations Subcommittees, which have funded the education programs for the islands for the past 17 years, have agreed to assist in funding this new approach. Once appropriated, the education funding would be disbursed and monitored in accordance with the Compact's fiscal procedures agreements with the FSM and RMI, respectively.

Islands are prone to natural disasters such as typhoons and, surprisingly, droughts. Disaster assistance, then, is of the utmost importance. In approving the original Compact, Congress ensured FEMA assistance for both the FSM and RMI. Clearly, some form of disaster assistance is necessary for infrastructure repair, to promote the goal of economic self-sufficiency, and to protect our investments.

As transmitted by the administration, the amended Compacts replaced FEMA with the U.S. AID's office of Foreign Disaster Assistance, OFDA. Because of the Energy Committee's concerns with OFDA's lack of reconstruction capability, the committee reinstated FEMA's services for the FSM and RMI. Only last week, the administration submitted an alternative proposal for disaster assistance that includes both FEMA and OFDA participation. While the proposal may be workable, it would be premature to adopt it at this time. The legislation now before the Senate maintains FEMA's services for a period of 5 years. During this time, the administration will negotiate disaster assistance that provisions with the Governments of the FSM and RMI. It is the Committee's expectation that an agreement will be concluded expeditiously and if progress is not made in a timely fashion, the committee may conduct an oversight hearing on the matter. At the end of 5 years though, if a conclusion is not reached and enacted during that time period, the administration's hybrid proposal will be triggered.

I am pleased that the amended Compacts will soon be signed by the President, and I thank my colleagues for their support of this significant legislative package.

Mr. BINGAMAN. Mr. President, I am pleased to support passage of the Compact of Free Association Amendments Act of 2003, legislation that will extend and strengthen our Nation's special relationship with two young Pacific Island nations, the Federated States of Micronesia, FSM, and the Republic of the Marshall Islands, RMI.

The special ties between these islands and the United States have a long history, from the 19th Century New England whaling industry, through the terrible years of World War II, to the period of United States administration under the United Nations Trusteeship system. From 1947 to 1986, the U.S. governed these islands on behalf of the U.N. and was responsible for promoting the political, economic, and social development of the inhabitants. In 1986, the U.S. fulfilled its obligations to the U.N. with implementation of the Compact of Free Association, approved by Public Law 99-239. The Compact formally ended U.S. administration and allowed the FSM and RMI to achieve self-government and international recognition. The Compact also allowed the U.S. to continue the special security relationship forged during the Trusteeship. Now 17 years later, the Compact continues to provide for mutual defense and for political and economic stability in a region of significant interest to the U.S.

Prompt enactment of H.J. Res. 63 is needed to update and extend provisions of the Compact, particularly those economic assistance provisions which expired on September 30, 2003, but which have been temporarily extended.

I would like to remind my colleagues of the scope and importance of his security relationship because it provides one of the compelling reasons to support this resolution. Our mutual security includes the obligation of the U.S. to defend these nations as if they are a part of the U.S., and it is based on a simple geographic reality—the FSM and RMI lie between the state of Hawaii, and our Territories of Guam and the Commonwealth of the Northern Mariana Islands in the western Pacific. During World War II, the islands of the FSM and RMI served as hard-fought stepping-stones in the Allied defeat of Imperial Japan. To help assure that such a struggle will never need to be repeated, the Compact grants the U.S. the right to deny access to the islands by the military forces of other nations, as well as the right to veto local actions that the U.S. determines are incompatible with its defense responsibilities. The Compact also provides that the FSM and RMI will sympathetically consider U.S. requests for military basing rights. In the past, U.S. nuclear weapons tests in the Marshall Islands played a central role in the development of our Nation's nuclear deterrent. Today, the missile test range at Kwajalein continues to play a vital role in maintaining the nation's ballistic missile capability and in developing missile defense systems. Enactment of this legislation could secure U.S. access to the missile test and space surveillance facilities at Kwajalein beyond 2016.

A second major element in the special relationship established by the Compact is the mutual interest in promoting economic development. This goal has been approached by providing a combination of financial and program assistance. Significant economic development occurred from 1986 to 2003, but the remote and resource-poor island economies continue to be based on the government-sector, and they are heavily dependent on U.S. assistance. Development has also been hindered by the Compact's weak accountability mechanisms and by the island governments' poor planning and management capabilities.

A third element in this special relationship is the Compact's provision granting FSM and RMI citizens the opportunity to live, work, and study in the U.S. as resident aliens. This privilege provides an outlet for the islands' population growth, but it has also resulted in significant migration to Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands, CNMI. Due to relatively poor health and education conditions in the FSM and RMI, these migrants pose a disproportionately high impact on social services in the jurisdictions to which they migrate.

Finally, the Compact included a full and final settlement of all claims resulting from the U.S. nuclear weapons testing program that was conducted in the RMI from 1947 to 1958 and which significantly contaminated the islands of four atolls.

I commend the representatives of Micronesia, the Marshall Islands, and the United States for their work over the past 4 years to extend and strengthen the Compact. The two new Compact agreements they concluded are nested within this joint resolution and will provide the assistance needed to assure continued economic development and mutual security in partnership with the United States. The administration transmitted the legislation on June 27, it was introduced as S.J. Res. 16 on July 14, 2003, and ordered reported by the committee, with amendments, on September 17. It would provide about $4 billion in funding over the 20-year period from fiscal year 2004 to 2023 for grants, contributions to trust funds, payments to extend the lease at Kwajalein, the cost of certain domestic services and programs, and $30 million annually to be allocated among Hawaii, Guam, the Northern Mariana Islands, and American Samoa to mitigate the impact of migration from the FSM and RMI. The package would also continue program assistance to the FSM and RMI through a range of domestic programs

To improve the effectiveness of U.S. assistance in the future, the amended Compacts have enhanced accountability mechanisms. For example, instead of providing financial assistance in the form of direct cash payments, funds will be disbursed through sector grants targeted to priority areas such as health and education. A new "Fiscal Procedures Agreement," will establish new planning and reporting requirements, including the establishment of a joint economic management committee with each nation. These committees will have a U.S. majority membership, and the power to impose grant conditions and withhold funds. Finally, the Compacts anticipate the end of annual U.S. financial assistance after 2023 and provide fro contributions to two trust funds that will become an alternate source of funding after that year.

The U.S. currently has access to military sites at Kwajalein Atoll until 2016, but this legislation provides an opportunity to extend U.S. access until 2086. The new arrangement regarding Kwajalein was negotiated with the Marshall Islands national government which has not yet reached agreement with all of the landowners involved. Accordingly, a new land use agreement will need to be concluded between the landowners and the Government of the RMI in order to give effect to the new access agreement. Until that time, this legislation requires that the increased payments be held in an interest-bearing escrow account.

Two issues that were not resolved during the Energy and Natural Resources Committee's consideration of this resolution are education and disaster assistance. As pointed out earlier, U.S. assistance under the Compact is provided through a combination of financial assistance and program assistance. In the case of education, U.S. domestic programs account for roughly 40 percent of education funding, with local and U.S. financial contributions making-up the balance. These U.S. programs were first made available to the FSM and the RMI as an initiative of President Kennedy during the Trusteeship period and were continued under the Compact as negotiated and approved under President Reagan. The administration testified on this resolution in July before the Energy Committee that continuation of these programs was assumed when it renegotiated the Compact. Unfortunately, as the legislation moved forward, the House and Senate HELP Committees opposed continuation.

It was clear during the committee's consideration that the Compact's goal of promoting economic self-sufficiency would fail without maintaining current levels of support for education. This could be done by either continuing these programs, as assumed by the administration, or by providing an alternative source of funding.

The Energy Committee recommended continuation of critical programs and the "cash-out" of the remainder. Three domestic education programs that would be very hard, if not impossible, for the island governments to duplicate would continue: Pell Grants, programs under the Individuals with Disabilities Education Act, IDEA, and Job Corps. Pell grants to students attending the two community colleges in the FSM and RMI rate vital to the survival of these two institutions and there is consensus to support their continuation. IDEA serves a special population in the islands that, without the extension of the U.S. program, is unlikely to be adequately served. Finally, an exception is made for Job Corps because of the role it plays in preparing young people to enter the workforce. This is particularly true at Kwajalein Atoll where the U.S. Army vigorously supports the continuation of Job Corps because it helps maximize local employment at the U.S. Army base there.

For the remaining Federal formula-grant programs administered by the Departments of Education and Labor, and for the Head Start Program, the committee recommended termination of the islands' eligibility and providing the islands with mandatory funding to replace, or "cash-out", the actual programs. However, the compromise agreed to with the House would provide an authorization for a discretionary, not mandatory "cash-out" of the programs to be terminated. The replacement funding under this proposal would continue to be provided by the appropriations subcommittee for Labor, HHS, and Education; but instead of being allocated from the appropriation for each of the national programs, there would be a new, separate appropriation of equal value to supplement the education sector grants provided by the Secretary of the Interior under section 211(a) of the two Compacts.

The initial authorization levels for these two new discretionary grants are based on estimates obtained from the Congressional Research Service and the Department of the Interior's Federal Program Coordinator, $12,230,000 for the FSM, and $6,100,000 for the RMI, and the authorization includes an inflation adjustment. Once appropriated, this supplemental funding would be used in accordance with an agreement between the appropriate cabinet officer and the Secretary of the Interior, and would be disbursed and monitored in accordance with the Compact's Fiscal Procedures Agreements with the FSM and RMI, respectively.

I support this compromise reluctantly because I am uneasy with discretionary funding for such a critical element of the Compacts. Nevertheless, it appears to be the best that can be worked out under the circumstances and I look forward to working with my colleagues next year to make sure that the funding is shifted smoothly from the allocation for each of these national programs to a new FSM-RMI supplemental appropriation of the same amount. I thank Senator GREGG and Senator KENNEDY for their cooperation in resolving these difficult education issues, and Stephanie Monroe and Jane Oates of the HELP staff for their time and effort in working out this compromise. I particularly want to thank Senator AKAKA for his hard work and commitment to this legislation, and to recognize Noe Kalipi and Melissa Hampe of his staff for their contributions.

A second item that was not resolved during the Energy Committee's deliberations was disaster assistance. The administration proposed that the current eligibility of the islands to participate in the disaster assistance programs of FEMA be terminated and replaced with eligibility for assistance from the Office of Foreign Disaster Assistance, OFDA. This approach was clearly flawed because OFDA is not required to rebuild essential infrastructure following disasters.

In response to this need, the administration transmitted a new proposal last week that would provide for assistance from both OFDA and FEMA. However, the details for implementing this new joint-program approach were not set forth in a subsidiary agreement, as has been done with other programs to be extended to the islands. Accordingly, a compromise has been developed that would continue FEMA assistance, as recommended by the Energy Committee, while the administration undertakes negotiations with the islands and FEMA on the new approach in which all parties seek to conclude subsidiary agreements that would clarify implementation of the new approach. To help assure that all parties will negotiate in good faith, the compromise further provides that the statutory language for the new approach, as submitted by the administration, would go into effect 5 years after the date of enactment of this joint resolution. It is my expectation that subsidiary agreements and any negotiated changes to the statutory language would be agreed to between the island governments and representatives of FEMA, OFDA, the State Department and the Interior Department long before that deadline. I thank Senators INHOFE and JEFFORDS for their help in resolving this matter and I look forward to working with them next year to assuring that the islands have the disaster assistance that is essential to the success of their economies, and to the success of the Compacts.

I believe that we have taken two excellent agreements, as negotiated between the U.S. and the FSM, and between the U.S. and the RMI, and we have improved them so that they will serve as a solid foundation for future relations. I want to thank the chairman of the committee, Senator DOMENICI, for his leadership on this legislation and for his commitment to continuing the bipartisan approach that has characterized the committee's work on insular affairs. Finally, I wish to recognize the work of Al Stayman and Kellie Donnelly of the Energy Committee staff for their dedication and hard work in guiding this legislation through the process.

In 1986, the United States fulfilled its obligations under the Trusteeship and established a successful partnership under the Compact of Free Association to advance the interests of the United States, the FSM, and RMI in mutual security, and to economic development. Today, I urge my colleagues to support passage of H.J. Res. 63 and to affirm our Nation's commitment to mutual security, economic development and to the continuing special relationship with the islands, and the people, of the Federated States of Micronesia and the Republic of the Marshall Islands.

Mr. DOMENICI. Mr. President, I would like to take this opportunity to engage in a colloquy with Senator SPECTER, Senator BINGAMAN, and Senator HARKIN regarding the education provisions of H.J. Res. 63, to approve and extend the Compacts of Free Association between the U.S. and the Federated States of Micronesia, FSM, and the U.S. and the Republic of the Marshall Islands, RMI.

Mr. BINGAMAN. Of course.

Mr. DOMENICI. U.S. assistance under the current compact is made available as both financial and program assistance. In the case of education, several U.S. domestic programs have been extended to the FSM and RMI since the compact was first approved in 1986. In July, the administration testified on this legislation and stated that "funding in the compact was not structured to replace expiring Federal programs, or take the place of any program that is eliminated now, or could be eliminated in the future." In other words, continuation of the current program assistance was assumed. However, the House and Senate HELP committees have raised objections to this approach. Because these programs account for about 40 percent of the FSM and RMI education budgets, the success of the compacts depends upon either continuing the extension of these programs, or providing an alternate source of funding.

The Domenici-Bingaman amendment in the nature of a substitute to H.J. Res. 63 includes language modeled on that passed in the House, that would create an authorization for alternate funding. The amendment would continue eligibility for certain essential programs, but eligibility would be ended for the remaining Department of Education and Department of Labor formula-grant programs, and for the Head Start program. In their place, an authorization is provided to fund two discretionary supplemental education grants: $12,230,000 for the FSM, and $6,100,000 for the RMI. Once appropriated, these supplemental education grants would be disbursed, used, and monitored in accordance with an agreement between the Secretary of Education and the Secretary of the Interior, and in accordance with the compact's fiscal procedures agreements with the FSM and RMI, respectively. This approach resolves the disagreement with the HELP committees while best assuring that the FSM and RMI will continue to have the resources needed to meet their education needs.

Mr. BINGAMAN. I agree. These grants, if funded, would continue the level of assistance which the administration and the island representatives assumed would be available to meet the education goals which they jointly established in the new compacts.

Mr. DOMENICI. I would like to ask the chairman and ranking member of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, whether they support this approach and whether they will fund these alternate grants?

Mr. SPECTER. Yes. I support this approach proposed by my colleagues from the Energy Committee and assure them that, given a sufficient allocation, I will support funding for education in the FSM and RMI through the new supplemental education grants authorized in their amendment to H.J. Res. 63.

Mr. HARKIN. I concur in this approach and also assure my colleagues of my support for continued funding for education in the FSM and RMI under this new authorization.

Mr. DOMENICI. I thank my colleagues for their support.

Mr. DOMENICI. Mr. President, I would like to take this opportunity to engage in a colloquy with Senator INHOFE, Senator BINGAMAN, and Senator JEFFORDS regarding the disaster assistance provisions of H.J. Res. 63 to approve and extend the Compacts of Free Association between the U.S. and the Federated States of Micronesia, FSM, and the U.S. and the Republic of the Marshall Islands, RMI.

Mr. BINGAMAN. Certainly.

Mr. DOMENICI. Under the current compact, the disaster assistance programs of the Federal Emergency Management Agency, FEMA, have been available to the FSM and RMI since 1986. Located in the western Pacific, the RMI and FSM are vulnerable to typhoons and experience periodic droughts in connection with the El Niño weather pattern. This vulnerability to disasters presents risks to public health and safety, jeopardizes the substantial investment made by the U.S. in the island's infrastructure, and it threatens achievements of the common goal of all three nations—promoting economic growth. Consequently, FEMA's presence in the islands has been shown to be an essential component of the assistance provided under the compact.

Mr. BINGAMAN. Would my colleague yield for a brief point?

Mr. DOMENICI. Yes.

Mr. BINGAMAN. As transmitted by the administration, the joint resolution approving the amended compacts would have eliminated FEMA and replaced it with the U.S. AID's Office of Foreign Disaster Assistance, OFDA. However, during consideration of this joint resolution by the Senate Committee on Energy and Natural Resources, the Committee recommended reinstatement of FEMA's availability.

Mr. DOMENICI. That is correct. In the final days before approval of the compacts, FEMA has transmitted a revised proposal regarding disaster assistance that would involve both FEMA and OFDA. This new proposal, coming at such a late stage in the process, has not been shared with the FSM and RMI. Indeed, it is my understanding that there are a number of questions about how the new proposal would work. Nevertheless, the concept appears sound and staff from the committee have worked with our colleagues on the Environment and Public Works Committee to craft a compromise.

Mr. INHOFE. That is correct. Our staffs have been working for the past few months on this issue. The compromise we have reached would continue the FEMA program in the islands for the next 5 years, as recommended by the Energy Committee. In addition, the Secretary of State would be directed to immediately undertake negotiations, in consultation with FEMA, with the governments of the FSM and RMI regarding disaster assistance. Finally, if an agreement is not concluded and legislation is not enacted which reflects the new agreement within 5 years, then the administration's revised disaster assistance proposal would go into effect.

Mr. JEFFORDS. That is correct. The compromise also directs the administration to report to Congress by June 30, 2004, on the outcome of such negotiations.

Mr. BINGAMAN. Yes. We hope and expect that an agreement will be concluded and transmitted by next June 30 and do not believe it should take the full 5 years.

Mr. DOMENICI. That is right. The Committees expect that FEMA, the administration, and the island governments will engage in such negotiations expeditiously and in good faith. Depending on the progress made by June 30, 2004, the Energy and Natural Resources Committee may hold an oversight hearing on the matter.

Mr. INHOFE. I agree with this approach.

Mr. JEFFORDS. As do I.

Mr. DOMENICI. I thank my colleagues for their support and for their cooperation in reaching this agreement.

Mr. McCAIN. Mr. President, I ask unanimous consent that the substitute amendment which is at the desk be agreed to, the joint resolution, as amended, be read the third time and passed, the amendment to the preamble which is at the desk be agreed to, the preamble, as amended, be agreed to, the amendment to the title which is at the desk be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2137) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The amendment (No. 2138) was agreed to, as follows:

AMENDMENT NO. 2138

Strike the preamble and insert the following:

Whereas the United States (in accordance with the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the United Nations Charter, and the objectives of the international trusteeship system of the United Nations) fulfilled its obligations to promote the development of the people of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned;

Whereas the United States, the Federated States of Micronesia, and the Republic of the Marshall Islands entered into the Compact of Free Association set forth in title II of Public Law 99-239, January 14, 1986, 99 Stat. 1770, to create and maintain a close and mutually beneficial relationship;

Whereas the United States, in accordance with section 231 of the Compact of Free Association entered into negotiations with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands to provide continued United States assistance and to reaffirm its commitment to this close and beneficial relationship; and

Whereas these negotiations, in accordance with section 431 of the Compact, resulted in the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", which, together with their related agreements, were signed by the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands on May 14, and April 30, 2003, respectively: Now, therefore, be it

The amendment (No. 2139) was agreed to, as follows:

AMENDMENT NO. 2139

Amend the title so as to read: "A joint resolution to approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts.".

The resolution (H.J. Res. 63), as amended, was read for the third time and passed.

The preamble, as amended, was agreed to.

The title, as amended, was agreed to.

ORDERS FOR FRIDAY, NOVEMBER 7, 2003

Mr. McCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, November 7; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of S. 150, the Internet tax moratorium bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCAIN. For the information of all Senators, tomorrow the Senate will resume debate on S. 150, the Internet tax moratorium bill. It is anticipated that the first amendment to the bill will be offered early tomorrow morning. It is the intention of the managers to work through as many amendments as possible tomorrow. Therefore, Senators should make themselves available for rollcall votes throughout the morning and into the afternoon.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCAIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:58 p.m., adjourned until Friday, November 7, 2003, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 6, 2003:

DEPARTMENT OF DEFENSE

FRANCIS J. HARVEY, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE JOHN P. STENBIT.

THE JUDICIARY

LAWRENCE F. STENGEL, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE RONALD L. BUCKWALTER, RETIRING.

EXTENSIONS OF REMARKS

CONGRATULATING CINCINNATI LEGEND, JOE NUXHALL

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. BOEHNER. Mr. Speaker, I rise today to congratulate and thank a great resident of the Buckeye State, Joe Nuxhall.

To fans of the Cincinnati Reds baseball franchise, Joe Nuxhall is—quite simply—an icon. To his family, he is a terrific husband, father, and grandfather. And to his neighbors in the Cincinnati area, Joe is a true community leader.

Born, raised, and still residing in southwest Ohio, Joe is nothing short of a Cincinnati sports legend. As a lifelong Reds fan myself, I place Joe's name among those of other all-time Cincinnati baseball greats like Pete Rose, Johnny Bench, Tony Perez, and Frank Robinson. From the moment Joe stepped onto the pitcher's mound at the history-making age of 15 to his current work beside Marty Brennaman in the Reds' radio booth, "The Old Left Hander" is as synonymous with Reds baseball as anyone in the organization's long and storied history. And this summer at the Reds' new Great American Ballpark, the team erected an impressive statue of Joe to prove it.

Next week, the community foundation in Joe's hometown of Fairfield, Ohio will honor him at a reception being billed as "All-American Evening Honoring an All-American." Certainly, those attending the event will celebrate with Joe his unique accomplishments on the baseball diamond. But just as importantly, donations will be collected at the event to benefit the Joe Nuxhall Character Education Fund, an organization that highlights Joe's role as a leader off the baseball diamond as well.

Mr. Speaker, for more than five decades, Joe has served and represented Cincinnati as well as anyone in the community possibly can. The only fitting way to end my remarks is to applaud his continued service to the Reds and to Cincinnati—and to borrow his trademark phrase of "rounding third and heading for home."

I congratulate Joe and wish him and his family a wonderful evening next Tuesday in Fairfield.

TRIBUTE TO VIKING POOLS OF JANE LEW, WEST VIRGINIA

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. CAPITO. Mr. Speaker, I rise today in honor of Viking Pools of Jane Lew, awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Viking Pools has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Viking Pools has in turn brought benefits to the State that will be felt far beyond the business itself. I applaud Viking Pools for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Viking Pools, and I offer them as an example to small and medium sized enterprises everywhere.

TRIBUTE TO FLORENCE FOXWORTH

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. CLYBURN. Mr. Speaker, today I rise to pay tribute to Florence G. Foxworth of Marion, South Carolina, for her contributions to our State as a public school teacher for more than five decades, her numerous civic and community activities and her particular dedication to fulfilling special education needs of challenged public school students.

Ms. Foxworth has been teaching in public schools since 1951 and has earned the Teacher of the Year Award at Mullins High School. Earlier this year she was named Marion County NAACP's Woman of the Year, and was named second runner up for the South Carolina NAACP's Woman of the Year Award. She is also a Golden Apple Award recipient for her work with special needs children.

In addition to inspiring thousands of students of all races, backgrounds, and beliefs to exceed and enhance the quality of life for all in our society, Ms. Foxworth also recognizes that children with special needs not only accords us some of our greatest educational challenges, but also some of our most rewarding experiences. As a former public school teacher, I appreciate her perseverance in insuring that every student leaves the classroom at the end of the day with a positive self-image, a commitment to always putting forth the best effort possible and a broader level of intelligence.

Ms. Foxworth's commitment to serving others extends well beyond the classroom. She volunteers with the ALS Association, serves on the Board of Disabilities and Special Needs, and reads for nursing home patients. Her political contributions include volunteering as a voter registration volunteer for Marion County and as a member of the South Carolina Democratic Women's Council, National Council of Negro Women and the Palmetto Black Caucus. She also generously volunteered for my 1992 campaign for the seat I now hold in this august body, U.S. House of Representatives, and I am grateful to her for the time and effort she expended.

Ms. Foxworth earned a degree in Elementary Education from Benedict College in Columbia, South Carolina, and subsequently earned a Master's degree in Special Education from North Central University in Durham, North Carolina. She is a member of the NAACP and is actively involved in her church's activities.

Mr. Speaker, I ask you and my colleagues to join me today in honoring Ms. Florence G. Foxworth for her many years of service to South Carolina. She is an invaluable asset to Mullins High School and one of the finest mentors our State has to offer. I am proud of her many achievements and look forward to her many future ventures. I wish her good luck and Godspeed.

RECOGNITION OF NATIONAL ASSOCIATION OF BROADCASTERS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. SHIMKUS. Mr. Speaker, I rise today to commend an initiative recently launched by the National Association of Broadcasters and its local radio and television station members.

With over 140,000 military personnel stationed in Afghanistan, Iraq and around the world, the resources to take care of our troops and their families is strained. As a former soldier, I have seen firsthand how difficult it can be for military families coping financially—and emotionally—with extended deployment.

Of course, the military is dedicated to taking care of its own. But, as the war on terror continues and needs escalate, the military cannot do it alone.

To respond to this growing need, the four Military Aid Societies representing the Army, Navy, Marine Corps, and Air Force have joined together to create a single umbrella organization: the Armed Forces Relief Trust.

In support of this new relief organization, local commercial radio and television stations are airing radio and television Public Service Announcements, asking viewers and listeners to contribute to the Trust.

The over-the-air broadcast medium continues to be the most effective way to rapidly

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

disseminate information to the public. Last year, the four military emergency assistance programs disbursed more than $109 million in interest-free loans and grants to more than 145,000 individuals and families in need.

With the help of America's local radio and television stations, I am convinced that the Trust will be able to assist even more military families.

Local broadcast stations have a long history of being a part of America's security. Homeland Security Secretary Tom Ridge recently encouraged Americans to keep around battery-powered radios and televisions as preparation for a terrorist attack.

Broadcasters' support of the Armed Forces Relief Trust is yet another example of local radio and television stations doing their patriotic duty. Mr. Speaker, the men and women of our Armed Forces rely upon the Armed Forces Relief Trust . . . and the A-F-R-T is relying upon local broadcasters to get the message out. I commend the local radio and television stations that have partnered on this important program and thank them for their work.

TRIBUTE TO HK CASTING OF WESTON, WEST VIRGINIA

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of HK Casting of Weston, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, HK Casting has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, HK Casting has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud HK Casting for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of HK Casting, and I offer them as an example to small and medium sized enterprises everywhere.

TRIBUTE TO FRANK M. HART

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Frank M. Hart for his longtime commitment and outstanding service to the educational advancement of South Carolinians both as a teacher and community leader.

Mr. Hart began his career teaching in the Landrum and Woodruff public schools. He later served as a principal of Chapman, Rivers and Pickens high schools. He went on to serve as Director of Instruction for Charleston School District 20, where he coordinated the Title I and Title II programs. That is where I first met Mr. Hart when I was a History Teacher in the Charleston County Public Schools. We developed a friendship which continues today.

His tenure in Charleston was followed by service as Assistant Superintendent for Instruction for the Pickens County Schools. In 1970 he was named Superintendent of Marion School District One where he served until 1988 when he retired. It was during this time that Mr. Hart reentered my public life when he invited me in 1971 to address his Rotary Club's weekly lunch. At that time this simple act was groundbreaking.

Mr. Hart's work as a consultant to the State as a member of advisory committees on curriculum, educational television and secondary schools has been integral to promoting innovative new approaches to teaching. He served on an evaluating committee for the Southern Association of Schools and Colleges and on an executive committee of the South Carolina Superintendents Association. He is also the past president of the Atlantic AA Conference of the High School League.

But Mr. Hart's instructions reach far beyond being a role model for public school students. They are just as evident in his personal life. He has performed extensive stewardship duties, including teaching adult Sunday school classes at his church, First United Methodist Church of Marion, South Carolina. He remains an active member of his Rotary Club and is a past president of the Marion Chamber of Commerce.

Mr. Hart earned both a Bachelor's and a Master's degree from Clemson University. He has also studied in post-master's work at both the University of South Carolina and Columbia University. In addition, he served in the United States Naval Reserve from 1944 to 1946. He and his late wife, the former Betty Stevens of Cross Keys, South Carolina, are the parents of three daughters and two sons.

Mr. Speaker, I ask you and my colleagues to join me today in honoring a long time friend and mentor, Frank M. Hart for his contributions to South Carolina and especially Marion County. His career in education has been profound, and his personal life has paralleled the kind of work he dedicated himself to in the classroom. I am personally grateful to him and wish him Godspeed and the best of luck in the future.

RECOGNITION OF PRINCESS FRANCIS HOPPER

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. SHIMKUS. Mr. Speaker, knowing that November is native American Indian Month I rise today to recognize my constituent, Princess Frances Hopper, of Fairfield, Illinois, for her continuous work in fighting for the rights and recognition of Native American Indians.

Recently, due to Ms. Hopper's advocacy, Governor Rod Blagojevich proclaimed September 26, 2003 as Indian Day in Illinois. I want to congratulate and thank Ms. Hopper for all she has done and will continue to do for the people in her community.

TRIBUTE TO MR. BARRY D. LUTSY

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Mr. Barry D. Lutsy, a West Virginia firefighter who was killed in the line of duty on August 13, 2003.

Barry Lutsy was a proud member of the Racine Volunteer Fire Department in Boone County, West Virginia for 15 years. Firefighter Lutsy served with pride and dedication in his many roles over time. His dedication to the Department and to the community were commendable and worthy of great respect.

Firefighter Lutsy once described his commitment to firefighting by saying, "I've always tried to help others that needed help, to administer first aid or try to save things precious to them . . . I was very proud of the department of the firefighters in which I trusted and depended upon when we were fighting a fire." These words illustrate the spirit and dedication with which Firefighter Lutsy served the citizens of West Virginia.

Firefighter Lutsy led an honorable life in which he made the ultimate sacrifice to ensure the safety of others. All West Virginians and all Americans owe him a debt of gratitude, and we pledge to honor and respect his life and service always.

He leaves behind his wife, Debra, and two sons, Jeremy and Justin. While the death of Barry D. Lutsy leaves a void for his family, friends and all whom he served through the Racine Volunteer Fire Department, those who knew him well are comforted by recalling his many accomplishments during his lifetime of 45 years.

Mr. Speaker, I urge my colleagues to join me in recognition of the life of Firefighter Barry D. Lutsy.

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

SPEECH OF

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the motion to instruct made by my good friend and Energy and Commerce Committee colleague, Congresswoman CAPPS, which would instruct conferees to drop privatization provisions and direct the savings to make sure physicians are paid adequately.

One of the most controversial provisions being debated in the Medicare prescription drug conference is one that would require Medicare to open to competition from the private sector in 2010. This provision builds on previous proposals to incorporate private plans into the Medicare program, such as the Medicare + Choice plan that was created in 1997.

Now they always say that those who do not learn from their mistakes are bound to repeat them. Unfortunately, if conferees move forward on this path, they will most certainly repeat the mistakes of the past.

First, let us not forget that the Medicare program was first created because the private industry couldn't provide meaningful affordable health insurance to our Nation's seniors. Even more recent attempts to use private plans have failed. Between 1999 and 2003, 2,400,000 beneficiaries lost Medicare+Choice coverage, as health plans scaled back or ended their participation in the program.

For seniors who rely on continuity of coverage, changing plans and doctors every year is really not an option. And in many areas of the country, especially the more rural areas, HMOs have been pulling out and many seniors do not have an HMO option. And claims that this will really save any money are deceptive at best. According to CBO, this whole program is expected to save at best $1,600,000,000 over the next 10 years—less than one-half of one-tenth of one percent of Medicare spending over that period.

It does not add one year to the solvency of the Medicare Trust Fund. So why this grant experiment? What's to gain by moving Medicare from the traditional government run program that has worked so well for the better part of the past four decades?

I would say nothing. There is nothing to gain by this provision. But there is plenty to lose. For the seniors who rely on this program to get the health care services they need, they could lose everything. Economic security, quality of life, their health, and even their lives. All of this for an ideological effort to dismantle the program by the very opponents who for years have want the program to "wither on the vine."

This is unacceptable Mr. Speaker. I urge my colleagues to reject privatization efforts, support the Capps Motion to Instruct, and stand up for our Nation's seniors.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. POMEROY. Mr. Speaker, on November 4, 2003, I missed rollcall votes no. 602 and 603 due to a funeral. Had I been present, I would have voted "aye" on these votes.

TRIBUTE TO LIBRARY CORPORATION OF INWOOD, WEST VIRGINIA

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of The Library Corporation of Inwood, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, The Library Corporation has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, The Library Corporation has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud The Library Corporation for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of The Library Corporation, and I offer them as an example to small- and medium-sized enterprises everywhere.

TRIBUTE TO FORMER CONGRESSMAN CHARLIE BENNETT

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. CORRINE BROWN of Florida. Mr. Speaker, as the Member who currently represents Florida's third congressional district, I am proud to serve the area represented by my honorable predecessor, Charlie Bennett. He was truly a role model for anyone interested in public service. Regarded as among the most remarkable national leaders, his service to our Nation and its citizens remains memorable to this day.

Congressman Charlie Bennett was a great American who earned utmost respect in Congress. We can't even begin to thank him for what he did for us in this area and for the military. To me, Charlie Bennett is the one most responsible for making Jacksonville the military powerhouse it is today. And on a national level, Congressman Bennett, who served as the 2nd Ranking Democrat on the House Armed Services Committee, is owed a great deal of gratitude for making the U.S. military the fine institution it is today.

A role model not only as a politician, but also for those with physical disabilities, his list of accomplishments in his remarkable 44 years in Congress is seemingly endless. Even though he was stricken with polio and walked with crutches, the longest serving congressman from Florida remarkably never missed a vote. Perhaps the most noteworthy advocate for ethical reforms in Congress, he sponsored legislation that created the House Ethics Committee, and served as its first chairman.

Among the most noteworthy of his successes includes providing a hostile fire/imminent danger pay to our Nation's soldiers during combat, and making "In God We Trust" the U.S. motto. He also was instrumental in creating a strict code of ethics for government service, for co-sponsoring the Americans With Disabilities Act, for creating the Caroline National Memorial, and the Timucuan Preserve. In addition to his extensive knowledge of politics on a national level, he was also an expert in Florida history, and wrote several books on the subject.

Charlie Bennett will be missed for his service to his fellow man, his friendship and his statesmanship. He was truly the best of the best.

Members who wish to express their respect for Congressman Bennett may do so today at Arlington National Cemetery where his friends and family are holding a memorial service at 11 a.m.

CELEBRATING THE 13TH ANNIVERSARY OF THE HENRY S. REICH BUILDING OF THE JEWISH COMMUNITY CENTER OF NORTHERN VIRGINIA

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to commemorate the 13th anniversary of the Henry S. Reich Building of the Jewish Community Center of Northern Virginia, JCCNV.

The JCCNV, located in Fairfax, Virginia, is a social service organization dedicated to enriching lives through spiritual and cultural Jewish programs. The center is open to all, yet aims specifically to meet the needs of the local Jewish community by preserving and promoting the heritage and values of Judaism.

In 1977, an impressive 5,000-person turnout at the First Hanukah Happening revealed both a need and support for a Jewish Community Center in Northern Virginia. The following March of 1978, the JCCNV first opened on Dorr Avenue with Adele Greenspon as Executive Director, a part-time Program Coordinator, and a part-time secretary.

In 1980, the newly established JCCNV Board Of Directors voted to purchase the Commonwealth Christian School on Little River Turnpike to house the Center until a permanent facility could be built. Several years later in 1986, Jeffrey Karatz was appointed the second Executive Director of the JCCNV. Then in the spring of 1989, construction began for the Henry S. Reich building we are celebrating today.

Upon completion in 1990, Governor Douglas Wilder dedicated the Henry S. Reich building. This building since has provided a home for cultural, educational, recreational, and social programming for all ages, faiths, and nationalities. More than 150,000 visit the Center each year, making the JCCNV a key part of the ever-growing Northern Virginia community.

There is a myriad of programming available at the Center including: early childhood, elementary, teen, adult, new immigrant, and senior programs; camping programs; sports, fitness, and aquatics programs; art exhibits; and a JCCNV International Film Festival. The Henry S. Reich building also houses Gesher, the only Jewish Day School in Northern Virginia; The Center Company, the only Jewish professional theatre company in Northern Virginia; and an office of the Jewish Federation of Greater Washington.

In addition, the JCCNV has a history of cooperative ventures with synagogues, local and national Jewish organizations, and Fairfax County schools and hospitals. The overwhelming JCCNV popularity motivated the Center to establish satellite programming in the western suburbs of Reston, Herndon and Springfield.

All things considered, from modest beginnings in 1977, the JCCNV has experienced great success. Its founders envisioned a center of culture, spirituality, learning, exercise, and entertainment; the Henry S. Reich building has helped make this vision a reality. Through commendable drive and dedication, the JCCNV certainly has made a lasting impact on the Jewish and greater community of Northern Virginia.

Mr. Speaker, in closing, I would like to congratulate the Jewish Community Center of Northern Virginia on 13 years of success in the Henry S. Reich building. I call upon my colleagues to join me in applauding their efforts to uphold Jewish tradition and serve their community.

TRIBUTE TO SPRING CREEK NATURAL FOODS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Spring Creek Natural Foods of Spencer, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Spring Creek Natural Foods has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Spring Creek Natural Foods has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud Spring Creek Natural Foods for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Spring Creek Natural Foods, and I offer them as an example to small and medium sized enterprises everywhere.

IN HONOR OF SGT JUSTIN W. GARVEY AND AMERICA'S VETERANS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. STEARNS. Mr. Speaker, twice a year we set aside a day to honor our military—Memorial Day to honor those who made the ultimate sacrifice—and, Veterans Day to honor all who wore the American uniform.

All across America, in the largest cities, the smallest towns, and the most isolated hamlets, we mark this occasion with speeches and parades. We pay respect to the guardians of our liberties, for as Americans, we are the beneficiaries of their efforts.

Our military men and women are currently engaged in combat—a fight to defend the light of freedom and progress against the darkness of oppression and intolerance. The enemy we face is ruthless, a force that strikes at innocent men, women, and children.

As the guardians of our freedoms, these men and women are owed our respect and our support. America has a special debt to her veterans, and we have a sacred responsibility to fulfill the promises made to them.

My prayers are with these brave men and women and I wish them success and a safe and quick return home. As so many before them, they are answering the call to defend liberty. It is especially a fitting tribute and expression of gratitude that we acknowledge one of America's true heroes, Sgt. Justin Wrisley Garvey of the 101st Airborne, by naming a bridge in Lewis, New York in honor of his service and sacrifice.

Justin was a man that touched the lives of those who were blessed to know him. I believe that no other statement describing Justin can match that given by his fellow soldier, Sgt. Douglas Norman.

> It was the greatest honor to have been able to call Justin my friend. He was a man who had no enemies. His personality attracted anyone who came around him. I thank God for giving me the opportunity to work with him and to be his friend. Though he was only a man, he is everything I want to be as a man. Everyone, who ever met Justin, is better for it. It was an honor to have served with him up to the end, that night. He taught me what a true hero is.

What is also quite a statement is that Sgt. Norman, who survived the attack that took the lives of Sgt. Justin Garvey and Sgt. Jason Jordan, is going to re-enlist in honor of his fellow soldiers.

Mr. Speaker, our country operates under principles of freedom, the ability to pursue life, liberty and happiness. Our men and women in uniform serve a tremendous cause. They fight with hope against terror and freedom against oppression. Our enemies will never know freedom, because they are imprisoned by hate; and for that they have already lost.

As we cherish our rights—we should also cherish their provider—the American veteran. Thank you and God bless.

CONGRATULATING WALLACE RILEY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I congratulate and honor one of Northwest Indiana's most caring and dedicated citizens, Mr. Wallace Riley. Wally has served on the Lake Station City Council for 24 years and his many contributions to Northwest Indiana will be recognized on November 30, 2003, during a celebratory event at the Lake Station Veterans of Foreign Wars Facility.

Wally began contributing to his community at a young age. In 1947, not long after graduating from Hobart High School in 1944 and working at his mother's grocery store, he began building the Liverpool Paint and Hardware building. Within a year and a half he opened the building for business with his wife, Betty Lou Ele and ran the company for 43 years. Wally also served in Civil Defense for two years, and then was named Civic Defense Director for another two years. In 1948, he joined the Liverpool Volunteer Fire Department as a director, and was then made an honorary fireman of the East Gary (now Lake Station) Fire Department in 1974, and still serves as an active member today. He also donated his garage building to the East Gary Fire Department Battalion for 15 months.

Wally has selflessly contributed to Northwest Indiana in many ways including serving as a Democratic Precinct Committeeman for a total of 13 years, as well as directing and sponsoring the building of a new sidewalk in front of Evans School in Lake Station. He also worked with various Lake County Councilmen to pave many local streets, to widen 35th Avenue, and he has participated in many local projects in Lake Station as a volunteer. He joined the East Gary Chamber of Commerce and served as Director, Vice President, and President during his tenure with the organization.

Although Wally has served on numerous committees and has donated his time throughout his entire life to his Northwest Indiana Community, he has never neglected to provide support and love for his family. Wally and his wife Betty Lou, have four children, six grandchildren, and three great-grandchildren.

Mr. Speaker, Wally Riley has given his time and efforts selflessly to his community and has provided leadership and dedication to all of Northwest Indiana. I respectfully ask that you and my other distinguished colleagues join me in honoring and congratulating Mr. Wallace Riley on his outstanding accomplishments throughout his life. His career of service to his community is worthy of the highest commendation.

TRIBUTE TO PREISER SCIENTIFIC OF ST. ALBANS, WEST VIRGINIA

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Preiser Scientific of St. Albans, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Preiser Scientific has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Preiser Scientific has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud Preiser Scientific for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Preiser Scientific, and I offer them as an example to small and medium sized enterprises everywhere.

CONFERENCE REPORT ON H.R. 2559, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2004

SPEECH OF

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. SLAUGHTER. Mr. Speaker, in response to questions on why I was one of five Members to vote against the conference report on H.R. 2259, the Military Construction Appropriations Act for Fiscal Year 2004, I prepared the following statement: I voted against yesterday's conference report because it fails to include a vital project important to our national security on the Northern Border at the Niagara Air Reserve Station in Niagara Falls, New York.

Shortly after being elected to represent part of the Niagara Falls Air Reserve Station in Niagara Falls, New York, I visited the base. I have become familiar with the service it provides not only to our community, but also to the nation. Most recently, I visited for the base for the happy occasion of the 914'b Airlift Wing's homecoming from deployment. The Air Force Reserve has even publicized the contributions of the base by showcasing the decision of 1 st Lieutenant Chris Pfeil, Jr. and Staff Sergeant Tim McNelis, both from the 914th Airlift Wing, to follow their fathers career's in the military. I ask unanimous consent that this article on their service be inserted in the RECORD. Other units stationed in Niagara Falls that are defending the home front and serving overseas are the 107th Air Refueling Wing and soldiers with the 865th Combat Support Hospital.

I have worked tirelessly with local officials, as well as my counterparts in the Senate, to secure the necessary funding to construct a facility at the base. Unfortunately, it appears that this project, rated the top priority by Niagara County officials, was not included in the final bill for the third year in a row. The fact that this funding was included in an earlier version of the bill, and then stripped out at the last minute during backroom maneuvers which sent the money to another part of New York State, is an insult to our democratic process. It seems that only bases represented by Members on the committee were funded. This is a disservice to the military facility in my district and bases throughout the country. It is a disservice to the men and women in uniform from the Niagara Falls Air Reserve Station who have been deployed to serve their country in Iraq.

I could not, in good conscience, support this conference report. There is no doubt in my mind that the soldiers, not to mention the citizens in Niagara Falls, deserve better than what this bill provided. I want to assure the courageous servicepeople at the Niagara Falls Air Reserve Station that I am already preparing for the next opportunity to remedy this situation.

[From afreserve.com, June 17, 2003]

LIKE FATHER, LIKE SON IN SOUTHWEST ASIA

(By Staff Sgt. Pamela Smith)

SOUTHWEST ASIA—The decision to follow their fathers into the military wasn't a difficult one for 1st Lt. Chris Pfeil Jr. and Staff Sgt. Tim McNelis, both from the 914th Airlift Wing, Niagara Falls Air Reserve Station, NY.

"I was introduced to it very young," said Chris Jr., a C–130 pilot with the 772nd Expeditionary Airlift Squadron. "So joining the military was always something I kept in the back of my mind."

Pfeil said his father, Senior Master Sgt. Chris Pfeil Sr., a C–130 loadmaster also assigned to the 772nd EAS, never pressured him but set an example for him to follow.

"It had to be his decision," said Chris Sr., "and it was important to support him in whatever he chose to do."

"I've always wanted to fly, and this was the best decision," Chris Jr. said, "but he never pushed it."

For Tim, a C–130 crew chief assigned to the 320th Expeditionary Maintenance Squadron, it was his father's advice against joining another branch of the service that encouraged him to try the Air Force Reserve Command.

"He wanted to join the Marines at first and then he talked about the Army," said Senior Master Sgt. Jerry McNelis, a C–130 loadmaster with the 772nd EAS, "but I talked him out of it."

Tim said he's happy with the decision he made to join the Reserve because it allowed him to continue with school, and two years ago he was hired as a full-time air reserve technician.

He also is happy he's had the opportunity to deploy with his father in support of Operations Enduring Freedom and Iraqi Freedom.

"It's good to have a family member here," Tim said. "You always have someone to talk to."

Knowing that his father will be flying on one of his aircraft also makes him want to go that extra step.

"It gives me the incentive to work that much harder knowing my dad is on my plane," he said.

For the Pfeils, being deployed here together has given both of them peace of mind.

"Any parent or child is going to be concerned," said Chris Sr., "but when Chris goes on a mission, chances are I was there the day before so I know the environment and what he can expect and that helps."

Having each other to lean on during this deployment has been a benefit for both father/son teams, and for the fathers it's an opportunity to see their children follow that much closer in their footsteps.

TRIBUTE TO AL HEILMAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to a dedicated and selfless individual on the eve of his retirement from public service, Kalamazoo's Al Heilman. Since 1968, Al has served with great distinction the citizens of Kalamazoo in a number of capacities—from being first elected to the County Board in 1968 to having served as City Commissioner since 1995.

Many words come to mind as one reflects upon Al Heilman's public service to our community. He is selfless, generous, giving, caring, humble . . . the list goes on. Al is widely known for his extensive charitable gestures, often giving both money and time to local individuals, businesses, universities, and the community as a whole. There is no question that Al's dedication and contributions to the city will be missed.

Now, Al can "retire" to pleasing folks with his other trade—as owner and operator of Heilman's Nuts and Confections. As a member of the business community, Al Heilman will continue to be a part of our everyday lives.

Our community is in debt to Al Heilman for his continued public service since 1968. I wish him and his family all the best as he departs public service. Al's contributions to our community have been many, and we are all better off from his service. For those that know him, his name alone helps define public service. All those that have met him, like him. All those that know him, love him.

TRIBUTE TO GTR OF GASSAWAY, WEST VIRGINIA

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of GTR of Gassaway, West Virginia, for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, GTR has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, GTR has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud GTR for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of GTR, and I offer them as an example to small and medium sized enterprises everywhere.

IRVING FRADKIN'S CONTINUED WORK FOR EXPANDED EDUCATIONAL OPPORTUNITY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, from time to time I have used this medium to share with my colleagues the important work being done by the Citizen's Scholarship Foundation of Fall River, Massachusetts, the organization created and run—with the help of many, many others in increasing numbers—by Dr. Irving Fradkin.

I do so not simply to give well deserved recognition to the tireless efforts of Dr. Fradkin on behalf of young people who might not get to benefit from a college education without his work, but more importantly to give an example to others of what can be done in this regard. Of course it is important that we in the Congress continue to provide public funds to help provide the equality of opportunity to higher education, which we all want to be a part of the American experience. A sufficient level of public support is indispensable. But this does not mean that volunteer efforts of the sort that Dr. Fradkin encourages are irrelevant or insignificant. We need both.

Mr. Speaker, as an indication of the continued importance of Dr. Fradkin's work in helping gather funds to provide higher education to people who would otherwise be unable to afford it, I ask that the following documents be printed here. They include a Proclamation from the North Dakota Dollars for Scholars Governing Board, and several letters from young people who have been the beneficiaries of the scholarships generated by Dr. Fradkin's work.

PROCLAMATION TO HONOR DR. IRVING FRADKIN

ISSUED THIS FOURTH DAY OF JUNE, 2003, BY THE NORTH DAKOTA DOLLARS FOR SCHOLARS GOVERNING BOARD

Whereas, North Dakota citizens value education and are supportive of young people pursuing postsecondary education plans; and

Whereas, North Dakota Dollars for Scholars has grown to having 69 chapters impacting 129 communities at the close of FY 03; and

Whereas, North Dakota has Initiated a state level organization, led by a voluntary group of state Governing Board members, to continue its rich history of scholarship support for postsecondary education; and

Whereas, all chapters in North Dakota to date have raised $9.4 million for local awards and endowment building; and

Whereas, all chapters in North Dakota to date have awarded scholarships to 8,454 students why also receive a key message of encouragement and pride from their community in addition to the monetary award; and

Whereas, all programs of Scholarship America helped to bring over $965,000 to North Dakota postsecondary education institutions, and

Whereas, the Dollars for Scholars program would not have been possible without the determination and vision of one man named Irving Fradkin;

Now, Therefore, Be It *Resolved* By The North Dakota Dollars for Scholars Governing Board:

That our deep gratitude is extended to Irving Fradkin for making Dollars for Scholars possible in North Dakota and around the United States; and

Be It Further Resolved, that the North Dakota Dollars for Scholars Governing Board presents this resolution and plaque to Dr. Irving Fradkin to honor all he has done and accomplished for youth and education in America.

CHARLES STROUP,
Hazen, ND, NDDFS Governing Board Chair.

JULY 26, 2003.

HOW THE AMERICAN DREAM CHALLENGE AFFECTED ME

As a child I did not think about my future very much. Therefore, I was not very enthused when our teacher told us that we would be writing an essay to compete for a scholarship. I remember thinking that it was pointless considering I did not even know what a scholarship was until that very moment. I was in the fourth grade and the only thing I cared about was getting through the fifth grade to make it to middle school.

My attitude changed when I won the award. I was very proud of myself. I had earned the scholarship and now I looked forward to the day I could put it to use. I don't think that the essay process Itself made me feel that way. Winning is what made me realize that college was a possibility. Ever since then, I have tried my best to do well in all my academics.

It has been eight years and some of my achievements include membership in the National Honors Society and being awarded a thousand dollar scholarship. I was accepted to Stone Hill College and the University of Massachusetts Dartmouth. The American Dream Challenge is an excellent program that should be supported for the good it brings to our community. The youth is our future and the supporters of this program realize that and how important it is to influence children to strive for success.

NELIA LIMA.

DEAR DR. FRADKIN: I am a winner the American Dream Challenge and a Dollars for Scholars Scholarship. I would like to thank you and your colleagues for helping make my transition to college easier. Winning these scholarships made paying for college easier and I cannot thank you enough. There is so much going on when beginning college and these scholarships relieved some of the stress. Your commitment to the youth is unbelievable. I say this because I have experienced your commitment first hand. The belief you and your colleagues have in today's youth gives us a little more confidence and determination to achieve our goals so one day we can help tomorrow's youth. Once again, I would to thank you for helping me on my path into the future and that what you have done for me and so many others is greatly appreciated and will not be forgotten

Sincerely,

BRYAN S. DE SA.

C.V. CARROLL SCHOOL,
Fall River, MA.

THE AMERICAN DREAM CHALLENGE: A BLUEPRINT

The American Dream Challenge Program Committee is a dynamic, dedicated group of individuals who are working for a common goal, and unified goals. Their exceptional talents, dedication, and commitment are certainly felt within our educational system in our community.

What a Herculean task this is! The American Dream Challenge Group volunteers countless hours so that positive attitudes, ethics, and enthusiasm can regenerate in this depressed area and can begin with our youngest elementary students.

The concept of encouraging our students to do their very best, take charge of their lives, and stay in school is emphasized so magnificently by the Committee. The American Dream Challenge Group awards scholarships to elementary school children who are urged to put forth their best effort and make a difference in their school, their neighborhood and eventually give to their community.

With the American Dream Challenge we can feel the necessity for our students to strive for decency, and get back to basics of their lives.

Today we need more programs like the American Dream challenge with interested, concerned citizens volunteering with our youth and building better citizens and adults for tomorrow.

Thank you Dr. Fradkin and the American Dream Challenge Committee for including me and my students in a worthwhile endeavor.

Congratulations American Dream Challenge Committee and Dr. Irving Fradkin on s mammoth undertaking and a commendable start. The principal at C.V. Carroll school, Hr. Edward Campion, pledges his support for this program and encourages his staff to participate and pledge for future years.

BETSY COREY,
4th Grade Teacher.

NOVEMBER 10, 2002.

O. AMARELO,
American Dream Challenge,
Fall River, MA.

DEAR MR. AMARELO AND THE REST OF THE AMERICAN DREAM CHALLENGE CHAIRPERSONS: As a member of the first recipients of the American Dream Challenge scholarship award, I would just like to give you an update on my status in my first year of college, as you asked for us to keep you updated at the award ceremony earlier this year. I am a student at Boston University and I am currently pursuing a major in psychology, and eventually, a pre-law concentration. I have just more than a month left of my first semester and it has been wonderful. The college courses and professors have given me new challenges to keep me going in pursuit of my education, in pursuit of the American dream of success and prosperity. College life has been amazing with a whole new atmosphere and communal life and with many new experiences that I know will make great memories. I would just like to thank you again for the scholarship that you gave me. It helped me to buy the books and supplies that I needed for college, in addition to serving as a motivation for me to have this great opportunity of attending a place of higher learning. Without your scholarship, I still would have made it because of my determination to achieve my dream, but it would have been harder. Thank you once again and I hope that you continue to make students' college hopes and dreams to come true, as you did mine.

Sincerely,

ALEXANDER PAIVA.

ENDING PARTIAL BIRTH ABORTION

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. HENSARLING. Mr. Speaker, today I rise in strong support of the Partial Birth Abortion Ban Act of 2003 and to commend the Congress and the President for outlawing the gruesome procedure known as partial-birth abortion.

I do not refer to it as "so-called" partial-birth abortion like some do, because the term is perfectly accurate. An infant is partially delivered—often with the entire body outside of the womb except the head—then a pair of long, sharp scissors is forced through the back of the infant's skull and the doctor sucks the child's brains out before completing delivery of the now dead infant.

The child is just moments away from birth—just a few inches from being delivered, from being completely out of the womb and breathing fresh air. It is one the most horrific, gruesome procedures I can imagine, one performed without anesthetic on an otherwise healthy infant that is alive during the process.

In America today, in our infinite wisdom, we have decided that it is "cruel and unusual punishment" to sentence a prisoner convicted of murder to death by electrocution, but we freely allow abortion doctors to jam a pair of scissors through the skull of a healthy baby who is a tug away from birth, often 20 to 32 weeks in gestation and sometimes at fullterm!

I have often said that in order to reduce the number of abortions in this country each year we must change the hearts and minds of the people, not just the laws. Sad and unfortunate as every abortion is, I am particularly grieved by each child that dies from a partial-birth abortion.

Should we not ban a procedure so violent and so repulsive that even many abortion doctors shun, that over 70% of Americans are against, and at least 27 States have already outlawed?

Mr. Speaker, this is a procedure that countless doctors and medical professionals have deemed unnecessary to preserve the health or life of the mother. Partial birth abortion is never medically necessary, yet we have been trying since 1995 to pass a ban on this procedure that a president with courage and wisdom will sign.

As the bill's language states and medical authorities have attested to, partial-birth abortion poses serious risks to the health of a woman undergoing the procedure and there is no credible medical evidence that partial-birth abortions are safe or safer than other abortion procedures.

Hippocrates, the father of medicine and originator of the Hippocratic Oath, charged to fellow physicians of his day: First of all, do no harm. Certainly all sane and rational people can agree that this procedure is anything but harmless, and I would venture to say quite ruthless to both the mother and child.

While there are various versions of the Hippocratic Oath in use today, all speak of the physician's obligation to improve the health of all patients regardless of station. At a moment in time like this when that solemn Oath is not being honored, it is up to Congress and the American people to step in and enforce it with decent and reasonable laws.

That is what the partial-birth abortion ban is: a decent and reasonable law in response to an indecent act.

I am pro-life. I believe in the sanctity of life and in my heart and mind believe that life begins at conception. I do not believe that protecting the lives of the unborn and the rights of women are mutually exclusive ideas.

But that is not what this legislation is about. This is not—and should not be—a debate of pro-life verses pro-choice. This is a prudent and reasonable bill that we should all be able to agree is necessary and important. While this legislation is now law, the fact remains that abortion is still legal in the United States. What this legislation does is ban the single most violent and gruesome abortion procedure: partial-birth abortion.

Because it is unnecessary, because it is harmful to all parties involved, and because it is immoral.

I am proud to be a cosponsor of this vital legislation, and I am thankful to have witnessed the day—after so many years of trying—when this Congress, our President and the American people had the decency and resolve to see partial-birth abortion outlawed in this great Nation.

TRIBUTE TO CONSOLIDATED WOOD PRODUCTS

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CAPITO. Mr. Speaker, I rise today in honor of Consolidated Wood Products of Beverly, West Virginia for being awarded a 2003 Export Achievement Certificate in recognition of an increased focus on exporting.

The Export Achievement Certificate was created to recognize small- and medium-sized enterprises that have successfully entered the international marketplace for the first time or that have successfully entered a new market.

As our economy continues to become more global, it is important for industries of all types to develop relationships and ties in the international community. As the West Virginia economy diversifies, Consolidated Wood Products has taken major steps forward to promote the Mountain State and all it has to offer to the world economy.

By making strides to expand opportunities, Consolidated Wood Products has in turn brought benefits to the state that will be felt far beyond the business itself. I applaud Consolidated Wood Products for its efforts and look forward to seeing continued success.

Mr. Speaker, I urge my colleagues to join me in recognition of Consolidated Wood Products, and I offer them as an example to small- and medium-sized enterprises everywhere.

HONORING THE WORDS OF DANIEL COLVIN

HON. TIM RYAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. RYAN of Ohio. Mr. Speaker, it gives me great pride to honor the words of Daniel Colvin, a gifted poet from Youngstown, Ohio whom I am proud to claim as my constituent. Daniel is doing his part, by means of meter and rhyme, to advance the noblest goal for which we all strive—peace in our time.

Daniel is a freshman at Kent State University, majoring in architecture and plans to incorporate writing into his future—a future which is no doubt bright. His poem, Armed with a Conscience, was inspired by the attack on September 11, and the subsequent War on Terrorism. Mr. Colvin has expressed hope that his poem "will strike the consciences of all of mankind and help lead us to a world of peace."

I am pleased and proud to share with my colleagues and the Nation, Armed With a Conscience, by Daniel Colvin:

I wake up in a pool of cold sweat
My heart drumming in my throat
My eyes were wide from the fear of a threat
Such fear that I cannot emote.

The dream that I had was unbearably sad
It hurts to even think about it
A nightmare so real, you could never have had
Well, you could have; but I doubt it.

I was in the army being all I could be
Being trained by the best in the field
They had taught me all that a soldier should be
How to kill without being killed.

I, the quick learner that I had always been
Had gone through the training with ease
I had always fit in with the strongest of men
But found nothing in common with these.

Some of them crazy, and some without care
Some who had dreamed to be soldiers
Some loyal to their country, and some of them scared
Some just had chips on their shoulders.

I was the strong silent type, I guess
I had always been social before
But trust me, you'll laugh and talk a lot less
When you're 18 and drafted to war.

I had been taught not to murder a soul
But in war, what else could I do?
I remembered how world peace had been my goal
But in battle, I would have to fight too.

So across the cold, muddy battlefield I crawled
Armed with my rifle in hand
I saw hatred and death and I was appalled
All this over money or land.

Dead bodies and body parts scattered on the ground
My gun still fully loaded
Explosions and shouting consumed sight and sound

Everything near me exploded.

I got up and ran to hide in the brush
But a foreign soldier was there
He had been hiding and trying to hush
So I caught him a bit unaware.

Still he had time to cock up his gun
I would have killed him, but couldn't
I had time to take off and run
I would have ran, but I wouldn't.

Instead, we stood aiming at each others' hearts
To me, it was nothing but nonsense
Staring in his eyes, I could tell he had smarts
But he also had a conscience.

In that moment, I knew that he was like me
He did not truly want to kill
Even the way he squeezed his gun tightly
Said that he was there against his own will.

So what do you do on the battle field
When you cross a man like yourself?
You don't want to kill, but you cannot yield
Nor ask anybody for help.

Shaking like crazy, we both started to sweat
My heart dropped; his skipped beats
Staring and letting our eyes make the threat
When inside we were fearing defeat.

I wanted to end the suspense and forget it
I started to pull the trigger
Then my conscience said, "You're gonna regret it
Your purpose in life is much bigger."

I let go of my gun, but before it fell
I felt lead pierce through my chest
The other man's conscience hadn't worked so well
So he did what he thought was best.

I fell backward all the way to the ground
Smacking the back of my head
My fellow soldier came and shot the man down
And the last thing I saw was him dead.

So that's why I woke up in such a fright
Fearing the thought of war
I was thinking of the man in my dream last night
And grew sadder than ever before.

The sad part is not the fact that he shot me
That's not it, it really isn't
But since his conscience didn't teach him what mine taught me
I woke up and he didn't.

MAJOR HENRY A. COMMISKEY, SR. POST OFFICE BUILDING

SPEECH OF

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 4, 2003

Mr. TAYLOR of Mississippi. Mr. Speaker, it is my honor to present H.R. 2438, a bill to designate the facility of the United States Postal Service located at 115 West Pine Street in Hattiesburg, Mississippi as the "Major Henry A. Commiskey, Sr. Post Office Building". The Hattiesburg City Council and the Forrest County Board of Supervisors requested through official resolutions that the downtown Hattiesburg Post Office be named for the late Major Commiskey, who received the Medal of Honor during his lifetime.

Henry Alfred Commiskey, Sr. was born in Hattiesburg on January 10, 1927. He attended the Sacred Heart School there and worked as a brakeman on the Illinois Central Railroad before joining the Marine Corps on January 12, 1944, two days after his 17th birthday. Commiskey participated in the February 1945 invasion of Iwo Jima during World War II, where he earned the Purple Heart for being wounded in action. He also received the Letter of Commendation for "exhibiting high qualities of leadership and courage in the face of a stubborn and fanatical enemy."

Commiskey remained in the Corps after the war and rose to the rank of staff sergeant to become a drill instructor at the Parris Island boot camp in South Carolina. He later graduated from Officer Candidate School and was commissioned a second lieutenant on September 10, 1949. He volunteered for combat service at the outbreak of the Korean War and was sent to Korea with the 1st Marine Regiment in August of 1950, where he participated in the Inchon landing. A few days later, on September 20, 1950, Commiskey earned the Medal of Honor for his heroism atop Hill 85 near Yongdungp'o, Korea, on the outskirts of Seoul.

Serving as a platoon leader in Company C, First Battalion, First Marines, First Marine Division (reinforced), Second Lieutenant Commiskey spearheaded the assault that was ordered on forces that were well dug in on Hill 85. Charging up the steep slopes on the run into heavy enemy machine-gun and small arms fire, he ran ahead of his men and was the first to reach the crest of their objective. Armed only with a pistol, he jumped into a hostile machine-gun emplacement occupied by five enemy soldiers, engaged in hand-to-hand combat, and killed them all. He then moved to the next emplacement, where he killed two more enemy soldiers before leading his men on further to route their adversaries and take the hill.

Although Commiskey miraculously escaped harm during the assault on Hill 85, he was wounded a week later and then again on December 8, 1950. He was then returned to the United States for hospitalization and later promoted to first lieutenant in June of 1951. Commiskey was presented the Medal of Honor by President Truman at a White House ceremony on August 1, 1951, becoming the first Marine to be so awarded for extraordinary heroism in the Korean conflict. Commiskey then became a student naval aviator in September of 1951 at the Naval Air Station in Pensacola, Florida. He received his wings at Corpus Christi, Texas in June of 1953 and later completed jet training at El Toro, California. He was promoted to captain in July of 1953. In April of 1954, Commiskey returned to Korea as a pilot with Marine Attack Squadron 21, Marine Aircraft Group 12, 1st Marine Aircraft Wing.

Commiskey returned to the United States in September of 1954 and continued his service as a recruitment officer and as an instructor for the Marine Corps School at Quantico, Virginia. He was promoted to the rank of major in July of 1959 and retired from active duty in August of 1966. Major Henry A. Commiskey, Sr. died in Meridian, Mississippi on August 15, 1971.

Last year, I originally introduced House Resolution 5495, a bill that was identical to the measure currently before us. The previous bill passed the House at the very end of the 107th Congress, but did not make it through the Senate before time ran out and the session ended. Due to that fact, I then reintroduced the bill for the 108th Congress, and it was designated with a new number. The entire Mississippi House delegation signed on as original cosponsors of both bills, for which I am very grateful. I also thank both the majority and minority leadership of the House of Representatives and the Government Reform Committee for shepherding the bill through the House once more.

On behalf of our Nation, the State of Mississippi, the citizens of the Hattiesburg area, the local officials there, and the Commiskey family, it is my privilege to present this legislation to the United States Congress in honor of Major Henry A. Commiskey, Sr., his sacrifice, and his awe-inspiring service to his country.

RECOGNIZING CONTINUED IMPORTANCE OF TRANSATLANTIC RELATIONSHIP AND PROMOTING STRONGER RELATIONS WITH EUROPE

SPEECH OF

HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise in support of H. Res. 390, which passed the House last night, and wish to commend the Chairman of the Europe Subcommittee for his efforts to bring this important measure to the House.

As the Chairman noted, the recent debate over Iraq was a particularly difficult time for overall transatlantic relations. As my Colleague correctly pointed out, it is important to recognize that this dispute was with four nations in particular and not the whole of Europe. France and Germany are important friends and allies and it was particularly frustrating that we were having such a disagreement with them. However, we must not ignore the contributions and sacrifices the British, the Italians, the Spanish, the Poles and the many others who did stand beside us, provided during this difficult and dangerous time. And while some of us may have consumed "freedom fries" and avoided Bordeaux wines or Bittberger beer, many of us were happy to travel to Prague for the NATO summit or to Rome for the Legislators' Dialogue in order to assess the state of our relationship and to work on ways to reenergize the U.S.-European partnership.

Now, however, it is time to move on. We must work to reestablish the kind of strong transatlantic relationship with all of Europe which is necessary if we are to deal effectively with those international issues which effect us on both sides of the Atlantic. The resolution before us recognizes that both the United States and Europe face serious challenges at home and abroad and that to meet these challenges we must adapt and strengthen the transatlantic partnership into a transatlantic community of action. As the resolution correctly states, the transatlantic relationship is much too important to allow an issue such as Iraq, however difficult, to result in both the United States and Europe drifting apart or worse, becoming rivals.

As Chair of the U.S. delegation to the Transatlantic Legislators' Dialogue, I am especially pleased that the resolution mentions the importance of this organization and the kind of dialogue the TLD promotes with our counterparts in the European Parliament. As my Colleagues may know, in July, after the bitter debate over Iraq subsided, we had a very successful meeting of the TLD. During that meeting, both delegations pledged to rededicate ourselves to strengthening the transatlantic partnership by renewing our pursuit of common values such as democracy, human rights and open markets and societies and by reinforcing inter-parliamentary contacts.

At that meeting we also agreed to try to enhance the effectiveness of our operations by establishing new consultative mechanisms which would serve as an "early-warning" system designed to allow intensified dialogue on possible contentious issues at early stages of the legislative process.

Mr. Speaker, next week our Colleagues from the Parliament will be coming to the United States to continue our discussions. I believe we all understand and appreciate the importance of this dialogue and the need to continue to support stronger relations with Europe and its Union through mechanisms such as these Parliamentary exchanges.

I urge passage of this resolution.

COMMENDING THE AMERICAN VITILIGO RESEARCH FOUNDATION

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. BILIRAKIS. Mr. Speaker, I rise today to call attention to a little-known but debilitating disease that profoundly impacts its victims.

Vitiligo is an auto-immune disorder which causes the skin to lose its pigmentation, resulting in the development of white patches around the bodies of those afflicted with it. Although its physical effects are neither as severe nor life-threatening as some diseases, vitiligo profoundly impacts the social and psychological well-being of its victims, particularly children and African-Americans.

Vitiligo may physically be painless, but the discrimination it precipitates hurts nonetheless. The more than 5 million American men, women, and children who have vitiligo know the sting and emotional distress it causes. I have seen it in the eyes and heard it in the voices of those with whom I've met who have it.

I learned about vitiligo from one of my constituents, Stella Pavlides, who is the Founder and President of the American Vitiligo Research Foundation, which is headquartered in my congressional district in Clearwater, Florida. Stella is a tireless advocate who has dedicated her life to finding a cure for vitiligo and ending the hurt it causes. I have pledged to her that I will work with my House colleagues to raise public awareness about vitiligo so that we can make it a disease of the past and not the mystery illness shrouded in ignorance that it is today.

Mr. Speaker, I want to commend our colleague, Congressman TODD TIAHRT, for taking a leading role in helping me bring this disease to the attention of our colleagues. I hope that all of our colleagues will join us in raising public awareness about vitiligo and dedicating ourselves to helping the medical and scientific communities find a cure for it.

HONORING VETERANS

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. MCINTYRE. Mr. Speaker, I rise today on behalf of the 77,000 veterans in my district who have dedicated their lives to fighting for this great country. All Americans must understand that we have a responsibility to support the men and women in uniform who risk their lives on a daily basis to protect the freedoms we enjoy. We must never forget that hundreds of millions of people in the United States and around the world sleep in peace because hundreds of thousands of Americans rest in graves all across the world—fallen heroes in the name of freedom. The price of freedom is always high, but the price of war is even higher! And no one knows that better than our Nation's veterans. As guardians of freedom, righteousness, and justice, their actions have cemented the foundation of this great Nation and helped shape the destiny of our Nation and our world. It is their continued spirit, service and sacrifice that have helped our country maintain its posture in the world, and we cannot afford to ignore the promises we made to them when they first made their promise to protect our country.

First, it's about our veterans' spirit—a spirit that has been unsurpassed. Over 48 million Americans have stepped forward to defend our land since our Nation's founding. And today, there are 25 million living veterans who have served in times of war and peace. Individuals who dared to make a difference, and people who were willing to take a stand—whether it was convenient or not! Let each of us continue to work and honor our veterans' spirit, who have proved their heroism and their love for our country—time and time again.

We must also pay tribute to our veterans' dedicated service to this country. From Lexington and Concord to Normandy and Okinawa, from Korea and Vietnam to the Persian Gulf, and from the streets of Baghdad to the mountains of Afghanistan, our veterans, military retirees, servicemen and women have and are defending our great country at a great cost. No group of Americans deserve our admiration and respect more than those who have worn the uniform of the United States of America and fought to protect our homes, our way of life, our freedom, and our future.

Mr. Speaker, let me be very clear where I stand—on the side of our veterans! That's why I am an original cosponsor of a comprehensive veterans package. Highlights of this package include:

Under the current budget rules in Congress, veterans' benefits—the money for war service and war injuries are under mandatory spending—that means whatever the need, there has to be the resources. The money for VA hospitals and clinics falls under discretionary spending—that is a certain amount that is set aside, and if the need grows for more, then it may or may not be increased. I say that's wrong, and I am co-sponsoring legislation, the Veterans Health Care Funding Guaranteed Act, that would give veterans what they have been promised—lifelong benefits and health care. This would reduce the national disgrace that leaves 200,000 veterans waiting up to 6 months for an appointment at a Veterans Hospital. We can and must do better and my plan would reduce waiting times for first time doctor appointments to 30 days.

I support an interim disability payment of $500 per month when claims are not expedited after remand.

I support a full repeal of the concurrent receipt issue. This inequity that prevents disabled military retirees from receiving both their pensions and disability pay is wrong. While we were able to make progress on this issue last year with a partial appeal, more needs to be done to fully repeal this, and I am working on that by signing a discharge petition to bring this bill directly to the floor of the House of Representatives so we can pass it.

I support legislation to phase out the reduction in benefits in the military Survivor Benefit Plan. The benefit to military spouses is not what enrollees were promised and the program is not providing the level of protection military survivors need and deserve.

I also support the Keep Our Promises to America's Military Act that would ensure full and adequate health coverage for all members of the uniformed services by allowing them to participate in the Federal Employees Health Benefit Program.

I support the Military Pay Equity Act that would increase the rates of military basic pay for members of the uniformed services.

I support efforts to improve the Montgomery GI Bill to ensure that higher education and training benefits are adequate.

I support legislation to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

I support the Truth in Recruiting Act that would mandate that members of the Armed Forces shall be entitled to all benefits they were promised when they originally entered the service. Under this bill, each member of the Armed Forces would be given a written statement describing the benefits that will be provided to that person if he or she attains retirement status.

I support the Veteran's Right to Know Act that would require the VA to inform veterans about eligibility for benefits and health-care services whenever a veteran first applies for any benefit with the VA. It would also help widows and survivors of veterans by informing them at the time of a burial request or application for life insurance proceeds about the full array of benefits available to them.

And recently, I submitted testimony to the VA Cares Commission urging them to expand the Fayetteville VA Medical Center, which currently operates in antiquated facilities. The proposed plan calls for an expansion of the outpatient facility and an additional 110,000 square feet. Because the Fayetteville clinic is such an important facility to veterans in North Carolina, it is important that it remains in the proposed national plan. I have also supported additional VA clinics in my district in Lumberton and Supply, as well as an expansion of the Wilmington VA clinic.

Finally, it is our veterans' sacrifice that has brought true freedoms to this nation! It is a sacrifice I have seen in the hearts and eyes of men and women in uniform around the globe with whom I have visited. It is a sacrifice that does not complain. It is a sacrifice that is respectful. It is a sacrifice that is genuine. And it is a sacrifice that we all must respect.

This is not a partisan issue. It is an American issue. And we must stand shoulder-to-shoulder and respect the spirit, service, and sacrifice of our nation's veterans. Nothing less is acceptable.

HEROISM FROM FIREFIGHTERS, EMERGENCY PERSONNEL AND OTHER FIRE RESPONDERS

HON. GARY G. MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. GARY G. MILLER of Califorina. Mr. Speaker, the wildfires that burned across Southern California last week destroyed homes, devastated communities and left 20 dead in its wake. But from this horrific natural disaster, we witnessed heroism and determination from firefighters, emergency personnel and other first responders who put their lives on the line to save others. But we also witnessed true leadership from those directing operations and coordinating efforts from command centers scattered throughout the state.

One of these centers was located in the city of Rancho Cucamonga, which witnessed first-hand the fire's relentless march of destruction. At the helm of the city's strategic operations were Fire Chief Dennis Michael, Police Chief Pete Ortiz and City Manager Jack Lam. All three men, working closely with the mayor and city council, saved thousands of homes and protected just as many lives.

Mayor Alexander and his colleagues on the Rancho Cucamonga city council also deserve high praise for planning and preparing the city for this type of disaster. During the crisis and aftermath that followed, the residents of Rancho Cucamonga have been well served. And under their continued leadership, the community will rebuild.

Mr. Speaker, Rancho Cucamonga is a prosperous city nestled at the base of Southern California's foothill mountains. City leaders have dedicated their lives to ensure residents have a high quality of life, and because of this leadership and experience the community will recover.

KEEP OUR PROMISE TO AMERICA'S MILITARY RETIREES ACT

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. VAN HOLLEN. Mr. Speaker, I rise to inform my colleagues that today I have introduced a revised version of the "Keep Our Promise to America's Military Retirees Act" along with Representatives CHET EDWARDS of Texas, JEFF MILLER of Florida, and DUKE CUNNINGHAM of California. This bipartisan bill addresses recent developments and offers more meaningful remedies to the "broken promise" of health care for military retirees.

We have sent thousands of troops to do battle in Iraq and Afghanistan. We are creating a new generation of veterans who have been willing to make the ultimate sacrifice for our country. Our government must be accountable for the promises it makes to young men and women who are asked to serve our country in this way.

Over the past year the Courts have laid to rest the question of who is responsible for making good on promises of lifetime health care that were made to young men and women who joined the service during World War II and the Korean eras. Recruits were promised by their own government that if they served a career of 20 years in military service, then they and their dependants would receive health care upon retirement. But while these career soldiers put their lives on the line for our country, the government did not keep its end of the contract.

This past June the U.S. Supreme Court decided not to consider a November 12, 2002 Federal Appeals Court ruling in a suit filed against the government of the United States on behalf of World War II and Korean era military retirees. Retired Air Force Colonel George "Bud" Day, a highly decorated Congressional Medal of Honor recipient, filed a breach of contract suit on behalf of two retired colonels who contended they had been recruited into military service as young men with the promise of lifetime health care upon retirement after serving at least 20 years in uniform.

In 1956, long after Col. Day's clients signed up for military duty, Congress enacted the first laws that defined, and began to limit, the level of health care that would be provided to military retirees. These laws, which took effect on December 7, 1956, made health care available at military facilities conditioned on space availability—in other words, military retirees had to go to the end of the line and wait for health care. Subsequent laws removed them entirely from the military health care system when they became eligible for Medicare, resulting in a dramatic reduction in health care benefits.

The Appeals Court ruled against the plaintiffs on a technicality, arguing that promises by recruiters were invalid because only Congress could authorize military health care, which Congress had not done when the plaintiffs entered the service. But although the retired colonels lost their case on that technicality, I believe they won their moral battle on principle because the Courts have ruled that legally only Congress can make good on promises made to our military retirees.

The Court ruling said, in part, "We cannot readily imagine more sympathetic plaintiffs than the retired officers of World War II and Korean War era involved in this case. They served their country for at least 20 years with the understanding that when they retired they and their dependents would receive full free health care for life. The promise of such health care was made in good faith and relied upon. . . . Perhaps Congress will consider using its legal power to address the moral claims raised by Schism and Reinlie on their own behalf, and indirectly for other affected retirees.

The Keep Our Promise to America's Military Retirees Act was originally introduced in 1999 to acknowledge the promises made in good faith to America's military retirees. But now that the Courts have ruled, it is more important than ever that Congress pass this bill. I especially want to commend my friend from Texas, Mr. EDWARDS, for his leadership in introducing H.R. 58 at the beginning of the 108th Congress, and for working with me to bring the Keep Our Promise Act up to date to conform to the court rulings.

Our new bill offers more meaningful restitution for broken promises by waiving both the Part B premium and the late fee for World War II and Korean era military retirees. The new bill also addresses broken promises made to military retirees who joined the service after 1956. Even though laws were on the books beginning in 1956 that defined and limited military retiree health care, the sad truth is that the empty promise of lifetime health care was used as a recruiting tool for many years beyond the scope of Col. Day's case, to those who entered the military after 1956. This is documented in recruiting literature well into the 1990s. We must keep our promises to them, too.

These retirees, mainly from the Vietnam and Persian Gulf eras, qualify for the military health care program known generally as Tricare. Tricare works well for many military retirees but fails to deliver quality health care for others. Some retirees cannot receive care at military bases due to lack of space availability. Base closures have cut off access for many retirees, and too many of them cannot find private doctors who will put up with bureaucratic inefficiencies or low reimbursements they have encountered with Tricare.

I believe strongly that military retirees who are not well served by Tricare deserve an alternative. The Keep Our Promise Act has offered these retirees the option of enrolling in the Federal Employees Health Benefits Program (FEHBP); the new version of the bill improves this benefit for military retirees by reimbursing them for expenses they incur under FEHBP that they would not have incurred under Tricare. This provision is cost-neutral since the government would be covering these health care expenses under one program or the other.

The Courts have ruled. It is up to Congress to make good on the promises that were made—and broken—to our military retirees. They are not asking for handouts—they ask only for what was promised to them and what they earned.

APPOINTMENT OF CONFEREES ON H.R. 2800, FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

SPEECH OF

HON. MAXINE WATERS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. WATERS. Mr. Speaker, I rise to support this motion to instruct the conferees for the Foreign Operations Appropriations bill to accept the Senate's higher levels of funding for global HIV/AIDS, tuberculosis and malaria programs. The Senate bill provides $1.7 billion for these programs in fiscal year 2004. When combined with $700 million in the Labor-Health and Human Services Appropriations bill, this would provide $2.4 billion for these programs.

Last January, in his State of the Union address, the President made a commitment to the community of nations to provide $15 billion over five years to wipe out the scourge of HIV/AIDS, which is ravaging the continent of Africa and spreading rapidly throughout the world. Within four months, Congress passed and the President signed H.R. 1298, the U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act, which authorizes $3 billion per year in funding over the next five years for global HIV/AIDS, tuberculosis and malaria treatment and prevention efforts.

Unfortunately, it was not long before the President's State of the Union commitment began looking like another empty promise. In his FY 2004 budget, the President proposed only $2 billion for global HIV/AIDS, tuberculosis and malaria programs, and the Republican congressional leadership refused to fully fund H.R. 1298. The House provided only $1.4 billion in the Foreign Operations Appropriations bill and $700 million in the Labor-Health and Human Services Appropriations bill for a total of $2.1 billion for efforts to fight these devastating diseases.

I have been working for many years to bring attention to the AIDS epidemic, which is destabilizing economies and societies throughout the world. In the last year, over three million people died of AIDS, and five million people were newly infected with this dreadful disease.

The House's proposed appropriation of $2.1 billion for these widespread epidemics is grossly inadequate and a shameful, broken promise. The Senate's higher figure of $2.4 billion, while it comes closer to the $3 billion that the President promised, is still not enough. It is time for the Congress to take this issue seriously. It is time for the United States to keep its promise to the world community of nations and to the victims of these dreadful diseases and their families and friends.

I urge my colleagues to support this motion to instruct, and I urge the conferees to go even further and provide $3 billion to fully fund global HIV/AIDS, tuberculosis and malaria efforts for fiscal year 2004.

RECOGNIZING CHARLES ANDREW BISHOP FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Charles Andrew Bishop, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout.

Charles has been very active with his troop, participating in many scout activities. Over the five years Charles has been involved with scouting, he has earned 31 merit badges and has held numerous leadership positions, serving as Assistant Senior Patrol Leader, Assistant Patrol Leader, and Den Chief. Charles is also a Tom-Tom Beater in the Tribe of Mic-O-Say.

For his Eagle Scout project, Charles built a hiking path at the Parkville Nature Sanctuary in Parkville, Missouri. The bridge will create an elevated walking platform that will not spoil the natural landscape.

Mr. Speaker, I proudly ask you to join me in commending Charles Andrew Bishop for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

EPHEDRA

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. DAVIS of California. Mr. Speaker, with the support of my colleagues, Representative JIM GREENWOOD, Representative GREG WALDEN, Representative HENRY WAXMAN and Representative SWEENEY, I rise today to introduce a resolution calling on Health and Human Services Secretary Thompson to remove dietary supplements containing ephedrine alkaloids from the marketplace.

Medical literature indicates that there is a connection between ephedra use and heart attacks, strokes, seizures and death. The American Medical Association has long held that the risks associated with ephedra far outweigh any possible benefits and that the weight of the available clinical evidence supports the removal of dietary supplement products containing ephedra from the market.

In addition, the FDA has received at least 16,500 reports regarding adverse experiences associated with ephedra use and 155 deaths have been conclusively linked to ephedra.

But, after you wade through the reports and understand the statistics, what it comes down to is that individuals are being hurt by what they don't know. Consumers don't know that dietary supplements on store shelves have not been tested for safety. They don't know that the ephedrine/caffeine combination that Baltimore Orioles pitcher Steve Bechler used last spring was taken off of the shelves by the FDA as an over the counter drug, but it continues to be available as a dietary supplement.

I have heard from doctors whose busy days are made more difficult by patients taking dietary supplements. One doctor in San Diego wrote:

> Ephedra reports have been going on for years. I think it is the responsibility of the FDA to do something about this since the public cannot respond to new information regarding serious side effects reported in medical journals. My patients ask me why these products are on the market and why they are not regulated by the FDA?

Why are these products on the market? Many people would like to know the answer to this question. With the support of my congressional colleagues, I hope we can soon resolve this issue.

I would like to tell you about another person. "Margaret," as I will call her to preserve her privacy, is a 24–year-old woman in California who walks with the assistance of a cane. Two years ago, she suffered a serious stroke that left her on life support and without much hope of survival. But Margaret overcame the odds.

Her long road to recovery included surgeries and countless physical therapy sessions, helping her progress from a wheelchair to a cane. How could someone as young as Margaret suffer such a life-threatening event? According to her doctor, a reaction between her prescribed medication and some over-the-counter diet pills containing ephedra caused her stroke.

I hope the FDA will use its present authority to safeguard our loved ones from the risks of unregulated and untested dietary supplements. Our families depend on it.

HONORING DAN HEINLEN, OHIO STATE'S NUMBER ONE ADVOCATE

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. TIBERI. Mr. Speaker, I am privileged to join with my fellow graduates of the Ohio State University from across the country in honoring Dan Heinlen, who is retiring from his post as head of the Ohio State University Alumni Association.

Dan's outstanding work on behalf of the university and its students, staff and alumni has earned him the unofficial title of Ohio State's number one advocate. As President and CEO of the alumni association for the past 30 years, he has seen the organization grow from 50 thousand members and a budget of less than $1 million to one that now represents almost 125,000 alumni worldwide with a budget of more than $6 million.

A 1960 Ohio State graduate, Dan has served in a wide variety of positions under six university presidents. He is currently Secretary of the alumni association's Board of Directors, the Alumni Advisory Council and the Ohio State Student Loan Foundation, Inc. He is an ex officio member of the Ohio State University Foundation Board, its nominating committee, the University Trustees' Government Affairs and Outreach and Engagement Committees, sits on the Academy for Distinguished Teaching Executive Council and chaired the 2002

Ohio Presidents' Inter-University Council Alumni Advocacy Planning Taskforce.

Dan is a pioneer and one of the most respected leaders in the field of alumni work, and is a frequent consultant to alumni associations across the country. He has also long been active in community and civic affairs.

As Dan and his wife Gelene prepare for an exciting new phase of their lives, I know everyone connected with Ohio State will welcome his continued advice and support.

TRIBUTE TO BOB SKINNER, JR.

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. WALDEN of Oregon. Mr. Speaker, it is with great pride that I rise today to pay special tribute to a fine American, a true gentleman and a good friend of mine, Mr. Bob Skinner, Jr. of Oregon on the occasion of the end of his term as president of the Oregon Cattlemen's Association (OCA). Bob is a fifth generation cattle rancher, raised on the high desert of southeast Oregon. Growing up on his family's ranch outside of the small town of Jordan Valley, Bob learned the virtues of hard work, patience, and dependability. After earning a B.S. degree in business from the College of Idaho, Bob's devotion to his family and friends and his affinity for the ranching way of life drew him home to Jordan Valley and Oregon's vast high desert landscapes.

Through his many efforts over the years, Bob has emerged as a powerful spokesman for family ranchers and the rural way of life both in Oregon and across the nation. During the early 1990's, he led the effort to organize his neighbors in defense of grazing rights along the Owyhee River following an attempt to eliminate grazing as a critical land management tool. In the late 1990's after the Steens Mountain was proposed as a national monument Bob teamed up with other ranchers, community leaders and me to find a solution that would ensure the sustainability of livestock production on the mountain while preserving treasured resources. Bob was critical to the establishment of the Steens Mountain Cooperative Management and Protection Area, which arose from legislation I introduced in Congress—one of the most widely applauded measures to affect eastern Oregon in decades.

Mr. Speaker, Bob enjoys a reputation as a clear, cool head in discussions pertaining to the cattle industry. He is effective precisely because of his ability to maintain a levelheaded and respectful demeanor while tenaciously fighting for the interests of family ranchers. Bob's quiet, articulate and effective leadership has earned him the respect of many in Oregon and throughout the West. Bob understands that we can preserve the ranching lifestyle and stand up for the hard-working people who make their living off the land while improving the environment. Ranchers are, in fact, true stewards of the land and have been for many generations.

Bob has been recognized for his leadership with a number of prestigious awards, among them the 1997 Voice of the Industry Award of the Portland Chamber Agriculture Industries Committee and the 2000 Salem Chamber Agriculture Star Award. Over the years, Bob has given back generously to his community by donating his time and energy to various worthy causes. He has served on numerous local boards ranging from the county road board to the local ambulance board. Bob has also devoted much of his time to the young people of Malheur County as a 4–H leader. He further shares both his love of flying and his Cessna 182 to provide transportation for search and rescue personnel. I am proud to call Bob Skinner, Jr. my good friend and appreciate the opportunity to share his accomplishments over his long and distinguished career as an Oregon cattle rancher. The cattle industry and future generations of farmers and ranchers will continue to benefit from Bob's dedication and willingness to go the extra mile on their behalf.

I would be remiss if I failed to note Bob's remarkable family and all that they mean to him. Bob's father, Bob Skinner, Sr. is an equally impressive man. He resides in Jordan Valley, too, and has a distinguished leadership background similar to his son's. Bob Sr. was a former national committee member of the Public Lands Council and a Past President of Oregon Cattlemen's Association. I am fortunate to call Bob Sr. and his wonderful wife Sara my good friends. Bob Jr.'s wife, Karen, is likewise deserving of considerable praise. She is Bob's partner in success and travels great distances to dedicate herself to her community and industry. Together Bob and Karen have raised four children, Robbin, Kimberly, Silas, and Michael, who have given the Skinners six beloved grandchildren, Nicholous, Kirk and Birch, Kasen, Regann, and Kort. In the summer of 2002, I had the privilege of spending the night in Jordan Valley with the entire family and had a wonderful time getting to know the extended Skinner clan. Together they truly exemplify the dedicated, hard-working and fun-loving American family.

Mr. Speaker, I ask that my colleagues join me in congratulating this extraordinary man and great American, Bob Skinner, Jr. I would like to thank Bob personally for all he has done for the people of Malheur County, the Second District, and the State of Oregon—especially those Westerners who make their living off the land. I wish Bob, his wife Karen and their entire family all the best in future endeavors.

GOODS MOVEMENT PROJECTS OF NATIONAL ECONOMIC SIGNIFICANCE (H.R. 3398)

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. MILLENDER-McDONALD. Mr. Speaker, I want to bring to the attention of this Congress, legislation that I recently introduced. The Goods Movement Projects of National Economic Significance is legislation that addresses some of our Nation's most pressing transportation and economic needs.

This is the problem:

How freight moves through our communities is an important issue with far reaching implications. Goods movement is the driving force of our Nation's economy. This is a State issue, a Federal issue and it is an issue that directly affects the communities in which we live.

According to the Federal Highway Administration, $7.4 trillion in goods were moved on the Nation's highway system in 1998, directly employing 10 million people. In 2000, $706 billion in international merchandise trade flowed through U.S. seaports and $646 billion was handled by our railroads.

The volume of goods is projected to grow nationally by 67 percent over the next two decades. This tremendous growth in international trade will continue to place an increasingly heavy burden on our Nation's seaports, trade corridors, highways and rail lines. Traffic congestion, delays, accidents, and freight transportation costs have increased as a result. On a human level—our citizens are spending more and more time stuck in traffic instead of at home with their families.

This is the history:

Over the past 30 years our population has grown, our international trade has increased and our congestion has worsened. For example, in 1970, trade was 12 percent of U.S. gross domestic product (GDP). Today, it is over 25 percent. Since 1970 the population of the U.S. has grown by 40 percent. At the same time, the number of registered vehicles has increased by 100 percent while our road capacity has increased by only 6 percent!

By the year 2020, shipment of containerized cargo moving in and out of the U.S. will increase by more than 350 percent.

By the year 2020, total domestic tonnage of freight carried by all U.S. freight systems will increase by at least 67 percent and international trade will increase by nearly 100 percent.

The transportation reauthorization bill is the perfect opportunity for us to address these pressing transportation infrastructure needs. TEA–21 began to address Goods Movement issues with the creation of the Borders and Corridors Program. But we need to take this need further during this reauthorization bill.

Funding for the Borders and Corridors program was far from adequate. This new legislation encourages communities and regions to develop comprehensive programs and plans that address the goods movement issues of our transportation infrastructure.

This legislation recognizes that we must have a dedicated source of funding to ensure that goods movement and projects of economic significance can be built and that these projects contribute to the overall efficiency of the national transportation infrastructure. As we continue the dialog of reauthorizing the transportation bill, the Goods Movement Projects of National Economic Significance needs to be a part of that conversation.

This is what we must do:

Goods Movement Projects of National Economic Significance will do the following: It will provide $3 billion per year to a Goods Movement Program.

This legislation separates the Borders and Corridors Program and creates one strong Corridor and Gateway Program. Corridor projects represented 95 percent of the project requests for the Borders and Corridors program.

My legislation focuses our resources on projects and initiatives that promote the safe, secure and efficient mobility of goods and on the immediate and long-term needs of our transportation infrastructure.

This legislation combines and enhances elements of two highly successful transportation programs. This program uses the criteria from the Corridors program and combines it with the fiscal responsibility of the full funding grant agreement of the transit New Starts Program.

Specifically, this program provides $1.5 billion a year, $9 billion over the life of the reauthorization bill for local communities, States and the Federal Government to plan and build Goods Movement projects. These projects will ultimately enhance local, regional, and State economies, and of course, the national economy.

Finally, $1.5 billion a year or $9 billion over the life of the reauthorization bill will be dedicated to funding projects of National Economic Significance.

Throughout the country there are national bottlenecks that congest our communities and slow our national economy down. As we all know from experience, if there is a bottleneck on the highway, traffic several miles away can be affected.

If the type of gridlock that I just described happens and goes unchecked, it will affect an entire region and the entire country and ultimately our economy and the livability of our communities.

These are projects located throughout the country that are "ready to go" major investments in the national transportation infrastructure. By funding these projects we will be stimulating the national economy while investing in the long-term health of our national transportation infrastructure.

This legislation, like the entire transportation reauthorization bill, is an economic stimulus package. For every billion dollars invested in public transportation infrastructure, 47,000 jobs are created.

I ask my colleagues to strongly support this legislation as part of the transportation reauthorization bill. Join me and support The Goods Movement Projects of National Economic Significance.

CRUSADE 4 CHARACTER: CHARACTER FIRST IN HAMBURG

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. QUINN. Mr. Speaker, this evening in my hometown of Hamburg, NY representatives of all facets of the community will gather to conduct a "Town Meeting" to discuss the progress and future of Character First in Hamburg.

Character First in Hamburg is made up of numerous community leaders, who over the past two years, have put into place activities in support of good character throughout the town with a mission to create a culture of character in Hamburg.

I had hoped to participate as a keynote speaker for this community update where, along with defensive back and special teams player Coy Wire of the Buffalo Bills and Character First President Suzanne McKenney, concerned residents will hear the results of two years of Character First and highlights of the culture of character gaining momentum in the community.

Suzanne McKenney has been tireless in her extensive efforts over the last two years to bring Character initiatives to the business community, civic community, education community, faith community, government community and media community. Working with a well established Board of Directors and Committee Chairs there is a true emphasis upon creating a culture of character in Hamburg.

Coy Wire is an outstanding example to the Hamburg community. His Coy Wire Foundation has been established to promote education and character building with initiatives that encourage spiritual awareness. Coy has shown by example the positive and uplifting impact of an individuals emphasis on character.

Tonight's Town Meeting theme, Crusade 4 Character, underscores the assembled community's belief that the concept of good character has gained widespread support throughout the town.

There literally are signs of character everywhere in the Town of Hamburg. My good friend and restaurateur Mike DiPaolo has initiated character recognition awards for his employees at Illo DiPaolo's restaurant; Our local community newspaper The Sun has shared these employees' stories and other examples of character with the community. Places of worship throughout Hamburg have promoted character traits on bulletin boards, bulletins and newsletters. Character displays have been placed throughout school buildings and there have been dedicated efforts by students and teachers to recognize good character traits. There has been local government support by resolution in the Town of Hamburg and the Villages of Blasdell and Hamburg. The Hamburg Town Board has initiated character recognition at public meetings and last but not least the Civic Community has generated volunteers to assist in the coordination of character initiatives throughout the community.

These are but a few of the many community wide efforts to encourage residents of Hamburg to embrace good character.

Mr. Speaker, today I would like to join with the founders and supporters of Character First as they examine their past and look toward the future. I would encourage my colleagues to raise the awareness of good character in their community. Our nation will only grow stronger when individual citizens embrace character within their own lives.

RECOGNIZING STEPHEN OLDER FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Stephen Older, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout.

Stephen has been very active with his troop, participating in many scout activities. Over the six years Stephen has been involved with scouting, he has earned 28 merit badges and has held numerous leadership positions, serving as Assistant Senior Patrol Leader, Assistant Patrol Leader, Patrol Leader, Senior Patrol Leader, and Troop Guide. Stephen is also a Tom-Tom Beater in the Tribe of Mic-O-Say.

For his Eagle Scout project, Stephen designed, implemented, and installed a stone retaining wall at the Pine Ridge Presbyterian Church. He oversaw almost forty scouts and adults during the month long project.

Mr. Speaker, I proudly ask you to join me in commending Stephen Older for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

VETERANS DAY 2003

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. DAVIS of California. Mr. Speaker, throughout our history, the freedom we enjoy has faced serious threats time and time again. But because our courageous military personnel were willing to go into battle and risk all they had, our independence and our liberties have remained strongly intact for over 200 years.

It is crucial that we take time to pay tribute to those responsible for our freedoms and I am proud to stand on the House floor today—as Veterans Day draws close—to recognize America's 25 million living veterans and their fallen brothers and sisters.

In Congress, I am honored to serve over 61,000 military veterans from California's 53rd Congressional District. It is truly a privilege to represent so many of America's greatest heroes and to spend so much time working on their behalf.

As I meet with my veterans, I am always amazed with their stories and to learn about their heroics on the battlefield.

Just last month, I heard from a constituent, who as a young man, enlisted in the Army in 1941 and was immediately sent to the South Pacific to fight the Japanese in World War II.

His name is Chief Warrant Officer Michael Campbell, and now 86 years old, he lives in San Diego with his wife, Priscilla. Mr. Campbell's experiences illustrate what millions of our veterans had to endure when they were sent to war.

The Army deployed him to a region where the fighting was extremely intense and the Japanese inflicted severe casualties on our soldiers and took many as prisoners.

Warrant Officer Campbell fought courageously as both a rifleman and a machine gunner in the Philippines, but in 1942, his unit was captured and he too was taken as a Prisoner of War.

This brave young soldier spent the next three years in the harshest conditions you can imagine. He was transferred to several different internment camps and was forced to perform slave labor in a steel mill building supplies for the Japanese Army along side hundreds of other allied soldiers.

By the time the war had come to an end and he was liberated, Warrant Officer Campbell felt lucky to have his life. Hundreds of his brothers who were taken prisoner starved to death or died from other causes.

It took several weeks of medical care in a San Francisco military hospital before Mr. Campbell could recover from what he had experienced.

However—despite what he had endured—this courageous young man quickly reenlisted in the Army and dedicated another 30 years to his Nation. He said he did this because he loved the military and loved serving his country.

It is this kind of amazing resolve that has defeated our enemies and has kept the United States strong. I am pleased for the opportunity to thank Warrant Officer Campbell and his fellow veterans for dedicating their lives to protect our freedoms and our liberties.

Now that we are about to observe another Veterans Day, I ask my colleagues to seriously consider what we owe to them. Are we repaying the debt?

Mr. Speaker, I strongly believe we could improve our treatment of our greatest heroes.

Just recently, we have had the opportunity to increase funding for Veterans' Affairs health care. Unfortunately, though veterans nationwide expressed their strong support, we failed to provide VA health care with the increase it needs. We all know in this body that the health care system veterans rely upon will go under funded in 2004 because we did not act properly.

We currently have another opportunity before us, Mr. Speaker, to end what has come to be known as the Disabled Veterans Tax. I remain hopeful that during the 108th Congress, we can pass strong concurrent receipt legislation and provide the veterans who have made the most unimaginable sacrifices with both the disability and retirement payments they earned and deserve.

I am afraid that any proposal that provides concurrent payments to only a small portion of veterans is not good enough. I ask my colleagues to speak directly to their veterans about this issue and let them decide what kind of legislation will be fair for their brothers and sisters.

Finally, Mr. Speaker, I would just like to take a moment to reiterate my dedication to our Nation's retired military personnel. We can never take for granted the sacrifices our brave men and women in uniform have made on our behalf.

HONORING DALE K. OUZTS FOR HIS CAREER ACHIEVEMENTS

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. TIBERI. Mr. Speaker, it is a privilege to recognize Dale K. Ouzts for a legacy of distinguished service to The Ohio State University and the people of Ohio. Dale is retiring after 24 years at Ohio State, including 23 as General Manager of the WOSU Stations and Director of The Ohio State University Telecommunication Center. His hard work, enthusiasm, and leadership have contributed immensely to the quality of life in Central Ohio.

Dale's accomplishments place him high atop the list of Who's Who in public broadcasting. Notable undertakings during his long career include the Chairmanship of the Board of Directors of National Public Radio, a position as the Executive Vice President and General Manager of KPTS–TV in Wichita, Kansas, a lecturer at the Beijing Broadcasting Institute in Beijing, China, and a consultant for the U.S. Information Agency to help Romanian broadcasters transition to Capitalism.

Perhaps more impressive than Dale's lengthy résumé of achievements is the impact his hard work and service have had in our community. As the general manager of the WOSU stations, Dale was responsible for the addition of more than four new stations and the expansion of the listening area. He is also the founding member and first Board President of the Ohio Public Broadcasting Alliance and Public Radio in Mid-America. Dale is a board member and past president of the Ohio Educational Television Stations and Ohio Public Radio. He has helped to educate tomorrow's leaders as a professor of Communications and Journalism at The Ohio State University. Finally, Dale is a co-founder and past Chairman of Kids Voting Ohio, a past president of the Dublin/Worthington Rotary Club, and a member of the Columbus Zoo Board.

Dale's work has been honored at the highest levels of the industry. His commendations include National Public Radio's highest award for distinguished service, the Edward Elson Award. His contributions to broadcasting have also been recognized by Public Radio in Mid-America, the National Black Programming Consortium, the International Dictionary of Distinguished Leadership, and the Ohio Educational Broadcasting Association.

Mr. Speaker, Dale Ouzts has set a standard for professional achievement and community involvement that few can match. I'm proud to join his family, friends and others in our community in thanking him for his many years of exemplary service.

TRIBUTE TO GLEN STONEBRINK

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to Mr. Glen Stonebrink, on the occasion of his retirement. During his long and distinguished career, Glen has committed his energy and efforts to making both his community and the State of Oregon better places to live. Glen's accomplishments range from educating our young people to advocating on behalf of rural Americans, two pursuits that he has approached with selfless dedication. His commitment, spirit and devotion to his fellow citizens have been his most defining trait over the years, and I am proud to call Glen and his wonderful wife, Loydee, my friends.

As a high school teacher at Yamhill Carlton High School and then as a college professor at Linfield College, Glen devoted his energy and talent to training a new generation of Oregonians in math, physics, and computer science. It is perhaps Glen's dedication and devotion to the young people he instructed that will serve as his most enduring legacy.

As many of my colleagues know, the West is known for its stunning natural beauty, fertile soil and lush timberlands. We owe a debt of gratitude to those individuals who devote themselves to protecting our national treasures while preserving the farming and ranching way of life for future generations. Growing up on his family's wheat and cattle ranch in the high country of Wallowa County, Glen learned firsthand the importance of balancing these interests while working to protect the values of rural Oregonians.

Glen's real world understanding and education in natural resource issues led to his appointment under both the Reagan and Bush Administrations as the State Executive Director for the Agriculture Stabilization and Conservation Service, now known as the Farm Service Agency. In this prestigious position he had the opportunity to help preserve and promote American agriculture while working with farmers to implement programs to conserve land and water resources.

After his term as State Executive Director of the Oregon Farm Services Agency, Glen brought his knowledge of the West to Washington, D.C., where he worked as the Legislative Director for Congresswoman Helen Chenoweth of Idaho. During his tenure working on Capitol Hill, my staff worked closely with him on a number of issues impacting the cattle and ranching industry.

For the last six years, Glen has served as the Executive Director of the Oregon Cattlemen's Association, working to protect the ranching way of life. Glen has been a tireless advocate for rural issues ranging from private property rights to water rights. He is also called upon frequently to advise groups on natural resource issues and provide assistance in working with the federal government.

Mr. Speaker, I ask that my colleagues join me in congratulating Glen Stonebrink on the many achievements that mark his long and impressive career. I am grateful for all that he has done on behalf of the people of Oregon and the people of the rural West. I wish Glen, Loydee and their entire family all the best in their future endeavors.

HONORING MR. ED SEDER ON HIS 90TH BIRTHDAY

HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. SIMMONS. Mr. Speaker, every community has certain individuals who define it. These are people who, by virtue of their character and commitment, make the community a better place in which to live and work.

In my district, Connecticut's Second District, in the city of Norwich, Ed Seder is such an individual. Ed recently celebrated his 90th birthday. I have been friends with Ed for many years. For decades he has been a pillar in the Norwich business community and he represents the city's rich industrial past.

Ed projects a vibrant energy and continues to be involved with the community, proving that although we can't help growing older we don't have to get old. As an old saying informs us, "You know you're getting old when the candles cost more than the cake." Ed is not quite there yet.

The Seder family owns the second oldest family business still in existence in Norwich—Shetucket Paper and Supply. The business was established in 1918 and Ed still works there. Ed has been active in the community for many years—he served on the city school board and in the 1960s he was a member of the Norwich City Council.

Throughout his adult life he has had the support and love of his wonderful wife Lillian and their three children.

How do folks keep a business thriving for so many years? The answer is simple—they work at it. That's the old-fashioned concept of hard work that made America what it is today—a free and flourishing nation that draws people with dreams and aspirations from all over the world.

Ed Seder and his family have achieved because they worked at it. He's the kind of person who found solutions to problems because he looked for them and then he worked at them. When Ed Seder tells you something, you can take it to the bank.

If you think about what you ought to do for other people, your character will take care of itself. Ed Seder is a man of character. He has spent his lifetime working for and in his community. As a result, Norwich, Connecticut is a better place to live, work and raise a family thanks to Ed Seder. Happy birthday, Ed.

* * *

PUBLIC SAFETY INTEROPERABILITY: CAN YOU HEAR ME NOW

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I would like to commend Chairman SHAYS and Ranking Member KUCINICH for calling this important hearing on Public Safety Interoperability. Earlier this year, I met with Fire Stations and Police Departments in my district. Each one of them highlighted the need for a communications system that would allow law enforcement, fire fighters, and other first responders to talk to one another.

To this end, the Los Angeles County Fire Department with minimal resources and funds initiated an interoperability communications pilot program, known as the Los Angeles Regional Tactical Communication System (LARTCS). This system enables various agencies to directly speak to another on one channel for both short-term and long-term incidents.

The pilot program only serves a portion of the County, while the Los Angeles County Fire Department provides services to 58 municipalities and spans a 3,000-mile radius. This includes dense, rural, and remote suburban areas.

The LARTCS has already proven to be a success, particularly in the southern California wildfires. According to the Los Angeles County Assistant Fire Chief, Eric Ekeberg, "the fires hit the region really hard, but it could have been a lot worse if the communication system was not in place."

I commend the foresight and dedication of the Los Angeles County Fire Department and all participating agencies that includes law enforcement, EMS, and other first responders for establishing this pilot program. Amazingly, this system was put in with minimal funds.

This successful pilot program proves that Congress needs to do more to fund interoperability systems, whether it is through additional FEMA grants or cutting the red tape, so that the first responders of LA County, and multiple counties throughout California and the nation, can talk to one another.

We need to do more to protect our public servants as well as the general population. Therefore, I look forward to the testimonies of the witnesses who might shed some light on this salient issue, not just for first responders, but all Americans.

Again, I would like to thank the Chairman and Ranking Member for holding this very important hearing.

* * *

TRIBUTE TO ALAMEDA COUNTY VETERANS, 50TH ANNUAL VETERANS DAY PARADE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. STARK. Mr. Speaker, I rise today to honor Veterans Day on November 11, 2003 and to pay tribute to the veterans in Alameda County, California. As we pause to remember the valiant men and women who have nobly served our country, I join the Alameda County Veterans' Affairs Commission and the city of Hayward to commemorate Alameda County's 50th Annual Veterans Day Parade.

The Alameda County Veterans' Affairs Commission is a diverse group of men and women who stand together with the same discipline and patriotism and the same values and uncommon valor that they fostered in the battles they fought for our nation. Last year's program, Honoring All Who Served, stated, "as long as there are men and women in uniform, stationed across the world, there will be a body of veterans' organizations defending and upholding the rights of our fighting men and women." I commend their tireless efforts.

This year, the Commission has again taken the charge to prepare and promote the annual Veterans Day Parade ceremonies. I join them in honoring our veterans and in dedication to world peace.

VETERANS

HON. DONNA M. CHRISTENSEN

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. CHRISTENSEN. Mr. Speaker, as we approach our annual celebration of Veteran's Day, this year we do so in the knowledge that our brave fighting men and women and those who support their efforts, are in the field in Iraq, in Afghanistan and in Guatanamo Bay, right now in defense of our country and our freedoms.

Mr. Speaker, all of our veterans have served with distinction and deserve the benefits that they have earned. That's why it is important that we invest in their health care and we ensure there is more than enough funding for the VA clinics and hospitals across the country so that our veterans of wars past and wars present can be well cared for.

Mr. Speaker, that is why our veterans deserve to have their tax burdens lifted, including the disabled veterans tax. They deserve to enjoy tax relief such as the child tax credit and they deserve to have their pay increased especially at this time, when they are being asked to sacrifice so much.

Mr. Speaker, the veterans of the U.S. territories, who have served in many wars with distinction, despite not being able to vote for president and not having voting representation in Congress, are also in need of increased health benefits, tax relief and access to business and other opportunities.

Over 200 soldiers from my district are currently serving in the Middle East, with many more in the National Guard and Reserve who have been called up to serve their country at different places across the world at this time.

Mr. Speaker, I would like to salute the veterans from my district who are being honored this weekend and who have served in the major conflicts of our time from World War II to Vietnam to the first Persian Gulf . . . they include Gloria Bell, Peter Thurland, Juan Cruz, Earl Morris, Olaf Jackson, Evelyn Crittenden, Agnes Day Henry, Edgar Iles, Nevlin Williams and Otto Tranberg.

Mr. Speaker, this year, it is important that our soldiers in the field, our veterans and their families all know that we appreciate their sacrifice and that this body pledges to support them in the best way that we possibly can.

* * *

HONORING JOYCE McCULLUM

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. LEE. Mr. Speaker, I rise today to honor a great woman and public educator, Ms. Joyce McCullum, for her 36 years of dedicated educational service to the community. Today, Ms. McCullum retires from her position as a teacher and administrator in the Oakland Unified School District in California.

B. Joyce Garrett McCullum was born to Willie Garrett and Rosa M. Jones in Pineland, Texas. She graduated from Vernon High

School in Leesville, Louisiana, and earned a bachelor's degree in vocal music education from Southern University in Baton Rouge, Louisiana. She was then appointed to a Ford Foundation Fellowship and received a master's degree in music from Holy Names College in Oakland, California.

In September, 1967, Joyce McCullum began her educational career with the Oakland Public Schools as a teacher at Lockwood Elementary School, and continued at Hoover Jr. High, Lowell Jr. High, Roosevelt Jr. High, and Marcus A. Foster Middle School. She served as an administrator at Marcus Foster Middle School, Hoover Elementary School, E. Morris Cox Elementary, and then taught some more at Havenscourt Jr. High and Verdess R. Carter Middle School.

Ms. McCullum was predeceased by the late Reverend James T. McCullum, Sr., Pastor of New Hope Baptist Church for 32 years. She is also the proud stepmother of James T. McCullum, Jr., and grandmother of four grandchildren, and a surrogate mother to many. Joyce has been Director of Youth at New Hope Baptist Church, part of the Home and Foreign Mission District Association, and youth counselor for the California State Baptist Convention, Inc. Youth and Young Adult Auxiliary.

She has been actively involved in community services, having served as a life member of the NAACP, as President of the Oakland Alliance of Black School Educators, a life member of the National Association of Negro Musicians (NANM) and the Golden Gate Branch of NANM. She is also a member of the Alpha Kappa Alpha Sorority, Inc., Alpha Nu Omega Chapter, the Oakland Education Association, United Administrators of Oakland, and the Oakland Music Educators Association.

Finally, as we honor Ms. McCullum today, I want to thank her for being an exemplary role model, administrator, and teacher. I take great pride in joining the students of Oakland, Ms. McCullum's family, friends and colleagues to recognize and salute the accomplishments and contributions of B. Joyce Garret McCullum and wish her an exciting and gratifying retirement.

RECOGNIZING THOMAS M. REEDY FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Thomas M. Reedy, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 175, and in earning the most prestigious award of Eagle Scout.

Thomas has been very active with his troop, participating in many scout activities. Over the seven years Thomas has been involved with scouting, he has held numerous leadership positions, serving as Troop-Patrol Leader and Instructor. Thomas is also a Brave in the Tribe of Mic-O-Say and participated in High Adventure.

For his Eagle Scout project, Thomas built, stained, and installed sturdy oak bunk ladders for the Rotary Camp in Lee's Summit, Missouri, where Thomas went on his first official campout as a Boy Scout.

Mr. Speaker, I proudly ask you to join me in commending Thomas Reedy for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

PERSONAL EXPLANATION

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. JACKSON-LEE of Texas. Mr. Speaker, on November 4, on rollcall vote No. 603, H. Con. Res. 94, Sense of Congress that community inclusion and enhanced lives for individuals with mental retardation or other developmental disabilities is at serious risk because of the crisis in recruiting and retaining direct support professionals which impedes availability of a stable workforce; I was detained in my district on official business, and I would have voted "aye."

On November 4, on rollcall vote No. 602, H. Con. Res. 176, Supporting the goals and ideals of Financial Planning Week; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 609, H.R. 3365, Fallen Patriots Tax Relief Act; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 608, H.R. 3214, Advancing Justice Through DNA Technology Act; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 607, H.R. 2620, Trafficking Victims Protection Reauthorization Act of 2003; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 606, H.R. 2559, Military Construction Appropriations Act, 2004; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 605, H.J. Res. 76, Further continuing appropriations for FY 2004, and for other purposes; I was detained in my district on official business, and I would have voted "aye."

On November 5, on rollcall vote No. 604, H.R. 2443, DEFAZIO of Oregon Amendment; I was detained in my district on official business, and I would have voted "aye."

IN HONOR OF CIVICALLY-CONSCIOUS LOCAL ORGANIZATIONS

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. ANDREWS. Mr. Speaker, Thomas Jefferson, author of the Declaration of Independence and a passionate believer in education as the cornerstone of democracy, once wrote, "If a nation expects to be both ignorant and free in a state of civilization, it expects what never was and never will be." James Madison, known as the "father" of the Constitution, wrote, "A well-instructed people alone can be permanently a free people."

Conscientious Americans in our private sector, some of whom are in my congressional district, have heeded this message of Jefferson and Madison. They have joined the effort of the Committee for Citizen Awareness (CCA), a not-for-profit organization that provides free award winning civic videotapes to all our high schools, community colleges, community access cable television stations and to many libraries across the country. Over 30 million students and countless others have seen these civic videotapes.

Some of our country's most notable citizens are participating in this effort. They include Secretary of State Colin Powell, Supreme Court Justice Ruth Bader Ginsburg, Constitutional author Caroline Kennedy, and CBS chief Washington correspondent and anchor of Face the Nation Bob Schieffer, to name a few.

We are all indebted to the Americans in our private sector who are undertaking this important civic effort. I think the hundreds of my colleagues who have also personally participated in this civic activity would agree that our country's civic knowledge and, as a result, our freedom has been strengthened by the work of the CCA and the following contributing organizations:

Tara Houser, Public Relations Manager of Boyd Collection, Ltd.; Dr. Millicent M. Valek, President of Brazosport College; Thomas Schmidt, President of Carl Sandburg College; J. Anthony Rose, President and CEO of CATAWBA Valley Hospital Medical Center; Dr. Mark John Tierno, President of Cazenovia College; Dr. David H. Roe, President of Central College; Dr. Larry Litecky, President of Century Community and Technical College; Larry Damm, General Manager of Cessna Employees Credit Union; Michael S. Boggs, CEO of Coliseum Health System; Ulis Williams, President of Compton Community College; Russ Owen, President—Global Infrastructure Services of Computer Sciences Corporation; Michael G. Morris, Chairman, President, and CEO of Connecticut Light & Power Company; Gloria M. Harrison, President of Crafton Hills College; Ricky D. Napper, President and CEO of Crittenden Health Systems; Michael B. Kitchen, President and CEO of CUNA Mutual Group; William D. Petasnick, President and CEO of Froedtert and Community Health; Dana Tindall, Senior Vice President, Legal, Regulatory and Government Affairs of GCI Communications; Bob Richard, Lexan Operations Manager of GE Plastics—Mount Vernon; Jeffrey L. Bleustein, Chairman and CEO of Harley-Davidson, Inc.; Scott Kaulukukui, Vice President of Marketing of HawaiiUSA Federal Credit Union; Dr. Darnell Cole, President of Milwaukee Area Technical College; Dr. Julio S. Leon, President of Missouri Southern States College; Dr. Earl S. Richardson, President of Morgan State University; Marvin R. O'Quinn, Executive Vice President of the Western Region of Morristown Memorial Hospital;

Harold E. Anderson, President and CEO of Moses Taylor Hospital; The Reverend Dr. Samuel Berry McKinney, Pastor Emeritus and Louise J. McKinney of Mount Zion Baptist Church of Seattle; Dr. Dennis Joslin, President, Nebraska Methodist College of Nebraska Methodist Hospital; Dr. Rosalie M. Mirenda, President of Neumann College; Fred W. Beaufait, President of New York City College of Technology; Seymour Sternberg, Chairman, President, and CEO of New York Life Insurance; Mark C. Anderson, President of Niagara Area Credit Union; Tom Rowland, Executive Vice President and General Manager of North Central Telephone Coop; Kay Stewart, President of North East Texas Credit Union; John A. Noer of Northern States Power Co. Combustion and Hydorgeneration; Dan DiMicco, President and CEO of Nucor Corporation; Daniel R. Moss, President and CEO of Oakland Catholic Credit Union; Marvin R. O'Quinn, Executive Vice President of the Western Region of Overlook Hospital; Dr. Edward Tomezsko, Campus Executive Officer of Penn State Delaware County;

Dr. Davie Jane Gilmour, President of Pennsylvania College of Technology; J. Steven Whisler, CEO of Phelps Dodge Corporation; Dr. E. Grace Pilot, Co-Founder of Pilot Catastrophe Services, Inc.; Robert "Buzz" W. Trafford, Managing Partner of Porter Wright Morris & Arthur; William Cavanaugh, President and CEO of Progress Energy; Robert F. Bregler, Executive Vice President of Publix Employees Federal Credit Union; Dr. Rodney D. Smith, President of Ramapo College of New Jersey; Hal Chilton, CEO of Redding Medical Center; Alan C. Henderson, President and CEO of Rehab Care Group; Steven L. Henderson, CEO of Rice Medical Center; Jeff H. Farver, President and CEO of San Antonio Federal Credit Union; Steven Fellows, President of San Gabriel Valley Medical Center; Richard Villareal, Financial Education Representative of San Mateo Credit Union; Richard P. Meduski, CEO of Savings Bank of Manchester; Dr. Rick Rogers, President of Shelton State Community College;

Deborah A. Trapani, President and CEO of Sierra Point Credit Union; Jonathan J. Lerner, Esquire of Skadden, Arps, Slate, Meagher & Flom; Ronald S. Owen, CEO of Southeast Alabama Medical Center; Dr. Barbara J. Crittenden, President of Southwestern Community College; Dr. Thomas E. Hines, President of Spoon River College; Peter E. Capobianco, President and CEO of St. Mary's Hospital at Amsterdam, NY; John Maher, CEO of St. Vincent's; Fred J. Whyte, President of Stihl Inc.; Richard N. Fine, M.D., Pediatrics Chairman of Stony Brook University Hospital; Michael J. Kaczenski, President/CEO of Sun East Federal Credit Union; Curt A. Cecala, CEO of TCT Federal Credit Union;

Mr. Robert Allen, President and CEO of Teachers Federal Credit Union; Betty G. Hobbs, President and CEO of Tennessee Teachers Credit Union; Dr. Priscilla D. Slade, President of Texas Southern University; Charles V. Wait, Chairman, President and CEO of The Adirondack Trust Company; Bill Yoh, Regional President of The Day & Zimmermann Group, Inc.; William S. Stavropoulos, Chairman of The Dow Chemical Company; Jim Yates, Vice President and General Manager of The Gas Company of Hawaii; Stephen S. Mills, President and CEO of The New York Hospital Queens; Mike Pierce, CEO of TLC Federal Credit Union; Robert P. Randall, President and CEO of TRACO; Bill Leaver, President and CEO of Trinity Medical Center; John Gisler, President and CEO of Twin City Co-ops Federal Credit Union; C. Lance Terry, Senior Vice President of TXU Electric and Gas; Susan V. Juris, Vice President of University Hospitals Home Care Services, Inc.; Gwen Stafford, Vice President of Corporate Services of University Medical Center; Dr. M.R.C. Greenwood, Chancellor of University of California—Santa Cruz; Dr. Nancy Cantor, Chancellor of University of Illinois @ Urbana-Champaign; Ron Applbaum, President of University of Southern Colorado;

Loren W. Crabtree, Provost of University of Tennessee @ Knoxville; William S. Stavropoulos, Chairman, President and CEO of The Dow Chemical Company; Harry R. Jacobson, M.D., Vice Chancellor for Health Affairs of Vanderbilt University Medical Center; Hubert H. Hoosman, Jr., President and CEO of Vantage Credit Union; Lee D. Meyer, President of Variform Inc; Jane G. Watkins, President and CEO of Virginia Credit Union, Inc.; Frank E. Berrish, President and CEO of Visions Federal Credit Union; Sara Swee, Director of Corporate Communications of Watson Pharmaceuticals, Inc.; Timothy R. Thyreen, President of Waynesburg College; Larry Weyers, President and CEO of WPS Resource Corporation; Robert Essner, President and CEO of Wyeth; Borgess Health Alliance, Inc.; Community & Mission Hospitals of Huntington Park; Cornell Companies, Inc.; Dana Corporation; East Jefferson General Hospital; Fluor Corporation; Fort Bliss Federal Credit Union;

Franklin Regional Medical Center; Goodrich Company; Hillcrest Baptist Medical Center; Household International; Jamestown College; Kishwaukee Community Hospital; Lower Bucks Hospital; Memorial Hermann Healthcare System; Midway Hospital Medical Center; Mount Sinai School of Medicine; Murray State College; North Central Michigan College; Paradise Valley Hospital/Vanguard Health Systems; Porter Adventist Hospital; Ripon College; Rockwell Automation—Power Systems; Royal Ordnance North America, Inc.; ServiceMaster; Sharp Memorial Hospitals; South Texas Health System; Southern Regional Health System; Southwest General Hospital; Spalding University; St. Anthony Hospital; State University of New York at Buffalo; Syngenta Crop Protection; The Ohio State University—Lima; Tillamook People's Utility District; University of Alabama at Birmingham; University of Wisconsin—La Crosse; Western Michigan University; Whittier Hospital Medical Center.

IN HONOR OF NATIONAL BIBLE WEEK

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. BARTLETT of Maryland. Mr. Speaker, I am honored to rise today as the House co-chairman of National Bible Week that will take place in 2003 during the week of November 23–30. The National Bible Association is organizing nationwide recognition of the importance of the Bible in our daily lives during this week. I would like to speak briefly about the importance of the Bible in the history of our nation, and the foundation of the government of the United States of America.

George Washington, our first President wrote:

> It is impossible to govern the world without God and the Bible. Of all of the dispositions and habits that lead to political prosperity, our religion and morality are the indispensable supporters. Let us with caution indulge the supposition, that is, the notion or idea, that morality can be maintained without religion. Reason and experience both forbid us to expect that our national morality can prevail in exclusion of religious principle.

John Adams, our second President, was also President of the American Bible Society and this is what he said:

> We have no government armed with the power capable of contending with human passions unbridled by morality and true religion.

And now listen to these words of John Adams:

> Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other.

John Quincy Adams, son of John Adams, also served as President of the American Bible Society. He told his friends that he valued his presidency of the American Bible Society above his presidency of the United States. These are his words:

> The highest glory of the American revolution was this. It connected in one indissolvable bond the principles of civil government with the principles of Christianity. From the day of the declaration, they, that is, the founders were bound by the laws of God which they all acknowledged as their rules of conduct.

In the 1920's, President Calvin Coolidge said:

> America seeks no empires built on blood and forces. She cherishes no purpose save to merit the favor of Almighty God.

He later wrote,

> The foundations of our society and our government rest so much on the teachings of the Bible that it would be difficult to support them if faith in these teachings would cease to be practically universal in our country.

The Bible has come up many times in cases before the Supreme Court. In 1811, there was a case the People v. Ruggles. This was a person who had publicly slandered the Bible. This case got to the Supreme Court and this is what they said:

> You have attacked the Bible. In attacking the Bible, you have attacked Jesus Christ. In attacking Jesus Christ, you have attacked the roots of our Nation. Whatever strikes at the root of Christianity manifests itself in the dissolving of our civil government.

In 1845, there was a case Vida v. Gerrand. This was a lady teacher who was teaching morality without using the Bible. I have no idea how that case got to the Supreme Court, but it did, and this is what they said, "Why not use the Bible?" This is the Supreme Court:

> Why not use the Bible, especially the New Testament? It should be read and taught as a divine revelation in the schools. Where can the purest principles of morality be learned so clearly and so perfectly as from the New Testament?

Consistent with this philosophy, the Continental Congress bought 20,000 Bibles to distribute to their new citizens, and for 100 years, at the beginning of our country, this Congress appropriated money to send missionaries to the American Indians.

The Bible has been an important foundation of learning in our schools. The Congress in

1854 made this statement about our schools. It said:

> The Congress of the United States recommends and approves the Holy Bible for use in our schools.

Consistent with that, it was used.

The New England Primer was used for over 200 years. Notice how they taught the alphabet:

> A. A wise son makes a glad father but a foolish son is heaviness to his mother.
>
> B. Better is little with the fear of the Lord than abundance apart from him.
>
> C. Come unto Christ, all you who are weary and heavily laden.
>
> D. Do not do the abominable thing, which I hate, sayeth the Lord.
>
> E. Except a man be born again, he cannot see the Kingdom of God.

The "McGuffey Reader," was used for 100 years. Not too many years ago it was brought back to some of our schools when for a number of years the achievement scores had considerably dropped and we graduated over 1 million people who literally could not read their high school diplomas, and, out of desperation, they brought the "McGuffey Reader" back to some of the schools, because when we had that in our schools, the graduates could read when they graduated from school.

This is what the author says about The "McGuffey Reader":

> The Christian religion is the religion of our country. From it derived our notions on the character of God and on the great moral Governor of the universe. On its doctrines are founded the peculiarities of our free institutions. From no source has the author drawn more conspicuously than from the sacred scriptures. For all of these extractions from the Bible I make no apology.

There has been a determined movement over the last 50 years to denounce the Bible as a document that is irrelevant in our modern society. Worse than irrelevant, there has been a concerted effort which has succeeded in removing the Bible and even prayer from schools on the grounds that it is dangerous and offensive.

A couple of years ago a young woman in a high school in Oklahoma wrote this poem as a new school prayer:

Now I sit me down in school
Where praying is against the rule.
For this great nation under God,
Finds mention of him very odd.
If scripture now the class recites
It violates the Bill of Rights.
Any time my head I bow
Becomes a Federal matter now.
Our hair can be purple, orange, or green.
That's no offense; it's a freedom scene.
The law is specific, the law is precise.
Only prayers spoken out loud are serious vice.
For praying in a public hall
Might offend someone who has no faith at all.
In silence alone we must meditate,
God's name is prohibited by the State.
We are allowed to cuss and dress like freaks,
And pierce our noses, tongues and cheeks.
They have outlawed guns, but FIRST the Bible.
To quote the Good Book makes me liable.
We can elect a pregnant Senior Queen,
And the "unwed daddy" our Senior King.
It is inappropriate to teach right from wrong,
We are taught that such 'judgments' do not belong.
We can get our condoms and birth controls,
Study witchcraft, vampires and totem poles.
But the Ten Commandments are not allowed,
No word of God must reach this crowd.
It is scary here I must confess,
When chaos reigns the school's a mess.
So Lord, this silent plea I make:
Should I be shot, my soul please take.

The Bible is as relevant today as it has been since it was written for very simple reasons. The Bible is the word of God for Jews and Christians around the world. Every American should be taught to understand that the foundations of our government are rooted in the moral teachings of the Bible. For people of all faiths, the Bible offers universal ethical guidelines of right and wrong, good and bad and simple rules to follow to lead a virtuous life and establish a just society.

RECOGNIZING TRAVIS A. LUETHJE FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Travis A. Luethje, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 175, and in earning the most prestigious award of Eagle Scout.

Travis has been very active with his troop, participating in many scout activities. Over the eight years Travis has been involved with scouting, he has earned 29 merit badges and has held numerous leadership positions, serving as Assistant Senior Patrol Leader, Quartermaster, Assistant Patrol Leader, Scribe, and Chaplain Aid. Travis has also participated in High Adventure and is a Brave in the Tribe of Mic-O-Say.

For his Eagle Scout project, Travis restriped the parking lot of St. Peter United Methodist Church, including handicap spaces and new turning lanes.

Mr. Speaker, I proudly ask you to join me in commending Travis A. Luethje for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

TRIBUTE TO THE COLORADO TRIAL LAWYERS ASSOCIATION

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. DEGETTE. Mr. Speaker, I would like to recognize the exceptional endeavors and notable undertakings of an extraordinary professional membership organization in the State of Colorado. It is both fitting and proper that we recognize this outstanding association for its leadership in government and the legal community and for its enduring service to the people of our state. It is to commend this distinguished organization that I rise to honor the Colorado Trial Lawyers Association on the occasion of its 50th Anniversary.

The Colorado Trial Lawyers Association (CTLA) has been on the front lines of progress since its inception and has proven to be a powerful force in transforming the legal landscape of our state. CTLA's statement of purpose merits mention. "The Colorado Trial Lawyers Association is comprised of Colorado trial lawyers who are committed to the protection and advancement of individuals rights and to the advancement of trial advocacy skills, high ethical standards and professionalism in the ongoing effort to preserve and improve the American system of jurisprudence." Within this unequivocal statement lies the touchstone that has guided CTLA's work with government and its immeasurable contribution to the legal profession in Colorado.

For the last half-century, CTLA and its members have been resolute in their commitment to protecting the health, safety and welfare of Colorado consumers. It has been active in educating the public concerning the efficacy of individual rights and the pivotal role of the trial lawyer in protecting those rights. CTLA has recognized, and continues to recognize, that it has a public trust of considerable magnitude. Through its legislative advocacy, CTLA has provided vital information and invaluable counsel to Members of the Colorado General Assembly and the United States Congress on issues that protect consumers and impact our civil justice system. Due in no small part to CTLA's advocacy, many detrimental legislative proposals have been defeated, particularly those that would have prevented or hindered access to the courts for redress of grievances.

Trial advocacy is facing considerable change, technological and otherwise. CTLA has given the legal profession inestimable service through its outstanding legal education programs by providing state-of-the-art instruction concerning law, ethics and professional conduct for members and non-members alike. CTLA has demonstrated an unwavering commitment to those in need. Countless members have provided pro-bono legal aid, including free legal assistance to the victims of the terrorist attacks of September 11 through the Trial Lawyers Care Program. My membership in CTLA has had a profound impact on my career in the practice of law and public service.

Please join me in commending the Colorado Trial Lawyers Association on the occasion of its 50th Anniversary. It is leadership, advocacy and commitment of the Colorado Trial Lawyers Association that continually enhances our lives and builds a better future for all Americans.

IRAQ RECONSTRUCTION IS A NOBLE CAUSE THAT MUST NOT FAIL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. OXLEY. Mr. Speaker, I recommend to my colleagues the following column by the distinguished commentator Morton M. Kondracke in the November 6 edition of Roll Call. Mr. Kondracke has eloquently stated the stakes facing all of us in Iraq. His incisive and knowledgeable commentary should be read by all.

[From Roll Call, Nov. 6, 2003]

IRAQ RECONSTRUCTION IS A NOBLE CAUSE THAT MUSTN'T FAIL

(By Morton M. Kondracke)

In January 1946, seven months after V-E Day, the eminent novelist John DosPassos wrote after a trip to Europe that U.S. servicemen were telling him, "We've lost the peace. We can't make it stick."

In an article in Life magazine, he wrote that "A tour of the beaten-up cities of Europe . . . is a mighty sobering experience. Europeans, friend and foe alike, look you accusingly in the face and tell how bitterly they are disappointed in you as an American.

"They cite the evolution of the word 'liberation.' Before the Normandy landings, it meant to be freed from the tyranny of the Nazis. Now it stands in the minds of the' civilians for one thing: looting."

If this sounds familiar in the aftermath of the Iraq war, it goes on: "Instead of coming in with a bold plan of relief and reconstruction, we came in full of evasions and apologies. . . . We have swept away Hitlerism, but a great many Europeans feel that the cure has been worse than the disease."

It was another year after this article was written before Secretary of State George Marshall delivered his celebrated speech at Harvard University launching the Marshall Plan for European relief.

By contrast, Congress gave final approval this week, six months after the Iraq war, to the contemporary version of the Marshall Plan: the $20 billion downpayment on Iraqi reconstruction. At that, reconstruction was already under way.

We succeeded grandly in Europe in one of the most generous and idealistic—and also pragmatic—undertakings in American history.

Prior to America's making the effort, DosPassos noted, Winston Churchill made a speech in which he warned Americans, "You must be prepared for further efforts of mind and body and further sacrifices to great causes, if you are not to fall back into the rut of inertia, the confusion of aim and the craven fear of being great."

It's sad that we don't have a Churchill around to affirm the morality of what America is doing in Iraq: We have toppled a monstrous dictator and we are trying to rebuild his shattered country, turn it into a democracy and make it an example to a region that knows only authoritarianism and despotism.

It is a noble cause that President Bush has undertaken. His adversaries at home and abroad say that he got us into it by deception, but what could possibly have been his motive?

The "war for oil" charge is simply laughable. The "war for politics" charge—that it was done to help Republicans—is outrageous.

The "war for ideology" analysis makes more sense—i.e., that "neo-conservatives" in Bush's administration wanted to topple Saddam Hussein from Day One. But why did they want to do so, if they didn't think he represented a menace to U.S. security?

Bush's Democratic foes are charging that Bush trumped up evidence of Hussein's possession of weapons of mass destruction. But the fact is that every intelligence service in the world believed he had them—how else could Bush have won a unanimous vote at the U.N. Security Council to give Hussein one final chance to account for them?

How and why the United States got into the war in the first place will be hashed out for the rest of this presidential campaign and beyond, but the important thing now is to win the peace.

Whatever their differences on whether the war should have been fought or how the peace is being won, even Bush's harshest foes ought to admit that what he's undertaking is an idealistic enterprise.

If Democrats are proud of America's intervention in Kosovo and remorseful of our failure to intervene to prevent genocide in Rwanda, how can they not support an effort to establish democracy in Iraq?

Moreover, what Bush is doing is not only Wilsonian, it's also pragmatic. In 1946, the danger was that if America failed in Europe, Russia would take over. In 2003, if the United States fails, Saddam Hussein and Osama bin Laden succeed.

There's no question that the effort is going to be difficult—or even that Bush miscalculated the difficulties and didn't plan well enough for them.

But contrary to the charge that he "has no plan," he plainly does now. As stated by U.S. Iraq Administrator Paul Bremer, it is to (1) "establish a secure environment by taking direct action against terrorists . . . and restore urgent and essential services to the country, (2) expand international cooperation in the security and reconstruction and (3) accelerate the orderly transition to self-government by the Iraqis."

Can this be brought off? The jury is very much out. Our forces and Iraqis who side with us are under constant attack, at least in Sunni-dominated areas of the country. The international community—ever so solicitous of Iraqi citizens' welfare under economic sanctions—either wants us to fail or has been scared off by bombings.

The vast majority of Iraqis clearly want stability and self-rule. For our sake and for theirs, it's imperative that we stay the course and do this right—and not allow vicious killers to force us out too early.

It would be a catastrophe, both for the Iraqis who are working with us and for our standing in the world, if this effort were to fail. Fortunately, polls indicate that most Americans want to stay the course. It's time for Bush's critics to quit just carping and contribute constructive ideas on how to make this effort succeed. If it does, all of us will be very proud.

VETERANS DAY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, as we celebrate Veterans Day, it is fitting and proper that we honor an African-American sailor who paid the ultimate price for our freedom.

I am planning to introduce legislation soon that calls for awarding the Congressional Medal of Honor to Dorie Miller posthumously for his heroic actions during World War Two.

This recognition is long overdue for a man who served his country with distinction and valor during the attack on Pearl Harbor.

Dorie Miller is just one example of African-American war heroes and veterans who have gone beyond and above the call of duty to perserve freedom's full measure, although they themselves were denied it in many quarters at home.

As Americans, we owe a debt of gratitude to our veterans. It is our duty to ensure that they receive the support they need from the country they so diligently served.

As we daily witness the courageous and professional efforts of our armed forces engaged in Iraq, Afghanistan and in Southeast Asia, we are all reminded of the tremendous sacrifices our veterans have made on our behalf.

As we celebrate another Veterans Day this November, we must back up our promises with our meaningful action. We must honor all of our veterans, irrespective of their station in life, their gender, or the color of their skin.

Like Dorie Miller, many have died for the freedom we cherish. Death is not a respecter of persons. Nor should we be.

TRIBUTE TO JOY RASMUSSEN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to an amazing woman from Steamboat Springs, Colorado. Joy Rasmussen, a member of the US Women's National Triathlon team, is set to compete at the International Triathlon Union World Championships in December in Queenstown, New Zealand. Joy is ranked 15th nationally in her division and is eligible to compete in next year's World Championship in Portugal. I rise to pay tribute to Joy today before my colleagues here in the Congress.

Joy took up competing as a way to make new friends, though her athletic prowess in this event appears to come natural to her, which is no easy task. Triathlons encompass a quarter-mile to half-mile swim, a 12 to 18 mile bike ride, and a 3 to 5 mile run. Joy's athletic feats are especially commendable, as she pursues excellence outside of a full-time career. Before putting in a full day as a realtor with the Colorado Group Realty, Joy trains in the early morning and makes longer training runs, rides, or swims on the weekend. Even after a nasty spill last February that sidelined her for five months, Joy has continually driven herself to improve.

Mr. Speaker, I stand before you to show my appreciation to Joy Rasmussen for being a beacon of inspiration to Americans who attempt to achieve excellence in their personal and professional endeavors. Joy's accomplishments are extraordinary and I am honored that she will be representing America at the upcoming World Championships in New Zealand.

CONFERENCE REPORT ON H.R. 269, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Mr. DEFAZIO. Mr. Speaker, I rise to oppose the Fiscal Year 2004 Interior appropriations bill conference report for a number of reasons.

I applaud the committee for approving $400 million to reimburse accounts that the Forest Service borrowed from to fight this past Summer's forest fires. Unfortunately, the Forest Service borrowed $695 million this year to fight fires. This appropriations bill leaves the public land management accounts that were borrowed from in the hole by nearly $300 million—and most of these accounts were underfunded to begin with.

Accounts that the Forest Service borrowed from this fire season include the fuel reduction, law enforcement, forest research, recreation, forest jobs programs, fish habitat enhancement, and road and trail maintenance, among many others. These accounts represent some of the most important public lands management programs the federal government funds, and they will be reimbursed at just 57 cents on the dollar.

One of the most important is the fuel reduction account. Even if Congress fully reimburses the fuel reduction account, fuel reduction projects get delayed and pushed to the next year when the accounts are once again robbed. For the safety of our communities and the health of our forests, this cycle cannot continue.

This cycle of robbing other accounts is perpetuated every year by not adequately funding wildland fire suppression. The Forest Service borrowed almost $700 million this year, in what was a below average fire year. This appropriations bill has a $289 million increase over last year, but it's not near enough. Regardless of how severe next year's fire season is, this bill guarantees that the Forest Service will have to borrow yet again because Congress is not stepping to the plate and sufficiently funding fire suppression.

In addition to under-funding firefighting, this appropriations bill has a wholly inadequate increase for hazardous fuel reduction projects.

The build-up of hazardous fuels in our national forests is a problem brought about by nearly a century of forest mismanagement. It is a problem with a multi-billion dollar price tag to fix, but so far the President and the Congress have been unwilling to put up the money. This appropriations bill does nothing to rectify the dismal record of under-funding fuel reduction.

The project in the Metolius basin, the location President Bush originally planned to visit during his August trip to Oregon, is an excellent example why restoring forest health will require a substantial investment.

The Metolius project is on relatively flat ground, with sufficient road access, and a substantial amount of large, commercial Ponderosa pine. The project will log more than 20 million boardfeet of timber. Yet, even with that commercial return, it will still cost the Forest Service $400 an acre to complete the project. It's clear that even under optimal conditions, with ample commercial timber, it is impossible to clear the large amounts of brush and small trees necessary in successful fuel reduction projects, without spending substantial sums of money.

In contrast, the nearby area where the Davis Butte fire burned is more typical than the Metolius and provides a better picture of the real costs of fuel reduction. Visiting the Davis Butte fire one can see where dense stands of lodge-pole pine provided ladder-fuel for the fire to climb into the crowns of the ponderosa. It is essential that these types of trees be removed, unfortunately, they have little or no commercial value. They may have some value as pulp, mulch, or hog fuel, but most of the vegetation would have to be burned, or chipped and left on-site.

This type of treatment would be in line with the Pacific Northwest Research Station study that was conducted on the Klamath National Forest that estimated cost of fuel reduction at $1,685 an acre. So not only can we pretend that fuel reduction won't cost anything—as the President has done thus far with his "Healthy Forest Initiative"—we can't pretend that it will be cheap.

There is a multi-billion forest health problem that needs a significant federal investment, but this bill does not make that funding commitment.

Another glaring problem with this appropriations bill is that it includes a fifteen month extension of the Recreational Fee Demonstration program.

This program was created by a rider to the 1996 Interior appropriations, and has been extended numerous times through appropriations riders, without ever having gone through the appropriate authorizing process. It is well past time to end these back-door extensions and allow the Resources Committee to do its job.

Under this program, the Forest Service, Bureau of Land Management, Fish and Wildlife Service, and National Parks Service can charge citizens fees to recreate on public land, including primitive trails and unimproved campgrounds. Charging citizens a stealth tax for hiking in the woods, walking on the beach, or picnicking with their family is unfair and punitive. It is appropriate to charge a modest fee for campgrounds or boat launches to pay for facilities and upkeep. But to charge a fee to park a car on the side of a logging road or at a trail head turns our public lands into the king's domain.

Beyond my philosophical objections, the mismanagement of the program by the Forest Service is staggering. The program was created to address the maintenance backlog on public land facilities, but only 50 cents of every dollar collected goes toward maintaining or improving our public lands. The rest is eaten up by administrative and collection costs. Fifty percent overhead costs does not make an effective government program.

And a recent investigation by the General Accounting Office (GAO) found that in 2001—the last year for which data is available—the Forest Service erroneously used $10 million in appropriated funds to bolster the program. The Forest Service did not report these additional costs to Congress in their annual report. Nor did they report $2.8 million of other administrative and vendor costs. This kind of deceptive representation in the Forest Service's annual report on the effectiveness of the program is disgraceful.

In addition, it is entirely unclear whether the program is actually fulfilling its purpose of reducing the maintenance backlog on forest system lands. The GAO states that "the Forest Service does not have a process for measuring the impact of fee demonstration expenditures on reducing the deferred maintenance problem. In addition, the GAO found that the Forest Service has yet to reliably estimate its deferred maintenance needs. Why would Congress continue to renew a program through an appropriations rider when the beneficiaries of the program don't know to what extent it's working, or even to what extent it's needed?

It is time to end the Forest Service's abuse of the Recreational Fee Demonstration program, but this appropriations bill perpetuates the abuse by again extending the program, this time by more than a year.

Finally, this bill negates a federal court's decision that Native American tribes have a right to a full accounting of their own trust monies and assets. I find it hard to believe that this Congress would support an appropriations rider that amounts to an unjust taking of property without just compensation or due process of law.

Last year this House overwhelmingly voted to strip a similar provision that would have kept the Department of Interior from conducting a complete accounting of the Indian trust fund. Rectifying the historic mismanagement of the Indian trust fund is one of the most critical issues facing Native American tribes, and is simply a matter of justice. This appropriations bill will surely delay the resolution of the Indian trust fund accounting for years.

This Interior appropriations bill conference report woefully under-funds wildland firefighting and hazardous fuel reduction projects. In addition, it extends an unwarranted recreation tax on the American people, and denies Native Americans a full accounting of their trust accounts. For these reasons I urge my colleagues to oppose the report.

ACKNOWLEDGING MASTER SERGEANT DENNIS TAKESHITA'S 37 YEARS OF DEDICATED SERVICE IN DEFENSE OF OUR GREAT NATION

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. CASE. Mr. Speaker, I rise today to extend my deepest mahalo and aloha to Master Sergeant Dennis Takeshita of Hawai'i as he retires from an illustrious career spanning 37 years of tireless and dedicated service to our country.

Master Sergeant Takeshita's service to our great nation began in 1966, when he received a commission in the United States Air Force

Reserve upon graduation from the University of Hawai'i, and went on to serve on active duty until 1972. Shortly after his discharge, Master Sergeant Takeshita joined the Hawai'i Air National Guard and served for 30 more years, earning numerous citations and awards for his professionalism and service.

Throughout his long career, he served in the Vietnam Conflict, the Kosovo Campaign, Operation Enduring Freedom, Operation Noble Eagle, and Operation Joint Forge. He also served the people of Hawai'i both during and after Hurricane Iniki, which ravaged the Island of Kaua'i and parts of O'ahu, earning him the Humanitarian Service Medal.

Of course, as with all great men, he owes a debt of gratitude to those who supported and nurtured him throughout his life. Master Sergeant Takeshita's father, Lawrence K. Takeshita, his mother, Frances M. Takeshita, his daughter Alison and son Brian have been there to lend their support. They are immensely proud of him and his successes during his military career.

Serving one's country is a selfless act. I commend Master Sergeant Takeshita on his commitment to our country. His patriotism, loyalty and courageous leadership are the embodiment of the Air Force Core Values. And, of course, his island home is deeply proud of him.

I close by saying to Master Sergeant Takeshita: aloha, on a well-deserved retirement, and I wish you the very best on your future endeavors.

TRIBUTE TO JAMES RICHARDS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. MCINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of a great man from my district. James Richards, a native of Western Colorado, recently passed away at the age of 69. James dedicated his life to public service and to the challenging legal profession. I am honored today to bring his contributions to the attention of this body of Congress and this nation.

After graduating from Western State College with a Bachelor of Arts degree in History-Political Science and English in 1955, James went on to law school at the University of Colorado, receiving his degree in 1960. Upon passing the Colorado Bar, James briefly served as Colorado's Assistant Attorney General, before becoming a legislative assistant and executive assistant for Senator Peter Dominick.

James proved his versatility and multifaceted talents throughout his distinguished career. James held positions as the Assistant US Attorney in Denver, the Chief of Buffalo, New York's Organized Crime Strike Force, and the Vice President of the Capital Legal Foundation. His stellar career of public service attracted the attention of President Reagan when he was nominated and confirmed as Inspector General to the Department of Energy in 1981, and Inspector General to the Department of the Interior in 1985. James' appeal reached across partisan lines as President George H. W. Bush and President Bill Clinton asked him to continue in his position until he chose to retire on March 31, 1993.

Mr. Speaker, James Richards was a dedicated man that selflessly served his community and country, and I am honored to pay tribute to such an industrious public servant. His lifetime of service is an incredible model for America's youth. My thoughts and prayers go out to his family during this time of bereavement.

EXTENDING THE TERM OF THE FOREST COUNTIES PAYMENTS COMMITTEE

SPEECH OF

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 28, 2003

Mr. DEFAZIO. Madam Speaker, the Forest Counties Payments Committee was created by Congress in 2000 to make recommendations and report on certain payments to counties. Perhaps most important, the committee was charged with monitoring and submitting a report on payments made under the Secure Rural Schools and Community Self-determination Act (Pub. L. 106–393), also known as "County Payments" legislation. But the Committee and the payments were created by different pieces of legislation and were erroneously set to expire at different times. This bill will correct that error and extend the authorization of the Committee so that it expires with the Secure Rural Schools and Community Self-determination Act.

County Payments legislation has provided rural counties in the West with some level of economic certainty following the precipitous decline in timber revenue from federal land. These payments have been critical for education funding in rural school districts that were once timber-dependent. In addition, payments have been used for road maintenance, successful community policing programs, vital search and rescue equipment, noxious weed control, collaborative forest health projects, and the restoration of important fish habitat, just to name a few benefits.

The committee submitted its Report to Congress on County Payments legislation in February. The report provided invaluable information about the implementation of the County Payments legislation, and recommendations for reauthorization. Unfortunately, Congress has yet to act to reauthorize this important law. As Congress prepares to reauthorize it, hopefully in the next year, the Committee's expertise and advice on the law will be vital to ensuring Congress acts in the best interest of those in need of County Payments funding. Approving this bill to authorize the Forest Counties Payments Committee throughout the duration of the County Payments law will make sure that happens. I urge the bill's adoption.

THE HEALTHCARE EQUALITY AND ACCOUNTABILITY ACT OF 2003

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. CASE. Mr. Speaker, I am very pleased to join my colleagues in the introduction of our proposed Healthcare Equality and Accountability Act, a bill that will address the glaring disparities in health care of our minority populations.

While significant advances in health care have been made, it has been empirically demonstrated that minority populations disproportionately lack access to quality health care. For example, minority groups are less likely to have health insurance and are less likely to receive appropriate health care services. These communities are also significantly underrepresented in our health care workforce.

I am fully committed to the elimination of racial and ethnic disparities in health care access, quality, and in our health care workforce, because we all deserve equal treatment when it comes to our health. Additionally, a full investment in health care will improve the economic well-being of our Nation.

For these reasons, I am an original cosponsor of the Healthcare Equality and Accountability Act. This bill will reduce racial and ethnic disparities and improve the health care for minority communities by: expanding health care coverage, removing language and cultural barriers, improving workforce diversity, improving data collection, creating and funding programs that reduce health disparities, promoting agency accountability, and strengthening our health institutions that already serve our minority populations.

I am grateful that one vital component of this bill recognizes the late Congresswoman Patsy T. Mink by creating a Health and Gender Research Fellowship program in her name. This fellowship program, which will examine and research gender and health disparities, is an appropriate tribute to someone who is so well remembered for her work in education policy and known for her beliefs in social and economic justice.

I commend the work of the Democratic Leadership in both chambers not only to bring the issue of health care disparities to light, but to address this national concern firmly and directly. I further appreciate the leadership's willingness to work with the Congressional Asian Pacific American Caucus, the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Native American Caucus to ensure that our respective communities are included in this legislation. I especially appreciated the opportunity to assist in efforts to ensure that Native Hawaiians and Pacific Islanders were specifically included.

As the Healthcare Equality and Accountability Act will provide true health benefits for all, I urge my colleagues to support this bill.

125TH ANNIVERSARY OF THE BELLEVILLE, WISCONSIN PUBLIC LIBRARY

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. BALDWIN. Mr. Speaker, I rise today to honor the 125th anniversary of the Belleville Public Library, in Belleville, Wisconsin. Since 1878, the Belleville Public Library has been providing an invaluable service to the community.

The Belleville Library opened its doors on December 14, 1878 when a local businessman, Henry Story, donated a collection of 133 books. The library's collection has grown over the past 125 years to an impressive 20,000 items, serving the community with print materials, audio books, videos, and CD ROM products. Belleville residents are also fortunate to have access to the library interchange network, a consortium of South Central Wisconsin libraries that operate a shared automation system providing access to over 2 million items.

A public library is a strong component of a democratic society. Providing an equal opportunity for its residents to learn and grow is just one of the many functions a public library serves. In the library's 125 years of service, the Belleville Public Library has provided programs which foster learning for all within the community. The library has consistently encouraged learning through programs catering to all members of the community including summer reading programs for children, book discussions, and biweekly story hours.

For 125 years, the Belleville Public Library has recognized the vital importance of free access to information in a democratic society. I wholeheartedly believe that access to information allows everyone in a community to prepare themselves for the future, experience personal growth, and to perform the civic duties encouraged of all citizens in our Nation.

Mr. Speaker, I am proud to rise today and join the residents of Belleville in honoring the impressive 125 years of service from the Belleville Public Library.

TRIBUTE TO COACH ROD SMEDLEY

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. BACA. Mr. Speaker, I rise to pay tribute to Coach Rod Smedley, former Head Football Coach of San Bernardino Valley College. Coach Smedley is an individual of great distinction, and we join with family and friends in honoring his remarkable achievements and years of dedicated service to the Inland Empire.

Coach Smedley is an exceptional individual who has not only devoted his life to helping the San Bernardino Valley College community but has also been an important pillar of support for the student-athletes of the college. His kindness and passionate spirit render him a vital resource and a beloved member of the college community.

For the past 26 years, Coach Smedley has dedicated himself to serving the college and achieving a remarkable level of achievement. As Head Football Coach, he guided the San Bernardino Valley College Wolverines to five Bowl Championships, including three consecutive wins between 1995 and 1997, seven Football Foothill Conference Championships, and the highest winning percentage of a Junior College football coach in the Inland Empire. Coach Smedley has also led the Men's and Women's tennis teams to a combined total of seven conference titles. He has been an integral contributor to the management and administration of San Bernardino sports, as well as an active participant and positive influence on the lives of many college students.

In addition to these contributions, Coach Smedley was twice awarded the honor of California Community College Football Coach of the Year and awarded the Foothill Conference Football Coach of the Year four times. Most importantly, under his guidance, Coach Smedley has seen more student-athletes receive scholarships to four-year schools than any other Junior College coach in the Inland Empire. He has received the highest possible evaluation of his profession for integrity and performance, and has taken a proactive approach to leadership in the college community.

Through his participation in countless activities, Coach Smedley has exhibited kindness, humility, and a deep resolve to ameliorate all aspects of San Bernardino Valley College, so it is only appropriate that we honor him today with his family and the residents of the Inland Empire.

And so, Mr. Speaker, we salute Coach Rod Smedley. We express sincere admiration that he is being honored for his incomparable accomplishments and hope that others may recognize his good works in the community.

TRIBUTE TO RONNIE WILLETT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Ronald Willett has dedicated his life to the betterment of the people of Pagosa Springs, Colorado and this nation. On October 2nd of this year, Ronnie announced his retirement from his position with the Pagosa Springs Sun Newspaper. For over four decades, Ronnie has worked tirelessly to keep the people of his community well informed. It is my honor to call the attention of this body of Congress, and this nation, to Ronnie's many contributions.

Ronnie moved to Pagosa Springs in 1944, where he was a standout player on the Pagosa Springs football team. After graduating from high school, Ronnie joined the United States Navy in 1954. In the Navy, he served his country honorably and achieved the rank of Petty Officer First Class.

Upon leaving the military, Ronnie went to work for the Pagosa Springs Sun in 1962, where he quickly became an accomplished newspaperman and was instrumental in the exponential growth of the newspaper's circulation. Ronnie used his position with the newspaper to take an active role in the community. Over the years, he donated a multitude of printing jobs to various community projects and volunteer groups.

Ronnie's contributions to the citizens of Pagosa Springs reach far beyond his work with the Sun. In the 1960's, he was a member of the Jaycees and helped numerous youngsters build soapbox racers. Currently, he spends his time as a dedicated member of the Fleet Reserve Association, Veterans of Foreign Wars, Disabled American Veterans, and the American Legion.

Mr. Speaker, it is truly a privilege to pay tribute to a man who has spent his life serving his fellow Coloradans and this nation. Ronnie's selfless dedication to his community and country is truly admirable. On behalf of the citizens of Pagosa Springs, and a grateful nation, I would like to thank Ronnie Willett for his service.

HONORING THE DEDICATED EMPLOYEES OF THE TRANSPORTATION SECURITY ADMINISTRATION

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. DEFAZIO. Mr. Speaker, recent incidents and undercover investigations have highlighted deficiencies in our nation's aviation security system. It is important, however, to remember how much things have improved since September 11th. How soon we forget about security on the cheap. It was only a few years ago that the screener of the year testified before the Aviation Subcommittee that he was only able to keep his job because he had additional income and wasn't dependent upon his screener salary. McDonalds was considered a step up for most screeners, turnover was 400 percent at some airports, and private security companies even had felons screening passengers and luggage.

After September 11th, everything changed. We now have dedicated, well-paid professionals protecting the traveling public each and every day. I want to take a moment to thank the hard working employees of the Transportation Security Administration (TSA) who have dedicated themselves to improving security at our nation's airports. I recently received an e-mail from Daniel Bernath, a TSA employee at Portland International Airport, that I would like to insert in the RECORD.

> It was nice meeting with you for a few moments as you got your plane ticket at United Airlines at PDX. I'm the TSA officer who thanked you for your work in aviation security. . . . As TSA officers we see the holes and potential problems in aviation security and are troubled by them. I have reported several to my superiors at TSA . . . The TSA officers are proud to be serving our country even though the job is extremely physically tiring and dangerous (we are looking for explosives, knives and guns, and up to one

third of us have been injured . . . one suffered a heart attack last month, another TSA officer suffered a stroke at PDX). I have no trouble falling asleep at night because, I, like all TSA officers, am completely physically exhausted at the end of my watch. . . . The TSA rank and file is a very impressive bunch and I am proud to be one of them and again wear my country's uniform and I hope that your fellow Congressmen are proud of us too; we are all highly educated—many have college degrees (I have a juris doctor), many have management experience and we are all there after 9.11 to protect our fellow Americans. We are there to defend our country and unlike the screeners before the attack, it is not just "a job" to us. At least three times a day a fellow American will watch me search her bag and say "we're really glad the TSA is here—thank you." I remind them that we took an oath to protect the United States and point to our TSA emblem which has 9 stars and 11 stripes in the flag, symbolizing the reason for our creation and our mission that it never happen again; the attack on the United States on 9.11. I think our physical presence and professional demeanor helps our fellow Americans feel comfortable about flying again . . . Daniel A. Bernath TSA at PDX."

Mr. Bernath's e-mail says it best, "the TSA rank and file is a very impressive bunch, I am proud to be one of them and again wear my country's uniform and I hope that your fellow Congressmen are proud of us too." I agree with Mr. Bernath, TSA employees are an impressive bunch and, although there is always room for improvement, I am very proud of the work they are doing. I want to thank Mr. Bernath and his fellow TSA employees who come to work each day dedicated to protecting the flying public. I hope my colleagues in Congress will join me in doing all we can to make sure they succeed in this mission.

LETTER FROM JEFFREY DAVID HARVEY

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. MICA. Mr. Speaker, President Bush today signs for $87 billion to aid our United States Military and assist both Iraq and Afghanistan. I wanted to include in the record a copy of a letter I received from a young man who served as a Congressional Intern. Jeff states much better than anyone why today's action by Congress and President Bush is necessary.

DEAR CONGRESSMAN MICA: I don't know if you remember me, but I worked as an unpaid intern in your Casselberry office about 7 years ago. Right now I am in Northern Iraq with the 101st Airborne Division. I have been with the Division during the entire war and also served in Afghanistan for a few months with the division's 3rd brigade Rakkasans.

I am writing to you because I am concerned about the debate over the cost of rebuilding Iraq. From what I see on the news, people back home, especially the Democratic candidates for President, have not put two and two together. They complain about the attacks and the danger to our troops, but yet they do not want to give the cause any more money. We are in support of stability operations. There is no field manual on the things we are doing here but rebuilding a country is something that takes time. Relationships must be formed. With that, America has to realize that the fighting is still going on. We are fighting for the hearts and minds of the Iraqi people. Our ammunition is therefore money. I am in charge of multiple renovation and reconstruction projects and each one takes money to complete.

The last few weeks, the money source has been cut off, and I am sure the debate over how much to spend is a leading cause to this. I have met many Iraqis that are growing impatient, asking for work, wanting to do anything to feed their family. Sir, please let your fellow Representatives and Senators know that if we are going remain here, fighting for the hearts and minds of the Iraqis, we need to have the ammunition to support it. We have to have money to help rebuild the country, put people to work and get the economy going. I am certain that by doing the right thing for these people now, it will pay off in the long run. WWII was not fought because of the concentration camps and the social injustices in Germany, but looking back now, that is cited as probably the most important good that came out of it. This war was fought for many reasons, but WMD or not, the mass graves and the social injustices by the old regime have ceased. Iraq's new found freedom far outweighs any sacrifices that myself or my men had to make by coming here. All we want to do is to finish the job that we started.

Please urge those on the Hill to support the troops, not just in voice but in action. I appreciate you listening to what I have to say.

Sincerely,

JEFFREY DAVID HARVEY,
1LT, FA.

TRIBUTE TO CAREY COX

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable man from my district. Recently, Trooper Carey Cox announced his retirement from the Colorado State Patrol after nearly three decades of dedicated and courageous service. In recognition of this service to the citizens of Colorado, I am proud to call Carey's contributions to the attention of this body of Congress and this nation.

Carey began his career with the Colorado State Patrol in May of 1976. Following his graduation from the Police Academy, Carey was assigned to the Broomfield State Trooper's Office in 1982. He worked there until his transfer to Grand Junction. In Grand Junction, Carey went to work for the Colorado State Patrol's Hazardous Materials Unit, where he was well known as an excellent Hazardous Materials Technician.

Throughout his career, Carey was instrumental in promoting safety on Colorado's highways. One of his many notable accomplishments was the successful implementation of a program to distribute child passenger safety seats throughout Western Colorado. This caring act for the children of Colorado illustrates the dedication and heroism that defined Carey's career. He was truly a tremendous asset to the State Patrol, and the people of Colorado. Carey does not intend to be idle in his retirement. On November 13th of this year, he will depart for Kosovo as a member of a United Nations mission in that country.

Mr. Speaker, it is truly a privilege to pay tribute to a man who has spent his life serving his fellow Coloradans. Trooper Carey Cox spent a quarter of a century protecting and serving the citizens of Colorado, and his heroism is certainly worthy of recognition here today. On behalf of the people of Colorado, and a grateful nation, I would like to thank Carey for his service.

HUMAN RIGHTS IN BURMA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. SMITH of New Jersey. Mr. Speaker, I rise to speak out for human rights in Burma and to call for continued action against this regime. I commend my good friend from Pennsylvania, Mr. Pitts for his great leadership on this issue and his tremendous efforts on behalf of the Burmese people.

Earlier this year I stood on the floor of this House in support of the Burmese Freedom and Democracy Act of 2003. The piece of legislation passed this House overwhelmingly, by a vote of 418–2. In the bill, we called on the State Department, and especially Secretary of State Colin Powell, to use every opportunity to press for freedom and democracy in Burma.

I want to publicly encourage the Secretary to continue his outspoken call for freedom in Burma, and suggest some changes in the international strategy to bring about democracy and human rights in that country.

It is now clear that United Nations efforts to bring about democracy in Burma have completely failed. Rather than making progress, the efforts have simply bought time for the regime, and allowed it to perpetuate its increasingly brutal stranglehold on power. The United Nations envoy to Burma, rather than serving as a positive voice for change, has repeatedly bailed out the regime just as critical international pressure has begun to make a difference. His defense of the regime's head of military intelligence Khin Nyunt is beyond unacceptable.

It is time to review the personnel and mandate on the United Nations role in Burma, and to give a qualified mediator the tools they need, including access to the United Nations Security Council, to make a difference. The State Department should lead the efforts for these changes at the upcoming United Nations General Assembly.

The process is broken. We need to revamp this system with new actors as soon as possible.

TRIBUTE TO THE ORANGE & BLACK NEWSPAPER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, I stand before this body of Congress and this nation to pay tribute to a remarkable newspaper produced by the students of Grand Junction High School and recently named the best large high school newspaper in the state of Colorado for the 2002–2003 school year. The Orange & Black student-run newspaper has a history of excellence in its journalistic efforts, as it has been one of the top newspapers in the state for seven years. I join with my colleagues today in recognizing the fine efforts of the students of Grand Junction High School and their remarkable newspaper.

Erik Lincoln and Sarah Shean, the co-editors-in-chief of the Orange & Black for the previous school year, have now moved onto Mesa State College and Gonzaga University respectively. But they have left an impressive mark for their successors by winning first place in the general excellence and graphic illustration categories. These editors have also instilled greatness in their peers that resulted in first place awards in informational graphics, personal opinion columns, personality feature, and headline writing categories.

Mr. Speaker, I am honored to stand here today and recognize this fine example of stewardship and hard work in journalism by these dedicated high school students from Grand Junction. Their eloquent product demonstrates a mastery of photographic, written and editorial expression not often achieved by high school students.

INADEQUATE TREATMENT OUR TROOPS AND VETERANS ARE RECEIVING FROM THE ADMINISTRATION

SPEECH OF

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 5, 2003

Ms. CARSON of Indiana. Mr. Speaker, this past week we sent the largest supplemental appropriations bill ever written to the President. The majority of the money is to be used for the men and women serving in Iraq.

A total of $64.7 billion in military funding was included 1n the bill. This includes:

A total of $64.7 billion for military activities in support of military operations mainly in Iraq and Afghanistan.

$39.2 billion for activities related to military operations in Iraq and Afghanistan, including: $24.0 billion for the Army, $2.0 billion for the Navy, $1.2 billion for the Marine Corps, and $5.4 billion for the Air Force. The total includes an extra $100 million to find and destroy conventional munitions in Iraq.

The agreement appropriates $17.8 billion for military personnel, including: $12.9 billion for the Army, $816 million for the Navy, $753 million for the Marine Corps and $3.4 billion for Air Force personnel costs.

The funds are meant to cover the costs associated with the mobilization to active duty of reserve and National Guard personnel, including pay, travel, per diem, and health care and personnel necessary to maintain critical manning at authorized levels.

Extends TRICARE—the military's health care system—health coverage system to National Guard members and reservists and their families who lack health insurance and do not have access to employer-provided plans.

The measure authorizes continued payment of per diem for travel of family members of military personnel who are ill or injured as a result of active duty service, and continues the increased monthly rate of Imminent Danger Pay and Family Separation Allowances through Sept. 30, 2004.

The agreement includes $55 million for travel costs of troops on rest and recuperation leave, including the cost of travel home from disembarkation points in the United States.

The measure provides $32 million for family counseling, domestic violence prevention, and readjustment counseling and $10 million for similar programs specifically for the National Guard.

Finally, the measure retroactively and permanently exempts servicemembers with combat-related injuries from the requirement of paying for subsistence meal charges while hospitalized.

The agreement appropriates $5.5 billion to replenish equipment and munitions expended during military operations in Iraq and in the global war on terrorism. The total includes: $142 million to repair or replace Bradley fighting vehicles, M1 Abrams tanks and other related equipment used in Iraq and Afghanistan; $239 million for more armored High Mobility Multipurpose Wheeled vehicles, or HUMVEEs; $300 million to purchase additional body armor suits and modern flak jackets and to clear unexploded ordnance; and $46 million for radio jammers to disrupt attempts by Iraqi dissidents to explode remote controlled bombs and mines.

The measure also directs the Defense Department to increase the availability of modern hydration systems to soldiers in Iraq and to provide quarterly reports to Congress on department efforts to address equipment shortages.

The agreement provides $525 million for military construction funds—$112 million more than requested.

Most of the funds will go to construct new Air Force and Army facilities in Qatar, the United Arab Emirates, Iraq, and other facilities providing support for operations in the Middle East and the global war on terrorism.

Defense Health Program—Provides $658 million for military health care costs.

When these young men and women return from the Gulf, they are going to leave the service in droves. Morale is low, and these people cannot get home quick enough.

At the same time, the Republican leadership refused to include $1.3 billion dollars in emergency veterans health funding, claiming that it will be included in the regular VA–HUD appropriations bill.

This severe funding shortfalls has resulted in health-care rationing among our veterans.

Over 200,000 are currently waiting 6 months or longer for initial and follow-up medical appointments; many are reporting that they are waiting 1 to 2 years.

The Veterans Administration, in order to meet this crisis, has taken steps to stop veterans from seeking care. The VA refuses to enroll any new Category 8 veterans.

Funding shortfalls are putting veteran safety and the quality of their care at ever greater risk. An April 2001 study sponsored by four Health and Human Services agencies confirmed that inadequate direct-care nurse staffing increases risks of urinary tract infections, pneumonia, shock, intestinal bleeding, and lengthy hospital stays.

Doctors and nurses under greater stress risk injury, too, as their increased workloads cause slower mental processing, diminished memory, and improper responses to patients.

TRIBUTE TO U.S. AIR FORCE CAPT. SEAN KELLEY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, I would like to take a moment to honor a U.S. Air Force Captain who has performed a great service to this nation during Operation Iraqi Freedom. Capt. Sean Kelley was instrumental in the delivery of Mohammed Al-Rehaief—the man responsible for providing the information of Pfc. Jessica Lynch's whereabouts that ultimately led to her successful rescue on April 2nd from Saddam Hospital in Nasiriyah. I would like to join my colleagues here today and all Americans in recognizing Capt. Kelley's selfless service.

Capt. Kelley is a graduate of Gunnison High School who has dutifully served the Air Force since his commission in 1993. He has made many trips to the Middle East but his most recent delivery of an Iraqi man and his family to the safety of the United States is especially commendable. This delivery aided our troops in bringing home an American soldier who symbolizes heroism at its finest. During the flight, Al-Rehaief told him parts of the story of saving Lynch as he eagerly waited in the cockpit. Capt. Kelley will return to the Middle East at the end of the month when he returns to duty.

Captain Sean Kelley has courageously served our nation and we are indebted to him for continuing to protect America and her interests. I extend my warmest regards and thanks for the great sacrifices that Capt. Kelley has made in defending this nation.

HONORING THE 228TH ANNIVERSARY OF THE FOUNDING OF THE UNITED STATES MARINE CORPS

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Ms. BORDALLO. Mr. Speaker, November 10th will mark the 228th Anniversary of the founding of the United States Marine Corps. To mark the occasion, I would like to submit for the RECORD a special tribute to the Marines who participated in the Liberation of Guam written by Retired Brigadier General and former Delegate from Guam, the Honorable Vicente Tomas (Ben) Blaz.

Ben was a teenager during World War II when Japanese Imperial forces invaded and occupied Guam in December 1941. During the Liberation of Guam in July 1944, he was captured by a Marine Patrol of the 9th Marine Regiment and later released upon confirmation he was a native Chamorro. Years later, he would serve as Commanding Officer of the same Regiment.

He holds a Bachelor's Degree from the University of Notre Dame where he was later honored with the Distinguished Alumnus Award. He also holds a Master's Degree from the George Washington University and a Doctor of Laws Degree from the University of Guam. In addition he is a distinguished graduate of the Naval War College. In 1992, he was recognized as an Outstanding Asian-American in Public Service.

After a distinguished career in the Marine Corps, which included being awarded the Legion of Merit (twice awarded), the Bronze Star (with Combat V), Navy Commendation Medal (twice awarded), the Combat Action Ribbon, and the Vietnamese Cross of Gallantry (Gold Star) General Blaz retired and returned to Guam in 1980.

In 1984, the People of Guam elected him to Congress where he served with distinction for four terms. During his time in office, Congressman Blaz began the difficult task of addressing the unfinished business of World War II, the issue of war reparations for the people of Guam. He brings a unique perspective to this issue as a survivor of the Occupation of Guam, as a Marine, and as a public servant. Today, Congressman Blaz is a statesman respected by the People of Guam and a strong moral voice for our times. His insight is reflected in the following essay which conveys his deep love for our island and his profound admiration for the liberators of Guam.

Few people have achieved so much in one lifetime as General Blaz. I am honored to enter his essay into the CONGRESSIONAL RECORD so that all Americans may come to appreciate the men and women who wear the eagle, globe and anchor of the United States Marine Corps. The People of Guam honor all those who serve our nation in the armed forces, but in our hearts, first among equals, are the Marines, Guam's liberators, for whom our main street is named "Marine Drive".

On this 228th Anniversary of the U.S. Marine Corp, I submit this tribute written by one of the Corps' finest, Brigadier General (Ret.) Vicente Tomas (Ben) Blaz.

A MOVING MOMENT OF SILENCE ON MARINE DRIVE

(By Ben Blaz)

The news that the Marine Corps Drive Rededication Act is scheduled for introduction in the Guam Legislature on November 10 brought a smile to this manamko's face. It sharpened the focus in my mind on an episode that took place during the Liberation Day parade in 1958.

As Commanding Officer of a company of Marines at the Barracks, I had the honor of leading them in the parade. For the special event, we decided to wear combat clothing and carry packs and weapons much like the liberators did. Participating in this annual observance and remembrance was a new experience for my men as it was for me in my role as their commander.

It is not unusual for those in a parade staging area to be a little edgy before a march. But the march that day was not part of a football rally or a Little League parade. Symbolically, we were following in the footsteps of a long line of heroic Marines of World War II, many of whom fought and fell where we were gathering. It was a sobering thought that prevailed over a solemn occasion.

The parade route was different. As always, it was festive. Spectators lined both sides of Marine Drive stretching from Adelupe to East Agana. Most of them had survived the war and had vivid recollection of the enemy occupation. Whatever animosity they harbored, however, it was subdued that day. The crowd cheered loudly for everyone and everything that moved before them. All the villages had a float and every military service was represented in the parade—including marching bands.

As the parade was about to start, I braced myself against the possibility of emoting publicly. When we entered the parade route, the crowd roared. As we approached the reviewing stand full of military and political dignitaries, I gave the traditional command to salute, "Eyes Right." At that instant, as though directed to do so on cue, the crowd "returned" our salute with deafening silence.

For a few minutes, the only audible sound was from our boots pounding the pavement in unison. Just a few years earlier, similar boots pounded the original road all along the coast as Marines charged from their landing crafts, crossed the road under heavy gunfire, and fought their way inland against an entrenched enemy. For 1200 Marines, it was to be their last crossing. About 6000 of their comrades returned to the beach on stretchers.

My effort to control my emotions failed. I was marching solely on disciplined automation. Although tears swelled, I was able to connect with the faces in the crowd, young and old. Without uttering a sound, I heard the message radiating from their faces—of appreciation, of admiration, and of affection—for the Marines passing in review, for whom Marine Drive was originally dedicated. I, a liberated son of Guam, had the privilege of marching at that parade with a company of United States Marines who were, in effect, my liberators.

In the ensuing years, I have participated in Liberation Day parades as a general officer of Marines and as a Member of the U.S. Congress. But, I was never again to feel and embrace a moment such as I did that day in 1958.

I tip my hat to Senator Bob Klitzkie, himself a Marine, and to his fellow Senators for sponsoring the bill to rededicate Marine Drive. It is a magnanimous expression of remembrance. Unlike the typical inanimate monoliths that serve as memorials and centerpieces at annual ceremonies, Marine (Corps) Drive is a living memorial, a touchstone, a reminder to future generations how dearly we paid for the freedom we enjoy.

Happy Birthday, Marines!

TRIBUTE TO FRANKLIN BARTON SAMPLE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. McINNIS. Mr. Speaker, it is with a solemn heart that I pay tribute to Franklin Barton Sample of New Castle, Colorado. Franklin passed away recently at the age of 81, and as I look back on his life, I see the story of a great American. As his family mourns their loss, I think it is appropriate that we remember Franklin's life, and celebrate the work that he did on behalf of others.

After graduating from New Castle High School, Franklin answered his country's call to duty and went to serve in Japan during World War II. While there, he served honorably as a member of the 59th Ordnance Ammunition Company. Upon returning to Colorado, Franklin met Shirley, who would become his wife of 56 years.

Franklin will be remembered as a dedicated rancher and steward of the land. However, he was similarly devoted to service of the New Castle community. In 1957, President Eisenhower appointed Franklin to be the Postmaster of New Castle. His dedication to this post was legendary, and upon retirement, he received the Colorado General Assembly Award for his compassionate service. Franklin also served as Senior Warden for the St. John's Episcopal Church for 10 years, and was a member of the Volunteer Fire Department, the American Legion, and the York and Scottish Rites of the Masons.

Mr. Speaker, Franklin's dedication and selflessness certainly deserve the recognition of this body of Congress and this nation. It is my privilege to pay tribute to him for his contributions to his community, our state, and this country. I would like to extend my thoughts and deepest sympathies to his loved ones during this difficult time.

SENATE—*Friday, November 7, 2003*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

God of might and miracles, You are our protection and defense. You are our shelter and savior. You give daily victories to those who trust You. Because of You, our Nation continues to be blessed, for Your greatness is beyond understanding.

Thank You for Your kindness, for being slow to anger and full of constant love. Meet the needs of our Senators as they seek to serve humanity. Be near to them as they weigh important evidence and guide their thoughts.

Show us Your compassion and hear our prayers. Protect all who love Your name and fill us with Your joy. We pray this in Your merciful name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will immediately resume consideration of the Internet tax moratorium bill. Last night, many colleagues remained in the Chamber to debate the underlying legislation and an amendment that we hope will be offered shortly—as a matter of fact, most of the same Senators are already here this morning and are prepared to resume this important debate. We will proceed with that shortly.

We do want to take a moment to comment on the schedule. Today, it is my expectation to have votes on the Internet tax moratorium and to finish that bill. The tax moratorium expired last week, and I believe it is important for us to work through any amendments and vote on passage of that bill today. With the cooperation of all Senators, we will be able to complete our work on this bill at an early hour this afternoon.

It would also be my intent to begin consideration of the Commerce-Justice-State appropriations bill as soon as possible. We must continue to make steady progress on these appropriation bills in order to complete our work by November 21. Senators can expect votes throughout the morning and afternoon as we work through the end of the Internet tax bill.

UNANIMOUS CONSENT REQUEST—H.R. 2799

Mr. FRIST. Mr. President, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the consideration of H.R. 2799, the Commerce-Justice-State appropriations bill.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Mr. President, reserving the right to object, I ask the majority leader—we have, of course, Senator HOLLINGS, the ranking member of the subcommittee, who has asked, at what time do you propose going to that, today or at some other time?

Mr. FRIST. The plan would be to go to it after we finish the Internet tax bill. So we would like to go to that bill today. If it is very late, of course, we will start early Monday morning.

Mr. REID. I respectfully say to my distinguished friend that we are not going to finish the Internet tax bill today. I guess we can finish it by taking it off the floor. On our side there are a significant number of amendments, and we know there are some on your side. Simply, I ask the leader what time does he propose, in effect, that we have had enough talk on the Internet tax bill, because it is not going to be completed today.

Mr. FRIST. Again, people were here very late last night. I encourage the managers to do everything humanly possible to finish the Internet tax bill. If, after aggressive work, we cannot do that, then we can make a decision. By the end of today, I would like to lay down the Commerce-Justice-State appropriations bill. If that is the case, I would plan on going to that on Monday. We can talk about the appropriate time. For us to finish our work, we have to keep moving, and it is important to lay down that bill today.

Mr. REID. Mr. President, I say to the majority leader we want to cooperate. We have tried to do that on these appropriations bills, and we will cooperate on Commerce-State-Justice. But until there is some determination made when we are going to go off the Internet tax, I am going to object.

The PRESIDENT pro tempore. Objection is heard.

Mr. MCCAIN. Will the majority leader yield?

Mr. FRIST. I am happy to yield.

Mr. MCCAIN. Mr. President, I point out that we went on to the Internet tax moratorium bill last night with the anticipation of amendments being proposed and votes starting this morning—stacked votes. That is what we usually do on a Thursday evening. Whether that is a good idea or a bad one, it is a very common practice. We had anticipated at least three amendments and then stacked votes this morning and moving forward with the bill.

Then, I was told later in the evening there would be one amendment that would be proposed and we would stack it for this morning; and not too late last night, the sponsors of the amendment said they were going to file the amendment and debate it this morning.

With all due respect, that is not the way we usually do business here. We tell people what we are going to do and go with their word and move forward. I think we need to get this done because the Internet tax moratorium has expired. If we don't want the Internet tax moratorium to prevail, that is a decision to be made by the body. We should make the decision. I hope the majority leader will stick with his comments. There are not that many items of dispute on the Internet tax moratorium. It has been debated on several occasions in past years. So I hope relevant amendments—and I don't think there are more than two or three, to be honest—are offered and we can move forward with those with a reasonable debate time and dispose of this today, understanding that all Members have the problem of scheduling and want to leave.

So I urge the cooperation of all Members so we can dispose of important amendments and move forward. I see my colleague from North Dakota who is ready to speak. I wish he had been here last night to speak. We could have done an amendment and debated it. Instead, we put it off for this morning, which I hope will make comments more abbreviated so we can move to the substance of the amendment and passage of the bill.

I thank the leader and I appreciate his commitment to try to get this done today.

Mr. FRIST. Mr. President, let me close this out and then we can turn to the bill. I ask all of our colleagues to spend the appropriate time and do our

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

best to cooperate to finish this important bill, which I tried very hard to finish last week with the understanding that we would bring it up this week and we would finish it this week. We cannot point fingers on either side of the aisle because there are challenges on both sides of the aisle. I ask this in order for us to finish the Nation's business.

Last night on the floor—I know we have the Syria accountability bill and Military Construction, which we are going to get. The problem is that we have to finish the business we have on the floor. We have to continue the appropriations process as we go forward, and we cannot do it unless people come together and understand there is an urgency that requires cooperation.

I go back to my original comments. I understand there is objection to going to Commerce-Justice-State. I will continue to discuss that as the day goes forward. I would like to lay that down today at some point.

UNANIMOUS CONSENT REQUEST—H.J. RES. 76

Mr. FRIST. Mr. President, I ask unanimous consent that H.J. Res. 76, which is at the desk, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, in response to the distinguished chairman of the Commerce Committee, people worked here late last night. No one should criticize anyone for not being here later. I left around 10 o'clock. There may have been a quorum call, but very few. There were good, strong, substantive speeches given on this issue. No one can be criticized, especially my friend from North Dakota, for not being here last night. He was here all during the day yesterday and offered a number of amendments to the Agriculture appropriations bill. My friend from North Dakota might be criticized for some things, but one of them is certainly not that he doesn't work hard. He works as hard as anyone in the Senate.

I also say to the distinguished majority leader, I did last night spend a few minutes indicating and asking why we are not doing the Syria accountability bill and Military Construction. It is obvious—and we should stop feigning—we have a problem here. The problem is there has been a decision made to spend 30 hours next week on a circus talking about judges—168 to 4.

I am not going to object to this, other than to say let's be realistic here. There are games being played, and we don't want to be part of those games. We want to cooperate. Military Construction should pass now, rather than getting into next week when there is some effort to stop it. That can be passed by a unanimous consent agreement right now.

The PRESIDENT pro tempore. Is there objection?

Mr. DORGAN. Will the Senator from Nevada yield?

Mr. REID. I don't have the floor.

The PRESIDENT pro tempore. Is there objection to the request?

Mr. DORGAN. Reserving the right to object.

The PRESIDENT pro tempore. The Senator from North Dakota reserves the right to object.

Mr. DORGAN. I object.

The PRESIDENT pro tempore. Objection is heard.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2004

Mr. REID. Mr. President, I ask unanimous consent that H.J. Res. 76, which is at the desk, be read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The joint resolution (H.J. Res. 76) was read the third time and passed.

INTERNET TAX NON-DISCRIMINATION ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 150, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 150) to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Pending:

McCain Amendment No. 2136, in the nature of a substitute.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I hope we can get things done here. There is so much to be done. I said last night, and I spoke from the heart, people in Nevada at our military bases, Fallon and Ellis, need this Military Construction bill passed. I don't know why we are not going to do it today. If it is brought up next Monday or Tuesday, nothing is going to happen on it, so let's get that done.

The Syria Accountability bill—I understand what is going on here. There is an effort made so there will be a vote Monday night on Syria Accountability because there is a time limit on it. If that is the case, fine. Remember, this is an important piece of legislation that requires our immediate attention. I don't think we should be doing things that take away for 1 minute our going into Syria's accountability, supporting the Hezbollah, and all the other activities they do that simply are not appropriate.

We are in a situation where we have bills that need to be passed and conference reports that need to be approved. It is not going to happen for reasons I don't understand.

Mr. DORGAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield.

Mr. DORGAN. Mr. President, my colleague from Arizona, I know, did not intend to think that if I were here last night, I would have advanced the cause of his legislation. I have no amendment to offer to the legislation. I had an opportunity yesterday to speak on several amendments. I think he probably inartfully described his angst about last evening. I didn't cause this legislation to be delayed. I am sure he knows that.

Aside from that, I wonder if the Senator from Nevada will tell me about the urgency of legislation on the floor. The majority leader expresses an interest in moving this Senate along on legislation we need to get done. I am pretty unimpressed with the plea to do that when we understand that next week we are going to find nearly 2 days taken in a carnival situation with judgeships, when we have approved 98 percent of the judges who have been sent to us by the White House.

Now, in the middle of next week, as we try to finish this session, we are told we are going to have 30 hours, or take the better part of 2 days, to sit here around the clock to talk about the several judges we have not confirmed. I ask the Senator from Nevada if that seems to him like we have an urgent situation when somebody is going to take 30 hours out of the middle of next week and move off to have a 30-hour discussion on judgeships.

I am pretty unimpressed with the plea for cooperation and expedited procedures on these issues as long as somebody is going to take nearly 2 days out of the middle of next week to do something that has nothing to do with moving appropriations bills.

As I ask the question, I wish to make an additional comment. I am an appropriator as well. I am not very impressed with what has happened. We were supposed to have done the appropriations bills and finished by October 1. We have been off and on appropriations bills. Look, if this is a priority, let's get on appropriations bills and stay on appropriations bills. That is what we ought to do. Isn't that the case, I ask my friend from Nevada?

Mr. REID. I will be happy to respond to my friend's question. As I indicated earlier, to my knowledge, no one works harder in the Senate than the Senator from North Dakota. He is an appropriator and authorizer, understanding from his long years in Congress, both in the House and the Senate, that the last few weeks and days of a legislative session can become very intense. That is why I am at a total, absolute loss to understand how we could do this. We have been told; we heard it on the news—I went home last night and my wife said it was on the news at 6 o'clock Wednesday night until 12 o'clock Thursday night, we are going to be on the Senate floor listening to a discussion of what bad legislators we are because we haven't approved 100 percent of the judges the President has requested—168 to 4—and we have been told they are going to bring up another failed nominee, Priscilla Owen, next week.

I understand they are also going to bring up a woman by the name of Kuhl from California and a woman by the name of Brown from California. I don't know if this is an effort to try to somehow embarrass the two Democratic—

Mr. McCAIN. Parliamentary inquiry, Mr. President.

Mr. REID.—Senators from California or what the reason might be.

The PRESIDENT pro tempore. Does the Senator yield for a parliamentary inquiry?

Mr. REID. For a parliamentary inquiry? I will be happy to do that, without losing my right to the floor. Yes.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I have a parliamentary inquiry: Wouldn't rule XVIIII 1(b) begin to apply concerning proceedings while legislation is before the Senate?

The PRESIDENT pro tempore. That is correct. Under the procedures of the Senate, there would be a warning issued to Senators speaking on matters other than the business before the Senate in the first 3 hours.

Mr. REID. Mr. President, I appreciate that very much. I appreciate my friend from Arizona bringing that to my attention. What I am going to talk about for a while is the Internet tax problem. Internet tax is a difficult situation, of course. It is something with which we need to deal. We understand there is some confusion as to what we are really dealing with. Some believe it has something to do with sales tax. This legislation does not. It deals with access.

It is a very important issue, but it seems to me this matter could be resolved in a matter of minutes. I am told the Presiding Officer's amendment, in effect, would extend the present law for a couple years. It is my understanding the distinguished Senator from Alaska has suggested this be extended for 2 years and, if I am not mistaken, there are others who believe it should be extended for 2 years.

I believe that should happen. I hope we will extend this for a couple years and then during that period of time make a determination as to whether the legislation that is now before the Senate should be implemented. I understand that.

Also, one of the real problems we have is this schedule, which makes it very difficult to deal with this legislation. My friend from Arizona suggested we deal with relevant amendments. This is not going to happen in this present atmosphere. There will certainly be efforts made to offer not only relevant amendments, but, I would assume, maybe some nongermane amendments. I don't know that to be the case, but I assume so because we have so few opportunities to amend different pieces of legislation as they come through.

On appropriations bills, we have been cooperating the best we can. As I indicated last night, we have done everything we can to make sure we did not have amendments that were offered to appropriations bills that would slow down the process. We have worked very hard in doing that.

I am not going to talk for a long time this morning.

I have no intention of interfering this morning with people's schedules. I know there are a lot of schedules that we have to move along. I want to do that. People have airplane schedules to meet on Friday. We were told yesterday that there would not be anything after 12 today. At least people on our side made arrangements that that would, in fact, be the case. If there is some change, we need to know about that.

I am happy that we got the CR passed. I look forward at a later time today to cooperate and agree to bringing forth Commerce-State-Justice. We want to do that at the appropriate time. Until there is some decision made on how long we are going to be involved on the Internet tax situation, we are not going to be able to give that consent.

Finally, responding to my friend from North Dakota in a very brief way, what is taking place here is something that I have never seen in the many years—more than two decades—I have served in the Congress, that we would have in the late days of a legislative session this carnival, as the Senator from North Dakota referred to it—this circus, as I referred to it—and that is what the American people will think of it.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. McCAIN. Mr. President, I believe the Senators from Tennessee and Delaware have an amendment filed. We are ready to consider that amendment or other amendments, if Senators have amendments that they would bring them to the floor so we can move forward with legislation.

I mention to my friend from North Dakota, who is an articulate and passionate defender of his point of view on the Internet tax issue, the reason why I mentioned his absence last night was I meant he would have contributed a good deal to the debate and discussion given his many years of involvement in this issue, which I have always enjoyed, not only on that issue but on numerous others.

So I would ask if our colleagues would file their amendments, bring them forward, as well as amendments that may be applicable.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, let me weigh in here by acknowledging the mistake we made in the Commerce Committee. In light of that statement, let me first commend our colleague from Oregon, Senator WYDEN. His intent is good. We followed it. We supported it in the Commerce Committee. We made certain that the Internet was allowed to expand and progress without any tax burden. In that light, we passed the temporary moratorium. The intent of the Commerce Committee, when we reported this measure that is now before us, was to make permanent that moratorium with respect to individual taxes.

What occurred in reporting was that we realized there was a certain language difficulty there. The fact is that the CBO today cannot schedule or account for that language on the budgetary impact. We knew that shortly after the reporting. It was all reported out on a verbal vote. We said this is going to the Finance Committee. They have tax experts and they will clean up our act for us and get the intent of the full committee and the Congress to continue and make permanent this moratorium.

The fact is, under the present language, the moratorium extends not just to the individual consumer, but it goes the entire way down the pipeline as a tax exemption, thereby invading the power of the States to tax or not tax; thereby becoming, as the Senator from Tennessee, Mr. ALEXANDER, says, an unfunded mandate. So now we have before us not the intent of the Congress at all.

I recently was in China, and I can tell you we do not have to worry about trying to control the Internet. It is not with taxes that the Chinese are trying to control the Internet and its usage, expansion, and its progress. On the contrary, they are trying by law to control it, and they cannot. That cat is out of the bag and it is going to grow.

The fundamental problem is just what the Senator from Tennessee has spotted. We have now invaded States and the locals and their taxing power, and that is not right. Right is right and wrong is wrong, and we made a mistake. Over the horizon, some of these corporate America giants are piggybacked. They said, oh, now look at what we have. If we can get in on this kind of extension, we will do away with some $4 billion to $8 billion in taxes. Of course, they are not passing it on to the consumer. It has nothing whatsoever to do with the expansion or the progress and success of the Internet. That is what we have confronting us.

In that light, the Senator from Delaware, Mr. CARPER, and the Senator from Tennessee, Mr. ALEXANDER, have gotten together an amendment that the distinguished Chair has joined in, and this Senator from South Carolina has joined in, so that we can pass this bill and extend it. That is what we all want to do. We like the present law and that is what we in the Commerce Committee thought we were doing, we were protecting consumers by extending the present law to make it permanent. We could then send that over to the House side, and if we can send that to the House, we can dispose of this knotty problem and move on to more important legislation.

I thank the distinguished Senator from North Dakota for handling this bill. Once again, I wish to acknowledge the leadership of Senator WYDEN from Oregon. He has led us on this Internet effort for a long period of time. He has made absolutely certain that the Internet continues to progress and succeed. We cannot come in now and tell the States how to tax and what to tax and not to tax.

We are not trying to give a tax cut to corporate America. We want to make sure there is not a tax increase to consumers on the Internet. That is what the present law did until it expired a few days ago, and that is what ought to be extended and made permanent.

I thank the Senator from North Dakota for handling this measure and again commend my colleague on the committee, Senator WYDEN, for his leadership.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I am going to be brief. I have appreciated the distinguished Senator from South Carolina working with me on this over the years.

The distinguished Senator from South Carolina is absolutely right. The committee bill did the job right. The committee bill kept in place the technological neutrality that we have established over the years—the Senator from South Carolina, Senator STEVENS, who has now left the floor, Chairman MCCAIN, and others. The reason we did that years ago is that we did not have technological neutrality. The Internet was subject to taxes that were not subject to other areas, such as the snail mail delivery of papers.

What has happened, however, is under the substitute that is being offered by the distinguished Senator from Tennessee, Mr. ALEXANDER, we get away from the competitive neutrality that the distinguished Senator from South Carolina has been advocating.

I want to be very specific about how that is being done, because I think a lot of Members believe that if they vote for the proposal by the Senator from Tennessee that it is somehow a safe vote, that all they are doing is continuing the status quo and it is really kind of an innocuous approach. It is not a safe vote. It is a vote to increase taxes.

I want to be very specific in explaining how that is the case. What has happened as a result of changes in technology over the last few years is you now have, in a number of jurisdictions, DSL—Internet access through DSL being taxed but Internet access through cable modems not being taxed. That is what has happened as a result of the changes in technology and the various changes in government policy. So you already have been moving away from the competitive neutrality we have sought with respect to this issue.

Let me repeat that. Today, Internet access through DSL is being taxed in a number of jurisdictions and Internet access through cable modem can't be taxed anywhere.

Unfortunately, what would happen under the proposal of the Senator from Tennessee is that you would make it easier to continue that competitive disadvantage and, particularly under the proposal of the Senator from Tennessee, it would be easier to tax wireless Blackberry services.

I am of the view that with 391 separate taxes on telecommunications administered in 10,000 different jurisdictions, people across America who have these Blackberrys, which have wireless Internet access, would be subject to scores of new taxes.

So I say to colleagues who are looking at this issue and thinking that somehow the idea of a 2-year proposal is kind of an innocuous safe haven and really not a tax increase—I ask them to think about what it is going to mean for Blackberry users across the country.

These are wireless devices. In a number of jurisdictions where Internet access is obtained through DSL, those services are already being taxed. That would be expanded under the 2-year alternative.

What I would like us to do is what I believe we sought to do 5 years ago when Senator HOLLINGS, Senator MCCAIN, and others got together, and that is to ensure strict neutrality with respect to technology. The Internet wouldn't get a preference; the Internet wouldn't be hurt. The problem now that wireless users are facing with respect to DSL will be compounded if this 2-year alternative goes forward. I hope my colleagues will reject it for the reasons I outlined this morning.

The PRESIDENT pro tempore. The Senator from Arizona.

Mr. MCCAIN. Mr. President, shortly the sponsors will be proposing an amendment. In the meantime, I ask to speak as in morning business for 4 minutes.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

(The remarks of Mr. MCCAIN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator Nevada.

Mr. REID. Let me say about this bill, no matter the merit of it, I know people feel very strongly about it. The Senator from Tennessee, who was here in the Chamber a few minutes ago, the Senator from Ohio, Mr. VOINOVICH, the Senator from Virginia, Mr. ALLEN, the distinguished Senator from Oregon, Mr. WYDEN—they have strong feelings about this. Their views do not coincide. I know how strong their feelings are.

But this legislation, with all due respect to the distinguished chairman of the Commerce Committee, isn't going to go anywhere today or Monday or Tuesday. I think there should be some effort made to resolve the issue. I am a member of the Commerce Committee. I don't understand all the issues, but I understand the issues on this floor and nothing is going to happen.

I would say to the majority that if they are looking for votes today, they would be better off looking for votes to pass the most important piece of legislation that I see that we could vote on quickly, and that would be the vote on the conference report dealing with Military Construction. We could vote on that. We could have a vote with debate equally divided with 5 minutes each. We could pass it. We could go to the Syria Accountability Act. We agreed last night to reduce our time. There are 90 minutes. We have agreed to take one hour half each and divide it up, as we indicated last night, several different ways. It seems to me we could do that, and we could be out of here by 12 o'clock after 2 very important votes.

Let me tell you what the problem is. There is an effort made so we have something to do on Monday and Tuesday. I say to everyone that as a result of the carnival which is going to be started at 6 o'clock on Wednesday, nothing is going to happen Monday and Tuesday of any significance. There may be a vote on the Syria Accountability Act because it would be an easy vote to get up. They may bring up Military Construction, and they may say, Isn't it too bad that the minority, the Democrats, aren't allowing us to pass Military Construction. But remember: I have offered numerous times over several days to take this up by unanimous consent. So all the pleas of sorrow and concern next week about our not taking care of our military officers around the country certainly will speak volumes because it simply is without any foundation because we can do that right here.

We are on the Internet tax bill. One of the things we need to talk about on this Internet tax bill is the importance of judges. Judges enforce these laws. We have been involved in passing out of this Senate 168 judges. We have turned down four. If the Internet tax measure is worth talking about, why don't we just move a little bit to the 30 hours which is going to begin next Wednesday and start talking about judges today? That is fine. I don't see any reason why we should not do that.

We can talk about the record that was set and that we have the lowest vacancy rate in the judiciary in some 15 years. Is it necessary because we have the lowest rate in some 15 years to spend 30 hours—2 days of the Senate's time—talking about judges in the circus atmosphere that will be there? It is all planned. It is going to be quite a show. It has all been laid out in the press. They are going to have all 51 Republicans here, and that way it will be very easy to discern whether or not there is a quorum present.

I am gathering my thoughts.

We will have a lot of time to spend on Internet tax.

Mr. McCAIN. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. REID. Thank you very much. I appreciate very much bringing the Senate to order.

Mr. McCAIN. I am sorry to say the Senate is still not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. REID. Mr. President, the point is if there needs to be a discussion on judges, we don't have to wait until Wednesday at 6 o'clock. We can start talking right now on this legislation because judges have to enforce the law. It is a law we are talking about. They have to do it on a trial level and they have to do it on an appellate level.

We have given this President 98 percent of the judges he wants—98 percent of the judges he wants. People talk about the Constitution. We can talk about the Constitution also. The majority makes these statements that a filibuster is a brand new thing; it has never happened with judges; isn't it a terrible thing this is happening in the Senate. Of course, it is without foundation. There is no truth to it. Filibusters have taken place on previous occasions, and it will take place again long after we are gone.

To think we have to wait until Wednesday to talk about judges—we don't have to wait until Wednesday. We can talk now. This is a complicated piece of legislation. Don't you think we are going to need judges to interpret the law? Of course we are. The record we have is pretty good. Do you think the advise-and-consent clause of the Constitution meant every judge the President suggested to us we just approve them? Would the President be happy if we had 100 percent of his judges? How about 99 percent or 99.5 percent? Ninety-eight percent isn't good enough. It is not good enough, so now we are going to spend 30 hours talking about why it shouldn't be 98 percent, it should be 100 percent. I don't know what the proper ratio is the President wants.

I am just giving everyone a little idea that we don't have to wait until Wednesday at 6 o'clock to talk about judges. We will talk about them now. I am proud of what we have done here in the Senate dealing with judges.

I am glad Miguel Estrada was not confirmed. He wouldn't answer the questions. He wouldn't allow us to look at his memoranda when he was at the Solicitor's Office.

I am glad we did not approve Priscilla Owen who the President's own attorney, Mr. Gonzales, said was not a good judge when he served with her in the Texas Supreme Court.

I am glad that twice we did not approve William Pryor from Alabama who is an embarrassment to the State of Nevada and this country and shouldn't be a judge.

We have approved 168 judges. That is how many we have approved.

Mr. DORGAN. Mr. President, will the Senator from Nevada yield for a question?

Mr. REID. I would be happy to yield for a question.

Mr. DORGAN. I wonder if perhaps next week when the other side wishes to take 30 hours in the middle of the week to talk about the handful of judges—I believe the four who have not been confirmed by the Senate—I wonder if perhaps we should not take the time next week to talk individually about the 168 we have confirmed. Perhaps we ought to go through each one and talk about all 168.

If time is not the issue—if the majority leader says time is urgent to talk about all of these other bills but in the middle of next week they will use 30 hours to come to the floor and talk about the 4 who have not been confirmed—perhaps we ought to take 60 hours to talk about the 168 we have confirmed.

Let us move on the things that matter now and scuttle the 30 hours next week and this 30-hour discussion of the handful of judges who have not been approved. That doesn't make any sense to me.

Mr. McCAIN. Will my friend from Nevada yield for another parliamentary inquiry?

Mr. REID. In just a minute.

The Internet bill which we are talking about here on the Senate floor is an important piece of legislation. I was present last night and listened to the statements of the Senator from Oregon. The Senator from Oregon understands legislation. He understands the importance of this Internet tax bill. He understands the definition of access. He understands what unfunded mandates mean, which was talked about by the Senator from Tennessee at such great length. I think it is important we understand this Internet tax bill. It deals with some very important issues. It is a bill that seeks to protect the Internet access from taxation. As the lines between the Internet and the media continue to blur, there is some concern the law could lead to States losing some of their existing tax base over time. For example, some long distance telephone traffic is now carried on the Internet. Movies, videos, and music programming can be downloaded onto the Internet as well as being viewed over cable and broadcast media.

I say to everyone within the sound of my voice someone needs to interpret this law. If we pass something here, we will need someone to interpret this law.

I know this is Friday morning and there is a lot to do. But I simply wanted everyone to know this sham, this scam, this circus, this carnival that is going to begin on Wednesday at 6 o'clock is just as I have described it. What we are going to do, as the Senator from North Dakota indicated, if you want to talk about 4 judges, or maybe add 2 more or 6, is we will talk about 168. We are happy to do that.

I know I could talk a lot longer. I understand the Pastore rule. I have a lot of stuff which I could talk about—the Internet tax, and weave in the judges, but as kind of a relief to everybody, I am going to sit down for the time being.

Mr. McCAIN. Mr. President, I thank the Senator from Nevada, who understands parliamentary procedures as well as anyone.

There are some discussions going on about some agreement that might be reached on this issue with some of my colleagues. I hope we can make progress on that.

I yield the floor.

Mr. DORGAN. Mr. President, I have not spoken on this issue this morning. This is a very important issue. I have been a supporter of the moratorium. I have supported the initial moratorium and the extension of the moratorium and will support again a moratorium. As far as I am concerned, it could be permanent if the proposition is, let us not tax the connection to the Internet. That was the presumption from the start. Let us not retard the growth of this industry. Let us not allow States to create some special tax that could be discriminatory or punitive with respect to the Internet itself.

Having said that, it is very important we create a definition that is appropriate. We have a current law. That current law could just be extended. Some of my colleagues say, if you just extend that and do not do anything about the circumstance with DSL, then you have an unfairness. That is something I understand and I am certainly willing to deal with that. But if we do not deal with the issue of how you interpret or how you describe what it is you are exempting, you can have serious financial problems. We are talking about billions of dollars' worth of problems for State and local governments.

When we passed this moratorium out of the Commerce Committee, my colleague, Senator HOLLINGS, was absolutely correct. We passed it out, I believe, 31 to 0. But we did it by saying we understand the definition of what is going to be exempted is not yet right. There is great controversy about it. So we will move this bill to the Senate but will work on solving the problem of the definition and what it means and its consequences before we get to the Senate. We tried very hard to do that but regrettably that has not been done. I want people to understand the framework in which this comes to the floor. Yes, the Commerce Committee passed it 31 to 0, but with the caveat that the definition of what is exempt is not yet solved or at least not yet agreed. So between then and now we have tried hard to see if we could fix that. At this point, it is not yet fixed.

Mr. BURNS. If the Senator will yield on that point, 9 times out of 10, whenever we get in trouble in this body it is in dealing with definitions up front. That is our problem now.

I know they are trying to work out some way over there to define certain parts of this, but there has to be something between the amendment pending and where we want to go. We are all in agreement that in this industry, when the moratorium was first put on—to allow this industry, this industry that was a baby industry, to build out—what we did was right. The second time we extended it was the right thing to do. We have seen an explosion in an industry.

There are, however, some sections that are discriminatory. There were some loopholes found by the States. So we have an inequitable situation due to definition.

I hope the parties can work this out to the satisfaction of the intent of the Commerce Committee when we passed it the first time, when we extended it the second time, and now when we want to extend it another time.

Maybe status quo is not exactly right. But nonetheless, it is something we have to work on. The Senator from North Dakota and the Senator from South Carolina have a point that we have not worked on the definition and how it will be determined or defined in the taxing entities of the States, or even, for that matter, counties and cities.

I appreciate the Senator from North Dakota allowing me this time.

Mr. DORGAN. Mr. President, I agree with that view expressed by Senator BURNS.

Let me continue by saying definitions are everything. The reason the States are very concerned is if the definition is not correct—that is, if it is not specific in exactly what Congress proposes—we could see billions and billions of dollars lost to the State and local governments in revenue they otherwise would have expected.

We have a situation where we have a moratorium that expired. The moratorium ought to be extended. I was prepared to extend it permanently if we could find a definition that would be acceptable. That has not yet proven to be the case. Some are now discussing, and I was in some discussions a few moments ago, about a shorter term extension, perhaps 4 years, and use the definition that exists in current law in the moratorium that expired November 1 and try to fix the position with respect to DSL, which is a problem. I don't know how this will come out, but we have a responsibility to try to get this right. We would not want to do something permanently that has a problem attached to it, that will be a growing problem for State and local governments.

Let me describe something that was in the newspaper recently because it tells the dilemma we face if we get this wrong. We have been moving in information technology from the old circuit switch telephone network to an Internet-based network. Whether we communicate by voice, e-mail, wireless, instant message, the data is being transmitted over the Internet in digital packets.

If anyone wonders what I mean, look at a story in the Minneapolis Star and Tribune. It is Quest Corporation announcing this past week that it will roll out an Internet-based telephone service in Minnesota. It describes that. That is the Internet-based service called VoIP, Voice Over Internet Protocol. They say the approach to moving this out over the Internet—that is, telephone service over the Internet—will save on regulatory expenses and other costs and break the regulatory logjam that exists. The article goes on to say:

> The Quest Internet phone service would also be exempt from salestax if Congress, as expected, extended and expands a tax ban on Internet access to include Internet telephone service.

You can see the consequences. If you do not understand exactly what you are doing and you have a definition that is not articulate and not focused exactly on what you intend to accomplish, we can have very significant consequences for State and local governments.

Let me end where I started by saying I happen to have supported both of the previous moratoriums, and I will support a moratorium now because I don't believe we want tax policy that retards the development of the Internet. I don't believe we want tax policy that in any way injures or interrupts the substantial expansion in technology and information technology that we have seen in a very short period of time.

However, even as we do this, let's make sure that we do not injure or provide significant problems for State and local governments because while we want to exempt the connection to the Internet, we did not want to, with an unfunded mandate as my colleague from Tennessee calls it, or some other approach, we begin preempting a retinue of State and local taxes that have been legitimately allied to various kinds of services. It is not unusual to pay a tax on certain kinds of telephone services. It is not unusual. That is one of the methods by which State and local governments have developed a revenue base.

We described a very specific area that is off limits. Let's make sure that description is appropriate, fair, and specific relating to how the Congress intends this to work.

I know my colleague from California wishes to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from North Dakota.

Mr. President, I very much hope we do not pass the underlying bill today. I believe it is premature. In my 10 years in the Senate, I have never heard from more California cities, specifically 104 of them, indicating their concerns about what the underlying bill would do to the budgets of their cities.

Here in my hand are some of the letters. This issue has energized cities in my State like no other. City mayors are incensed that we would pass a law without knowing with certainty how it would impact local revenues.

I have received letters from the League of California Cities, which represents all of California's 478 cities, from county administrators, police officer associations, firefighter associations, all of whom are concerned about this bill—and I cannot answer their questions about it.

But, they understand the larger issue. They are telling us the bill contains language that threatens their ability to collect existing taxes on certain telecommunications services. And, again, I cannot answer these questions, and these questions cannot be answered on the floor of the Senate today. They are too complex.

This is precisely why the Carper-Alexander amendment is the most appropriate approach: extend the moratorium for another 2 years and do a study. Bring the cities together with the professionals, and see exactly what taxes are impacted by the underlying bill.

I want to take a moment to commend Senators ALLEN and WYDEN for their work and also to thank Senators MCCAIN and HOLLINGS for guiding the issue through the Commerce Committee.

I also know the minority and majority staff on the Commerce and Finance Committees have been working to provide the Senate with the information it needs to weigh the competing views, and I thank them. But the competing views are still there, and there are no answers for the cities.

Since we originally passed the Internet Tax Freedom Act, we knew this day would come, the day when we would need either to extend the tax moratorium or allow the temporary moratorium to expire.

California has a passionate interest in maintaining unfettered access to the Internet. We have a globally recognized concentration of high-tech and telecommunications firms. We provide much of the infrastructure required to gain access to the Internet and many of the services that make the Internet so useful. However, we have to make sure that maintaining tax-free access to the Internet does not inadvertently destroy the budgets of cities and counties throughout my State and the Nation. Many of them have come to rely on a variety of telecommunications services fees and taxes as an important part of their revenue base.

Now, I support the permanent extension of the Internet Tax Freedom Act, but if I had to vote today on it, I would have to vote no. I am a cosponsor of Senator WYDEN's original legislation that would make permanent the current moratorium. But if I had to vote today on the Allen-Wyden bill, I would vote no because a number of uncertainties have arisen and nobody can answer those uncertainties.

Additionally, as a letter circulating through the Senate today indicates, we have been told that we violate the Unfunded Mandates Act. I was here when that Act was passed in 1995. I voted for that Act. Now we hear from the Congressional Budget Office that the underlying bill would, in fact, create an unfunded mandate on States and local jurisdictions. I think we need to find out how and what can be done to prevent that from happening.

If this bill's definition of telecommunications services is interpreted in an overly broad way, as many of us think it may be, it will negatively impact local budgets. It will lead to the possibility of reduced preparedness in our firehouses and our police stations and less money for our schools, and it will do so at a time when States and cities face large budget deficits.

Right now, in San Diego, CA, a huge debate is going on as to whether the San Diego County firefighting forces are adequate; whether they have the vehicles, whether they have the training, whether they have the ability to really respond to fire conflagration. If we move ahead precipitously today, this bill will make that situation worse.

I must tell you, as a former mayor, these are my concerns. For San Francisco, the city in which I served, the bill's current definition of telecommunications services could lead to a loss of $30 million annually. San Francisco, as their experts compute, will lose $30 million of existing taxes if we pass this bill in its present form. That translates into 300 police and firefighters.

In the city of Pasadena, the mayor, Bill Bogaard, says this would cost his city $11.4 million. That is the legislation before this body today. Let me quote from his letter:

> By using vague language to include broadband Internet access under the moratorium, we fear that the bill will allow telephone and cable companies to use that protection to avoid paying local franchise or utility fees.

He goes on to state:

> It is our understanding that it was not the intent of the bill's sponsors to endanger local franchising authority, but the legislation has yet to be changed to correct these unintended consequences.

Mr. President, this is not the first time in this debate we have heard someone mention unintended consequences. The distinguished Senator from New Jersey, Mr. LAUTENBERG, mentioned last night that since this debate has started we have been hearing it from all of our mayors and State officials all across this great land.

I wish to quote from one more of the letters I have received from our mayors. This is from Judith Valles, the mayor of the City of San Bernardino, which was the focus of one of California's main wildfires. She wrote to me to point out, and I quote:

> Currently, 150 cities in California levy a utility users tax, or what is called a UUT, which in many cases includes telephone and cable television services. Utility users taxes provide a critical contribution to local discretionary revenue, on average 15 percent of general purpose revenues, making the utility users tax vital in helping fund critical city services, particularly public safety.

This comes from a mayor who is still dealing with the threat that her city faced due to the recent California wildfires. And why? Because we are afraid to step back and give the telecommunications industry and cities more time to work out a solution to this issue with which they can both live?

I appreciate Senator WYDEN's frustration that if we let the debate rage on too long, it will never end. I appreciate that sometimes you have to make a decision, and that if it is not perfect, you fix it along the way. But this is not one of those times.

If you run the risk of repealing taxes that are already in place, you unavoidably affect local budgets, and I am not willing to do that at this time. I believe people want their tax dollars used on the local level. They want better police. They want better fire protection. They want the emergency services for adequate protection, particularly at this point when America stands a risk from terror. And it makes no sense to rush to pass a bill when you have cities all across this country saying: Don't do it. It is going to inevitably impact what we now levy.

This will not affect the telecommunications companies because the Carper-Alexander amendment extends the current law with minor changes. Just extend the moratorium for 2 years, do the study, permit the parties to come together and work this out.

I do not think it is one Member's goal to undermine the existing tax base of local cities and counties across this great Nation in passing a permanent moratorium. We have never wanted to do that. We are told today that the underlying bill does, in fact, do that. So why—why—rush to pass it? My goodness.

I love my high-tech companies, but the cities and counties are where the people are, and they need police and fire and emergency services. In a day of cutbacks, it makes no sense, because we don't know what we are doing today—and to simply willy-nilly pass a bill that may well do that makes no sense. We then will have to shuffle around and find a way to correct it at some point in the future. In the meantime, budgets are upset all across the Nation. That is not good government, it is not good public policy, and it is not good legislation.

I am here to add my support and the support of 104 cities in California to the Carper-Alexander amendment. I would be most happy to offer my services in any way I can to work with the committee chair, the ranking member, and Senators WYDEN and ALLEN, to try to find a solution. It makes no sense to pass something without an adequate study and the reconciliation of the industries.

I remember when we were working out a solution to the taxation of cellular phone calls. At that time, we told the parties that we needed them to develop a mutually agreeable solution to the problem of how to tax mobile phone calls and then present it to Congress. The cellular industry and local governments did exactly that. We now have a cellular phone tax standard in place that most people can live with. It is my understanding that the cities and States would be comfortable with this same approach to Internet access taxes. That is the kind of approach I believe will make this debate much more productive.

The debate on this issue should not be centered on who is right and who is wrong. Unfortunately, that is where we are today. On one side we have the telecommunications industry saying the cities are overreacting to the impact this bill will have on their budgets. On the other side, we have the cities saying the telecommunications industry is seeking special, nearly unprecedented, tax treatment.

Why is it we would not want to give these two stakeholders time to put their heads together and bring Congress an agreement they can both live with?

Let me be clear: I want a permanent extension but not at the cost of laying off firefighters, police officers, and teachers.

Should the Carper-Alexander amendment not be adopted, I will offer my own amendment that simply strips out this confused language in the context of a permanent moratorium. While not a perfect solution to the complex problem we face, it is far better than forcing our cities and States to send out pink slips to public safety personnel. I am hoping it will not come to that. Cities and their technical experts have my attention. This is true throughout the rest of the United States.

I hope the Carper-Alexander amendment will be passed and that the moratorium will continue for 2 years so a study can be conducted and a reconciliation of conflicts within this legislation settled so that we can move ahead knowing we have not inadvertently decimated up to 15 percent of the tax base of local communities.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the letters which I have from cities around the State of California be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF BURBANK,
OFFICE OF THE CITY COUNCIL,
Burbank, CA, September 12, 2003.

Re HR49 (Cox); SB52 (Wyden) and SB 150 (Allen)—Oppose.

Hon. DIANNE FEINSTEIN,
Hart Senate Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: I am writing on behalf of the City of Burbank to urge your opposition to provisions included in the "Internet Tax Non-Discrimination Act of 2003" that would modify the definition of "Internet Access" to include telecommunications services "to the extent such services are used to provide Internet Access". This expansion of the definition would result in a loss of badly needed revenues for California's cities and significantly affect our city's ability to provide essential services. This is particularly important during these tough economic times.

Currently 150 cities in California levy a utility users tax (UUT), which in many cases, including our city, includes telephone and cable television services. The UUT provides a critical contribution to local revenues (nearly 15% of general fund revenues); in fact, it is our third largest revenue source (behind sales tax and property tax), making the UUT vital in helping fund critical city services, particularly public safety. The City of Burbank, along with other cities, are already experiencing flat growth in the UUT due mostly to the intense competition between phone service providers, particularly cellular. Therefore, any additional reduction to our UUT (or any other revenue source for that matter) will have dire fiscal consequences.

The City of Burbank's UUT projection for Fiscal Year 2003–04 is $16.5MM which is needed to pay for essential safety and human services programs. Although it is difficult to segregate the impact of excluding the internet access portion of our UUT revenues, here are some examples as to what total UUT figure of $16.5MM can fund for one full year: Salaries plus benefits for 36 fire fighters; salaries plus benefits for 40 police officers; run our library program (salaries/benefits plus operating costs); run both the Daycamp/Summer Parks/Teen Program and the Organized Sports program (salaries/benefits plus operating costs); and run the Senior Nutrition Program, the Human Services Program, the Transportation Program, the Senior Recreation Program (salaries/benefits plus operating costs).

As you contemplate this limitation on local governments' ability to raise local revenue, it is essential to put this restriction in the context with other limitations California local governments currently face as we try to meet critical local service needs. Remember that over the past several decades, cities' control of discretionary revenue sources has been severely eroded by state actions.

With the passage of Proposition 13, the state was given control over the allocation of local property taxes. In the early 1990s, the state exercised this control diverting billions in dollars of local property taxes to meet the state obligation to fund schools. In the 2003–04 fiscal year alone, this shift is estimated to be a loss of $5.4 billion from cities, counties and special districts.

In addition, cities and counties are faced with a shortfall of Vehicle License Fee revenues in the current fiscal year due to the "deferral" of payment of $825 million in backfill owed until 2006. This will have a critical impact on the ability to provide local services during the current fiscal year. The utility users tax represents one of the few local revenue discretionary revenue sources with rates, exemptions and terms determined at the local level to conform to community interests and needs.

Although Burbank fully supports and recognizes the importance of fostering the development of the Internet and other new technologies, Congress must also recognize as it considers this legislation that cities in California face serious fiscal constraints at both the state and local level already.

We need your help to ensure that this legislation is amended to remove this detrimental expansion of the definition of "Internet access." We look forward to working closely with you on this urgent matter.

Sincerely,

STACEY MURPHY,
Mayor.

CITY OF CONCORD,
OFFICE OF THE MAYOR,
Concord, CA, October 1, 2003.

Re S. 150—Internet Tax Non-Discrimination Act—Oppose/Amend.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The House has passed and the Senate is poised to pass legislation (H.R. 49/S. 150) that, according to the MultiState Tax Commission, will result in a loss of revenue to state and local governments of up to $8.75 billion annually by 2006, and could be even greater as right-of-way rents from non-tax franchise and access line fees are also lost.

In a report released September 24, the MultiState Tax Commission estimated that for every $1 billion these bills cost state and local governments, our local communities will lose: Almost 20,000 police officers; almost 20,000 firefighters; more than 27,000 hospital workers; almost 25,000 teachers; and more than 17,000 college instructors.

The legislation began as a simple extension of the Internet Sales Tax moratorium, which was scheduled to expire November 1, 2003. H.R. 49/S. 150 has been amended to make the tax moratorium permanent and to expand the types of services that cannot be taxed.

Services for accessing the Internet that are taxable or subject to franchise fees today—such as dial-up telephone service, DSL and cable Internet services—would be exempt from taxes and potentially free from franchise obligations.

Under current law, Internet access, "does not include telecommunication services". This bill would expand the definition of Internet access and thereby impose not only a permanent moratorium on Internet access fees but also on traditional telecommunications taxes.

I urge you to amend the bill to clarify that the moratorium does not apply to traditional telecommunication services.

Very truly yours,

MARK A. PETERSON,
Mayor.

CITY OF COVINA,
Covina, CA, October 21, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The City of Covina is writing to express our concerns with S. 150, the "Internet Tax Non-Discrimination Act." We fear that the language of S. 150 will deprive municipalities nationwide of billions of dollars in tax and fee revenues in the years ahead and, in the meantime, will result in litigation and confusion. It has been our experience that some industry participants will use the language of S. 150 to avoid paying local telecommunications and utility taxes, as well as franchise fees and rights-of-way fees owed on infrastructure deployed in the public rights-of-way.

As currently worded, S. 150 poses a direct threat to two traditional, yet separate and distinct, municipal powers. These powers must be preserved. Municipal budgets are already strapped by the recession, reduced federal and state budgets, and the demands of homeland security. Local governments can not afford to be hamstrung still further to the point where vital municipal services are curtailed or eliminated altogether.

The first traditional municipal power that S. 150 threatens is the ability of local governments to impose telecommunications taxes or to apply local utility taxes to the provision of telecommunications services. Municipalities in many states are authorized to impose such taxes, and many municipalities currently rely on such taxes as a critical part of their budget. Now, by expanding the scope of the Internet tax moratorium to include telecommunications services to the extent they are used to access the Internet, S. 150 could immunize the bulk of all future telecommunications services from local telecommunications and utility taxes. That would not only starve local budgets; it also would be highly regressive and unfair: Poorer residents who lack a computer or can afford only plain/traditional telephone service would continue to be subject to local taxes, while businesses and wealthier residents with computers, who can substitute e-mail and future technologies like voice-over-Internet-protocol for dial tone service, would be immune from local taxes.

The second traditional municipal power that S. 150 threatens is the ability of local governments to impose franchise fees as "rent" for use of public rights-of-way on companies, such as telecommunications and cable service providers that use public property for private profit. Over one hundred years of court-supported municipal rights are at stake here. In 1893, the Supreme Court clarified that right-of-way fees are not taxes but payments in the form of rent. City of St. Louis v. Western Union Tel. Co., 148 US 92, 99, 13 S.CT. 485, 488 (1893). Ironically, the Supreme Court was then considering whether the federal government could require local governments to allow telegraph companies access to the public right-of-way without compensation. More recently, the 5th Circuit in City of Dallas v. FCC, 118 F. 3d 393 (5th Cir. 1997) cited the holding of St. Louis when it found that a franchise fee is not a tax, but an expense of doing business that is essentially a form of rent. Covina receives a five (5) percent franchise fee on incumbent local telecommunication cable service providers as compensation for use of local rights-of-way.

Federal legislation requiring local governments to allow private use of public property such as the right-of-way, free from local fees and charges, could be viewed as constitutionally suspect. Such legislation might constitute a federal taking of local government property without compensation, or federal commandeering of local government property to implement a federal regulatory program. Please consider these concerns in developing a program that achieves federal goals without harming local governments.

The City is prepared to work with you to:

Clarify that in adopting S. 150 and its House counterpart (H.R. 49), the Congress does not intend to interfere with or in any way limit the imposition or collection of any municipal telecommunications taxes or utility taxes applicable to telecommunications, nor with any municipal rights-of-way fees nor gross percentage fees collected in lieu of right-of-way fees.

Clarify that S. 150 does not preempt the imposition or collection of excise taxes of general applicability (including telecommunications and utility taxes) on services that employ telecommunications, cellular or cable television facilities, even if those services offer access to the Internet.

Without these clarifications, the adverse financial impact of S. 150 on local governments will be immense: the loss of billions of dollars in telecommunications fees and taxes in the years ahead for cities across the nation—fees and taxes that have been consistently upheld in court. If the legislation is passed with the currently proposed language, Covina can calculate the loss to its already-strained municipal budget, with direct effects on the General Fund. Municipalities in California and elsewhere have long imposed gross receipt-based fees on telecommunications, cable television and other providers' use of local rights-of-way for private profit, and many municipalities across the nation have imposed gross receipts-based taxes on the provision of telecommunications service or utility services, including telecommunications and cable television services. Federal preemption of these rights, whether intended or not, will result in immediate financial loss to Covina, and the size of that loss will only grow in the future as more communications shift to broadband, Internet-based technologies. We are confident this is not the legacy you intend or desire. We are offering to work with you in any way we can to avoid such an unfortunate result.

Sincerely,

WALTER ALLEN III,
Mayor.

CITY OF PASADENA,
OFFICE OF THE MAYOR,
Pasadena, CA, September 26, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The City of Pasadena has some concerns with legislation that has been approved by the House and is pending in the Senate (HR 49, S 150) that would extend on a permanent basis the current moratorium on state and local taxation of Internet access fees.

While the City has not actively opposed the extension of the 1998 Internet Tax Freedom Act moratorium (even though it does represent a federal intrusion into an issue traditionally handled on the local level), we do believe there is room for interpretation regarding the manner in which the legislation treats broadband Internet access. By using vague language to include broadband Internet access under the moratorium, we fear that the bill will allow telephone and cable television companies to use that protection to avoid paying local franchise or utility fees. These fees are fair and equitable payments for a company's use of the public right-of-way, and to lose that revenue would be damaging to our local budgets that are already strained.

It is our understanding that it was not the intent of the bill sponsors to endanger local franchising authority but the legislation has yet to be changed to correct these unintended consequences. I hope that you will urge your colleagues to amend the legislation to extend the Internet tax moratorium to ensure local franchising, utility fees, and right-of-way authority are protected. Thank you for your assistance with this important matter.

Sincerely,

BILL BOGAARD,
Mayor.

CITY OF LAKEPORT,
Lakeport, CA, October 14, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The City of Lakeport seeks your assistance in opposing language added to the Internet Tax Non-Discrimination Act (S. 150) that would expand the coverage of the moratorium by adding "telecommunications services" to the definition of Internet access. It would prohibit a local tax on any "telecommunication service" that is used for Internet access. Nearly all telephone services, including local dial up, wireless, satellite, and broadband (DSL and cable modem), provide Internet access.

This language would have a major adverse impact on our City and the financing of its essential services, such as police, fire, streets, and parks.

Soon, major telephone and Internet service providers will offer "packages" that bundle together Internet access and unlimited telephone services. Unfortunately, under the proposed language, such bundled services will likely be considered "tax-free", which we find regressive and unfair. Even if the average consumer would continue to be subject to the local tax (UUT) on traditional telecommunication services, those persons who could afford computers and high-speed Internet access (i.e., DSL and cable modem) would slip through this loophole and permanently escape taxation on similar services. No matter how much we wish to support the continued growth of the Internet, discriminatory taxation, or favoring the "haves" over the "have-nots," is not the answer.

Finally, we want to assure you that we are in no way asking for your opposition to this language as a way of helping us achieve new tax revenues. We are only asking for help with protecting our city's badly needed existing tax revenues on telecommuncation services.

Thank you for your attention to this urgent matter. If you have any questions or need additional information, please feel free to call the League of California Cities Executive Director, Chris McKenzie, or your staff can contact the League's Washington representative, Eve M. O'Toole.

Sincerely,

R.E. LAMKIN,
Mayor.

CITY OF MONTEREY,
Monterey, CA, September 15, 2003.

Subject: Opposition to Internet Tax Non-Discrimination Act of 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senator, Hart Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the City of Monterey, I am writing to urge your opposition to provisions included in the "Internet Tax Non-Discrimination Act of 2003" that would modify the definition of "Internet Access" to include telecommunications services "to the extent such services are used to provide Internet Access". This expansion of the definition would result in a loss of badly needed revenues for California's cities and significantly affect out City's ability to provide essential services.

Utility users taxes provide a critical contribution to local discretionary revenues making the UUT vital in helping fund critical city services, particularly public safety. For the City of Monterey this amounts to $2.4 million annually or about 6% of the General Fund budget. This revenue source directly supports police, fire, parks, streets and library services. The significance of the UUT has only increased as our City's other discretionary revenues have come under siege.

As you contemplate this limitation on local governments' ability to raise discretionary revenue, it is essential to put this restriction in the context with other limitations California local governments currently face as we try to meet critical local service needs. Remember that over the past several decades, cities' control of discretionary revenue sources has been severely eroded by state actions.

With the passage of Proposition 13, the state was given control over the allocation of local property taxes. In the early 1990's, the state exercised this control diverting billions in dollars of local property taxes to meet the state obligation to fund schools. In the 2003–04 fiscal year alone, this shift is estimated to be a loss of $5.4 billion from cities, counties and special districts.

In addition, cities and counties are faced with a shortfall of Vehicle License Fee revenues in the current fiscal year due to the "deferral" of payment of $825 million in backfill owed until 2006. This will have a critical impact on the ability to provide local services during the current fiscal year. The utility users tax represents one of the few local revenue discretionary revenue sources with rates, exemptions and terms determined at the local level to conform to community interests and needs.

Although the City of Monterey fully supports and recognizes the importance of fostering the developing of the Internet and other new technologies, Congress must also recognize as it considers this legislation that cities in California face serious fiscal constraints at both the state and local levels already.

We need your help to ensure that this legislation is amended to remove this detrimental expansion of the definition of "Internet access." We look forward to working closely with you on this urgent matter.

Sincerely,

DAN ALBERT,
Mayor.

CITY OF MORENO VALLEY,
OFFICE OF THE MAYOR,
Moreno Valley, CA, September 16, 2003.

Subject: Internet Tax Non-Discrimination Act of 2003—Oppose.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the City of Moreno Valley, I respectfully request that you oppose provisions included in the Internet Tax Non-Discrimination Act of 2003 (H.R. 49 and S. 52) that would change the definition of "Internet access" to include telecommunications services "to the extent that such services are used to provide Internet access." This expansion of the definition would result in the loss of badly needed revenues for California's cities, and negatively affect our city's ability to provide essential services.

Moreno Valley is one of 150 cities in California that levy a utility users tax (UUT), which in our case includes telephone and cable television services. Utility users' taxes contribute significantly to the health of these cities' discretionary budgets. On average, the UUT comprises fifteen percent (15%) of general-purpose revenues in cities where it is collected. In Moreno Valley, the $9.4 million UUT comprises twenty one percent (21%) of the city's general fund revenue for fiscal year 2003/2004. Our largest general fund expense, by far, is public safety; sixty one percent (61%) of the city's general fund will be spent this year for police and fire services. Exemption of telecommunications services from taxation based solely on their relation to consumer Internet use will greatly hinder our efforts to finance these fundamental services.

Please consider this particular limitation on local governments' ability to raise discretionary revenues in context with state legislative actions, which have historically eroded local control of general-purpose funds. With the passage of Proposition 13, the state assumed control over the allocation of local property taxes. The state abused this authority in the early 1990's by "temporarily" shifting property tax dollars earmarked for local government, to meet the state's obligation to fund schools. A decade later, this shift results in a loss of $5.4 billion from cities for fiscal year 2003/2004 alone.

In the state budget for the current year, first-quarter revenue payments from the Vehicle License Fee, another constitutionally-protected revenue source for cities, have been "deferred" until 2006. The result: an immediate loss of $825 million for cities statewide, and $1.8 million for Moreno Valley. Additionally, $135 million in property tax revenue was shifted from local redevelopment agencies this year, augmenting Moreno Valley's revenue losses by $300,000.

Moreno Valley and other California cities have managed to retain adequate service levels despite the poor fiscal management practices of the state, primarily through the development of new revenue sources. While the City fully supports and recognizes the importance of fostering the development of the Internet and other new technologies, we hope the Senate recognizes that local governments cannot maintain vital services if the state and Federal governments continue to impair their ability to generate revenue.

We need your help to ensure that this legislation is amended to remove this detrimental expansion of the definition of "Internet access." If there is any additional information we can offer you regarding this urgent matter, please contact us.

Sincerely,

WILLIAM H. BATEY II,
Mayor.

CITY OF NOVATO,
Novato, CA, October 13, 2003.

Senator DIANNE FEINSTEIN,
Hart Building, U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the City of Novato, I am writing to urge your opposition to provisions included in the "Internet Tax Non-Discrimination Act of 2003" that would modify the definition of "Internet Access" to include telecommunications services "to the extent such services are used to provide Internet Access". This expansion of the definition would result in a loss of badly needed revenues for California's cities and significantly affect our city's ability to provide essential services.

Currently 150 cities in California levy a utility users tax (UUT), which in many cases includes telephone and cable television services. Utility users taxes provide a critical contribution to local discretionary revenues, on the average 15 percent of general-purpose revenues, making the UUT vital in helping fund critical city services, particularly public safety. Include how much revenue your City estimates is collected from your UUT? And what services in your City do these tax revenues support? Please be as specific as possible and translate into terms of potential cuts to specific programs or personnel. The significance of the UUT has only increased as our City's other discretionary revenues have come under siege.

As you contemplate this limitation on local governments' ability to raise discretionary revenue, it is essential to put this restriction in the context with other limitations California local governments currently face as we try to meet critical local service needs. Remember that over the past several decades, cities' control of discretionary revenue sources has been severely eroded by state actions.

With the passage of Proposition 13, the state was given control over the allocation of local property taxes. In the early 1990s, the state exercised this control diverting billions in dollars of local property taxes to meet the state obligation to fund schools. In the 2003–04 fiscal year alone, this shift is estimated to be a loss of $5.4 billion from cities, counties and special districts.

In addition, cities and counties are faced with a shortfall of Vehicle License Fee revenues in the current fiscal year due to the "deferral" of payment of $825 million in backfill owed until 2006. This will have a critical impact on the ability to provide local services during the current fiscal year. The utility users tax represents one of the few local revenues discretionary revenue sources with rates, exemptions and terms determined at the local level to conform to community interests and needs.

Although the City of Novato fully supports and recognizes the importance of fostering the development of the Internet and other new technologies, Congress must also recognize as it considers this legislation that cities in California face serious fiscal constraints at both the state and local level already.

We need your help to ensure that this legislation is amended to remove this detrimental expansion of the definition of "Internet access." We look forward to working closely with you on this urgent matter.

Sincerely,

RODERICK J. WOOD,
City Manager.

CITY OF PLACENTIA,
Placentia, CA, October 1, 2003.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC

DEAR SENATOR FEINSTEIN: On behalf of the Citizens of Placentia, I am writing to express my Concerns about S. 150, the Internet Tax Non-Discrimination Act. I am very concerned about language in the bill that expands the definition of "Internet access" and thereby imposes a permanent moratorium not only on state and local taxes on Internet access fees but also on traditional telecommunications taxes. I strongly urge that you amend the language to clarify that the moratorium only applies to Internet access and to to other taxable telecommunications services or products, or to franchise or rights-of-way fees.

Under current law, Internet access "does not include telecommunication services." The bill would change this to "does not include telecommunication services except to the extent that such service is used for Internet access." While this proposal may have been well intended in that it proposes to ensure that the moratorium does not favor one form of technology over another, the language is so broad it can be interpreted to mean we will be prohibited from collecting taxes on traditional telecommunications services.

As you know, states and cities across America are suffering from the most severe fiscal crisis since World War II. The loss of our telecommunications revenue would be a significant blow to Placentia. The city could lose an estimated $500,000 if this bill is enacted as currently drafted. We can not afford such a loss.

As reported by the Senate Commerce Committee, S. 150 is unacceptable. Again, I urge you to amend the bill to clarify that the moratorium does not apply to traditional telecommunications services. If you have any questions, feel free to contact me at 714/993-8117.

Sincerely,

ROBERT D'AMATO,
City Administrator.

CITY OF SAN BERNARDINO,
OFFICE OF THE MAYOR,
San Bernardino, CA, September 12, 2003.

Hon. DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the City of San Bernardino I am writing to urge your opposition to provisions included in the "Internet Tax Non-Discrimination Act of 2003" that would modify the definition of "Internet Access" to include telecommunications services "to the extent such services are used to provide Internet Access". This expansion of the definition would result in a loss of badly needed revenues for California's cities and significantly affect our city's ability to provide essential services.

Currently 150 cities in California levy a utility users tax (UUT), which in many cases includes telephone and cable television services. Utility users taxes provide a critical contribution to local discretionary revenues, on the average 15% of general-purpose revenues, making the UUT vital in helping fund critical city services, particularly public safety. The significance of the UUT has only increased as our City's other discretionary revenues have come under siege.

As you contemplate this limitation on local governments' ability to raise discretionary revenue, it is essential to put this restriction in the context with other limitations California local governments currently face as we try to meet critical local service needs. Remember that over the past several decades, cities' control of discretionary revenue sources has been severely eroded by state actions.

With the passage of Proposition 13, the state was given control over the allocation of local property taxes. In the early 1990s, the state exercised this control diverting billions in dollars of local property taxes to meet the state obligation to fund schools. In the 2003–04 fiscal year alone, this shift is estimated to be a loss of $5.4 billion from cities, counties and special districts.

In addition, cities and counties are faced with a shortfall of Vehicle License Fee revenues in the current fiscal year due to the "deferral" of payment of $825 million in backfill owed until 2006. This will have a critical impact on the ability to provide local services during the current fiscal year. The utility users tax represents one of the few local discretionary revenue sources with rates, exemptions and terms determined at the local level to conform to community interests and needs.

Although the City of San Bernardino fully supports and recognizes the importance of fostering the development of the Internet and other new technologies, Congress must also recognize as it considers this legislation that cities in California face serious fiscal constraints at both the state and local level already.

We need your help to ensure that this legislation is amended to remove this detrimental expansion of the definition of "Internet access." We look forward to working closely with you on this urgent matter.

Sincerely,

JUDITH VALLES,
Mayor.

CITY OF SAN LUIS OBISPO,
OFFICE OF THE CITY COUNCIL,
San Luis Obispo, CA. October 10, 2003.

Re: S. 150 Internet Tax Non-Discrimination Act Notice of Opposition

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: The City of San Luis Obispo seeks your assistance in opposing language added to the Internet Tax Non-Discrimination Act (S. 150) that would expand the coverage of the moratorium by adding "telecommunications services" to the definition of Internet access. It would prohibit a local tax on any "telecommunication service" that is used for Internet access. Nearly all telephone services, including local dial up, wireless, satellite, and broadband (DSL and cable modem), provide Internet access.

This language would have a major adverse impact on our City in funding essential services such as police, fire, streets and parks. In our city, utility user taxes (UUT) are one of our "Top Five" General Fund revenues, representing 12% of general-purpose revenues. "Telecommunication services" account for a significant portion of UUT revenues, bringing in $1.3 million in 2002–03. This is the equivalent of 15 police officers. In these fiscally tough times, where we have already made significant reductions in day-to-day public safety services to balance the budget, any further revenue cuts will result in crippling service reduction in our community.

And the impact will only get worse in the future. Soon, major telephone and Internet service providers will offer "packages" that bundle together Internet access and unlimited telephone services. Unfortunately, under the proposed language, such bundled services will likely be considered "tax-free," which we find regressive and unfair. Even if the average consumer would continue to be subject to the local tax (UUT) on traditional telecommunication services, those persons who could afford computers and high-speed Internet access (such as DSL and cable modem) would slip through this loophole and permanently escape taxation on similar services. No matter how much we wish to support the continued growth of the Internet, discriminatory taxation is not the answer.

Finally, we want to assure you that we are not asking for your opposition to this language as a way of helping us achieve new tax revenues: we are only asking for help in protecting our City's badly needed existing tax revenues.

Sincerely,

DAVID F. ROMERO,
Mayor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, this is a very important issue we have in front of us. I wish to pause for a moment and address an issue I saw in the Washington Post this morning that affects what we are doing here this morning and what we do every single day; that is, our ability to work together to ask questions on behalf of American taxpayers, on behalf of all of the people we represent, to be able to get answers from each other and from the administration, and to have the best information we can so we can make the right decisions.

I was quite shocked this morning to see in the Washington Post a headline that says: "White House Puts Limits On Queries from Democrats." Reading this more closely, it says:

> The Bush White House, irritated by pesky questions from congressional Democrats about how the administration is using taxpayers' money, has developed an efficient solution.

It will not entertain any more questions from opposition lawmakers.

I thought for sure I was not awake. So I rubbed my eyes again and looked at it again and read the same thing. It went on to say:

> The decision, one that Democrats and scholars say is highly unusual, was announced in an e-mail on Wednesday to House and Senate appropriations committees.

Further down there is a comment from Norm Ornstein, a congressional specialist at the American Enterprise Institute. He said:

> I've not heard of anything like this happening before. This is obviously an excuse to avoid providing information about some of the things the Democrats are asking for.

I appreciate that in these days of debate and the important issues we have in front of us, we have been asking some pesky questions of this administration. Pesky questions such as: How specifically will we spend $87 billion going to Iraq, and what specifically will be done to rebuild? What is the plan for our soldiers? What is the plan in terms of making sure we complete the mission and bring them home safely?

We have asked pesky questions such as: Why is it that subsidiaries of Halliburton get billions of dollars in no-bid contracts when our own businesses and our own States are unable to find out about bidding processes and unable to participate in what should be an open, transparent process, given the fact these are American tax dollars, public tax dollars? And we have asked pesky questions about Bechtel.

Mr. REID. Will the Senator yield for a question?

Ms. STABENOW. I am honored to yield to my friend and leader from Nevada.

Mr. REID. Is it true that you served in the House of Representatives before serving in the Senate?

Ms. STABENOW. Yes.

Mr. REID. During your tenure there, I am sure you had many occasions to send inquiries to the administration. Whether it was Veterans Affairs, the Social Security Administration, White House council, you have done that over the years; is that not true?

Ms. STABENOW. Absolutely.

Mr. REID. Over the years, it is true that you have received responses?

Ms. STABENOW. Yes.

Mr. REID. And there was never a question raised as to whether it was a Democratic Congressman or Senator or Republican House Member or Senator asking the question; isn't that right?

Ms. STABENOW. Absolutely.

Mr. REID. Didn't you always feel that no matter what political party the Member of Congress was who asked the question, it had no bearing on the answer? Isn't that true?

Ms. STABENOW. Yes.

Mr. REID. I read that article to which you refer. It seems there is now new criteria established at the White House, that only if you are a Republican will they answer questions of a Member of Congress. Is that what that article said?

Ms. STABENOW. That is exactly what it says.

Mr. REID. How many people live in the State of Michigan?

Ms. STABENOW. We have over 9 million people in the State of Michigan.

Mr. REID. And Michigan is represented by two Democratic Senators.

Ms. STABENOW. That is correct.

Mr. REID. The distinguished senior Senator, CARL LEVIN, who everyone acknowledges is one of the finest Senators ever to serve in this body.

Ms. STABENOW. Absolutely.

Mr. REID. He is an expert on issues relating to defense. I am sure on a weekly basis, if not more often, he makes inquiries at the Pentagon and other offices of the executive branch of Government as to questions he has in his role as the lead Democrat on the defense committee; is that right?

Ms. STABENOW. In fact, I add that over the years, under Democratic and Republican Presidents, the senior Senator from Michigan asked very important questions about contracting. He was the first, I believe, to come forward with the acknowledgement and questions about the $600 wrenches and other questions of excesses at the time in the past from the Pentagon. To Democratic or Republican Presidents, he has asked some pretty "pesky" questions.

Mr. REID. What that article says is a State of 9 million people, which has democratically elected Democratic Senators, these two Senators would not be able to ask questions of that administration; is that what it does?

Ms. STABENOW. That is how it appears. We have a lot of very serious questions our constituents want us to ask of the administration.

Mr. REID. I direct this to the Senator in a way that I can only say is as sincere as I can be. I very much appreciate the Senator bringing this to the attention of the American people through the Senate. It is our ability to bring matters to the floor that make this country better—there are other ways of showing how great this country is, but certainly one is being able to bring matters to the Senate floor without getting permission of the administration.

I applaud the Senator from Michigan for jumping on this issue very quickly, as the Senator has done on many other issues.

Ms. STABENOW. In the State of Michigan, we have many questions being asked—a lot that we asked of the administration on homeland security, how we are funding our borders and keeping them secure. Why is it we are not providing more for our first responders? We have given some dollars but certainly a very small amount of what they need. Why are we not funding more for communications equipment that allows one city's police department to talk to another city's police department, or the police department to talk to the fire department, or the EMS workers to be able to do their job in a community? Why is it we are not providing more dollars directly for those kinds of responsibilities? They are right on the front lines. When you have a problem, when there is a serious crisis, whether it is homeland security or some other crisis in the community, you pick up and call 911, and we want to know people are prepared.

Those are questions about appropriations. Those are questions we asked of the administration. How are you moving forward and designing and implementing a Department of Homeland Security? What are we doing at the borders?

In my State, we have other questions we are asking that we are assuming the administration will endeavor to answer. It relates to the issues of Canadian trash trucks now coming across our borders into Michigan—about 200 a day—that are not being thoroughly inspected at the border because there is not a way to do it without putting an inspector in the back of every truck.

We have serious concerns about what is happening in terms of homeland security. Those are questions. How can we work together? How can we make sure we are addressing those issues that will allow our citizens to be safe, as it relates to these trash trucks coming across the border. They need to be stopped.

Over 165,000 people in my State signed an online petition to support my request to the EPA that they get involved in stopping these trucks and using the authority they have. Now, we go through the appropriations process on this matter. I have been very appreciative of the fact that we have worked together on a bipartisan basis in the Senate to address these issues and put more equipment at the border. I have been pleased to have the support of leaders on the other side of the aisle to support efforts to do that, to work together on behalf of the people we represent and make sure they are safe.

But when I see things such as this kind of a story, that e-mails are going out saying the White House doesn't like our "pesky" questions about how dollars are spent and suggestions that maybe they could be spent differently and better and more wisely in our States—they don't like those questions, so they sent out an e-mail saying they are not going to answer them anymore. They are only going to answer the questions coming from the Republican committee chairs. They are not going to answer questions coming from us. This is deeply disturbing and it should be disturbing to every single one of the people we represent. It should be, frankly, disturbing to people on both sides of the aisle.

I was in the House of Representatives for 4 years under a different administration. I asked a lot of tough questions of a lot of Departments and I expected answers. I expected that when my Republican colleagues asked questions of that Democratic administration, they would be given answers as well.

We are a separate branch of Government. We are the appropriators, all of us. The Constitution didn't say, by the way, only the majority party can have access to information and only the majority party is responsible for appropriations and guaranteeing the wise use of American tax dollars. They said the Congress of the United States is responsible, and that is all of us.

I think it is very important that we send a message very quickly from the Senate that we object to this, object to it together. We work hard on appropriations. We ask a lot of questions. We have a lot of give and take. Amendments are proposed; they rise, they fall. That is the process. We all respect each other and we all respect that process. At the end of the day, we assume that if we are asking, as they say, "pesky" questions, we will get answers regardless of who we are. We may not agree with the answers.

That is why we live in a democracy. That is the democratic process. We respect the fact there are differences in views, priorities, and values, but we do not accept—I do not accept—that we will be blocked from receiving information. It would be astounding if every time, as a Member of this body, I had to ask for a freedom of information request from the administration in order to get questions answered on items of importance to the people I represent—whether it be agriculture, manufacturing, homeland security, health care, education, the environment, or transportation. I could go on and on. We have critical issues we are responsible for addressing and responsible for doing it in the most efficient and effective way we can.

There is only a limited amount of resources and we have to make sure we make wise decisions with those resources. That is our job.

AMENDMENT NO. 2141 TO AMENDMENT NO. 2136

Ms. STABENOW. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Michigan [Ms. STABENOW] proposes an amendment numbered 2141.

Ms. STABENOW. I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

> At the appropriate place insert the following:
>
> Since, Article I of the U.S. Constitution grants Congress the power of the purse; and
>
> Since, Congressional oversight of Executive Branch expenditures of public funds is essential in order to prevent waste, fraud, and abuse of taxpayers dollars; and
>
> Since, Congress can only exercise its oversight responsibilities if the White House and Executive Branch agencies are responsive to requests for information about public expenditures;
>
> Therefore it is the Sense of the Senate that,
>
> The White House and all Executive Branch agencies should respond promptly and completely to all requests by Members of Congress of both parties for information about public expenditures.

Ms. STABENOW. Mr. President, I simply say this is a very short amendment. In part, it indicates:

> Since, Congressional oversight of the Executive Branch expenditures of public funds is essential in order to prevent waste, fraud, and abuse of taxpayer dollars; and
>
> Since, Congress can only exercise its oversight responsibilities if the White House and Executive Branch agencies are responsive to requests for information about public expenditures;
>
> Therefore, it is the Sense of the Senate that,
>
> The White House and all Executive Branch agencies should respond promptly and completely to all requests by Members of Congress of both parties for information about public expenditures.

I hope we will have unanimous support for this amendment and that we can quickly send a message to the White House and ask that they reverse the policy laid out this morning in this article.

Mr. DURBIN. Mr. President, I wish to join the comments of the Senator from Michigan. It is, I am sure, painful and distracting for the administration to receive inquiries from Congress. It sure would be a lot easier if Congress wasn't around to mess up their work. I mean, we ask all these hard questions about what they are doing with the taxpayers' dollars. What are you doing to make America a safer place? I am sure if they did not have to answer those questions and be held accountable, they would have a lot more time to do other things.

I think the reason for the questions gets down to a basic document called the Constitution. If I remember correctly from early lessons, we do have three coequal branches of Government and a system of checks and balances. This administration has decided that particular part of the Constitution is going to be ignored.

Frankly, I don't think that serves our Nation very well. Whether it is a Democratic administration or a Republican administration, the fact is they have to be held accountable. The way they are held accountable is not only through an election, but through the operations of Congress which appropriates moneys, passes laws, and asks hard questions.

Now we see the official policy of this administration is to say we are only going to answer Republican-approved questions. That, to me, is a sad commentary on this administration which has, frankly, written a record of concealment in the years they have been here.

You recall the lawsuit that was involved when we drew up the Energy bill. We asked the Vice President of the United States, who was one of the designers of the administration's Energy bill, which special interest groups were sitting in the room when they wrote the bill. He said to Congress: It is none of your business. We don't have to tell you. We brought a suit against the administration asking for that information and we were unsuccessful.

Today we know there were special interest groups present. We just don't know who they were. If you look at the bill, you can see who they likely were. They are the ones that were rewarded—oil companies and major energy companies. They are the ones who did very well with this Energy bill.

When the Senator from Michigan raises this question as to what this new administration policy means, I think she really hits the nail on the head. Congress has an important constitutional role of oversight on this administration and any administration, and for this administration to decide that certain Senators and Congressmen cannot ask questions that will be answered, I think is going to set us back.

I had the same experience with the Department of Justice. Attorney General John Ashcroft, who served in this Senate for years and asked many questions of previous administrations, really loathes to answer any questions that come particularly from Democratic Senators. That has caused a lot of, I guess, concern because some of us believe there are important questions that need to be asked and answered.

The PATRIOT Act, for example, was a new delegation of authority 2 years ago to the Government. It gave the Government more power than they had before, power that comes close to, if it doesn't, infringing on our rights and liberties. We asked some questions: How is this Department of Justice using the PATRIOT Act? Unfortunately, the Attorney General has not been responsive. One might say: Well, he comes to Congress, doesn't he? He submits himself to questions? If we look at the record, we will see this Attorney General's record of coming to Congress and being held accountable is a record that shows he doesn't care to do that either.

They don't answer written inquiries, and the Attorney General does not appear personally. Frankly, that leads to mistrust, and it doesn't speak well of a democracy where that is the hallmark of their policy.

It strikes me Congress has some important responsibilities here, and one of them is reflected in the issue raised by the Senator from Michigan. Another one is reflected in this so-called 30-hour debate, this one-sided debate which is to take place next week. It appears the Republican majority in the Senate, 51, believe they have been treated unfairly because the President has only had 168 of his judicial nominees approved while 4 have been held up. That is right, the score is 168 to 4, and they are arguing that is unfair, so unfair we need to tie up the Senate, we need to stop consideration of appropriations bills, we need to stop any consideration of bills that might help the men and women in uniform who are fighting for us in Iraq and Afghanistan. We don't have time for that, but we have to spend 30 straight hours in a one-sided debate on the Republican side arguing that holding up 4 judges out of 172—4 out of 172—is somehow unconstitutional or unfair or unjust.

It goes to the heart of this same document, our Constitution, which says the Senate is not a rubberstamp. The Senate has the power to not just consent to judges, but to advise and consent, and that advise-and-consent role includes asking hard questions of judicial nominees.

The four who have been held up so far from the Bush White House, I think, represent the most extreme of his nominees. But there are many others who have been approved who have philosophies entirely consistent with the President and his administration.

Make no mistake, out of the 168 nominees who have gone through this Senate, a record number for any President, 168 have been approved. Of those, we will find many conservative Republicans with views much different than my own. We accept that. But for these 4, we think they have crossed a line, a line which really calls on us in our capacity as Senators with responsibility of the advise-and-consent clause to say at some point we have to say no for 4 judges out of 172.

I might add on this bill that is before us, at a later moment I will be offering an amendment. It is an amendment which really doesn't appear to have much to do with the Internet tax question, but it is an amendment I am going to continue to offer on every available bill until the Senate goes on record and passes it again and enacts it into law. It is an amendment which passed this Senate about 2 weeks ago by a vote of 96 to 3. It is an amendment which says Federal employees who are members of our National Guard and Reserve units who are activated will have their Federal salaries protected while they are serving our country.

This is exactly what happens to State employees in dozens of States and city and county employees across America where their units of government have said: If you go off to serve our Nation in the Guard and Reserve, we will stand behind you. We will make up the difference in your salary. We will protect your families' income while you are serving our Nation and risking your lives.

Sadly, the same standard is not applied to Federal employees. Here we are with 10 percent of the Guard and Reserve in Federal employment—120,000 of those who are in the Guard and Reserve are in Federal employment; 23,000 have been activated, and we do not make up the difference in their salaries while overseas.

For some, there is no difference, but for some there is a big disparity. I offered this amendment on the floor, and it was adopted 96 to 3.

Mr. MCCAIN. Will the Senator yield so I can make an announcement?

Mr. DURBIN. Yes, without losing my right to the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. MCCAIN. Madam President, for the benefit of my colleagues, we have been in some intense negotiations on the Internet tax issue. We have made significant progress. We still have one significant hurdle remaining where we can perhaps get all sides together. There is about a 50–50 chance. But we should know in about 20 minutes as to whether we will reach this very important agreement which would basically eliminate any major issues associated with the Internet tax issue.

I thank my colleague from Illinois for yielding. I yield the floor.

Mr. WYDEN. Will the Senator yield?

Mr. DURBIN. I will be happy to yield.

Mr. WYDEN. Madam President, with the chairman of the Commerce Committee, and my friend from North Dakota, Senator DORGAN, who has worked with me on this now for 7 years, we have made some significant headway in the last half hour, 45 minutes. To get this done, there are some difficult choices that have to be made. One that would be very painful for me, given my involvement in the original law, would be to accept some sort of time limit rather than make it permanent.

I say to the Senate, I am willing to look at that in the name of trying to find common ground. What we can't have as we go through this is to have DSLs, this tremendously exciting service which in so many instances is going to be the key for folks getting Internet access in a wireless fashion, hammered again and again in the future. We are going to see if we can find common ground.

The point of this law more than 5 years ago was to ensure technological neutrality so the Internet and the various ways it is delivered would not, in some way, advance some at the expense of others. We still have to find a way for that technological neutrality.

We may be able, given the fact that the staffs are working now to have a breakthrough on this in the next half an hour, but as the author of the original law in the Senate, I want to make it clear that I am open to trying to find some common ground and make some significant concessions to do it. That is what we are considering now.

I thank the Senator from Illinois for yielding.

Mr. DURBIN. I, of course, thank the Senator from Oregon. I appreciate the hard work of the Senator from North Dakota, the Senator from Arizona, and the Senator from Oregon on this important legislation.

I mentioned earlier the reservist pay amendment which I will be offering at some point on this legislation, but there is another amendment which I will be offering which I would like to alert the sponsors of so it comes as no surprise. It is our understanding that if there is a tax moratorium on Internet operations, which I would support with carefully defined circumstances, it will result in a substantial savings to telecommunications companies across the United States. I am going to be offering an amendment during the course of consideration of this bill which says that the savings to these companies shall be passed on to the consumers in America.

It strikes me that at a point in time when we are in a recession, when families are struggling, some facing unemployment, others trying to make ends meet, that if we are going to relieve this industry of substantial taxation, millions if not billions of dollars over time, the savings ought to go to families, the customers. I think that would be a good move on our part.

So if we want to talk about invigorating the economy, then why not reduce the telephone bill or the tax bill that a family faces on a monthly basis?

Mr. REID. Madam President, will the Senator yield for a question?

Mr. DURBIN. I yield to the Senator for Nevada, without yielding the floor.

Mr. REID. Madam President, I say to my friend from Illinois, in relation to the amendment that is pending, I asked the White House by letter to give me the breakdown of the cost of all of these trips they take around the country campaigning for people. Who pays for that? Is it paid for by the taxpayers of this country? Is it paid for by the Republican National Committee? The President is a rich man. Does he pay for it personally?

It has been months and I have had no response. I think I am entitled to an answer to that most important question. People are concerned about that. The President goes to his ranch, he goes off on day trips campaigning only.

Would the Senator agree with me that that is the direction of this amendment, and that I am entitled, as a Member of the Senate, to an answer to the question as to who is paying for these junkets around the country?

Mr. DURBIN. Reclaiming my time, I say to the Senator from Nevada that is a perfect illustration as to why the Stabenow amendment should be enacted, because what Senator STABENOW is trying to achieve is the right of the Senator from Nevada and any Senator, Democrat or Republican, to ask legitimate questions about the expenditure of public funds. If we decide that is going too far and perhaps inconveniencing the administration by forcing them to be held accountable, then we might as well pack up and go home.

As they say, if we are here in order to total up years for retirement, it is a pretty easy job; but if we want to come here and go to work to try to achieve good for this country and make certain that people who are misusing public resources are, in fact, held accountable for it, then it is hard work.

Mr. REID. Will the Senator yield for another question?

Mr. DURBIN. I would be happy to yield to the Senator from Nevada.

Mr. REID. How many people live in the State of Illinois?

Mr. DURBIN. About 12½ million.

Mr. REID. I say to the Senator from Illinois, I spoke through the Chair to the distinguished junior Senator from Michigan about the State of Michigan. There are 9 million people in Michigan, two Democratic Senators. Under the rule that we have just learned about that the White House is not going to answer questions of Democrats, 9 million people who live in the State of Michigan in effect cannot have their Senators asking questions of the White House.

The Senator from Illinois, who represents 12½ million people, there is a Democratic Senator and a Republican Senator who has announced his retirement, who is not going to run for reelection—the Senator who has announced his retirement and in effect is a lame duck, fine man that he is, can have his questions answered, but the Senator who was just reelected representing 12½ million people cannot have his questions answered. Does that seem fair?

Mr. DURBIN. I say to the Senator from Nevada, it not only does not seem fair, it raises another question in my mind. Why would we on the Democratic side of the aisle approve any executive appointment of someone who is going in the executive branch and from that point forward will never speak to us again? Now, if we are being asked by this administration to approve people to hold offices within this administration who have not answered all the questions in committee and having been approved on the Senate floor will from that point forward never communicate with us again, then, frankly, I think we are derelict in our responsibility.

So I say to the administration, think this through. If they are saying that the people we appoint in the Senate are not going to answer the questions propounded by Democratic Senators, then, frankly, I think it is untoward of them to suggest that we should just approve all of these appointments.

I think it is fair game for the President to fill vacancies, and I have supported the overwhelming majority of the President's requests. But if the policy is once approved by the Senate, these executive appointments, these people working in these agencies, will refuse to take telephone calls or answer letters of inquiry from Members of the Senate, refuse to be held accountable for their actions as public officials, then I think we are derelict in our responsibility to the people we represent.

Mr. LEAHY. Will the Senator from Illinois yield for a question without losing his right to the floor?

Mr. DURBIN. I would be happy to yield to the Senator from Vermont.

Mr. LEAHY. Madam President, I ask my friend from Illinois, who serves with me on the Appropriations Committee—who served on a number of committees in the other body before he was in the Senate—who has as much knowledge of procedure as anyone having served in the other body and served in this body, it has been my experience in over a quarter of a century on the Appropriations Committee, through six administrations—President Ford, President Carter, President Reagan, former President Bush, President Clinton—that both Republicans and Democrats were able to ask questions and expect answers from the executive branch.

Further, it was my experience that throughout all of these administrations, Republican and Democratic alike, there was not a restriction made because we were required to ask these questions. Is that the experience of the distinguished Senator from Illinois? Has the Senator had the same experience in both bodies—I am speaking now of appropriations but, of course, a lot of other committees are involved—if we asked questions about where the money went, we received the answers irrespective of whether one was a Republican or Democratic?

Mr. DURBIN. In reply, I say the Senator from Vermont is absolutely correct. Allow me to use another illustration. Just last weekend, there was the downing of the Chinook helicopter in Iraq with 15 of our soldiers killed initially and another soldier who has died just last night, I understand, so 16 soldiers died and 20 more were seriously injured. The pilot of that helicopter was from my home State. It was a National Guard helicopter.

After that occurred, unsolicited I received communications from reliable military sources that suggested that the Guard helicopters in activated units were not adequately equipped and prepared to deal with shoulder-fired missiles. This is as serious a question as can be given to any Member of the Senate. Naturally, the families—the servicemen first and their families—wanted to know the answer. So what I did was to write a letter directly to the Secretary of Defense, Donald Rumsfeld, saying please look into this immediately; see if the National Guard units that have been activated are sufficiently protected with equipment.

During the course of asking this question, more communications came my way. Now we have received a lot of communications suggesting that families all around Illinois, and even around the country, are telling us about deficiencies in the equipment available to our servicemen in Iraq and Afghanistan, and particularly to activated guardsmen and reserves.

Consider that just yesterday, the President signed an $87 billion appropriation for the effort in Iraq and Afghanistan which, as I understand it, about $67 billion was for our men and women in uniform, which I supported. As much as I disagree with the President's foreign policy, I am not going to shortchange our men and women in uniform for the resources they need to be successful in their mission and come home safely.

Having done that, having given the appropriation to the administration, now we have families and servicemen coming to me, as the Senator from Illinois, saying they do not think the money is being spent properly. I have a responsibility to their families and to my State to ask the hard questions of the administration. Are you doing all that you can to protect our servicemen? Frankly, I think that is why I was elected. If I am not given a chance to even ask that question or to have my inquiry answered, what, then, can I say to these families or to these servicemen who believe that I am their elected representative and have that responsibility?

Senator STABENOW, in her amendment, says this new policy of the administration, of refusing to answer letters from Democratic Senators and Democratic Congressmen, takes away from the voice of those families and those servicemen and people across the United States who rely on us to stand up and hold any administration accountable, whether it is Democratic or Republican.

I think, honestly, her amendment goes to the heart of why we are here doing business in the Chamber of the Senate. I support her very strongly. I urge my Republican colleagues who have been very loyal to their President, and that is understandable and admirable, to think long and hard about this policy. Things change in this town. The tide of politics can hit the shore and go back out to sea and come back again. You never know, a year, 2 years, 3 years from now, whether or not policies taken by this administration establish a precedent which is not healthy for our constitutional democracy. Certainly this decision by the administration to turn down inquiries and letters of request on matters as basic as the protection of our men and women in uniform and whether or not our helicopters are adequately protected—their decision as a policy basis, which I understand has been included in an e-mail and sent across the administration—raises some important questions.

I see the ranking member of the Senate Budget Committee, Senator CONRAD, has taken the floor. Again, he is a perfect illustration of why this new policy of the administration, refusing to answer inquiries from Democratic Senators about their spending policies and taxing policies, make it impossible for him to do his job on the Budget Committee to make certain that every administration is held accountable.

I am going to yield the floor and say to my friend and colleague from Michigan, thank you for bringing this issue up. This is not just a morning newspaper article. This is a serious constitutional question. I hope some of my colleagues on the Republican side of the aisle, after first reacting they want to stand by their administration, will think long and hard if this is a policy we in America should be asked to live with, when future Congresses and future Presidents are elected and we are all told we are trying to share a responsibility of accountability across our Government.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, I ask to speak as if in morning business for no longer than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LAUTENBERG are printed in today's RECORD under "Morning Business.")

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, less than 6 months ago, we enacted the Jobs and Growth Tax Relief Reconciliation Act which contained $20 billion in temporary State fiscal relief. Yet before us is legislation that may effectively take back a significant portion of that much-needed relief for States. In my earlier career, I was tax commissioner in the State of North Dakota. My successor, a Republican, a man who currently holds the office, was in my office just a couple of weeks ago explaining the impact of the committee bill on our State. He estimated this bill would cost our State $20 million. That may not be a lot of money in Washington. I can tell you that is a lot of money in North Dakota. That is $20 million we would be taking away from the State of North Dakota they have every right to collect.

Let me make absolutely clear that I am not for taxing access to the Internet. I am not for that. I have supported the moratorium. I will continue to support the moratorium. But as Senator DORGAN made clear on the floor this morning, definitions do matter. Unfortunately, the bill out of the committee has left a lot of open questions. Lawyers looking at it are telling us it would restrict the States far beyond a simple extension of the moratorium. I do not believe that is the intention of the Congress. I certainly hope it is not the intention of the committee to go beyond the definition of access we agreed to in 1998 and reaffirmed in 2001 in a way that would preempt States' abilities to levy taxes as its elected representatives see fit.

On the floor of the Senate, we have seen a bipartisan effort to make certain what we do here is what we really mean. I have been very interested to see four distinguished former Governors—Senator ALEXANDER, Senator VOINOVICH, Senator CARPER, and Senator GRAHAM, who are among our most respected colleagues on issues such as these, and all of them served successfully as Governors—warning Members of Congress the legislation before us has unintended consequences. I hope we listen carefully to our colleagues, Senator ALEXANDER, Senator VOINOVICH, Senator CARPER, and Senator GRAHAM, and that we pause and get this right.

We should not tax access to the Internet. That would inhibit its economic potential. It would reduce opportunity in our society. But at the same time we shouldn't be going beyond that principle and that concept in restricting the States' rights to levy taxes that are reasonable and appropriate. That is not the appropriate role of the Federal Government.

I hope very much we will take a few moments and get this right so that this is not a rush to judgment and we not impose on hard-pressed States. We already know there is some $90 billion of shortfall by the States all across the country. The last thing they need is the Federal Government to come in here and take away legitimate sources of revenue from them. That makes no sense.

I hope my colleagues are going to be sufficiently patient and that we get this right. As Senator DORGAN said—again, I want to emphasize—earlier on the floor, definitions matter. I heard Senator MCCAIN say the same thing last night; that it is important to get these concepts right, to get them carefully defined so we are not doing something other than what we really intend to do, which is to provide a continuing moratorium on the taxation for Internet access.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, I ask unanimous consent to speak in morning business for 10 minutes. I understand we have a lull on the Internet tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. ALLARD are printed in today's RECORD under "Morning Business.")

Mr. ALLARD. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask my friend from North Dakota—this is on the Stabenow amendment—we would like to have a couple-word change. If he would look at the amendment where it says, in the last paragraph, "The White House and all Executive Branch agencies should respond promptly and completely to all requests by Members of Congress," that between "all" and "requests," if we could add the two words "constitutionally appropriate." Would that be agreeable to him, so it would read: "completely to all constitutionally appropriate requests by Members of Congress"?

I assume that most Members of Congress would not make unconstitutionally appropriate requests, but that seems to be perfecting language that some of my friends would like to have added.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I say to the Senator from Arizona, this is not my amendment, so I would have to consult with the author of the amendment.

As you know, the amendment is prompted by a news story today from the White House suggesting they will not be answering inquiries except by certain Members of Congress. So that prompted her to offer this amendment.

I will certainly consult with—she is on the Senate floor, so perhaps we can ask her directly.

Mr. MCCAIN. Madam President, do I still have the floor?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I ask unanimous consent to ask a question of the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. Madam President, I ask the Senator from Michigan if she would be agreeable to a two-word addition in the last paragraph, that between the words "all" and "requests" the words "constitutionally appropriate" be added. I wonder if that would be agreeable to her. If it is not agreeable to her, I will not propose the amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, the only question I have is the word "appropriate." We certainly want this to be within constitutional parameters. I would say, at this point, the question I would have would be about "appropriate." Who decides what is "appropriate," given the judgments the administration is making? Possibly we can work together to find something else other than that word. But at this point that would be my concern.

Mr. MCCAIN. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, will the Senator from Michigan allow me to ask a question?

Ms. STABENOW. Certainly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. This amendment is offered by the Senator from Michigan, and it never took into consideration doing anything that was unconstitutional?

Ms. STABENOW. That is correct.

Mr. REID. Everything the Senator does is within the framework of the Constitution. So I would hope that the matter could be disposed of as written because it goes without saying that we want this to be constitutional. We would never try to do anything that would be outside the parameters of the Constitution.

So I hope this amendment could be accepted. It appears to me it should be done by voice. If that is not the case, I know that a number of other people have more to talk about on this amendment. So I would hope the majority would make a decision quite soon as to what is to be done with this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada has the floor.

Mr. REID. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I mentioned that the event that has prompted this amendment, I understand, was in the newspaper this morning. It was apparently a report that the White House would limit their responses to questions from Members of Congress.

I, at one point, chaired the appropriations subcommittee here in the Senate that actually funds the operations of the White House. We always work very closely with the White House. When they request the necessary funding, we provide it. We never have any difficulty. The same is true with respect to the agencies. We fund all of the agencies of the executive branch. We spend a great deal of money in doing that. We work together to find the appropriate number and the appropriate amount of resources that are needed.

The White House is a little different. When they make the request, we fund the request. That is the way we deal with the White House.

But with the executive agencies, of course, we have disagreements and differences from time to time, but we end up sending billions and billions—hundreds of billions—of dollars for expenditures through these agencies. If ever—if ever—the Members of the Congress are prevented from asking questions about how the money is used, how the money is spent, then there is something fundamentally broken.

So I was as surprised as my colleague from Michigan to read the story in the newspaper this morning. I know it is nettlesome, I know it is a pain, it is a bur under the saddle to get questions from Members of Congress if you are a member of the executive branch.

At one point, I was a member of the executive branch in State government, and all the State legislators were always peppering us with questions. Sure, that is a nuisance. Nobody likes that. But the fact is, the congressional actions here determine how much money is made available. The same is true in the State legislatures. They have every right—in fact, they have a responsibility—to the taxpayer to try to determine how that money is spent. If they have questions about it, they ask those questions. If they ask those questions, they darn well expect an answer, even if it is considered a nuisance by those who are receiving the questions.

So my hope is they will just accept this amendment at some point today. I understand what has prompted the amendment.

Let me just, for a moment, talk about the underlying proposition before the Senate; that is, the bill that is brought to the floor today, the moratorium on Internet taxation. I want to see us pass a piece of legislation. I do not think it is satisfactory to have the moratorium expire on November 1, and then to just let that be the word. That is not where I would like to see this end up.

So we have a bill on the floor that came from the Commerce Committee. That legislation passed the Commerce Committee unanimously, but it was not quite the way it seemed when you take a look at that vote because we also agreed that the definition of that Internet tax moratorium was faulty or at least not agreed to, and we would work on it coming to the floor of the Senate.

We have not yet reached a compromise. That definition is the key. It is the linchpin to this legislation. So we have to find a way to resolve that. We thought this morning perhaps there was a way to do that. That appears not to be the case. I think we still have some distance between the various thoughts about how one would craft this in a way that is helpful to not retard and not injure the buildout of the infrastructure for the Internet and, at the same time, be fair to State and local governments with respect to their revenue base and not be preempting the opportunity they need and they would have, as they have always had, to tax certain services. So we continue to try to talk and see if we can find a way to reach some kind of agreement on this definition.

Now, I want to make an additional point because I think it is important to continue to make this point even as we work on these issues. We have this issue on the Senate floor today. I understand why that is the case, because this issue had a November 1 deadline by which the moratorium on Internet taxation expired.

We have a responsibility to try to see if we can pass this legislation. So there was a deadline with respect to this legislation.

But there was a deadline on appropriations bills as well. That deadline was October 1. It is now November. We still have appropriations bills that have not been considered in the Senate. Yesterday there was great urgency about an appropriations bill. Everybody cooperated to try to get that done. We are told today there is great urgency about legislation. We are told that the majority leader wants the Congress to work on Veterans Day and so on.

Then we are told, despite the fact that there is this urgency to get appropriations bills done and they request cooperation, that beginning next Wednesday we will spend 30 hours so that the majority can talk about the four judges they have not been able to get confirmed.

It seems to me perhaps we should talk about the 168 judges we have confirmed. If we are going to take time in the middle of next week, after having worked on Veterans Day, because we believe there is such an urgency—and I believe there is an urgency with appropriations bills; we should get them done—if we are going to take 30 hours in the middle of the week in order to try to convince the American people that the Congress is not moving forward on judgeship nominations, and they are going to take 30 hours to talk about four judges who didn't get confirmed by the Senate, I think perhaps then we need to take much more time to talk about the 168 judges we did confirm.

I am a little miffed at having these talk shows and others get all their talking points about how the Senate is stalling on judgeships. We are not stalling on judgeships. Most all of the Federal judges who have been nominated by this President have been confirmed by this Senate.

We have an advise and consent responsibility. The Constitution does not say the President has a right to pick somebody and say to that person: For the rest of your life you will be a Federal judge.

That is not the way the Framers of the Constitution described it. This described a dual role. The President shall nominate; the U.S. Senate shall confirm—advise and consent. Even George Washington ran into some tough sledding. Even George Washington lost a Federal judge in the Senate because they wouldn't confirm one of George Washington's judgeship appointments or nominations. So it started with George Washington.

But when you talk about cooperation, this Senate has provided extraordinary cooperation with this President. We have confirmed 168 judges. We have tried in every way possible to be cooperative. We have the lowest vacancy rate in 15 years on the Federal bench. Why? Because this Senate has worked with the President to confirm 168 judges.

I understand my colleague wishes me to yield. I do so without losing my right to the floor.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Arizona.

Mr. McCAIN. Mr. President, if my colleague would allow me to speak for 5 minutes in morning business about an important issue to me.

Mr. DORGAN. Providing that I am recognized at the conclusion of the remarks of the Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. McCAIN are located in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. BROWNBACK. Mr. President, will the Senator from North Dakota yield for a question?

Mr. DORGAN. Mr. President, I yield to the Senator from Kansas for a question.

Mr. BROWNBACK. Mr. President, if I can ask for permission to speak up to 3 minutes on a personal tribute in morning business and that the floor not be lost to the Senator from North Dakota.

Mr. DORGAN. I will agree, provided I am recognized following the presentation.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

(The remarks of Mr. BROWNBACK are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I know my colleague from West Virginia is preparing to speak. I will not be long. I will make a couple of comments to finish what I was discussing about next week's schedule.

It is true the minority party in the Senate does not schedule the Senate; the majority party does and the majority leader does. This Senate is 51 to 49. Some pretend it is 100 to zero. In the circumstances, for example, with the energy conference, I am a Democratic conferee, and we have been disinvited and not allowed to attend any of the conferences with respect to the Energy bill. That is the wrong way, in my judgment, to do business in the Senate. It pretends as if one-half of the Senate doesn't exist when you do that.

Having said all that, I understand we don't schedule the Senate; the majority leader does. We find ourselves now in the first week in November, with a number of very important appropriations bills not yet completed, with stories earlier in this week that the majority may well want to put unfinished appropriations bills in another appropriations conference and create an omnibus bill, and bring it to the Senate as a conference report so Members of the Senate would be prevented from offering any amendments to the legislation.

Well, that is not acceptable; it is not the way to do business. I don't know whether that is what is being planned. I can only tell you that is what I read early this week, as described by some majority party aides, I guess they are called.

In addition to the urgency of getting appropriations bills completed, we are now told next week's schedule will include 30 hours of debate on judges. Actually, there won't be any business before the Senate to debate; it will just be an opportunity for the majority party to ruminate for 30 hours about how unfair it has been that 4 nominees have not been approved by the Senate—4. Mr. President, 168 judicial nominees sent to us by the President have been confirmed by the Senate, and 4 have not been. Yet you would be led to believe by all of the information spewed out of this Chamber, from all of the political vents that exist here, that somehow the Senate has just been unwilling to approve judgeships.

We have the lowest vacancy rate on the Federal bench in 15 years. Why? Because this Senate has been cooperative with this President with respect to judgeships. He has nominated and we have confirmed 168. If next week they want to spend time, in a moment when it is urgent to finish our work on appropriations bills, instead to talk about the 4 judges who were not confirmed by the Senate, I want to come to spend some time talking about the 168 judges, including 2 from my State, both Republicans, both of whom I supported and was pleased to do so—I want to talk about the 168 judges we did confirm. I want the American people to understand what our record is with judges.

My colleague from West Virginia knows about the Constitution, perhaps more than anyone in this Chamber. He has studied it, he has lived it, and he carries it in his pocket every day. His copy of the Constitution is one I enjoy seeing when he pulls it out of his pocket during debate on the floor of the Senate, because he describes it in vivid detail and gives life to this fabric of American Government. The Constitution does not say the President has a right to put a man or woman on the Federal bench for the rest of their lives. That is not what the Constitution says. The Constitution says we will provide lifetime appointments to the judiciary in the following manner: The President shall nominate, and the Senate shall give its advice and consent. So there are two steps: The President shall nominate and the Senate shall decide yes or no.

There are circumstances where a President might say: I want to put someone on a very important Federal bench who is way outside the norm in terms of behavior, thought, or experience, or whatever; and the Senate has a right to say in that circumstance we are sorry, that is a person we are simply not going to confirm, Mr. President.

That is not terribly unusual. George Washington failed to get one of his nominees confirmed—America's first President. So it is not unusual for the Senate to say, no, this is not a candidate we agree should be put on the Federal bench for a lifetime.

In most cases, the President has sent us nominees we are satisfied with, and 168 of them have been approved; 4 have not been. In the middle of this time, when time is so critical and the appropriations bills are so urgently needed to be completed, the majority wants to ruminate and vent for 30 hours in the middle of next week about the 4 who have not been approved.

I say, as my colleague from Nevada has, I make no excuses for deciding not to support the nomination of Mr. Estrada. I make no excuses for that. Mr. Estrada wouldn't answer the questions when asked by the Senate Judiciary Committee. How do I know that? Because the same day that he was a witness before that committee, the same day his nomination was considered by that committee, a nominee for a judgeship in North Dakota was there before the committee. That candidate from North Dakota, whom I supported—and, incidentally, is a Republican—is a fine judge. I was pleased to support him. He answered the very questions put to him by that committee that Mr. Estrada refused to answer.

Mr. Estrada refused to answer questions. He and the administration refused to release information that was requested. I have no reason to make any excuses for deciding to vote against Mr. Estrada. I wouldn't have voted for him and didn't vote for him. I am not apologetic about that.

If next week in the middle of all of this urgency we are going to take 30 hours and decide just to have the majority party ventilate about the four who did not get approved by the Senate, then I say—my colleague from Nevada is here—I would like to be part of a process that talks about the 168 Federal judges we did approve, all Republican incidentally—168 of them we did approve. We will get some pictures and get their story. I will talk about a few of them. I hope my colleagues will as well because the American people need to understand the story, and the story is not of the four who didn't get approved by the Senate.

The story is the lowest vacancy rate in 15 years on the Federal bench because the Senate has moved forward on judgeships and because we have confirmed judges sent to us by this President and because we have succeeded in that effort. That is the story next week. If we are going to have 30 hours for the other side to ventilate about the 4 who didn't make it, I want 60 hours to talk about the 168 we did confirm.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I wish to take a couple of moments to do a few items cleared on both sides.

UNANIMOUS CONSENT AGREEMENT—H.R. 2799

Mr. MCCONNELL. Mr. President, I ask unanimous consent that at 1 p.m., Monday, November 10, the Senate proceed to the consideration of the Commerce-Justice-State appropriations bill.

Mr. REID. Mr. President, reserving the right to object, it is my understanding that the distinguished majority whip is going to announce there will be no more rollcall votes.

Mr. McCONNELL. I say to my friend, just as soon as he clears this.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I, therefore, mention there will be no more rollcall votes today.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, there are a couple of items on the Executive Calendar cleared. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar No. 61 and 362. I further ask unanimous consent that the nominations be confirmed; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

FEDERAL ENERGY REGULATORY COMMISSION

Joseph Timothy Kelliher, of the District of Columbia, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2007.

Suedeen G. Kelly, of New Mexico, to be a Member of Federal Energy Regulatory Commission for the remainder of the term expiring June 30, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. McCONNELL. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, has the Pastore rule run its course for the day?

The PRESIDING OFFICER. It has not.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for such time as I may require.

The PRESIDING OFFICER. Without objection, it is so ordered.

AN INFINITE MIRAGE AND A BOUNDLESS FACADE

Mr. BYRD. Mr. President, through its shortsighted actions, this administration perpetuates an infinite mirage and a boundless facade. This administration hopes to fool the American people into swallowing its wrongheaded policies with no questions asked. These policies have a superficial appearance of reality, but they are beyond comprehension—beyond grasp. They hover like a mirage on the horizon. We are lulled into believing that if we just stay the course, we will eventually reach some sweet, glorious watering hole. However, the truth is that there is nothing tangible, nothing solid, nothing with form or substance on the horizon.

Regardless of whether it is Iraq or an energy bill, one need only connect the dots to see that the same questionable tactics are readily apparent. When the President announced to the world, "Either you are with us or against us," he alienated many potential allies abroad. The administration uses the same posturing in terms of an energy bill. It is either the administration's way or no way, as it opposes any alternative approaches that do not fit into its little black box.

There was a horrible rush to pass the Iraqi resolution in this body last year. This administration is using the same tactics to dictate the terms of a very bad energy bill this year. This facade is all too obvious as the White House's only goal is to pass a bill seemingly regardless of its substance or lack thereof.

The administration's national energy policy plan will do about as much to improve the Nation's energy security as the administration's invasion of Iraq has done to stem the tide of global terrorism. In the past, the administration attempted to make a case that linked September 11 and Saddam Hussein. These links have failed to materialize, but the administration is still trying to make that link. Not one Iraqi was among the hijackers of airplanes on September 11—not one. So it must be a matter of great chagrin to the administration that it has been unable to bring forth the evidence of that linkage.

Predictably, the administration is now attempting to make the same connections between its national energy policy and a comprehensive energy strategy. This link will also be proven groundless in the not too distant future.

For many years, the Middle East has been a hotbed for a number of reasons, especially because of the Israeli-Palestinian conflict and the continuing U.S. military presence in the region, but an underlying reason for our continued presence in the region is for the protection of our oil lifeline. We likely would not have such close ties to the Middle East if it were not so important to our economic base. Because of this tethering, we are being pressured into passing an energy bill. Unfortunately, even if this Congress passes the administration's prescribed energy bill, that will do little, if anything, to reduce our dependence on foreign oil.

Instead of striving to disentangle ourselves from this foreign oil dependency, the Bush administration seems intent on sinking our military and energy fortunes deeper and deeper into the hot sands of the Middle East.

I have spoken on this floor before regarding my concern for this Nation's energy future. I have also addressed the Bush administration's lipservice and corporate coddling, which is the sum total virtually of its energy policy. As a recent report from the General Accounting Office concludes, the Vice President's national energy policy development group did not solicit a broad range of views. That group never sought to project future energy demand or engage future sources of supply. There was no plan with specific goals and objectives designed to ensure energy diversity. But the Bush administration insists it has an energy policy.

A lot of energy went into producing it, and it has expended much energy to get its bill passed. In fact, just before the lights went out in Manhattan, Cleveland, and Detroit, Vice President CHENEY was quietly working with the Republican leadership to void key electricity provisions that this body was about to pass.

I say to my colleagues, all is not lost. Help is on the way. While this Nation's citizens were stranded and sweltering in darkened subway tunnels in New York and without drinking water in Cleveland and Detroit, more rewards were being handed out. Yes, while the citizens of those cities suffered, the administration was very busy. While our electricity system was in a shambles, the Bush administration was eagerly handing out hundreds of millions of dollars in sole-source contracts to Halliburton—have my colleagues heard of that name before?—and Bechtel to rebuild Iraq's water and electricity infrastructure. Oh, the irony.

Even more telling, in its statement of administration policy, the White House told energy conferees to trim the estimated $50 billion-plus cost of the energy bill because the pricetag was excessive.

Let the American people hear this: We can cut taxes for the rich, we can spend $21 billion just this year to rebuild Iraq's infrastructure, but the energy pricetag in the next decade at home is too expensive. The truth is, regardless of its costs, the Bush administration will never fully fund the programs in an energy bill as the White House is too distracted by other so-called priorities.

The Center for Responsive Politics reports that the energy industry gave more than $2.65 million to the Bush-Cheney campaign in 2000. The oil and gas industry gave 68 percent of that total. Not surprisingly, media accounts are ripe—ripe, I say—with stories of the administration's contributors who have been tripping over themselves to curry favors for their particular energy interests.

What about other groups? Were the interests of the State and tribal interests, labor unions, consumer groups, and environmental organizations at the table?

A lack of consensus on energy legislation has rightfully raised concerns that the final product will be but a patchwork of compromises that do not truly solve our urgent problems.

The Republican majority and the White House have put together what amounts to a "pig in a poke" energy bill that includes a number of items that remain enormously controversial and that have little to do with building the bipartisan consensus essential for the development of a national energy strategy. The legislation passed by this Senate last year and this year has been largely ignored.

Now the majority is preparing to ram this hodgepodge through the conference, and we are being forced to swallow it, hook, line, and sinker. This is no way to legislate and it certainly is no way to develop such an important national policy.

We cannot continue to conduct the Nation's business in this way. The stakes are too high. Partisanship alone is threatening enough to our ability to develop comprehensive solutions to our energy problems, but it is not just partisanship that is reason for worry. It is the utter contempt with which this Bush administration apparently views the role of the legislative branch.

As the General Accounting Office has learned, this administration simply will not tolerate legislative inquiry. This administration will not tolerate fact-finding. Requests for information are often simply denied. There is no room for debate, just dictums. We are not expected to stand on this floor and offer amendments. We are urged to sit quietly, we are expected to sit quietly, and wield the rubberstamp. The people of West Virginia did not send me here to be a rubberstamp. I am certainly not a rubberstamp.

Energy policy, in my estimation, drives so much of our economy and defines so much of our national prosperity and security that backroom bargaining can threaten our Nation's future.

The administration used numerous promises and assumptions to sell the Iraqi war to the American people. We were assured that the postwar construction would largely be paid for with Iraq oil revenues and the cooperation of other nations—nations that got the back of our hand. But the President now tells us we cannot count on that money in the short term and the American taxpayers will have to foot the bill.

We are hearing the same type of rhetoric now. We heard claims that the administration's energy bill would fix all of our energy problems. I hope the American people are smarter than that because this energy bill is no panacea, and it could very well turn out to be a Pandora's box.

We need a comprehensive approach to our energy policy. What do I mean by comprehensive? A comprehensive approach fully integrates four fundamental principles: energy security to encourage fuel diversity; fiscal soundness to increase economic growth and the efficiency of production; consumer protections to guard against fraud, market manipulation, and abuse; and environmental sensitivity to minimize the impacts from wastes and emissions.

These are essential elements for any comprehensive energy policy. These elements must be fully integrated through a policy that is designed to maximize fuel diversity and efficiency of production while minimizing consumer abuse and environmental degradation. These elements could provide a complementary path forward, but this Energy bill is a significant detour.

With these guiding principles in mind, we must then begin to make the hard choices. We must develop a truly strategic plan. Planning requires that we decide how much, to what extent, and when actions must be taken. It requires the development of criteria so the progress can be measured.

For the past three decades, the United States has struggled to find and secure its energy future. Administrations since Richard Nixon have been trying to craft a sensible energy policy, with some small successes, but mostly with little significant progress to show. All too often, America's energy agenda has shifted—lurching first in one direction, then in another. The net effect has been that the Nation has grown more and more dependent on foreign oil, making America's energy security increasingly vulnerable to manipulation and terrorist attack.

This Nation has not had a serious, thoughtful energy strategy or a comprehensive set of energy policies for a long while. Too often, the Government has, instead, reacted to shortages, dislocations, and various energy crises. For example, the Government has tried to control oil and natural gas prices, which only served to exacerbate supply shortages. For a period of time, one administration tried to prohibit the use of natural gas and forced the use of coal for power generation. Two decades later, another administration discouraged the use of coal and Federal priorities shifted to the increased use of natural gas. Today, the Nation finds itself caught in what Federal Reserve Chairman Alan Greenspan calls "the gas trap."

The energy bill soon to be before this Congress is primarily another reactionary effort. While there may be some strong trees planted, it is by no means a healthy forest. From past energy efforts, only a few actions, such as creating the Strategic Petroleum Reserve and the Clean Coal Technology Program, have proven to be truly farsighted. I fear that most of this energy bill will continue a business-as-usual approach.

Furthermore, we must, once and for all, realize that our energy and climate change policies are two sides of the same coin. Yet we are doing little, if anything, to address seriously these critical links. This energy bill includes nothing substantial to address either global climate change or advanced clean energy technology exports. If these and other key provisions are not included, why should I support such a flawed, misguided energy conference bill?

Furthermore, the administration has been seeking my support for its so-called FutureGen project, claiming this purported $1 billion, 10-year proposal would build one large powerplant as an experiment to address climate change. My support for this project is largely contingent on identifying the long-term resources for FutureGen and knowing that it will not erode other critical energy programs. So I have to say that, if the administration is expecting my support for FutureGen, then, in coming years I expect that the administration will support my climate change and international technology transfer provisions as well. If the administration is still around.

Global warming is an Achilles' heel for this White House—one among other Achilles' heels. The President has shown no desire to address this problem in an energy bill or anywhere else.

In the end, the President would dearly love a showy Rose Garden ceremony in which to sign an energy bill and thus have a 2004 campaign press release to tout its so-called success. But, given this administration's track record, an energy bill would simply be another empty soapbox for the President to stand on to announce a bankrupt deal.

I say, where have we seen that before? While the Congress has passed bills and supported the Bush administration's rhetoric, the necessary resources to carry all this out never materialize.

The American people deserve much better than this. As the blackout of August 14 vividly demonstrated, this Nation's energy system—which is the lifeline of our economy and national security—is on life support. As we struggle to define and implement a national energy policy needed to address these issues, we again find ourselves on a collision course.

We need a new framework based on a consistent and cohesive set of policies. But we must recognize that we must get to that critical juncture. This new framework must be designed to strengthen the law, not gut it. Most importantly, as we approach this crossroads, we must seek to fully integrate our energy and environmental policy goals and objectives in a complementary way.

We were told we had to rush into Iraq to contain Saddam's WMD programs. Now we are being told this energy bill will reduce our dependence on foreign oil, counteract increasing fuel prices, and do so many other things.

Americans should not be fooled. They will not. There are few, if any, benchmarks or yardsticks from which we can truly chart our progress. Sadly, such milestones are anathema to this administration. At the same time, we have squandered a huge opportunity. The bipartisan cooperation in the development of this energy bill was purely superficial. Soon this Senate could be asked to vote on this legislation. There is pressure to cajole Members to swallow hard and pass it. Despite some solid provisions, why should I be a party to this boondoggle?

A cherry-picked energy plan based on soliciting big industry campaign contributions is a bankrupt policy. It takes this Nation nowhere, and it puts our Nation's future at risk. It is time that the dots were connected. The same pattern by this White House continues to repeat itself. That pattern is statements of policy that build on infinite mirages and boundless facades.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

Mr. DEWINE. Mr. President, I rise today, in the few days before Veterans Day, to pay tribute to one of America's and one of Ohio's fallen sons. Twenty-seven year-old Army Specialist James Christopher Wright, who served in the 4th Battalion, 42nd Field Artillery Regiment, of the 4th Infantry Division, passed away on September 18, 2003, while trying to secure a hostile area near Tikrit, Iraq.

James Wright—known as Jimmy by his family and friends—was from Delhi Township, OH. In the early 1990s, he graduated from Oak Hills High School and Diamond Oaks Vocational School.

Growing up, Jimmy was a fun-loving kid. Friends say he was always ready with a smile or a joke. He could make any situation seem comfortable.

He could put people at ease.

Christina Schwaller, who attended Oak Hills High School with Jimmy said that he was "very outgoing and lovable, very much the clown. He was always laughing—you never had a bad moment when he was around."

Jimmy also loved cars. It's a love he shared with his older brother, Eddie. When Jimmy was still in high school, and Eddie had just graduated, they bought low-riding pick-up trucks and spent hours upon hours outfitting them. In Iraq, Jimmy was the proud driver of a Humvee. Today, Eddie drives a Porsche with a memorial to his brother painted on the front hood.

In 1996, Jimmy enlisted in the Marines and served four years. In that time, he toured in Bosnia, Greece, and Italy. Jimmy felt strongly about serving our Nation. He had a deep, abiding sense of duty—something he learned from his family. His father, Edward, served in the Army for 20 years and did two tours in Vietnam. He learned from his family about sacrifice and service.

After his tour with the Marines was over, Jimmy decided to settle down for a short time in Delhi Township and later Waco, TX, with his wife, Alina, whom he had met when they were both stationed at Fort Bragg in North Carolina. She, too, had been a Marine. As they were settling in to their new civilian life, the world turned upside-down with the tragic terrorist attacks of September 11, 2001. Once again, Jimmy and Alina felt the familiar pull of duty—duty to the victims of September 11th, duty to their families, duty to our country. Alina remembers Jimmy saying then that "it was time to put the uniform back on. He couldn't just sit back and not do anything."

Jimmy and Alina both enlisted—this time into the Army. Jimmy was deployed to Iraq on April 1, 2003. Three weeks later, he learned that his wife was pregnant with a baby boy whom they named Jamison Edward. Five months later, Jimmy Wright gave his life fighting to secure the safety and freedom of the Iraqi people—fighting to secure a peaceful world and future for his unborn son. As his brother Eddie said, "When Jimmy died, he was doing something he loved. I'm proud of my brother. He's a hero."

He received the Bronze Star, the Purple Heart, the Armed Forces Services Medal, and the Good Conduct Medal.

Specialist James C. Wright did not have to re-enlist. He did not have to fight and die for us and for his son, Jamison Edward. But he did. As Reverend Thomas King said at Jimmy's memorial service in Ohio, "Jimmy knew the dangers he faced, but he never backed down." He felt it was his duty—his calling—to serve. He believed in what he was doing—in what he was fighting for. He wanted his son to live in a world without terrorism—a safe world—a world of freedom and liberty and hope.

Pliny the Elder wrote that "hope is the pillar that holds up the world." Jimmy was a man of courage, of love, of duty—and his broad shoulders of hope will continue to hold up the world safely above our heads.

He will continue to be that pillar as we remember his life—as we remember how he followed his heart, lived a life full of love, and dutifully responded to the call of his country.

Left to cherish and honor his life are his wife, Alina; his unborn son, Jamison Edward; his parents, Edward and Barbara; his two brothers, Eddie and Mark and their families; and his grandmother, Josefa Wright. Let me say to all of them that you all remain in my thoughts and prayers.

I thank the Chair and yield the floor.

Mr. ALLARD. Madam President, today, I rise to honor recently fallen soldiers in Iraq and to recognize the mission these men and all Fort Carson soldiers have been accomplishing since the conflict began.

This past Sunday the State of Colorado lost four of its courageous army warriors when a Chinook helicopter assigned to the 12th Aviation Brigade and attached to the 3rd Armored Cavalry Regiment crash landed outside of Baghdad. These were brave and loyal soldiers defending the principles of freedom and liberty and fighting the terrible war against tyranny and terrorism.

This helicopter was shot down in the single deadliest attack on American troops since the war began. This attack killed a total of 16 troops and injuring another nineteen. It was transporting the troops to Qatar. Some were headed home for leave while others were getting much needed rest before returning to Iraq to wage peace and rebuild the country after more than twenty years of neglect and oppression.

As I learn more of the four men from Fort Carson who lost their lives, my heart swells with pride. I am very proud of the commitment and sacrifice these soldiers gave to our country and our way of life. Yet, I am also saddened. I am deeply grieved knowing that for each of the brave souls have a family left behind.

It is a somber realization that some parent or spouse will receive the worst possible news. Men in dark green uniforms will show up to explain the unexplainable. As honorable as this task is, no one from the army can comfort the families of Specialist Darius Jennings, Specialist Brian Penisten, Sergeant Ernest Bucklew or Staff Sergeant Daniel Bader. These were good men and proud Americans who were pausing briefly in their duty to improve the conditions in Iraq and fully expected to return soon to rejoin their units.

This tragedy is magnified when you learn of the stories behind these young men and the lives they left behind.

Sergeant Dan Bader was returning to Fort Carson to see his wife and fourteen-month-old daughter. Last spring he tearfully kissed his wife and child goodbye and deployed for Operation Iraqi Freedom promising to return soon and was ever more eager to see his daughter grow with each passing day. He was a towering man of six foot three who was not afraid of anything. He fought for his family, for his unit and for America. His daughter will grow up knowing her father was a hero but not knowing her father.

Specialist Brian Penisten was also coming home but he was coming home to start a new family. He was coming home to his fiance in Pueblo, CO so they could get married this month. He called her before heading to the helicopter and told her everything was okay and ended the conversation with the words, "I love you Mrs. Penisten." But now instead of a wedding his two families will be attending a funeral for this fallen hero.

This attack represents another example of the cowardice and terror tactics employed by Saddam loyalists and the foreign insurgents intent on our failure to bring peace and freedom to Iraq and the region.

They will not succeed. Both the American troops and the Iraqi people are working hard to make the country better. Everywhere you turn, the message is the same. The Iraqi citizens are happy to have us there and our troops understand why we must be there. Whether you count the social programs being worked by our soldiers, the re-enlistments of our Fort Carson soldiers or the over all morale of the troops, the message is clear. We are committed and will not quite until our task is done.

Some of these troops have been in the country since before Christmas of last year. This deployment and combat environment could easily destroy morale and incentive to re-enlist. That is not so for these fine soldiers of Fort Carson.

Even through Sunday's disastrous loss, the spirit of Fort Carson stays strong. The executive Officer for the 3rd Armored Cavalry, said after losing his four men, that, "morale is saddened and humbled but we remain resolved to continue the fight."

The unit's 5,000 soldiers serving in Iraq don't have time to be horrified or mourn the dead. They have a job to do."

He added that they were obviously saddened by the events but "we are soldiers, cavalry troops and have to execute the mission given to us."

There has been plenty of discussion lately of America's resolve and commitment to seeing this through. Let me tell you that the men and women serving in Iraq are not confused and know how committed this country is to ensuring that democracy flourishes in Iraq.

The men and women of the 3rd Armored Cavalry Regiment are still fighting the war on the Syrian border but that has not deterred them from performing great measures for the Iraqi people. The 3rd Cavalry helped rebuild a town's schools and hospitals with the help of the local mayor and town council.

Another program brought bookbags full of school supplies to over 200 local youth. This is a sharp contrast to the Hussein regime who did not provide basic education for all children.

One of the American commanders said "most people in the communities here are peaceful and just want to resume moral lives but the actions of the aggressors place them in a position where they feel they can't publicly support coalition forces." And the Iraqi mayor said "we are very grateful for what they have done."

Fort Carson has retention goals that it must meet to fulfill its mission. This is true during war as well as during times of peace. Fort Carson has deployed over 12,000 troops to Iraq since last year. That constitutes 80 percent of its troops. Men and women from the 3rd Armored Cavalry Regiment, 3rd Brigade Combat Team, 10th Special Forces Group and 7th Infantry Division have all supported Operation Iraqi Freedom.

Surprisingly, though the 3rd Armored Cavalry is still deployed in Iraq, the unit has not only reached its retention goals, it has greatly exceeded them. In the last quarter of this past year 294 soldiers re-enlisted while the objective was 129. This unit is retaining almost three times its goal for that period and for fiscal year 2003. Over the year, the regiment had 834 soldiers reenlist though the goal was 554 reenlistments.

It is clear to me that the soldiers who are laying their lives on the line; they are committed to this cause; and we need to follow their lead. Secretary of State Colin Powell, while leading the first gulf war, said that the truly great leaders were also great followers. We in the Congress need to follow the lead of men and women from Fort Carson and commit to this cause. We must not waver when it is politically correct to do so, when the elections are near, or when the costs are high.

The cost of failure is greater than any supplemental bill brought forward to this body. The cost of failure is immense. The cost of failure will be realized not only here but through out the Arab world. Iraq is a unique opportunity to show that freedom and democracy can flourish in the region.

This mission is that important.

Any loss of life is tragic and we must reflect on the ultimate sacrifice we ask of our soldiers, sailors, airmen and marines when we send them into harm's way. We always hope that every person that deploys to a war zone will return home to their parents, wives, children and community. Today we have four families who will be met by the dark green uniforms that they all dread.

We can never bring SP Darius Jennings, SP Brian Penisten, SGT Ernest Bucklew or SSG Daniel Bader back to their families alive. As much as we would want, that is not possible. What Fort Carson is doing is 'continuing the fight' and that is exactly what this Congress and this country needs to do. We need to continue the fight even when that means more money appropriated, even when that means a new round of deployments to Iraq, Afghanistan or other yet to be determined hot spots, even if that means standing up to the world community and demanding they do their share.

The war on terror is not going to be won over night. The terrorists have been honing their skills and will not quit because we ask them to. Surgical strikes to obscure targets will not deter them. United Nations resolutions with no force deployment will not dissuade them. What will convince these international thugs is a commitment to stand firm in our responsibility and not second guess our actions when things get difficult.

I stand today to honor these four fallen soldiers, each of the injured, and all of the men and women of Fort Carson. Your commitment and sense of duty is a commendable example to all Americans. I salute Fort Carson and everything the soldiers stand for, so let this body recognize SP Darius Jennings, SP Brian Penisten, SGT Ernest Bucklew, SSG Daniel Bader and all of Fort Carson left to carry on the fight and more importantly carry on the peace.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ENZI). Without objection, it is so ordered.

AIR QUALITY AND THE BUSH ADMINISTRATION

Mr. JEFFORDS. Mr. President, I stand here to raise some questions and issues of importance.

There are so many difficult problems that Americans must face every day. These include crowded roads, finding adequate and affordable health care, getting a good education for their children, and improving their economic situation.

I believe our constituents want and should expect the Federal Government to do whatever is possible to minimize these burdens with minimal intrusion.

I also believe that Americans want to trust that the government is working to protect them from involuntary risks or dangers that will affect their lives, like defective products, unfair trade practices, and corporate fraud.

Or, perhaps one of the public's greatest expectations about such risks is that the Federal Government will effectively stop pollution that would shorten lives, put people in the hospital or otherwise harm their quality of life or their earning power. Not to speak of cancer or developmental damage that might occur to their families.

It is my duty, as a Senator from Vermont and as the ranking member of the Environment and Public Works Committee to see that the Federal Government meets the public's expectations. Sadly, it is my duty to say that in this matter the administration has grossly failed those expectations and has betrayed the public's trust.

I am not here to simply be critical. I am here representing those people, those communities, those populations who are sufferring because this administration refuses to acknowledge that air pollution causes illness and death. Actually, maybe they do know this, but they're willing to look the other way at the misguided request of big polluters.

There is a reason we have a Clean Air Act. To protect human health and the environment. I can not imagine any member of Congress or any elected or appointed official that would say that we don't need a Federal Clean Air Act. But this administration is getting close to that point.

I want my colleagues to know that I will be vigilant in pointing out places where this administration is at war with the Clean Air Act. And they are numerous.

I plan to work vigorously to defend the Clean Air Act throughout my tenure in this body. I will not bend on this. I will fight efforts to undermine the act in the energy bill, in appropriations bills, in any venue that members may look for an opportunity.

Mr. President, 32,000 or more people are dying every year due to power plant pollution. This is not a new number. It was first reported in the year 2000 and is based on reliable, peer-reviewed science. That is a crisis by anyone's definition. It is a call to action.

But, instead of taking urgent steps or really any steps at all to control that pollution, this administration has given the dirtiest, oldest power plants a permanent exemption from installing modern controls that would cut millions of tons of pollutants.

Not only will this administration not force these power plants to cut pollution in the future, but they announced earlier this week that they would no longer penalize those power plants and refineries for violating pollution limits in the past.

This reversal is stunning and unprecedented, to my knowledge. Just weeks ago, we were assured that the administration would continue to prosecute polluters who violated Clean Air rules in the past. Now they are saying let's just pretend nothing bad ever happened.

That is like saying, "Let's pretend that the thousands of lives shortened by increased pollution from those illegal activities don't matter."

The combined effect of the change in rules and the evisceration of enforcement cripples the Clean Air Act.

This Bush administration is trying to unilaterally reverse the great progress in air quality that we have made due to the bipartisan agreement in the amendments to the act passed in 1990.

I hope and will be working to stop this reversal through the courts or by other actions.

The so-called "clear skies" proposal that the Administration has advertised with taxpayer dollars is too little and too late.

It puts off real reductions in smog and acid rain causing pollutants from power plants for many years beyond what the public's health demands.

It puts them off beyond what the Clean Air Act could do right now if only the Administration had the guts to stand up to the polluters' lobbyists and use the act constructively.

At the same time that the President's proposal defers any real and significant reductions in pollution, it immediately suspends or cuts back on the important parts of the Clean Air Act that work right now to protect local air quality from upwind sources and to push emissions control technology forward.

By the agency's own analysis of clear skies in the year 2020, hundreds of coal-fired units representing tens of thousands of megawatts, will still be operating without modern pollution controls.

This means that people downwind of those plants will continue to suffer in communities across the nation, in 20 or more states like Alabama, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, and on.

This just does not make sense. The administration's proposal still leaves many many plants uncontrolled 18 years from now.

It defies the imagination that we won't ask those power plants to use modern controls for a minimum of eighteen years. The technology is available now and it doesn't cost that much.

And yet, this delay in the President's proposal and its suspension of parts of the current Clean Air Act, will result in more than 8,000 people downwind of those plants dying prematurely every year when compared to my bill, the Clean Power Act, or to a vigorous implementation of today's Clean Air Act.

I have been prepared, as I have noted several times over the last 2 years, to work with the administration to work on compromise legislation. My offer has been met with deafening silence.

That is unfortunate for all those whose lives will be shortened, for the additional acid rain that will fall, for the asthmatic children who will suffer, for the increase in global warming, for the smog-blocking scenic vistas, and for the new lakes and fish contaminated by mercury. But that silence is not unusual.

I have come to expect that the administration will not answer straightforward questions or provide simple technical assistance.

And I have come to expect that the administration will not honor the public's or Congress' right to obtain documents and information on vital environmental policy matters.

So it was not a surprise to me that EPA has refused to honor its promise to analyze the impacts of controlling mercury emissions at various levels from powerplants. If they did a decent job, it would show that the Clear Skies proposal is weak and far less effective than today's control technology. Today's control technology—it is even worse than that.

It is also not a surprise to hear rumors that EPA and the utilities are seeking another delay in the legal deadline to control mercury and other air toxics. As it is, this deadline is already many years later than required by the Clean Air Act.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to have an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. What is surprising is that anyone who has children would consider such a delay. Mercury, much like lead, can cause significant neurological and developmental damage to fetuses when a mother consumes normal quantities of fish. It can also increase the risk of heart, kidney and liver effects in adults. The National Academy of Sciences has documented these risks well. Let me repeat that. The National Academy of Sciences has documented these risks well.

However, in case the mothers and fathers who are considering extending this deadline or proposing ineffectual rules, I have joined with 12 other Senators in sending a letter to the Office of Management and Budget and the EPA. The letter explains their legal and moral duties, in the event that they have been forgotten. I ask unanimous consent that the letter be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JEFFORDS. Mr. President, my inescapable conclusion, unless newly confirmed Administrator Leavitt can change it, is that the Bush administration does not care about the burdens that polluters lay upon the public.

Perhaps the administration does not care about the deathly ill senior citizens suffering from pollution-induced heart or lung disease, or the parents who are struggling to help their learning disabled or physically handicapped child cope with everyday life, or the 150 million Americans who are breathing unhealthy air.

Whatever their reasons, this administration is making it harder to breathe, to see, and to trust.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, November 6, 2003.

Hon. JOSHUA B. BOLTEN,
Director, The Office of Management and Budget, Washington, DC.

Hon. MICHAEL O. LEAVITT,
Administrator, U.S. Environmental Protection Agency, Washington, DC.

DEAR DIRECTOR BOLTEN AND ADMINISTRATOR LEAVITT: We are writing to urge the Office of Management and Budget and the Environmental Protection Agency to promulgate expeditiously a proposed rule to set maximum achievable control technology (MACT) standards to reduce utility emissions of hazardous air pollutants (HAPs), including mercury, as required by the Clean Air Act. As you may know, this proposed rule must comport with, at a minimum, the requirements of sections 112 and 307 of the Clean Air Act, the Administrative Procedures Act, Executive Order 12866, and all applicable settlement agreements. News accounts suggest that the rule is being written to include an arbitrary reduction requirement and compliance date that are not justifiable given the Clean Air Act's specific language, and in a manner that may not produce a defensible proposal.

The Clean Air Act Amendments of 1990 require EPA to promulgate national technology-based standards for utilities that emit hazardous air pollutants, if deemed appropriate and necessary by the Administrator. After many years of Agency delay on that utility MACT standards rule, a settlement agreement was entered into between EPA and environmental organizations. The settlement agreement required EPA to sign a determination of whether regulation of utility HAP emissions is appropriate and necessary, and to follow a positive determination with a proposed and finalized rule, by dates certain. Pursuant to that settlement agreement, as last modified in November 1998, EPA Administrator Carol Browner finally made a regulatory determination in December 2000 that it was appropriate and necessary to regulate utility HAP emissions through the MACT regulatory process. Under this agreement, EPA must now publish a proposed utility MACT rule by December 15, 2003, and a final rule by December 15, 2004, with the compliance date set for December of 2007.

In general, the Clean Air Act Amendments of 1990 require EPA to set a MACT standard that achieves the maximum degree of reduction in emissions of hazardous air pollutants from all new and existing major and area stationary sources, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements. But, section 112 of that Act defines MACT for new facilities as an emission standard no less stringent than what is achieved in practice by the best-performing similar source for which the Administrator has emissions information. Existing sources are required, at a minimum, to meet the average emissions of the best performing 12% of existing units, though EPA can set a more stringent standard. Section 112 (f) also requires EPA to assess the remaining (i.e., "residual") risks posed to human health within eight years after the promulgation of MACT standards, and regulate sources of HAPs to provide an ample margin of safety to protect public health. The EPA has moved responsibly in the past to regulate mercury emissions from all major non-utility sources, leaving utilities as the largest source of mercury air emissions in the country.

According to data collected by EPA and presented to industry groups in December 2001, there are technologies available today to reduce mercury and other HAPs from utilities in an efficient and economical manner. In fact, EPA's own analysis shows that several of today's technologies can control mercury emissions from coal-fired utilities by 99% for new sources, and by 98% for existing sources, without subcategorization by coal type. The upcoming utility MACT proposed rule must reflect this technological capability. Furthermore, given that this technology is already available today, there is no defensible reason to delay for any source the compliance date of December 2007, a deadline mandated by both the Clean Air Act and the settlement agreement.

Section 112 (d) of the Act allows for subcategorization of the standard, but only by class, type, and size of source, assuming it does not result in a delay of the compliance date. In other words, subcategorization is allowable for physical differences in plant design. We are concerned that EPA may be considering subcategorization by coal type, which does not constitute one of these allowable distinctions. Including such a subcategorization in the MACT rule would not be legally defensible.

As you know, the Executive Order on regulatory review (No. 12866) enhances planning and coordination with respect to new and existing regulations, with the understanding that the, ". . . American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being. . . ." In particular, E.O. 12866 states that in deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits, including potential economic, environmental, public health and safety, and other advantages, as well as distributive impacts and equity.

Despite that directive, we are concerned that EPA and OMB may not be considering a full range of regulatory options that includes accurate implementation of the Clean Air Act, namely, a standard based on technologies available today that can achieve a 98%+ reduction in mercury emissions. We expect the upcoming proposal to reflect what the law requires by offering either the most stringent technology standard for public comment, or at least a range of options that includes this most stringent standard. We also expect that the regulatory impact assessment, as required by the Executive Order, which accompanies the proposed rule to include an assessment, and the underlying analysis, of the costs and benefits (including reductions in other air pollutants such as fine particulate matter) of potentially effective and reasonably feasible alternatives to the proposed rule that have been identified by the public.

We are also troubled that the Clean Air Act Advisory Committee established under the Federal Advisory Committee Act to advise EPA on development of utility MACT standards has not received promised analyses and has been inappropriately and abruptly excluded from the regulatory process. EPA worked with industries, environmental organizations, and State and local agencies in the context of these FACA workgroup meetings over a two year period. During these meetings, environmental stakeholders requested specific considerations and mercury reduction scenarios to be included in a model the Agency was developing.

The Agency promised to incorporate group recommendations and deliver findings of this updated modeling to the workgroup by March 4, 2003, yet the analysis was not available by that time. The Agency promised then to share the analysis by April 15, 2003, yet the analysis was again not available, and EPA staff abruptly cancelled that day's workgroup meeting, saying, "We will get back to you regarding a future meeting." The utility workgroup was never able to schedule a subsequent meeting with the Agency, and has still not received the modeling analysis promised almost eight months ago. This failure to deliver promised analysis is unacceptable, and the abrupt exclusion of stakeholder involvement is not good governance.

We expect the Environmental Protection Agency and the Office and Management and Budget to propose utility MACT standards on schedule. We expect that proposal will use the best performing facilities as the guide in setting standards that obtain the maximum reductions achievable. We also expect EPA to deliver on its promises by swiftly completing and distributing to the workgroup the modeling analysis for group-specified mercury reduction scenarios. Further, we expect EPA to continue to work in good faith to incorporate public comment on the proposal and finalize a thoughtful rule by December 15, 2004, while maintaining the December 2007 compliance date. To do any less would be legally indefensible, and would prolong damage to the public's health.

It is well documented that mercury from utility air emissions endangers our health and environment by depositing into our lakes, streams, and oceans and bioaccumulating in the fish we eat. The National Academy of Sciences has confirmed that fish consumption by pregnant women can lead to neuro-developmental damage in fetuses, and that all other adults can be put at greater risk of heart, kidney, and liver effects. Due to this public health threat, 44 States now post advisories warning the public about the risks of fish consumption. Dozens of other toxic air pollutants are released in significant quantities from power plants as well, including arsenic, cadmium, and lead, many of which are known carcinogens. The Clean Air Act does not allow for promulgation of a rule on this matter that is ineffectual in reducing to the maximum extent achievable the major HAPs emitted by utilities.

Thank you for your attention to this matter. We look forward to your prompt response.

Sincerely,

Jim Jeffords, Olympia Snowe, Joseph Biden, Ted Kennedy, Hillary Rodham

Clinton, Jack Reed, Dick Durbin, Patrick J. Leahy, Susan M. Collins, Frank Lautenberg, John F. Kerry, Lincoln D. Chafee, Charles Schumer.

Mr. JEFFORDS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak in morning business for as much time as I may consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFUNDED MANDATES AND THE INTERNET TAX NONDISCRIMINATION BILL

Mr. ALEXANDER. Mr. President, Mr. CARPER, the Senator from Delaware, is on the floor. He may want to speak in a few minutes. I have a few comments I would like to make about the debate we are having about unfunded mandates and Internet access taxes.

First, I thank Senator McCAIN, the chairman of the Commerce Committee, who has been working very hard to help bridge what is a fairly big philosophical difference of opinion some of us have, and I express my appreciation to the leader, BILL FRIST, because he created some time today and last night for us to debate and talk about the issues. I think we have made some progress.

But here is where we are. As with most of our debates in the Senate, we have two valid principles in which most of us believe: First is, no taxation of Internet access. I have yet to run into a Senator who really wants to tax Internet access. Virtually all of us are willing to keep State and local governments from taxing Internet access.

I am a little bit of a purist on unfunded Federal mandates, with Washington politics telling State and local officials what to do, but the amendment which I have offered, and which Senator CARPER and others have joined in, would ban State and local government taxation of Internet access.

That is the first principle. We want the Internet to grow. We don't want local taxation. We don't want taxation that discriminates.

The second principle is, we don't want unfunded Federal mandates. That may be a little bit of a Washington word, but most people know what it means. It means Senators and Congressmen who come to Washington and pass laws and claim credit and send the bill to the school boards and Governors and mayors. Nothing makes local officials madder. This Congress, to its great credit, since 1995, has been very resolved against unfunded Federal mandates. So we don't want to tax Internet access and we don't want unfunded Federal mandates.

We haven't found out how to put the two together. We have offered a solution. There are really two basic ones out there. Ours would be to just take the current law, the current ban on taxing Internet access or allowing State and local governments to make that decision, and extend it for 2 years, and then to make a change to minimize discrimination between providers, providers being phone companies and the cable companies. That is our proposal.

The proposal on the other side was to create a much broader definition of what we mean by Internet access which would create a huge unfunded Federal mandate and take away, we believe, billions of dollars from State and local government tax bases, cause them to cut services or raise taxes on many other things, and make it permanent. That is the proposal.

Our argument is that our 2-year extension of the current law, with one adjustment to level the playing field between telephone companies and cable companies, is better for the country than a permanent installation of a very broad definition. So the issues are duration and definition.

The reasons for our amendment are these. One, we want to preserve the original intent of the Congress. The 1998 law was to keep the basic Internet access tax free. By that we mean, when you hook up your computer to AOL, the intention is that that is tax free. In our amendment, even as the telecommunications industry moves more on to the Internet, that would continue to be tax free. It is really a significant infringement on State and local prerogatives to decide what taxes to raise on their own. We want to make sure no one will be able to tax e-mail or surfing the Web. We want to make sure that States don't lose the bulk of their telecommunications revenues. Those were our major goals.

The opponents have raised many objections to these ideas. They say the Internet is so valuable that it should not be taxed. Well, we don't tax it any more than it is now. We don't allow taxing any more than it is now. And it makes me wonder. I agree the Internet is valuable. I supported the first moratorium. But it is a grown-up business now. It is no baby in a crib. We had 3 years and then 2 years. Now we are talking about another 2 years.

The telephone is valuable. Television is valuable. Airplanes are valuable. The automobile was a great invention. We don't tell State and local governments what to do about their tax policy for those businesses. The Internet is not a baby in a crib anymore. It can at least afford to hire some of the most expensive lobbyists; we know that.

Then they talk about interstate commerce, that we are messing around with interstate commerce when we talk about telling States what to do about taxing Internet access. I read the Constitution again to make sure I was right. Article I, section 8, says Congress has the power to regulate commerce among the States, but it doesn't say exactly what to do about it. It means Congress can impose limits. They can do some things.

There is also another provision called the 10th amendment which reserves all the powers to the States unless they are specifically delegated to the Congress. That is where the whole prohibition against unfunded Federal mandates came from. That is why, in 1995, this Congress passed as its first bill S. 1 of the new Republican Congress, to stop unfunded Federal mandates—Congress telling Governors and mayors and school boards what services to provide and how to spend their money.

As long as we are allowing States to make decisions about taxation on telephones and telegraphs and bus tickets and airline tickets and severance taxes, all of which are interstate commerce, I don't know why we worry so much about that.

There is the assertion that we might be taxing broadband. That is Internet service delivered by telephone and cable companies. We are really not taxing anything. We are trying to decide whether we should write some rules for what States should do. Broadband is a wonderful thing. It is always just around the bend. We want to it come. What we have said is that except for grandfathered States that now tax DSL Internet phone service, it can't be taxed in the next 2 years. We are just trying to level the playing field for 2 years, as we take the current law and extend it for that period of time.

Multiple taxation would be banned under our amendment, just as it is today. Discriminatory taxation is banned under our amendment, just as it is today. Taxes on e-mail and basic Internet access, banned, just as they are now.

So it seems to us our amendment is a good one. We are willing to continue to visit and talk with the Senator from Virginia and the Senator from Oregon, who have worked very hard and believe very strongly in this. But our arguments are, the Congress has promised not to pass any more unfunded mandates. We have made it a violation of the Budget Act to do so. We should respect that as much as we possibly can. No. 2, their proposal is potentially a huge unfunded Federal mandate which we have promised not to do.

We believe our amendment is better at reconciling two valid principles: One, continuing the ban on basic Internet access and, two, making an adjustment to create a more level playing field between cable and telephone while making a minimum offense to the principle of unfunded Federal mandates.

We also believe that a short term—a couple of years—allows us to craft wise decisions about what is happening in a rapidly changing technology, and theirs would impose an inordinately broad definition of what we mean by Internet access permanently or for an unreasonably long period of time.

There was a letter sent around from the Republican Policy Committee which asserted that the objective of the unfunded mandate law was to stop the Federal Government from imposing affirmative duties or regulations on the States. It basically argues that the Allen-Wyden amendment is not an unfunded mandate. All I can think is that that memo didn't make it all the way through the vetting process. It argues that the unfunded mandate law Congress passed in 1995 doesn't apply to situations where the Congress might say, for example, States may not collect taxes on telephones and telegraphs. If we were to say that, that would mean State and local governments would be deprived of $20 billion of their tax base next year, and they would have to raise taxes on food or medicine or income or property or something else, or cut services.

By the very plain terms of the Unfunded Mandates Act of 1995, it includes both affirmative actions. For example, when we pass a bill that says Memphis shall do thus and so for disabled children but we only pay for half of the cost, that is one kind of unfunded mandate.

But according to the Congressional Budget Office and the plain English in the 1995 law, it also includes the definition of direct cost of a mandate, "the amounts State and local governments would be prohibited from raising in revenues to comply with the mandate." An unfunded Federal mandate also includes our telling the States you cannot raise revenues from these sources. If we think it is so important to do that, we are supposed to pay that.

I am afraid in this case the Allen-Wyden amendment, while they have worked hard to try to narrow it, still raises the possibility many billions of dollars would be lost to State and local tax bases. In other words, we would be imposing a multibillion dollar unfunded Federal mandate on State and local governments.

We believe there is a better way, that we can continue the ban on Internet access, but do it in a way that minimizes the unfunded Federal mandate. Because the leader asked us to, and we want to, we will be working over the weekend, and our staffs are meeting this afternoon. We will be working early next week, and we hope we can come to some agreement in a very short period of time.

I am grateful to Senator CARPER for his leadership in helping us come up with a sensible path in the future. I wanted to give that report on the status of where we are.

Mr. CARPER. Will the Senator yield?

Mr. ALEXANDER. Yes.

Mr. CARPER. Let me just say if I have provided leadership, I know the Senator from Tennessee has. I have enjoyed the opportunity to work closely with the Senator from Tennessee, Senator VOINOVICH, Senator GRAHAM of Florida, and others on this issue. I reflect on the role we as Senators are trying to play in this and the disadvantage some of us operate from. The Presiding Officer and I serve on the Banking Committee together. If the issue before us is like the Fair Credit Reporting Act, we have a fairly good idea, using our background and experience, as to what is fair and reasonable; what makes sense and what is good public policy. If the issue is energy policy, I think our background prepares us to make reasonably good judgments there.

When we come to issues with respect to the Internet and the transmission of information over the Internet, for a lot of our colleagues—certainly this one—it doesn't take long to get in over our heads. If we are honest, I think most will say that. In order to help us through a difficult issue like the one we have now, whether there should be a continuation of a moratorium on Internet taxes and in what form, and should it be extended, we have bright people who work on our staffs, and we speak to people from the outside, whether they happen to be from the industry or State and local governments, to round out our knowledge. But it is still a different result.

For this Senator—I suspect I speak for the other Senators here at this moment—what I think we can maybe best do is figure out the fair thing to do. I always like to talk about the Golden Rule, to treat others like I want to be treated. I try to apply that even in this instance. If you look back to the 1995 law Senator ALEXANDER talked about, the genesis of that law was Governors like he and I used to be, and even mayors in places like Gillette, WY, who didn't want the Federal Government to tell them what to do and not give them the money to do it. Similarly, whether you are a Governor or mayor, we didn't much appreciate the Federal Government coming in and saying we are going to take away your ability to raise revenues as you see fit and not make up for the shortfall.

That sense of outrage sort of grew out of State and local officials, and eventually came here and compelled the Congress to take steps to enact the 1995 legislation, banning unfunded mandates both under spending and on the revenue side. Today you cannot do that. For the most part, Congress and the President since have done a good job adhering to that law.

What is before us now is how do we be true to the spirit of the unfunded mandates law, not taking away the revenue base of the States and, at the same time, trying to be fair to consumers. People want to have access to the Internet, whether residential consumers or businesses, and how do we manage to be fair to the businesses that are providing these services? I am not going to suggest any of that either. If I could, we would have finished before this week and we would all be in Wyoming, Tennessee, or Delaware, doing other things. But we are not there yet.

The hangup is, as the Senator suggested, the moratorium that has been in effect for the last 5 years says you cannot access the Internet and add a tax to somebody who has a monthly internet bill. It says if two States or more want to tax in that transaction, you cannot do that. Multiple taxes are something you cannot do. The same legislation has said if there is a discriminatory tax somebody wants to impose on Internet transactions, you cannot do it. For example, Delaware has no sales tax. To say for a person who goes to the local book store and buys a book in Delaware that you don't have a sales tax, but if you buy that same book over the Internet, you have a tax imposed, that is a discriminatory tax. The law in effect for 5 years said you cannot do that.

What Senator ALEXANDER, Senator VOINOVICH, Senator GRAHAM, Senator ENZI, and a number of others are seeking to do is to simply say the law in effect for the last 5 years, which prohibits those kinds of activities, stays in effect. Because the world is changing in the way people access the Internet, through broadband and DSL, which a couple of months ago I could not even spell, today turned out to be a key component of this debate. But how do we change the old 5-year moratorium in a way that is fair, for instance, to the baby bells, to their business interests? What can we do that is fair and will enable them to be competitive, level the competitive playing field for them. They have suggested that whether you are getting your Internet service from a cable provider or a telephone company, State and local governments should not be allowed to tax that access to the Internet, at least for the end user.

Here is where our divide is with our friends, Senator ALLEN of Virginia and Senator WYDEN from Oregon. The question is: Where do we prohibit the imposition of the tax? At what point? Starting with the consumer in his or her home, the business in its operation, all the way back up to the ISP, through the infrastructure to the backbone—where does access to the Internet begin? We argue in our definition in our proposal the access begins between the provider, ISP, and the consumer, whether a business or an individual.

Other colleagues, who have a different view, have a much broader vision of where the Internet access comes from—much more expansive, and by their expanded definition, they expand the prohibition dramatically on what State and local governments can tax to raise revenues. I think there is an honest disagreement here. We believe we should focus on what I call the last mile. There are others who believe we should focus on the first mile, all the way through the last mile. When we do that, we take for the States potentially a fair amount of revenue generation capability off of the table at a time when obviously they are hurting and they need every dime they can raise.

I don't know if we can resolve this difference. I think we had a good honest go of it today. Senator MCCAIN is trying very hard to broker some kind of agreement. We may be successful or we may not. Ultimately, we may have to just vote.

I say this to our friends who have a different view than Senator ALEXANDER, Senator VOINOVICH, the Presiding Officer, and myself: We in Delaware have learned over the years to make our State a real attractive place to do business. If other States want to impose fees or taxes on services, and we are smart enough in my State to not do that and then go to the businesses that are maybe being mistreated by regulatory or tax policies in another State, and say, Come to Delaware; you won't have to put up with any of that frankly, it has a good argument.

In a variety of ways, financial services and other sections of our economy are stronger today because we have chosen not to impose certain taxes or fees. We have gone to sections of the economy and said: Look what we have in our State.

I say to those who have a different view than Senator ALEXANDER, Senator ENZI, and myself: Don't discount the competitive nature of States and how some of us will elect not to impose a tax on any of this business in an effort to be far more attractive to those kinds of businesses as we go down the road.

I thank my colleague for the good work he is doing and say to him how much I have enjoyed working with him on this issue, clean air issues, and others. I hope this is a harbinger of things to come.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. The Senator is still under a unanimous consent agreement to yield as much time as the Senator wishes to the Senator from Delaware.

Mr. ALEXANDER. Mr. President, as I was listening to Senator CARPER, I was thinking about what he just said. I believe I am right about this, but Senator CARPER can correct me: What we are saying in our amendment is if the Senator from Delaware or I hook up a computer to the Internet, our amendment would prohibit State and local governments from taxing that event; isn't that right?

Mr. CARPER. I think the Senator has that right.

Mr. ALEXANDER. That would be true even if Internet access moved over from the current way many people do it—and this is hard for people to understand many times—over to the cable or the phone company; is that right as well?

Mr. CARPER. Five years ago when this legislation was written on the moratorium, I don't believe DSL existed. The idea of people accessing the Internet over broadband was not something people thought much of. The idea of accessing the Internet over wireless I don't think is something we thought we had the capability of doing. The world has changed.

Mr. ALEXANDER. So from the point of view of the Federal Government interfering with local governments, we would be making a pretty significant interference there because we would be affording to the Internet access connection a protection that we didn't afford the telephone, that we didn't afford the telegraph, that we didn't afford the purchase of food, the purchase of medicine—anything. If you hook up your Internet, nobody can tax you. That would be our proposal.

The other point the Senator from Delaware is making—Delaware in particular has done this—is, say, in the District of Columbia there was a big cable company or big phone company, and the District of Columbia said: We may not be able to tax the connection between Senator ALEXANDER's computer, but we can sure tax the cable company, we can sure tax the telephone company that provides that connection, and they raise the taxes to a very high level for certain of these points along the Internet architecture. I assume it is entirely possible the Governor of Delaware may ride the train down to the District and say: The tax may be 20 percent, but come live with us in Delaware; come to our State; we don't have a right-to-work law; other States do; we don't have an income tax; other States do. We may have a higher corporate tax than other States. States have these differences all the time, and if one State gets out of line, people leave, businesses leave, elections are held and people are thrown out of office. That is the way we have operated the government for a long time.

This is a nation that from its beginning operated community by community and State by State and has had a great aversion to central direction of too many of these decisions.

Mr. CARPER. Mr. President, I say in response, that is the way States and competition—friendly competition—have worked over the years, and if it worked in the last century, it is going to work out that way in this century as well.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to print in the RECORD two editorials from Tennessee newspapers: One from the Tennessean and one from the Chattanooga Times Free Press. They just came today.

The last sentence in the Chattanooga Times Free Press article says:

> If the federal tax ban becomes permanent, state and local governments may have to come up with great amounts of tax money in other burdensome and permanent ways that taxpayers will not like.

The Tennessean says:

> Sen. Lamar Alexander is not voting to raise taxes. He is not trying to increase the cost of Internet access, nor is he advocating a new tax on e-mail.
>
> Instead, Alexander is trying to protect states from excessive control by the federal government. Yet the conservative states-rights position the senator has taken on Internet access has been turned on its ear by some of his critics. . . .

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Tennessean, Nov. 7, 2003]

ALEXANDER'S PRINCIPLED STAND FOR STATE CONTROL

Senator Lamar Alexander is not voting to raise taxes. He is not trying to increase the cost of Internet access, nor is he advocating a new tax on e-mail.

Instead, Alexander is trying to protect States from excessive control by the federal government. Yet the conservative, States-rights position the senator has taken on Internet access taxes has been turned on its ear by his critics, many of whom are Republicans.

Congress placed a moratorium on Internet access taxes in 1998. The few states, including Tennessee, that had taxed Internet access before the moratorium were allowed to keep their tax. The moratorium officially ended last week.

Now the House has passed legislation cosponsored by Representative Marsha Blackburn that would make the moratorium permanent and would eliminate all exemptions. In the Senate, Alexander opposes a permanent moratorium. He points out that Congress shouldn't micromanage the financial affairs of cities and States. And he points out that the few States that are exempt from the moratorium would lose between $80 million and $120 million in revenue if their exemptions end. That loss of revenue would force the States to increase taxes elsewhere.

Up until last week, Alexander was one of several senators who had placed a hold on the moratorium legislation, but he agreed to lift his hold on the bill last week in exchange for a Senate debate on the issue this week.

No one wants to pay more taxes. No doubt, Tennesseans, who are already paying tax on Internet access, would love to pay less for Internet connections.

But the question in the Senate isn't whether the Internet taxes should go up or down, or whether they should exist at all. The question is whether the Federal government should tell States what they can and cannot tax. Alexander says it should not, and he is right. Tennesseans who want to eliminate Internet access taxes should contact Governor Phil Bredesen and members of the General Assembly.

Tennesseans elected Lamar Alexander to the Senate because they believed he would exercise his own good judgment and act in the best interest of Tennessee. On this bill, he is.

[From the Chattanooga Times Free Press, Nov. 7, 2003]

IT'S ABOUT TAXES—YOURS

It's not the kind of issue that generates lots of public attention or quick understanding. But when Senator Lamar Alexander, R-Tenn., took the Senate floor this week to discuss it, he wanted to make sure everyone understood that the proposed Internet Tax Nondiscrimination Act involves "an unfunded Federal mandate"—which could result in State and local tax losses of $80 million to $120 million a year, that local taxpayers might have to make up.

Some time ago, to promote development of the Internet and other electronic communications, Congress banned taxes on Internet access until November 1, 2003, with some exceptions to expire October 1, 2006. The bill now before Congress would make those taxing bans permanent. Since most people don't like any kind of taxes, why shouldn't the ban be permanent?

Senator Alexander explained: "We are not talking about the issue of whether to authorize States to require out-of-State companies, such as L.L. Bean, that sell by catalog or Internet, to collect the same Tennessee sales tax" that local stores must collect. . . . "That is an entirely different piece of legislation." (We believe such legislation should be passed to provide more State revenue and thus avoid the necessity of imposing other taxes on Tennesseans.) Senator Alexander continued: "What we're talking about is whether Tennessee and other States can collect a sales tax from an Internet service provider when it connects my computer to the Internet, just as it collects a sales tax from the telephone company when it connects my telephone or from the cable TV company when it connects my cable."

He said some senator seemed surprised when he suggested the proposed permanent ban on State and local taxation is "an unfunded Federal mandate." But, Senator Alexander insisted, it "is an unfunded mandate, plainly in violation of the Unfunded Mandates Reform Act of 1995 . . ."

Senator Alexander said the Tennessee Department of Revenue estimates that making the tax ban permanent would cost Tennessee many millions of dollars a year. With Tennessee finances already pinched, how would that amount be made up without new State taxes?

So, said Senator Alexander, "I am filing tonight an amendment I call the Unfunded Federal Mandate Reimbursement Act. If a majority of the Senate should decide that banning State and local taxation of the Internet is important enough to create an unfunded Federal mandate—that is, claim the credit up here (in Washington), but make it be done down there (in Tennessee and other States)—then my amendment would provide a way for Congress to pay the bill for that by authorizing our Department of the Treasury to reimburse Tennessee and Minnesota and other State and local governments each year for the cost of this new mandate."

Don't expect Congress to rush to embrace Senator Alexander's amendment. But he has made a point that deserves serious consideration.

If the Federal tax ban becomes permanent, State and local governments may have to come up with great amounts of tax money in other burdensome and permanent ways that taxpayers will not like.

Mr. ALEXANDER. Mr. President, I believe the more Senator CARPER, Senator VOINOVICH, Senator ENZI, Senator GRAHAM, and I talk about this issue, the more people are coming our way. I look forward to continuing to work with other Senators who have different views, and I hope we can come up with a good conclusion to this that respects both principles: banning taxation of Internet access and not imposing large unfunded Federal mandates on State and local governments.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I rise today to support the amendment to be offered by my friends and fellow former Governors, Senators GRAHAM, ALEXANDER, CARPER, and VOINOVICH.

The amendment is a very simple one. Every Senator who is aware of the fiscal crisis faced by States across the Nation, which I think at this point is virtually all States, ought to support this amendment, in my judgment.

The amendment simply says we ought to continue the current moratorium on Internet taxes for another 2 years, giving the industry additional time to reach out to new customers and ensuring that we do not undercut States' long-term ability to balance their budgets, because there is an enormous relationship between Internet taxes and State budgets. In fact, this amendment improves on the previous moratorium by ensuring that consumers' access to the Internet is tax-free. Regardless of the technology they prefer, be that DSL, cable modem, wireless phone, traditional dial-up access, they would all be treated the same under this amendment.

I know many of my colleagues are interested in providing a permanent moratorium on the taxation of Internet access, but I ask them to take a moment to consider the potential harm of the bill we are debating today.

Governors, State legislators, and mayors from across this country have called my office, and I would think the offices of most Senators, to implore us not to pass the legislation. I understand the moratorium envisioned in this other amendment applies only to taxes imposed on access to the Internet. However, our good intentions are not enough to ensure that this legislation is properly applied and that the States are able to collect taxes on other telecommunications services.

Technology, as you well know, is still developing. In the near future, the providers of Internet services may offer telecommunications services as part of a premium package of technology products. Digital content presents additional challenges. I believe somebody purchasing a new movie should be taxed on that, whether they download the movie from the Internet provider or they purchase it from Amazon.com or they walk over to Blockbuster and buy it off the shelf. As technology develops and more and more options are available to consumers, Congress will obviously need to revisit this issue of what exactly falls within this moratorium since the technology changes so often.

This amendment would protect States' rights to impose fair and equitable taxes on products other than Internet access. As a former Governor, I remember very well the difficulty of financing critical State services. I was Governor some 20 years ago, but we were having those troubles then. They are much worse now.

I worked hard with the State legislature to achieve the right balance of taxes and spending. That was hard. I needed the maximum flexibility. It has been some time now, as I indicated, since I was Governor, but over the last few years we have witnessed again how States often struggle to balance their budgets and how, in fact, virtually every single State is going through that process.

It seems somewhat arrogant and unfair for us as Federal legislators to permanently limit the options available to States. I feel very strongly about that. I in no way want to disadvantage development of the Internet, but I want to respect the rights of other elected officials in West Virginia and in other States, and I believe in that strongly.

I believe a 2-year extension of the moratorium is the best of all solutions. It protects Internet access from State and local taxes for a while longer, as more Americans get access to the benefits of the Internet. It preserves for the future the flexibility that State and local governments need as they try to balance their budgets while providing for good education, improved infrastructure, adequate police and firefighting forces—all these things in this new age of terrorism. And it gives Congress the responsibility and the opportunity to revisit the issue, which is absolutely key, in 2 years, as the technology evolves.

Let me be clear. I strongly supported the previous moratorium on Internet access taxes because I recognized the value of expanding Internet use to more Americans. I believe Congress ought to do what it can to ensure the Internet becomes like the radio and the telephone and the television before it—technology that connects with all Americans and connects all Americans to each other.

In my home State of West Virginia, we are still working hard to ensure that all our citizens will have access to the latest broadband technology, so I am eager to support efforts that can make the Internet more affordable and more available, including extending the current moratorium for 2 years. However, I cannot ignore my concerns with the permanent moratorium we are asked to consider today.

I urge my colleagues to join me in supporting this amendment which a number of other former Governors and I have put forward.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLITICIZING THE SENATE INTELLIGENCE COMMITTEE

Mr. FRIST. Mr. President, I want to spend the next several minutes commenting on a matter that I regard, as majority leader of this body, to be one that is very serious. As is the case with a number of my colleagues, in fact, most of the U.S. Senators, we have been given the opportunity to reflect on the publication of a very disturbing internal memorandum, a memorandum that lays out a blatant, partisan strategy to use the Senate Intelligence Committee to politically wound the President of the United States.

That is unacceptable. There is really no other way to read this memo. I am deeply disappointed that anyone—that anyone—would have a plan to so politicize the Intelligence Committee of the U.S. Senate, to render it incapable of meeting its responsibilities to this institution, to the U.S. Senate, and, indeed, to the American people.

Moreover—I had hesitated to come to the floor to address this directly, but now is the time to do that—the response by those behind this memo has been miserably inadequate, has been disappointing, and has been disturbing.

We are at a time of peril in our Nation's history. As our intelligence agencies and our Armed Forces in the Middle East are at war against our mortal enemies, those responsible for this memo appear to be—and anybody can read this memo. It is available now. The copy I have here is actually on the FOXNews Web site. But if you read it, those responsible for this memo appear to be more focused on winning the White House for their party than on winning the war against terror.

Those priorities are wrong. They are dead wrong.

As majority leader of the U.S. Senate, as one responsible for preserving the integrity of this institution and the direction of this institution, it is incumbent upon me to make sure we address this matter properly, appropriately, and adequately.

In the aftermath of the war in Iraq, the failure thus far to find deployed weapons of mass destruction is a legitimate matter for inquiry by this body, this institution, for our colleagues. After all, for nearly 10 years—throughout the 8-year tenure of President Clinton and the first 2 years of President Bush—the U.S. Congress and the White House were given a steady flow of information by the intelligence community that suggested such weapons did exist.

In fact, it was this information that precipitated, in 1998, the U.S. military attack Operation Desert Fox, ordered by President Clinton at that time, and, in part, Operation Iraqi Freedom, ordered by President Bush in 2003.

Thus, if there is incomplete or imprecise information that had been provided to President Clinton or President Bush and the U.S. Congress over a 10-year period, the intelligence community should be asked to explain. That is what the Intelligence Committee is expected to do; it is really charged by this body to do; and that is exactly—that is exactly—what Senator ROBERTS, chairman of the Intelligence Committee, set out to do.

Last spring, Senator ROBERTS, as chairman of the Intelligence Committee, made a commitment, jointly with Senator ROCKEFELLER, to conduct a thorough review of U.S. intelligence on the existence of and the threat posed by Iraq's weapons of mass destruction programs.

The review was also intended to cover Iraq's ties to terrorist groups, Saddam Hussein's threat to stability and security in the region, and his violations of human rights, including the demonstrated actual use of weapons of mass destruction; namely, chemical weapons against his own people.

The review was intended to examine the quantity of information, the quality of U.S. intelligence, the objectivity, the independence, the accuracy of the judgments reached by the intelligence community, whether or not those judgments were properly disseminated to policymakers in the executive branch, as well as to this body and the Congress, and whether any influence was brought to bear on anyone to shape the analysis to support policy objectives.

Thus, that was the initial charge and what, in fact, has occurred over the past 5 months. The Intelligence Committee staff has reviewed thousands of documents. It has interviewed over 100 individuals, including private citizens and analysts and senior officials with the Central Intelligence Agency, with the National Security Council, with the Defense Intelligence Agency, with the State Department's Bureau of Intelligence and Research, and even the United Nations.

It is indisputable the chairman of that Intelligence Committee, Senator ROBERTS, has complied in good faith with the nonpartisan—the nonpartisan—commitment which he made to his Democratic colleagues. Most recently, this nonpartisan commitment was manifest, once again, in a series of very direct, no-nonsense letters directed to the administration, demanding the immediate production of documents and interviews necessary to move the Iraq review forward.

Senator ROCKEFELLER, himself, formally recognized, on the floor of the Senate, the fundamental good work performed thus far when, on November 5, he stated on this floor, and I quote:

> I have been vocal in my appreciation of the absolutely excellent job done to date by the staff on the aspects of the investigation they have been asked to perform, which is reviewing the prewar Iraqi intelligence. They have done a superb job, absolutely superb job.

The words of Senator ROCKEFELLER.

The chairman of the committee, Senator ROBERTS, has acted with the utmost attention to that nonpartisan tradition of this critically important Intelligence Committee. That nonpartisan tradition—and it is unusual to have nonpartisan traditions in this body—but it has always been preserved, for good reason, in that Intelligence Committee.

The tradition is reflected in the committee's founding resolution, S. Res. 400, enacted in 1976, as a result of nationwide concerns at that time about intelligence activities in earlier years.

The committee's nonpartisan tradition has been carefully cultivated and respected over time, over all these years, by its members. The tradition is part and parcel of the committee's rules, which extend the prerogatives of the minority, that are not found in any other committee in this body.

For a quarter century there has been a consensus in the Senate that the committee's nonpartisan tradition must be carefully safeguarded. Nothing less is acceptable. Why? Because this committee deals with information that is unique, that is privileged information, because of the dangerous and sensitive nature of the subject matter for which the Intelligence Committee, this committee, has unique oversight.

I come to the floor because that critical tradition has now been willfully attacked.

How can I say that? By this memo. You read the memo. The Senate Select

Committee on Intelligence has been harmed by a blatant partisan attack. I have no earthly idea who wrote this memo. I do know why. I don't know who it was intended for, but I do know why. If you read the memo, you can look. It is a sequence of steps spelled out. The sequence of steps proposed in this partisan battle plan for the committee itself is without question intended to sow doubt, to abuse the fairness of the committee chairman, Senator PAT ROBERTS, to undermine the standing of the Commander in Chief at a time of war, and to launch a partisan investigation through next year to continue into the elections.

The memo lays clear that over the past several months there has been a partisan design at work "to pull along the majority." According to the memo, the good will, the sense of fairness, the nonpartisan approach of the chairman of the committee, Senator ROBERTS, is still seen as providing ample "opportunity to usefully collaborate" in attacking the President of the United States. That is an abuse of the chairman of that very committee. This whole idea of leading that chairman or the committee along is simply unacceptable and out of the spirit of this committee. Again, it is something we simply cannot tolerate.

Finally, in the memo the author proposes that once the committee can be duped no longer, a partisan core of Senators can "pull the trigger" on another investigation.

The Senate Select Committee on Intelligence simply cannot function. Worse than that, it cannot fulfill its purpose for us without a complete understanding of what is at work in this matter. I thought it would come forward over the last 48 hours, but it simply has not. That is unacceptable.

Thus I suggest we take the following three steps. First, I don't know who wrote this memo, but as majority leader of the Senate, I do ask the author or authors to step forward, to identify himself or herself or, if there are several people, to stand up with that information for the full Senate. We would be much better equipped to understand the level of intent behind this partisan strategy as well as the depth of the problem within the committee itself.

It is necessary to know who the memo was intended to go to, who was to receive that memo. It was obviously written as a strategy. Who was that memo to be delivered to? Was it intended for political purposes beyond what is permitted in the Senate rules?

Second, it is reasonable to expect, I think—in fact, I know—that the author or authors and the designated recipient or recipients disavow once and for all this partisan attack in its entirety. It is hard to believe this disavowal has not come forward given what is at stake. The Senate cannot permit a committee chairman with the integrity of Senator PAT ROBERTS to be subjected to such abuse. The Senate as an institution should not permit a committee upon which all of us are so dependent—because of its privileged status with access to information, we are dependent on that committee to make decisions—to be so misused or potentially misused for partisan purposes.

Third, I expect there to be a personal apology to the chairman of the Intelligence Committee, Senator ROBERTS, for the manipulative tone and the injurious content of this document. Senator ROBERTS is one of this body's most distinguished Members. He is a friend. He is a trusted colleague. He served in this body for 7 years, rising to that position of trust as chairman of one of the Senate's most respected, most important, most critical committees, especially at this time of war. Senator ROBERTS, with his straight-talking manner, has the complete trust of colleagues on both sides of the aisle. He served this Nation in uniform, in the Marine Corps, in the House of Representatives. His integrity is unimpeachable. He is doing an outstanding job as chairman of the Intelligence Committee.

But only with the fulfillment of the three steps I outlined—No. 1, who wrote it and who was the intended recipient; No. 2, a total disavowal of the writing of this and, more importantly, the intent of this memo; and No. 3, an apology to the chairman—will it be possible for this important committee to resume its work in an effective manner, in a bipartisan manner, a manner that is deserving of the confidence of 100 Members in the Senate as well as the confidence of the executive branch.

In light of this partisan attack, Chairman ROBERTS and I have taken the opportunity to discuss the scope of the unfinished work on the review of the prewar intelligence in Iraq. It is our view that the committee's review is nearly complete. Together we have called upon the administration to provide the remaining requested materials. We have jointly determined that the committee can and will complete its review this year.

To the authors of this memo, there will be no more pulling along and no more useful collaboration on partisan schemes, borrowing from the malicious intent of this memo.

This must be addressed forthrightly. I call upon my colleagues to pay attention to this memo. It is something we can resolve and we must resolve over the coming days.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend our distinguished leader for addressing this matter which is of extraordinary importance to the institution and indeed the United States.

I humbly say I have been privileged to serve in this body for 25 years. I have been a member of the Intelligence Committee in years past, 8 years; the last 2 of those years serving as the ranking member with Senator DeConcini, who is now retired from the Senate. I speak now as a former member of the committee and draw on those 25 years of my own experience.

I have never seen an incident of the level of seriousness to our very vital security interests in this country as this particular memo presents. I think our leader, in a very fair and balanced way, has addressed the challenges. I commend the distinguished chairman, Senator ROBERTS, with whom I have served these many years in the Congress and the Senate.

I conclude by saying, speaking for myself and I think many Senators, with everything we do in this body today, I keep in mind the young men and women of the Armed Forces, wherever they are in the world today, serving valiantly, most particularly in Afghanistan and Iraq, and how the actions we as an institution take hopefully are in their best interest.

I thank the Chair and the distinguished leader.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank our leader for bringing this matter to the floor. I join with the very distinguished chairman of the Armed Services Committee because that is what we really ought to be about. We ought to be focused on winning the war against terrorism, not allowing one of our primary, sensitive committees, the Intelligence Committee, to be focused on winning the White House. I can't say it any better than the Senator from Virginia. We have heroic young men and woman in harm's way fighting to bring order to a region of the world where we have had many threats to our security. The least these brave men and women could expect would be that our country and our Congress would be behind them.

Frankly, one of the reasons I sought membership on the Senate Intelligence Committee as a new member was I realized that in this critical battle against terrorism worldwide, we cannot win unless we have the best possible intelligence.

As I understand it, the job of the Intelligence Committee is not only one of oversight but of taking a look and seeing what has happened in the intelligence-gathering analysis and sharing in the past, how we can do a better job. Our staffs have been deeply engaged in this exercise for many months. We have followed it. We have had numerous hearings. We have read some, but not all, of the tens of thousands, perhaps hundreds of thousands, of pages that have come before us. We need, on a bipartisan basis, to be able to find out how we can improve that intelligence.

One of the reasons the Intelligence Committee is so special is the tradition it has. The intelligence community members, whose lives are at risk because of what they are doing—often undercover work, dealing with classified, sensitive subjects—have been able to come before the committee in the past, knowing they could count on confidentiality, professionalism, and on a body that was not going to be using their words or their actions for partisan political gain.

Unfortunately, when we first saw this memo, it looked as if there was somebody, or "somebodies," in the Intelligence Committee who wanted to use it to win the White House. That is just unacceptable. Some people on the other side have said this is just an options memo tossed up for review. I have been around here for a few years, and a staff person on his or her own doesn't write a memo saying: We have carefully reviewed our options under the rules and we believe we have identified the best approach. Our plan is as follows.

I say that the occupant of the chair, and probably everybody else here, would be totally stupefied if they got a memo from the staff that was supposed to be an option memo and said: This is our plan. This is not an accident. Days have passed and there have been no consequences. If somebody was really off base, there would have been something that would have happened. Some steps would have been taken. As the distinguished majority leader has pointed out, nothing has happened. Unfortunately, too many of the actions we have seen seem to fit right in with this plan. Not only are they not disavowing it, they appear to be preparing to implement it, or are in the process of implementing it.

What is this plan? Is it to find out how the intelligence gathering could be better? Not likely. In addition to the President's State of the Union speech, they say, they want to look at the activities of the Office of the Secretary of Defense, as well as Secretary Bolton's office at the State Department. They want to go after political figures.

Somebody in my office said, "This looks like a political witch hunt." I said maybe that is not a bad way to characterize it.

They are going after political scalps, not trying to find out whether the intelligence that we received, the White House received, the Department of Defense received, and the State Department received was good, but how they can use the process of the Intelligence Committee to win political points.

By the way, when they talk about "when we can pull the trigger"—pull the trigger on an investigation—they say the best time to do so will probably be next year.

If I remember correctly, that happens to be a general election year. That would seem to square with some of the statements made by the many Democratic Presidential candidates who want to raise questions, who want to attack the President, using the process of the Intelligence Committee.

One of the things that is really bothersome is that they are not just speaking to an audience in the Senate. When they launch these attacks, these attacks get carried across the Nation and across the world. They get back to the people we are trying to fight. Do you know something? There is nothing a terrorist likes better than seeing discord, disharmony, and political infighting among the people they are trying to terrorize. That is one of the victories of terrorists. If they can tie up the intelligence-gathering operation, which is so critical for the protection, first and foremost, of our soldiers on the front line, but ultimately our allies and ourselves—if they can see that tied up in a political Gordian knot, then they know they are winning.

I strongly support what the majority leader has said. I strongly believe that our fine chairman has not only gone the extra mile, he has gone the extra mile and a half.

Some on the other side said we have not been able to get the information we want. When we have found we could not get information, the chairman has demanded it and we are going to get it. When they want to ask questions, they can do so. When they want to call witnesses, they can call witnesses.

There has been a suggestion that there was pressure on intelligence community members. The chairman has gone out and asked publicly of the intelligence community, if anybody has any information or concerns that they have been pressured, to come forward and talk to staff. We have set up elaborate procedures so they can come forward. We are still waiting. If we find any of that, we will certainly let it out.

In the meantime, it is time for us to get back to the job of the Intelligence Committee—how we can support, rather than tear apart, our intelligence-gathering system. It is with great regret we note that we have gone down this path and there doesn't seem to be any remorse or disavowal from the other side.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise today, first of all, to ask that I be associated with the remarks of the majority leader, as well as the Senator from Virginia and my colleague from Missouri, and to also pay a great compliment to the chairman of the Intelligence Committee, Chairman ROBERTS, who throughout the past 10 months has led the Senate Intelligence Committee through one of the most difficult, if not the most difficult, times in the history of the United States of America from an intelligence community standpoint.

Today, our men and women are fighting a war that is unlike any war America has ever been involved in before. The intelligence community is playing a more high profile and much more public role than ever before in the history of our great country. Chairman ROBERTS has been at the tip of the spear when it has come to providing oversight in a bipartisan manner with respect to the activities of our intelligence community.

Over the past week, he has provided great leadership with respect to the most sensitive issue that has taken place in the short time I have been a Member of the Senate. We have seen a security breach unlike any other security breach I have ever experienced.

As my colleagues have noted, the memo that has been referred to that was prepared by someone on the other side of the aisle—we have yet to find out who—was a blatant political attempt to impede what I consider to be an independent, nonpartisan review of prewar Iraq intelligence. America should expect more from this Congress. The Democrats in this body should expect more from themselves as well as their staffs.

The Select Committee on Intelligence was established to be nonpartisan in nature, in which Congress could perform critical oversight of the intelligence activities of the United States. This nonpartisan environment was, and is, a crucial feature. This nonpartisan environment creates a crucial level of trust between the executive branch and the Senate, permitting the President to share sensitive national security information, with the confidence that the committee will protect the information and not use it to engage in rank political misconduct.

We have seen just the opposite take place with this blatant political attack that comes from the other side in the form of this memo.

We can have our differences over issues involving Iraq, and we have had those differences, and we will continue to debate issues such as weapons of mass destruction. But no one in this body and no one in the intelligence community ever expected a weapon of mass destruction to be dropped on the Senate Intelligence Committee, as was done this week.

I implore the leadership on the other side of the aisle to follow the initiative of the majority leader: examine what he has said with respect to what needs to be done from this point forward. I certainly hope the leadership on the other side of the aisle will do just what they are charged to do, and that is to provide leadership and come forward to explain the purpose of this memorandum, its intended use, and where they expect us to go from here because otherwise, that weapon of mass destruction that has been dropped on the

Senate Intelligence Committee is going to impede our ability to function in the bipartisan way that is absolutely crucial if we are going to exercise our oversight role in the intelligence community.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I rise to reinforce the very serious concerns just raised by the distinguished leader and my colleagues, and I thank them for that. The Senator from Tennessee is an ex officio member of the Intelligence Committee. He has also been a member of the Foreign Relations Committee. He thoroughly understands the complex and important foreign policy issues which depend on reliable intelligence for their proper resolution.

I associate myself completely with his comments and agree with him that neither the Intelligence Committee nor the Senate, let alone the American people, are well served in the current atmosphere of raw partisanship that was created by a minority attack strategy that was revealed this week.

I have come before the Senate many times to report on the progress and good work that has been done by the committee staff in a bipartisan way on the Iraq intelligence review. That has been under review since the spring of this year. Two days ago, I expressed an interest in getting back to work in the Intelligence Committee. Some Senators across the aisle have taken this sentiment as an expression of readiness to simply close the book on this episode and pretend like it never happened. They are mistaken.

What has occurred in the Intelligence Committee was not a simple misunderstanding over policy or a mild disagreement about philosophy or oversight responsibilities. Far from it. What occurred was a direct assault on the heart of what makes the Intelligence Committee a unique and credible and respected entity in behalf of our national security. It was a direct assault on our concept of oversight that is the product of some of our country's most trying days. It has functioned well, although imperfectly, for nearly 30 years. And now we find ourselves at a crossroads, and, boy, is this a road we didn't have to take.

Unless and until this reprehensible attack plan and strategy to derail the committee's important work is properly addressed, I am afraid it will be impossible to return to business as usual in the committee.

I remain absolutely stunned that just one Member of the minority of the Senate has disavowed this destructive strategy and said we are on the wrong trail, said it would lead to a box canyon. That courageous Member saw it for what it is: "A highly partisan and perhaps treasonous memo." Those are his words, Mr. President.

What really disturbs me the most is that most Democratic Members just haven't remained silent about this outrage; some of them have openly embraced it. They have actually tried to make a silk purse out of this sow's ear by dressing up their planned attack on the Intelligence Committee as some kind of frustrated cry for help from their committee staff. That is not going to wash.

Democratic reaction to the attack memorandum is as destructive as the strategy itself. We face mounting intelligence challenges in places such as North Korea, Iran, and, of course, Iraq, and Afghanistan. Members across the aisle should carefully reflect and decide whether their caucus should repudiate or disavow—pick any word you want—this plan and embrace our Nation's security instead of self-interest. Critically important work lies ahead for the Senate Intelligence Committee, and an atmosphere of mutual trust and professionalism must be restored.

According to Senator Bob Kerrey, a former Senator and a former vice chairman of the committee said:

> Rank partisanship like this destroys the comity needed for compromise.

There is a way to restore that comity quickly and completely. It seems to me that Democratic Senators must clearly repudiate or disavow the blatantly partisan strategy laid out in the attack memo. If they refuse, it seems to me, then, that the Democratic caucus must be prepared to accept responsibility for destroying the Intelligence Committee's 25-year, almost 30-year tradition of effective nonpartisanship when the country needed it most.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I first compliment the distinguished chairman of the Senate Select Committee on Intelligence, the Senator from Kansas, not only for the remarks he just made, but for the way he led this committee during very difficult times, as has been mentioned before.

I regret he has been criticized for the very acts of comity which are required of a chairman in a position such as this for trying his best to accommodate the members of the minority, trying his best to be as open and as broad as he could possibly be in approaching the issues that have been brought to his attention by members of the minority, even criticized, I have seen, in his own hometown press, his own press in Kansas for being too soft in dealing with the members of the Democratic Party in this matter.

It is his job to bend over backwards, to make the Intelligence Committee work in a nonpartisan fashion. I didn't say "bipartisan," I said "nonpartisan" because that is the way this committee was set up 25 years ago: to be a place where politics could not intrude.

I don't know how many people are aware of where the Intelligence Committee works. It works in an area that is secure. That is the phrase. There are special physical arrangements in the construction of this area in which the committee works. It is literally a vault that you walk into, totally closed off from the rest of the world, obviously because we don't want any electronic surveillance or other means of intercepting what is said within the confines of this secure area.

It could also be a metaphor for its location in this very political city because there is a lot of politics in Washington, DC. We all understand that.

This is a special place where politics is not to intrude. It is literally an island in this political sea that is supposed to be out of bounds for politics.

The chairman has done a great job of trying his best to get all of the information he can from the intelligence community, from the administration, from any other source that would be useful to the committee's work, and to bend over backwards, as the memorandum itself notes, for the members of the minority. I take my hat off to him for that and suggest that he should not be criticized for it; he should be praised for it.

He, too, has made the point that there is a point beyond which one just cannot go. When it appears that the other side has attempted to take advantage of your goodwill, as the chairman has done, he has got to say that is it; no more; this committee is not going to be used for partisan political purposes. That is what he should do, and I applaud him for that effort.

I also appreciate the comments of the distinguished majority leader in bringing this to the full body as he has done, to raise the critical questions and to simply ask for those responsible to step forward and acknowledge their responsibility and identify for whom this memorandum was written; for the responsible people, including the leadership of the Democratic minority, and certainly the leadership of the committee, to disavow the contents of the memo, the plan that has been written, and to make a public apology to the distinguished chairman of the committee.

I think those are very reasonable requests and, frankly, too many hours have passed since the first calls for disavowal. Yet the memorandum remains not disavowed.

I would like to take just a moment to try and explain why some of us feel so strongly about this. I served on this committee for 8 years. There is a rule that a Senator can only serve for 8 years because we never want this to become a politicized committee. We never want it to be a source where power is gathered around people who maintain their position. This is supposed to be a place where a Senator comes in, gets expertise, serves time, and then moves on. I had the honor and privilege of serving for 8 years.

One of the things that always stuck with me was the fact that it was not bipartisan, it was nonpartisan. The staff was selected primarily from the intelligence community, people who were experts in matters of intelligence. When I first came in, I said I had a member of my staff who used to be with the Intelligence Committee. He has the top clearances, and I would like to have him on staff to help me on this committee. Bob Kerrey, the former Senator from Nebraska and distinguished former chairman referred to by Senator ROBERTS, made the point at the time: No, we cannot do that because we do not want there to be any suggestion that there is influence in the committee from the private staff of individual Senators. This is professional intelligence community staff, and if it ever were thought to be otherwise, we would never get the cooperation of the intelligence community providing us with secrets that are the most significant, important secrets of our Nation.

Our committee staff of the Select Committee on Intelligence has the complete knowledge of the most significant, serious secrets of this country. They have to be above reproach. Think for a moment what would happen if it were perceived that they were political staff just like all the other committees. There is nothing wrong with political staff, but we all understand they have a substantive and a political dimension to the work that they do. We all operate within that understanding. But here, think about what a Senator could do knowing all of these secrets if they decided to use them for partisan political advantage.

I can state unequivocally that I could have gone out and criticized the Clinton administration with things I knew, and people on the committee today could probably go out and criticize the current administration for things that they know. It would be very hard to respond to that because the only response is to use similarly classified information to respond.

We cannot get into that game. No one would share information with the intelligence committee if they felt that it could be used for political purposes. Indeed, what foreign country or other sources would be willing to provide information to our intelligence community with the understanding that it might go right to a partisan political committee of the Congress? It could not be done.

I was interested to go to Great Britain and visit with Parliamentarians who only recently obtained oversight, like the Intelligence Committee oversight of the United States, over intelligence activities of the executive branch of their government. Now, understand they are a parliamentary form of government so the distinction is not nearly as bright as it is in the United States, but they sought advice from us as to how they could best do oversight of this important intelligence function.

They were interested in how we were able to get these deep dark secrets of our country into the legislative branch of government when in the past they had always been the sole province of the intelligence community and the executive branch. One of the explanations was because we were trusted. We were not a partisan committee like the other committees.

Well, this memorandum and the conduct of the staff in this particular case begins the process of destroying that credibility and that trust and thus eliminating, any prospect that this committee can operate in a successful way in its oversight function. That is why this is such a big deal.

I mentioned former Senator Kerrey. I would also mention former chairmen of the committee, Senators SPECTER and SHELBY, both of whom spoke to this issue a couple of days ago and recounted how in their experience they had never seen anything like this during their time as chairman and noted that they could not possibly function as a committee if there were a perception that the committee was being used for political purposes.

I might note one other thing just as an aside. I wrote additional views, along with the distinguished chairman of the committee, today to the report that the Intelligence Committee issued at the end of last year about the events leading up to September 11, 2001. One of the reasons that those other views are not as eloquent as I would have liked them to have been is that we had to draft them very quickly, after the report was done, after we knew what its conclusions were. We were able to read through it, and the Senator from Kansas and I noted that we did not totally agree with everything—more precisely, there were other things that we thought should have been said in that report, and we hastily put together our additional views and got them attached to the report. I hope they are helpful for people who read that report and our additional views.

We did not come to a conclusion before that report was done, before the committee's work was done, that no matter what that report said, we were going to attach additional views and be critical of the report. We could not have done that because we did not know what it was going to say.

That is what this memorandum suggests is the plan of these Democrat staffers, that irrespective of what the report says the Senator from Kansas will oversee the issuance of in the next few weeks, they plan to attach additional views castigating the majority. I will quote that in just a second. That is a misuse of the process and that is the kind of thing that we are talking about.

I would just finally note in this regard, the report that the committee is working on now is the second of three major reports. First, the committee put out the report at the end of last year. Then there is the followup report that is being done right now on the intelligence leading up to September 11 and leading up to the conflict in Iraq, and finally the Kean commission, which is also going to be issuing a report on the same subject. So all three investigations overlap in one way or another to ask the question about the adequacy of our intelligence pre-September 11 and pre-Iraqi war. It is not as if this subject has not gotten a lot of attention.

The public might be a little confused about what this memorandum actually says. I just wanted to note finally what this memorandum says. It begins by saying:

> We have carefully reviewed our options under the rules and believe we have identified the best approach. Our plan is as follows.

So this is not a recitation of options. This is a statement that they reviewed the options and this is what they came up with: The plan, "our plan is as follows." It clearly is written for someone who understands fully what the idea was.

Our options for what? It would have to be options for something that the recipient of the memo already understood. It says:

> First, pull the majority along as far as we can.

That is the distinguished chairman of the committee.

> Pull the majority along as far as we can on issues that may lead to major new disclosures regarding improper or questionable conduct by administration officials.

In other words, a fishing expedition. Let us see how long we can string this out and maybe we will get lucky and come up with something. In fact, they say it right here: " . . . We don't know what we will find," and then there is a parenthesis at the end of this paragraph that I find very interesting. "Note: we can verbally mention some of the intriguing leads we are pursuing."

No, you cannot, not under the committee rules. It is absolutely forbidden.

What is in that committee is confidential. You cannot verbally mention some of the intriguing leads that "we are pursuing."

Second:

> Assiduously prepare Democratic "additional views . . ."

That would be appropriate if the report is already done, but what does it say?

> . . . to attach to any interim or final reports the committee may release.

In other words, it doesn't matter what the committee says. We'll write these views ahead of time and attach them.

> . . . we intend to take full advantage of it,

it said.

> Our additional views will also, among other things, castigate the majority for seeking to limit the scope of the inquiry.

The majority has not done anything yet but, by golly they are going to be castigated for this.

Third:

> Prepare to launch an independent investigation when it becomes clear we have exhausted the opportunity to usefully collaborate with the majority.

I like that phrase. I think that reveals a malevolent intent here. Then:

> . . . we can pull the trigger on an independent investigation. . . . The best time to do so will probably be next year. . . .

They then talk about the advantages or disadvantages of doing it at that time. They note that:

> We could [under the second view here] attract more coverage and have greater credibility in that context than one in which we simply launch an independent investigation based on principled but vague notions regarding the "use" of intelligence.

It concludes:

> . . . we have an important role to play in revealing the misleading—if not flagrantly dishonest methods and motives—of the senior administration officials who made the case for a unilateral, preemptive war. The approach outlined above seems to offer the best prospect for exposing the administration's dubious motives and methods.

This is political. This is staffers who have already prejudged. They cannot believe President Bush. There must be bad, dishonest motives. It is their mantra, and I think they think it is their duty to expose and blame the Bush administration. Yes, it is political, but in their view it is a higher calling. Bush must be exposed, so any method is acceptable, so the end justifies the means even if it risks destroying the intelligence committee.

These staffers should know better because they are senior staffers, presumably. That is the kind of people who get hired on this committee. But it is wrong to put partisan politics above national security and certainly the members of the committee know better. That is why the majority leader is absolutely correct in calling upon them to disavow this memorandum, which puts partisan politics ahead of national security.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, let me initially state I have the highest respect for PAT ROBERTS, with whom I served for a number of years on the Ethics Committee. I served with him in the House of Representatives. I also have the highest respect and the deepest admiration for JAY ROCKEFELLER, a man who has devoted his life to government and who, as I have indicated, I admire greatly.

But the American people must understand this memo that has been talked about was somehow stolen from the offices of Senator ROCKEFELLER and his people who work in the Intelligence Committee. It was purloined—I used the word stolen—and then made public by the majority. I think one of the things we should consider here, in addition to what is in the memo, is how this information was taken. How it was obtained and how that came to be is something the Intelligence Committee should really be concerned about because, as a number of Senators have spoken about this afternoon, the information that is spoken of in the Intelligence Committee, the memos, letters, and other information that is in the Intelligence Committee, has to remain secret. It has to be something that is within the confines of that office.

That wasn't done in this instance. All you need to do is compare the situation where, just a few weeks ago now, information was leaked from somewhere within the confines of the White House to Robert Novak, a distinguished columnist in the Washington area, and that information was obviously leaked in an effort to get even with Ambassador Wilson. How did they intend to get even with Ambassador Wilson for questioning how the war came to be in Iraq? How were they going to get even with him? They were going to disclose the name of his wife who was a CIA agent. By her name being made public, not only could it lead to her physical harm but harm to the people with whom she had intelligence contacts all over the world. Where is the hue and cry about this?

I have been terribly disappointed over the last several days about what is happening in the Senate. There were speeches this afternoon accusing Senators who are not here to defend themselves and who are only trying to do what they think is right for national security—it may not be right, but they think it is—of being unpatriotic. That makes me feel even sadder.

The American people should understand, what we have here is an investigation being conducted by the Intelligence Committee. It is a very important committee. I acknowledge everything that has been said by the Senators here this afternoon. It is very important. But the minority believes the investigation should be more than looking at what the civil servants did; that is, the CIA itself, and should be looking at not only what the civil servants did but what the policymakers did.

I voted for the first gulf war. I voted for the second gulf war. I have no regrets about having done either. But I am very interested in how we got to the situation we are in.

I said we can win the war, but can we win the peace? I want to know about how the policymakers made the statements they did.

I think it is also of note, as my friend, the distinguished Senator from Arizona, indicated, he did file the same views—he and Chairman ROBERTS. In this report, on page 4 in their views I quote:

> Because the fundamental problems that led to 9/11 are almost certainly rooted in poor policy and inadequate leadership, the investigation should have delved more deeply into conflicting interpretations of legal authorities, including presidential directives, budget allocations, institutional attitudes, and other key areas. Only penetrating these areas will tell us how policymakers, including Congress, contributed to the failures the Report identifies.

So as I understand this memo, which was stolen from the Intelligence Committee—I don't see anything wrong with their asking for more information and how we should start looking at the policymakers, not just the bureaucrats.

On page 17 of the report, Senators ROBERTS and KYL said:

> The failures that led to 9/11 occurred not only in the intelligence community. The [Joint Inquiry] was selective about what threads of inquiry it was willing to follow beyond the intelligence community.

So they were asking for what I understand the memo asked for.

Rather than talking about the Intelligence Committee being landlocked, blocked, I think they should just go ahead and do their report, enlarge it, and include this information.

Last night on this floor and earlier today I tried to get permission from the majority to pass military construction. The conference report should have been passed. We are not doing that. We could do it right now. I also tried to pass the Syria Accountability Act. I understand procedurally why on the Syria Accountability Act the majority may want to hold it over. An hour and a half is plenty of time, but the appropriations bill has no time on it. I can't understand why we will not do that.

Talk about political grandstanding, we now learn that starting next Wednesday at 6 o'clock we will spend 30 hours talking about judges.

I ask unanimous consent that the debate time for discussion on judges, which we have all learned is going to be 60 hours, be divided and controlled equally between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object, Mr. President, it is interesting to me; comments have been made over the course of the day that there was some attempt to figure out how time would be divided, and I believe the allegation has been made that had been discussed with me before. We have not gotten to that point yet. So I am a little bit surprised about some of the statements which were made earlier.

As we discussed the judicial issue and the filibusters that are ongoing, which are unprecedented—partisan filibusters in this country on the judicial nominees—I do think it is critically important that we have the opportunity on both sides to be heard. The plans will be, after we finish the appropriations process over the next several days, that at that point in time we will turn to the judicial nominees. We will be debating two nominees who haven't yet been considered on the floor of the Senate. The intention has been made very clear that the Members on the other side of the aisle will filibuster. Therefore, I look forward to an active debate between both sides of the aisle. We would be happy to talk to the Democratic leadership about how the time will be divided.

Mr. REID. Mr. President, I withdraw the unanimous consent request and express my appreciation for hearing that at a later time the leader will determine how he feels the time should be allotted. I am glad he is thinking about some allocation of time to the minority.

I also say that my friend from Arizona raised questions and made statements about the 9/11 Commission of which Governor Kean is chairman. Of course, that has a number of people on it, such as Senator MAX CLELAND. But as we have read from the press accounts, even Governor Kean, a Republican, is concerned about the lack of information.

From the 9/11 Commission, Governor Kean has indicated publicly that he may go to as far as issuing subpoenas to the White House to get the information he hasn't gotten yet.

If we are talking about divulging information, one of the things that we need to talk about is what has gone on in preparing this intelligence report between the White House and the Intelligence Committee which is supposed to be sacrosanct in itself.

Numerous questions have been raised about what the intelligence community told the Bush administration about the threat posed by Saddam Hussein and how administration officials used this information in the days leading up to the war with Iraq.

What was the factual basis for the administration's assertion that Iraq attempted to acquire uranium in Niger?

What was the factual basis for the administration's assertion that there were concrete ties between Saddam Hussein and al-Qaida?

What was the factual basis for the administration's assertion that Iraq posed an imminent danger to the United States?

What was the factual basis for the administration's assertion that if we did not act in Iraq, the so-called smoking gun would be a mushroom cloud?

In all the speeches, not one of my colleagues has suggested that these are not legitimate questions for congressional inquiry. That is because each of us recognizes that we need a strong, independent intelligence community to win the war on terrorism.

In order to answer these questions, we need to understand both what intelligence told the administration about these issues and how the administration used that information.

Both issues have important implications for national security, and both issues should be thoroughly examined by Congress.

Nevertheless, the Intelligence Committee chairman rejected the Armed Services Committee chairman's proposal to conduct a joint investigation.

My friend, the senior Senator from Virginia, asked for a joint inquiry by the Armed Services Committee and Intelligence. But that didn't come to be, even though we all know it was a good idea.

At the same time that he was rejecting these entreaties from members of both parties, press reports indicate that the majority was meeting with the White House, as I have already indicated, to discuss how to proceed on matters that affect the intelligence community.

I don't think it should come as a surprise to anyone who knows these issues that some in this body who are concerned about our national security have seen their pleas ignored by the majority. They have been frustrated.

It is difficult for Members in this position to understand why the majority would refuse to explore the questions that I have outlined only briefly—questions which we all agree need to be answered if we are to succeed in this war on terrorism. We all agree that these are important questions. We all agree the committee has authority to look into these issues.

While we are posing questions for each other here, my question is this: Why isn't the Intelligence Committee looking at both what the intelligence community knew and how the administration used that information?

Again, the memo that is the subject matter of the discussion here today was not leaked by anyone we know. In fact, we believe—and I think there is credible evidence to indicate—that it was stolen, purloined, and then made public. It wouldn't have been made public but for the majority.

Doesn't the minority have a right, in the secret confines of the Intelligence Committee room, to have pieces of paper there that aren't going to be pilfered by the majority? The staff allocation is very unfair. Some say it is about 30 to 3. But in spite of that, those 30 should have better things to do than to pilfer through the records of the minority.

I have the greatest confidence in Senator ROBERTS and Senator ROCKEFELLER. I think we should get back to the business of this Intelligence Committee. We should get back to it, and I hope they will broaden the investigation. If they decide not to broaden the investigation, as the memo indicated—and I have only read little bits and pieces of it; I haven't studied the memo—then there are things the minority can do to bring this out because the issues that I have raised should be made public.

I hope these two fine Senators—the Senator from Kansas and the Senator from West Virginia—will work together as they have so well and not let this stolen memo hurt the deliberations of this most important committee, the Intelligence Committee.

I apologize to the majority leader. I know he is a busy man. I am sorry I took so long to respond to the remarks made by others here today.

Mr. FRIST. Mr. President, we are about to wrap up here in just a couple of minutes.

But just from my standpoint, based on the comments that have been made, we still have no one disavowing the contents of the memo or the intent of the memo. All I ask at this juncture is, Who wrote it? Who was it intended for? Who was the recipient?

Second, I ask for someone to stand up and disavow either the intent or the content of the memo.

Third, an apology to the chairman, who it certainly seems to me there is an intent to in some ways embarrass and subtract from the integrity he has brought to that committee.

Those three things.

Just to respond very briefly about some other business, we share the minority whip's concern about getting our business done. I have mentioned that November 21 is the target date for us to adjourn.

I am pleased that we have been able—speaking to the legislation that we mentioned—to lock in a time agreement on Syria accountability. It was a priority of mine. It is a priority on my side of the aisle, and on the other side of the aisle. And I can assure our colleagues that it will be done early next week. I am not sure exactly what that date would be but sometime early next week. There are Members on both sides of the aisle who desire to speak on the Syria Accountability Act. I urge them to be available early next week, Monday or Tuesday, or they might not get that opportunity. I understand both sides of the aisle want to progress quickly to this important piece of legislation, the Syria Accountability Act.

On MILCON, I am prepared to move on that conference report. If the minority whip is willing, I am prepared to lock in a 20-minute time agreement to allow the managers to make short statements and then to allow us to finish that measure. I ask the Democratic whip if he would allow us to proceed to that when we proceed to the conference report, that it be considered, and that a short time agreement be part of that agreement.

Mr. REID. Reserving the right to object, I ask that the consent be modified to allow the statements to be made after the bill passes today. We would pass it today, and people could have more than 20 minutes next week to speak on it all they want. This matter should be passed immediately.

Mr. FRIST. Mr. President, as I said earlier, I renew my request as made because it is very important that people who have worked very hard on MILCON, out of respect for them and those managers, be here and they make the appropriate speeches and response in support of this bill.

Mr. REID. Reserving the right to object, does the leader have the time in mind when he would bring this up?

Mr. FRIST. Mr. President, we would bring it up the early part of next week.

Mr. REID. As I have indicated, I want it passed tonight. People in Nellis Air Force Base and Fallon can do without speeches. It should be passed now. If it will not be passed now, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, as you can tell, we have a very busy week next week. I will comment a little bit more on the schedule shortly and we will be doing MILCON and Syria as well as many other things over the next several days.

PARTIAL-BIRTH ABORTION

Mr. LAUTENBERG. Mr. President, I rise to discuss something that struck me as downright chilling when I saw it yesterday in the paper. It was the signing of the so-called partial-birth abortion bill. I want to show a picture as it appeared—as I first saw it in the Washington Post. I challenge anybody: Find a woman in that picture. We even broadened it to a larger picture, and once again I issue the challenge: Find a woman in this picture. There are 10 men, not 1 woman in that picture.

This picture represents the most sweeping attack on women's rights in 30 years. What do we see? We see a group of gleeful men, smiles across their faces. We don't see the picture of the women who are frightened to death about what can happen if they need to make a decision to protect their health, in the company of their doctor.

This gleeful group is watching President Bush sign away women's rights. Look at the image—not a woman on the stage. Does anybody doubt about how the population splits 50–50 between the two genders? But here, in these two pictures, it is all men, and it is downright frightening.

It has been said that a picture is worth a thousand words. When women across America picked up the paper or watched the news and saw this image, it spoke volumes. This photo says to women: Your right to make choices about your health and your body is being taken back from you.

I am the proud father of three daughters and five granddaughters. I don't want the men in these pictures making decisions for my daughters or my granddaughters when it comes to their health and their well being and their families' well-being. Thank goodness, all of my children have children. They have wonderful families. But they have to take care of those families. If their health is jeopardized by a pregnancy or a disease, I want them to be able to take care of it.

Not here. These men will make your choices for you.

I am old enough to remember a time when women were not permitted to make choices, when women couldn't hold certain positions in society. There was a time when women couldn't vote. We have made great strides forward to advance women's rights, and one of those rights is the right to choose. But look at this picture. These fellows are eager to snatch those rights away from women.

The absence of women on the stage says something. Make no mistake. We have more than a dozen women in the Senate. I don't know what the count is in the House. Not one of them stood on this floor during the debate and defended that law that was passed and signed so smugly at the White House. I call this a "malegarchy" and this photo captures the essence of the "malegarchy" women live under today.

If we keep going backwards, maybe it will be possible our women will live like they do in parts of the Middle East and have to wear burqas. The men will decide.

I think it is shameful. It is embarrassing to see this image in the 21st century in the United States of America. Have we entered a time warp? In some ways we have. Ultra right-wing conservatives who control this Congress and control the White House are more in line with the thinking of the 19th century than the 21st century.

The conservatives today speak of "traditional family values" and protecting marriage. Those are their buzz phrases, but you look back in history and what you see here is a repeat of the same themes constantly used to keep women subservient. I couldn't get away with that in my household.

In 1914, during the battle over the women's right to vote, there was a group called the Nebraska Men's Association Opposed to Women's Suffrage—that was the title of the organization. It was organized in 1914. The group published a document expressing its reasons for opposing women's suffrage. The association claimed if we give women the ability to vote, to make electoral choices, then that would lead to "attempts to change home and marriage." Does that sound familiar? It is the same rhetoric we hear today. In this picture, it is the same rhetoric being used at this bill signing.

We also hear about the "culture of life." What about the woman's life? What about her health? This law does not include a health exception. What if a woman's health is in danger? What if her life is ultimately threatened by complications stemming from the pregnancy? And where is the culture of life when that fetus is born? Where is the culture of life for children who have been born?

Earlier in this Congress, the anti-choice conservatives led the fight against the child tax credit for low-income working families. Where are the family values in that? Where is the culture of life in that?

How about nutrition for those children? How about education for those children? How about health care for those children?

We have seen "no" vote after "no" vote on funding these programs for making our children healthier and brighter and more productive.

I was pleased to see the Federal courts in Nebraska and New York issue injunctions against this unconstitutional abortion law. The vast majority of legal scholars predict this law will be easily overturned, based on Roe v. Wade, and it should.

The famed American suffragette Elizabeth Cady Stanton said "men want their rights and nothing more, but women want their rights and nothing less." As we can see with the signing of this bill, women's rights are still under attack. We must not settle for anything less than full reproductive rights for women in America.

CONGRESSIONAL PORK

Mr. MCCAIN. Mr. President, I would like to address an article that appeared on the front page of Roll Call on Thursday, November 8. The title of the article was "McCain Breaks Own Pork Rule," and it addressed my efforts, as a member of the Senate Armed Services Committee, to secure authorized funding—I emphasize authorized—for land acquisition at Luke Air Force Base in Arizona. Sadly, the headline was misleading and the article itself was simply inaccurate.

As my colleagues know—and I see my colleague from West Virginia in the Chamber—for many years I have made it a point to carefully scrutinize the annual appropriations bills which are, in my view, wasteful porkbarrel spending. I have specific criteria for identifying these projects which are very clear. Simply put: If an item is requested by the administration or properly authorized, I do not object to it and I do not consider it a porkbarrel project. Having said that, let me address the situation discussed in the Roll Call article.

The authorization for funds for the land acquisition at Luke Air Force Base was included in both the House

Armed Services Committee markup of the fiscal year 2003 Defense authorization bill and the fiscal year 2003 authorization conference report, and in the Senate Armed Services Committee markup of the fiscal year 2004 authorization bill. As a member of the authorizing committee, I readily admit I worked hard to procure the authorized funds necessary for the land acquisition. As all of my colleagues are aware, authorizing the expenditure of Federal funds before appropriating them is the proper process. It is the way we are supposed to do things in this body.

As no one disputes, the authorization bill includes a provision for the Luke land acquisition. It will be adopted by both Chambers and signed into law by the President. I cannot recall a Defense appropriations or Military Construction appropriations markup occurring after the Defense authorization bill conference report was signed into law. As my colleagues know, appropriators have only the Senate-passed authorization bill to use in determining whether projects proposed for inclusion in their markup are authorized.

Simple fact and not my opinion—I emphasize, it is a fact, not my opinion—rule XVI of the Standing Rules of the Senate expressly acknowledges that Senate bills that were previously passed in the current session authorize appropriations. The rule states in part that:

> The term unauthorized appropriation means an appropriation (1) not specifically authorized by law or Treaty stipulation unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session. . . .

That is exactly what happened with the authorization bill. Therefore, the Senate considers it authorized when the authorization bill passes the Senate, not when the conference report is signed into law. Again, this is a standing rule of the Senate, not an arbitrary decree of my own. I have never objected to an appropriation on the grounds that while it was authorized in the Senate-passed bill and was accepted by House and Senate conferees, the conference had yet to finish its work. I consider such an appropriation to be authorized while consistent with Senate rules and the fact that the report had yet to be voted only a technical formality.

The article also suggested that I requested from the Military Construction Appropriations Subcommittee an unauthorized earmark for Luke Air Force Base. That suggestion is simply not true. I categorically deny ever approaching any member of the Appropriations Committee in order to request funding for this project, or any other project for that matter. It just simply didn't happen.

If there is any member of the Appropriations Committee who will come forward and say that I did, I would be very interested, because it didn't happen.

The fact is, when I was approached by the chairman of the Senate Military Construction Appropriations Subcommittee, who informed me that if I wanted the money authorized for Luke included in her subcommittee's markup, I would have to send her a letter requesting it, I firmly refused to do so, noting only in conversation with the chairman that the money had been authorized and that the appropriators should follow that instruction.

I believe strongly, as every Member of the Senate knows, that appropriators should follow the instructions of the authorizing committees. And no one should have to write a letter requesting it. I never have.

It has come to my attention that three different members of the Appropriations Committee told the Roll Call reporter responsible for this article that I approached them and requested this funding. Again, this is not true. I challenge any member of the House or Senate Appropriations Committee to come forward and prove I made any such request.

I have with me a letter to the editor of Roll Call from Tom Schatz, president of Citizens Against Government Waste. As my colleagues know, Citizens Against Government Waste is a very well respected and nonpartisan government watchdog organization. I have worked with them for many years, and I am proud of our joint efforts to combat wasteful spending. In the letter Mr. Schatz says:

> Citizens Against Government Waste (CAGW) is concerned about the accuracy of the article, "McCain Breaks Own Pork Rule," that Roll Call published on November 6. [Citizens Against Government Waste] is dedicated to hunting down pork-barrel projects in every appropriations bill. In fact, CAGW's fiscal Congressional Pig Book contained 9,362 pork-barrel projects. Senator John McCain has been the leading voice in the Senate trying to stop this egregious practice. As for the $14.3 million for Luke Air Force Base mentioned in your article, Sen. McCain has assured us he did not request any unauthorized fund from any member of the appropriations committee.
>
> We have worked closely for many years with Senator McCain in our joint effort to combat wasteful government spending. He believes that spending provisions, particularly defense-related projects, be contained in the Department of Defense authorization bill. Senator McCain serves on the Senate Armed Services Committee, and he readily admits that he worked hard to ensure that funding for Luke AFB was included in the Senate DOD authorization bill. The timing of the authorization versus appropriations bills is a red herring in this story, designed to make it appear that Senator McCain has violated his own rules on pork barrel spending.
>
> Sincerely,
>
> Tom Schatz, President, Citizens Against Government Waste.

Mr. President, I regret I had to take the time of the Senate to address this issue. I feel it is important for my colleagues to know the truth. I know very well if I violated my own rules, it would get a lot of publicity and longevity. I have not done that in 17 years, and I will not. That is why I come to the floor today to correct what was written in that article.

I have been very diligent in ensuring my office never violates the same standards for appropriations to which I have long insisted my colleagues adhere. I did not do so in this case and I will not do so in the future. I appreciate the indulgence of my colleague from North Dakota.

I yield the floor.

TANKERS

Mr. MCCAIN. Mr. President, I commend the Chairman of the Senate Armed Services Committee, the senior Senator from Virginia, Senator JOHN WARNER for putting the Committee on Armed Services back on the map of relevancy and like any sea captain with a steady hand decisively changing the course of the committee from just a debating society. I believe that the Appropriations Committee will think twice before they try to pull this off again. This began in September 2001 when Secretary Roche, the Boeing Company and the Appropriations Committee decided to lease 100 Boeing 767 tankers and go around the traditional budget process at the Pentagon, go around the Secretary of Defense, go around the Office of Management and Budget, go around the authorizing committee—(SASC)—and insert a $30 billion new start lease of 100 Boeing 767 aerial refueling tankers into the Department of Defense Appropriations Act for Fiscal Year 2002—without a single hearing, debate, or vote.

However, late yesterday afternoon Secretary Wolfowitz sent a letter to the defense committees which would enable the SECAF to sign a contract for the requisition of 100 tankers now, and to buy 80 of them on delivery.

This language has negative financial and budgetary implications. Importantly, it will provide that lease-unique disbursements, such as construction financing—$7.5 million per plane—lease administration costs—costing up to $5.5 million per plane; FAA certification—which would be considerable and yet unnecessary when the Air Force owns the planes; and other costs such as operating expenses for any special-purpose entity extend to the order of 80 tankers—which the SECAF will buy.

In addition, the USAF will not be required to set aside money now for the purchase of these tankers. So, when the tankers are built, the USAF will have to come up with the cash to pay for them. But, at that point, the temptation will be simply to extend the lease and not convert to a buy when the time comes to do so. So, this proposal puts no pressure on the USAF to make choices before starting to build planes number 21–100. Instead, it will have Congress over a barrel to pay for planes already built under the tanker lease regime. Thus, as is the case under the original lease proposal, the USAF will get its tankers in a way that defers the payment burden to someone else at some unspecified point in the future.

This is what we were trying to originally avoid.

The language we agreed to late last night is clear and would unequivocally prevent the USAF from leasing more than the 20 tankers.

And more importantly will prevent "costs that are unique to this lease arrangement . . . costs for issuing the bonds required to finance the lease or the construction of the tankers, operating expenses for the special-purpose entity, lease administration fees, FAA certification costs, etc." apply to the subsequent 80 aircraft.

The Air Force will be forced to, just like the other military services do, obtain budget authority before placing an order for the purchase of tankers or before Boeing spends any money for the construction of those planes. Because this will require the USAF to pay at the time of order, make progress payments and acquire the tankers under two separate contracts, as it should, potential savings could be as much as $5.2 billion according to unofficial CBO estimates.

Remarkably, the key threshold issue of corrosion remains an open issue. CRS still believes that, to date, the DOD has not provided a thorough corrosion assessment as the SASC asked for. And, the two reports that Secretary Roche cited as updating the Economic Service Life Study, ESLS, which concluded that the current fleet is viable to 2040, are in no way comparable in sophistication, depth or scope. So, to date, the DOD has produced, despite numerous requests, any data or analysis that invalidates the conclusions of the ESLS.

The November 5, 2003, letter from the Deputy Secretary of Defense to Chairman WARNER is disturbing. In this letter, the DOD describes how it intends to proceed acquiring tankers under the legislative language agreed upon by the conferees 2 days ago. In particular, it indicates that the DOD intends to sign the current contract for the acquisition of all the tankers now and not obtain requisite budget authority until the out-years to fund the purchase of the tankers.

According to the letter, the DOD will fund its purchase of the 80 tankers by adding $3.8 billion in the out-years to "achieve[] an immediate start to the program and allow [for the] purchase [of] the last 80 aircraft at time of delivery."

There are several problems with this:

It seems inconsistent with the plain language of the bill that the conference has agreed upon—that the USAF buy up to 80 aircraft under a multi-year procurement/incremental funding methodology.

It will likely result in the proposals being scored as a $18 billion "direct purchase."

It suggests that taxpayers will be stuck with unnecessarily having to pay for construction financing costs at a premium open-market rate and other lease-unique disbursements.

It is unabashedly similar to what the USAF intended to do under the original contract to lease 100 tankers, and I appreciate that we now have a commitment, as Senator WARNER said on the floor of the Senate, that would put this program back into the traditional procurement process, this program back into the traditional budget process, and this program back into the traditional authorization process.

I yield.

TRIBUTE TO DR. S. KING SANDERS

Mr. BROWNBACK. Mr. President, I rise to honor Dr. S. King Sanders, who passed away October 30, 2003. I hope my colleagues will join me in expressing condolences to his family in this great loss.

King Sanders left a worthy and memorable legacy for his wife, Rose; his children, Courtney and Michael, and other family members and friends to remember him by. He was a vocational Christian minister for 30 years, working as a director of missions and then a pastor in New Mexico for 20 of those years. During the last 14 years of his life, King also worked in the public policy arena. He served as liaison to the New Mexico legislature on behalf of that State's Baptist convention for eight years. Beginning in 1997, he worked here in Washington for the Ethics & Religious Liberty Commission of the Southern Baptist Convention.

His behind-the-scenes work in our Nation's Capital supported the efforts of the ERLC and others to make this country all it should be. He used his abilities and position in the effort to protect all human life, from conception to natural death. King worked to help expand religious freedom to all people in this country and around the world. He was concerned about marriages and families, and sought to strengthen them and protect them from the ravages of harmful forces in our culture. He also worked earnestly to motivate citizens to become more involved in the political process.

For King, relationships were foremost. He loved people and served them in many ways. He constantly expressed concern for others, even in the midst of the health problems that plagued him near the end of his life. His love for others and his concern for their welfare were based on his relationship with God by faith in Jesus Christ.

King Sanders was the best of what this country is all about. He wanted America to be a great force for good in the world, and he wanted the lives of Americans to be blessed. All who knew him will miss him, and we pay tribute to his influential life and legacy.

I yield the floor.

NEW TERMINAL AT ABERDEEN REGIONAL AIRPORT

Mr. DASCHLE. Mr. President, I would like to speak about an important ceremony occurring this Veterans Day in my home town: the dedication of a new terminal at Aberdeen Regional Airport.

Community leaders have chosen Veterans Day for this event because the terminal will be called the War Memorial Building. It will be located on the grounds of Saunders Field, named for General LaVerne Saunders, a World War II hero from Aberdeen.

A plaque inside the new building proclaims:

> The City of Aberdeen dedicates this building and sculpture to the brave men and women who served and continue to serve to protect the values we all cherish: freedom, justice and democracy.
>
> The War Memorial sculpture recognizes the courage they have shown and continue to show in the service of our great nation. They will never be forgotten.
>
> Let us reflect on the past and hope that we might learn as a world to live in peace.

Those words are a fitting tribute to our nation's heroes, past and present, and are especially fitting in a year that has seen a new generation take up arms in defense of the homeland. Aberdeen is one of the communities that has been touched by the largest call-up of South Dakota Guard and Reserve troops since World War II.

This terminal was constructed with funds from the Federal Aviation Administration, State and local government, and a Senate amendment to the fiscal year 2001 transportation appropriations act. I remain grateful to Senator FRANK LAUTENBERG, former ranking member of the Transportation Appropriations Subcommittee, for helping me secure $2.5 million in that legislation. The Senate funds completed the financing for this project and allowed it to move ahead without further delay.

The project is a step into the future for one of the busiest airports in South Dakota. It replaces a 50-year-old facility, providing improved security measures, additional ticket counter space, and expanded baggage claim areas. It will improve access for disabled passengers. It will shorten the time that planes spend taxiing, thus resolving a long-standing problem of flight cancellations due to wing icing. Given the critical role that airports play in economic development, I also see this new terminal as a long-term investment in Aberdeen's prosperity.

This project required a great deal of hard work and dedication, and I would like to thank some people who made it possible: Mayor Tom Hopper, the airport board and staff, the Aberdeen City Commission, the Brown County Commission, the Aberdeen Chamber of Commerce, architects Herges Kirchgasler Geisler & Associates, engineers Helms and Associates, Transportation Director Dave Osborn, and former airport managers Tom Wylam and Rebecca Hupp.

This facility is a wonderful tribute to America's veterans, and a valuable asset for the people of northeastern South Dakota. Congratulations, Aberdeen, on another job well done.

BJORN SELINDER

Mr. REID. Mr. President, I rise today to express my congratulations and warm wishes to Bjorn Selinder as he retires from his position as Churchill County Manager in the State of Nevada.

Bjorn, affectionately known as "BJ", has led a selfless life as a public servant, friend, husband and father. Born in Goteborg, Sweden, Bjorn, his brother and his parents immigrated to the United States in the early 1950s and moved to Minneapolis, MN.

After Bjorn graduated from Southwest High School, he ended up in California where he met the love of his life, Judy Moffatt. Soon after he met her, they married in 1996 and later moved to Nevada in 1973 to raise their children and start a family business.

Bjorn originally went to Churchill County looking for a short-term job. Twenty-seven years later, he is one of the longest serving county managers in the State of Nevada.

When he first joined Churchill County in August of 1974, his duties were coordination and planning activities and acting as assistant to the county manager. A short 2 years later, BJ became the Churchill County manager.

Prior to moving to Fallon, Nevada, Bjorn received his bachelors degree in management science from Sierra Nevada College and did post graduate work at the University of Nevada Reno.

He worked in the aerospace and ordinance industries when he lived in southern California and Minneapolis. He also came to Churchill County with an understanding about how to run a small business.

Throughout Bjorn's life as a public servant, his wife Judy has been the rock on which he leans. With the road of retirement stretching before them, they plan to spend time with their three grandchildren and their two daughters, Kristen and Majken. I am sure BJ will also put in a few hours on the lovely Fallon golf course.

Bjorn Selinder is leaving his job, but he's not leaving the community. As he goes about his new life, I hope he will take time every day to look around at the county he helped create, and know that his work is appreciated.

I congratulate Bjorn on a job well done and wish him an enjoyable retirement.

VOTE EXPLANATION

Mr. NELSON of Nebraska. Mr. President, I ask that the following information be printed in the RECORD. I was unavoidably absent for rollcall votes on Thursday, October 30, 2003 as I was attending a funeral in Omaha, NE. As a result, I would ask that the RECORD reflect the following:

On vote No. 419, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 420, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "nay."

On vote No. 421, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "nay."

On vote No. 422, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 423, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 424, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 425, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 426, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 427, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 428, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 429, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 430, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "yea."

On vote No. 431, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "nay."

On vote No. 432, if present and voting, the Senator from Nebraska (Mr. NELSON) would have voted "nay."

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In pronouncing sentence on 21-year-old Yitzak Abba Marta, Circuit Judge William Storey told the court, "this was nothing more than a hate crime . . . this person was killed because he was gay." Marta was convicted for the 1996 beating and strangling death of Alan Fitzgerald Walker, a transvestite. Marta and an accomplice picked up Walker outside of a gay nightclub while he was dressed as a woman. Police were called to Walker's home 3 days later when neighbors became suspicious of his disappearance. Not only had he been absent, but the tires on his car had been slashed, and there were notes on his door. Police found Walker's body in his bedroom with "KKK" scrawled in blood on an adjacent wall.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

UNIVERSAL SERVICE

Mr. JOHNSON. Mr. President, the Senate Committee on Commerce, Science, and Transportation held a hearing last week on the Universal Service Fund, USF, and I would like to take a few moments to share with my colleagues some thoughts on this topic. As many of my colleagues know, the survival and strength of this fund is critically important to providing affordable, state-of-the-art telecommunications services to rural and high-cost areas. Without universal service support, many residents in South Dakota and other rural areas would not have the opportunity to share in the benefits of quality telephone and data services.

I have recently cosponsored S. 1380, the Rural Universal Service Equity Act of 2003, which would change the formulas that determine the distribution of universal service high-cost funds among nonrural telephone companies. I believe this legislation is necessary to address an inequity in the current formulas limiting the amount of high-cost support so called nonrural companies such as Qwest receive from the USF. While I am pleased that under this legislation, South Dakota would receive more support than it currently does, I am mindful that it does so at the expense of other States and Puerto Rico.

Under the current USF system, although Qwest provides telephone service to many South Dakota residents, including some in very rural and high cost areas, it receives no universal service support from the high-cost model for operations in South Dakota. This has the practical effect of forcing Qwest to keep rates in other areas of my State higher than they otherwise would be in order to subsidize service in the high cost areas.

Although I support this legislation, I recognize that it does not address the more fundamental issues threatening the sustainability of the universal service fund. The entire universal service system is jeopardized because of a shrinking contribution base and increased demands. Without addressing these fundamental problems related to the viability of the system as a whole, the change in the formulas as proposed in S. 1380 will have limited value.

I urge my colleagues to work in a bipartisan manner to help assess and develop comprehensive solutions to the many outstanding and emerging issues that confront the universal service program. We can do no less if we truly believe in the underlying principles of this longtime national policy that has proven so vital to both our economic and national security.

FDA CBER RESEARCH ACTIVITIES FUNDING

Mr. BENNETT. Mr. President, the fiscal year 2004 Agriculture, Rural Development and Related Agencies Appropriations Act includes appropriations for the Center for Biologics Evaluation and Review of the Food and Drug Administration to continue important vaccine and biological product research activities. Support of these research activities is essential for keeping CBER scientists and medical reviewers up-to-date and knowledgeable of the breakthrough science of vaccine and biological product research and development. Being involved in this cutting edge research better equips CBER scientists and reviewers with the best scientific-based tools for reviewing and regulating the safety and efficacy of live-saving vaccines and other biological products.

During our subcommittee and Committee deliberations, many colleagues shared my concerns about the emergence of SARS, West Nile Virus, monkey pox, antibiotic resistant staphylococcal infections in hospitals, and other naturally-occurring infectious diseases in the U.S. I believe there is a need to expedite the development and licensing of new vaccines and biologicals to protect our citizens from these naturally-occurring infectious diseases. As with recent efforts and increased appropriations to augment research, regulatory testing and scientific capabilities of the FDA to assist in combating bioterrorism threats, I endorse FDA's continued support of those capabilities at the Center for Biologics Evaluation and Research to combat the public health threats from naturally-occurring diseases. It is my view that continued support of these capabilities will better enable the Center to recruit and retain highly-qualified, motivated scientists and medical reviewers for vaccines and other biological products.

In past years, CBER scientists engaged in laboratory and clinical research, which greatly improved their understanding of the science, their mission of assuring the safety and efficacy of the products under review by FDA, the medical needs of patients, and alternative products available. This understanding resulted in a more efficient and rapid agency licensing processes for many new products, which presented complex scientific, medical and public health issues. For example, CBER reviewers deeply involved in relevant laboratory research were responsible for the complex yet expeditious regulatory review and licensing of the four combination diphtheria-tetanus-acellular pertussis (DTaP) vaccines and the four Hib (meningitis) conjugate vaccines during the last decade.

Past CBER research has significantly contributed to technology transfer and benefited the public through the development of assays and reagents, which would otherwise be too costly and time-intensive for industry to duplicate. This research has facilitated the expedited testing, development, and availability of several important licensed vaccines for the prevention of life-threatening pediatric diseases and is critical for others currently under development for licensing in the future.

Mr. President, I urge the Administration to provide sufficient funding in fiscal year 2005 for continued CBER research. These appropriations are essential for expediting not only the development and availability of licensed counter-bioterrorism vaccines and biological products, but also for those intended for the prevention and treatment of naturally-occurring infectious diseases, such as SARS, West Nile Virus and HIV–AIDS.

PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. LEVIN. Mr. President, 2 weeks ago, the majority leader indicated that before this session of Congress comes to an end, the Senate may consider the Protection of Lawful Commerce in Arms Act, a bill the New York Times has said "would give gun manufacturers and dealers a courthouse shield that tobacco and asbestos companies never had in being forced to come to terms with some of the damage their products inflict." While it now appears unlikely that the bill will be considered in the Senate this year, I would nevertheless like to express my concerns about it.

The bill would rewrite well-accepted principles of liability law, providing the gun industry legal protections enjoyed by no other industry. Some claim that this bill would prevent frivolous lawsuits and protect firearm manufacturers, dealers, and distributors from being held responsible for the actions of criminals. While most gun dealers and manufacturers may conduct their business responsibly, this bill would shield negligent and reckless gun dealers and manufacturers from legitimate civil lawsuits.

In fact, according to the Brady Campaign to Prevent Gun Violence and the Violence Policy Center, many meritorious cases could be dismissed under the bill. And according to a letter from University of Michigan Law Professor Sherman Clark, the case filed by the Washington, D.C. area sniper victims is among those that would not survive if the legislation were enacted. I ask unanimous consent that a copy of Professor Clark's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL,
Ann Arbor, MI, November 6, 2003.

DEAR MEMBERS OF THE UNITED STATES SENATE: As a professor of law at the University of Michigan Law School, I write to make two points regarding the legal implications of S. 1805, the "Protection of Lawful Commerce in Arms Act."

First, S. 1805 would represent a substantial and radical departure from traditional principles of American tort law. Though described as an effort to limit the unwarranted expansion of tort liability, the bill would in fact represent a dramatic narrowing of traditional tort principles by providing one industry with a literally unprecedented immunity from liability for the foreseeable consequences of negligent conduct.

Second, more specifically, and by way of illustration, S. 1805, as currently drafted, would mandate the dismissal of litigation currently pending against the dealer and manufacturer who are alleged to have negligently enabled John Allen Muhammed and Le Boyd Malvo to obtain the assault rifle used in the recent D.C. sniper killings.

S.1805 IS INCONSISTENT WITH TRADITIONAL PRINCIPLES OF TORT LAW

S. 1805, described as "a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others," would largely immunize those in the firearms industry from liability for negligence. This would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

It might be suggested that the bill would merely preclude what traditional tort law ought to be understood to preclude in any event—lawsuits for damages resulting from third party misconduct, and in particular from the criminal misuse of firearms. This argument, however, rests on a fundamental misunderstanding of American tort law. American law has never embraced a rule freeing defendants from liability for the foreseeable consequences of their negligence merely because those consequences may include the criminal conduct of third parties. Numerous cases from every American jurisdiction could be cited here, but let the Restatement (Second) of Torts suffice:

§449. TORTIOUS OR CRIMINAL ACTS THE PROBABILITY OF WHICH MAKES ACTOR'S CONDUCT NEGLIGENT

If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, *or criminal* does not prevent the actor from being liable for harm caused thereby. (emphasis supplied)

Thus, car dealers who negligently leave vehicles unattended, railroads who negligently manage trains, hotel operators who negligently fail to secure rooms, and contractors who negligently leave dangerous equipment unguarded are all potentially liable if their conduct creates an unreasonable and foreseeable risk of third party misconduct, including illegal behavior, leading to harm. In other words, if the very reason one's conduct is negligent is because it creates a foreseeable risk of illegal third party conduct, that illegal conduct does not sever the casual connection between the negligence and the consequent harm. Of course, defendants are not automatically liable for illegal third party conduct, but are liable only if—given the foreseeable risk and the available precautions—they were unreasonable (negligent) in failing to guard against the danger. In most cases, moreover, the third party wrongdoer will also be liable. But, again, the bottom line is that under traditional tort principles a failure to take reasonable precautions against foreseeable dangerous illegal conduct by others is treated no differently from a failure to guard against any other risk.

S. 1805 would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the one and only business in which actors would be free utterly to disregard the possibility that their conduct might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike any other business or individual, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. Under S. 1805, a firearms distributor could park an unguarded open pickup truck full of loaded assault rifles on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm.

It might appear from the face of the bill that S. 1805 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for "negligent entrustment." The bill goes on, however, to define "negligent entrustment" extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The "negligent entrustment" exception would, therefore, not permit any action based on reckless distribution practices, careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Anotehr exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 1805 would turn this traditional framework on its head; and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, under S. 1805 there could be no tort liability. Again, this represents radical departure from traditional tort principles.

S. 1805 WOULD REQUIRE THE DISMISSAL OF PENDING D.C. SNIPER LITIGATION

Litigation is currently pending in Washington State against the manufacturer and dealer from whom John Allen Muhammed and Leo Boyd Malvo obtained the assault rifle used in the D.C. area sniper killings. The lawsuit, brought on behalf of victims' families, alleges in essence that the defendants' negligent practices and inadequate security made this weapon available to Muhammed and Malvo. There is nothing innovative or cutting edge about this litigation; and it is certainly not based on any new or liability-expanding theory. Rather, it alleges straightforward negligence, and is analogous to the sort of case that might be brought against a contractor who leaves explosives unguarded at a construction site. Allegedly, the firearm in question was so poorly secured that 17-year-old Lee Boyd Malvo was able simply to pick it up and walk out of the store.

S. 1805, as currently drafted, would require the dismissal of this litigation. The lawsuit pending is a "qualified civil action" under the bill, because the harm came about through the "criminal or unlawful misuse of a firearm;" and the bill clearly provides that any such action "pending on the date of enactment of this Act shall be immediately dismissed."

None of the exceptions enumerated in the bill would operate to save the litigation currently pending in Washington State. It is not based on an alleged statutory violation, but on the alleged failure of the defendants to take due care to secure firearms. Nor does the litigation fit the bill's narrow statutory definition of "negligent entrustment." As noted, that theory would not apply in any event to the manufacturer or distributor, and would not apply to a seller in this case, whose alleged negligence consists not of supplying the rifle to a particular person, but in so failing to secure it that it was literally available to anyone who walked in the door.

My aim here is not to make a claim about the merits of the pending D.C. sniper litigation, but rather to illustrate the scope of S. 1805. Whether or not the defendants in that case were in fact so negligent in their keeping of firearms that they should be found liable for negligence under Washington State law is a question for the courts of that State. The important point here is that under S. 1805, those defendants would be free of liability no matter how careless they had been. It is for this reason that the bill would require the dismissal of that case. And it is this light that one can see the true scope and import of S. 1805. The bill, as currently drafted, would not simply protect against the expansion of tort liability, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort principles by precluding, or requiring the dismissal of, cases alleging traditional negligence liability.

Sincerely,

SHERMAN J. CLARK.

Mr. LEVIN. The two alleged snipers were both legally prohibited from buying guns, but through the apparent negligence of a gun dealer, they were able to obtain the military-style Bushmaster assault rifle. Reportedly, the gun dealer operated in such a grossly negligent manner that 238 guns inexplicably disappeared from its store. Among the missing guns were the alleged snipers' Bushmaster rifle. Several of the snipers' victims have filed a lawsuit against the dealer and others. Their case might not survive if this bill became law.

This bill would set a dangerous precedent by giving a single industry broad immunity from civil liability and depriving many victims with legitimate cases of their day in court. If it is enacted, other industries will almost certainly line up for similar protections.

Every single gun safety organization has expressed its opposition to this bill. This is special interest legislation. It should not be adopted.

THE LONG REACH OF THE HEAVY BOMBERS

Mr. JOHNSON. Mr. President, I rise today to draw my colleague's attention to an article published in the November 2003 edition of Air Force Magazine entitled "The Long Reach of the Heavy Bombers."

The article outlines the importance of our Nation's long-range bomber fleet, and in particular notes the increasing role the B–1 bomber is having in our national security planning.

I am extremely proud that Ellsworth Air Force Base in my State of South Dakota is home to the B–1 bombers and crews of the 28th Bomb Wing. Their contributions in Operation Iraqi Freedom were critical to our military success. Although B–1s flew fewer than 2 percent of the combat sorties in Operation Iraqi Freedom, they dropped more than half the satellite guided Air Force Joint Direct Attack Munitions, JDAMs, and maintained a 79 percent mission capable rate. The B–1s were assigned against a broad range of targets in Iraq, including command and control facilities, bunkers, tanks, armored personnel carriers, and surface-to-air missile sites. They also provided close air support for U.S. forces engaged in the field.

Given the demonstrated capabilities of the B–1 and its importance to our military, we need to continue to invest in the technological improvements that will maintain the B–1s role as the backbone of our bomber fleet. I am pleased that Congress enacted legislation earlier this year that will return 23 B–1s to the active inventory, and I look forward to working with the Air Force and my colleagues in the Senate to ensure that we provide the resources necessary to fully upgrade these planes.

I close by commending the men and women stationed at Ellsworth Air Force Base and thanking all of the members of our Armed Forces for their sacrifices on behalf of our Nation's security.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LONG REACH OF THE HEAVY BOMBERS

(By Adam J. Hebert)

In mid-2001, the B–1B was in trouble. Years of fiscal stringencies had left the bomber with a $2 billion modernization backlog, poor reliability, rising upgrade costs, and some major combat deficiencies.

Secretary of Defense Donald H. Rumsfeld, reflecting the prevailing view, charged the B–1 "is not contributing to the deterrent or to the warfighting capability to any great extent." Indeed, the purported backbone of the Air Force heavy bomber fleet seemed destined for the scrap heap.

Then, things changed, and, just two years later, the B–1B became one of the star weapon systems in Operation Iraqi Freedom. Just 11 aircraft deployed to the combat theater. However, commanders set up and maintained B–1B "orbits" that kept at least one of the B–1Bs in the air around the clock, ready to engage emerging targets with huge loads of precision weapons.

Mission capable rates soared, and modernization programs were funded and put back on track.

For the Air Force's long-range bombers, the wars in Afghanistan and Iraq provided some of their finest hours. Their performance in many ways validated the service's bomber investment programs. USAF's B–1, B–2, and B–52 bombers were heavily tasked and proved to be highly effective in the two recent wars—and turned in several combat "firsts."

As Air Force planners describe it, the B–1Bs served as "roving linebackers," circling the battlespace and waiting for a call instructing them to unleash deadly satellite guided Joint Direct Attack Munitions. B–1Bs and B–52Hs performed close air support strikes for ground forces, and the venerable B–52H, the last of which was built in 1962, delivered laser guided bombs using newly installed Litening targeting pods. B–2s used new deployable shelters and were "turned" at a forward location to perform additional combat missions.

At least once, B–7B, and B–52H aircraft all were employed in the same strike package.

NO SURPRISE

"It is no surprise that those aircraft and platforms were used in the way they were," said Maj. Gen. David A. Deptula, Air Combat Command's director of plans and programs. He said that the results of bomber usage over the past two years have confirmed what proponents of long-range strike capabilities had said for a long time: The range, payload, precision capabilities, and flexibility of bombers make them a superb weapon whose uses go well beyond mere "carpet bombing."

Gen. John P. Jumper, the Air Force Chief of Staff, offered one example of the new way of doing business. A combat controller in Afghanistan sent enemy coordinates "up to a B–52 at 39,000 feet, and the B–52 put laser guided munitions down" on a target that was only 1,000 feet in front of friendly forces.

"That's the effect of close air support," Jumper said. "You [didn't] see the airplane or feel the heat from the engines, but the precision was even better than we were able to do in Vietnam."

"This is not a surprise," Deptula said, noting that USAF decided years ago to push for improved bomber defensive systems, data links, and the ability to deliver smart weapons, all with an eye to making long-range systems effective in the future.

In the zero-sum game of defense budgeting, however, long-range strike has clearly suffered at times.

For example, DOD's response to the chronic underfunding of the B–1 fleet was not to fully fund the program but rather was to slash its numbers. USAF announced in 2001 that it would retire one-third of the B–1B fleet—dropping it from 93 to 60 aircraft—consolidate what remained at two bases, and use the savings to eliminate the $2 billion modernization backlog.

Some bomber partisans were up in arms, but the plan has worked, so far as it goes. Within the slimmed-down fleet, 36 B–1B aircraft were kept combat ready, with the other 24 in training status, depot maintenance, or test. That has been sufficient for the wars of recent years. Officials have long maintained that they would prefer a small fleet of effective aircraft to a large fleet of deficient systems.

The B–1B's MC rate—the percentage of aircraft ready to perform their primary mission at any given time—has increased steadily since the decision.

The Institute for Defense Analyses, a federally funded research center, determined back in 1995 that B–1B MC rates are heavily dependent upon sufficient spare parts, equipment, and personnel. Until the retirements began, the Air Force was never able to give the bomber the sustained support it required.

The B–1B MC rate has risen from 61 percent in 2001 to 66 percent in 2002 and 71 percent this year. For the bombers deployed in support of Gulf War II, the rate was even better—79 percent. (The B–2 and B–52 bombers supporting OIF posted MC rates of 85 percent and 77 percent, respectively).

This marks a dramatic turnaround. In the 1990s, B–1B mission capability typically slogged around 60 percent.

WHEN LINES BLUR

The line between strategic and tactical systems—never as distinct as it may have appeared—forever has been blurred, and the bombers have proved adept at flying "tactical" missions (while some fighters have proved equally adept at the "strategic mission"). Close air support is no longer the exclusive domain of the A–10 tank-killer aircraft. F–117 fighters carried out numerous strategic strikes in Baghdad and elsewhere. Officials point to this jumbling of operational use as a success in the shift to effects-based operations.

At times, B–1s were able to use moving target indicator radars to perform the functions normally reserved for dedicated intelligence-surveillance-reconnaissance (ISR) aircraft—an airpower first, according to U.S. Central Command.

Each bomber in the Air Force fleet now is capable of delivering JDAMs, which offer targeting flexibility. The JDAM cannot only hit fixed targets with near-precision accuracy in all weather conditions but also be quickly programmed to attack a fleeting "emerging target." One strike against Iraq's Republican Guard Medina Division required a B–2 to reprogram its JDAMs, en route to the target, to take advantage of new intelligence coming in from a Global Hawk unmanned aerial vehicle.

Toward the end of major combat, a B–1B orbiting above western Iraq showed the value of the Air Force's heavy bombers in a new way. Intelligence sources on the ground got a tip on the location of former Iraqi dictator Saddam Hussein. The information was beamed to a B–1B circling in the area. Just 12 minutes later, the target lay in ruins, though Saddam may have gotten out shortly before the roof fell in. After dashing to Baghdad and programming in the coordinates, the B–1B had precisely dropped four 2,000-pound JDAMs where Saddam was thought to be.

In addition to deploying 11 B–1Bs, Air Force leaders reported they sent to war four B–2s and 28 B–52s. These 43 aircraft flew a total of 505 sorties between March 20 and April 18, but, as was true in the Afghan war, the bombers' impact was out of all proportion to their numbers. One official noted that at third of all the aim points struck in Iraq were hit by that small bomber force.

Jumper made special note of the bomber impact in the now famous sandstorm that struck Iraq March 25. "You couldn't see your hand in front of your face," he said, and war commentators began to ponder the significance of the "pause" in the war.

"While the commentators were rattling on," said Jumper, USAF's bombers and other aircraft were at work. With the Air Force's ISR systems able to see through the sand, and GPS-guided weapons unhindered by the weather, "B–1s and B–52s were up there pounding the heck out of [the Medina Division]," Jumper said. "I'd like to ask the commander of the Medina Division when he thought the pause was."

"AMAZING" POWERS

Gen. T. Michael Moseley, who led the allied air war, had another anecdote on the effectiveness of long-range systems. From the United States, a B–2 stealth bomber for the first time delivered 80 500-pound bombs in a single run.

Moseley said the ability to fly from Whiteman AFB, Mo., and drop those 80 weapons against an Iraqi troop concentration was "an amazing capability to bring the [commander's] quiver."

The success of the bombers in Iraq and Afghanistan has not dramatically changed the Air Force's plans for the aircraft. Because the Air Force has used only a small number of bombers in recent wars, USAF planners still say the existing bomber inventory will be adequate until around 2038. Also helpful is the fact that only one bomber was lost in the two major combat operations. In December 2001, a B–1B, doomed by numerous onboard failures, crashed in the Indian Ocean on its way to Afghanistan.

The Air Force believes an inventory of 60 B–1Bs (36 combat coded); 21 B–2s (16 combat coded); and 76 B–52s (44 combat coded) will suffice.

"About 150 bombers is the right number," said Brig. Gen. Stephen M. Goldfein, USAF's director of operational capability requirements. There has been "no sea change in the number of bombers required," because of recent experience, Goldfein said. The Air

Force's inventory plan "includes some reserve," he added, but the preferred number remains stable.

In recent years, lawmakers have often disagreed and pushed for larger numbers of bombers. There have been several unsuccessful attempts to restart B–2 production, with proponents saying the aircraft could be produced much less expensively now that the research and development expenses are already paid.

Citing the lack of any new bomber production, Congress for years has been successful in forcing the Air Force to maintain 18 attrition reserve B–52s that the service considers surplus. A total of 94 B–52Hs remain in service, although only 44 are considered primary mission aircraft.

Congress, led by North Dakota lawmakers, has added funds needed to keep 18 BUFFs at Minot AFB, N.D., configured exactly the same as the rest of the B–52 fleet. Goldfein noted that, despite the service's interest in retiring the 18 aircraft, doing to wouldn't save the Air Force any money. Congress pays the bill, so the savings would be for the taxpayers.

Congress also may force the Air Force to restore some or all of its recently retired B–1Bs. By late summer, three of the four Congressional defense oversight committees had passed legislation mandating that 23 of the 32 deactivated Bones be restored to service.

In the bills, lawmakers offered the $20.3 million needed to bring the B–1s back from the boneyard—but not the much larger amount required to keep the B–1Bs in service. Officials say this unfunded mandate threatens to undo the progress the Air Force has made improving the health of the B–1B fleet.

It would likely cost somewhere between $1.1 billion and $2 billion to keep those aircraft in service through the end of the decade. That funding "has to come from somewhere," Goldfein noted.

The existing arrangement of consolidating the B–1Bs at Ellsworth AFB, S.D., and Dyess AFB, Tex., has enabled the increased mission capable rates through simplified maintenance and parts requirements. Fully funding the smaller fleet's modernization plans brought on a "host of improvements," Goldfein added.

INCREMENTAL UPGRADES

With no new bomber production on the books, and old debates over restarting B–2 production or pursuing an FB–22 variant of the F/A–22 Raptor seemingly on the back burner, the current emphasis is on incremental upgrades. Numerous programs to improve bomber effectiveness are ongoing.

Situational awareness improvements, the Link 16 data link, laser targeting pods, and computer enhancements will continue to make each bomber a more efficient war machine. And upcoming weapons such as the Joint Air-to-Surface Standoff Missile and the Small Diameter Bomb will further broaden the range and number of targets bombers can precisely attack.

ACC officials say that, at this point, almost every improvement serves a dual purpose. Upgrades are expected to both sustain and modernize. Sustainment doesn't just mean keeping the aircraft aloft, either—the aircraft must remain valuable fighting machines. "We're looking at 2040," one B–52 official said. "Unless we can come to the war, they won't need us."

The Air Force is trying to get additional targeting pods on its B–52s, Deptula said. "We're looking at using [Fiscal 2003 and 2004 funds] to get as many targeting pods as we can," by using money set aside for the war on terrorism.

Goldfein said the service is interested in increasing the availability of the B–2's deployable shelters. Because of the sensitive low observable finish on the B–2, the bomber must be maintained in a climate-controlled-shelter. Deployable shelters, reportedly set up at the Indian Ocean atoll of Diego Garcia, increased the flexibility of the B–2 for Gulf War II. The Air Force is "looking to expand" their use, Goldfein said.

As Air Force officials tell it, existing bombers will continue to get better and there is no urgent need to field a new system. Recapitalization is "a huge piece" of force structure planning, Deptula said, but USAF has some time to make proper assessments and make wise decisions.

The old way of procurement—planning a new system to replace an old one—"isn't completely gone." Deptula said, "but the fact of the matter is, with respect to the long-range strike platforms formerly known as bombers, their lifetime is viable for many, many years into the future."

The Air Force does not expect to see a dramatic technological breakthrough anytime soon. However Deptula believes that hypersonics research now being done at Air Force Research Laboratory may hold the key to breakthrough strike capabilities in the future.

TRANSITION PERIOD

"We are in a transition period . . . when it comes to technologies for long-range strike," he said. Reusable hypersonic propulsion has been difficult to develop, he noted, but it remains worth the effort because the technology offers revolutionary responsiveness, reach, and range. "We're not there yet," Deptula noted.

Improvements to existing systems are expected to bridge the gap until scientists "solve some of these technological challenges that will get us to the next step in potential capability," he said.

In Deptula's view, the break-through will not come until sometime in the next decade. That timing seems to mesh cleanly with financial realities.

"Our legacy platforms are viable through 2025," said Deptula, "and when we enhance them with all these modifications, they are going to continue to increase in capability." It's a nice fit, he went on, because major funding for future long-range systems probably won't be available "until the 2010–2020 time frame, because we have such a pressing need to recapitalize our fighter force in the next decade."

The Air Force is holding to its November 2001 bomber roadmap, which laid out a notional plan to begin a new long-range strike program sometime around 2012–15. Officials say there is no need to rush into a new strike program, because USAF would spend billions developing a system that may not be significantly better than what is available today.

Features such as stealth, high speed, long loiter time, large payload capacity, and flexibility are well-understood goals for any future strike capability. However, there is great uncertainty. Officials are loath to say a follow-on system will be a "B–3" or even a bomber.

Industry, think tanks, and Air Force officials are all studying what is within the "art of the possible," and USAF wants to keep the broadest possible range of options on the table. These options include traditional bombers, unmanned systems, hypersonic air-space vehicles, conventionally armed ballistic missiles, and even space-based weapons. Current time-lines give the Air Force a decade to explore the options.

ACC's Long-Range Global Precision Engagement Study—a look at future strike requirements—noted that the US is pushing for a capability to conduct high-speed strikes against emerging targets anywhere in the world on short notice. However, it has limited options in this area. Conventional ballistic attack missiles, derived from the nation's nuclear ICBM force, "offer increased strike flexibility," but the financial and political cost would be high, the report noted.

Another area for improvement concerns stealth. The B–2 bomber's low peacetime MC rates stem from the high-maintenance nature of its low observable coatings. The aircraft is also largely relegated to nighttime use in high-threat environments. Yet the B–2 remains the only stealthy strike system largely unhindered by distance or basing concerns.

In the future, the F/A–22 and F–35 fighters will offer around-the-clock stealthy strike capability, noted the study, but the B–2 will continue to be the only stealthy, deep strike penetrator for the foreseeable future. The F/A–22 and F–35 have more limited combat ranges.

The study did not advocate a specific course. However, it did highlight the importance of speed. The advent of hypersonic weapons and platforms would permit "prompt global strike from significant ranges and reduce the risks associated with forward basing," the report noted. Compared to ballistic missiles and cruise missiles, it went on, reusable platforms have high utility "in all lesser threat scenarios, enhancing their cost-effectiveness across the spectrum of conflict."

ADDITIONAL STATEMENTS

TRIBUTE TO MARGARET ANN HOFFMAN

• Mr. BUNNING. Mr. President, I pay tribute to Margaret Ann Hoffman of Walton, KY on being recognized as one of America's top principals in the 2003 National Distinguished Principal Program by the U.S. Department of Education.

The annual National Distinguished Principals Program was established in 1984 to honor elementary and middle school principals who set high standards for the pace, character, and quality of the education their students receive.

Ms. Hoffman, a principal at Fort Wright Elementary School, in Covington, KY, has been recognized by the U.S. Department of Education for her tireless work in exhibiting excellence at Fort Wright Elementary School and has made outstanding contributions to the Covington community. Ms. Hoffman sets an example of excellence for the rest of the faculty, and the faculty follows that example. She inspires her students to achieve academically and contribute to the community.

I know ask my fellow colleagues to join me in thanking Margaret Ann Hoffman for her dedication and commitment to the education of America's future. In order for our society to continue to advance in the right direction, we must have principals like Margaret Ann Hoffman in our schools, and communities, and lives. She is Kentucky at its finest.●

IN HONOR OF MIKE ELWOOD

● Mr. WYDEN. Mr. President, I rise today to acknowledge and honor a very important constituent, as well as a very important program in my State and across the Nation—CASA for Children. "CASA" is short for Court Appointed Special Advocate, and it is a program that is made up of extraordinary men and women who find it in their hearts to devote their time and energy to help some of the neediest of their community's children. CASAs come from all walks of life, all professions, and all educational and ethnic backgrounds, and their mission is to advocate for the best interests of children who find themselves, through no fault of their own, under the jurisdiction of the juvenile court system.

As we see all too often in public service, far too many children find themselves enmeshed in the juvenile court system due to abuse, neglect or abandonment. Once in the court system, these kids can find themselves cruelly buffeted by legal battles and their parents' continuing poor choices. Some find themselves in multiple foster care situations at a very young age, and many are eventually permanently removed from the care of their birth parents. CASAs serve their communities by becoming an independent advocate for a child as a sworn officer of the court. They spend time with health professionals, teachers, parents, prospective parents, and the children themselves to help the court reach the best possible conclusion for the interests of the child.

CASA came to Oregon in 1985 under the leadership of Judge Stephen Herrell and citizen advocate, Susan Holloway. For Almost 20 years, CASA has trained Oregon volunteers to be the eyes and ears of the court, making independent objective recommendations regarding the best interests of children.

In Oregon, we have a CASA leader who personally exemplifies the very best of my State in his legacy of commitment to the future of Oregon's children. Mike Elwood, who has been both a CASA volunteer and a CASA supervisor in Portland, has served variously as a counselor, advisor, and friend to many of my State. Mike once served as a caseworker in the child welfare system, but later came to CASA because he believed it would be the place where he could make the biggest difference.

Today, Mike suffers from a terminal illness. The CASA organization and all of Oregon has been extraordinary fortunate to have him in their ranks. Mike's co-workers describe him as compassionate, funny, possessing a quiet wisdom, able to interject just the right solution when it appears to elude everyone else, and an inherently decent guy. One CASA represented the feelings of a great many in the organization, saying, "I for one feel blessed to have him in my life. He is the best."

I want to take this opportunity to honor Mike's contributions to my State, to the Nation, and to humanity, and to wish Mike, his wife Natalie, and his two children, Ryan and Andrea, peace and joy in the days ahead. I have witnessed first-hand the ripples that emanate from simply human acts, good and bad. These ripples can reach across families, across borders, and across generations. Mike's ripples have made this world a far better place. I honor his dedicated service and his life, as well as the service rendered by CASA workers and volunteers all across our Nation.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:58 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1829. An act to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations, and for other purposes.

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker, were signed on today, November 7, 2003, by the President pro tempore (Mr. STEVENS).

H.R. 1442. An act to authorize the design and construction of a visitor center for the Vietnam Veterans Memorial.

H.R. 3365. An act to amend title 10, United States Code, and the Internal Revenue Code of 1986 to increase the death gratuity payable with respect to deceased members of the Armed Forces and to exclude such gratuity from gross income, to provide additional tax relief for members of the Armed Forces and their families, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 11:40 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following joint resolution:

H.J. Res. 76. A joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The joint resolution was signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:45 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1588) "to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1829. An act to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize inmate work opportunities in support of non-profit organizations, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

S. 1832. A bill to entitle the Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5183. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5184. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–5185. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department's Alternate Fuel Vehicle Program; to the Committee on Energy and Natural Resources.

EC–5186. A communication from the, transmitting, pursuant to law, the report of a rule entitled "Assessment of Access Authorization Fees" (RIN3150–AH30) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5187. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Final Approval of Operating Program Revision; Michigan" (FRL#7585–3) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5188. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Prevention of Significant Deterioration (PSD) and Non-attainment New Source Review (NSR): Reconsideration" (FRL#7583–7) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5189. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Trade Secrecy Claims for Emergency Planning and Community Right-to-Know Information; and Trade Secret Disclosures to Health Professionals; Amendment" (FRL#7584–8) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5190. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Water Quality Standards; Withdrawal of Federal Aquatic Life Water Quality Criteria for Copper and Nickel Applicable to South San Francisco Bay, California" (FRL#7583–9) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5191. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Water Quality Standards; Withdrawal of Federal Nutrient Standards for the State of Arizona" (FRL#7584–1) received on November 4, 2003; to the Committee on Environment and Public Works.

EC–5192. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of the certification of a proposed license for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to Belgium; to the Committee on Foreign Relations.

EC–5193. A communication from the General Counsel, Office of Justice Programs, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "Common Rule on Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants)" (RIN1121–AA57) received on November 5, 2003; to the Committee on the Judiciary.

EC–5194. A communication from the Assistant Chief for Regulations, Alcohol and Tobacco Tax and Trade Bureau, Treasury Department, transmitting, pursuant to law, the report of a rule entitled "Bennett Valley Viticultural Area" (RIN1513–AA36) received on November 5, 2003; to the Committee on the Judiciary.

EC–5195. A communication from the Deputy General Counsel, Small Business Administration, New Market, transmitting, pursuant to law, the report of a rule entitled "New Market Venture Capital Program" (RIN3245–AE91) received on October 30, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5196. A communication from the Deputy General Counsel, Small Business Administration, New Market, transmitting, pursuant to law, the report of a rule entitled "Business Loans and Development Company Loans" (RIN3245–AE68) received on October 30, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5197. A communication from the Deputy General Counsel, Small Business Administration, New Market, transmitting, pursuant to law, the report of a rule entitled "Disaster Loan Program—Disaster Mitigation Act of 2000" (RIN3245–AE97) received on October 30, 2003; to the Committee on Small Business and Entrepreneurship.

EC–5198. A communication from the Director, Regulations Management, Veterans Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Veterans Education: Indecent Study Approved for Certificate Programs and Other Miscellaneous Issues" (RIN2900–AL34) received on October 30, 2003; to the Committee on Veterans' Affairs.

EC–5199. A communication from the Director, Regulations Management, Veterans Benefits Administration, transmitting, pursuant to law, the report of a rule entitled "Disease Associated with Exposure to Certain Herbicide Agents: Chronic Lymphocytic Leukemia" (RIN2900–AL55) received on October 30, 2003 ; to the Committee on Veterans' Affairs.

EC–5200. A communication from the National President, Women's Army Corps Veterans' Association, transmitting, pursuant to law, the annual audit of the Association; to the Committee on Veterans' Affairs.

EC–5201. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations [Including 245 Regulations]" (RIN1625–AA00) received on November 5, 2003; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany S.J. Res. 1, A joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims (Rept. No. 108–191).

By Mr. GRASSLEY, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to comply with the World Trade Organization rulings on the FSC/ETI benefit in a manner that preserves jobs and production activities in the United States, to reform and simplify the international taxation rules of the United States, and for other purposes (Rept. No. 108–192).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 237. A resolution welcoming the public apologies issued by the President of Serbia and Montenegro and the President of the Republic of Croatia and urging other leaders in the region to perform similar concrete acts of reconciliation.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. Res. 256. A resolution observing the 50th anniversary of the Mutual Defense Treaty between the United States and the Republic of Korea, affirming the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea, and thanking the Republic of Korea for it's contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 258. A resolution expressing the sense of the Senate on the arrest of Mikhail B. Khodorkovsky by the Russian Federation.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 1317. A bill to amend the American Servicemember's Protection Act of 2002 to provide clarification with respect to the eligibility of certain countries for United States military assistance.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By M. LUGAR for the Committee on Foreign Relations:

*Edward B. O'Donnell, Jr., of Tennessee, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

*Jon R. Purnell, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uzbekistan.

*Margaret DeBardeleben Tutwiler, of Alabama, to be Under Secretary of State for Public Diplomacy.

*Zalmay Khalilzad, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Transitional Islamic State of Afghanistan.

*Louise V. Oliver, of the District of Columbia, for the rank of Ambassador during her tenure of service as the United States Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization.

*William J. Hudson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

*Margaret Scobey, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

*Thomas Thomas Riley, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

*Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons.

*Mary Kramer, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

*Timothy John Dunn, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Deputy Permanent Representative to the Organization of American States.

*James Curtis Struble, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America of America to the Republic of Peru.

*Hector E. Morales, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank.

*Marguerita Dianne Ragsdale, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

*Stuart W. Holliday, of Texas, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

*Foreign Service nominations beginning Elena L. Brineman and ending Stephen J. Hadley, which nominations were received by the Senate and appeared in the Congressional Record on October 3, 2003.

*Foreign Service nominations beginning Kenneth C. Brill and ending Steven C. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on October 3, 2003.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SMITH:

S. 1839. A bill to extend the Temporary Extended Unemployment Compensation Act of 2002; to the Committee on Finance.

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. JOHNSON, Mr. BAUCUS, Mr. ENZI, Mr. KERRY, Mr. HARKIN, Mr. COLEMAN, Mr. REID, and Mr. NELSON of Nebraska):

S. 1840. A bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. GRASSLEY:

S. Res. 263. A resolution honoring the men and women of the Drug Enforcement Administration on the occasion of it's 30th Anniversary; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. KYL, Mr. CAMPBELL, and Mr. HATCH):

S. Con. Res. 79. A concurrent resolution expressing the sense of Congress that the President should secure the sovereign right of the United States of America and the States to prosecute and punish, according to the laws of the United States and the several States, crimes committed in the United States by individuals who subsequently flee to Mexico to escape prosecution; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 861

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 861, a bill to authorize the acquisition of interests in undeveloped coastal areas in order to better ensure their protection from development.

S. 1053

At the request of Ms. SNOWE, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Iowa (Mr. HARKIN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1053, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 1211

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1211, a bill to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes.

S. 1246

At the request of Mr. ROBERTS, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1246, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1419

At the request of Ms. LANDRIEU, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1510

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1510, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. CON. RES. 73

At the request of Mrs. FEINSTEIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. Con. Res. 73, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 262

At the request of Ms. SNOWE, the names of the Senator from New York (Mr. SCHUMER) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. Res. 262, a resolution to encourage the Secretary of the Treasury to initiate expedited negotiations with the People's Republic of China on establishing a market-based currency valuation and to fulfill its commitments under international trade agreements.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CONRAD (for himself, Mr. ROBERTS, Mr. DASCHLE, Mr. DAYTON, Mr. DORGAN, Mr. JOHNSON, Mr. BAUCUS, Mr. ENZI, Mr.

KERRY, Mr. HARKIN, Mr. COLEMAN, Mr. REID, and Mr. NELSON of Nebraska):

S. 1840. A bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CONRAD. Mr. President, today I am joined by Senators ROBERTS, DASCHLE, DAYTON, DORGAN, JOHNSON, BAUCUS, ENZI, KERRY, HARKIN, COLEMAN, REID, and NELSON of Nebraska in introducing the "Voluntary Public Access and Habitat Incentive Program of 2003".

Newspaper headlines across North Dakota over the past year confirm that one issue has emerged as among the most controversial that we have seen in the State in some time. That issue has to do with who can hunt in North Dakota, and under what conditions.

As one State senator said during the 2003 session of the North Dakota legislature: "In all my years in the legislature, I haven't gotten so many calls as [on] this one."

Some have called for stricter limits on the number of out-of-state sportsmen in order to provide greater hunting opportunities for North Dakota citizens. On the other side, many of the rural businesses in North Dakota whose livelihoods have come to depend increasingly on the dollars spent by non-resident hunters have urged a less restrictive policy.

An article earlier this year in a North Dakota paper began with the declaration that, "No bill has stirred more passion in people than Senate Bill 2048, which deals with capping the number of out-of-state hunters." One State legislator termed the debate over the bill, "civil war between residents of North Dakota fighting over hunting ground."

At its core, the hunting debate is about demand exceeding supply. Quite simply, the public desire for hunting and other outdoor recreation opportunities increasingly exceeds the amount of land available for such activities. And the problem is growing worse each year. Other States face a similar challenge, and they too are in a quandary as they seek to address it.

In response to this growing problem, I have been working with a number of my colleagues—as well as farm, conservation, and sportsmen's groups—to develop a positive, straightforward, voluntary and incentive-based approach to addressing the "supply side" of this issue. And I am pleased to be introducing that initiative today.

Our proposal is a voluntary landowner incentive program. Its formal title is the "Voluntary Public Access and Habitat Incentive Program of 2003". As the title indicates, it is strictly voluntary in nature.

It would work like this: Under the program—which I to refer to as the "Open Fields" proposal, the U.S. Department of Agriculture would provide $50 million per year to State programs that offer incentive payments to farmers and ranchers who agree to allow public access on their land, under terms established by each state.

The "Open Fields" program would be funded in the same way that Federal farm and conservation programs are currently financed—through USDA's Commodity Credit Corporation. To receive funding under the program, interested states would describe the benefits that the state hopes to achieve by encouraging public access on private farm and ranch land—through such activities as hunting, fishing, birding, and related outdoor activities—and the methods that the State will use to achieve those benefits.

In determining the distribution of funds under the program, USDA would give priority to those States that propose—1. to maximize participation by offering a program whose terms are likely to meet with widespread acceptance among landowners in the state; 2. to ensure that land enrolled under the state program has appropriate wildlife habitat; 3. to increase public access on land enrolled in habitat improvement projects under the Conservation Reserve Enhancement Program; and 4. to use other Federal, state or private resources, in a collaborative way, to carry out the program.

But participation by the States and individual land owners in each State would, as I have indicated, be completely voluntary.

In designing the "Open Fields" program, our aim has been to build on what works—to grease the wheel, rather than re-invent it. For example, about 13 States already have programs designed to increase the amount of private land available to the public, but these programs are generally modest in scope and suffer from limited funding. Our legislation is designed to give these struggling State programs a needed shot in the arm and to encourage other States.

In North Dakota, for example, we have the Private Land Initiative, under which revenue generated from the sale of habitat stamps is used to provide cost-share assistance for wildlife habitat, and to support the Conservation PLOTS program—PLOTS stands for "Private Land Open To Sportsmen." Under this program, owners agree to make their land accessible to the public in return for cost-share and incentive payments. Earlier this year, State officials made an additional $1.5 million available to increase public access on private land, in an effort to help diffuse tensions in the debate over resident versus non-resident hunters.

Other States have similar programs. Kansas, for example, has its "Walk-In Hunting" program. Montana has a "Block Management, Public Access/Private Land" program. Nebraska sponsors a Conservation Reserve Program/Management Access Program, under which landowners with CRP ground receive a bonus payment if they take steps to improve habitat and allow public access on their CRP land. Colorado recently implemented its "Walk-In Access" program, under which interested hunters purchase a $20 stamp that gives them access to private land enrolled in the program and a directory of participating landowners.

All of these are fine, innovative programs, but they lack the resources needed to meet the public's growing demand for places to hunt and engage in other forms of outdoor recreation.

Make no mistake about it, wildlife-related recreation is a major force in defining our national character and in shaping our economy. For example, according to the U.S. Fish and Wildlife Service, in 2001, 82 million Americans age 16 years and older participated in wildlife-related recreation. During that year, over 34 million people fished, 13 million hunted, and over 66 million participated in at least one type of wildlife-watching activity such as observing, feeding, or photographing wildlife in the United States.

According to the Fish & Wildlife Service, those 82 million people who engaged in wildlife-related activities spent an estimated $108 billion, including over $35 billion on fishing and nearly $21 billion on hunting. That's big business by any definition, and it is a slice of the national economy that is increasingly important to our rural communities and small businesses. In 2001 alone, for example, $20 billion was spent on food, lodging, and transportation by those who hunted and fished, while wildlife-watching participants, including birders, spent another $8.2 billion on those same items.

In North Dakota, wildlife-related recreation generated nearly $1 billion for the State's economy during the 2001–2002 season, according to the North Dakota Game and Fish Commission. The Commission estimates that direct spending by hunters and anglers laws $469 million during the season, generating nearly $545 million in additional economic activity. North Dakota ranks second in the Nation in terms of the percentage of the State's resident's who hunt, 19 percent, and fifth among States in the percentage of State residents who fish, 29 percent.

To underscore the importance of non-resident hunters to my State, the Fish and Wildlife Service estimates that North Dakota ranks third among States in the percentage of hunters in the State who are non-residents. The estimated 52,000 non-resident hunters in our State make up an estimated 37 percent of all hunters. Only South Dakota, 65 percent, and Colorado, 43 percent, rank higher.

In addition, there is ample evidence, from North Dakota State University and individual business owners, that the wildlife and hunting opportunities created by the Conservation Reserve Program have helped to cushion the economic impact first created when the CRP withdrew land from production and caused farmers to purchase fewer inputs and other services so important to our struggling rural communities. So it is critically important that we look for additional means to increase sporting opportunities for the public, and do so in a way that not only allows traditional farming operations to continue, but also increases a farm's income-earning potential. Our proposal would do just that.

All in all, this program will be good for farm income, good for conservation, good for our struggling rural communities, and a positive force in strengthening the bond between producers and the general public.

Finally, there are also broader policy reasons to move in this direction. For example, it is likely that future world trade agreements are increasingly going to limit the ability of the United States and other major agricultural producing countries to support our farmers in a way that is considered to be trade, or market, "distorting." In other words, U.S. policymakers are likely to find it more and more difficult to provide government farm support in a way that is tied either to production or prices. Instead, we will have to find so-called "green box" means of supporting farm income—payments that are not based on bushels produced or current commodity prices. That's clearly the direction that the European Union is taking, and we had better take notice. The program we are announcing today fits neatly in the current green box definition, and should be one of the many tools available to support farm income well into the future, even if new trade agreements constrain our farm policy options.

I am pleased that our legislation has already received the support of a number of farm, sportsmen, and conservation organizations, including the North Dakota Farmers Union, the North Dakota Farm Bureau, the National Farmers Union, the Theodore Roosevelt Conservation Partnership, the Wildlife Management Institute, the Izaak Walton League of America, the International Association of Fish and Wildlife Agencies, the Congressional Sportsmen's Foundation, the National Rifle Association, the Mule Deer Foundation, Pheasants Forever, the American Sportfishing Association, Pure Fishing, Trout Unlimited, Bass Anglers Sportsmen Society, the Ruffed Grouse Society, the Wildlife Society, the Pope and Young Club, the Federal of Flyfishers, the International Hunter Education Association, the Boone and Crocket Club, the Sporting Goods Manufacturers Association, the National Shooting Sports Foundation, the North American Grouse Partnership, the Texas Wildlife Association, and the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.

In closing, let me quote from one of news articles that appeared in a North Dakota paper last year.

Commenting on the controversy over the proposed change in the pheasant season opening date, the Bismark Tribune editorialized that, "On one extreme are landowners catering to out-of-state hunters, in part, because of weak and declining rural economies. For them, this is a matter of survival. On the other hand, many sportsmen feel that the growing numbers of acres dedicated to out-of-state hunters, willing to pay big bucks to hunt, are destroying the sport for the state's residents . . . The two sides are a long, long way apart."

My hope is that we can find ways to bring people together, and in the process strengthen our rural economy, encourage conservation, and preserve our hunting traditions for generations to come. And that's what this proposal is all about.

I ask unanimous consent that additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

November 6, 2003.

Hon. Kent Conrad,
Hon. Pat Roberts.

Dear Senators: We are writing to express our support for the Voluntary Public Access and Habitat Incentive Program Act of 2003, your legislation to establish state-administered, voluntary, incentive-based programs to expand public access to private lands.

In an era when more and more hunters and anglers are faced with "no trespassing" signs and more land is being converted to commercial hunting and fishing operations, this legislation is critically needed to expand access to places to hunt and fish.

This summer, Field and Stream magazine published the results of its 2003 National Hunting Survey. Based on that survey, Field an Stream concluded that a major reason for the decline of hunting in America is the lack of available habitat and access to that habitat. As representatives of outdoor enthusiasts that would benefit from greater access to private lands, we applaud your efforts to enact this new voluntary, incentive-based program. We estimate that your legislation, if fully funded, would encourage landowners to open up more than 10 million new acres of private land to the public each year, dramatically enhancing the experiences of hunters and anglers as well as bird watchers, hikers, and others who enjoy the outdoors.

A number of states already have established programs to work cooperatively with private landowners to pay for access to their lands. Kansas, South Dakota, North Dakota, Wyoming, Montana, and Nebraska all have very successful programs that open millions of acres of lands to the public each year, and several other states are initiating similar programs. These programs are popular with hunters and anglers as well as private landowners. In fact, due to a lack of financial resources, many states are unable to take advantage of the offers by private landowners to enroll in their access programs. By supplementing state resources that currently are being dedicated to this purpose, your legislation will provide additional income to ranchers and farmers, while expanding opportunities to hunters and anglers.

We look forward to working with you to enact this legislation as expeditiously as possible.

Sincerely,

Theodore Roosevelt Conservation Partnership.

Wildlife Management Institute.

Izaak Walton League of America.

International Association of Fish and Wildlife Agencies.

Congressional Sportsmen's Foundation.

National Rifle Association.

Mule Deer Foundation.

Pheasants Forever.

American Sportfishing Association.

Pure Fishing.

Trout Unlimited.

Bass Anglers Sportsmen Society.

Ruffed Grouse Society.

The Wildlife Society.

Trout Unlimited.

Pope & Young Club.

Federation of Flyfishers.

The International Hunter Education Association.

Boone and Crockett Club.

Sporting Goods Manufacturers Association.

National Shooting Sports Foundation.

North American Grouse Partnership.

Texas Wildlife Association.

United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada.

National Farmers Union,
November 6, 2003.

Hon. Kent Conrad,
Ranking Member, Senate Budget Committee,
U.S. Senate, Washington, DC.

Dear Senator Conrad: On behalf of the 300,000 family farmers and rancher members of the National Farmers Union (NFU), I write in support of your legislation to establish a voluntary incentive program to encourage farmers and ranchers to provide public access for hunting on their property where appropriate wildlife habitat is maintained.

We believe the "Voluntary Public Access and Habitat Incentive Program Act of 2003" can act both as an important supplement to existing state programs as well as an appropriate stimulus to create new opportunities in additional states. In addition, this program can help alleviate the potential conflict between landowners and the rapidly growing demand by hunters for increased access to rural lands by expanding the availability of private land where hunting is allowed.

Experience demonstrates that the rural impact of hunting on private lands can be an important contributor to rural economic development and provide a much needed boost to the incomes of farmers and ranchers as well as rural businesses. Your proposed legislation provides a unique opportunity to enhance the potential of hunting activities in our Nation's rural areas while ensuring that producer participation is voluntary and that contract terms are designed to achieve a high level of both local control and landowner acceptance.

We look forward to working with you and your colleagues to achieve passage and implementation of this incentive program.

Sincerely,

DAVID J. FREDERICKSON,
President.

S. 1840

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voluntary Public Access and Wildlife Habitat Incentive Program Act of 2003".

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the United States Fish and Wildlife Service, in 2001, 82,000,000 individuals in the United States aged 16 years and older participated in wildlife-related recreation, including 34,000,000 individuals who hunted, and more than 66,000,000 who engaged in wildlife-related recreation such as observing, feeding, or photographing wildlife, in the United States;

(2) individuals who participated in wildlife-related activities in 2001 spent an estimated $108,000,000,000, including—

(A) more than $35,000,000,000 on fishing;

(B) nearly $21,000,000,000 on hunting; and

(C) more than $28,000,000,000 on food, lodging, and transportation;

(3) the growing public demand for outdoor recreational opportunities is increasingly constrained by the limits on both public and private land resources;

(4) limited public access on private land has often frustrated and disappointed hunters and other naturalists, and undermined the relationship between land owners and the general public;

(5) several States have established successful but modest walk-in programs to encourage public access on private farm and ranch land, yet the demand for such voluntary access programs remains largely unfulfilled;

(6) traditional agricultural markets have in recent years offered limited income opportunities for farm and ranch land owners and operators; and

(7) current proposals to reform world agricultural trade favor the development of new methods to support the income of agricultural producers that have minimal impact on agricultural production and prices.

SEC. 3. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

(a) In General.—Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended by adding at the end the following:

"SEC. 1240Q. VOLUNTARY PUBLIC ACCESS AND HABITAT INCENTIVE PROGRAM.

"(a) In General.—The Secretary shall establish a voluntary public access program under which States may apply for grants to encourage owners and operators of privately-held farm and ranch land to voluntarily make that land available for access by the public under programs administered by the States.

"(b) Applications.—In submitting applications for a grant under the program, a State shall describe—

"(1) the benefits that the State intends to achieve by encouraging public access on private farm and ranch land, through such activities as hunting, fishing, bird watching, and related outdoor activities; and

"(2) the methods that will be used to achieve those benefits.

"(c) Priority.—In approving applications and awarding grants under the program, the Secretary shall give priority to States that propose—

"(1) to maximize participation by offering a program the terms of which are likely to meet with widespread acceptance among landowners;

"(2) to ensure that land enrolled under the State program has appropriate wildlife habitat;

"(3) to strengthen wildlife habitat improvement efforts on land enrolled in a special conservation reserve enhancement program described in 1234(f)(4) by providing incentives to increase public access on that land; and

"(4) to use additional Federal, State, or private resources in carrying out the program.

"(d) Relationship to Other Laws.—Nothing in this section preempts a State law (including any State liability law).

"(e) Regulations.—The Secretary shall promulgate such regulations as are necessary to carry out this section.".

(b) Funding.—Section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended by adding at the end the following:

"(8) The voluntary public access program under section 1240Q, using, to the maximum extent practicable, $50,000,000 in each of fiscal years 2003 through 2007.".

SEC. 4. PREVENTION OF EXCESS BASE ACRES.

Section 1101(g)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7911(g)(2)) is amended by striking subparagraph (C).

Section-By-Section Summary—Voluntary Public Access and Habitat Incentive Program of 2003

Sec. 1. Title: "Voluntary Public Access and Habitat Incentive Program of 2003".

Sec. 2. Findings: Describes—

(1) the importance of wildlife-related recreation of the U.S. economy;

(2) the growing demand for outdoor recreation activities such as hunting, fishing, and wildlife watching;

(3) the increasingly limited opportunities for the public to access private land;

(4) the modest hunter access programs begun in some states; and

(5) the need to identify WTO-compliant means of supporting farm income in the future.

Sec. 3. Establishes the "Voluntary Public Access and Habitat Incentive Program of 2003" and provides $50 million in Commodity Credit Corporation funds annually (2003–07) to States for the purpose of encouraging owners and operators of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by the States. Priority for funding under the program is given to those States that propose—

(1) to maximize participation by offering a program whose terms are likely to meet with widespread acceptance among landowners;

(2) to ensure that land enrolled under the State program has appropriate wildlife habitat;

(3) to strengthen wildlife habitat improvement efforts on land enrolled under the Conservation Reserve Enhancement Program; and

(4) to use additional Federal, State, or private resources in carrying out the program.

Clarifies that nothing in the bill preempts a State law (inclosing any State liability law).

Sec. 4. Repeals Sec. 1101(b)(2)(C) of the 2002 Farm Bill, a provision that USDA has interpreted to require that land enrolled under any State conservation program that prohibits the production of a crop be removed from a farm's acreage base for purposes of federal farm program benefits.

Mr. HARKIN. Mr. President, I am pleased to join Senators Conrad, Roberts and others in introducing the Voluntary Public Access and Wildlife Habitat Incentive Program Act of 2003. This bill offers an excellent opportunity to help conserve wildlife habitat, increase the amount of land available for outdoor recreational activities, and help farmers and ranchers.

Hunting and other outdoor activities are very popular and are an important part of our country's heritage. Unfortunately, the shortage of public land in some States limits the ability of people to enjoy these activities. Providing incentives to increase public access to private lands can enhance outdoor recreational opportunities and help rural economies.

In many rural areas businesses associated with wildlife recreation, such as sporting goods stores, campgrounds, and motels and hotels, are an important part of the economy. By increasing the lands available for outdoor recreation, not only will more local residents be able to enjoy this activity, but we will also encourage more people to visit rural areas, bringing additional revenue to these rural communities. When hunting, bird watching or hiking on accessible lands, visitors stay in local lodging, purchase goods in stores and eat in restaurants. The money generated from these activities is good for rural economies.

In many States, such as Iowa, many farmers and landowners have traditionally granted hunters and other outdoor recreationists permission to use their land when asked. This bill will help compensate owners and operators of farm and ranch land for their generosity and also encourage more of them to provide such access to their land. And, of course, this bill will benefit wildlife by encouraging landowners and operators to maintain, increase and improve habitat for wildlife.

In States access programs now operating, information listing enrolled private land is often readily available to allow recreationists to access the land without the need to bother the owners to ask for permission. Many existing programs also have the very important benefit of reducing the liability of landowners and operators in case of injury to people using their land. State programs also help ensure enforcement of hunting and other regulations and help landowners and operators posts signs and information.

Currently at least 13 States have public access programs that would be eligible for funds from this bill. While

Iowa currently does not have a program, there is great interest in starting a program, and I believe this bill will enable Iowa to start one. This bill provides flexibility to allow States to design programs to meet the particular needs and interests of landowners and recreationists in each State while at the same time ensuring that the goals of increasing wildlife habitat and available lands for public recreation are met.

I am proud to cosponsor this bill and urge my colleagues to support it.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 263—HONORING THE MEN AND WOMEN OF THE DRUG ENFORCEMENT ADMINISTRATION ON THE OCCASION OF ITS 30TH ANNIVERSARY

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 263

Whereas the Drug Enforcement Administration (DEA) was first created by executive order on July 6, 1973, merging the previously separate law enforcement and intelligence agencies responsible for narcotics control;

Whereas the first Administrator of the DEA, John R. Bartels, Jr., was confirmed by the Senate on October 4, 1973;

Whereas since 1973 the men and women of the DEA have served our Nation with courage, vision and determination, protecting all Americans from the scourge of drug trafficking, abuse, and related violence;

Whereas between 1986 and 2002 alone, DEA agents seized over 10,000 kilograms of heroin, 900,000 kilograms of cocaine, 4,600,000 kilograms of marijuana, 113,000,000 dosage units of hallucinogens, and 1,500,000,000 dosage units of methamphetamine, and made over 443,000 arrests of drug traffickers;

Whereas DEA agents continue to lead task forces of Federal, State, and local law enforcement officials throughout the Nation, in a cooperative effort to stop drug trafficking and put drug gangs behind bars;

Whereas throughout its history many DEA employees and members of DEA task forces have given their lives in the defense of our Nation, including: Emir Benitez, Gerald Sawyer, Leslie S. Grosso, Nickolas Fragos, Mary M. Keehan, Charles H. Mann, Anna Y. Mounger, Anna J. Pope, Martha D. Skeels, Mary P. Sullivan, Larry D. Wallace, Ralph N. Shaw, James T. Lunn, Octavio Gonzalez, Francis J. Miller, Robert C. Lightfoot, Thomas J. Devine, Larry N. Carwell, Marcellus Ward, Enrique S. Camarena, James A. Avant, Charles M. Bassing, Kevin L. Brosch, Susan M. Hoefler, William Ramos, Raymond J. Stastny, Arthur L. Cash, Terry W. McNett, George M. Montoya, Paul S. Seema, Everett E. Hatcher, Rickie C. Finley, Joseph T. Aversa, Wallie Howard, Jr., Eugene T. McCarthy, Alan H. Winn, George D. Althouse, Becky L. Dwojeski, Stephen J. Strehl, Richard E. Fass, Juan C. Vars, Jay W. Seale, Meredith Thompson, Frank S. Wallace, Jr., Frank Fernandez, Jr., Kenneth G. McCullough, Carrol June Fields, Rona L. Chafey, Shelly D. Bland, Carrie A. Lenz, Shaun E. Curl, Royce D. Tramel, Alice Faye Hall-Walton, and Elton Armstead;

Whereas many other employees and task force officers of the DEA have been wounded or injured in the line of duty; and

Whereas in its 173 domestic offices and 78 foreign offices worldwide the over 8,800 employees of the DEA continue to hunt down and bring to justice the drug trafficking cartels that seek to poison our citizens with dangerous narcotics: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Drug Enforcement Administration on the occasion of its 30th Anniversary;

(2) honors the heroic sacrifice of those of its employees who have given their lives or been wounded or injured in the service of our Nation; and

(3) thanks all the men and women of the Drug Enforcement Administration for their past and continued efforts to defend the American people from the scourge of illegal drugs.

Mr. GRASSLEY. Mr. President, it is with great pride that I honor and congratulate the Drug Enforcement Agency on its 30th Anniversary. This is an important milestone for the DEA and for our country. Over the last thirty years the men and women of the DEA have worked in communities around the Nation to improve the quality of life for all Americans.

The Drug Enforcement Agency was established on October 4, 1973, soon after John R. Bartles, Jr., was confirmed by the Senate as the DEA's first Administrator. Since then, the men and women of the DEA have continued to serve our Nation with courage and dedication in the face of great odds.

In recognition of this thirty year milestone, it is fitting that we pay tribute to the work and sacrifices of the men and women of the DEA and also acknowledge the organizations many accomplishments.

Currently the DEA operates 173 domestic offices and 78 overseas offices with over 8,800 employees. The DEA continues to lead task forces throughout our Nation's communities in a cooperative effort to control both the consumption and flow of illegal drugs.

Between 1986 and 2002, DEA agents seized over 10,000 kilograms of heroin, 900,000 kilograms of cocaine, 4,600,000 kilograms of marijuana, 113,000,000 dosage units of hallucinogens, and 1,500,000,000 dosage unites of methamphetamine, and made over 443,000 arrests of drug traffickers.

Let me also express my deepest thanks to the DEA for their work and commitment to protecting the communities of Iowa. Although Interstates 80 and 35 cross Iowa providing a ready smuggling route for many drug trafficking organizations, their work has had a tremendous effect on our efforts to squeeze the flow of illegal narcotics through the state. During 2002 the DEA participated in 28 highway interdictions in Iowa, leading to the seizure of approximately 56 kilograms of cocaine, 40.5 pounds of methamphetamine, 2,075 pounds of marijuana, and nearly $1.9 million in cash. Additionally they assisted in the seizure of 871 clandestine laboratories.

Throughout its history, the DEA has proven steadfast in their commitment to bringing drug traffickers to justice. Their service to our country has indeed made a tremendous difference in our nation's communities. However, these accomplishments did not come without a price. Many men and women of the DEA have given their lives and many others wounded and injured in the defense of our Nation.

I am pleased to submit a resolution honoring the men and women of the DEA on their 30th anniversary for their efforts to defend the American people from illegal drugs. I encourage my colleagues to join with me in congratulating and honoring the men and women of the DEA for their many accomplishments and sacrifices throughout their first thirty years. I have every confidence that these men and women will continue in that same tradition of excellence. To those in the DEA both past and present, I offer my sincerest gratitude for your courage, dedication, and service.

SENATE CONCURRENT RESOLUTION 79—EXPRESSING THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD SECURE THE SOVEREIGN RIGHT OF THE UNITED STATES OF AMERICA AND THE STATES TO PROSECUTE AND PUNISH, ACCORDING TO THE LAWS OF THE UNITED STATES AND THE SEVERAL STATES, CRIMES COMMITTED IN THE UNITED STATES BY INDIVIDUALS WHO SUBSEQUENTLY FLEE TO MEXICO TO ESCAPE PROSECUTION

Mrs. FEINSTEIN (for herself, Mr. BROWNBACK, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. BINGAMAN, Mr. DOMENICI, Mr. KYL, Mr. CAMPBELL, and Mr. HATCH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 79

Whereas, under the Extradition Treaty between the United States of America and the United Mexican States, signed at Mexico City May 4, 1978, and entered into force January 25, 1980 (31 UST 5059) (hereafter the "Extradition Treaty"), Mexico has refused to extradite unconditionally to the United States fugitives facing capital punishment;

Whereas the Mexican Supreme Court ruled in October 2001, that life imprisonment violates the Constitution of Mexico, and Mexico has subsequently repeatedly violated the Extradition Treaty by refusing to extradite unconditionally criminals who face life sentences in the United States;

Whereas numerous individuals have committed serious crimes in the United States, fled to Mexico to avoid prosecution, and have not been brought to justice in the United States because of Mexico's interpretation of the Extradition Treaty;

Whereas these individuals include the persons responsible for the April 29, 2002, murder of Deputy Sheriff David March, the July 17, 2000, killing of Officer Michael Dunman, the August 29, 1998, murder of 12 year old Stephen Morales, the April 9, 1999, attempted murder of Anabella Van Perez and the subsequent August 26, 1999, murder of her father, Carlos Vara, and the December 22, 1989, murder of Mike Juan;

Whereas attorneys general from all 50 States, the National League of Cities, and numerous elected officials, municipalities, and law enforcement associations have asked the United States Attorney General and the Secretary of State to address this extradition issue with their counterparts in Mexico;

Whereas United States Government officials at various levels have raised concerns about the extradition issue with their counterparts in Mexico, including presenting a Protest Note to the Government of Mexico objecting that Mexico's interpretation of the Extradition Treaty is "unsupported by the Treaty" and effectively "eviscerates" it, with few positive results; and

Whereas the Extradition Treaty, as interpreted by Mexico, interferes with the justice system of the United States and encourages criminals to flee to Mexico: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the President should address Mexico's failure to fulfill its obligations under the Extradition Treaty between the United States of America and the United Mexican States, signed at Mexico City May 4, 1978, and entered into force January 25, 1980 (31 UST 5059), by renegotiating the treaty or taking other action to ensure that the possibility that criminal suspects from Mexico may face capital punishment or life imprisonment will not interfere with the unconditional and timely extradition of such criminal suspects to the United States.

Mrs. FEINSTEIN. Mr. President, I rise to submit S. Con. Res. 795, a Senate concurrent resolution calling upon the President to address Mexico's failure to fulfill its obligations under the U.S.-Mexico Extradition Treaty, which entered into force in January 1980. I am delighted that Senators BROWNBACK, BILL NELSON, HUTCHISON, BINGAMAN, DOMENICI, KYL, and CAMPBELL join me in submitting this resolution.

Specifically, this resolution calls upon President Bush to renegotiate the Extradition Treaty or take other actions to ensure that the U.S. can extradite serious criminals back to the U.S. for appropriate prosecution and punishment.

In my view, this treaty—at least as interpreted by Mexico—is simply not working as intended. While the U.S. is currently attempting to extradite hundreds of fugitives from Mexico, since 1996, Mexico has sent back only a relative handful every year. For example, in fiscal years 1996 through 2002, Mexico only extradited an average of 14 individuals to the U.S. each year. Even worse, Mexico's recent interpretation of this treaty has effectively eliminated our ability to extradite persons charged with serious crimes who flee to Mexico to avoid prosecution in the United States.

This interpretation has jeopardized the safety of both American and Mexican citizens, undermined the integrity of our criminal justice system, denied basic rights and closure to crime victims, and allowed serious felons to escape just punishment. The result is that Mexico is becoming a safe haven for hard-core criminals. If you steal a car in the U.S., Mexico will return you to face prosecution and punishment. If you kill the driver, Mexico will protect you.

The problem in a nutshell is that, since October 2001, Mexico has read the U.S.-Mexico Extradition Treaty as barring the extradition to the United States of anyone who faces a potential life term. In other words, if a person commits a serious crime in the U.S.—one that could subject them to a maximum life term—and heads south, Mexico will refuse to extradite that person to the U.S. to face prosecution and punishment in this country.

While it has been difficult to determine the full scope of the problem, I am informed by prosecutors in California that, as a result of Mexico's interpretation of the Extradition Treaty, there are as many as 350 people who have committed murder and other serious crimes in California who have either not been extradited or have been effectively rendered non-extraditable.

These 350 people have thus escaped appropriate prosecution and punishment under California law. Many of these people are living free and unpunished in Mexico. In some cases, we even know where they are.

Let me quote from a recent Santa Barbara News Press article: A half dozen people wanted in the slayings of Santa Barbara residents are believed to be living free in Mexico. Santa Barbara police detectives even know where three of them live. But there's not much they can do about it. "If I had unfettered access to the proper investigative tools and contacts, we could have them in custody in a matter of days," said Detective Tim Roberts . . . "But that's not the case."

Let me give you an example of another especially heinous case.

On April 29, 2002, Armando Garcia, a Mexican national who had been previously charged in the U.S. with two counts of attempted murder, allegedly shot and killed, execution-style, 33-year-old Los Angeles County Deputy Sheriff David March during a routine traffic stop in Irwindale, CA. Garcia then fled to Mexico, where he remains a free man.

Los Angeles District Attorney Steve Cooley has not formally requested Garcia's extradition because he says that there is no point. Mexico will demand that Cooley promise that Garcia will not receive life in prison for his crime—a promise that cannot be made because in this country sentences are up to a judge to set, once a person has been convicted of a crime. The results is that Garcia remains at large in Mexico.

And earlier this year there was a horrific case in Santa Cruz implicating the Extradition Treaty. Miguel Ramirez Loza, 27 years old, allegedly attacked his 17-year-old girlfriend in an abandoned preschool building, slashing her throat and then spitting on her. As his girlfriend lay dying, he then raped the victim's 17-year-old friend. Loza's girlfriend was in a coma for months after the crime and just recently died.

Loza is now in Mexico and is apparently in a Mexican jail as a result of a stabbing in Mexico unrelated to the Santa Cruz incident. However, according to Santa Cruz District Attorney Bob Lee, Loza cannot be extradited for the murder and rape in California because of Mexico's interpretation of the Extradition Treaty.

It is true that Mexico does sometimes prosecute individuals in Mexico who committed crimes in the U.S. under Article IV of its Criminal Code. But often Mexico fails to do this. And, in any event, there is no substitute for extraditing the person to the United States.

There are credible reports that defendants in Mexico sometimes buy their acquittals. And, at least by U.S. standards, Mexican standards of justice can be quite low. Trials often take place with no testimony and no witnesses. Victims and their families are not invited or consulted. And sentences—often reduced on appeal—frequently bear little resemblance to those authorized by U.S. sentencing laws.

Not surprisingly, according to an article in the Las Vegas Review-Journal, "More than a dozen prosecutors in Nevada, California and Arizona who were interviewed for this story criticized Article IV as an ineffectual alternative to extradition." One prosecutor, Jan Maurizi of the Los Angeles District Attorney's Office, stated that she "sent demands to the Mexican government asking what happened to 97 Article IV cases that have seemingly disappeared from the justice system. Mexico . . . never responded. But from others we've talked to in unofficial channels, it's clear the vast majority of them are grossly inadequate sentences. Most of them, nothing happens."

Another prosecutor, Val Jimenez, the special agent supervisor of the Foreign Prosecution Unit at the California Attorney General's Office, has mentioned one recent case where a defendant "got 20 years for doing a homicide, appealed, and he was out in 18 months." And even if defendants were convicted, they may not serve real time. It was not until last year that Mexico finally tore down the infamous La Mesa State Penitentiary in Tijuana. La Mesa was a place where prisoners were free to purchase $25,000 townhomes with cell phones, tiled bathrooms, Jacuzzis, microwaves, computers, DVD players, and guard dogs such as Rottweilers. One murder in the prison was committed with a Uzi.

The U.S.-Mexico Extradition Treaty provides that neither country is bound to deliver up its nationals for extradition. It further provides that where the offense for which extradition is sought is punishable by death, a country may refuse to extradite unless the country seeking extradition assures that it will not impose the death penalty. Under the Treaty, the death penalty is the sole punishment for which assurances may be required. For decades, Mexico has extradited suspects to California and other states without inordinate problems. Then, in October 2001, the Mexican Supreme Court ruled that life imprisonment violates the Constitution of Mexico and extended this interpretation to the Extradition Treaty. Specifically, the Court decided that Mexico could no longer extradite a fugitive who is subject to life imprisonment with or without the possibility of parole, unless assurances are given that guarantee a determinate term of years.

Here is what the Mexican Supreme Court said in Opinion No. 125/2001, which is about a half-page long: [T]he punishment of life imprisonment is considered an unusual penalty and is prohibited by . . . article 22 of the [Mexican Constitution], inasmuch as it departs from the essential purpose of the penalty, which is the rehabilitation of the offender to incorporate him/her into society. It is, therefore, unquestionable that the requesting [i.e., extraditing] State must bind itself not to impose the penalty of life imprisonment, only another less serious punishment.

Article 22 of the Mexican Constitution prohibits "[p]unishment by mutilation and extreme cruelty, branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property and any other unusual or extreme penalties. . . ."

In light of the fact that the Extradition Treaty prohibits Mexico from extraditing criminals to the U.S. unless the U.S. agrees to waive the death penalty, it is interesting to note that Article 22 of the Mexican Constitution specifically allows the death penalty for "high treason committed during a foreign war; parricide; murder that is treacherous, premeditated, or committed for profit; arson; abduction; highway robbery; piracy; and grave military offenses."

So, in other words, according to the Mexican Supreme Court, the Mexican Constitution allows the death penalty for highway robbery in Mexico but, should an American criminal murder a police officer in California and then flee to Mexico, Mexico will refuse to turn this person over to the U.S. if he would face either the death penalty or a possible life term.

In my view, this makes no sense. However, Mexico as a sovereign nation is free to interpret its domestic law as it sees fit. I do not quarrel with their interpretation of their own law. But I do question whether Mexico can unilaterally rewrite the U.S.-Mexican Extradition Treaty. And that is exactly the effect of its interpretation of the Treaty as barring extradition to the U.S. of any alleged criminal who faces a possible life term. In fact, Mexico's interpretation of the Treaty is unsupported by and inconsistent with the Treaty's language, purpose, structure, and history. It is also conflicts with the Vienna Convention on the Law of Treaties, which states that a treaty shall be interpreted "in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in light of its object and purpose."

As the U.S. State Department has made clear in a Protest Note to the Mexican Government after the October 2001 decision, [R]equiring assurances for a punishment other than the death penalty is unsupported by the Treaty, which provides the substantive extradition requirement. . . . To give [the Treaty] the reading Mexico has given it eviscerates the Treaty, for such a reading would disregard the substantive exceptions found in Articles 5 through 9, and would permit each Party to refuse each other's extradition requests based on its domestic law on sentencing, which could be changed unilaterally at any time, even if that change rendered the law inconsistent with the Treaty.

Moreover, Mexico's interpretation of the Treaty has made it effectively impossible to extradite from Mexico individuals who commit murder or other serious crimes in California and many other States. In California, for example, over 40 different crimes are punishable by possible life sentences and neither a judge nor a prosecutor can give assurances of a determinate term for these crimes. As a result, Mexico's policy encourages people committing serious crimes in California to flee to Mexico and escape just punishment. Indeed, individuals in the United States with a criminal history have a perverse incentive to kill an arresting police officer and head for Mexico rather than face possible prosecution and imprisonment in the United States.

Given Mexico's interpretation of the Treaty, the only way to extradite a Mexican national charged with a "life" crime is to seek extradition on reduced charges punishable by a determinate sentence. But this would mean treating more harshly those who commit a crime and remain in California than those who commit the same crime and flee to Mexico. This is not only unfair and a blow to the integrity of our criminal justice system. But it also just encourages criminals to flee to Mexico to reduce their potential punishment.

Moreover, it is unclear exactly what assurances will suffice. In at least one Federal major narcotics trafficking case, a Mexican court determined that a twenty-year sentence was "cruel and unusual" and thus unconstitutional. And some Mexican courts have ruled that only a judge can give sufficient assurances—a legal impossibility under California's judicial system.

Mexico's interpretation of the U.S.-Mexico Extradition Treaty has unquestionably had a particularly harmful effect on my home state of California. I would like to commend the Los Angeles District Attorney Steve Cooley and Deputy District Attorney Jan Maurizi for their work in identifying cases of individuals who have committed murder and other serious crimes in California who have either not been extradited or have been effectively rendered non-extraditable. As I noted before, there are at least 350 such cases just in my home state. Many district attorneys do not keep adequate records of which suspects fled to Mexico, which cases are potentially extraditable, and which cases have been or could be subject to Article IV prosecution.

In fact, when we asked the National Association of District Attorneys to conduct a survey of how many cases have been affected by Mexico's interpretation of the Treaty, it received responses from only 17 jurisdictions, and much of this information was anecdotal. This survey, though, does demonstrate that the problem caused by Mexico's interpretation of the Extradition Treaty also afflict a number of other states. Based on the information we received, there are at least 60 cases around the country outside of California—and this number probably grossly understates the problem. These cases are in Arizona, Florida, Hawaii, Nevada, New York, Oregon, Tennessee, Texas, and Washington. These numbers, though, do not tell whole story. In every case, there is a horrible crime, a victim, a shattered family, and a horrible injustice.

I have already discussed a couple of specific criminal cases implicating the U.S.-Mexico Extradition Treaty. But now I would like to talk about four more. In every case, the perpetrator of a heinous crime has escaped appropriate punishment because of Mexico's interpretation of the U.S.-Mexico Extradition Treaty.

In August of 1999, Daniel Perez, a Mexican national, was convicted in absentia in Los Angeles County by a jury for the crimes of attempted first degree murder, use of a firearm, espousal battery, kidnapping, false imprisonment and stalking his estranged wife.

Perez and the 21-year-old victim, Anabella Vera, were separated. They met at a pizza place. After kidnapping her at gunpoint and terrorizing her for two hours, Anabella finally convinced Perez that she would return home with him. Perez then drove Anabella to her car. After Anabella tried to drive away from him, Perez chased her in his car, ramming her vehicle and forcing her to run red lights. Ultimately, Anabella became stuck in traffic and, in a desperate bid to save her life, abandoned her car and tried to flee. Perez then caught Anabella at a gas station and shot her in the head. Miraculously, she survived.

During the trial and while out on bail, Perez drove to Fontana, CA to the home of Anabella's father, who had been a key witness against Perez. In front of Anabella's siblings, Perez shot and killed Anabella's father. Perez then allegedly fled to Mexico, where he is still at large.

Perez was sentenced in absentia in Los Angeles County for attempted murder to a term of 33 years to life, plus an additional life term. In addition, the San Bernardino County District Attorney's Office has charged Perez with the murder of the victim's father and the special circumstances of killing a witness. These charges carry a potential punishment of life in prison without the possibility of parole or, if it is not waived, the death penalty. Because Mexico does not recognize convictions in absentia, my understanding is that Mexico will neither extradite Perez for attempted murder nor prosecute him under Article IV of the Mexican Federal Penal Code.

Alvara Luna Jara has been charged with the special circumstances murder of 12-year-old Steven Morales and the attempted murder of three others. On August 29, 1998, Steven was playing with several other children in front of their apartment, near three members of a local street gang. As Jara drove by, he and the three gang members exchanged hand gestures. Jara then extended his arm out of the car window and fired three rounds into the crowd, killing Steven with a gunshot to the head. Jara then fled to Mexico. If convicted in the United States, Jara could face life without possibility of parole or, if it is not waived, the death penalty. However, while Jara is not a Mexican national, the Mexican government has refused to deport him because his parents are Mexican nationals. After this refusal, Los Angeles District Attorney Cooley began formal extradition proceedings. However, because of Mexico's interpretation of the October 2000 Mexican Supreme Court decision, Cooley never submitted the formal request.

On May 7, 1988, Father Nicholas Aguilar Rivera, a Catholic priest, was charged with 19 counts of child molestation. The day after he was charged, Father Rivera fled to Mexico. Although the case was supposed to be prosecuted promptly under Article IV, Mexican prosecutors failed to submit the case for prosecution until 1995. The Mexican court dismissed the matter as untimely and entered an acquittal. Now, both countries are barred from further prosecution.

On May 17, 1998, Ruben Hernandez Martinez and Luis Castanon allegedly broke into the Nashville apartment of Kelly Quinn and her roommate after waiting for Ms. Quinn to return home. They then attacked her, raping her continuously for hours. When they were done, they made Ms. Quinn shower to remove any DNA evidence. However, Ms. Quinn was able to conceal semen that was on her neck. Castanon was arrested and, on the basis of fingerprint and serology evidence, convicted of aggravated sexual assault. He was sentenced to 60 years. Martinez, whom Nashville police believe committed several other rapes as well, fled to Mexico. I am informed that, while Martinez has been in custody in a Mexico City jail for over a year, Mexico has still refused to make a decision as to whether they will extradite him.

The United States can and must retain discretion to prosecute and punish its most dangerous and violent offenders who commit crimes in the United States according to U.S. laws. Criminals should not be allowed to escape justice in the U.S. for the price of a bus ticket to Mexico.

I would now like read a letter I received from a youngster in California about this problem. Here is what he says:

> My mom is a deputy sheriff for Los Angeles. Every night she goes to work. I say a prayer for her she will come home safely. So far she has. Deputy March was not so lucky. I wonder how his kids must feel not having a dad any longer. Could you please help catch the man that killed Deputy March. I listen to the radio a lot and they said the bad man that did this is in Mexico and he is not in jail. Could you please get him back here so my mom will be safer when she goes to work.
>
> Thank you.

It is unfortunate that we live in a country where we cannot assure a youngster that the man who killed his mom's colleague won't come back and hurt her too. That is why we need to pass this resolution now. That is why we need the President to act.

I ask my colleagues for their support.

I also ask unanimous consent that an October 24, 2003 Resolution of the International Association of Chiefs of Police be printed in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

[Resolution From the International Association of Chiefs of Police, Adopted Oct. 24, 2003]

Extradition of Criminal Suspects

(Submitted by the Executive Committee)

Whereas, the law enforcement profession has a compelling interest in ensuring that individuals suspected of committing crimes are not able to evade justice by leaving the country in which the crime was committed; and

Whereas, in response to this problem, many nations have established extradition treaties that allow for the return of criminal fugitives to the country in which they are suspected of committing crimes; and

Whereas, extradition treaties are political agreements between nations; and,

Whereas, the International Association of Chiefs of Police refrains from entering into political disputes between nations unless an issue which clearly impacts the law enforcement profession is involved; and

Whereas, these treaties form the backbone of international law enforcement efforts and have allowed for the successful apprehension and conviction of many fugitives over the years, and

Whereas, the effectiveness of these treaties relies upon the timely return of criminal suspects; and

Whereas, the terms of some extradition treaties have proven to be too restrictive and have significantly limited the ability of law enforcement agencies to bring a criminal suspect to trial and have, in effect, allowed for the creation of safe havens for criminal fugitives; and

Whereas, for example, the Extradition Treaty between the United States of America and the United Mexican States allows the United Mexican States to refuse to extradite criminal suspects who face capital punishment for crimes committed within the United States, and a recent decision of the Mexican Supreme Court has unilaterally and mandatorily extended that prohibition on life sentences, and

Whereas, it is clear that extradition treaties and agreements that do not allow for the timely return of criminal suspects or that condition their return on the domestic sentencing laws of the requested state are an issue that clearly impacts the law enforcement profession and it is appropriate for the International Association of Chiefs of Police to express the concern of the law enforcement community in this matter and work to resolve this situation; Now, therefore be it

Resolved, That the International Association of Chief of Police calls on all nations to ensure that extradition treaties serve only to guarantee that accused individuals are provided with due process of law and not to provide criminal suspects with a means of evading justice; and be it

Further resolved, That the International Association of Chiefs of Police calls on the governments of the United States of America and the United Mexican States to renegotiate the extradition treaty so that the possibility of capital punishment or life imprisonment shall not interfere with the timely and unconditional extradition of criminal suspects.

AMENDMENTS SUBMITTED & PROPOSED

SA 2141. Ms. STABENOW proposed an amendment to amendment SA 2136 proposed by Mr. McCain (for himself, Mr. Allen, Mr. Wyden, Mr. Burns, Mr. Ensign, Mr. Sununu, Mr. Warner, Mr. Smith, Mr. Leahy, Mr. Grassley, Mr. Hatch, Mr. Baucus, Mrs. Boxer, Mr. Chambliss, and Mrs. Lincoln) to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

SA 2142. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 150, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2141. Ms. STABENOW proposed an amendment to amendment SA 2136 proposed by Mr. MCCAIN (for himself, Mr. ALLEN, Mr. WYDEN, Mr. BURNS, Mr. ENSIGN, Mr. SUNUNU, Mr. WARNER, Mr. SMITH, Mr. LEAHY, Mr. GRASSLEY, Mr. HATCH, Mr. BAUCUS, Mrs. BOXER, Mr. CHAMBLISS, and Mr. LINCOLN) to the bill S. 150, to make permanent the moratoriumm on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; as follows:

At the appropriate place insert the following:

Since, Article I of the U.S. Constitution grants Congress the power of the purse; and

Since, Congressional oversight of Executive Branch expenditures of public funds is essential in order to prevent waste, fraud, and abuse of taxpayer dollars; and

Since, Congress can only exercise its oversight responsibilities if the White House and Executive Branch agencies are responsive to requests for information about public expenditures;

Therefore it is the Sense of the Senate that,

The White House and all Executive Branch agencies should respond promptly and completely to all requests by Members of Congress of both parties for information about public expenditures.

SA 2142. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC . GAO STUDY OF EFFECTS OF INTERNET TAX MORATORIUM ON STATE AND LOCAL GOVERNMENTS AND ON BROADBAND DEPLOYMENT.

The Comptroller General shall conduct a study of the impact of the Internet tax moratorium, including its effects on the revenues of State and local governments and on the deployment of broadband technologies throughout the United States. The Comptroller General shall report the findings, conclusions, and any recommendations from the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce no later than November 1, 2005.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that the hearing previously scheduled before the Committee on Energy and Natural Resources on Wednesday, November 12 at 10 a.m. has been rescheduled for Friday, November 14 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to conduct oversight of the implementation of the Energy Employees Occupational Illness Compensation Program.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce, for the information of the Senate and the public, that the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources will hold a hearing on November 18, 2003 at 2:30 p.m. in room SD 366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider S. 1467, a bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes, S. 1209, a bill to provide for the acquisition of property in Washington County, UT, for implementation of a desert tortoise habitat conservation plan, and H.R. 708, a bill to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, DC 20510–6150 prior to the hearing date.

For further information, please contact Dick Bouts or Meghan Beal (202–224–7556).

SUBCOMMITTEE ON ENERGY

Mr. ALEXANDER. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy of the Committee on Energy and Natural Resources will hold a hearing on Saturday, December 6, 2003 at 9 a.m. The hearing will be held at the Paducah Information Age Park, 2000 McCracken Blvd., Paducah, KY.

The purpose of the hearing is to conduct oversight and accounting of the cleanup at the Department of Energy's Paducah, KY site.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, DC 20510–6150.

For further information, please contact Pete Lyons (202–224–5861) or Shane Perkins (202–224–7555).

AUTHORITY FOR COMMITTEES TO MEET

JOINT ECONOMIC COMMITTEE

Mr. McCAIN. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in room 628 of the Dirksen Senate Office Building, Friday, November 7, 2003, from 9:30 a.m. to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent Jason Estep, a fellow from my office, have floor privileges for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent that Dale Jones, a member of my staff, be granted the privilege of the floor during debate on S. 150.

The PRESIDING OFFICER. Without objection, it is so ordered.

BLACKWATER NATIONAL WILDLIFE REFUGE EXPANSION ACT

The PRESIDING OFFICER. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 356, H.R. 274.

The PRESIDING OFFICER.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 274) to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 274) was read the third time and passed.

ANIMAL DRUG USER FEE ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Chair now lay before the Senate a message from House of Representatives on the bill (S. 313) to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.

There being no objection, the Presiding Officer laid before the Senate the following message from the House of Representatives:

S. 313

Resolved, That the bill from the Senate (S. 313) entitled "An Act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs", do pass with the following amendment; Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Drug User Fee Act of 2003".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Prompt approval of safe and effective new animal drugs is critical to the improvement of animal health and the public health.

(2) Animal health and the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of new animal drug applications.

(3) The fees authorized by this Act will be dedicated toward expediting the animal drug development process and the review of new and supplemental animal drug applications and investigational animal drug submissions as set forth in the goals identified, for purposes of part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Energy and Commerce of the House of Representatives and the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate as set forth in the Congressional Record.

SEC. 3. FEES RELATING TO ANIMAL DRUGS.

Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379f et seq.) is amended by adding at the end the following part:

"PART 4—FEES RELATING TO ANIMAL DRUGS

"SEC. 739. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term 'animal drug application' means an application for approval of any new animal drug submitted under section 512(b)(1). Such term does not include either a new animal drug application submitted under section 512(b)(2) or a supplemental animal drug application.

"(2) The term 'supplemental animal drug application' means—

"(A) a request to the Secretary to approve a change in an animal drug application which has been approved; or

"(B) a request to the Secretary to approve a change to an application approved under section 512(c)(2) for which data with respect to safety or effectiveness are required.

"(3) The term 'animal drug product' means each specific strength or potency of a particular active ingredient or ingredients in final dosage form marketed by a particular manufacturer or distributor, which is uniquely identified by the labeler code and product code portions of the national drug code, and for which an animal drug application or a supplemental animal drug application has been approved.

"(4) The term 'animal drug establishment' means a foreign or domestic place of business which is at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more animal drug products are manufactured in final dosage form.

"(5) The term 'investigational animal drug submission' means—

"(A) the filing of a claim for an investigational exemption under section 512(j) for a new animal drug intended to be the subject of an animal drug application or a supplemental animal drug application, or

"(B) the submission of information for the purpose of enabling the Secretary to evaluate the safety or effectiveness of an animal drug application or supplemental animal drug application in the event of their filing.

"(6) The term 'animal drug sponsor' means either an applicant named in an animal drug application, except for an approved application for which all subject products have been removed from listing under section 510, or a person who has submitted an investigational animal drug submission that has not been terminated or otherwise rendered inactive by the Secretary.

"(7) The term 'final dosage form' means, with respect to an animal drug product, a finished dosage form which is approved for administration to an animal without substantial further manufacturing. Such term includes animal drug products intended for mixing in animal feeds.

"(8) The term 'process for the review of animal drug applications' means the following activities of the Secretary with respect to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions:

"(A) The activities necessary for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(B) The issuance of action letters which approve animal drug applications or supplemental animal drug applications or which set forth in detail the specific deficiencies in animal drug applications, supplemental animal drug applications, or investigational animal drug submissions and, where appropriate, the actions necessary to place such applications, supplements or submissions in condition for approval.

"(C) The inspection of animal drug establishments and other facilities undertaken as part of the Secretary's review of pending animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(D) Monitoring of research conducted in connection with the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(E) The development of regulations and policy related to the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(F) Development of standards for products subject to review.

"(G) Meetings between the agency and the animal drug sponsor.

"(H) Review of advertising and labeling prior to approval of an animal drug application or supplemental animal drug application, but not such activities after an animal drug has been approved.

"(9) The term 'costs of resources allocated for the process for the review of animal drug applications' means the expenses incurred in connection with the process for the review of animal drug applications for—

"(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees consulted with respect to the review of specific animal drug applications, supplemental animal drug applications, or investigational animal drug submissions, and costs related to such officers, employees, committees, and contractors, including costs for travel, education, and recruitment and other personnel activities,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 740 and accounting for resources allocated for the review of animal drug applications, supplemental animal drug applications, and investigational animal drug submissions.

"(10) The term 'adjustment factor' applicable to a fiscal year refers to the formula set forth in section 735(8) with the base or comparator year being 2003.

"(11) The term 'affiliate' refers to the definition set forth in section 735(9).

"SEC. 740. AUTHORITY TO ASSESS AND USE ANIMAL DRUG FEES.

"(a) TYPES OF FEES.—Beginning in fiscal year 2004, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) ANIMAL DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 2003, an animal drug application or a supplemental animal drug application shall be subject to a fee as follows:

"(i) A fee established in subsection (b) for an animal drug application; and

"(ii) A fee established in subsection (b) for a supplemental animal drug application for which safety or effectiveness data are required, in an amount that is equal to 50 percent of the amount of the fee under clause (i).

"(B) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the animal drug application or supplemental animal drug application.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If an animal drug application or a supplemental animal drug application was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver or refund), the submission of an animal drug application or a supplemental animal drug application for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (B) for any animal drug application or supplemental animal drug application which is refused for filing.

"(E) REFUND OF FEE IF APPLICATION WITHDRAWN.—If an animal drug application or a supplemental animal drug application is withdrawn after the application or supplement was filed, the Secretary may refund the fee or portion of the fee paid under subparagraph (B) if no substantial work was performed on the application or supplement after the application or supplement was filed. The Secretary shall have the sole discretion to refund the fee under this paragraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

"(2) ANIMAL DRUG PRODUCT FEE.—Each person—

"(A) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

"(B) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application;

shall pay for each such animal drug product the annual fee established in subsection (b). Such *fee shall be payable for the fiscal year in which the animal drug product is first submitted for listing under section 510, or is submitted for relisting under section 510 if the animal drug product has been withdrawn from listing and relisted. After such fee is paid for that fiscal year, such fee shall be payable on or before January 31 of each year. Such fee shall be paid only once for each animal drug product for a fiscal year in which the fee is payable.*

"(3) ANIMAL DRUG ESTABLISHMENT FEE.—Each person—

"(A) who owns or operates, directly or through an affiliate, an animal drug establishment, and

"(B) who is named as the applicant in an animal drug application or supplemental animal drug application for an animal drug product which has been submitted for listing under section 510, and

"(C) who, after September 1, 2003, had pending before the Secretary an animal drug application or supplemental animal drug application,

shall be assessed an annual fee established in subsection (b) for each animal drug establishment listed in its approved animal drug application as an establishment that manufactures the animal drug product named in the application. The annual establishment fee shall be assessed in each fiscal year in which the animal drug product named in the application is assessed a fee under paragraph (2) unless the animal drug establishment listed in the application does not engage in the manufacture of the animal drug product during the fiscal year. The fee shall be paid on or before January 31 of each year. The establishment shall be assessed only one fee per fiscal year under this section, provided, however, that where a single establishment manufactures both animal drug products and prescription drug products, as defined in section 735(3), such establishment shall be assessed both the animal drug establishment fee and the prescription drug establishment fee, as set forth in section 736(a)(2), within a single fiscal year.

"(4) ANIMAL DRUG SPONSOR FEE.—Each person—

"(A) who meets the definition of an animal drug sponsor within a fiscal year; and

"(B) who, after September 1, 2003, had pending before the Secretary an animal drug application, a supplemental animal drug application, or an investigational animal drug submission,

shall be assessed an annual fee established under subsection (b). The fee shall be paid on or before January 31 of each year. Each animal drug sponsor shall pay only one such fee each fiscal year.

"(b) FEE AMOUNTS.—Except as provided in subsection (a)(1) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be established to generate fee revenue amounts as follows:

"(1) TOTAL FEE REVENUES FOR APPLICATION AND SUPPLEMENT FEES.—The total fee revenues to be collected in animal drug application fees under subsection (a)(1)(A)(i) and supplemental animal drug application fees under subsection (a)(1)(A)(ii) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(2) TOTAL FEE REVENUES FOR PRODUCT FEES.—The total fee revenues to be collected in product fees under subsection (a)(2) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(3) TOTAL FEE REVENUES FOR ESTABLISHMENT FEES.—The total fee revenues to be collected in establishment fees under subsection (a)(3) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(4) TOTAL FEE REVENUES FOR SPONSOR FEES.—The total fee revenues to be collected in sponsor fees under subsection (a)(4) shall be $1,250,000 in fiscal year 2004, $2,000,000 in fiscal year 2005, and $2,500,000 in fiscal years 2006, 2007, and 2008.

"(c) ADJUSTMENTS.—

"(1) INFLATION ADJUSTMENT.—The revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

"(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year for which fees are being established; or

"(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

The adjustment made each fiscal year by this subsection will be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2004 under this subsection.

"(2) WORKLOAD ADJUSTMENT.—After the fee revenues are adjusted for inflation in accordance with paragraph (1), the fee revenues shall be further adjusted each fiscal year after fiscal year 2004 to reflect changes in review workload. With respect to such adjustment:

"(A) This adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of animal drug applications, supplemental animal drug applications for which data with respect to safety or effectiveness are required, manufacturing supplemental animal drug applications, investigational animal drug study submissions, and investigational animal drug protocol submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fees resulting from this adjustment and the supporting methodologies.

"(B) Under no circumstances shall this workload adjustment result in fee revenues for a fiscal year that are less than the fee revenues for that fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

"(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2008, the Secretary may further increase the fees to provide for up to 3 months of operating reserves of carryover user fees for the process for the review of animal drug applications for the first 3 months of fiscal year 2009. If the Food and Drug Administration has carryover balances for the process for the review of animal drug applications in excess of 3 months of such operating reserves, then this adjustment will not be made. If this adjustment is necessary, then the rationale for the amount of the increase shall be contained in the annual notice setting fees for fiscal year 2008.

"(4) ANNUAL FEE SETTING.—The Secretary shall establish, 60 days before the start of each fiscal year beginning after September 30, 2003, for that fiscal year, animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.

"(5) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of animal drug applications.

"(d) FEE WAIVER OR REDUCTION.—

"(1) IN GENERAL.—The Secretary shall grant a waiver from or a reduction of 1 or more fees assessed under subsection (a) where the Secretary finds that—

"(A) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(B) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of animal drug applications for such person,

"(C) the animal drug application or supplemental animal drug application is intended solely to provide for use of the animal drug in—

"(i) a Type B medicated feed (as defined in section 558.3(b)(3) of title 21, Code of Federal Regulations (or any successor regulation)) intended for use in the manufacture of Type C free-choice medicated feeds, or

"(ii) a Type C free-choice medicated feed (as defined in section 558.3(b)(4) of title 21, Code of Federal Regulations (or any successor regulation)),

"(D) the animal drug application or supplemental animal drug application is intended solely to provide for a minor use or minor species indication, or

"(E) the sponsor involved is a small business submitting its first animal drug application to the Secretary for review.

"(2) USE OF STANDARD COSTS.—In making the finding in paragraph (1)(B), the Secretary may use standard costs.

"(3) RULES FOR SMALL BUSINESSES.—

"(A) DEFINITION.—In paragraph (1)(E), the term 'small business' means an entity that has fewer than 500 employees, including employees of affiliates.

"(B) WAIVER OF APPLICATION FEE.—The Secretary shall waive under paragraph (1)(E) the application fee for the first animal drug application that a small business or its affiliate submits to the Secretary for review. After a small business or its affiliate is granted such a waiver, the small business or its affiliate shall pay application fees for all subsequent animal drug applications and supplemental animal drug applications for which safety or effectiveness data are required in the same manner as an entity that does not qualify as a small business.

"(C) CERTIFICATION.—The Secretary shall require any person who applies for a waiver under paragraph (1)(E) to certify their qualification for the waiver. The Secretary shall periodically publish in the Federal Register a list of persons making such certifications.

"(e) EFFECT OF FAILURE TO PAY FEES.—An animal drug application or supplemental animal drug application submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid. An investigational animal drug submission under section 739(5)(B) that is submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for review by the Secretary until all fees owed by such person have been paid. The Secretary may discontinue review of any animal drug application, supplemental animal drug application or investigational animal drug submission from a person if such person has not submitted for payment all fees owed under this section by 30 days after the date upon which they are due.

"(f) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 2003 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal

year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 2003 (excluding the amount of fees appropriated for such fiscal year) multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for animal drug applications, supplemental animal drug applications, investigational animal drug submissions, animal drug sponsors, animal drug establishments and animal drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salary and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of animal drug applications.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—

"(A) IN GENERAL.—The fees authorized by this section—

"(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation for such fiscal year, and

"(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of animal drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2003 multiplied by the adjustment factor.

"(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of animal drug applications—

"(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

"(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in subparagraph (A)(ii); and

"(II) such costs are not more than 5 percent below the level specified in subparagraph (A)(ii).

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $5,000,000 for fiscal year 2004;

"(B) $8,000,000 for fiscal year 2005;

"(C) $10,000,000 for fiscal year 2006;

"(D) $10,000,000 for fiscal year 2007; and

"(E) $10,000,000 for fiscal year 2008;

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by animal drug application fees, supplemental animal drug application fees, animal drug sponsor fees, animal drug establishment fees, and animal drug product fees.

"(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriations Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

"(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(i) WRITTEN REQUESTS FOR WAIVERS, REDUCTIONS, AND REFUNDS.—To qualify for consideration for a waiver or reduction under subsection (d), or for a refund of any fee collected in accordance with subsection (a), a person shall submit to the Secretary a written request for such waiver, reduction, or refund not later than 180 days after such fee is due.

"(j) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of animal drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged. .

"(k) ABBREVIATED NEW ANIMAL DRUG APPLICATIONS.—The Secretary shall—

"(1) to the extent practicable, segregate the review of abbreviated new animal drug applications from the process for the review of animal drug applications, and

"(2) adopt other administrative procedures to ensure that review times of abbreviated new animal drug applications do not increase from their current level due to activities under the user fee program.".

SEC. 4. ACCOUNTABILITY AND REPORTS.

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to Congress for the goals and plans for meeting the goals for the process for the review of animal drug applications for the fiscal years after fiscal year 2008, and for the reauthorization of sections 739 and 740 of the Federal Food, Drug, and Cosmetic Act (as added by section 3), the Secretary of Health and Human Services (referred to in this section as the "Secretary") shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, veterinary professionals, representatives of consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall—

(A) publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry;

(B) present the recommendations to the Committees referred to in that paragraph;

(C) hold a meeting at which the public may comment on the recommendations; and

(D) provide for a period of 30 days for the public to provide written comments on the recommendations.

(b) PERFORMANCE REPORTS.—Beginning with fiscal year 2004, not later than 60 days after the end of each fiscal year during which fees are collected under part 4 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 2(3) of this Act toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.

(c) FISCAL REPORT.—Beginning with fiscal year 2004, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (b), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 5. SUNSET.

The amendments made by section 3 shall not be in effect after October 1, 2008, and section 4 shall not be in effect after 120 days after such date.

Mr. KENNEDY. Mr. President, I support the Animal Drug User Fee Act, and I urge my colleagues to support it. The bill is based on the current user fee programs for prescription drugs and medical devices, which are an effective way to enable the Food and Drug Administration to reduce its backlog and expedite its review of needed new products and make them available more quickly, especially in this time of accelerated discoveries of new drugs and other medical products with great potential to improve all aspects of health care. The same basic principle of user fees should be available to assist FDA's review of applications for approval of animal drugs.

In 5 years, the time it takes for FDA to review new animal drugs should be cut in half under this legislation. By increasing the resources available for these reviews, the user fees will speed new treatments to market for pets and farm animals alike. FDA will provide detailed reports on the program and its results in helping the agency to meet it performance goals, so that Congress can evaluate how it has worked and whether improvements are necessary when we reauthorize the program in the future.

We will also be able to work closely with the agency in implementing its important new plan for evaluating the increasingly urgent concern that the use or overuse of certain drugs in animals can lead to dangerous drug-resistant strains of organism in humans.

I commend Chairman GREGG, Senator ENSIGN, and Senator HARKIN for their leadership on this legislation, and I look forward to working with them on these issues in the months ahead.

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 1832

Mr. FRIST. I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 1832) entitled the "Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003."

Mr. FRIST. I object to further proceedings on the measure at this time.

The PRESIDING OFFICER. The objection is heard.

The bill will be placed on the calendar.

SENATE ACCOMPLISHMENTS

Mr. FRIST. Mr. President, although we did not have any rollcall votes today, I do want to assure my colleagues we made progress on the Internet tax moratorium bill. I understand there are serious negotiations that are continuing and that we hope we can get an agreement on that legislation and finish it at the earliest time.

Earlier this week, we passed H.R. 3289, the Iraq-Afghanistan appropriations conference report, and that measure has now been signed into law by the President of the United States.

We also adopted the Agriculture appropriations bill, as well as the Interior appropriations conference report this week. The Interior appropriations bill will now be sent to the President for his signature.

Chairman SHELBY, working with many Members on both sides of the aisle, finished work on the fair credit reporting bill. The bill had overwhelming support, and it is expected that a conference report will return in short order.

This week the Senate also passed H.R. 3365, the military tax fairness bill. This bill, which is also called the Fallen Patriots Tax Relief Act, will assist members of our Armed Forces in providing some much needed clarity and fairness with respect to tax policy.

We also reauthorized, this week, the School Lunch and Child Nutrition Program. Chairman COCHRAN brought this bill to our attention, and we were able to act quickly. I mention it today to show that we continue to try to do our work efficiently and to make progress on a number of important issues. This bill cleared both sides and will become law. Senator COLLINS, as chairman of the Governmental Affairs Committee, cleared S. 589, the Homeland Security Federal Workforce Act. This bill will promote job retention in areas of national security by providing student loan payments.

These are just a few of the areas, and I think very good examples, where we can continue to work together in a collaborative way.

The remaining weeks of business will be difficult. There will be many contentious issues to address as we go forward. The American people clearly want us to get our work done. They expect us to get our work done.

As I mentioned earlier, we are aiming for this target date of November 21.

ORDERS FOR MONDAY, NOVEMBER 10, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Monday, November 10. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin consideration of H.R. 2799, the Commerce-State-Justice appropriations bill, as provided under the previous order.

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we feel part of the accomplishments of this Senate. But for our cooperation and hard work, we would not have accomplished as much as we have. Earlier in this week we did some very good things and we produced a lot of work.

We cannot undue what has been done—feelings hurt, feelings of concern—as to why we are in the present position, but it has happened. We cannot undue that, I guess.

But I say to the distinguished majority leader, it is too bad we are in this position because I really could see the light at the end of that tunnel. It is very blurred today.

I hope we can finish our work. There is so much we all have to do in our respective States. But I just want to tell the leader that the long list of work that we did was a joint accomplishment. I know the leader acknowledges that. I just hope, somehow, next week, with the 30 hours that have been placed in our path, we could still work our way through all this and be more productive than I see the time ahead of us.

The PRESIDING OFFICER. Without objection, the request is agreed to.

Mr. FRIST. Mr. President, before we close I need just a couple minutes in case we can do one more brief piece of business, and then we will close very shortly.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE SESSION

Mr. FRIST. Mr. President, I ask unanimous consent that during an executive session beginning next Wednesday, each hour beginning on the hour of the executive session be equally divided between the two leaders or their designees and that any time not used by either side during the designated hour be given to the other side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding, just so there is no confusion, that this is no time agreement on a specific nominee. We are just going to be talking about judges for that extended period of time.

Mr. FRIST. Mr. President, that is my understanding.

Mr. REID. No objection.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, on Monday the Senate will begin debate on H.R. 2799, the Commerce-Justice-State appropriations bill. The bill managers will be here on Monday to work through any amendments to the bill. We will be debating and voting on amendments throughout the afternoon. Senators who have amendments are asked to contact the bill managers as soon as possible.

As you have heard, there are a number of other issues we will be addressing early next year. The Syria Accountability Act, the Military Constructions appropriations conference report, the Department of Defense authorization conference report, the Energy and Water appropriations conference report, and VA-HUD appropriations bill, as well as other items that are cleared for action.

We will be in session every day next week—Monday, Tuesday, Wednesday, Thursday, and Friday. We have a lot of business to do, and it requires that for us to complete the business.

ADJOURNMENT UNTIL 1 P.M., MONDAY, NOVEMBER 10, 2003

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:55 p.m., adjourned until Monday, November 10, 2003, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate November 7, 2003:

NATIONAL SECURITY EDUCATION BOARD

KIRON KANINA SKINNER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE HERSCHELLE S. CHALLENOR.

DEPARTMENT OF LABOR

STEVEN J. LAW, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF LABOR, VICE DONALD CAMERON FINDLAY, RESIGNED.

UNITED STATES INSTITUTE OF PEACE

J. ROBINSON WEST, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007, VICE MARC E. LELAND, TERM EXPIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 7, 2003:

FEDERAL ENERGY REGULATORY COMMISSION

JOSEPH TIMOTHY KELLIHER, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2007.

SUEDEEN G. KELLY, OF NEW MEXICO, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2004.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, November 7, 2003*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. LATOURETTE).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 7, 2003.

I hereby appoint the Honorable STEVEN C. LATOURETTE to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

We bless You and praise You, Lord God, for the colorful season of autumn. As the days grow shorter and the light dims, we face the inevitable winter. Among the falling leaves You seed the Earth with hidden life. Amidst the dying You are already planting a future. Washed deep by rain and snow, You nurture the promise. Help us to live through our abandonment to Your loving providence, that the sacrificial plans and the decisive ideas of this Congress may flourish with new life for America. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Tennessee (Mr. DUNCAN) come forward and lead the House in the Pledge of Allegiance.

Mr. DUNCAN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five 1-minutes per side.

THE ECONOMY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, as we prepare this morning to deal with one of the most important pieces of legislation, the Department of Defense authorization bill conference report, which my friends, the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON), will be managing, I would like to take this 1-minute to talk about a different issue, and that is the report that we got this morning of the improvement in our Nation's unemployment rate.

We are so gratified that the policies that President Bush has put forward are working. We obviously have a long way to go, but based on the numbers as they used to exist, a 6 percent unemployment rate, which is where we are today, used to be considered full employment. Now, we obviously in the last several years have seen it drop to the 4 percent level, and we want it to get there.

But, Mr. Speaker, with the report of a 126,000 increase, nearly triple what had been estimated in the payroll numbers, we are on the track; and our policies of reducing the tax burden on working Americans to encourage economic growth and, yes, Mr. Speaker, our goal of free trade, opening up new markets for U.S. goods and services around the world and ensuring we have the opportunity for imports to come here, are beginning to pay off. Let us make sure that we stay on that track.

DEMOCRACY BUILDING

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, Stephen Kinzer, in his book, "All the Shah's Men," describes the events of the overthrow of the Iranian Government in 1953 in a coup staged by the United States and the British. President Truman did not support overthrowing the government of Prime Minister Mossadeq. In this picture taken in 1951 here in Washington, D.C., you can see his relationship with Mossadeq, who he respected as a nationalist. However, the Eisenhower government came in, President Eisenhower supported the coup, and the government was overthrown in 1953.

I thought of these events on hearing the President's speech yesterday calling for the spread of democracy in the Middle East. Stephen Kinzer in his interviews with Iranians asked them in the past what they had thought of American overtures talking about democracy in Iran, and their response was we had a democracy, but you Americans overthrew it.

We all support democracy and democratic ideals, but when it comes to remaking societies, Mr. Speaker, we should approach this with humility, realism, and a sense of history.

LT. COLONEL WEST SHOULD BE GIVEN MEDAL, NOT COURT MARTIALED

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, this coming Monday, Lt. Colonel Allan West is scheduled to face an article 32 hearing to see if he should be court martialed.

Colonel West is accused of threatening an Iraqi prisoner. According to news reports, Colonel West shot his handgun into a firing barrel and also fired it near this prisoner. He did not harm the prisoner in any way, but he apparently scared him into giving information that foiled an attack on American soldiers.

If these news reports are accurate, Colonel West saved many American lives. This is a man who has served honorably for almost 20 years in the United States Army. He should not be court martialed. He should be given a medal for saving American lives.

ECONOMIC GROWTH

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, if we needed any more proof of an improving economy following last week's outstanding economic growth figures, we just got it. The manufacturing sector of our economy, which is important to so many States, including my home State of Michigan, appears to be turning around with a vengeance.

October's indices showed manufacturing expanding more rapidly than at any time since January of 2000. The report also showed new orders for manufactured goods, the key to future growth, are at their highest levels since 1999. Overall construction spending has reached its highest level ever.

Existing home sales are at record highs. And, of course, this morning we got the greatest news of all: unemployment fell in October and the economy created 126,000 new jobs.

Every American should be happy. The Bush tax cuts are working; the economy is on the rise. But what is the response to all this good news from my friends on the other side of the aisle? More pessimism. More gloom and doom. Mr. Speaker, I am beginning to wonder if they view good economic news as good news at all.

DISABLED VETERANS TAX

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the disabled veterans tax: more than one-half million disabled veterans, career military, have their disability benefits offset dollar for dollar against their retirement. What does that mean? It means a retired master sergeant, 100 percent disabled, is taxed at a rate of 50 percent.

Now, the President rushed through relief for millionaires who had to pay a tax of 35 percent on the dividends they clipped off their stocks, and this House accommodated that, but he says there is no money to help out those disabled veterans. We cannot afford, the President says, to offset or reduce that tax or eliminate that unfair tax on our disabled veterans.

Well, that is pretty strange when we can do that for millionaires and billionaires; but somehow, as Veterans' Day comes upon us, we can only give a tiny bit of relief phased in over 10 years to some of these veterans who are subjected to this outrageous tax, despite the fact that almost every Member of the House is a sponsor of a bill to totally repeal it. But they are afraid to put their names from the Republican side on a petition to force that bill to the floor of the House.

Sign the petition. Have the guts to deliver for your veterans.

REPUBLICAN TAX RELIEF SPURS JOB CREATION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, yesterday we learned that jobless claims dropped to a 2½-year low, further signifying the success of the Republican tax relief championed by President George W. Bush. This follows last week's historic news that the economy is growing at the highest rate in nearly 20 years, as the GDP grew by 7.2 percent in the last quarter.

Last week was the fourth straight week in which jobless claims were below 400,000, as claims dropped to 348,000. In headlines across America today, Federal Reserve Chairman Alan Greenspan said of the decrease in jobless claims, that "the odds increasingly favor a revival in job creation." As Democrats continue to try to talk down the economy, the news of the recovery is just too clear to ignore: 126,000 new jobs in October were announced this morning.

Republican policies of tax relief, fiscal discipline, corporate accountability, and national defense to protect American families from terrorists have restored our Nation's confidence and promoted a healthy business environment.

In conclusion, God bless our troops.

THE ECONOMY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, the economy is turning around: a 7.2 percent growth last quarter in the gross domestic product, the largest since Ronald Reagan cut taxes in 1984. The jobless claims have fallen. More people are working than ever before. Productivity has increased. Tax cuts work.

Why do they work? Because the more money a worker has in his pocket, the more money he is going to spend. When he goes out and buys more clothes, tires, or hamburgers, small businesses react by expanding their inventory. When they do that, they also hire more employees. When more people have jobs, more people are working, more people pay taxes, and less people are dependent on government welfare checks.

Tax cuts work. The best solutions are always seen in the private sector and not in government. I hope the next time when we have an opportunity to make these tax cuts permanent that we can get the Democrats, particularly those in the other body, to join us in making these tax cuts a permanent part of our Tax Code.

CONFERENCE REPORT ON H.R. 1588, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 437 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 437

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1588) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This morning, the Committee on Rules met and granted a normal conference report rule for H.R. 1588, the Defense Authorization Act for Fiscal Year 2004. The rule waives all points of order against the conference report and against its consideration.

In addition, the rule provides for 1 hour of debate equally divided and controlled between the chairman and ranking minority member of the House Committee on Armed Services.

Mr. Speaker, this should not be a controversial rule. It is the type of rule we grant for every conference report we consider in the House. And I want to especially give my thanks to the chairman and ranking member of this committee, because they have done a phenomenal job with this bill. It is a bill that sets an example for the rest of the committees in the House as far as working together and doing what is right for the country and what is right for our servicemen.

This legislation firmly shows our commitment to restoring the strength of our Nation's military. The conferees authorize $400.5 billion in budget authority for the Department of Defense and the national security programs of the Department of Energy, which matches the President's request.

The legislation authorizes the funding necessary to defend the Nation and our interests around the globe. It contains important provisions, such as concurrent receipt pay for the Nation's veterans, commonsense environmental reforms allowing our troops to properly train, and important new benefits for military personnel and their families.

The Iraqi conflict and our continuing war on terrorism have brought a renewed and proper focus on national defense. We owe much to our men and women in uniform; and their success in Iraq and Afghanistan is a testament to their bravery, training and equipment, and their commitment to defend our freedoms. It is the means by which we meet our commitment to provide them a decent quality of life with an across-the-board 4.15 percent increase for military personnel, so as to sustain the commitment and professionalism of America's all-volunteer armed services and the families that support them.

The pay raise will cut the pay gap between military and civilian jobs from

6.4 to 5.5 percent. This will be the fifth consecutive year that pay raises have exceeded that of the private sector.

For our active soldiers, the conferees increased the rates of special pay for those subject to hostile fire and imminent danger worldwide from $150 a month to $225 per month for the period beginning October 1 of 2003, through December 31 of 2004.

We also want to acknowledge where these active soldiers get the source of their strength. It is from their families here at home. And we are increasing the family separation allowance for servicemembers with dependents from $100 a month to $250 a month for the period October 1 this year through December 31 of 2004.

I also want to take a moment to personally thank the gentleman from California (Mr. HUNTER) for tirelessly fighting for the solid "Buy American Provisions" that are included in this conference report. That is extremely important to my State of North Carolina.

The ongoing war on terrorism dictates the need to have reliable domestic sources of weapons and equipment. Unfortunately, fewer American companies are designing and manufacturing the components and materials used in our military systems, as the U.S. industrial base is becoming more dependent on foreign sources. And this is a disturbing factor to me, as I know it is to the gentleman from California (Chairman HUNTER). We have got to be able to produce these equipment needs here in the United States so we are not at the mercy of some other country if they decide for some reason to cut us off.

However, I am very disappointed, and I know the chairman is too, that the conference report did not include a key provision that was passed by the House that would ensure that all the components of the Department of Defense uniforms come from American companies. The language specifically worked to more adequately cover domestic textiles and leather industries.

I would also like to congratulate my good friend and colleague on the Committee on Rules, the gentleman from Washington (Mr. HASTINGS), for authoring the 1-year citizenship provision for our valiant servicemen and women. It reduces the length of service requirement for naturalization to 1 year. And I would also like to note that the ranking member on the Committee on Rules, the gentleman from Texas (Mr. FROST), worked hard on this issue as well.

On a positive note, I am extremely pleased and proud that H.R. 1588 establishes a payment program to simultaneously compensate disabled military retirees who were injured in combat for their full retirement pay from DOD and disability compensation from the Veterans Administration beginning January 1, 2004. Over the next 10 years, this bill will provide concurrent receipt to more veterans than have ever been covered by current law. Our veterans have given deeply and heroically, and it is only fair we recognize their service.

So let us pass this rule and pass the underlying defense authorization conference report. At the end of the day, we will be making our homeland safer, and we will be supporting our sons and daughters serving in our military. We are also preparing for war, thereby ensuring victory. At this crucial time in our history, this bill is most important.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, for all of my 25 years in this Congress, I have worked to strengthen America's military and to increase our national security. Like other defense proponents on both sides of the aisle, I have bent over backwards to put politics aside and work together to support America's men and women in uniform.

For instance, nearly 18 months ago, I introduced the Citizenship for America's Troops Act, a bill to help U.S. troops who are legal immigrants by easing the costly and burdensome obstacles that they face in the current citizenship process. Working with Democrats and Republicans in the House and the Senate, a good compromise was finally reached, one that is in this defense authorization conference report. It is not perfect, but it does provide much-needed relief to the more than 37,000 patriotic legal immigrants on active duty in the U.S. military, brave men and women who have been fighting and dying for a country in which they could not even vote.

This kind of cooperation and bipartisanship approach, Mr. Speaker, is fundamental to our efforts to keep America's military strong, especially at a time when so many Americans are losing faith in President Bush's ability to win the peace in Iraq.

While this conference report offers much to be proud of, Mr. Speaker, like the military pay raise and health care benefits for the National Guard and Reserves that Democrats have fought for, it also demonstrates how bipartisanship is becoming increasingly rare under this all-Republican government.

During the conference committee negotiations on this bill, Republican leaders shut out Democrats, including the distinguished ranking member of the Committee on Armed Services, the gentleman from Missouri (Mr. SKELTON), on some key areas of the conference. And the gentleman from Missouri will speak about those in more length. This is part of a clear and dangerous pattern by Republican leaders. We have seen it on the energy bill, the Medicare bill, and the FAA bill; but it is extraordinarily disappointing to see America's national defense policy treated in such a partisan manner.

Moreover, the conference report itself contains several provisions where Republican idealogy clearly trumped solid national defense policy. In the interest of time, I am going to just mention three examples.

First, why will President Bush and the Republicans not listen to the veterans and Democrats who are fighting to repeal the disabled veterans tax? Right now it penalizes nearly 560,000 disabled veterans, denying them $3 billion in military retirement benefits each year. As the American Legion has said, Mr. Speaker, the right thing to do is repeal the tax for all service-disabled military retirees. Democrats have proposed a plan to do that; but Republicans, led by President Bush, continue to block it. In fact, in this bill, Republicans refuse to help almost 70 percent of those disabled veterans, Mr. Speaker.

So when Republican Members are at home for Veterans' Day celebrations next week, I hope they will be honest with the people about the provisions in this bill which provide only partial relief to only a fraction of America's disabled veterans. I hope they will explain that they did not think they could afford to restore military retirement benefits to 390,000 disabled veterans because they spent so much of the U.S. Treasury on tax breaks for the wealthiest few.

Second, does anyone really believe that national security requires that we gut landmark environmental protections? Of course not. But rolling back America's environmental protections is a Republican priority. So Republicans stuck into this bill provisions that attack the Endangered Species Act and the Marine Mammal Protection Act.

And, third, is it really necessary to weaken the workplace protections of 746,000 patriotic Americans employed at the Pentagon, the same people who responded so courageously to the September 11 attack on that building? And is it really necessary to eliminate the rules prohibiting patronage at the Pentagon? Of course not. But gutting important worker rights is another key Republican priority, and they are shamefully using this national defense bill to do it.

Fortunately, Mr. Speaker, there are some areas of this conference report where bipartisanship and sound defense policy have prevailed. These include the substantial quality-of-life improvements that Democrats have fought for. Those include a 4.1 percent increase in basic pay for all members of the Armed Forces, plus targeted increases for midgrade and senior noncommissioned officers and select warrant officers to enhance retention. And they also include an increase in imminent-danger pay and the family separation allowance for U.S. troops serving in harm's way.

The conference report also builds on our efforts to support the National Guard and Reserves, who bear more and more of the burden of defending America at home and abroad. For instance, it ensures that when the Ready Reserves serve in areas where those on active duty get hazardous duty pay, they will too. And if members of the Ready Reserve cannot get health insurance through their employer, it gives them access to the same TRICARE system that serves the military.

Additionally, Mr. Speaker, I am pleased that the conference report includes my own legislation to make life easier for the Guard and Reserves, both active duty and retirees, and their families, by allowing them unlimited access to commissaries. They and their families are making great sacrifices for this Nation and they deserve our support.

Finally, the bill continues to make important investments in the wide range of weapons that ensure America's military superiority throughout the world. It includes full funding of $4.4 billion for the F–35 Joint Strike Fighter, the next generation multirole fighter of the future for the Air Force and the Navy and the Marines. It fully funds the F/A–22 Raptor aircraft, the high-technology air dominance fighter for the Air Force, by providing $3.5 billion for 22 planes, and it includes the full $1.2 billion needed for the V–22 Osprey aircraft.

Mr. Speaker, all these important prodefense provisions have strong bipartisan support. They reflect the longstanding commitment of Democrats and Republicans to work together to ensure the U.S. military has the resources it needs. That is the type of bipartisanship and cooperation that our national security policy requires. It builds strong public support for a U.S. foreign policy here at home and ensures our troops have the resources they need to do the dangerous job we ask of them.

Unfortunately, Mr. Speaker, Republican leaders seem to have forgotten these lessons. And the President too often ignored them in the run-up to the war in Iraq, which is a big reason it will be so hard to restore President Bush's credibility and the public's confidence in his ability to win the peace in Iraq. The American people deserve better than that, and so do our troops in the field. I urge my Republican friends to remember that, especially as U.S. troops and U.S. taxpayers continue to shoulder almost the entire burden for rebuilding Iraq.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from California (Mr. DREIER), our distinguished chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and the underlying conference report which we are going to consider this morning.

I want to begin by thanking my friend, the former mayor of Charlotte, the gentlewoman from North Carolina (Mrs. MYRICK), for the fine work she has done not only in managing this rule but her important support of provisions in this measure dealing with concurrent receipt, making sure that those veterans who have been wounded and suffered will also receive their retirement pay. This I know was a very high priority for her. She also was very involved, Mr. Speaker, in addressing the Buy American Provision, which my very dear friend and classmate, the gentleman from California (Mr. HUNTER), the chairman of the committee, has pursued. And I believe that we have come to a reasonable compromise on it.

I am not in total agreement with the gentleman on this provision, at least the way he had originally had it, because I believe we need to focus on ensuring we get the best quality product at the lowest possible price for our taxpayers. But at the same time, obviously, we do want, as a first choice, to focus on, in the area of machine tools and other areas, American workers and American job opportunities here.

I want to say that there is another provision that my friend, the gentleman from Washington State (Mr. HASTINGS), worked on, and I know the gentleman from Texas (Mr. FROST) worked on as well, which is very important, and that is to ensure that we provide citizenship to those who have risked their lives and fought on behalf of the interests of the United States of America. I am pleased that the conference has in fact chosen to follow the direction of this House in ensuring that we have brought about the Hastings language on this. We know that President Bush strongly supports this as well, and I would like to congratulate him on this.

□ 0930

Mr. Speaker, this legislation is very important. As we opened the Committee on Rules meeting at 7 o'clock this morning, I said that if you look at most of the things that we do here in Washington, D.C., most all of them can be handled by State and local governments. We are obviously involved in health care and education and a wide range of areas, but clearly those are things that can be handled at the local level. There is really one preeminent issue that cannot be handled by a city, a county or a State government, and that happens to be the overall security of the United States of America and our interests overseas. And that is why I feel as a Member of this body very fortunate to have both the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) working hard to ensure that we have the very, very best defense for our Nation.

Now, I want to say that as I listened to my friend from Dallas go through his prepared statement on this he did end by talking about the fact that Democrats and Republicans alike stand together in support of a strong defense, but I have to disabuse my colleagues of the notion that was made that somehow Republicans are interested in gutting worker rights, murdering our environment. Nothing could be further from the truth, Mr. Speaker.

I will state that when it has come to the environmental issues, and I know the gentleman from California (Mr. HUNTER) will get into this as he has in our meeting upstairs this morning and he has repeatedly here in the well, he has talked about the responsibility to ensure that our men and women in uniform are not playing second fiddle to some obscure environmental priorities that one has. This measure, in fact, pursues a very balanced approach to environmental issues.

Similarly, this notion that we somehow want to plunder workers rights, that we want to gut the rights of workers, again, nothing could be further from the truth. This measure pursues a very balanced approach which focuses on worker rights. And so I want to say that I believe this measure is going to pass with strong bipartisan support.

As the gentlewoman from North Carolina (Mrs. MYRICK) pointed out, the issue of concurrent receipts is important for us to address, especially as Members prepare to go back to their States and districts and talk about the important sacrifice that has been made and, of course, as we think today, and the gentleman from Missouri (Mr. SKELTON) was the first one to report this to us in the Committee on Rules this morning, we heard the tragic news overnight of a Black Hawk helicopter that was downed and the loss of six lives.

We continue to live in a very dangerous world. And the chairman of the Permanent Select Committee on Intelligence, the gentleman from Florida (Mr. GOSS), I think made a point very clearly in our hearing this morning and that is that we need to take action now. We want to make sure that the conflict exists there and not here, and that is why this legislation is so important, so that we can in fact deal with those who want to do us in.

The training that continues to take place in the madrasas, which is virulently opposed to the United States and our Western values, the other kind of terrorist activity that we are seeing, we have to be prepared to deal with that.

Lives are being lost on a regular basis because of this battle against international terrorism, but with passage of this legislation we will be able to diminish the threat of loss of life and ensure that our men and women in uniform are equipped and compensated to deal with this very, very serious issue.

Mr. Speaker, I urge strong support of this rule and the conference report.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, I rise in support of the rule and thank the gentlewoman from North Carolina (Mrs. MYRICK) and the gentleman from Texas (Mr. FROST) for presenting it this morning.

This was a difficult bill, and shortly we will talk about some bumps along the way. But, Mr. Speaker, we are at war. We must do our very best, and I think we have done a good job as it relates to the troops of the United States of America. They are superb. They are doing a good job. We must pay respect to them legislatively as well as to their families legislatively, and I think we have done that by the various items. The family separation allowance, the combat pay, the pay raise and all of these personnel items that we touched upon is our way of saying thanks for a good job well done.

So I support this rule. In the process I want to express my deep appreciation to everyone in uniform and to those families who support those in uniform. And, sadly, we have lost some and I hope that this is some consolation that we continue to support the American men and women who are wearing the uniform of the United States of America.

Mrs. MYRICK. Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, I thank the gentlewoman for yielding me time.

Let me congratulate my colleague, the gentleman from Missouri (Mr. SKELTON), my good partner on the Committee on Armed Services, and all the Members, Republican and Democrat, who helped to put this bill together. I want to thank the gentlewoman from North Carolina (Mrs. MYRICK), the chairman on the committee, the gentleman from California (Mr. DREIER), who gave us a lot of time and attention, and all the members of the Committee on Rules.

Let me just say a word or two about what this bill does because this bill makes what I consider to be some sweeping reforms and it is a great bill. It covers a number of major areas, and along with what I call the "people issues"; that is, the pay raise that has been mentioned, the additional monies for housing that brings down the amount that a service member has to pay out of their pocket, all of the things that go to quality of life for personnel. It also covers some major areas that have needed reform.

One aspect of that is what I call freedom to train, and today if you go to a place like Camp Pendleton, I have used that as an example, it has some 17 miles of shoreline. Only a very small area can actually be utilized for Marines who basically practice Iwo Jima. They practice assaulting a defended beach area. They can only do that practice in a very, very limited area of about one kilometer because of environmental considerations. And if you go to bases around the country, rifle ranges, air space for our Air Force and our other services to undertake integrated training with multiple aircraft, all of that is being hindered and obstructed because of a collision with our environmental laws.

Now, we have an answer to that, and the answer is a management plan called an inramp, and that is where the military gets together with State Fish and Wildlife and Federal Fish and Wildlife and they make an agreement. They make an agreement and they say, okay, the habitat for the gnatcatcher will be over here, we will set aside this 400 acres, and the Marines will have this area for rifle training or the Army will have this area for tank training or the Air Force will have this area for aircraft training.

Once you make that agreement and you put it in place, it is not open for groups to come in and sue under the Endangered Species Act to close down that rifle range, to close down that tank range, to close down that air space that is so vital so that our people can survive in theaters like Iraq and Afghanistan.

So this is offered under the proposition that the real endangered species here is a 19-year-old Marine rifleman who needs the very best training that he can get here at home before he projects American power overseas, and in this bill we put together this balance between conservation and military requirements.

Also, with respect to allowing our submariners to utilize the best of their sonar devices that will keep them alive when they are in the littorals, in shallow water areas around the world, where they will be faced with very quiet diesel submarines which are now being proliferated in certain adversaries' navies. We say that, whereas before the standard was that if a mammal, maybe a sea lion, was potentially disturbed that military training could not take place in his neighborhood. Now we say he has to actually be significantly disturbed. He has to actually be disturbed or that disturbance has to be significant enough to alter the way he migrates or feeds or the way he goes about his daily life.

So we are trying to give as much value to the sailors' survival as we have given to the sea lions' survival. I think that is a good balance. In this case we put the sailor ahead of the sea lion. I think the American people want that.

With respect to personnel, right now we are facing a war that is a new war. It is a war in which we see terrorists with high technology. We have to be flexible. We have to move quickly, and that involves people who not just wear the uniform of the United States, it also involves people who wear the civil service uniform.

So we are empowering Mr. Rumsfeld with the ability to reshape his civil service so that instead of taking 4 or 5 or 6 months to go through the bureaucracy to qualify a civil servant to work at a job so you get to the point where you just direct a sergeant to go do it and he salutes and goes and does it, we will now be able to quickly move civil servants into that job. We will be able to hire them quickly, and when people show an extraordinary ability to work and an enthusiasm and dedication that rises above the community, that they will be rewarded for that. And we have tested these ideas in pilot projects around the country, and the members who have participated in the pilot projects have voted that they like it.

So we are undertaking important reforms in this bill. We are giving the military the tools they need to fight this new type of war. I would urge everyone to support the rule and support the bill.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as the ranking member of the House Permanent Select Committee on Intelligence, I am a conferee on the Defense Authorization Act. Virtually all of the funding for intelligence is contained in this bill.

This bill is far from perfect. Like a number of conferees, I am enormously concerned about developing bunker buster nuclear weapons, weakening nonproliferation programs, and an assault on collective bargaining, all of which is unfortunately part of this legislation.

Nonetheless, I signed the conference report and I intend to vote for final passage. The lives of American soldiers, sailors, airmen and women, Marines and civilians are on the line in Iraq and in the global war on terrorism. Accurate and actionable intelligence is vital if we are to prevail, and I intend to do everything I can to provide our forces with the best intelligence possible.

The funds in this bill meet important intelligence needs vital to our Nation's security and, in contrast to the recent $87 billion supplemental, these funds come through the regular budget process.

Still, the following needs to be said: The Permanent Select Committee on Intelligence on a bipartisan basis has identified serious shortcomings in the prewar intelligence on Iraq's weapons of mass destruction and ties to terrorism. Sketchy and often circumstantial evidence produced estimates that likely were substantially wrong. At a minimum, I believe the Intelligence Community overstated the strength of the underlying data supporting the conclusions.

The Intelligence Community has yet to acknowledge any flaws in prewar intelligence. With American lives on the line now, the shortcomings in prewar intelligence must be addressed now. A "lessons learned" study cannot await the conclusion of David Kay's ongoing WMD search. Regardless of what he finds, there were problems with collection, analysis and the way policy makers used the information.

I strongly support this bill's requirement of an Iraq "lessons learned" report by the Department of Defense due March 31 of next year. As a conferee on the intelligence authorization bill, I plan to push for an interim "lessons learned" report from the Intelligence Community on the same date as the military's report is due, and I hope that the gentleman from Florida (Chairman GOSS) will join me in this request.

Mrs. MYRICK. Mr. Speaker, I yield 4 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me time.

Mr. Speaker, I also want to thank the chairman of the Committee on Armed Services, the gentleman from California (Mr. HUNTER), who has just gone through very difficult negotiations at a very difficult time. Some Members may not know that he lost his home to the California wildfires that swept through southern California. So I thank the gentleman from California (Mr. HUNTER).

This is good news. This defense conference report is good news for our young men and women who serve in the Armed Services and are required to carry out the will of this Nation overseas. We want to give them the tools necessary so they can do their job and come home safely to their families, and this bill provides many of the tools necessary for that to happen. It is also good news for our veterans in addressing the issue of concurrent receipts.

It is also very good news for the KC–767 program. This is a critical part of our defense program and it completes the circuit for the start of a new program in fulfilling a great need by replacing our KC–135's, the tanker fleet that we currently have.

□ 0945

For those who are not familiar with the KC–135, this is basically a gas station in the sky. It refuels other aircraft, and it is a very necessary link in projecting power for this country. Afghanistan and Iraq once again confirmed the necessity that in today's war on terrorism, we must have tankers to fulfill the role of carrying out and projecting power. The problem has been that they are an aging fleet. The average age of the KC–135s is 43 years. Can the Members imagine, Mr. Speaker, coming back and forth to work in a 1960 automobile? This is basically what we have asked our young men and women to do. The average age of 43 years is the equivalent of driving a 1960 Dodge Dart. And just like an older automobile would suffer from rust and need repair, these aircraft are suffering from corrosion and have high maintenance costs. So the KC–135 must be replaced, and this is good news because this defense authorization conference report does that.

But, Mr. Speaker, I would like to place the House on notice that we will have to correct some of the problems that have been created by this agreement in the current legislation. The conference report changes the original plan for the KC–767. It changes the delivery rate and purchasing method that was supposed to save approximately $4 billion, an estimated $4 billion, but the short-term plan was shortsighted. It does create a long-term problem. I will submit for the RECORD the letter from Deputy Secretary of Defense Paul Wolfowitz outlining the plan to change the delivery schedule for the first 100 aircraft. It essentially changes it from a 20-per-year delivery rate to a 12-per-year delivery rate.

When we assume the total program of 400 aircraft, instead of ending this program in fiscal year 2025, it will now end in fiscal year 2039. That moves the midpoint of this entire program 7 years to the right. If we assume an average cost of $150 million per aircraft and a 5 percent inflation rate, that is for increased labor cost, increased material cost, increased cost of money, it raises the cost of the entire program by 40.7 percent. So instead of 60 billion over 21 years for the KC–767 program, the Federal Government will have to spend approximately $84.4 billion over 35 years.

What needs to be done? We are going to address the delivery schedule. It must be accelerated so that we can reach an optimum production rate and a lower cost per aircraft. We also need to provide adequate budget authority to serve the taxpayers with significant reduction in the cost of this program by accelerating the production rate. But over all, Mr. Speaker, this is a very good conference report, and it is going to be something that is going to help our young men and women as well as veterans. I support the rule, and I support the defense conference report.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, November 5, 2003.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you again for your consideration of the Department of Defense's proposal to lease 100 KC–767A aircraft. As you know, there has been a vigorous debate on the best way to get this program started. Your most recent amendment would allow the Air Force to lease no more than 20 of the 100 tankers. The Air Force has developed a proposal to implement that arrangement, and I hope that you will find it acceptable.

Our proposal strikes a necessary balance between the critical need for new air-refueling tankers and the constraints on our budget. As reflected in the enclosed chart, we intend to lease the initial 20 aircraft and then buy aircraft at a steady rate of 11 to 13 aircraft per year until delivery of the 100th. We commit to add $2.4B, in Fiscal Years (FYs) 2008 through 2010, to the funding profile for the original proposal to lease 100 aircraft. We also will add $1.4B in FY 2012 to 2013. The combination of these added funds achieves an immediate start to the program and allows us to purchase the last 80 aircraft at time of delivery.

I appreciate the support that you have provided in the past and look forward to working with you in the future. If you require further information, please do not hesitate to contact me. A similar letter has been sent to the chairmen and ranking minority members of each of the defense committees.

Sincerely,

PAUL WOLFOWITZ.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I support this bill, and I am glad to see us put some quality-of-life provisions in it; and I commend the chairman, whom I have worked with for 20-odd years, for once again bringing a bill to closure.

I do have to call attention to the fact that this rule waives all points of order, which is typical; but in this case, as ranking member of the Budget Committee, I feel obliged to make my colleagues aware what it is we are waiving because it is not a good way to do business; it is not a good way to keep a budget.

This conference report contains two provisions that entail significant spending over and above the amounts allowed in the budget resolution. One allows concurrent receipt of military retirement benefits for retirees who also get VA disability benefits. The other commits the government to lease and purchase up to 20 or maybe even 100 new tanker aircraft.

No funds were added to this conference report to pay for either of these programs, and that is my problem. Between the two of them, they will entail new unfunded future commitments of approximately $40 billion, $22 billion for concurrent receipt, $18 billion for 100 new tanker aircraft.

As a member of the Committee on Armed Services, I support the compromise on concurrent receipt, and I understand the need for new tankers; but I am concerned, and have to be, about the way we are doing this. The rule before us would waive the point of order that would otherwise lie against the conference report for some clear and substantial departures from the budget resolution that is supposed to be prevailing in this House.

We just finished the fiscal year 2003, Mr. Speaker, with the largest deficit in our peacetime history, $374 billion. The deficit for next year, fiscal year 2004, is likely to break that by $100 billion, even without the additional cost of these programs which are not included in any of CBO's or OMB's projections.

All I am saying is if concurrent receipt is a worthy benefit, and I think it is, then let us pay for it or at least let us recognize fully in the budget the cost of it. If we need these tankers, and I accept the arguments that we do, then let us pay for them. Let us make the argument and pay for them and set the priority in the budget. This bill does not do that, and this rule would allow Congress to flout the budget resolution without facing up to these costs. If Congress feels that it is necessary to abandon the budget resolution that supposedly prevails in the House and further increases the deficit, then we ought to be accountable for that decision. But this rule would make sure that no Member of this body will have the opportunity to demand such accountability.

Let me tell the Members specifically the two problems in the conference report with respect to these items that give me trouble. The conference report phases in a compromised version of concurrent receipt. In 2004 this would increase direct spending by $800 million. By 2013 this would increase annual cost to as much as $3.5 billion. This provision would cost an estimated $22 billion in additional direct spending over the next 10 years, none of which is provided for in the mandatory spending provisions of the budget resolution. That is why I call it a substantial departure.

There is another anomaly in the way concurrent receipt is treated. Since the mid-1980s, we have recognized military retirement costs through an accrual system that sets aside funds to cover the cost of retirement benefits we owe in the future for today's military service. The concurrent receipt provisions in this bill eliminate a reduction or offset in military retirement and thus increase military retirement benefits. Under current procedures, we should increase our accrual payments to account for the fact that we have just increased future spending on retirement benefits. This bill does not do that. It departs from a convention we adopted 20 years ago for reporting military retirement programs.

The conference agreement also includes language that was not in either bill to lease 20 tankers and then buy 80 more. In effect, what it allows is incremental funding, something we have not done for big procurement programs for a long, long time. It entails at least a liability of $4 billion, maybe as much as $18 billion, and yet none of this money is in the Air Force budget. None of this authority has been recognized. What we have here is an effort to obscure the fact that we are increasing the defense budget but not adding BA commensurate to the amount of the increase.

There are committees right now and next week railing against corporate misaccounting in this country and should be. But we should keep our own books in proper order in order to make such criticisms. This is not a way to budget. I support the bill and hope it does not constitute a precedent for the future.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I rise in strong support of the rule and of the conference report with a deep sense of gratitude to the gentleman from California (Chairman HUNTER), as well as the gentleman from Missouri (Mr. SKELTON), ranking member, for their extraordinary and bipartisan leadership on behalf of that fundamental function of our Nation and this Congress to provide for the common defense and in meeting the urgent needs of soldiers in the field of today, our intelligence community, but also meeting the needs of those who have served in uniform. I believe this conference report goes a long way toward discharging that duty.

Mr. Speaker, in the survival of freedom we literally as American citizens owe our veterans everything. But in a world of limited resources, we can only in this Congress do the right thing. I rise specifically today on virtually the eve of Veterans' Day to point out how this Congress, thanks to the bipartisan leadership of the defense authorizing committee, is doing the right thing by veterans in the area of concurrent receipts.

Since arriving in Congress, I have heard from one veteran after another, men and women who had worn the uniform of the United States of America, about the injustice of losing disability benefits for which they were eligible as veterans at the time they reached the age of retirement. Thanks to this legislation, in most cases disability benefits incurred in uniform or earned in uniform will not be forfeited simply because a veteran reaches the age of retirement. The Good Book tells us if we owe debts, pay debts; if honor, then honor; if respect, then respect. By meeting the urgent needs of the defense of the Nation today, we pay a debt to those who risk and expend their lives in the advancement of our freedom. But by addressing the injustice of current veterans benefits, Congress today goes a long way toward paying the debt we owe to those we can never repay.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership.

I rise to point out that this conference report does not adequately address the needs of our disabled military retirees. Later today we will be considering a motion to recommit. And I strongly urge Members to support that motion and urge that we fix a tremendous injustice in this conference report.

The conference report provides no relief whatsoever to two-thirds of disabled veterans who are now paying the Disabled Veterans Tax. Further, it provides only limited relief from the unfair tax burden to those it does cover. Under this report, veterans with disabilities rated at 50 percent or more would have to wait 10 years before receiving their full military retirement pay. The vast majority of eligible veterans are left out. In fact, 400,000 veterans with disabilities rated under 50 percent would not receive any relief at all. In other words, some veterans who lost their limbs while serving their country are not considered worthy of relief after they get back to the States.

This is not "full concurrent receipt" as has been claimed. This is clearly not a victory for veterans. It is an attempt to divide and conquer veterans so as to deprive most retirees of their earned retirement benefits. A vote for the motion to recommit is a vote for full concurrent receipt and an end to the tax on our disabled veterans.

I urge all Members to vote for this motion and support what 374 Members have already said by cosponsoring legislation for full, not partial, concurrent receipt.

Mr. Speaker, I believe the veterans of our country are wise enough to make judgments about where they want to go, and I salute them for raising the issues that we have been dealing with the last few years.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I want to say right up front that I will vote for this defense authorization. The gentleman from California (Mr. HUNTER), the gentleman from Missouri (Mr. SKELTON), and a whole range of people have done an outstanding job to ensure the safety not only of the United States and our security but of those young men and women who are out there basically buttressing the pillars of civilization.

The gentleman from California (Mr. HUNTER) mentioned a little while ago that a 19-year-old rifleman ought to get the best training in the world. I agree with him 100 percent. I was a 19-year-old Marine Corps rifleman who worked with the Navy over a period of years, went into assaulted-fortified positions from Navy ships. So I personally recognize the absolute need, the uncompromising need, to ensure the best available training, the best equipment, the best of support that this country can offer to U.S. soldiers, sailors, Marine Corps, and airmen.

I would like to work with the Committee on Armed Services and the chairman and the ranking member. Over the next several months, the Committee on Resources will be reauthorizing the Marine Mammal Protection Act. The language in the defense authorization bill dealing with the marine mammals was something that we worked out. The language that is in the defense bill now, I think, goes beyond what is necessary. There are some issues dealing with small numbers versus negligeable numbers. There are some issues dealing with confined geographic areas. There are issues dealing with permits. There are issues with civilian scientific research.

I think the model we can use for the marine mammals and the Marine training is laid out before us in this thing called INRMPs, Integrated National Resources Management Plans, that there is consultation, there is collaboration with the Committee on Resources and the other agencies throughout the Federal Government. That model that deals with INRMPs, that assures those guys on the ground, that young 19-year-old rifleman, is going to get the best training, no compromise on that. And I would like to work with the Committee on Armed Services to deal with those issues over the next several months.

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Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding me time.

I rise to express my opposition to the conference report on the Department of Defense authorization bill. I want to pick up with where the last speaker finished. He said he thought in this bill they went a little further than was necessary in the area of the Endangered Species Act and Marine Mammal Protection Act. I want to say what I believe to be the case, that the problem with this bill is that it has been hijacked by the Republican leadership and the White House, who insisted on provisions that weakened environmental laws relating to the Endangered Species Act and the Marine Mammal Protection Act.

I am also the ranking member of the Committee on Government Reform, and I want to address the civil service provisions in this bill. I am not opposed to reasonable reform that makes the Federal Government function more efficiently and still protects the basic rights of Federal employees, but this bill is not reasonable.

Senator COLLINS developed a bipartisan compromise that safeguarded the collective bargaining rights of 700,000 DOD employees, yet gave DOD much of the flexibility it requested, but this bill abandons that compromise. This bill makes a mockery of labor relations at the Defense Department. At the same time that the bill claims to protect collective bargaining, it allows DOD to waive these requirements for the next 6 years. During these 6 years, the Department can run rough-shod over its unions. The Department can decide what issues will be bargained, how labor and management impasses will be resolved and whether it will discriminate against union members.

This bill also makes it harder for DOD employees to gain redress for unfair treatment. Currently employees have the ability to file appeals with the independent Merit Systems Protection Board, but under this bill employees first would have to go through an internal DOD appeals process. An administration that says it is against bureaucracy and red tape wants to create so much bureaucracy for employee appeals that employees will simply give up trying to protect their rights.

The bill removes requirements for DOD employees to receive overtime pay or pay for working on holidays or weekends. This is ironic, since both the House and the Senate recently voted to protect overtime pay for private sector employees.

As the war efforts in Iraq have demonstrated, DOD employees do not work only Monday through Friday, 9 to 5. Frankly, it is shameful that Congress is going to give those employees who safeguard our national security less overtime protection than it gives private employees.

Finally, I have concerns about some of the provisions dealing with government-wide procurement policy. In particular, the bill extends to all civilian agencies something known as "other transaction authority" for research and development projects related to defense against terrorism. This would essentially waive all Federal procurement laws for these contracts. The bill also includes excessive waivers of procurement rules for contracts related to other anti-terrorism products and services.

It is wrong to take important must-pass legislation like the DOD authorization and load it up with right-wing policies that damage the environment and strip employees of basic rights, but that is what this bill is doing, and I am going to urge my colleagues to oppose it.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the gentlewoman from North Carolina for her leadership and appreciate her yielding me time.

Let me say that the gentleman from Florida (Mr. BILIRAKIS) for 18 years in this Congress supported legislation that would give concurrent receipt to our veterans; 18 years. People in this Chamber need to know that, because there are people here who have been present during that time, and during that time the people who are now saying that Republicans will not support our veterans need to remind themselves that not a one of them joined sponsorship for his bill while that was there.

Since I came to Congress, Mr. Speaker, I have been working to strengthen the Berry Amendment to help ensure that the Department of Defense use American manufacturers and products in its procurement programs. This past spring, and this good rule supports these efforts, I became very concerned when there was a blanket waiver issued for commercial aircraft.

Among other products, this largely jeopardizes our domestic titanium industry. The number of companies that currently comprise this industrial base has shrunk to three domestic producers of titanium. Maintaining this base is not only vital for our economy, but also our national security. We simply cannot be relying on the Russians and the Chinese, who are developing their own economies, to supply significant amounts of titanium for our Nation's defense.

The gentleman from California (Chairman HUNTER) has been tenacious in working to make sure that our industrial defense base is strengthened, not protected, strengthened, so that our national security is foremost.

I would like to yield to the gentleman from California (Chairman HUNTER) for his comments on this issue.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank my colleague, and we are going to describe during the general debate the great industrial base provisions, like the machine tool provision that we came out of this conference with, some excellent stuff.

But with respect to titanium, we know that we have three major makers of titanium left in this country. Otherwise, you have to rely on foreign sources. I want to thank the gentleman from North Carolina (Mr. HAYES) personally for putting together the working group between industry and the Air Force and Members who are interested, and putting together what we call the basket approach to titanium.

The basket approach says basically this: If you are going to take a domestic system, like the planes that are candidates for this tanker operation, and you convert them into a military system, right now the Berry Amendment says you have to use American-made titanium on American military systems.

We have agreed that since some of these civilian aircraft will have some foreign-made titanium, we got with the industry leaders and they agreed that they would take and require the same amount of American titanium, with in fact a 10 percent increase, and spread that across the rest of their lines to make up for the foreign titanium that was in those civilian aircraft. I have talked with industry leaders. They feel a strong commitment to that policy.

I want to thank the gentleman for putting that in place. I think it is going to accrue to the benefit of not only our tanker program, but also the health of the titanium industry.

Mr. HAYES. Mr. Speaker, reclaiming my time, I thank the chairman very much, and thanks again to the gentlewoman from North Carolina (Mrs. MYRICK). This is a great rule. It is for our troops, it is for our Nation, The spirit and intent of what we discussed is there.

Vote for this rule.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in support of the conference report and this rule. I have concerns about this bill, too. I represent the Puget Sound Naval Shipyard in Bremerton, Keyport, Bangor. Many of these work rules are very much deplored by the workers there, and I regret that they have been attached to this legislation, but we will continue to work to try and deal with them as we proceed in this session of Congress.

I want to rise in very strong support of the provision my friend the gentleman from Kansas (Mr. TIAHRT) talked about earlier, the question of tankers. I became interested in this issue several years ago with a visit to Tinker Air Force Base where we saw the condition of our KC–135–Es. I believe that this is a crucial national priority, to get a new tanker replacement program started.

The Air Force has chosen the 767. We have had a lot of controversy about whether we should buy or lease. We have come up with a combination here. The Secretary of Defense's office, led by Mr. Wolfowitz, sent a letter on Thursday, which has brought us together. I want to commend the Speaker, the gentleman from Illinois (Mr. HASTERT), for his dedicated leadership on this issue. Without his tremendous effort and tenacity, we would not have gotten this far.

I intend to have a colloquy later with the chairman of the committee when we get to the authorization bill on this matter, but I just want to say that I want to compliment everyone who has worked on this. For 2 years, we had to get an effort under way to get this replacement effort going.

Not to understate it, every single plane that flew into Afghanistan and into Iraq had to be refueled multiple times. Our whole effort to improve our bomber capability with the B–2 and smart weapons and all of the aircraft coming off of our carriers, Navy and Marine Corps aircraft, all of them had to be refueled multiple times. So you do not get anything done without tankers.

We have planes now, 544 of them, that were built between 1957 and 1963. These are very old aircraft. We have serious corrosion problems, and I am glad that this conference committee was able to come together and put together a package and that the administration has said they will make it work.

I believe this is one of the most important things we can do. If you think about it, tankers and the EA–6–Bs, which are also old and in terrible condition, are two weapons systems that have become absolutely fundamental to our U.S. ability to project power around the world. I am glad we can get this tanker thing moving forward and that it is in this bill.

I appreciate the gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) for their leadership on this issue.

Mrs. MYRICK. Mr. Speaker, I reserve my time.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I would like to express my deep disappointment at the failure to deal with challenges for one-half of our patriotic team in the war against terrorism. We have done some good things in here for our folks in the Armed Services, but for our civilian employees, who are a crucial part of our defense team, we are removing protections for overtime pay and other matters, and that is just abominable.

When I went out to greet with the gentleman from Washington (Mr. DICKS) the Carl Vinson when she came back from the Afghanistan war, I talked to the folks about their incredibly successful safety record of thousands of sorties without a loss, and they told me it is in large part because of the incredibly adept maintenance done on that ship by our civilian employees. This bill is a jab and a mark of disrespect for those civilian employees, who are every bit as patriotic as our folks in the Armed Services today, and there is no reason for this to have happened.

Now, this is just the first step in this effort. We are going to continue to work on this, that this effort of flexibility does not mean disrespect for our civilian employees. We are going to stay on it like a dog with a bone.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of this rule and the underlying bill which will follow immediately thereafter.

I want to just point out to my colleagues that the concurrent receipt victory that is in this bill is significant, it is profound, it is historic, and will make a major difference in the lives of our men and women who have served ably and honorably in our military, have served for 20 years or more, and also have been disabled. It will provide that anyone who is service-connected disabled 50 percent or more or combat-related of any rating will get the full concurrent receipt after a phase-in of 10 years.

Let me point out to my colleagues that this adds about $22 billion in benefits over 10 years to veterans compensation. This is not an insignificant amount of money.

After the phase-in period, let me remind my colleagues as well that this bill adds about a $3.5 billion every year to service connected disabled vets. So the next 10 years we are talking about another $35 billion more that will go to our disabled veterans. That is in excess of $57 billion to our disabled veterans as a result of this legislation.

I want to thank the gentleman from California (Mr. HUNTER), the chairman of the committee, for his work, the gentleman from Florida (Mr. BILIRAKIS), the gentleman from Missouri (Mr. BLUNT), and so many others who worked on this to make sure that we get concurrent receipt resolved.

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Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

I would only point out to the previous speaker and to speakers on the other side that if the Republicans in the House were willing to forego a little bit of the tax cuts for the wealthy, we could fully fund concurrent receipts, rather than just partially funding concurrent receipts.

Mr. Speaker, I urge adoption of this rule and adoption of this conference report.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I want to again thank the chairman and ranking member of this committee for the good work they have done in bringing this bill forward. It is a good bill at the right time in history to help our men and women and to be sure that we are doing all we can in this war on terrorism.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. HUNTER. Mr. Speaker, pursuant to House Resolution 437, I call up the conference report on the bill (H.R. 1588), to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of November 6, 2003, Book II.)

The SPEAKER pro tempore. Pursuant to House Resolution 437, the conference report is considered as having been read.

The gentleman from California (Mr. HUNTER) and the gentleman from Missouri (Mr. SKELTON) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I want to thank all of my colleagues who participated in putting this bill together from the earliest hearing that we had early in the year on the threat that America faces, on the status of our Armed Forces, and on what we need to do to give the President and our troops the tools to get the job done. My partner, the gentleman from Missouri (Mr. SKELTON), is every bit a 50–50 partner in this operation, Mr. Speaker. When we really get down to what it takes to protect our freedom, there are no Republicans or Democrats, and we have a very bipartisan committee, and I am proud of that. I want to thank the gentleman from Missouri (Mr. SKELTON) as not just a friend, but a real full partner in helping to shape America's defenses, along with all of the members on the Democrat side on the Committee on Armed Services and, of course, our great, great folks on the Republican side, along with the subcommittee chairmen and ranking members who have done such a great job.

Now, Mr. Speaker, we face a new era. This is an era of what I would call terrorists with high technology; and probably Jim Woolsey said it best when he said we have killed the big dragon, that is, we have disassembled the Soviet Union, but there are lots of poisonous snakes out there, and we are seeing those poisonous snakes and the effect of their bites every day around the world, not just in the theatres in Afghanistan and Iraq, but elsewhere. And I think probably the American people since 9–11 still have an acute understanding of the venom and the poison that is manifest in that capability of our adversaries in this new era of terrorists with high technology.

Our job is to meet that threat, and our job is further, in meeting that threat, to shape the U.S. military and our defense apparatus to meet the threat, to defeat it, and to equip it; to give it the tools that it needs to do its job most effectively, and this bill does that, Mr. Speaker.

I wanted to talk about a number of issues with respect to this bill. This is a sweeping bill; and it does a number of reforms, a number of changes, a number of things that I think are important to change our military as we move into this new era.

Let me talk about, first just talk about the last subject that came up during the rule, and that is the tankers. Because, yes, the tanker agreement is in this bill. Let me tell my colleagues a little bit about that.

First, anyone who does a security analysis or a briefing on potential threats around this world and present threats understands that tankers are extremely important. I just might add that I undertook a series of classified and unclassified briefings, as have most members of the Committee on Armed Services over the last many years, and paramount to our ability to project power is American air power.

Whether we are talking about B–2 bombers that can fly literally from Whiteman Air Base to strike a target in Kosovo with precision munitions, or talking about tactical aircraft flying off a carrier and hitting targets in Afghanistan or Iraq, we need tankers. Tankers, that big gas station in the sky that the gentleman from Kansas (Mr. TIAHRT) talked about, are necessary to project American air power. If we have American air power and, specifically, if we have stealth, and we couple that stealth with precision munitions, that is, instead of carpet-bombing a bridge, we send in that one precision munition, it hits one strut on that bridge and brings the whole bridge down, if we have that combination and we have the legs to get it there over the target in whatever remote part of the world we are operating in, we can project American power, we can protect our military forces, and we can drive them in a blitzkrieg attack against the enemy target, whether it is enemy forces surrounding Baghdad or some other area of the world; and Americans now understand that.

So we have to have tankers. If we do scenarios around the world, every single scenario requires lots of American tankers and, I might say, Mr. Speaker, more than we have now, newer than we have now, more capable than we have now. That is the reason we are putting the tanker deal together, and that is the reason that this is being carried in this bill.

Now, let me tell my colleagues, with respect to personnel, we have had some arm wrestling over this. But I think that the guy with whom we are trusting millions of young American lives, the Secretary of Defense, can be trusted with reshaping our personnel system in civil service in the Department of Defense to be more effective, and I think be more rewarding for those workers. I think they like the idea that we are going to be able to hire people right out of that job fair instead of telling them, in 3 months, maybe the Federal Government can hire you, while IBM and the private concerns are picking them up immediately. I like the idea that they are going to be able to be qualified for a job within a few days instead of after 3 or 4 months of bureaucracy, and that will allow them to take jobs that military people are doing now. When we have tested these things in places like China Lake, a majority of the workers, the workers have voted that they like this new system, this new flexible personnel system. This is an important new part of shaping the military.

So I think that is good.

Freedom to train, Mr. Speaker, we have talked about that. We have to give our young people the freedom to train, and once we make that agreement that the bird hatchery is going to be over here and the rifle range is going to be over here, we cannot let groups then go sue to close down the rifle range on the basis that they want to get that one too. We have to allow a balance to be maintained. One Marine said it best: He said to our members of the Committee on Armed Services, he said, for years we have done workarounds. He said, we cannot work around it anymore, there is no land left to work around. So we need to have this. This is very, very important legislation, freedom-to-train legislation, Mr. Speaker.

Let me talk about the industrial base. We have got in this bill a great foundation for bringing back and maintaining the industrial base of this country, and the centerpiece of this is what I think is the centerpiece of American production, the machine tool industry of this country, which used to be second to none. We have a provision in this bill, it is not a mandatory provision, so it is not going to make anybody have to go in and take out billions of dollars of machine tools, but it says that if you are an American contractor bidding on a DOD job, if you use an American machine tool instead of a foreign machine tool, you are going to get points in the competition. And I think that is going to incentivize some of our companies, big and small, to say instead of looking at another foreign-made machine tool, let us call up that American company and see what they have. Maybe we can use that machine tool. And that is going to, I believe, Mr. Speaker, start to bring back this base of machine tools upon which a lot of our defense manufacturing capability was founded. We do a lot of other great things in our industrial-based provisions, Mr. Speaker; but that is the centerpiece, and I think it is a very important foundation.

Now, we also reauthorize for 10 years the maritime security program. This is a program that brings in the strong right arm of America's maritime unions and makes sure that they are the ones that are moving men and materiel across the ocean into theaters of action instead of having to rely on rental operations where we are taking unions and working people from other countries and having to rely on foreign personnel to move the wherewithal for military victories around the world. That is what is going to bring our maritime unions, our ship-builders, and our maritime operators back into preeminence; and we have worked hard on that, Mr. Speaker, and that is a great aspect of this bill.

Concurrent receipt is very important, Mr. Speaker. We started out last year by saying people who are actually hit in combat, people who have won the Purple Heart, are going to get now two checks. They get the full check for everything that they have been disabled, for all of their disability, and they get the full check for their retirement for everything that they have done to serve the U.S. military. We now also say, and incidentally, I see the gentleman from New York (Mr. McHUGH) here, our chairman of the Subcommittee on Total Force, who very much has been a leader in putting this thing together. We also now are going to give full concurrent receipt, that is that full disability check, to all of those people who are wounded in the combat area or who are disabled or hurt in the combat area, who are hurt or disabled while training for combat. Maybe that guy who is jumping out at the 82nd Airborne, with the 82nd Airborne at Fort Bragg hurt his back, he is going to get it; and also people who are hit by instrumentalities of combat, like people who are hit by agent orange, Mr. Speaker. Then we go to the entire population of veterans who were not hurt in combat, were not hit by enemy bullets, were not hurt while training for combat but, nonetheless, have disabilities. And all of those people who are over 50 percent, Mr. Speaker, are going to receive both checks.

Now, that is going to bring in about 250,000 people, new people into the system. It is a big, big victory for veterans. It is a wonderful thing.

Mr. Speaker, let me just say, too, along with the gentleman from New York (Mr. McHUGH), the gentleman from Florida (Mr. BILIRAKIS), obviously, the guy that I call the father of concurrent receipt, it has been a big part of his career. And the gentleman from New Jersey (Mr. SMITH), the gentleman from Missouri (Mr. BLUNT), lots of great people; I might say that Senator WARNER also, working on Purple Heart Plus last year, had a good hand in starting to put this thing together, lots and lots of people. Lots of our veterans and veteran supporters in this House have been involved in putting this program together. This is a great program.

Mr. Speaker, this is a great bill. It is a far-reaching bill. It gives the President and the troops the tools to get the job done. Let us pass this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill, the National Defense Authorization Act. I will explain the reasons why, but I first want to compliment my friend, the gentleman from California (Mr. HUNTER). This was the gentleman's inaugural voyage as chairman of the Committee on Armed Services and the seas were far from smooth. Many of the issues we faced were particularly difficult. I applaud the gentleman's leadership in recognizing that the totality of the bill is more important, especially when our country is at war in Iraq.

I do want to raise several issues of caution about process, however. First, the conference process has not been totally inclusive. Many issues, three in particular, civil service reform, concurrent receipt, and Air Force tanker leasing have been decided without substantive Democratic consultation. Second, there were few conference meetings that involved all the conferees or even all the House conferees. Finally, it is highly undesirable to consider a conference report on a large and highly complex defense bill in just a few hours after the conference report has been filed. It is not possible for Members to make best judgments about voting on this bill when there has not been adequate time after it has been filed.

The fact that we are considering this bill today, however, reflects the commitment of the Committee on Armed Services members that we must provide for the men and women of our military when they are sacrificing in so many ways to defend our country and our issues. They are depending on us. We will not let them down. And we are at war.

I want to highlight just a few issues that cause me to support this bill. The bill includes a 4.1 percent pay raise for the troops. The bill provides an increase in imminent-danger pay. It provides for family separation allowance, which will directly benefit our servicemen and -women who are serving in Iraq and Afghanistan and other dangerous spots away from their homes. The conference report further authorizes TRICARE coverage in the military health care system for our National Guardsmen and for our Reservists who played such a vital role against terrorism.

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Finally, very, very important, this bill includes increasing the Army's size 2,400 additional soldiers. That is so terribly important because the troops are so strained at this time, and the gentleman from New York (Mr. McHUGH) knows that so well as chairman of the subcommittee.

We need the pay raise. We need the special pay to compensate and help retain those who have those special skills. Our bases need the military construction and family housing authorizations. We need to authorize the money for military operations, for flying hours and steaming days and tank miles, to allow our troops to be the best trained and prepared in the world.

I want to mention concurrent receipt. Overwhelming majorities of both Houses clearly support providing this benefit to all disabled retirees. Nevertheless, the conference agreement, which would provide this benefit to those at least 50 percent disabled, is a significant step in the right direction. There will, however, be a motion to recommit regarding this issue, and I hope people will support it.

I am pleased, Mr. Speaker, that we were able to reach agreements on many difficult issues, but I know many of my colleagues will not be happy with some of the substantive outcomes. The conference agreements concerning low yield nuclear weapons, civil service reform, and changing environmental laws are particularly problematic, and I point those out.

Now, perhaps more than any time in the last decade, however, Mr. Speaker, it is essential that the House take action to provide for our men and women in uniform. This vote will not only be seen in Kabul or Baghdad but also Diego Garcia, Fort Irwin, Norfolk, Fort Leonard Wood, Whiteman Air Force Base. We need to send a message to the American public, and to our adversaries and allies, that we as a Congress are prepared to give our men and women in uniform the support, the strong support and protection that they deserve.

So I urge my colleagues to vote for this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. SAXTON), who is chairman of the Subcommittee on Unconventional Warfare, Terrorism and Capabilities and oversees these very important special operations forces who are doing such a great job for our country.

Mr. SAXTON. Mr. Speaker, let me begin by thanking and commending the chairman of the committee, the gentleman from California (Mr. HUNTER), and the ranking member, the gentleman from Missouri (Mr. SKELTON), for the great bipartisan job that has occurred in bringing this bill to the floor.

Mr. Speaker, I rise in strong support of H.R. 1588 and do so with a great deal of pride after a lengthy but productive conference. The conferees have hammered out an excellent bill that will go a long way in enhancing our national security and providing our troops and their families with the assets they need.

I have the honor of chairing, as the chairman said, the new Subcommittee on Terrorism, Unconventional Threats and Capabilities on the Committee on Armed Services. As many in this body know, I have worked for many years to stand up such a subcommittee, and with good reason, for there is much that is left to be done.

The subcommittee's ranking Democrat, the gentleman from Massachusetts (Mr. MEEHAN), and I have worked hard together to explore a multitude of ways to provide the Department of Defense with the capabilities to defeat and defend against terrorists at home as well as abroad, and many of these ideas are contained in the conference report before you.

For example, the conference report includes many provisions that will prepare our Armed Forces and, in particular, the Special Operations Command, to combat terrorism worldwide as well as several items that will enhance homeland defense. In addition, the conference report establishes several programs addressing issues that arose in the recent war with Iraq and items that will speed the transformation of the military services.

It is critically important that all Members vote for this measure. There is much to applaud in many areas. I am proud to be a conferee and proud of the work that the chairman, and my good friend, the gentleman from California (Mr. HUNTER), as I said before, and the gentleman from Missouri (Mr. SKELTON) did in this regard. They have set a standard for us, and this is a bill which must be passed, hopefully with a very good vote.

Mr. TAYLOR of Mississippi. Mr. Speaker, I yield 3 minutes to myself.

Mr. Speaker, last night, yesterday in Iraq 7 brave young Americans died. This is the committee that makes the decisions to arm those people, to pay those people, take care of their families, and to take care of their injuries when they get home. And, so, as earlier this year I voted to send those young people to Iraq, I share in the responsibility and for those things that go wrong I share in the blame.

Having said that, although I have grave reservations about parts of this bill, I will be supporting it because they deserve to be paid, they deserve a pay increase, they deserve the better weapons, the better ships that are in this bill. But there are a couple of things that trouble me greatly.

Number one is the Bush administration's insistence on another round of base closures. Anyone in this body knows, who has taken the time to look at it, knows the United States Army is too small, that the entire United States Army is spoken for. If they are not deployed, they are getting ready to be deployed. So how on earth can we close one base out of four as the Bush administration wants to do?

The fleet is too small, 295 ships. Again, how can we close one Navy port out of four if the fleet is too small?

If the Bush administration truly thinks the base closures is a good idea, then they ought to have the courage to announce which bases they want to close prior to the Presidential election and not after in 2005. I think it just stands to reason. You do not hear Congressmen saying let us close bases. I cannot find one Service Secretary who is saying let us close bases. I cannot find one Admiral or General who will name one base that should be closed.

So if the Bush administration wants to close bases, let them do it prior to the Presidential election.

Second thing is, Mr. President, for the sake of those people fighting, let us pay for this war. This supplemental, and I am going to vote for it, is going to spend $400 billion for our Nation's defense.

A couple weeks ago we had a supplemental for $87 billion, earlier in the year another supplemental for $79 billion. That adds up to about $565 billion. Every penny of that is borrowed. It is borrowed from the Social Security Trust Fund. It is borrowed from the Medicare Trust Fund. It is borrowed from the military retirees trust fund. It is borrowed from the civil servicemen's retirement trust fund. It is borrowed from the communist Chinese, and it is borrowed from average Americans.

See, those of us who were lucky enough not to have to fight this war ought to at least be willing to pay for it and not stick the brave young men and women who will be coming home from this deployment with the bill. Every other generation of Americans tried to pay their own bills during wartime. This generation of Americans passes the buck to somebody else, and it is wrong.

So for the sake of the great young men and women who are serving our country in the Army and the Navy, the Air Force, Marines, those great Guardsmen and Reservists who are being pulled away from their families to serve as we speak, and a young person from Mississippi who was a Guardsman died just yesterday, I am going to vote for this bill. But I would ask my colleagues to let us do this in the future in a more sensible way.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. MCHUGH), who has a high responsibility of overseeing the total force of the military, our Reserves, our Active, our Guard, with respect to all the personnel issues, pay, personnel issues, family benefits, the chairman of the Subcommittee on Total Force.

Mr. MCHUGH. Mr. Speaker, I thank the chairman, the gentleman from California (Mr. HUNTER), for his gracious comments and for his courageous leadership, certainly on this bill, but also day in and day out.

I think it is obvious there are a couple lessons we can learn from this bill. One is an old lesson, and that is happily this is one of, if not the most, bipartisan committees to operate in Congress, and that is so critical in times such as these. We have heard the gracious comments and enlightened comments of the ranking member, the gentleman from Missouri (Mr. SKELTON), someone who I respect so much. I want to thank my ranking member, the gentleman from Arkansas (Mr. SNYDER), for his partnership in our portion on this mark, and all of the members of the committee on both sides of the aisle. But I give a special tip of the hat to our chairman who, in a very difficult time was experiencing personal loss, the loss of his private home during the California fires, still kept a focus on this vital piece of legislation.

The second lesson is that important as all the military is, the troops are key. And you have heard my colleagues comment about the positive things in this bill, active industry, the increases for the Army in difficult times, similar end strength increases for the Guard and Reserve, for those good citizen soldiers the military pay raise average 4.1 percent, the imminent danger and family separation allowances at these difficult times. But I want to focus on concurrent receipt.

The third lesson of this bill is we always want to do better, but I would note to my colleagues who have concerns that this is a program that has been in place since the Civil War era. And until all of this work together over the last several years, there had never been a change in it.

With this bill today we will have started at 35,000 troops, veterans who are receiving full concurrent receipt, and we will have expanded that to over a quarter of a million. And that is progress, $22 billion. So we will continue to fight to do better, but this is amazing progress for more than 160 years when nothing had been done, and I urge all my colleagues to support this bill.

Mr. Speaker, I rise in strong support of the conference report on H.R. 1588, a wartime bill that directly addresses committee concerns about the inadequacy of military manpower and the damaging effects of excessive operations and personnel tempos.

H.R. 1588 also reflects the House Armed Services Committee's belief in the need to be proactive in military personnel policy and pay matters so as to sustain the commitment and professionalism of the men and women of America's magnificent all-voluntary armed services, and the families that support them.

Finally, H.R. 1588 contains legislative and funding initiatives to enhance the ability of the active, National Guard and reserves to operate as an integrated total force.

Among the more important provisions of H.R. 1588 are:

Active end strength increases of 2,400 for the Army, with an additional $68 million to support the increases;

Growth in selected reserve and fulltime National Guard and reserve strengths;

Military pay raises that average 4.1 percent;

Continuation of increases in imminent danger pay and family separation allowances.

A significant expansion of concurrent receipt that will when implemented wean that benefit more than 250,000 military retirees.

Commissaries and exchange provisions to better define and protect those important benefits.

DOD health care improvements, to include expanded health care coverage of the National Guard and reserves, and

Expanded and expedited naturalization procedures for active and reserve component personnel.

None of these great outcomes is achieved in a vacuum. The conference report before you is a bi-partisan measure, reflecting the active input and involvement of committee members, as well as the leadership and judgment of Chairman DUNCAN HUNTER and Representative IKE SKELTON, the committee's ranking Democrat.

H.R. 1588 is a very good bill that addresses a range of needs of our wartime military. I urge my colleagues to support it.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. SNYDER.)

Mr. SNYDER. Mr. Speaker, as the ranking member of the Subcommittee on Total Force I rise in support of this conference report. I would like to take this opportunity to thank the chairman of the Subcommittee on Total Force, the gentleman from New York (Mr. MCHUGH), for his leadership and also to thank the committee chairman, the gentleman from California (Mr. HUNTER), and the ranking member, the gentleman from Missouri (Mr. Skeleton), for their many years and efforts that has resulted once again in a conference agreement coming to the floor.

This bill continues several years of improvements to quality of life programs for our military personnel, retirees, and their families. We provided a targeted pay raise of up to 3.7 percent and additional targeted pay increases for mid-career and senior enlisted personnel.

We fixed a problem for our reservists who were called up after September 11 and were forced to pay their lodging expenses when they went home on leave. We extended the increase in imminent danger pay to $225 and family separation allowance to $250 until the end of next year. Our service members are still in conflict in Iraq and Afghanistan and face months of separation from their loved ones. These increases are necessary and deserved.

We increased access to TRICARE benefits for reservists and their families. We expanded commissary access to selected reservists and Reserve retirees under 60.

We allow individuals who volunteer to defend our Nation but are not U.S. citizens to become naturalized after 1 year of service. We also allow their families to become naturalized if a service member is killed in action.

I am disappointed that the committee was not able to include full concurrent receipt. Approximately 60 percent of Arkansas disabled veterans who are currently penalized by current law will not be helped by this compromise. We should do better.

While I am supporting of this bill, the process that brought us here is not good. The bipartisanship for which our committee has been known is slowly vanishing. The responsibility to provide for our Nation's defense and security is an area in which partisanship should be minimized, particularly at a time of war.

Sadly, it is becoming clear that this partisanship is becoming the norm in the way we conduct business. Both Democrats and Republicans have a duty and obligation to protect our citizens and the freedom Americans enjoy.

We need to work together in a bipartisan fashion to ensure that our rights and freedoms are preserved for future generations.

Mr. HUNTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. DICKS.)

Mr. DICKS. Mr. Speaker, I would like to enter into a colloquy with the gentleman from California (Mr. HUNTER), the chairman of the Committee on Armed Services.

Mr. Chairman, the conference report on H.R. 1588, the Fiscal Year 2004 Defense Authorization Act, contains a provision, section 135, which authorizes the Air Force to enter into a contract for 100 tanker aircraft under the terms and conditions of section 8159 of the Fiscal Year 2002 Defense Appropriations Act.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, the gentleman is correct. Section 135 of the conference report does authorize a tanker acquisition program as did the Fiscal Year 2002 Defense Appropriations Act.

Mr. DICKS. Mr. Speaker, it is my further understanding that section 135 was written after extensive negotiation with the Department of Defense and the administration and that that section represents a common understanding between the conferees and the administration on the terms under which this tanker program will be executed.

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Mr. HUNTER. The gentleman is again correct. Section 131 codifies an agreement reached with the administration. The conferees relied upon a letter sent on November 5, 2003, to the chairman and ranking member of the Committee on Armed Services in the other body by the Deputy Secretary of Defense, Mr. Wolfowitz, in coming to agreement on the tanker acquisition program authorized by section 135.

Mr. TIAHRT. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Speaker, it is further my understanding that section 135 of the conference report will authorize the Air Force to enter into a single contract to acquire 100 767 tanker aircraft through a combination of lease and purchase.

Mr. HUNTER. The gentleman is correct. Section 135 authorizes the Air Force to enter into one contract for 100 aircraft, 20 by lease and 80 by purchase, or more than one contract for the same combination of aircraft.

Mr. TIAHRT. Finally, it is my understanding that section 135 of the conference report authorizes the Air Force to enter into a multi-year contract for the purchase of 767 tanker aircraft, and that payment under this contract may be made at the time of aircraft delivery, a process sometimes referred to as incremental funding.

Mr. HUNTER. The gentleman from Kansas (Mr. TIAHRT) is correct. The conferees in their joint report language agree that this section would "authorize the Secretary to enter into a multi-year procurement program, using incremental funding." This language indicates that the multi-year procurement program authorized by section 135 would allow the Air Force to make payments as agreed to in the contract and that the Air Force would not be required to have the full budget authority required to purchase an aircraft in order to place an order for that aircraft under the contract.

Mr. DICKS. We thank the chairman for his hard work on this issue.

Mr. Speaker, the letter sent to the Committee on Armed Services by Deputy Secretary of Defense Wolfowitz is as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, Nov. 5, 2003.

The Hon. JOHN WARNER,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you again for your consideration of the Department of Defense's proposal to lease 100 KC-767A aircraft. As you know, there has been a vigorous debate on the best way to get this program started. Your most recent amendment would allow the Air Force to lease no more than 20 of the 100 tankers. The Air Force has developed a proposal to implement that arrangement, and I hope that you will find it acceptable.

Our proposal strikes a necessary balance between the critical need for new air-refueling tankers and the constraints on our budget. As reflected in the enclosed chart, we intend to lease the initial 20 aircraft and then buy aircraft at a steady rate of 11 to 13 aircraft per year until delivery of the 100th. We commit to add $2.4B, in Fiscal Years (FYs) 2008 through 2010, to the funding profile for the original proposal to lease 100 aircraft. We also will add $1.4B in FY 2012 to 2013. The combination of these added funds achieves an immediate start to the program and allows us to purchase the last 80 aircraft at time of delivery.

I appreciate the support that you have provided in the past and look forward to working with you in the future. If you require further information, please do not hesitate to contact me. A similar letter has been sent to the chairmen and ranking minority members of each of the defense committees.

Sincerely,

PAUL WOLFOWITZ.

Mr. SKELTON. Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, one of the most time-honored traditions of America's servicemen and women is to keep their promise to leave no troops behind on the battlefield. This revered tradition is based on the principle that it would be wrong to leave those behind who have served in sacrifice for their country. Our Nation should honor this tradition, this principle of respect when it comes to the treatment of veterans. No veterans should be left behind when it comes to providing them the benefits they have earned.

Unfortunately, the Republican compromise on the disabled veterans tax known as concurrent receipt leaves over 397,000 veterans behind. 397,000 veterans, most of whom have served our Nation in uniform 20 to 30 years. They would not benefit whatsoever from this so-called compromise that represents a lot of broken promises and a lot of patriotic veterans left behind.

Many of the military retirees who might be benefitted from this compromise will never see its benefits because it is phased in over 10 years. How many World War II veterans will even be alive 10 years from now?

When Republicans passed a $230,000 tax break just earlier this year for wealthy Americans making over $1 million a year in dividend income, those massive tax benefits were made effective this year. Why then are veterans forced to wait 10 years to see a limited reduction in the disabled veterans tax? Where is the fairness in that?

One hundred sixty Republicans in this House have co-sponsored the Bilirakis bill to fully repeal the disabled veterans tax. Unfortunately, only two of those 160 Republicans have signed the discharge petition to require a vote on that bill.

Well, today there is a second chance to do what is right for veterans. By voting yes on the motion to recommit we can repeal the disabled veterans tax. If just a few of the 160 will join with Democrats, we can repeal the disabled veterans tax and we can do it fully and we can do it today. We can keep the promise we made to veterans when we co-sponsored the Bilirakis bill.

Keeping promises and leaving no troops behind, those are quintessential American values. On the eve of Veterans Day, let us apply those American values to the treatment of our veterans. Our promise to veterans should be more important than Republican Party loyalty. Vote yes on the motion to recommit. Vote yes to keep our promises to America's veterans.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT), the chairman of the Subcommittee on Projection Forces.

Mr. BARTLETT of Maryland. Mr. Speaker, as chairman of the Subcommittee on Projection Forces, I am pleased to highlight the issues within the jurisdiction of our subcommittee.

This conference report increases the requested authorization for programs within the jurisdiction of the Subcommittee on Projection Forces by $1.3 billion to $30 billion dollars. Authorization is included for the administration's request of one Virginia class submarine, 3 DDG–51 destroyers, one LPD–17 amphibious assault ship, and two cargo and ammunition ships.

Additional authorizations of $75 million for advance procurement of LPD–17 and $248 million for SSN refueling overhaul are also included. Our conference report addresses 100 aircraft KC–767 Air Force proposed lease program by restricting the lease portion of the program to 20 aircraft, requiring the Air Force budget to procure the remaining 80 aircraft. This approach will save the taxpayer at least $2 billion over the originally-proposed program.

We have also taken several initiatives to begin to address shortfalls in important requirements of the Department of Defense. An additional $20 million to sustain a force structure of 83 B–1's, 23 aircraft above the level planned; and an additional $208 million for Tomahawk missiles, an additional $40 million for the Affordable Weapon, an additional $100 million bomber R&D initiative for the next generation, follow-on stealth, deep strike bomber.

In addition, the recommended mark includes several important legislative proposals. First, a multi-year procurement authorization for several programs. Second, a limitation on C–5A aircraft requirement. Third, an electromagnetic gun initiative. Fourth, a requirement that the Secretary of Defense complete two independent studies on potential future fleet architectures for the Navy.

In conclusion, I urge my colleagues to support the conference report. I would like to thank the gentleman from Mississippi (Mr. TAYLOR) for all his support in completing in conference report. I would also like to thank our chairman, the gentleman from California (Mr. HUNTER), and our ranking member, the gentleman from Missouri (Mr. SKELTON), for their leadership, commitment and steadfastness in completing this process.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I thank the distinguished member of the Committee on Armed Services for yielding me time and for his great services to our country throughout his whole life which continues here in Congress. As a veteran himself, his service on the Committee on Armed Services is very informed and we thank him and recognize his leadership.

Mr. Speaker, I rise today to honor the commitment of our Nation's veterans. We will have a motion to recommit, as has been indicated, and it is to support our veterans.

No group of Americans has stood stronger and braver for our Nation than our troops and our veterans. From the bitter cold winter at Valley Forge to the boiling hot Iraqi terrain, our soldiers have courageously answered when called, gone where ordered, and defended our Nation with honor.

As a Nation we have a sacred pact with those who have served us in uniform. They have taken care of us and, in turn, we will always take care of them. That is our solemn pledge.

Today, just before Veterans Day, we stand on the floor of the House of Representatives prepared to vote on the Department of Defense authorization conference report. And on this day we have young men and women, the sons and daughters of America on the ground, engaged in war in Iraq. We salute them for their courage, their patriotism and the sacrifice they are willing to make for our country. But this bill in many respects does not honor their service.

Democrats are fighting to live up to our promise to our veterans by ending the unfair practice of the disabled veterans tax. The gentleman from Georgia (Mr. MARSHALL) will be offering the motion to recommit to this effect. He is leading our fight for a complete and total repeal of the disabled veterans tax for all of our veterans. We have made this long-standing issue too hot to handle for the Republicans and they have offered a proposal in today's conference report in response. Their proposal is a step, but it is not nearly good enough.

The Republicans have put forth a proposal that leaves far too many veterans behind. Under their Republican proposal, two-thirds of our veterans, two-third of our veterans still will not receive one penny of compensation for their disabilities.

The Republican deal will address the tax for some veterans but not for others. For the select few it does address, the tax may not fully end for them for 10 years. Many of these are veterans of World War II. Ten years is a long time to wait in any event, but especially if you are a World War II vet. That is not good enough.

America's veterans deserve better. On the battlefield of war our soldiers pledge to leave no one behind. As a Nation, it must be our pledge that after our soldiers come home we will leave no veteran behind. Our veterans served for all of us. We must be there for all of them.

In June, Democrats launched a discharge petition to give Members a chance to vote to end completely the disabled veterans tax for all military retirees. Two hundred and three Members, 201 Democrats, only 2 Republicans, signed the discharge petition, despite the fact that 160 Republicans have co-sponsored the legislation. So we know that our Republican colleagues believe that this is the right course of action. Democrats are giving you a way to honor our own commitment. The right thing to do was obvious then when this discharge petition was signed to completely end the disabled veterans tax.

The right thing to do today, just before Veterans Day, is also obvious. Vote to recommit this bill with instructions to strip out the failed Republican language on disabled veterans tax and add the Democratic language to completely and totally end the disabled veterans tax. Indeed, this language is the language of the gentleman from Florida (Mr. BILIRAKIS), a distinguished member of the Republican Caucus.

The current language again leaves two-thirds of our vets behind. The Democratic motion to recommit leaves no veteran behind. We have a moral obligation to those who have paid the high price for our freedom, those who have worn our Nation's uniform. Our words must be as bold as their deeds, and we must honor what they have done for our country.

So let us give a great gift to our veterans on this Veterans Day. I urge my colleagues to honor our veterans service and vote yes when the opportunity comes for the motion to recommit.

Mr. HEFLEY. Mr. Speaker, I yield myself 3½ minutes.

Let me just respond just a second to the gentlewoman who just spoke.

The Democrats controlled this House for 40 years, and I went to Sonny Montgomery, who was chairman of the Committee on Veterans Affairs, and I asked him years ago, why do we not do something about this concurrent receipt thing? And he said, we are not doing anything about that concurrent receipt and we are never doing anything about that concurrent receipt.

They had a Democrat President. They had a Democrat Senate. They had a Democrat House. They could have done something about it, but they did not, and now we get this phony posturing after a deal has been worked out to really try to deal with the problem. I think that is a cheap shot, Mr. Chairman. But that is not why I rise today.

I rise to support H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. We are a Nation engaged in an ongoing global war on terrorism. American soldiers, sailors, airmen and Marines are deployed all over the world in support of Operation Enduring Freedom and Operation Iraqi Freedom. The bill supports all of our service members who are fighting terrorism and defending our homeland.

H.R. 1588 strikes a careful balance between ensuring that our military is able to train in a realistic manner while remaining good stewards of the environment. The bill amends the Marine Mammal Protection Act so that it can be read and implemented in a common sense fashion. The Navy, for example, will now be able use new sonar technology vital to the protection of U.S. ships, submarines and global interests, without harming marine mammals.

The bill also changes the Endangered Species Act to ensure that military training lands are used for their primary purpose, to train America's troops in realistic environments. These changes will protect the environment and also enhance the readiness of our military personnel.

H.R. 1588 also recognizes that the military services will face significant challenges as personnel and equipment return home from war. The level of effort necessary to resurge this equipment at our maintenance depots will be extraordinary. This conference report recognizes these consequences and includes additional funding for key readiness accounts.

The bill includes $9.7 billion for military construction and family housing projects around the world. This is an increase in the President's budget of more than $420 million, with additional funds targeted at projects to improve the facilities in which America's service members live, work, train and operate. Such projects are extraordinarily important to the quality of life for our military personnel and their families, as well as U.S. military readiness.

The National Security Personnel System established in this bill will provide the Secretary of Defense flexibility to hire, fire and promote a more agile workforce; the authority to tie pay to performance; increased ability to classify positions and to administer pay and allowances; and a better basis on which to establish a labor relations system.

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The new personnel system will also ensure that employee representatives are included in the planning, development, and implementing of new human resources management systems. There also will be a separate process to ensure that employee representatives participate in the development and implementation of a new management relations system.

There are some things that did not get in this that we were beat back on in the Senate. I think the BRAC provisions were one that I wish were changed. I think the firefighting provisions were very important to be changed; but, in balance, H.R. 1588 will make real improvements in U.S. military readiness and ensure the continued strength of U.S. Armed Forces for years to come, and I urge my colleagues to support this bill.

Mr. SKELTON. Mr. Speaker, I yield 3½ minutes to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, with a defense budget of $400 billion and an enormous range of issues, it is not easy to bring a conference to closure, and I commend the gentleman from California (Mr. HUNTER), as well as the gentleman from Missouri (Mr. SKELTON), for what they have achieved.

I rise in support of H.R. 1588, the conference report thereon, but I have some real concerns. First of all, I have already spoken to the failure of the underlying bill to accrue properly the budget authority that will be necessary to implement the compromise on concurrent receipt or the provisions for lease purchase of 100 tankers. I am concerned about the radical reform of civil service laws in the Department of Defense and the dispensation this bill gives to the Department of Defense from environmental laws that apply to everybody else. Also, I am concerned about the new and cumbersome strictures on cooperative threat reduction.

I am particularly disappointed in the provisions of this report that deal with low-level nuclear weapons. I believe the conferees should have stuck with the bipartisan compromise reached by the Committee on Armed Services and set forth in the defense bill that we passed last May. That compromise was sound enough that in July of this year when I offered a motion to instruct, those provisions were accepted and upheld by the House without dissent.

The administration began this year by stepping up its push for repeal on a ban of low-level nuclear weapons research and development, a ban which has been in the law for 10 years. There was little opposition here to broadening research into low-yield nuclear weapons, but there was bipartisan concern about going so far as engineering development. And so both the House and Senate authorization bills proposed changes to allow research into low-yield nuclear weapons, but restricted any move into engineering development.

The Senate, on the other hand, repealed the so-called Spratt-Furse amendment entirely, but then backfilled the cavity with caveats barring testing or deployment of low-yield nuclear weapons. They also added language requiring specific congressional authorization to move into development of any advanced nuclear concept project. These are the provisions included in the conference report.

By contrast, the House version amended existing law rather than repealing it. We explicitly authorized research, but we maintained a bar on development beyond detailed feasibility studies, the so-called 6.2a level of research and development.

Our compromise may have similar in consequences to the Senate approach, but I think it was superior in form because it makes clear that it is the policy of the United States not to develop low-yield tactical nuclear weapons. The House compromise, thus, gives stronger assurance that Congress will be an equal partner if that policy is reversed, if that decision is taken, and if there is a move to go beyond research.

When we adopted the Spratt-Furse amendment in the early 1990s, it came in the wake of an issue taken by the first President Bush whereby we withdrew a number of tactical nuclear weapons from Europe and the Soviets responded in kind. This was a step back and a step forward for nuclear security throughout the world. This initiative helped us later on to persuade Ukraine, Kazakhstan, and Belarus to forswear nuclear weapons.

If today the United States should move toward renewed development of nuclear weapons, especially weapons designed to be more usable due to their low-yield warheads, it sends the wrong signal.

Mr. Speaker, I support the conference report because it does many things I support, particularly for the quality of life for our troops, and also because I trust that the effect of the language in the report will be enough to forestall development of mini-nukes. I recommend support for the bill.

Mr. HEFLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. TOM DAVIS), who is chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, this legislation has a number of component parts, concurrent receipt. It has a $500 million human capital performance fund that will reward civil servants for outstanding performance, something we have never had before. It has a services acquisition reform act element that will reform the way we buy and purchase services which can save literally billions of dollars for America's taxpayers, and it has a national security personnel system that we have created that will allow the Department of Defense to shed the shackles of its 50-year-old civil service structure, because when it comes to our civil service, the tradition of preserving traditions has become a tradition. It is time for that to change.

Some of my colleagues on the other side of the aisle have come up with some statements on this that I think are off the mark. They have noted that this bill makes a mockery of labor-management relations. This conference report includes chapter 71, the labor-management relations in the list of nonwaivable chapters in title V of the U.S. Code. The agreement sets up an extensive collaborative process that requires the Department to work side by side with the unions and employee groups in setting up the human resources management system for the Department of Defense. The agreement sets up an extensive collaborative process that requires the Department to work side by side with the unions in setting up the process in which management and labor work together in the future.

The second and third requirements are new to Federal law. No other agencies are required to coordinate with their employees, a good precedent.

Another gentleman said that the bill eliminates overtime pay for civilian employees. That is absolutely false. Overtime pay is not eliminated. The agreement, in addition to having $500 million in a human capital performance fund for civil servants who perform in an outstanding fashion, the agreement provides the Department the authority to improve the current provisions in law relating to overtime pay for some of the Department's most valuable employees. It asks for this language not to scrap overtime pay; instead, they are asking for authority not to be bound by the voluminous restrictions and requirements in title V that dictate how, when, and where DOD is authorized to administer overtime pay. This will allow the Department of Defense to move into the modern age.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. LARSEN).

Mr. LARSEN of Washington. Mr. Speaker, I rise today in support of H.R. 1588, the National Defense Authorization Act of 2004. I want to thank the gentleman from California (Chairman HUNTER) and the gentleman from Missouri (Mr. SKELTON), the ranking member, for their hard work on this bill. I must, however, express my deep reservations with regards to what I see as the inadequacy of the concurrent receipt provision. This Congress is expanding concurrent receipt to only 30 percent of disabled retirees. Where is our commitment to all of our veterans? Congress must not forget those veteran retirees who will still be denied their hard-earned retirement pay. All veteran retirees give at least 20 years of service to this country. They have stood ready to serve in times of war and times of peace. This country owes them more than a tax on the disability compensation.

I fear the partial phase-in of concurrent receipt will create two classes of veterans: those who will continue to suffer under the disabled veterans tax and those who will be deemed disabled enough to receive their compensation. Their sacrifice and service was equal. Congress should treat them with the same equity with which they served. Whether being drafted into service or volunteering, every disabled veteran was prepared to give their last full measure. Each was prepared to demonstrate the ultimate commitment; yet Congress cannot even muster for them half a loaf.

Mr. Speaker, as we head home to observe Veterans' Day, this is no way to honor our veterans. To divide veterans into the haves and have-nots is not befitting the sacrifices they made. They gave our country 100 percent, whether in times of war or peace; and they deserve 100 percent of what they earned.

In closing, I will be supporting H.R. 1588, but also will be supporting the Marshall motion to recommit to expand concurrent receipt to all of our disabled veterans.

Mr. HEFLEY. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Alabama (Mr. EVERETT).

Mr. EVERETT. Mr. Speaker, I rise in support of this bill. It is very important that for the first time in well over 40 years we do something about concurrent receipt.

Mr. Speaker, I rise in strong support of the conference agreement on the National Defense Authorization Act for fiscal year 2004.

This is a solid bill that broadly serves our national security interests and addresses the needs of our armed forces as we continue the fight against terrorism. I will get to some of its strengths in a minute. But first I want to thank you Chairman HUNTER and Ranking Member SKELTON for the leadership you have provided in putting this bill together. And I particularly want to recognize the ranking member of the Strategic Forces subcommittee, Mr. REYES, for his efforts on this bill. Together we have tackled some very tough issues.

The first long range missiles and nuclear weapons were developed almost 60 years ago. Yet today, we have no means to defend the territory of the United States against even a single long range missile, and have only recently begun to deploy defenses against theater range missile threats. In December of last year, the President announced his intention to enhance the capabilities of our Pacific missile defense test bed to field a modest, initial defensive operational capability to defend the territory of the United States by the end of fiscal year 2004. The President requested $9.1

billion to support that—and other—missile defense efforts.

I am pleased to report that this bill fully funds the request, providing the resources required to meet this great and historic challenge. The conferees have also agreed to shift funds from longer term, less mature efforts in order to accelerate nearer term fielding of systems like Patriot that are designed to protect our troops deployed worldwide who face increasing threats from theater range ballistic missile threat.

Some of the most difficult issues we addressed in this bill involve nuclear weapons. Since the end of the cold war, we no longer face a monolithic threat. The new national security environment in which we find ourselves requires that we adopt a more flexible and adaptive approach to planning for our strategic deterrent. It further requires that we examine the weapons in our aging stockpile to determine if they continue to meet the Nation's needs for a credible and robust deterrent. Provisions of this bill would allow our scientists and engineers the freedom to explore the full range of options for defeating existing and emerging threats. At the same time, the bill includes "checks" that reserve for Congress the authority to approve the development of certain classes of new nuclear weapons.

The bill would also authorize the budget request of $6.4 billion for the weapons activities of the National Nuclear Security Administration. The United States has observed a moratorium on nuclear testing for over a decade, and NNSA programs continue to maintain the safety, reliability and performance of the nuclear stockpile in the absence of testing.

However, recognizing that circumstances may require a return to testing at some point in the future, and that the current test readiness posture of almost 3 years does not provide a real option for any President, the conferees have included a provision that would require the Secretary of Energy to achieve and maintain a readiness posture of not more that 18 months.

The conference agreement provides strong support for the military space and intelligence activities that have proven so effective in Afghanistan, and more recently Iraq. Notably, the bill would promote development of the U.S. commercial space-based imagery industrial base, enhance space-based communications to support the warfighter, and robustly fund development of unmanned aerial vehicles for intelligence, surveillance and reconnaissance.

Mr. Speaker, the men and women of our armed forces are doing their part everyday in places far from home. Let us do our part, and pass this bill.

Mr. HEFLEY. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. GINGREY), a member of the Committee on Armed Services.

Mr. GINGREY. Mr. Speaker, I rise today in strong support of the conference report on H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. This critically important legislation provides our brave men and women in uniform the tools they need to accomplish their missions, but it also contains many provisions to improve their quality of life.

This bill increases the combat capabilities of our Armed Forces with appropriate levels of spending for readiness, procurement, research and development. It funds programs such as the M1 Abrams tank and Bradley fighting vehicles that are used in current conflicts, and transforms our military to meet the threats of tomorrow with futuristic systems like the Air Force's F/A-22 Raptor. The bill provides funding to make our homeland safe by combating terrorism at home and abroad and continuing to develop a ballistic missile defense system.

Most important in this legislation, however, are the provisions aimed to benefit our current and past servicemembers. H.R. 1588 provides a 4.1 percent pay raise, and it increases imminent-danger pay. It also funds important military family housing, education and military facilities. H.R. 1588 directs improvements to the TRICARE system and survivor benefit, and it contains many other provisions for members of the National Guard and the Reserves.

I thank the chairman of the Subcommittee on Total Force, the gentleman from New York (Mr. MCHUGH), for his tremendous dedication to these quality-of-life issues.

This bill also recognizes the inherent unfairness that disabled military retirees have their retirement benefits offset by the amount of their disability benefits by providing concurrent receipt for more veterans than have ever been covered before.

Finally, I thank the gentleman from California (Chairman HUNTER) and the ranking member, the gentleman from Missouri (Mr. SKELTON), for not only their leadership of our committee but also for their work in shepherding this bill through the legislative process. They recognize that we owe all of our freedom and safety to our brave men and women in uniform and that Congress can help them in a major way with the passage of this bill. They also know how important this bill is to my district and Fort Benning in Columbus, Georgia, the home of the infantry where 37,000 active duty troops go to work every day.

In conclusion, I urge my colleagues to vote in favor of H.R. 1588.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I rise in support of this conference report, and I thank the gentleman from Missouri (Mr. SKELTON) for yielding me this time.

I am happy to see we are finally making some progress on eliminating the unfair disabled veterans tax, but it is not enough. We must keep working to ensure that no disabled veteran has to give up their hardearned military retirement pay just because they earn disability compensation.

Under the Republican plan, veterans who are more than 50 percent disabled will begin to receive a benefit that will be phased in over the next 10 years; but this still leaves two-thirds of disabled veterans behind. In Oregon, 5,500 disabled veterans are currently penalized by this sick tax. Under this compromise, 2,000 veterans will receive some sort of relief at some point over the next 10 years, but the remaining 3,500 retired disabled veterans in Oregon who are currently penalized by this sick tax will receive no benefit under this Republican compromise.

While I am pleased we were able to take this first step, we cannot stop until all of our Nation's military retirees who are disabled as a result of service to this country are able to receive the compensation they have earned and deserve. This is a promise we must keep.

Mr. HEFLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, the conference report before us is one I will support. It will provide adequate pay, housing and training for the men and women serving our country on active duty and in the Guard and Reserves. It funds important modernization priorities that will ensure that the weapons systems with which we equip our troops are the most advanced and capable in the world for years to come.

□ 1115

However, the report is not perfect. I am disappointed by the way in which the conference report treats civilian employees of the Department of Defense. Simply stated, the report will strip more than a third of our Federal civilian employees, over 700,000 hardworking men and women, of their most basic worker protections and rights.

I am sorry the gentleman from Virginia (Mr. TOM DAVIS) left the floor. He indicates 71 and some of the other articles that protect Federal employees will not be waived. That is technically true, but the bill allows them to be suspended for the next 10 years. So although they technically cannot be waived, they will not be in effect at the decision of the Secretary.

Let me be clear. I am not opposed to thoughtful reform of our civil service system. However, the report goes too far. It will undo decades of some of the most important worker protections enacted by Congress and supported for decades by Republican and Democratic Presidents alike.

Notwithstanding these concerns, Mr. Speaker, I will support this important agreement. I expect it to pass by a wide margin with broad support from both House Democrats and Republicans who stand squarely behind our troops and in favor of protecting our national security.

Mr. HEFLEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey (Mr. SMITH), chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, the Democratic motion to recommit is among the most cynical and political motions I have seen in my 23 years in Congress. And I believe, Mr. Speaker, it is a cheap shot, cynically designed and crafted to politicize disabled veterans and to mock the historic benefits increase contained in this bill, $22 billion in the first 10 years and at least $57 billion over the next 20 years for disabled veterans. For example, a 100 percent service-connected disabled veterans over the next 10 years may see an increase of approximately $167,000. That is brand new money. They do not have it now. Under this bill these deserving men and women will get it. The same goes for those whose wounds are combat related or rated 50% or above by the VA.

For the last 100 years, as we know, the unfairness of concurrent receipt has been with us. For most of those years, the Democrats had a hammer lock on the House and Senate and did nothing. In the early 90's the Democrats had it all. Bill Clinton was in the White House for 8 long years. Yet nothing was done on the Bilirakis bill. Nothing was done to reform concurrent receipt. Even this year, it wasn't in the Democratic budget. We tried to make this a bipartisan effort—today's motion is pure politics.

I am sickened by this kind of posturing. I know the game you are playing. This is all about the next election. Our bill is a victory for veterans. This will make a significant addition to the benefits received by our disabled veterans. I hope Members will vote for it.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Maine (Mr. MICHAUD).

Mr. MICHAUD. I thank the distinguished gentleman for yielding me this time.

Mr. Speaker, I cannot speak for former Members of Congress because I am a freshman this year, but had I been a Member of Congress in the past, I definitely would be fighting strongly for the repeal of concurrent receipt.

Mr. Speaker, I rise in strong support of the motion to recommit to provide full concurrent receipt for disabled military veterans. For years, the lack of concurrent receipt, or as some have called it the disabled veterans tax, has taken benefits from the pockets of deserving military retirees. It is an embarrassment that Congress has gone this long without taking care of that disabled veterans tax. I am glad that some veterans will get relief under this bill. But all veterans deserve relief. This is a matter of keeping sacred promises.

The so-called compromise today is leaving a lot of veterans behind, including 2,038 veterans in Maine who would get benefits if we enacted full concurrent receipt for all.

I urge my colleagues to vote for the motion to recommit to provide a full benefit to all veterans. If that fails, I definitely will support the final bill to give relief to at least some of our deserving veterans, including 1,219 in Maine who will now get concurrent receipt under this bill. That is a good step forward.

But I will not give up and I will keep working until all veterans get full concurrent receipt and we eliminate the unfair disabled veterans tax on these veterans.

Mr. HEFLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in full support on the eve of Veterans Day of a full compensation and total concurrent receipts for all of our veterans. I want the unwarranted tax against veterans to be eliminated. I do not like the fact that 390,000 of our veterans will be left behind in this bill and will be supporting the motion to recommit but will add my support to this legislation because I hope that we can take a baby step in order to make a giant step toward providing for all our veterans.

I would ask my colleagues to go back to the drawing boards on helping our civil service employees at DOD, because overtime is a precious commodity for those trying to provide for their families. Then I think it is appropriate that we hear from Secretary Rumsfeld and Paul Wolfowitz on an exit strategy that will help our young soldiers on the front lines in Iraq because we do believe they are fighting for our freedom but it is crucial that we understand the loss of life has exceeded all speculation. And then, of course, I do appreciate the compromise that has allowed us to buy more equipment for the Air Force and the Boeing compromise of lease and option to purchase. This approach will be an effective way to balance need and costs.

And then on the eve of this very fine Veterans Day, let me pay tribute to all of our veterans, our combat wounded, and particularly those young men and women on the front lines in Iraq, those families who have lost their loved ones in Iraq and, yes, those who languish in our hospitals who are wounded. It is time now that we stand for them and provide the full support that they need. Let us leave no veteran or soldier behind.

Mr. Speaker, I rise today in support of H.R. 1588 the National Defense Authorization Act for 2004. I am supporting this legislation because our fighting men and women deserve to be properly funded. However, I have grave concerns in regards to how this legislation has been handled by the majority party in the House Armed Services Committee. I stand with Ranking Member IKE SKELTON in expressing my dismay that Democratic members were not consulted on very important provisions of this significant legislation. This Authorization bill while momentous cannot truly be considered the work of this entire body if it was not inclusive of Democratic members. Even so, I add my appreciation to Chairman DUNCAN and Ranking Member SKELTON for their sincere commitment to our Armed Forces.

CIVIL SERVICE REFORM

My concern is most evident in the lack of power civil service reform addressed in this bill. The bill claims to protect collective bargaining rights but removes all of the protections provided under the current law. Chapter 71 of Title 5 of the U.S. Code sets forth requirements for federal agencies to engage in good faith bargaining with unions and protects against discrimination based on union membership. This bill claims to make Chapter 71 nonwaivable but essentially allows the Department of Defense to waive Chapter 71 requirements for the 6-year period following enactment. During these 6 years, the Department of Defense can unilaterally establish a new labor relations sytem after only minimal consultation with unions and minimal notification to Congress. This new system will supersede all existing agreements negotiated between the Department of Defense and its unions.

During the 6-year period, the Secretary of Defense will have the authority to decide what issues will be bargained, whether labor-management impasses will be resolved by an outside third party, and what protections union members will have against discrimination. This authority will allow the Department of Defense to run roughshod over its unions for the 6 years, making a mockery out of the collective bargaining process. Mr. Speaker the lack of proper protection for our hard working civil service employees is unacceptable. My concern for civil service reform in this bill does not end with collective bargaining rights. In addition, this Authorization removes many vital due process and appeal rights for Department of Defense employees. Perhaps most striking is the fact that this bill removes the requirement that Department of Defense employees must receive additional pay for working overtime, working on holidays or weekends, or working in jobs involving unusual physical hardship or hazard. Both the House and Senate voted recently to protect overtime pay for private sector employees. Mr. Speaker it is disheartening that we are removing many basic rights from our civil service employees that we would normally guarantee for most Americans.

CONCURRENT RECEIPTS

Mr. Speaker I rise in full support with my Democratic colleagues in asking for the immediate elimination of the disabled veterans tax. I will support the motion to recommit. This Authorization bill leaves two-thirds of our military retirees to continue having their compensation compromised by this tax. Disabled military retirees should not be prohibited from receiving the full amount of their retirement pay while still receiving the full amount of their full disability compensation—these benefits are their entitlement; after all, we are forever indebted to them for their service. Our disabled veterans should be amongst our most cherished and recognized individuals in society, they deserve better than to be penalized for their sacrifice in battle. This body must move as a whole to adopt the proposal on concurrent receipts and eliminate this tax that is an undue burden on our disabled veterans who have already sacrificed enough for their nation.

EXIT STRATEGY FOR IRAQ

Mr. Speaker while this Authorization bill provides necessary funding for our brave fighting men and women this body must insist on receiving a report on the exit strategy from Iraq. It is pertinent that this Congress be informed how long our soldiers will have to face mortal danger. How can we reasonably assume the cost of funding our Armed Services when we have little information as to when our current conflict will end? Secretary Rumsfeld has an obligation to this body and indeed to our brave troops to report on the administration's exit strategy from Iraq.

CHINOOK HELICOPTER

Mr. Speaker, I feel that this Authorization bill while supporting the needs of our Armed Forces may not address the need for greater protection for the Chinook helicopter that is widely used by our Armed Forces. The tragic loss of life that occurred by the downing of Chinook helicopters in Iraq illustrates the need for the implementation of defense technology to provide greater protection for the Chinook helicopters. Indeed, the Chinook is a vital instrument used by our Armed Forces to transport troops and supplies to our fighting forces on the ground. However, it is also one of our most vulnerable pieces of our military arsenal. The infrared technology aboard the Chinook makes it more susceptible to ground-to-air missile attack. I am disappointed that this Authorization bill may not address the need for modifications to the Chinook helicopter that can counteract its vulnerability. We must not allow our Armed Forces to lose more brave men and women because we did not address this glaring need, let's move to insure the safety of all fighting equipment.

While I have grave concerns about this momentous legislation I am voting in support of this Authorization. I do so because we must support our Armed Forces, as well it is long overdue that our civil service and defense employees receive pay increases.

I am also heartened by the purchase compromise reached with Boeing in this legislation. Boeing and their supporting suppliers who are based in Texas are innovative, when called upon, they are capable of responding to national security and civil market needs. It is also important in the future that contracts with the Department of Defense rely on both the lease and purchase of this vital equipment.

Mr. Speaker I hope in the future that such significant legislation as this will involve the debate and full consideration of this entire body.

Mr. HEFLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 30 seconds to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Speaker, I thank the gentleman for yielding me this time. I profoundly appreciate the hard work that has gone into this legislation but, my friends, we know that it is 1,200 pages long, it spends $400 billion of the taxpayers' money and no one in this body save the conference members have had more than 3 hours to read this.

It is a fine thing to stand up and say we support our troops, and we all do. But the fact is we should not be voting on this today because we have not read it. We should vote next week on this, after we have had time to think about this seriously. If we truly care about our veterans, let us care enough to read the legislation, and if we truly care about our troops, let us care enough to read this legislation.

I will vote "present" because I do not have enough information to vote yea or nay, and I regret that profoundly.

Mr. HEFLEY. Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I want to thank the distinguished gentleman from Missouri, who is a classmate, for yielding me this time. I want to compliment him and Chairman HUNTER on this bill. We have worked for 2 years on the tanker provisions in this legislation. I am convinced that modernizing our tankers is absolutely crucial to national security. The gentleman from Missouri and I have worked for many years to implement and upgrade the B-2 bombers which fly out of Whiteman, Missouri. We have found that in all of these deployments that tankers are absolutely crucial.

I must tell the House that the condition of our tankers today is not good. The KC-135-Es have significant corrosion. They were all built between 1957 and 1963 in the Eisenhower and Kennedy administrations. I have been on them. I have talked to the pilots who fly them. I have talked to General Handy, General Jumper and they are convinced that replacing these tankers is one of the most important things we can do to preserve our military capability. When you think about it, every time we deploy, we have to have tankers. We have to have EA-6-Bs, those jammers. Both of them are very, very old and both of them need to be replaced and we need get on with it.

One of the things that I am concerned about that we still have not addressed since the Bush administration took office is the fact that we are short in procurement still 30 to $40 billion. The big argument in the tanker issue is lease versus buy. The only reason we had to do a lease is the Air Force did not have the money to buy these airplanes. That is why we have got to get the procurement account up, General Myers says somewhere between 100 and $110 billion. We are at $72 billion. We have got work yet to be done here.

I am also very concerned about the provisions in this bill that deal with worker rights. We are going to continue to work on that. I hope that down the road we can exempt shipyards from those new restrictions.

PARLIAMENTARY INQUIRY

Mr. SKELTON. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman will state it.

Mr. SKELTON. Who has the right to close?

The SPEAKER pro tempore. The gentleman from Colorado has the right to close.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Let me take a moment, Mr. Speaker. This is deadly serious business that we are about. We are providing for the troops, those who wear the uniform of the United States of America as provided by the Constitution of the United States. This is of the highest calling of our Congress. No, all the provisions in this bill do not meet with my approval wholeheartedly or with others'. But on the other hand there is so much in this bill that takes care of the troops, their families, their needs, their capability of waging war, and we are at war, Mr. Speaker.

With that in mind, I hope that every person in this Chamber, despite the misgivings of some provisions, will support this bill with the understanding that in so doing, a vote for this bill is a vote of confidence and appreciation for those who are wearing the uniform and those families at home in whose prayers those young soldiers, sailors, airmen and Marines are.

Mr. Speaker, I reserve the balance of my time.

Mr. HEFLEY. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. YOUNG), chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise, number one, to congratulate the Committee on Armed Services, led by Chairman HUNTER, Chairman HEFLEY and Ranking Member SKELTON. It is a good bill. I rise in support of the bill and against the motion to recommit.

Primarily, though, I want to compliment my friend and colleague from Florida (Mr. BILIRAKIS) for the work that he has done over the years on the issue of concurrent receipt. Veterans all over America will appreciate the determination and the tenacity that he has brought to this issue of concurrent receipt. Today is a recognition of total dedication and hard work and not willing to give up, while it has been very frustrating on occasion. The gentleman from Florida has done an outstanding job. I just want to rise today to say that. It is a heartfelt thanks to the gentleman from Florida and on behalf of all the veterans all over our great country for him having been able to make this happen today.

Mr. SKELTON. Mr. Speaker, I yield the balance of my time to the gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Speaker, I thank the gentleman from Missouri (Mr. SKELTON) and the gentleman from California (Mr. HUNTER) for their leadership in pulling together a good bill. Not all of the provisions of this bill are satisfactory to everyone in this Chamber and ultimately I think this bill will pass, but I want to give us an opportunity to improve the bill by increasing the tax cut that this bill contemplates for disabled American veterans.

I have heard a reference to this being cynical. I have heard a reference to the history of the House in which there were other opportunities to end the disabled veterans tax, but I am a new guy here and I think today we have an opportunity to do what is right. If it was right 20 years ago or 50 years ago or 10 years ago, it is right now.

I am going to offer a motion to recommit. I want everybody to understand what that motion to recommit does.

□ 1130

It leaves the entire bill intact. It changes nothing in the bill with the exception of one thing: it instructs that the House conferees go as far as they can toward the Senate position with regard to the disabled veterans tax, also known as concurrent receipt. If we do that, we effectively eliminate the disabled veterans tax. We are not doing that in this bill.

We do give a tax cut to disabled veterans in this bill. It is the compromise, frankly, that has been forced as a result of all of the attention brought to this issue during this session by many veterans groups, by many on the Democratic side, by the discharge petition that I filed earlier, and because so many people have supported the Bilirakis bill in the past. Right now we have got about 370 cosponsors of the Bilirakis bill. House Resolution 303 is designed to end the disabled veterans tax. There are many on the other side of the aisle who have signed on as cosponsors of H. Res. 303 to end the disabled veterans tax. We have got an opportunity to do that right now with this motion to recommit. It is a rifle shot. It does only one thing, and that is do right by our veterans.

Some have said that we cannot afford more than this. I like tax cuts. While I was the mayor of Macon, I led the fight to lower our property taxes for the first time in 20 years. I think I am one of the few Democrats, fewer than 10, I suspect, that voted for the compromise administration tax cut that we passed earlier this year. I will vote for other tax cuts as well.

We have got to prioritize our tax cuts. We will have an opportunity right now to give tax cuts to disabled veterans that they well deserve and that we can afford if we are willing to put that tax cut toward the top of the priority list. Others here have voted for tax cuts beside this one. Now is an opportunity to vote for this. That is why I am doing this motion to recommit.

Mr. HEFLEY. Mr. Speaker, I yield the balance of my time to the gentleman from Florida (Mr. BILIRAKIS), who is not a Johnny-come-lately on concurrent receipt. He has led this fight longer than I have been a Member of the United States Congress.

Mr. BILIRAKIS. Mr. Speaker, as to the issue of concurrent receipt, which the other side keeps referring to as a tax on disabled veterans, as the Members know, and I appreciate all the kind remarks that I have received from both sides of the aisle, but I have worked on this for 18 years, and during the first half of those 18 years, the other party was in charge, and we have to ask ourselves what was done during all that period of time. I say to the Members nothing, nothing. I am searching my mind to try to find out how many hearings we were able to have on this issue during that period of time. We may have had one. I am not even sure we had even that. Never in any of their budgets had they even put a single penny into their budgets for full concurrent receipt, even the most recent ones. The discharge petition would bring H.R. 303 on the floor. There is going to be a motion to recommit, which basically says we have got to have the entire amount.

Why did you all not crank those dollars into your budget? You have not chosen to do so.

The gentleman has talked about his discharge petition. My discharge petition back in the early 1990s, 1993 I believe it was, failed. Where were all the signers from that side of the aisle back in 1993, or whatever that year was, when we had that discharge petition? Politics, I might say, politics, politics.

Starting January 1 of next year, the proposal will phase in full concurrent receipt for all retirees who have disability ratings 50 percent or more. It expands the combat-related special compensation program to cover all 100 percent combat-related disability categories, as opposed to those that are 60 percent now. It also extends these benefits to the Reserve and National Guard, who have not been getting it up to now.

Despite this breakthrough, Mr. Speaker, full concurrent receipt remains a priority goal for all of us. Only let us show it. Rather than just discharge petitions, let us put the dollars into the budget, if we will, on both sides of the aisle if we are really serious.

I ask everybody to vote for this bill and to oppose the motion to recommit, Mr. Speaker, for the reasons stated.

Mr. MEEHAN. Mr. Speaker, I rise today in support of the Department of Defense authorization conference report. But before I address the issues raised by this bill, I want to thank the staff for their hard work on this bill. I especially appreciate the efforts of Bill Natter of the Committee staff and Bill McCann from my personal staff. I also want to extend a special thank you to Faye Virostek, who has worked in my office as a Brookings Fellows for almost a year. Faye is tremendously talented and dedicated. She has contributed greatly to my work on the Armed Services Committee and to my office, and I wish her the best as she prepares to return to her permanent executive branch job.

I did not sign the conference report because I object to the exclusion of the minority members of the Conference Committee from deliberations over several important issues. In some cases, we were able to work constructively to reach reasonable compromise, but in others the majority was unwilling to work with us in an attempt to produce a consensus position. I do not believe that our Nation's interests or this institution are well-served by this process.

For example, the conference report mirrors the House report language to rewrite the Endangered Species Act and Marine Mammal Protection Act, two critical environmental laws.

In addition, the resolution on concurrent receipt of disability and retirement benefits fails to resolve the unfairness and hardship faced by many veterans. I believe the debate needs to be continued on this very important issue, and I was disappointed that the majority chose to adopt a half-measure rather than solving the problem in its entirety.

I also am dismayed that efforts to clarify the Berry amendment failed. This is not a failure of the conference process, but it is a serious blow to the textile industry in Massachusetts and across the country.

Having said that, I believe the conference report is on the whole a solid proposal. At a time when members of our Nation's military are being asked to make tremendous personal sacrifices, this bill represents a step in the right direction.

I recognize the importance of providing a truly bipartisan authorization package in order to maintain the world's most capable military. To this end, the Subcommittee on Terrorism, Unconventional Threats and Capabilities, where I serve as ranking member, authorized increased spending on DARPA, chemical and biological defense, and special operations. I applaud Subcommittee Chairman SAXTON for his leadership and work on these issues, and I also want to thank Ranking Member SKELTON for all of his efforts.

While this bill generally represents a sound approach to most of the issues before the Committee, I am disappointed that its flaws were not corrected. In the coming months, I hope that we will be able to move forward and address the shortcomings in this conference report.

Mr. DINGELL. Mr. Speaker, I would have liked to offer my support to this conference report. The conference report includes a much needed pay raise and much needed support for our military families. In typical fashion, however, my Republican colleagues have taken a good bill and bogged it down with extraneous and extreme measures. The conference report does not include the stronger House language on Buy America and allows research on low-yield nuclear weapons—a practice prohibited by Republicans and Democrats over the last 20 years because it violates the non-proliferation treaty and makes it easier for questionable regimes to obtain nuclear weapons. The conference report also exempts the military from complying with two of our most important environmental laws, the Endangered Species Act and the Marine Mammal Protection Act.

When this authorization process began, Secretary Rumsfeld came to Congress and told us that in order to maintain readiness, they needed exemptions from the Clean Air Act, the Resources Conservation Recovery Act, Superfund, the Endangered Species Act, and the Marine Mammal Protection Act. Fortunately, the Congress saw fit to exclude most of what the DOD asked for with regard to environmental exemptions.

The conference report directs the Secretary of Interior to substitute the Department of Defense's land management plan, known as an Integrated Natural Resources Management Plan, for critical habitat designation under the Endangered Species Act, if the plan provides a "benefit" for threatened species. Further, the conference report does not require that the Integrated Natural Resources Management Plan benefit the species.

This is a much lower standard than the current law, not to mention the DOD has enough trouble coming up with a management plan for things it is supposed to know about, let alone fish and wildlife. If the military is able to escape the critical habitat designation, private property owners will have to bear the burden of providing for the recovery of threatened and endangered species. This is simply not right.

Just this week, the Committee on Resources passed a bipartisan reauthorization of the Marine Mammal Protection Act. That legislation was the culmination of over 4 years worth of hearings and the testimony of dozens of witnesses. Contrary to what happened in the committee of jurisdiction, where they were able to successfully compromise to address the definition of harassment, the language in the conference report would overturn a recent court decision and construct a wall against any further litigation against the Navy.

Over the last 5 years our troops have toppled a dictator in Iraq, stopped a genocide in Kosovo, and defeated the Taliban in Afghanistan. Our troops prepared for those missions without exemptions from our cornerstone environmental laws—laws that administration officials and the General Accounting Office do not believe are hampering our military readiness.

Indeed, former NATO Supreme Allied Commander, General Wesley Clark recently stated, "Additional exemptions aren't needed. I spent a lot of time in the Army and, in all my years of service, complying with the environmental laws never compromised the military readiness of troops under my command." Mr. Speaker, we need to ask ourselves why we are passing language that neither the Resources Committee nor a four-star general deem necessary.

In short, Mr. Speaker, I regret that I cannot support this conference report. I must draw a line in the sand. My Republican colleagues have got to stop looking for ways to put bad and extraneous language in good bills in an attempt to force the hands of those who disagree with them.

Mr. LANGEVIN. Mr. Speaker, as a member of the House Armed Services Committee, I am pleased to speak in support of the bill before us. I wish to thank Chairman HUNTER and Ranking Member SKELTON for their leadership in completing action on this legislation, which provides our military—and the men and women who serve in it—the resources they need to keep America strong in the 21st century. The military pay increase and the enhanced benefits for active and reserve personnel recognize the valiant efforts of the men and women who have ably served our Nation, and the development and procurement of state-of-the-art weapons systems will provide them with the tools they need to continue their mission of excellence.

I am particularly pleased with provisions in the legislation that demonstrate Congress's commitment to the role of submarines as an essential part of a strong naval fleet. Passage of the conference report today will represent the final step in a historic agreement to permit multi-year procurement for the Virginia-class submarine. This agreement will encourage more rapid and cost-effective production of this important system—saving the U.S. taxpayer an estimated $115 million per submarine—while giving the United States Navy new capabilities to respond to future threats. Multi-year procurement will also provide greater stability in southeastern New England's defense industry, and I know that the people of Rhode Island are proud to have a role in this important aspect of military transformation. I wish to convey my deepest gratitude to Chairman HUNTER and Ranking Member SKELTON of the Armed Services Committee, as well as Chairman JERRY LEWIS and Ranking Member JACK MURTHA of the Defense Appropriations Subcommittee, for their work to help this effort reach fruition.

This legislation takes another step toward providing concurrent receipt to our Nation's disabled military retirees, though the language falls short of our obligations. As a cosponsor of H.R. 303, I believe we must fulfill our promises to our Nation's veterans by allowing them total access to both their retirement pay and disability benefits. Next Tuesday, our Nation honors those Americans that have protected our Nation, and we must honor their service by providing them with the benefits they have earned.

Unfortunately, today's agreement contains language that may undermine important civil service safeguards for civilians within the Department of Defense, as well as existing environmental protections. I urge Chairman HUNTER and Ranking Member SKELTON to schedule hearings on these topics in the coming months so that our committee may exercise appropriate oversight authority and ensure that the implementation of these new policies does not undermine decades of efforts by Congress to protect our environment and federal workforce.

Overall, this legislation represents an important investment in the defense of our Nation, and I urge my colleagues to support its passage.

Mr. ACEVEDO-VILÁ. Mr. Speaker, the Defense Authorization Conferees should be commended for rejecting efforts to undermine the agreement signed by President Bush that provides important protections for how Naval Station Roosevelt Roads is to be closed. It was particularly critical because this is a very sad week in Puerto Rico, as Puerto Rico has lost three of our young men and one woman who were serving on active duty in Iraq. It would have been a cruel irony for the Defense authorizers to remove fundamental BRAC protections for Puerto Rico at the same time Puerto Ricans were paying the ultimate sacrifice by serving our country.

Last spring the U.S. Navy announced downsizing plans for Roosevelt Roads. The Navy followed its announcement with the planned departure from the Vieques training range—a result that was the fruit of innumerable debate and struggle. In subsequent testimony to Congress, the Navy professed high operational costs and personnel requirements stemming from the continued operation of Roosevelt Roads and implied the base should close.

Of course, downsizing and the implications of closure have taken their toll and it has been a sordid year for Roosevelt Roads, those who work or worked there and Ceiba, Puerto Rico—the community the base has called home for the past 60 years. The Navy's own pronouncements estimated the base brought $300 million annually to the local economy. The region around base, with 14 percent unemployment, can ill afford a drawn out redevelopment process.

During negotiations with defense appropriators and the U.S. Navy, we reached a compromise that was enacted under which Roosevelt Roads would close in a 6-month timeframe in accordance with the BRAC (base realignment and closure) process. This compromise would afford the Navy a quick departure and cost savings, while keeping with the important protections and procedures required by BRAC. It would also provide Puerto Rico with the much-needed economic development opportunities provided through redeveloping the base. This proposal was agreed to and signed into law on September 30.

In the midst of the defense authorization conference, out of scope proposals surfaced to thwart such progress. The proposals ranged from requiring a report to Congress and subsequent 360-day waiting period for any and all Roosevelt Roads property disposals to mothballing, or leaving the base on inactive status, allowing the land to waste away without a clear plan for redevelopment and creating additional uncertainty among the community. While I appreciate that all out of scope items in conference have been dropped, I fear that punitive efforts may surface yet again as base closure and redevelopment continues.

The recent proposals are stalling tactics void of merit and driven by angry politics stemming from deep resentment held by those who strongly opposed closing the Vieques training range. Let the past become the past. Let's move forward with the best interest of the U.S. military and the American citizens in Puerto Rico in mind.

If enacted such tactics would have continued to cost the Navy money and drain personnel resources, while hindering meaningful economic opportunity for Puerto Rico. Under such a scenario, American citizens in Puerto Rico would remain without jobs while base redevelopment plans sat in limbo.

Puerto Ricans care deeply about their common citizenship and continue to serve valiantly in our military. What should soldiers think of such punitive, political squabbling about a base closure at home, while they fight overseas? As it was President Bush who authorized the Navy's departure from Vieques, he too has stated on many occasions that we all should avoid politicizing military affairs when our troops are abroad.

I have included for the RECORD a letter cosigned by fellow Members of the Congressional Hispanic Caucus. Such support is much appreciated. Further, I want to thank Ranking Member IKE SKELTON and his Senate counterpart CARL LEVIN for their strong commitment and leadership on this issue.

I find it troubling that the bipartisan deal that took place on Defense Appropriations might someday be undermined by such resentful politics, especially given the difficult challenges we now face, and the sacrifices we ask of our troops. I will continue to fight against these punitive efforts while at the same time I will pursue dialogue with those colleagues who may still consider punishing action against my constituents.

It certainly would be in the best interest of the Navy, the people of the local community, and the future of Roosevelt Roads to set these new proposals aside, and continue working to redevelop the base and rejuvenate the local economy. We Members of Congress have more pressing matters to consume our time.

Ms. DEGETTE. Mr. Speaker, given our current military situation in Iraq and Afghanistan, I believe it is incumbent upon us to send an unequivocal message of support for our troops who are currently in the field. It is equally important that we provide veterans—those who have made sacrifices in order to protect the safety of our country, the benefits they have rightfully earned.

Not since the Korean War have we as a country relied on the members of our reserve forces and National Guard as we do now. We are depending on them to preserve the peace in Iraq and protect our safety at home. We have uprooted them from their families, taken them away from their jobs and put them in the line of fire. Yet, it is not uncommon that after serving in Iraq and Afghanistan, members of the Reserve forces return home without the basic benefits they so rightfully deserve. While this legislation is far from perfect, it takes an important step by ensuring that activated members of the Reserve forces and National Guard and their families receive health benefits.

Importantly, this legislation extends the increase in "combat pay" and a Family Separation Allowance for all of our troops who are currently serving in the military. Given the sacrifice that our troops make in the name of protecting our country, it is only right to guarantee that they and their families have adequate financial resources in their time of need.

Additionally, this legislation addresses the unfair Disabled Veterans Tax. It allows certain disabled military retirees to receive both their retirement and disability benefits. However, it only allows concurrent receipt of these benefits for one-third of the approximately 700,000 disabled veterans. I believe this is sorely inadequate and is the reason why I voted to recommit this bill so conferees could have the chance to repeal the entire Disabled Veterans Tax and let all disabled veterans rightfully receive both their military benefits as well as their retirement benefits.

While I do not believe this bill is perfect and I am particularly concerned with certain provisions regarding civil service reform and the environment, I do believe that given our current military obligations, it is essential that we support our troops. By extending benefits for our troops and veterans, we are guaranteeing that those who have dedicated their lives to serving our country are not left behind during this critical time.

Mr. FARR. Mr. Speaker, I rise today in opposition to the Conference Report of H.R. 1588, the Defense Authorization Act. This bill contains anti-environmental provisions that roll back fundamental protections of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

H.R. 1588 exempts the military from protecting endangered species. Provisions in this Conference Report compromise the survival of some 300 threatened and endangered species living on military lands by prohibiting the designation of critical habitat as mandated under the ESA. Instead, military lands will be managed under Integrated Natural Resources Management Plans, prepared by the Secretary of Defense. Currently, such plans have no definitions, no standards, and no limits.

Such sweeping changes in the management of species living on military lands are completely unnecessary. Sea otters and toads do not and will not prevent our military from being the best trained and prepared in the world. But if for some reason the toads rise up, the military already has, but never has used, a national security exemption as part of ESA. The military has shown so little previous concern with this issue that it was only in March of this year that the Department of Defense began developing guidance on how to assess and process exemptions requests inappropriate situations.

Marine mammal protection is under its greatest fire today. Although unnecessary from the start, a full exemption from the MMPA was granted for military readiness activities in the version of this bill that passed the House on May 22, 2003. The Senate version of the bill contained no MMPA exemption for any reason. How then did it come to pass that the Conference Report we debate today broadens the exemption to include scientific research activities by the Federal Government? The Conference Report, agreed to by Republican conferees behind closed doors, opens gaping loopholes in the management of marine mammals and creates unequal standards for ocean users. This is both unfair to the marine mammals struggling to survive and to the shipping, fishing, and tourism industries, which will now be held to different standards under MMPA than scientific researchers and the Navy.

The "encroachment" of civilian communities on military managed lands is a serious problem as the separation between where people live and where the military trains decreases. As such, there has never been a more necessary time for the military to look out for the public's best interest. The public wants and needs a healthy and well-managed environment and for the military to be held to complying with our nation's fundamental environmental protection laws. The military should be listening to its neighbors and respecting their requests, and Congress should have listened to its constituents and prevented the weakening of the ESA and MMPA.

Mr. CARDIN. Mr. Speaker, I rise in support of H.R. 1588, to authorize military spending for fiscal year 2004. This bill authorizes the funding necessary to defend our country and promote our interests throughout the world. The bill makes significant enhancements to our combat capabilities, continues our efforts to transform the military to meet the terrorist threats of the 21st century, and provides a number of new benefits to American soldiers throughout the world.

Congress has a responsibility to work with the President to protect the national security of our nation. When our soldiers are sent in to war, it is the Congress's responsibility to make sure that all resources necessary are provided to carry out their missions.

I stand behind our brave men and women who have performed admirably in Iraq and Afghanistan. They have made tremendous sacrifices on behalf of their country and have served longer deployments than expected. Much of the funds in this bill will go directly to support our troops in Iraq and Afghanistan..

Under this bill our men and women in uniform will receive a 4.15 percent average increase in base pay. At the same time the bill reduces the average amount of housing expenses paid by service members from the current 7.5 percent to 3.5 percent, and eliminates out-of-pocket expenses completely by fiscal year 2005. The bill also extends special pay and bonuses for active duty personnel through the end of 2004. Family separation allowance for service members with dependents is increased, from $100 to $259 per month. The special pay rate for those subject to hostile fire and imminent danger is increased from $150 to $225 per month. The legislation also extends TRICARE health coverage to National Guard members and reservists and their families if such servicemembers have been called to active duty. The bill also authorizes nearly $10 billion for military construction, family housing, medical facilities, and child development centers.

This legislation also continues the transformation of our military to meet new challenges of the global war on terror. The bill funds research and procurement of countermeasures to protect troops and the homeland from chemical, biological, and nuclear attack. It increases weapons and equipment procurement for Special Operations Forces. It funds programs to dismantle, secure, and eliminate weapons of mass destruction and facilities in Russia and the former Soviet republics.

There are several significant shortcomings in this legislation, however, that I would like to discuss.

This conference report contains an inadequate proposal to address the Disabled Veterans Tax imposed on our military retirees. Under current law, military retirees are taxed one dollar of their retirement pay for every dollar they receive in veterans disability compensation. Denying service-disabled men and women the benefits they have earned breaks our promise to those who placed their lives on the line for America's freedom. Any veteran with a service-connected disability, regardless of the length of his or her military service, can retire from a federal civilian job and receive both retired pay and disability compensation without penalty.

America's troops are united as they serve in Iraq and Afghanistan and here at home. Our veterans were united as they fought for our country. They remain united today in their love for our nation. But the Disabled Veterans Tax compromise before the House today seeks to divide them. It leaves behind more than 390,000 disabled military retirees—more than two-thirds of those who would receive full compensation under HR 303. Those retirees with a Purple Heart or combat-related disability would be eligible this January. Others who have 50 percent or greater disability would have to wait for ten years to receive their full benefits. Those with less than 50% disability still will not receive one penny of compensation for their disabilities.

Because this compromise is phased in over a ten-year period, many of our older veterans, particularly those from World War II and the Korean War, may not live long enough to receive the full benefits to which they are entitled. In my district in Maryland, there are 1,519 veterans who are now subject to the Disabled Veterans Tax. This bill leaves 1,000 of them behind.

More than 85 percent of the members of this House have cosponsored HR 303, yet the compromise before us falls far short. Many of my colleagues also signed the discharge petition that would compel the House to consider this bill. For these reasons, I urged my colleagues to support the motion to recommit. It would have stripped from the bill the inadequate compromise language that only helps two-thirds of America's veterans, and replace it with full, immediate concurrent receipt. Our disabled military retirees deserve no less.

I am also disappointed that conferees chose to include in this bill a far-reaching plan to revamp the DOD civilian employee system. Under this agreement, more than 700,000 civilian workers in the Defense Department will lose fundamental protections that have been in place since President Kennedy's administration. These protections were put in place to safeguard against the patronage, political favoritism, and nepotism that were rampant before the advent of the civil service system.

These DoD employees will lose many of their current due process rights. The conference report retains the right of employees to appeal to the Merit Systems Protection Board but only as an appellate body. As a result, DoD civilian employees would have far fewer rights to appeal personnel actions than other civilian employees have. They would lose guarantees on overtime pay, hazard pay, weekend pay, and holiday pay. Finally this provision empowers Secretary Rumsfeld and all future Secretaries of Defense to create an entirely new personnel system for DOD civilians. I am also very concerned that enactment of these provisions will set a dangerous precedent that will lead to erosion of protections in other federal department and agencies. In these times of uncertainty and turmoil, we are asking more of our civil servants than ever before in our history. To remove these important safeguards now is the wrong thing to do.

In sum, Mr. Speaker, I am disappointed that we have failed to provide the full concurrent receipt to our veterans that they deserve, and that we have eroded some of the civil service protections for Defense Department employees. However, I will support this legislation because it provides additional resources for our troops in Iraq, Afghanistan, and throughout the world as they prosecute the global war on terrorism. Our military must be given every available tool for its arsenal as it combats emerging threats to our soldiers and our homeland.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in support of H.R. 1588, the FY 2004 Department of Defense Authorization bill.

However, I believe that this bill is far from perfect. It does not fully support veterans' disability issues, collective bargaining for civilian personnel, and protection for the environment. It is unfortunate that these issues suffered due to the political process. I did support the motion to recommit in hopes that these critical issues could be further discussed, but that motion failed.

If we were not in a time of war I would not support this bill. Yet, our brave men and women deserve all the protections and assistance we can provide, and I will do all I can to support them.

While I am voting against the report, I do support the outcome of the Conference Committee regarding overseas voting provisions for the military. I am pleased that language referring to ballots submitted by members of the military stationed overseas was not included in the report. The issue of ensuring the integrity of overseas military members' ballots has been addressed in the Help America Vote Act (HAVA), and I believe we must await the full implementation of HAVA before considering any changes. Therefore, I did not believe that some of the suggested changes were necessary.

Ms. WATERS. Mr. Speaker, I rise to express my disappointment in this conference report. I regret that I must oppose it.

I support our troops and our veterans, and applaud the conference report's improvement in pay for our troops, but there are far too many things wrong with this bill. For example, under H.R. 1588, environmental standards are weakened and worker rights are severely limited. Yet again, the Republicans have placed a higher priority on partisanship and special interests than doing what is right for our country and our service men and women.

But, of all the many problems with this conference report, the most disappointing is the section on concurrent receipt that fails to end this horrendous policy for many of our disabled veterans. For months, the Republicans have refused even to allow a vote on H.R. 303 which would end the disabled veterans tax for all of our veterans. But now in a half-hearted attempt to appear responsive to the overwhelming demands of Democrats and veterans groups to repeal this tax, the Republicans have thrown our veterans a bone—a partial repeal of the concurrent receipt policy.

It is estimated that, under the Republican plan, two-thirds of disabled veterans will not receive one penny of compensation for their disabilities. This is unacceptable. Our veterans deserve all of the benefits that they have earned. Our veterans have sacrificed in order to ensure our freedom and safety. Congress must now do its part. Congress can and must completely end the disabled veterans tax—immediately.

Mr. ORTIZ. Mr. Speaker, I thank Chairman DUNCAN HUNTER and Ranking Democrat IKE SKELTON for their leadership on this important bill.

Our young men and women in uniform are performing magnificently right now in Iraq in a difficult and developing mission. They are also performing magnificently in Afghanistan, and elsewhere around the world where the global war on terror takes us. It falls to the Congress to make sure our troops have what they need to prosecute this war on all fronts. Certainly all of Congress agrees that our soldiers in the field deserve to get all they need, no matter what.

The central feature of today's bill is a huge step forward on the issue of concurrent receipt. Finally, we are acknowledging the inherent unfairness of having long-time service members chose between retiree pay and disability. We didn't get nearly what we wanted, nor what these military retirees deserve . . . but we made significant progress on advancing the cause of expanding the phase-in of concurrent receipt.

This bill provides much needed support for our military including: a pay raise of 4.15 percent for uniformed services, further reducing out-of-pocket expenses for servicemembers, increasing allowances for family separation and danger pay, and modestly increasing the force structure of the Army and active Reserves and National Guard.

DOD did not get all the power it wanted when it comes to contracting out civilian jobs, but I am very uncertain about what lies ahead for civilian workers. We made some progress in the negotiations, but the strong language in the House bill put quite a pall over the future of a viable civilian service. We have a very tough road ahead. And, I maintain the Secretary is just wrong on this one—a strong civilian workforce performs the core functions of the military better, and cheaper, in-house.

Today's package, and our passage of it speaks, we hope, to the needs of our military and offers them the concrete understanding that this Congress considers our military men and women our ultimate responsibility.

As we move forward, I will be working to do more to ensure our military retirees eventually get a full concurrent receipt.

I will keep a very close eye on the plans and activities of the Department of Defense as they proceed with their plans for civil service workers. I want to ensure that our civil service workers remain the viable, strong workforce our national security demands.

Mr. RUPPERSBERGER. Mr. Speaker, I rise in support of H.R. 1588 the Defense Authorization Conference Report. While this conference report has some deficiencies it also has a number of positive points that I support.

Initially when this Defense Authorization was drafted compromises were reached that would allow the DoD to have flexibility and at the same time providing labor protections. Unfortunately, the conference report language has been redrafted and allows DoD to wipe away these protections. It is unfortunate that civilian defense employees are not receiving the same protections. I would hope that we can work to ensure workers rights at the Pentagon. These men and women serve our country and are also fighting to protect our freedoms.

While this conference report has begun to address the issue of concurrent receipts for veterans it does not fully solve the problem. We need to make sure all veterans receive this benefit. It takes a step in the right direction, but it does not fully solve the problem.

This conference report also calls on the Secretary of Defense to submit to the House Intelligence Committee a report on the preparation for and conduct of our military operations under Operation Iraqi Freedom.

I am thankful that the F–22A Raptor received additional funding. The Raptor is the new front line jet fighter for our Air Force. This aircraft will give us complete air superiority. I am proud to say that we build this radar system in my district.

The Authorization also contains additional funding for the Shadow 200 Unmanned Aerial Vehicle. This vehicle which is again built in my district played a vital role in Iraq in providing our troops with an aerial view of the battlefield to give our troops a tactical advantage. Because of the success of this vehicle the National Guard is now interested in the unit and has requested funding for it.

I am happy to say an amendment I inserted into the Defense Authorization has been accepted and will be a part of this authorization. My Amendment calls for employee surveys of leadership and management performance. This survey will help to promote efficiency and allow for the recognition of achievement and increase best practices in an agency. It is important that we allow employees to take ownership of where they work and to make them part of the team.

Again, I rise in support of this conference report.

Mr. ABERCROMBIE. Mr. Speaker, I rise in support of the conference report for the Fiscal Year 2004 National Defense Authorization Act.

I would first like to recognize our Committee leadership, Chairman HUNTER and Ranking Member SKELTON, for the bill they have crafted to address the immediate needs of our Armed Forces. Our Committee has a long tradition of working across party lines to ensure the readiness and well-being of our Armed Forces, and I am pleased to have participated in yet another cooperative effort with my Armed Services colleagues. Unfortunately, this bipartisan spirit did not extend to the more controversial aspects of the Defense Authorization Act, especially the reworking of the civil service system and yet another compromise on the Disabled Veterans Tax. On the balance, however, this bill establishes good policy for our troops when they need it the most.

H.R. 1588 offers the pay and benefit measures that our Armed Forces deserve. We put together another healthy across-the-board pay raise—4.15 percent—as well as targeted raises of up to 6.25 percent for mid-grade and senior noncommissioned officers and select warrant officers. We have also extended special pay provisions for the men and women deployed around the world. Hostile fire and imminent danger pay will be raised from $150 per month to $225 per month through December 1, 2004, while family separation allowance (FSAA) will increase from $100 to $250 per month.

In an effort to address the issue of military readiness, H.R. 1588 also includes TRICARE health benefits for deploying Reservists. We have been undermining our own system by relying on Reservists to be ready to go when called but failing to provide them the required medical coverage to ensure deployment-level readiness. Through this new authorization, the Department of Defense can provide immediate medical and dental screening and care for selected Reservists who are assigned to a unit alerted or notified of mobilization. Non-mobilized Reservists currently without health insurance will also be able to enroll in TRICARE on a cost-share basis. With the burden on our Reserves at an all-time high, providing basic coverage is the least we can do for those called to serve.

One of the worst aspects of this legislation is the wholesale dismantling of our Department of Defense civilian workforce. Under the conference report before us, some 700,000 federal employees will be stripped of their rights and protections in the current civil service system and placed at the mercy of political appointees in DoD. The Defense Authorization Act, as written, provides no guidelines for a new civilian personnel system; rather, it gives almost unchecked power to Secretary Rumsfeld to create a system of his own design. We have heard testimony about pay for performance and pay banding, but none of this is codified in the legislation. It opens the door to political patronage and cronyism—the very abuses which the civil service system was enacted to prevent in the first place. Our committee held exactly one hearing on the civil service portions of this bill, and that hearing was held only after Committee Democrats raised an outcry. The hearing was hastily organized with one day's notice and hardly allowed for the in-depth examination due such a sweeping proposal. Let me be clear—this process has been a farce and nothing less than a slap in the face to our DoD civilian workforce. We praise these men and women in one breath, and in the next, dismiss them as expendable. In passing this provision, Congress will abdicate its constitutional responsibility and cede our authority in this matter to the Executive Branch. I am deeply disappointed that the Administration felt it necessary to interfere in this conference and prevent us from adopting the much more moderate and sensible legislation crafted in the Senate under the leadership of Senator COLLINS.

Likewise, I am dissatisfied with the partial rollback of the Disabled Veterans Tax. For years I have cosponsored and supported legislative efforts to allow disabled veterans to receive their full retirement annuity in conjunction with VA disability pay, and year after year, we are only able to come up with half-hearted measures. The so-called solution before us will take ten years to rectify the unfair penalty. Our veterans cannot wait until 2014 to finally see the compensation they rightfully earned, in numerous cases many years ago. It is shameful that our Republican colleagues are unwilling to budget the funding for those who have already made so many sacrifices in behalf of our Nation but yet are all too willing to send more young men and women down the same path in harm's way. I truly hope that we can reexamine this phased-in approach next year and accommodate all disabled veterans equally and immediately.

As the Ranking Democrat on the Subcommittee on Tactical Air and Land Forces, I am happy to report that we have done well by the major Army and Air Force acquisition programs under our jurisdiction. The bill carefully balances current hardware needs with development and procurement of future systems. Modernization of our Bradley Fighting Vehicles and Abrams tanks will ensure the capability of our heavy armor divisions and our industrial base. I am particularly pleased that we have funded the Stryker Medium Armored Vehicles at the Administration's request for both procurement and research and development. Stryker represents the bridge between current Army legacy systems and the networked Future Combat System; through Stryker, our soldiers will hone the skills necessary for the transformation to the fast and lethal warfare of the 21st century.

I would like to thank the Committee staff for their tireless work over the past several months in putting together the best bill possible. I would especially like to thank the Tactical Air and Land Forces Subcommittee professional staff, J.J. Gertler, Bill Natter, and Doug Roach, for their dedication, professionalism, and invaluable expertise throughout the year's work.

We have a bill that we can largely be proud of. Again, I urge my colleagues to support this measure.

Mr. BACA. Mr. Speaker, I rise in support of the motion to recommit the Defense Reauthorization Conference Report. We must say no to the veteran disability tax and support concurrent receipt.

As a veteran, and as a Member of Congress, it is my duty to fight for the veterans who fought for our freedom. We must make sure that our veterans receive the benefits and healthcare that they have more than earned.

To take money away from our veterans while giving tax cuts to the wealthy is disgraceful.

I don't understand how House Republicans can vote to cut $14 billion from veterans' benefits, and then send 130,000 troops to Iraq.

While America's wealthiest receive huge tax cuts our soldiers die overseas. And for those that do come home, they want to cut their benefits. Our soldiers deserve better.

Right now, 520,000 veterans' benefits claims are still pending in the VA. Some of these claims involve soldiers that served as long ago as the Korean War.

I have even introduced a bill to try to solve this problem, H.R. 1264 that will help reduce this backlog of claims. This is the type of help our veterans need.

It is shameful that our disabled veterans cannot receive disability pay without receiving a cut in their pension. Veterans should not be forced to give up one dollar of their pension for every dollar that they receive in disability pay. A veteran must not be punished for being disabled.

I cosponsored H.R. 303, the concurrent receipt bill. And I signed the petition that would have brought this bill to the House floor despite Republican opposition.

Our veterans are simply waiting for what they are owed—their disability pay and their full pensions.

Our veterans are dying at a rate of 1,000 a day. The Republican plan will not aid the veterans that need help now.

Under the Republican plan only one-third of the disabled veterans will get the help that they need. This is unacceptable and our veterans deserve better.

Our veterans need our help. Let's not keep them waiting any longer.

I urge my colleagues to support concurrent receipt and send this report back to conference.

Mr. BLUMENAUER. Mr. Speaker, I spoke against this bill when it was on the House Floor and, unbelievably, it's gotten worse in Conference. I am frustrated that on the week before Veterans Day, the conference report keeps moving further away from what the military, veterans, and Americans need. The most fundamental function of our national government is the defense of our nation. Today, this function is more important, and we are spending more on national defense than ever before. The conference report that we are debating this morning carries a $401.3 billion price tag, which means that the United States will be spending over a billion dollars a day, and more on our military than do the next 25 nations combined. This bill certainly spends enough to do the job, however it is full of provisions that not only waste tax dollars, but even threaten Americans' health and safety.

I am pleased that the Defense Authorization bill starts to reduce the tax on disabled Veterans, which is long overdue. However, I am disappointed that the bill would only partially end the tax—leaving out two-thirds of military retirees affected by the tax and forcing those covered to wait 10 years for full benefits.

I am also extremely disappointed that the conferees chose to eliminate the 1993 ban on low-yield nuclear weapons. The House bill allowed research but maintained the ban on development activities that could lead to the production of a destabilizing and unnecessary new low-yield nuclear weapon. However, conferees accepted the Senate language that also allowed research but eliminated the ban. Fortunately, Congressional approval is required before these dangerous weapons can be produced, and I hope that this never occurs. Producing a new generation of low-yield nuclear weapons increases the likelihood they will be used in conflict, breaking a taboo that has been in place since World War II. Developing new types of nuclear weapons sends the wrong message to other nations. America must lead by example if the threat of nuclear weapons is going to be eliminated.

This bill is missed opportunity to focus on real priorities. The anti-environmental provisions in this bill are especially frustrating. Instead of addressing real threats to readiness, the administration and the Republicans in Congress are taking on an easier target, dolphins. Using defense as cover, they are proposing changes to environmental laws that have nothing to do with defense readiness.

As the largest owner of infrastructure in the world and also the biggest polluter, the Department of Defense should be setting the best example, not getting permission from Congress to cut corners on the protection of the environment and the health of our communities.

The Conference Report includes modified House language that would prohibit designation of critical habitat under the Endangered Species Act if the Secretary of the Interior determines that the Integrated Natural Resources Management Plan prepared by the Secretary of Defense will provide "a benefit" for endangered and threatened species on military lands. However, there is no definition of "benefit."

We have seen that critical habitat designation is not the problem on military lands. This conference report misses the real threat to military readiness: encroachment of development around bases. This is the same sprawl and unplanned growth that threatens our farms and forestlands, pollutes our air and water, and congests our roadways, and this is the real threat to our ability to train and maintain the world's mightiest fighting force.

Across the country, from Ft. Stewart, Georgia, to Camp Pendleton, California, development is threatening the armed forces' ability to fly planes, maneuver and conduct other readiness activities. This has led the State of California to pass their Senate bill 1468 which recognizes the long-term operations of military installations must involve a partnership between the State, local agencies and the Federal Government. It provides the military, environmental organizations and local planning agencies the tools to work together to fight common enemies of military readiness like suburban sprawl. But this proposal is completely absent from the legislation coming before us.

The Conference Report also retains controversial House language that would reduce protections for marine mammals. New language, added in conference, would also apply the weakened standards to any research activities by the Federal Government (or contractors), creating a double standard as current law would continue to apply to citizens and the private sector.

In addition, key conservation terms of the Marine Mammal Protection Act are altered in order to overturn a recent Federal court of appeals decision regarding the impacts of Navy sonar technology. The bill allows the Department to exempt itself from what's left of the Marine Mammal Protection Act for anything necessary for national defense. It excludes any meaningful involvement of the wildlife agencies, the States, Congress and the public in review of these exemptions. This contradicts language passed unanimously this week by the Resources Committee—the House committee with exclusive jurisdiction over the MMPA—which does not contain any special standards or exemptions for DOD. This has raised the ire of both Democratic and Republican Resources Committee Members participating in the Conference.

Not only are these provisions harmful, they are also unnecessary. Under current law the Department can already waive environmental laws when it's necessary for national security. There has never been a case where a waiver has not been granted for military necessity.

The defense authorization bill is also wrong on a very fundamental level. It is missing an opportunity to use the Department of Defense to set the highest standards. Given adequate resources and the right orders, our Department of Defense can achieve any mission. We are missing that opportunity. As the wealthiest and most powerful country in the world, we ought to be able to figure out how to better address this problem without compromising the environmental survival of what we are fighting to protect.

It is arrogant and hypocritical to let the Federal Government off the hook for environmental regulations. We will impose them on small business or local governments but not on us ourselves.

I oppose this conference report because we are spending too much on the wrong things and not enough on strategies that will make our Department of Defense more sustainable over time. The spending is too heavy on weapons research and too light on relieving the stress on our fighting forces. We can and must do a better job shaping our Nation's defense policy.

Mr. SMITH of Texas. Mr. Speaker, I support H.R. 1588, the Department of Defense Authorization bill, which includes concurrent receipt for disabled military retirees and veterans. Currently, disabled retiree and veterans' benefits are offset by the amount of disability pay that they are eligible to receive. The legislation corrects that unfairness.

Members of Congress representing hundreds of thousands of retirees and veterans came together to achieve a significant, victory for disabled retirees and veterans. We fully support our soldiers—past and present.

The bill is fair, responsible, and appropriately recognizes the service of our nation's disabled retirees and veterans. It establishes a concurrent receipt for more disabled military retirees and veterans than ever before, and provides them with the retirement income they have earned and deserve.

Under current law, a disabled military retiree or veteran could be entitled to $1,000 a month in military retirement and $300 a month in disability. But the amount of the disability payment is subtracted from the retirement pay, leaving the soldier with a check for $700 in retirement and $300 in VA disability. A retiree or veteran is no better off if they suffered a disability than if they didn't. The legislation eliminates this inequity.

Active duty combat retirees and veterans who are 60 percent disabled and above now have full concurrent receipt. The key part of the agreement expands full concurrent receipt to all combat retirees and veterans with a Veterans Administration disability between 10 percent and 100 percent.

The agreement not only provides a full concurrent receipt benefit for active duty retirees and veterans, but also for reservists and national guardsmen who currently do not qualify for concurrent receipt under either Purple Heart or combat-related disability pay. The reservists and national guardsmen will receive full concurrent receipt if their disability is between 10 percent and 100 percent.

The legislation establishes benefits for those remaining retirees and veterans at 50 percent disability and above. They presently do not receive any benefits. That means every disabled military retiree and veteran with a disability greater than 50 percent will be entitled to concurrent receipt.

It also creates a 13-member bi-partisan commission appointed by Congressional leaders and the White House. Under the commission, for the first time since 1946, there will be a top-to-bottom review of the disability system. The commission's goal is to review the disability system to ensure that the appropriate benefits are provided to our retirees and veterans.

From World War II to Vietnam, from the Persian Gulf War to the War on Terror, we provided our active military with the tools they need to do their jobs, and our retirees and veterans with the proper benefits for their years of service. The concurrent receipt agreement follows that tradition and honors those who have served our country.

Mr. MATHESON. Mr. Speaker, I have always been a strong supporter of the military and I'm well aware of the unconventional war we face against terrorists. However, I continue to oppose the nuclear weapons related provisions in this year's defense authorization bill.

No one is arguing about the need to find new technologies with which our nation can combat deeply buried targets, particularly those held by terrorists. At issue is whether Congress needs to resort to repealing the Spratt-Furse prohibition on nuclear weapons development and encouraging the production of new weapons.

There is a disconnect in the federal government between weapons development and the realistic application of nuclear weapons. Advocates of new nuclear weapons see them as just another tool in the War on Terror, without realizing nuclear weapons work best as a deterrent, not as first-use weapons.

Supporters of the Robust Nuclear Earth Penetrator and new nuclear weapons, argue that the current authorization language is strictly limited to weapons research and development in Department of Energy labs. This claim ignores the obvious end result of weapons development—weapons design does not occur in a vacuum. In order for our soldiers to use nuclear weapons in combat, these weapons must first be physically tested, most likely at the Nevada Test Site. The federal government's poor record on weapons testing and containment of fallout is lengthy and disappointing, at best.

Like many Utahns, I come from a family of downwinders. My father, as well as other loved ones, developed terminal cancer after he was exposed to radiation from Cold War nuclear weapons tests conducted by the federal government. I do not believe that we should even consider a resumption of nuclear weapons testing when rational alternatives have not been fully explored.

I have already seen too many Americans succumb to then-unforeseen consequences of weapons testing. Advances in containment technology are certainly possible, however, the current circumstances do not lend themselves to a resumption of nuclear weapons testing and I will do everything in my power to avoid that end result.

Mr. FILNER. Mr. Speaker and colleagues, I rise today in opposition to the very limited provision to address the unfair disabled veterans tax in the Defense Authorization Act.

Currently, veterans who retire with 20 years of honorable service and who also have a service-connected disability are not permitted to collect both military retired pay and VA disability compensation. In essence, they are paying for their own retirement. We must stop penalizing our disabled veterans in this cold and unfeeling manner.

Our nation's veterans and many, many Members of this House have been fighting for so long for the elimination of this tax for all retirees. We are now so close to victory. We cannot settle for the partial concurrent receipt measure that is included in this bill.

This proposal is simply unacceptable. It gives less than half a loaf and spreads it over ten years. It is naive at best and callous at worst.

The proposal leaves approximately 400,000 military retirees without relief. In my state of California, fully 38,000 are left out of this Republican proposal.

Many of the deserving veterans will die before the ten years are up and before they receive their full concurrent receipt.

This bill will set up yet another complicated administrative system for our veterans to wade through.

And worst of all, this bill as presented today unfairly pits veterans against other veterans.

We must restore earned and deserved benefits to all eligible military retirees. If this Defense Authorization Conference Report continues to leave out two-third of deserving veterans, I cannot vote for its passage.

Mr. CASTLE. Mr. Speaker, I rise in support of the Conference Report on the National Defense Authorization Act. It was a pleasure to serve as an outside conferee to H.R. 1588 for education provisions that will benefit our nation's military, schools and students across the world.

In addition to Impact Aid, H.R. 1588 provides additional assistance to local educational agencies (LEAs) that benefit dependents of members of the Armed Services and Department of Defense civilian employees. $30 million is authorized to be used as general revenue by LEAs that are impacted by the presence of military installations.

Every Member recognizes the importance of funding for special education. H.R. 1588 recognizes that the Department of Defense also has a role in helping school districts provide these necessary services. The conference report makes available $5 million from the Department of Defense's budget to help school districts provide special education services to children with severe disabilities who have a parent who is on active duty in the uniformed services or who is a foreign military officer.

Now more than ever our military families rely on Department of Defense schools overseas. H.R. 1588 expands the eligibility for space-available, tuition-free attendance at Department of Defense Dependents Schools (DODDS) overseas to the dependents of mobilized reservists who are called to active duty and whose overseas tour is voluntarily or involuntarily extended beyond one year. Current admissions policy permits the dependents of reservists called to active duty from an overseas location to enroll in DODDS on a space-available, tuition-free basis, but denies such admission to reservists mobilized from the continental United States. As the number of reservists deployed overseas continues to increase, it is imperative that we recognize the needs of these men and women as well as the educational needs of their children.

Finally, today's Conference Report recognizes the future needs of our military. H.R. 1588 enables the Secretary of Defense to develop a more comprehensive and attractive array of educational programs in science, mathematics and engineering. Educational programs in technical fields will help to train the next generation of scientists, engineers, and technical entrepreneurs, all of whom may contribute to the future technological superiority of our military forces.

Congress and the American people support our brave military for their commitment and their sacrifice. The recent war in Iraq shows the importance of preparation and equipment for our military as they work to defend freedom and liberty across the globe. In addition to these vital education provisions, the Conference Report to be passed today will provide the necessary resources and training for our troops at home and abroad.

Mr. MCGOVERN. Mr. Speaker, I rise in reluctant opposition to this Conference Report.

While I have continuing problems with the process of how this bill was negotiated, excluding the participation of most Democratic-appointed conferees, and how no time has been allowed for Members of this body to review the final version of the bill on which we are voting this morning, it is not for reasons of process that I oppose this bill.

I oppose this bill because it does not do right by our disabled veterans; it does not do right by the hard-working, faithful, and patriotic civilian workforce of the U.S. Department of Defense; and it does not do right by our commitment—including the declarations of our current president—to halt the global proliferation of nuclear weapons.

However, first I would like to summarize several of the items in this bill that I strongly support and for which I have fought for many years.

I support the extension of TRICARE for non-deployed National Guard and Reservists and their families. Under current law and Pentagon policy, reservists become eligible for TRICARE, the Defense Department's health care system, once they are on active duty. This conference report will ensure that TRICARE is provided to those Guard and Reservists who lack coverage or who are not eligible for coverage offered by an employer. Guard and Reservists will be required to pay 28 percent of TRICARE premium and can stay in the program for one month before and six months after mobilization. This program is authorized for one year, until September 30, 2004, but I will continue to fight to ensure these changes become permanent.

I also support the provision in this conference report to allow lawful permanent resident military members to achieve naturalized citizenship after serving honorably for one year in the regular components of the military and our Ready Reserves. It also allows noncitizen spouses, unmarried children, and parents of citizens and non-citizens serving in the U.S. military who are killed as a result of such service, to file or preserve their application for lawful permanent residence. This provision does not provide any benefits if family members are out of status or are illegal aliens.

I support the increases in Imminent Danger Pay and Family Separation Allowance. The higher rates authorized in this bill will be $225 per month for hazardous duty pay and $250 for family separation allowance. These higher rates will be provided to all eligible military members, not just those serving in Iraq and Afghanistan.

I strongly support the 4.1 percent pay increase for military personnel and the targeted increases for mid-grade and senior non-commissioned officers and mid-grade officers.

I also strongly support the increased authorizations for the equipment, supplies, logistical support so badly needed by our deployed military personnel and those in training, as well as the increases in research, development, testing and evaluation of new equipment and materials that will be required for an effective and modern fighting force. Our uniformed men and women deserve the very best equipment to carry out their duties and missions, and I believe this bill helps provide them with these materials.

Unfortunately, I cannot support a bill that will still leave two out of every three disabled veterans subject to the so-called Disabled Veterans Tax. This conference report includes a plan to provide concurrent receipt of military retirement and Veterans Affairs (VA) disability benefits to military retirees with disability ratings of 50 percent or high that would be phased in over the next ten years. According to a report released by Veterans Affairs Committee Ranking Member Lane Evans, a veteran himself of the Vietnam War, the plan authorized in this bill will help only 160,000 of the approximately 560,000 disabled military retirees that are subject to the tax. To be eligible for relief, retirees must have 20 years of service and disability ratings of 50 percent or above. As is already provided for in current law, veterans who meet the criteria for a combat-related disability, popularly known as "Purple Hearts Plus," will receive full disability and retirement benefits, if they have twenty years or more of service.

I believe that the Conference Report should have included the provisions of H.R. 303, the Retired Pay Restoration Act of 2003, which I and the Democrats in the U.S. House of Representatives attempted to bring to the House floor for action earlier this year. It would cover all of our disabled veterans, not just one out of three. Three days from now we will remember our veterans and celebrate Veterans Day. I cannot do this in good conscience if I support legislation in which two-thirds of retired veterans who have service-related disabilities will be left behind and will be required to continue to pay tax on their disability.

Mr. Speaker, I cannot support this conference report that scraps existing civil service laws and protections for the more than 746,000 civilian employees whose daily work and sacrifices ensures the effective running of the U.S. Department of Defense. This Conference Report removes all collective bargaining protections contained in current law; it removes all basic due process protections for employees; it strips Defense Department employees of basic appeal rights; and it removes the requirement that Defense Department employees receive additional pay for working overtime, working on holidays or weekends, or working in jobs involving unusual physical hardship or hazards. Mr. Speaker, this is simply wrong.

Finally, Mr. Speaker, I oppose the Conference Report on H.R. 1588 because it lifts the ban on research and development of a new generation of so-called low-yield nuclear weapons that was first enacted in 1989 during the Administration of President George H.W. Bush. This new program will allow the United States to pursue a new generation of nuclear weapons of a type most likely to be used in battle, which I fear may lead to a new nuclear arms race on a global scale.

I also have other grave concerns regarding this bill, such as the weakening of the Endangered Species Act and the Marine Mammal Protection Act, which I do not have time to go into this morning.

I regret that I must vote in opposition to this very important bill, but I simply cannot shortchange our disabled veterans, the Defense Department workers, and the very security of our nation and the world from nuclear attack.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for the conference report on H.R. 1588, the National Defense Authorization Act for Fiscal Year 2004. This Member would like to offer particular thanks to the Chairman of the House Armed Services Committee, the distinguished gentleman from California (Mr. HUNTER), and the Ranking Minority Member on the Committee, the distinguished gentleman from Missouri (Mr. SKELTON) for their work on this important bill. Furthermore, this Member would like to thank the Chairman of the Armed Services Subcommittee on Military Readiness, the distinguished gentleman from Colorado (Mr. HEFLEY), and the Ranking Member of the Armed Services Subcommittee on Military Readiness, the distinguished gentleman from Texas (Mr. ORTIZ), for their critical work on authorizing $3 million for the frontage levee segment protecting the Nebraska National Guard Camp at Ashland, Nebraska. Indeed, this Member is very appreciative for the inclusion of this provision in the conference report.

Mr. Speaker, the Nebraska National Guard Camp Frontage Levee Segment is a central element of the Clear Creek portion of the Western Sarpy Levee project. Completion of the Guard camp segment must coincide with the other elements of the Western Sarpy project to assure coordinate progress on completing this governmentally complicated flood protection project. Indeed, without building this section of the levee along the Platte River simultaneously with the construction of the entire levee system it will not work; there would be a gap in the levee that would only accentuate the flooding risks and flood volume that would affect the Nebraska National Guard Camp unless this project moves forward with the rest of the levee construction project.

Previously, the Clear Creek Project was authorized at $15.6 million in the Water Resources Development Act of 2000 (WRDA 2000) to provide protection to the City of Lincoln's water supply, I-80, and U.S. 6, BNSF RR (Amtrak Line), telecommunication lines and other public facilities. In the FY2003 omnibus appropriations bill, Congress included $500,000 for construction start-up costs.

The Nebraska National Guard Camp at Ashland, Nebraska, provides training for Nebraska and other states' Army guard units to maintain mission readiness. The Ashland Guard Camp levee is an essential element of the Clear Creek structure on the western side of the Platte River since it also is that part of Clear Creek nearest to the Lincoln wellfield. Planning and design funds for the Guard's segment have been previously provided by the Congress to the Department of Defense through the Military Construction appropriations bill. Planning has resulted in development of a more cost-effective frontage levee to replace a previous ring-levee approach.

In closing, Mr. Speaker, this Member again expresses his appreciation and urges his colleagues to vote in support of the conference report for H.R. 1588.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MARSHALL

Mr. MARSHALL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. MARSHALL. Mr. Speaker, because the conference report does far too little to end the disabled veterans tax, I oppose the conference report in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MARSHALL moves to recommit the conference report on the bill H.R. 1588 to the committee of conference with instructions to the managers on the part of the House to include, in any further conference substitute recommended by the committee of conference, provisions that, within the scope of conference, maximize the number of persons who will be eligible for full concurrent receipt of military retired pay and veterans disability compensation.

The SPEAKER pro tempore. The motion is not debatable.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MARSHALL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and 9 of rule XX, this 15-minute vote on the motion to recommit to conference will be followed by 5-

minute votes on the adoption of the conference report; the motion to instruct on H.R. 6 offered by the gentleman from California (Mr. FILNER); and the motion to instruct on H.R. 1 offered by the gentleman from California (Mr. CARDOZA).

The vote was taken by electronic device, and there were—yeas 188, nays 217, not voting 30, as follows:

[Roll No. 616]

YEAS—188

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hall
Harman
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Nethercutt
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Whitfield
Woolsey
Wynn

NAYS—217

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—30

Ackerman
Berman
Brown (OH)
Burr
Burton (IN)
Buyer
Cox
Davis (AL)
Fattah
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Hinchey
Johnson (CT)
Jones (OH)
Kilpatrick
Kucinich
Lipinski
Majette
McInnis
Meehan
Napolitano
Ortiz
Paul
Quinn
Rangel
Reyes
Towns
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1157

Mr. VITTER and Mr. BARTLETT of Maryland changed their vote from "yea" to "nay."

Mr. WHITFIELD and Mr. TANCREDO changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 362, nays 40, answered "present" 2, not voting 31, as follows:

[Roll No. 617]

YEAS—362

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Engel
English
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall
Harman
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Janklow
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan

Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sánchez, Linda T.
Sánchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—40

Baldwin
Blumenauer
Capuano
Carson (IN)
Clay
Conyers
Dingell
Eshoo
Farr
Filner
Frank (MA)
Grijalva
Holt
Honda
Jackson (IL)
Lee
Lewis (GA)
Lofgren
Lynch
Markey
McDermott
McGovern
Miller, George
Oberstar
Obey
Olver
Owens
Payne
Sabo
Sanders
Schakowsky
Serrano
Slaughter
Stark
Tierney
Velázquez
Waters
Watson
Waxman
Woolsey

ANSWERED "PRESENT"—2

Baird
Becerra

NOT VOTING—31

Ackerman
Berman
Brown (OH)
Burr
Burton (IN)
Buyer
Cox
Davis (AL)
Emerson
Fattah
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Hinchey
Johnson (CT)
Jones (OH)
Kilpatrick
Kucinich
Lipinski
Majette
McInnis
Meehan
Napolitano
Ortiz
Paul
Quinn
Rangel
Reyes
Towns
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1204

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 6, ENERGY POLICY ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 6.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from California (Mr. FILNER) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 188, nays 210, not voting 36, as follows:

[Roll No. 618]

YEAS—188

Abercrombie
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gerlach
Gilchrest
Gordon
Green (WI)
Greenwood
Grijalva
Gutierrez
Harman
Harris
Hill
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
Kirk
Kleczka
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Petri
Pomeroy
Price (NC)
Rahall
Ramstad
Ros-Lehtinen
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

NAYS—210

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Calvert
Camp
Cannon
Cantor
Capito
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Goss
Granger
Graves
Green (TX)
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
John
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
Lampson
Latham
LaTourette
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McCotter
McCrery
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Vitter
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—36

Ackerman
Berman
Brown (OH)
Burr
Burton (IN)
Buyer
Cox
Davis (AL)
DeFazio
Fattah
Fletcher
Gephardt
Gutknecht
Hastings (FL)
Hinchey
Hooley (OR)
Johnson (CT)
Jones (OH)
Kilpatrick
Kucinich
Lewis (CA)
Lipinski
Majette
McInnis
Meehan
Napolitano
Nussle
Ortiz
Paul
Quinn
Rangel
Reyes
Rothman
Towns
Walden (OR)
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1211

Mr. CRAMER and Mr NUNES changed their vote from "yea" to "nay."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. GINNY BROWN-WAITE of Florida, Mr. Speaker, on rollcall No. 618 an error occurred. I mistakenly voted "no" and should have voted "yes."

MOTION TO INSTRUCT CONFEREES ON H.R. 1, MEDICARE PRESCRIPTION DRUG AND MODERNIZATION ACT OF 2003

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on H.R. 1.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from California (Mr. CARDOZA) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 184, nays 207, not voting 43, as follows:

[Roll No. 619]

YEAS—184

Abercrombie
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Brown-Waite, Ginny
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hill
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kildee
Kind
Kleczka
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Renzi
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wynn

NAYS—207

Aderholt
Akin
Bachus
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Graves
Green (WI)
Greenwood
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Janklow
Jenkins
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—43

Ackerman
Baker
Berman
Brown (OH)
Burr
Burton (IN)
Buyer
Cox
Davis (AL)
DeFazio
Diaz-Balart, L.
Doggett
Fattah
Fletcher
Gephardt
Granger
Gutknecht
Hastings (FL)
Hinchey
Hooley (OR)
Johnson (CT)
Jones (OH)
Kaptur
Kilpatrick
Kucinich
Lewis (GA)
Linder
Lipinski
Majette
Matsui
McInnis
Meehan
Napolitano
Nussle
Ortiz
Paul
Quinn
Rangel
Reyes
Ros-Lehtinen
Towns
Walden (OR)
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1217

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2754, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2004

Mr. HOBSON submitted the following conference report and statement on the bill (H.R. 2754) making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes:

CONFERENCE REPORT (H. REPT. 108–357)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2754) "making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2004, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection, aquatic ecosystem restoration, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, $116,949,000, to remain available until expended: Provided, That for the Ohio Riverfront, Cincinnati, Ohio, project, the cost of planning and design undertaken by non-Federal interests shall be credited toward the non-Federal share of project design costs: Provided further, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through *the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 for preconstruction engineering and design of Waikiki Beach, Oahu, Hawaii, the project to be designed and evaluated, as authorized: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $100,000 for the continuation and completion of feasibility studies of Kihei Beach, Maui, Hawaii: Provided further, That any recommendations for a National Economic Development Plan shall be accepted notwithstanding the extent of recreation benefits supporting the project features, in view of the fact that recreation is extremely important in sustaining and increasing the economic well-being of the State of Hawaii and the nation.*

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, aquatic ecosystem restoration, and related projects authorized by law; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,722,319,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303; and of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota: Provided, That using $9,280,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Los Angeles Harbor, California, project authorized by section 101(b)(5) of Public Law 106–541: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $750,000 of the funds provided herein to continue construction of the Hawaii Water Management Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $2,500,000 of the funds appropriated herein to continue construction of the navigation project at Kaumalapau Harbor, Hawaii: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $6,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program to continue construction of seepage control features and to design and construct repairs to the tainter gates at Waterbury Dam, Vermont: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the New York and New Jersey Harbor project, 50-foot deepening element, upon execution of the Project Cooperation Agreement: Provided further, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the construction of the Port Jersey element of the New York and New Jersey Harbor or reimbursement to the Local Sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element: Provided further, That funds appropriated in this Act for the preservation and restoration of the Florida Everglades shall be made available for expenditure unless: (1) the Secretary of the Army, not later than 30 days after the date of enactment of this Act, transmits to the State of Florida and the Committees on Appropriations of the House of Representatives and the Senate a report containing a finding and supporting materials indicating that the waters entering the A.R.M. Loxahatchee National Wildlife Refuge and Everglades National Park do not meet the water quality requirements set forth in the Consent Decree entered in United States v. South Florida Water Management District; (2) the State fails to submit a satisfactory plan to bring the waters into compliance with the water quality requirements within 45 days of the date of the report; (3) the Secretary transmits to the State and the Committees a follow-up report containing a finding that the State has not submitted such a plan; and (4) either the Committee on Appropriations of the House of Representatives or the Senate issues a written notice disapproving of further expenditure of the funds: Provided further, That the Secretary of the Army shall provide the State of Florida with notice and an opportunity to respond to any determination of the Secretary under the preceding proviso before the determination becomes final: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $17,000,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $5,400,000 of the funds appropriated herein to proceed with the planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Seward Harbor, Alaska, project, in accordance with the Report of the Chief of Engineers, dated June 8, 1999, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to continue the work to replace and upgrade the dam and all connections to the existing system at Kake, Alaska: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the Wrangell Harbor, Alaska, project in accordance with the Chief of Engineer's report dated December 23, 1999: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $33,400,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated for the navigation project, Tampa Harbor, Florida, to carry out, as part of the project, construction of passing lanes in an area approximately 3.5 miles long, centered on Tampa Bay Cut B, if the Secretary determines that such construction is technically sound, environmentally acceptable, and cost effective: Provided further, That using $200,000 appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, may develop an environmental impact statement for introducing non-native oyster species into the Chesapeake Bay: Provided further, That during preparation of the environmental impact statement, the Secretary may establish a scientific advisory body consisting of the Virginia Institute of Marine Science, the University of Maryland, and other appropriate research institutions to review the sufficiency of the environmental impact statement: Provided further, That in addition, the Secretary shall give consideration to the findings and recommendations of the National Academy of Sciences report on the introduction of non-native oyster species into the Chesapeake Bay in the preparation of the environmental impact statement: Provided further, That notwithstanding the cost sharing provisions of section 510(d) of the Water Resources Development Act of 1996 (110 Stat. 3760), the preparation of the environmental impact statement shall be cost shared 50 percent Federal and 50 percent non-Federal, for an estimated cost of $2,000,000: Provided further, That the non-Federal sponsors may meet their 50 percent matching cost share through in-kind services: Provided further, That the Secretary determines that work performed by the non-Federal sponsors is reasonable, allowable, allocable, and integral to the development of the environmental impact statement: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Miami Harbor project, as recommended in the Miami Harbor Letter Report dated August 2002, as revised February 2003: Provided further, That using $500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and initiate reconstruction of the Cape Girardeau, Missouri, project, originally authorized by the Flood Control Act of 1950, at an estimated total cost of $9,000,000, with cost sharing on the same basis as cost sharing for the project as originally authorized, if the Secretary determines that the reconstruction is technically sound and environmentally acceptable: Provided further, That the planned reconstruction shall be based on the most cost-effective engineering solution and shall require no further economic justification: Provided further, That the Secretary is directed to use $5,000,000 of the funds appropriated herein to undertake the restoration of Tar Creek and Vicinity, Oklahoma, project.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $324,222,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, using $12,000,000 of the funds provided herein, is directed to continue design and real estate activities and to initiate the pump supply contract for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: Provided further, That the pump supply contract shall be performed by awarding continuing contracts in accordance with 33 U.S.C. 621: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed, with funds previously appropriated, to continue construction of water withdrawal features of the Grand Prairie, Arkansas, project.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects; for providing security for infrastructure owned and operated by, or on behalf of, the U.S. Army Corps of Engineers, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, $1,967,925,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662 may be derived from that fund, and of which such sums as become available from the special account for the U.S. Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l–6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104–303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: Provided, That of funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2003, and September 30, 2004: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, Bodega Bay Harbor, California, and to continue maintenance dredging of the Federal channel: Provided further, That the Secretary shall make suitable material excavated from the site as part of the rehabilitation effort available to the non-Federal sponsor, at no cost to the Federal Government, for use by the non-Federal sponsor in the development of public facilities: Provided further, That the Corps of Engineers shall not allocate any funds to deposit dredged material along the Laguna Madre portion of the Gulf Intracoastal Waterway except at the placement areas specified in the Dredged Material Management Plan in section 2.11 of the Final Environmental Impact Statement for Maintenance Dredging of the Gulf Intracoastal Waterway, Laguna Madre, Texas, Nueces, Kleberg, Kenedy, Willacy, and Cameron Counties, Texas, prepared by the Corps of Engineers dated September 2003: Provided further, That nothing in the above proviso shall prevent the Corps of Engineers from performing necessary maintenance operations along the Gulf Intracoastal Waterway if the following conditions are met: if the Corps proposes to use any placement areas that are not currently specified in the Dredged Material Management Plan and failure to use such alternative placement areas will result in the closure of any segment of the Gulf Intracoastal Waterway, then such proposal shall be analyzed in an Environmental Impact Statement (EIS) and comply with all other applicable requirements of the National Environmental Policy Act, 42 U.S.C. 4321, et seq., and all other applicable State and Federal laws, including the Clean Water Act, 33 U.S.C. 1251 et seq., the Endangered Species Act, 16 U.S.C. 1531 et seq., and the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.: Provided further, That $15,000,000 is provided to be used by the Secretary of the Army, acting through the Chief of Engineers, to repair, restore, and clean up projects and facilities of the Corps of Engineers and dredge navigation channels, restore and clean out area streams, provide emergency stream bank protection, restore other crucial public infrastructure (including water and sewer facilities), document flood impacts, and undertake other flood recovery efforts considered necessary by the Chief of Engineers: Provided further, That the Secretary of the Army is directed to use $75,000 of the funds appropriated herein to remove the weir feature of the project for flood damage reduction, Mayfield Creek and Tributaries, Kentucky, constructed pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), without any further environmental or economic analysis or study: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of the funds appropriated herein for sediment removal and dam repair at Junaluska, North Carolina.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $140,000,000, to remain available until expended.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, $140,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the U.S. Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the U.S. Army Engineer Research and Development Center, and the U.S. Army Corps of Engineers Finance Center, $160,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the activities of the Office of the Chief of Engineers or the executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64–291; section 11 of the River and Harbor Act of 1925, Public Law 68–585; the Civil Functions Appropriations Act, 1936, Public Law 75–208; section 215 of the Flood Control Act of 1968, as amended, Public Law 90–483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99–662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102–580; section 211 of the Water Resources Development Act of 1996, Public Law 104–303; and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed $10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed $50,000,000 in each fiscal year.

SEC. 102. None of the funds appropriated in this or any other Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Ridge Landfill in Tuscarawas County, Ohio.

SEC. 103. None of the funds appropriated in this Act, or any other Act, shall be used to demonstrate or implement any plans divesting or transferring of any Civil Works missions, functions, or responsibilities for the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

SEC. 104. None of the funds appropriated in this or any other Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Indian Run Sanitary Landfill in Sandy Township, Stark County, Ohio.

SEC. 105. ALAMOGORDO, NEW MEXICO. The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (Public Law 87–874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.

NAMING OF LOCK AND DAM 3, ALLEGHENY RIVER, PENNSYLVANIA

Sec. 106. (a) DESIGNATION.—Lock and dam numbered 3 on the Allegheny River, Pennsylvania, shall be known and designated as the "C.W. Bill Young Lock and Dam".

(b) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in subsection (a) shall be deemed to be a reference to the "C.W. Bill Young Lock and Dam".

SEC. 107. The Secretary of the Army may utilize continuing contracts in carrying out the studying, planning, or designing of a water resources project prior to the authorization of the project for construction.

SEC. 108. The Secretary is authorized to remove and dispose of oil bollards and associated debris in Burlington Harbor, Vermont.

SEC. 109. KAKE DAM REPLACEMENT, KAKE, ALASKA TECHNICAL CORRECTIONS. Section 105, Public Law 106–377, is amended by striking "$7,000,000" and inserting "$11,000,000 at full Federal expense".

SEC. 110. DEAUTHORIZATION OF PROJECT FOR NAVIGATION, PAWTUXET COVE, RHODE ISLAND. (a) IN GENERAL.—The portions of the project for navigation, Pawtuxet Cove, Rhode Island, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1173) and described in subsection (b) shall no longer be authorized after the date of enactment of this Act.

(b) DESCRIPTIONS.—The portions of the project referred to in subsection (a) are the following:

(1) Beginning at a point along the western edge of the 6-foot channel just south of the 6-foot turning basin: N247,856.00, E530,338.00, thence running north 51 degrees 44 minutes 12.5 seconds west 214.77 feet to a point N247,989.00, E530,169.37, thence running north 13 degrees 14 minutes 48.8 seconds west 149.99 feet to a point N248,135.00, E530,135.00, thence running north 44 degrees 11 minutes 7.4 seconds east 137.77 feet to a point N248,233.79, E530,231.02, thence running north 3 degrees 58 minutes 18.8 seconds west 300.00 feet to a point N248,533.07, E530,210.24 thence running north 86 degrees 1 minute 34.3 seconds east 35.00 feet to a point N248,535.50, E530,245.16, thence running south 3 degrees 58 minutes 21.0 seconds east 342.49 feet to a point N248,193.83, E530,268.88, thence running south 44 degrees 11 minutes 7.4 seconds west 135.04 feet to a point N248,097.00, E530,174.77, thence running south 13 degrees 14 minutes 48.8 seconds east 85.38 feet to a point N248,013.89, E530,194.33, thence running south 51 degrees 44 minutes 12.5 seconds east 166.56 feet to a point N247,910.74, E530,325.11 thence running south 13 degrees 14 minutes 49.2 seconds east 56.24 feet to the point of origin.

(2) Beginning at a point along the eastern edge of the 6-foot channel opposite the 6-foot turning basin: N248,180.00, E530,335.00, thence running south 32 degrees 12 minutes 35.3 seconds east 88.25 feet to a point N248,105.33, E530,382.04, thence running south 13 degrees 14 minutes 49.2 seconds east 138.48 feet to a point N247,970.53, E530,413.77, thence running north 32 degrees 12 minutes 35.3 seconds west 135.42 feet to a point N248,085.12, E530,341.59, thence running north 3 degrees 58 minutes 21.0 seconds west 95.11 feet to the point of origin.

(3) Beginning at a point along the eastern edge of the channel adjacent to the 6-foot entrance channel: N246,630.77, E530,729.17, thence running south 13 degrees 14 minutes 49.2 seconds east 35.55 feet to a point N246,596.16, E530,737.32, thence running south 51 degrees 31 minutes 38.6 seconds east 283.15 feet to a point N246,420.00, E530,959.00, thence running north 47 degrees 28 minutes 37.2 seconds west 311.84 feet returning to a point N246,630.77, E530,729.17.

SEC. 111. (a) The Secretary of the Army is authorized to provide technical, planning, design and construction assistance to non-Federal interests to remedy adverse environmental and human health impacts in Ottawa County, Oklahoma. In providing assistance, the Secretary shall coordinate with the State, Tribal, and local interests. The Secretary may undertake implementation of such activities as the Secretary determines to be necessary or advisable to demonstrate practicable alternatives, such activities shall include measures to address lead exposure and other environmental problems related to historical mining activities in the area.

(b) In carrying out subsection (a), the Secretary may utilize, through contracts or other means, the services of the University of Oklahoma, the Oklahoma Department of Environmental Quality, or such other entities as the Secretary determines to be appropriate.

(c) Notwithstanding any other provision of law, the Secretary shall not incur liability under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) for activities undertaken pursuant to this section.

(d) Non-Federal interests shall be responsible for providing any necessary lands, easements or rights-of-way required for implementation of activities authorized by this section and shall be responsible for operating and maintaining any restoration alternatives constructed or carried out pursuant to this section. All other costs shall be borne by the Federal Government.

(e) There is authorized to be appropriated $15,000,000 to carry out the purposes of this section.

SEC. 112. The amount of $2,000,000 previously provided under the heading "Construction, General" in title I of the Energy and Water Development Appropriations Act, 2003, division D of Public Law 108–7, is to be used to provide technical assistance at full Federal expense, to Alaskan communities to address the serious impacts of coastal erosion.

SEC. 113. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

SEC. 114. Section 214(a) of Public Law 106–541 is amended by striking "2003" and inserting "2005".

SEC. 115. The Secretary of the Army, acting through the Chief of Engineers, shall direct construction of Alternative 1 (Northeast Corner) for the project authorized in section 353 of Public Law 105–277 notwithstanding any other provision of law.

SEC. 116. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake appropriate planning, design, and construction measures for wildfire prevention and restoration in the Middle Rio Grande bosque in and around the City of Albuquerque. Work shall be directed toward those portions of the bosque which have been damaged by wildfire or are in imminent danger of damage from wildfire due to heavy fuel loads and impediments to emergency vehicle access.

SEC. 117. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 142) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 595. IDAHO, MONTANA, RURAL NEVADA, NEW MEXICO, AND RURAL UTAH.";

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(B) by striking (a) and all that follows through "means—" and inserting the following:

"(a) DEFINITIONS.—In this section:

"(1) RURAL NEVADA.—The term 'rural Nevada' means"; and

(C) by adding at the end the following:

"(2) RURAL UTAH.—The term 'rural Utah' means—

"(A) the counties of Box Elder, Cache, Rich, Tooele, Morgan, Summit, Dagett, Wasatch, Duchesne, Uintah, Juab, Sanpete, Carbon, Millard, Sevier, Emery, Grand, Beaver, Piute, Wayne, Iron, Garfield, San Juan, and Kane, Utah; and

"(B) the portions of Washington County, Utah, that are located outside the city of St. George, Utah.";

(3) in subsections (b) and (c), by striking "Nevada, Montana, and Idaho" and inserting "Idaho, Montana, rural Nevada, New Mexico, and rural Utah"; and

(4) in subsection (h), by striking "2001—" and all that follows and inserting "2001 $25,000,000 for each of Idaho, Montana, New Mexico, and rural Utah, to remain available until expended.".

SEC. 118. Section 560(f) of Public Law 106–53 is amended by striking "$5,000,000" and inserting "$7,500,000".

SEC. 119. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102–580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 335) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public law 106–554; 114 Stat. 2763A–220), is further amended by adding at the end the following:

"(71) CORONADO, CALIFORNIA.—$10,000,000 is authorized for wastewater infrastructure, Coronado, California.".

SEC. 120. Section 592(g) of the Water Resources Development Act of 1999 (Public Law 106–53; 113 Stat. 380) is amended by striking "$25,000,000 for the period beginning with fiscal year 2000" and inserting "$100,000,000".

SEC. 121. PARK RIVER, GRAFTON, NORTH DAKOTA. Section 364(5) of the Water Resources Development Act of 1999 (113 Stat. 314) is amended—

(1) by striking "$18,265,000" and inserting "$21,075,000"; and

(2) by striking "$9,835,000" and inserting "$7,025,000".

SEC. 122. SCHUYLKILL RIVER PARK, PHILADELPHIA, PENNSYLVANIA. The Secretary of the Army shall provide technical, planning, design, and construction assistance for Schuylkill River Park, Philadelphia, Pennsylvania, in accordance with section 564(c) of the Water Resources Development Act of 1996 (Public Law 104–303; 110 Stat. 3785), as contained in the February 2003 report of the Philadelphia District based on regional economic development benefits, at a Federal share of 50 percent and a non-Federal share of 50 percent.

SEC. 123. GWYNNS FALLS WATERSHED, BALTIMORE, MARYLAND. The Secretary of the Army shall implement the project for ecosystem restoration, Gwynns Falls, Maryland, in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report prepared by the Corps of Engineers and the City of Baltimore, Maryland.

SEC. 124. SNAKE RIVER CONFLUENCE INTERPRETATIVE CENTER, CLARKSTON, WASHINGTON. (a) IN GENERAL.—The Secretary of the Army, acting through the Chief of Engineers (referred to in this section as the "Secretary") is authorized and shall carry out a project to plan, design, construct, furnish, and landscape a federally owned and operated Collocated Civil Works Administrative Building and Snake River Confluence Interpretative Center, as described in the Snake River Confluence Center Project Management Plan.

(b) LOCATION.—The project—

(1) shall be located on Federal property at the confluence of the Snake River and the Clearwater River, near Clarkston, Washington; and

(2) shall be considered to be a capital improvement of the Clarkston office of the Lower Granite Project.

(c) EXISTING STRUCTURES.—In carrying out the project, the Secretary may demolish or relocate existing structures.

(d) COST SHARING.—

(1) TOTAL COST.—The total cost of the project shall not exceed $3,500,000 (excluding interpretative displays).

(2) FEDERAL SHARE.—The Federal share of the cost of the project shall be $3,000,000.

(3) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share of the cost of the project—

(i) shall be $500,000; and

(ii) may be provided—

(I) in cash; or

(II) in kind, with credit accorded to the non-Federal sponsor for provision of all necessary services, replacement facilities, replacement land (not to exceed 4 acres), easements, and rights-of-way acceptable to the Secretary and the non-Federal sponsor.

(B) INTERPRETIVE EXHIBITS.—In addition to the non-Federal share described in subparagraph (A), the non-Federal sponsor shall fund, operate, and maintain all interpretative exhibits under the project.

SEC. 125. FLOOD DAMAGE REDUCTION, MILL CREEK, CINCINNATI, OHIO. The Secretary of the Army is directed to complete the General Reevaluation Report on the Mill Creek, Ohio, project within 15 months of enactment of this Act at 100 percent Federal cost. The report shall provide plans for flood damage reduction throughout the basin equivalent to and commensurate with that afforded by the authorized, partially implemented, Mill Creek, Ohio, Flood Damage Reduction Project, as authorized in section 201 of the Flood Control Act of 1970 (Public Law 91–611).

SEC. 126. LAKES MARION AND MOULTRIE, SOUTH CAROLINA. Section 219(f)(25) of the Water Resources Development Act of 1992 (113 Stat. 336; 114 Stat. 2763A–220) is amended—

(1) by striking "$15,000,000" and inserting "$35,000,000"; and

(2) by inserting "wastewater treatment and" before "water supply".

SEC. 127. Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335–337; 114 Stat. 2763A–220–221) is amended by adding at the end the following: "CHARLESTON, SOUTH CAROLINA.—$5,000,000 for wastewater infrastructure, including wastewater collection systems, Charleston, South Carolina.".

SEC. 128. AMERICAN RIVER WATERSHED, CALIFORNIA. (a) IN GENERAL.—The Secretary of the Army is authorized to carry out the project for flood damage reduction and environmental restoration, American River Watershed, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers dated November 5, 2002, at a total cost of $257,300,000, with an estimated Federal cost of $201,200,000 and an estimated non-Federal cost of $56,100,000; except that the Secretary is authorized to accept funds from State and local governments and other Federal agencies for the purpose of constructing a permanent bridge instead of the temporary bridge described in the recommended plan and may construct such permanent bridge if all additional costs for such bridge, above the $36,000,000 provided for in the recommended plan for bridge construction, are provided by such governments or agencies.

(b) EXPEDITING BRIDGE DESIGN AND CONSTRUCTION.—The Secretary, in cooperation with appropriate non-Federal interests, shall immediately commence appropriate studies for, and the design of, a permanent bridge (including an evaluation of potential impacts of bridge construction on traffic patterns and identification of alternatives for mitigating such impacts) and, upon execution of a cost-sharing agreement with such non-Federal interests, shall proceed to construction of the bridge as soon as practicable; except that such studies, design, and construction shall not adversely affect the schedule of design or construction of authorized projects for flood damage reduction.

SEC. 129. AMERICAN AND SACRAMENTO RIVERS, CALIFORNIA. The project for flood damage reduction, American and Sacramento Rivers, California, authorized by section 101(a)(1) of the Water Resources Development Act of 1996 (110 Stat. 3662–3663) and modified by section 366 of the Water Resources Development Act of 1999 (113 Stat. 319–320), is further modified to direct the Secretary to carry out the project, at a total cost of $205,000,000.

SEC. 130. PLACER AND EL DORADO COUNTIES, CALIFORNIA. (a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in Placer and El Dorado Counties, California.

(b) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties through water and wastewater projects, programs, and infrastructure.

(c) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(d) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(g) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000. Such sums shall remain available until expended.

SEC. 131. SACRAMENTO AREA, CALIFORNIA. Section 219(f)(23) of the Water Resources Development Act of 1992 (106 Stat. 4835–4836; 113 Stat. 336) is amended by striking "$25,000,000" and inserting "$35,000,000".

SEC. 132. UPPER KLAMATH BASIN, CALIFORNIA. (a) DEFINITION OF UPPER KLAMATH BASIN.—In this section, the term "Upper Klamath Basin" means the counties of Klamath, Oregon, and Siskiyou and Modoc, California.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of the Army may establish a program to provide environmental assistance to non-Federal interests in the Upper Klamath Basin.

(c) FORM OF ASSISTANCE.—Assistance under this section may be in the form of design and construction assistance to improve the efficiency and use of existing water supplies in the Upper Klamath Basin through water and wastewater and ecosystem restoration projects, programs, and infrastructure.

(d) OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) PARTNERSHIP AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a partnership agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each partnership agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) COST SHARING.—

(A) IN GENERAL.—The Federal share of the project costs under each partnership agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) CREDIT FOR WORK.—The non-Federal interests shall receive credit for the reasonable cost of design work on a project completed by the non-Federal interest before entering into a partnership agreement with the Secretary for such project.

(C) CREDIT FOR INTEREST.—In case of a delay in the funding of the non-Federal share of a project that is the subject of an agreement under this section, the non-Federal interest shall receive credit for reasonable interest incurred in providing the non-Federal share of the project's costs.

(D) LAND, EASEMENTS, AND RIGHTS-OF-WAY CREDIT.—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(E) OPERATION AND MAINTENANCE.—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section waives,

limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b(b)), for any project undertaken under this section, a non-Federal interest may include a nonprofit entity with the consent of the affected local government.

(h) CORPS OF ENGINEERS EXPENSES.—Ten percent of the amounts appropriated to carry out this section may be used by the Corps of Engineers district offices to administer projects under this section at 100 percent Federal expense.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000. Such sums shall remain available until expended.

SEC. 133. ADDITIONAL ASSISTANCE FOR CRITICAL PROJECTS. Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 113 Stat. 335–337; 114 Stat. 2763A–220–221) is amended by adding at the end the following:

"(71) PLACER AND EL DORADO COUNTIES, CALIFORNIA.—$35,000,000 to improve the efficiency and use of existing water supplies in Placer and El Dorado Counties, California, through water and wastewater projects, programs, and infrastructure.

"(72) LASSEN, PLUMAS, BUTTE, SIERRA, AND NEVADA COUNTIES, CALIFORNIA.—$25,000,000 to improve the efficiency and use of existing water supplies in the counties of Lassen, Plumas, Butte, Sierra, and Nevada, California, through water and waste water projects, programs, and infrastructure.".

SEC. 134. BRIDGE AUTHORIZATION. There is authorized to be appropriated $30,000,000 for the construction of the permanent bridge described in section 128(a).

SEC. 135. Section 504(a)(2) of the Water Resources Development Act of 1999 (113 Stat. 338) is amended by striking "Kehly Run Dam" and inserting "Kehly Run Dams".

SEC. 136. The McClellan-Kerr Arkansas River navigation project, authorized under the comprehensive plan for the Arkansas River Basin by section 3 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1218) and section 10 of the Flood Control Act of 1946 (60 Stat. 647) and where applicable the provisions of the River and Harbor Act of 1946 (60 Stat. 634) and modified by section 108 of the Energy and Water Development Appropriations Act, 1988 (101 Stat. 1329–112), is further modified to authorize a project depth of 12 feet.

SEC. 137. The Secretary shall provide credit to the non-Federal sponsor for preconstruction engineering and design work performed by the non-Federal sponsor for the environmental dredging project at Ashtabula River, Ohio, prior to execution of a Project Cooperation Agreement.

SEC. 138. GATEWAY POINT, NORTH TONAWANDA, NEW YORK. The Secretary shall review the shoreline stabilization, recreation, and public access components of the feasibility report for waterfront development at Gateway Point, North Tonawanda, New York, entitled "City of North Tonawanda, Gateway Point Feasibility", dated February 6, 2003, and prepared by the non-Federal interest and, if the Secretary determines that those components meet the evaluation and design standards of the Corps of Engineers and that the components are feasible, may carry out the components at a Federal cost not to exceed $3,300,000.

SEC. 139. CHICAGO RIVER AND HARBOR ILLINOIS. Those portions of the projects for navigation, Chicago River and Chicago Harbor, authorized by the River and Harbor Act of March 3, 1899, (30 Stat. 1129) extending 50 feet riverward of the existing dock wall on the south side of the channel from Lake Street to Franklin Street and 25 feet riverward of the existing dock wall on the south side of the channel from Franklin Street to Wabash Avenue, and those areas within 20 feet of the bridge abutments on the south side of the channel for the length of the protection bridge piers from the Franklin Street Bridge to the Michigan Avenue Bridge shall no longer be authorized after the date of enactment of this Act.

SEC. 140. SAN FRANCISCO, CALIFORNIA. CAPITAL IMPROVEMENT PROJECT.—

(1) ESTABLISHMENT OF OFFICE.—The Secretary shall establish a centralized office at the office of the district engineer, San Francisco, California, for the use of all Federal and State agencies that are or will be involved in issuing permits and conducting environmental reviews for the capital improvement project to repair and upgrade the water supply and delivery system for the city of San Francisco.

(2) CONTRIBUTIONS.—The Secretary may use the authority under section 214 of the Water Resources Development Act of 2000 (33 U.S.C. 2201 note) for the project described in paragraph (1).

(3) PROTECTION OF IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary and the heads of Federal agencies receiving funds under such section 214 for the project described in paragraph (1) shall ensure that the use of the funds accepted under such section for such project will not impact impartial decision making with respect to the issuance of permits, either substantively or procedurally, or diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

SEC. 141. WOLF LAKE, INDIANA. The project for aquatic ecosystem restoration, Wolf Lake, Indiana, being carried out under section 206 of the Water Resources Development Act of 1996 (33 U.S.C. 2330), is modified to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the project cooperation agreement for the project if the Secretary determines that the work is integral to the project.

SEC. 142. COOK COUNTY, ILLINOIS. The Secretary of the Army is directed to credit up to $80,000 for design work completed by non-Federal interests, prior to and after the signing of the project cooperation agreement, toward the non-Federal share of the project for Calumet and Burr Oaks Schools Sewer Improvements, Cook County, Illinois, authorized by section 219(f)(54) of the Water Resources Development Act of 1992 (Public Law 102–580, as amended), if the Secretary determines that the work is integral to the project.

SEC. 143. LOS ANGELES HARBOR, LOS ANGELES, CALIFORNIA. The project for navigation, Los Angeles Harbor, Los Angeles, California, authorized by section 101(b)(5) of the Water Resources Development Act of 2000 (114 Stat. 2577), is modified to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of the planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines the work is integral to the project.

SEC. 144. SAN LORENZO RIVER, CALIFORNIA. The project for flood control, San Lorenzo River, California, authorized by section 101(a)(5) of the Water Resources Development Act of 1996 (110 Stat. 3663), is modified to direct the Secretary to credit not more than $2,000,000 toward the non-Federal share of the cost of the project for the cost of the work carried out by the non-Federal interest before the date of the project cooperation agreement for the project if the Secretary determines the work is integral to the project.

SEC. 145. CALUMET REGION, INDIANA. Section 219(f)(12) of the Water Resources Development Act of 1992 (113 Stat. 335) is amended—

(1) by striking "$10,000,000" and inserting "$30,000,000"; and

(2) by striking "Lake and Porter" and inserting "Benton, Jasper, Lake, Newton, and Porter".

SEC. 146. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood control, Meramec River Basin, Valley Park Levee, Missouri, originally authorized by Public Law 97–128 (95 Stat. 1682) and modified by section 1128 of WRDA 1986 and section 333 of WRDA 1999, at a maximum Federal expenditure of $50,000,000.

SEC. 147. The project for flood control, Saw Mill Run, Pennsylvania, authorized by section 401(a) of Public Law 99–662 (100 Stat. 4124) and modified by section 301(a) of Public Law 104–303 (110 Stat. 3708), is further modified to authorize the Secretary to carry out the project at a total cost of $22,000,000, with an estimated Federal cost of $16,500,000 and an estimated non-Federal cost of $5,500,000.

SEC. 148. The project for flood control, Roanoke River Upper Basin, Virginia, authorized by section 401(a) of Public Law 99–662 (100 Stat. 4126), is further modified to authorize the Secretary to construct the project at a total cost of $61,700,000, with an estimated Federal cost of $43,000,000 and an estimated non-Federal cost of $18,700,000.

SEC. 149. The project for harbor deepening, Brunswick Harbor, Georgia, authorized by section 101(a)(19), Public Law 106–53, and amended by the fiscal year 2003 Consolidated Appropriations Act, Public Law 108–7, is further modified to authorize the Secretary to construct the project at a total cost of $96,276,000 with an estimated Federal cost of $61,709,000 and an estimated non-Federal cost of $34,567,000.

SEC. 150. The project for flood control, Lackawanna River at Olyphant, Pennsylvania, authorized by section 101(16) of Public Law 102–580 (106 Stat. 4797), is modified to authorize the Secretary to carry out the project at a total cost of $23,000,000, with an estimated Federal cost of $17,250,000 and an estimated non-Federal cost of $5,750,000.

SEC. 151. PERRY CREEK, IOWA. The project for flood protection, Perry Creek Flood Control Project, Sioux City, Iowa, authorized under section 401(a) of the Water Resources Development Act of 1986, is modified to increase the project authorization to $96,870,000 (Federal cost of $58,677,000 and non-Federal cost of $38,193,000).

SEC. 152. ELIZABETH RIVER, CHESAPEAKE, VIRGINIA. Section 358 of Public Law 106–53 is modified by striking "September 30, 1999," and inserting "May 1, 1997,".

SEC. 153. Section 219(f) of the Water Resources Development Act of 1992 is amended by adding at the end the following:

"(71) $6,430,000 for environmental infrastructure for Indianapolis, Indiana;".

SEC. 154. MISSISSIPPI RIVER AND BIG MUDDY RIVER, ILLINOIS. (a) IN GENERAL.—The project for flood control, Mississippi River and Big Muddy River, Illinois, authorized by the Flood Control Act of 1938, is modified to authorize the Secretary to carry out repair and rehabilitation of the project at a total cost of $22,600,000, with an estimated Federal cost of $16,950,000 and an estimated non-Federal cost of $5,650,000, and to perform operation and maintenance of the project thereafter.

(b) OTHER ASSISTANCE.—Federal assistance made available through the Department of Agriculture may be used toward payment of the non-Federal share of the costs of the repair and rehabilitation under this section.

(c) United States Lands.—Costs under this section for the repair and rehabilitation allocable to the protection of lands owned by the United States shall be a Federal responsibility. The Secretary shall seek reimbursement from the Secretary of Agriculture for the costs allocated to protecting lands owned by the Department of Agriculture.

(d) Operation and Maintenance of Non-Federal Lands.—The cost of operation and maintenance under this section allocated to protecting non-Federal lands shall be a non-Federal responsibility.

Sec. 155. Moss Lake, Louisiana. The Secretary of the Army, acting through the Chief of Engineers, is authorized to carry out a project to restore lake depths at Moss Lake, Louisiana, adjacent to the Calcasieu River and Pass channel at a total project cost of $2,500,000.

Sec. 156. The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), and modified by section 102(j) of the Water Resources Development Act of 1990 (104 Stat. 4612), is further modified—

(1) to include the construction of an extension of the south channel a distance of approximately 1584 feet consistent with the general reevaluation report, dated April 2002, prepared by the Jacksonville District Corps of Engineers, at a total cost of $11,300,000, with an estimated Federal cost of $8,475,000 and an estimated non-Federal cost of $2,825,000;

(2) to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of in-kind services and materials provided for the project by the non-Federal interest;

(3) to direct the Secretary to credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that the work is integral to the project; and

(4) to authorize the Secretary to carry out the project as modified at a total cost of $61,500,000.

SEC. 157. HARRIS GULLY, HARRIS COUNTY, TEXAS.

(a) Study.—

(1) In general.—The Secretary shall conduct a study to determine the feasibility of carrying out a project for flood damage reduction in the Harris Gully watershed, Harris County, Texas, to provide flood protection for the Texas Medical Center, Houston, Texas.

(2) Use of local studies and plans.—In conducting the study, the Secretary shall use, to the extent practicable, studies and plans developed by the non-Federal interest if the Secretary determines that such studies and plans meet the evaluation and design standards of the Corps of Engineers.

(3) Completion date.—The Secretary shall complete the study by July 1, 2004.

(b) Critical Flood Damage Reduction Measures.—The Secretary may carry out critical flood damage reduction measures that the Secretary determines are feasible and that will provide immediate and substantial flood damage reduction benefits in the Harris Gully watershed, at a Federal cost of $7,000,000.

(c) Credit.—The Secretary shall credit toward the non-Federal share of the cost of the project the cost of planning, design, and construction work carried out by the non-Federal interest before the date of the partnership agreement for the project if the Secretary determines that such work is integral to the project.

(d) Nonprofit Entity.—Notwithstanding section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), a nonprofit entity may, with the consent of the local government, serve as a non-Federal interest for the project undertaken under this section.

Sec. 158. The Secretary may carry out the Reach J, Segment 1, element of the project for hurricane and storm damage reduction, Morganza to the Gulf of Mexico, Louisiana, in accordance with the report of the Chief of Engineers, dated August 23, 2002, and supplemental report, dated July 22, 2003, at a total cost of $4,000,000.

TITLE II

DEPARTMENT OF THE INTERIOR

Central Utah Project

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, $36,463,000, to remain available until expended, of which $9,423,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, $1,728,000, to remain available until expended.

Bureau of Reclamation

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, $857,498,000, to remain available until expended, of which $51,330,000 shall be available for transfer to the Upper Colorado River Basin Fund and $33,570,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; and of which not more than $500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis: Provided further, That $1,000,000 is to be used for completion of the Santa Fe wells project in New Mexico through a cooperative agreement with the City of Santa Fe: Provided further, That $10,000,000 of the funds appropriated herein shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of division B, title I of Public Law 106–554, as amended: Provided further, That section 301 of Public Law 102–250, Reclamation States Emergency Drought Relief Act of 1991, as amended, is amended further by inserting "2003, and 2004" in lieu of "and 2003".

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

For administrative expenses necessary to carry out the program for direct loans and/or grants, $200,000, to remain available until expended, of which the amount that can be financed by the Reclamation Fund shall be derived from that fund.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $39,600,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102–575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575: Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $55,525,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

WORKING CAPITAL FUND

(RESCISSION)

From unobligated balances under this heading, $4,525,000 are rescinded.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 12 are for replacement only.

General Provisions

DEPARTMENT OF THE INTERIOR

Sec. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup Program and the costs of the San Joaquin Valley Drainage Program shall be classified by the Secretary of the Interior as reimbursable or nonreimbursable and collected until fully repaid pursuant to the "Cleanup Program-Alternative Repayment Plan" and the "SJVDP-Alternative Repayment Plan" described in the report entitled "Repayment Report, Kesterson Reservoir Cleanup Program and San Joaquin Valley Drainage Program, February 1995", prepared by the Department of the Interior, Bureau of Reclamation. Any future obligations of funds by the United States relating to, or providing for, drainage service or drainage studies for the San Luis Unit shall be fully reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

Sec. 202. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water *in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.*

SEC. 203. Subsection 206(b) of Public Law 101–514 is amended as follows: In paragraph (1), strike ", with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County; (ii) implement water conservation and metering programs within the areas served by the contract; and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater".

SEC. 204. The Secretary of the Interior is authorized and directed to amend the Central Valley Project water supply contracts of the Sacramento County Water Agency and the San Juan Suburban Water District by deleting a provision requiring a determination of annual water needs included pursuant to section 206 of Public Law 101–514.

SEC. 205. LOWER COLORADO RIVER BASIN DEVELOPMENT. (a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in Central Arizona Water Conservation District v. United States (No. CIV 95–625–TUC–WDB (EHC), No. CIV 95–1720–OHX–EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) AUTHORIZATION.—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

SEC. 206. The second paragraph under the heading "Administrative Provisions" in Public Law 102–377 (43 U.S.C. 377b) is amended by inserting ", not to exceed $5,000,000 for each causal event giving rise to a claim or claims" after "activities of the Bureau of Reclamation".

SEC. 207. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 208. (a) Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds appropriated for the current fiscal year or any prior Energy and Water Development Appropriations Act, or funds otherwise made available to the Commissioner of the Bureau of Reclamation, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106–377, Public Law 107–66, and Public Law 108–7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (Hybognathus amarus) and the Southwestern Willow Flycatcher (Empidonax trailii extimus) on the Middle Rio Grande in New Mexico.

(c) This section applies only to those Federal agency and non-Federal actions addressed in the March 17, 2003 Biological Opinion.

(d) Subsection (b) will remain in effect for 2 years following the implementation of this Act.

SEC. 209. ENDANGERED SPECIES COLLABORATIVE PROGRAM. (a) Using funds previously appropriated, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation and the Director of the Fish and Wildlife Service, for purposes of improving the efficiency and expediting the efforts of the Endangered Species Act Collaborative Program Workgroup, is directed to establish an executive committee of seven members consisting of—

(1) one member from the Bureau of Reclamation;

(2) one member from the Fish and Wildlife Service; and

(3) one member at large representing each of the following seven entities (selected at the discretion of the entity in consultation with the Bureau of Reclamation and the Fish and Wildlife Service) currently participating as signatories to the existing Memorandum of Understanding:

(A) other Federal agencies;

(B) State agencies;

(C) municipalities;

(D) universities and environmental groups;

(E) agricultural communities;

(F) Middle Rio Grande Pueblos (Sandia, Isleta, San Felipe, Cochiti, Santa Ana, and Santo Domingo); and

(G) Middle Rio Grande Conservancy District.

(b) Formation of this Committee shall not occur later than 45 days after enactment of this Act.

(c) Fiscal year 2004 appropriations shall not be obligated or expended prior to approval of a detailed spending plan by the House and Senate Committees on Appropriations.

(d) The above section shall come into effect within 180 days of enactment of this Act, unless the Bureau of Reclamation, in consultation with the above listed parties, has provided an alternative workgroup structure which has been approved by the House and Senate Committees on Appropriations.

SEC. 210. TULAROSA BASIN NATIONAL DESALINATION RESEARCH FACILITY. (a) DESALINATION DEMONSTRATION AND DEVELOPMENT.—Pursuant to section 4(a) of Public Law 104–298, 110 Stat. 3622 (October 11, 1996), the Secretary may hereafter conduct or contract for the design, construction, testing and operation of the Tularosa Basin National Desalination Research Facility.

(b) The Tularosa Basin National Desalination Research Facility is hereafter exempt from all provisions of section 7 of Public Law 104–298, 110 Stat. 3622 (October 11, 1996). The Federal share of the cost of the Tularosa Basin National Desalination Research Facility may be up to 100 percent, including the cost of design, construction, operation, maintenance, repair and rehabilitation.

SEC. 211. The Secretary of the Interior, in carrying out CALFED-related activities, may undertake feasibility studies for Sites Reservoir, Los Vaqueros Reservoir Enlargement, and Upper San Joaquin Storage projects, hereafter. These storage studies should be pursued along with ongoing environmental and other projects in a balanced manner.

SEC. 212. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented: Provided, That when such improvements are to Federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: Provided further, That this section shall not supercede any existing project-specific funding authority. The Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 213. HAWAII WATER RESOURCES STUDY. The Hawaii Water Resources Act of 2000 (Public Law 106–566; 114 Stat. 2818) is amended—

(1) in section 103—

(A) in subsection (b)(1), by striking "Not" and all that follows through "the Secretary" and inserting "The Secretary" and

(B) in subsection (e), by striking "$300,000" and all that follows and inserting "$2,000,000 for the Federal share of the activities authorized under this section"; and

(2) in section 104(b), by striking "cost-effective," and all that follows and inserting "cost-effective.".

SEC. 214. Notwithstanding the provisions of title IV of Public Law 102-575 (106 Stat. 4648), the contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account shall expire 10 fiscal years from the date of enactment of this Act. Such contributions shall be from an account established by the Western Area Power Administration for this purpose and such contributions shall be made available to the Utah Reclamation Mitigation and Conservation Account subject to appropriations. After 10 fiscal years from the date of enactment of this Act, the Utah Reclamation Mitigation and Conservation Commission is hereby authorized to utilize interest earned and accrued to the Utah Reclamation Mitigation and Conservation Account.

SEC. 215. TUALATIN RIVER BASIN, OREGON. (a) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY.—The Secretary of the Interior may conduct a Tualatin River Basin water supply feasibility study—

(1) to identify ways to meet future water supply needs for agricultural, municipal, and industrial uses;

(2) to identify water conservation and water storage measures;

(3) to identify measures that would—

(A) improve water quality; and

(B) enable environmental and species protection; and

(4) as appropriate, to evaluate integrated water resource management and supply needs in the Tualatin River Basin, Oregon.

(b) FEDERAL SHARE.—The Federal share of the cost of the study conducted under subsection (a)—

(1) shall not exceed 50 percent; and

(2) shall be nonreimbursable and nonreturnable.

(c) ACTIVITIES.—No activity carried out under this section shall be considered a supplemental or additional benefit under Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)).

(d) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,900,000, to remain available until expended.

SEC. 216. FACILITATION OF INDIAN WATER RIGHTS IN ARIZONA. In order to facilitate Indian water rights settlements in the State of Arizona, the Secretary may:

(1) Extend, on an annual basis, the repayment schedule of debt incurred under section 9(d) of the Act of August 4, 1939 (43 U.S.C 485h(d)) by irrigation districts who have contracts for water delivery from the Central Arizona Project.

(2) If requested by either the Gila River Indian Community or the San Carlos Apache Tribe, utilize appropriated funds transferred into the Lower Colorado River Basin Development Fund for construction of Indian Distribution systems to assist in the partial funding of costs associated with the on-reservation delivery of CAP water to these Indian tribes as set forth in the Bureau of Reclamation's FY 2004 Budget Justifications, PF–2B Schedules for construction of the Central Arizona Project. These funds shall be non-reimbursable Operation and Maintenance funds and shall not exceed amounts projected for construction by these Indian tribes as set forth in the Bureau of Reclamation's PF–2B Schedules that support the FY 2004 Budget Justifications for the Central Arizona Project.

SEC. 217. RESTORATION OF FISH AND WILDLIFE HABITAT, PROVISION OF BOTTLED WATER FOR FALLON SCHOOLCHILDREN, AND ASSOCIATED PROVISIONS. (a) IN GENERAL.—In carrying out section 2507 of Public Law 107–171, title II, subtitle F, the Secretary of Interior, acting through the Commissioner of Reclamation, shall—

(1) Notwithstanding section 2507 (b) of Public Law 107–171, title II, subtitle F, and in accordance with Public Law 101–618, provide $2,500,000 to the State of Nevada to purchase water rights from willing sellers and make necessary improvements to benefit Carson Lake and Pasture: Provided, That such funds shall only be provided by the Bureau of Reclamation when the title to Carson Lake and Pasture is conveyed to the State of Nevada.

(2) As soon as practicable after enactment, provide $133,000 to Families in Search of the Truth, Fallon, Nevada, for the purchase of bottled water and costs associated with providing such water to schoolchildren in Fallon-area schools.

(3) In consultation with the Pershing County Water Conservation District, the Commissioner shall expend $270,000 for the State of Nevada's costs associated with the National Environmental Policy Act review of the Humboldt Title Transfer: Provided, That notwithstanding Public Law 107–282, section 804(d)–(f), the State of Nevada shall pay any other costs assigned to the State as an entity receiving title in Public Law 107–282, section 804(b)–(e) or due to any reconveyance under Public Law 107–282, section 804(f), including any such National Environmental Policy Act costs that exceed the $270,000 expended by the Commissioner under this subparagraph.

(4) Provide $1,000,000 to the University of Nevada, Reno's Biodiversity initiative for public education and associated technical assistance and outreach concerning the issues affecting the restoration of Walker Lake.

(b) ADMINISTRATION.—The Secretary of the Interior, acting through the Commissioner of Reclamation, may provide financial assistance to State and local public agencies, Indian tribes, nonprofit organizations, and individuals to carry out this section and section 2507 of Public Law 107–171.

SEC. 218. The Secretary of the Interior shall extend the term of the Sacramento River Settlement Contracts, long- and short-form, entered into by the United States with various districts and individuals, section 14 of the Reclamation Project Act of 1939 (53 Stat. 1197), for a period of 2 additional years after the date on which each of the contracts, respectively, would expire but for this section, or until renewal contracts are executed, whichever occurs earlier.

SEC. 219. (a) Section 1(b) of Public Law 105–295 (112 Stat. 2820) is amended by striking the second sentence and inserting the following: "The Federal share of the costs of constructing the temperature control device and associated temperature monitoring facilities shall be 50 percent and shall be nonreimbursable. The temperature control device and associated temperature monitoring facilities shall be operated by the non-Federal facility owner at its expense in coordination with the Central Valley Project for the benefit and propagation of Chinook salmon and steelhead trout in the American River, California.".

(b) Section 1(c) of Public Law 105–295 (112 Stat. 2820) is amended by striking "$1,000,000" and inserting "$3,500,000".

SEC. 220. Not subject to fiscal year limitation, the Secretary of the Interior is hereafter authorized to implement, and enter into financial assistance or other agreements as may be necessary to undertake such activities identified for implementation (including construction) generally in accordance with section III of, and the Pumping/Dam Removal Plan as defined in, United States District Court Consent Decree "United States, et al., v. Grants Pass Irrigation District, Civil No. 98–3034–HO" (August 27, 2001). There are authorized to be appropriated such sums as may be necessary to carry out this provision, and activities conducted under this provision shall be nonreimbursable and nonreturnable.

SEC. 221. EXTENSION OF CERTAIN IRRIGATION PROJECT CONTRACTS. Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 114 Stat. 1441, 1441A–70) is amended—

(1) in subsection (a), by striking "December 31, 2003" and inserting "December 31, 2005"; and

(2) in subsection (b)—

(A) in the first sentence, by striking "beyond December 31, 2003" and inserting "beyond December 31, 2005"; and

(B) in the second sentence, by striking "prior to December 31, 2003" and inserting "before December 31, 2005".

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY SUPPLY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 12 passenger motor vehicles for replacement only, including two buses; $737,537,000, to remain available until expended.

NON-DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management site acceleration activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $163,375,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for non-defense environmental services activities conducted as a result of nuclear energy research and development activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, as well as new work scope transferred to the Environmental Management program, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, $339,468,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954 and title X, subtitle A, of the Energy Policy Act of 1992, $416,484,000, to be derived from the Fund, to remain available until expended, of which $51,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed 15 passenger motor vehicles for replacement only, including not to exceed one ambulance, $3,451,700,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $190,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That none of the funds provided herein may be used for international travel.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $216,533,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of *work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $123,000,000 in fiscal year 2004 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2004, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2004 appropriation from the general fund estimated at not more than $93,533,000.*

Office of the Inspector General

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,462,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

National Nuclear Security Administration

Weapons Activities

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; one fixed wing aircraft for replacement only; and the purchase of not to exceed six passenger motor vehicles, of which four shall be for replacement only, including not to exceed two buses; $6,272,511,000, to remain available until expended: Provided, That $87,000,000 is authorized to be appropriated for Project 01–D–108, Microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: Provided further, That $3,564,000 is authorized to be appropriated for Project 04–D–103, Project engineering and design (PED), various locations: Provided further, That a plant or construction project for which amounts are made available under this heading in this fiscal year with a current estimated cost of less than $10,000,000 is considered for purposes of section 3622 of Public Law 107–314 as a plant project for which the approved total estimated cost does not exceed the minor construction threshold and for purposes of section 3623 of Public Law 107–314 as a construction project with a current estimated cost of less than the minor construction threshold.

Defense Nuclear Nonproliferation

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,327,612,000, to remain available until expended.

Naval Reactors

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, and the purchase of not to exceed one bus; $766,400,000, to remain available until expended.

Office of the Administrator

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $12,000), $339,980,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

Defense Site Acceleration Completion

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; $5,651,062,000, to remain available until expended: Provided, That the Secretary of Energy is directed to use $1,000,000 of the funds provided for regulatory and technical assistance to the State of New Mexico, to amend the existing WIPP Hazardous Waste Permit to comply with the provisions of section 310 of this Act.

Defense Environmental Services

For Department of Energy expenses necessary for defense-related environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, and the purchase of not to exceed one ambulance for replacement only, $991,144,000, to remain available until expended.

Other Defense Activities

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense, other defense activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $674,491,000, to remain available until expended.

Defense Nuclear Waste Disposal

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $390,000,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

Bonneville Power Administration Fund

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for official reception and representation expenses in an amount not to exceed $1,500. During fiscal year 2004, no new direct loan obligations may be made.

Operation and Maintenance, Southeastern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $5,100,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, up to $19,000,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

Operation and Maintenance, Southwestern Power Administration

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,600,000, to remain available until expended: Provided, That, notwithstanding the provisions of 31 U.S.C. 3302, up to $1,512,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures; in addition, notwithstanding 31 U.S.C. 3302, beginning in fiscal year 2004 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 5 of the Flood Control Act, shall be credited to this account and be available until expended.

Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $177,950,000, to remain available until expended, of which $167,236,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, $6,200,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That notwithstanding the provision of 31 U.S.C. 3302, up to $162,108,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: Provided further, That the $750,000 that is made available under this heading for a transmission study on the placement of 500 megawatt wind energy in North Dakota and South Dakota may be nonreimbursable: Provided further, That, in accordance with section 203 of the Colorado River Basin Salinity Control Act (43 U.S.C. 1593), electrical power supply and delivery assistance may be provided to the local distribution utility as required to maintain proper voltage levels at the Big Sandy River Diffuse Source Control Unit.

Falcon and Amistad Operating and Maintenance Fund

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,640,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $204,400,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $204,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2004 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation from the general fund estimated at not more than $0.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

(RESCISSION)

Of the funds appropriated in prior Energy and Water Development Appropriation Acts, $15,329,000 of unexpended balances of prior appropriations are rescinded: Provided, That $13,329,000 shall be derived from the Paducah Disposal Facility Privatization (OR–574) and $2,000,000 shall be derived from the Portsmouth Disposal Facility Privatization (OR–674).

GENERAL PROVISIONS

DEPARTMENT OF ENERGY

SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2004 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy, not later than 60 days after the date of the enactment of this Act, publishes in the Federal Register and submits to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Notwithstanding paragraph (1), the Secretary of Energy may use appropriated funds to maintain operations of noncompetitive management and operating contracts as necessary during the 60-day period beginning on the date of the enactment of this Act.

(3) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

(b) In this section:

(1) The term "noncompetitive management and operating contract" means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term "competitive procedures" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

SEC. 302. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

(2) provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h).

SEC. 303. None of the funds appropriated by this Act may be used to augment the $13,400,000 made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request subject to approval by the appropriate congressional committees.

SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 307. When the Department of Energy makes a user facility available to universities and other potential users, or seeks input from universities and other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: Provided, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: Provided further, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

(1) the Kansas City Plant, Kansas City, Missouri;

(2) the Y–12 Plant, Oak Ridge, Tennessee;

(3) the Pantex Plant, Amarillo, Texas;

(4) the Savannah River Plant, South Carolina; and

(5) the Nevada Test Site.

SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2004 until the enactment of the Intelligence Authorization Act for fiscal year 2004.

SEC. 310. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purposes of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residues; (3) wet residues; (4) direct repackage residues; and (5) scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site".

SEC. 311. (a) The Secretary of Energy is directed to file a permit modification to the Waste Analysis Plan (WAP) and associated provisions contained in the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). For purposes of determining compliance of the modifications to the WAP with the hazardous waste analysis requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or other applicable laws waste confirmation for all waste received for storage and disposal shall be limited to; (1) confirmation that the waste contains no ignitable, corrosive, or reactive waste through the use of either radiography or visual examination of a statistically representative subpopulation of the waste; and (2) review of the Waste Stream Profile Form to verify that the waste contains no ignitable, corrosive, or reactive waste and that assigned Environmental Protection Agency hazardous waste numbers are allowed for storage and disposal by the WIPP Hazardous Waste Facility Permit.

(b) Compliance with the disposal room performance standards of the WAP shall be demonstrated exclusively by monitoring airborne volatile organic compounds in underground disposal rooms in which waste has been emplaced until panel closure.

SEC. 312. Notwithstanding any other provision of law, the material in the concrete silos at the Fernald uranium processing facility currently managed by the Department of Energy and the ore processing residual materials in the Niagara Falls Storage Site subsurface waste containment structure managed by the United States Army Corps of Engineers under the Formerly Utilized Sites Remedial Action Program shall be considered "byproduct material" as defined by section 11e.(2) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2014(e)(2)). The Nuclear Regulatory Commission or an Agreement State, as appropriate, shall regulate the material as "11e.(2) by-product material" for the purpose of disposition of the material in an NRC-regulated or Agreement State-regulated facility.

SEC. 313. No funds appropriated or otherwise made available under this title under the heading "ATOMIC ENERGY DEFENSE ACTIVITIES" may be obligated or expended for additional and exploratory studies under the Advanced Concepts Initiative until 30 days after the date on which the Administrator for Nuclear Security submits to Congress a detailed report on the planned activities for additional and exploratory studies under the initiative for fiscal year 2004. The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 314. MARTIN'S COVE LEASE. (a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT.—The term "Bureau of Land Management", hereafter referred to as the "BLM", means an agency of the Department of the Interior.

(2) CORPORATION.—The term "Corporation" means the Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints, located at 50 East North Temple Street, Salt Lake City, Utah.

(3) MARTIN'S COVE.—The term "Martin's Cove" means the area, consisting of approximately 940 acres of public lands in Natrona County, Wyoming as depicted on the Martin's Cove map numbered MC–001.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(b) LEASE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the Corporation to lease, for a term of 25 years, approximately 940 acres of Federal land depicted on the Martin's Cove map MC–001. The Corporation shall retain the right of ingress and egress in, from and to any part of the leasehold for its use and management as an important historical site.

(2) TERMS AND CONDITIONS.—

(A) SURVEY.—As a condition of the agreement under paragraph (1), the Corporation shall provide a boundary survey to the Secretary, acceptable to the Corporation and the Secretary, of the parcels of land to be leased under paragraph (1).

(B) ACCESS.—

(i) IN GENERAL.—The Secretary and the Corporation shall enter into a lease covenant, binding on any successor or assignee that ensures that, consistent with the historic purposes of the site, public access will be provided across private land owned by the Corporation to Martin's Cove and Devil's Gate. Access shall—

(I) ensure public visitation for historic, educational and scenic purposes through private lands owned by the Corporation to Martin's Cove and Devil's Gate;

(II) provide for public education, ecologic and preservation at the Martin's Cove site;

(III) be provided to the public without charge; and

(IV) permit the Corporation, in consultation with the BLM, to regulate entry as may be required to protect the environmental and historic values of the resource at Martin's Cove or at such times as necessitated by weather conditions, matters of public safety and nighttime hours.

(C) IMPROVEMENTS.—The Corporation may, upon approval of the BLM, improve the leasehold as may become necessary from time to time in order to accommodate visitors to the leasehold.

(D) ARCHAEOLOGICAL PRESERVATION.—The Corporation shall have the obligation to protect and maintain any historical or archaeological artifacts discovered or otherwise identified at Martin's Cove.

(E) VISITATION GUIDELINES.—The Corporation may establish, in consultation with the BLM, visitation guidelines with respect to such issues as firearms, alcoholic beverages, and controlled substances and conduct consistent with the historic nature of the resource, and to protect public health and safety.

(F) NO ABRIDGEMENT.—The lease shall not be subject to abridgement, modification, termination, or other taking in the event any surrounding area is subsequently designated as a wilderness or other protected areas. The lease shall contain a provision limiting the ability of the Secretary from administratively placing Martin's Cove in a restricted land management status such as a Wilderness Study Area.

(G) RIGHT OF FIRST REFUSAL.—The Corporation shall be granted a right of first refusal to lease or otherwise manage Martin's Cove in the event the Secretary proposes to lease or transfer control or title of the land to another party.

(H) FAIR MARKET VALUE LEASE PAYMENTS.—The Corporation shall make lease payments which reflect the fair market rental value of the public lands to be leased, provided however, such lease payments shall be offset by value of the public easements granted by the Corporation to the Secretary across private lands owned by the Corporation for access to Martin's Cove and Devil's Gate.

(I) RENEWAL.—The Secretary may offer to renew such lease on terms which are mutually acceptable to the parties.

(c) MINERAL WITHDRAWAL.—The Secretary shall retain the subsurface mineral estate under the 940 acres under the leasehold. The 940 acres described in subsection (a)(3) are hereby withdrawn from mining location and from all forms of entry, appropriation, and disposal under the public land laws.

(d) NO PRECEDENT SET.—This Act does not set a precedent for the terms and conditions of leases between or among private entities and the United States.

(e) VALID AND EXISTING RIGHTS.—The Lease provided for under this section shall be subject to valid existing rights with respect to any lease, right-of-way, permit, or other valid existing rights to which the property is subject.

(f) AVAILABILITY OF MAP.—The Secretary shall keep the map identified in this section on file and available for public inspection in the Casper District Office of the BLM in Wyoming and the State Office of the BLM, Cheyenne, Wyoming.

(g) NEPA COMPLIANCE.—The Secretary shall comply with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in carrying out this section.

SEC. 315. REINSTATEMENT AND TRANSFER OF THE FEDERAL LICENSE FOR PROJECT NO. 2696. (a) DEFINITIONS.—

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission.

(2) TOWN.—The term "town" means the town of Stuyvesant, New York, the holder of Federal Energy Regulatory Commission Preliminary Permit No. 11787.

(b) REINSTATEMENT AND TRANSFER.—Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision of that Act, the Commission shall, not later than 30 days after the date of enactment of this Act—

(1) reinstate the license for Project No. 2696; and

(2) transfer the license to the town.

(c) HYDROELECTRIC INCENTIVES.—Project No. 2696 shall be entitled to the full benefit of any Federal law that—

(1) promotes hydroelectric development; and

(2) that is enacted within 2 years before or after the date of enactment of this Act.

(d) CO-LICENSEE.—Notwithstanding the issuance of a preliminary permit to the town and any consideration of municipal preference, the town may at any time add as a co-licensee to the reinstated license a private or public entity.

(e) PROJECT FINANCING.—The town may receive loans under sections 402 and 403 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2702, 2703) or similar programs for the reimbursement of the costs of any feasibility studies and project costs incurred during the period beginning on January 1, 2001 and ending on December 31, 2006.

(f) ENERGY CREDITS.—Any power produced by the project shall be deemed to be incremental hydropower for purposes of qualifying for energy credits or similar benefits.

SEC. 316. Of the funds made available in this Act for Defense Environmental Services, $1,000,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: Provided, That $4,000,000 shall be provided to affected units of local governments, as defined in Public Law 97–425, to conduct appropriate activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97–425 and this Act. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $66,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $19,559,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, $5,000,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, $55,000,000, to remain available until expended: Provided, That $5,500,000 shall not be available until the Denali Commission submits to the House and Senate Committees on Appropriations a detailed budget justification for fiscal year 2005.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed $15,000), and purchase of promotional items for use in the recruitment of individuals for employment, $618,800,000, to remain available until expended: Provided, That of the amount appropriated herein, $33,100,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $538,844,000 in fiscal year 2004 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than $79,956,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $7,300,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $6,716,000 in fiscal year 2004 shall be retained and be available until expended, for necessary salaries and expenses in this account notwithstanding 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2004 so as to result in a final fiscal year 2004 appropriation estimated at not more than $584,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,177,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

TITLE V

GENERAL PROVISIONS

SEC. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

SEC. 502. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 503. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 504. CLARIFICATION OF INDEMNIFICATION TO PROMOTE ECONOMIC DEVELOPMENT. (a) Subsection (b)(2) of section 3158 of the National Defense Authorization Act for Fiscal Year 1998 (42 U.S.C. 7274q(b)(2)) is amended by adding the following after subparagraph (C):

"(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).".

(b) The amendment made by section 506, as amended by this section, is effective as of the date of enactment of the National Defense Authorization Act for Fiscal Year 1998.

This Act may be cited as the "Energy and Water Development Appropriations Act, 2004".

And the Senate agree to the same.

DAVID L. HOBSON,
RODNEY P. FRELINGHUYSEN,
TOM LATHAM,
ZACH WAMP,
JO ANN EMERSON,
JOHN T. DOOLITTLE,
JOHN E. PETERSON,
MICHAEL K. SIMPSON,
BILL YOUNG,
PETER J. VISCLOSKY,
CHET EDWARDS,
ED PASTOR,
JAMES E. CLYBURN,
MARION BERRY,
DAVID R. OBEY,
Managers on the Part of the House.

PETE V. DOMENICI,
THAD COCHRAN,
MITCH MCCONNELL,
ROBERT F. BENNETT,
CONRAD BURNS,
LARRY E. CRAIG,
CHRISTOPHER BOND,
TED STEVENS,
HARRY REID,
ROBERT C. BYRD,
FRITZ HOLLINGS,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2754) making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the action agreed upon by the managers and recommended in the accompanying conference report.

The language and allocations set forth in House Report 108–212 and Senate Report 108–105 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not contradicted by the report of the Senate or the conference, and Senate report language which is not contradicted by the report of the House or the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House report and Senate report address a particular issue not specifically addressed in the conference report or joint statement of managers, the conferees have determined that the House report and Senate report are not inconsistent and are to be interpreted accordingly. In cases in which the House or Senate have directed the submission of a report, such report is to be submitted to both House and Senate Committees on Appropriations.

Senate amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Corps of Engineers. Additional items of the conference agreement are discussed below.

The conferees remain concerned about the inadequate budget requests for water resources programs of the U.S. Army Corps of Engineers. The budget request for fiscal year 2004 is about $450,000,000 less than the amount appropriated to the Corps in fiscal year 2003. If the proposed budget request were enacted, the Corps would be forced to terminate ongoing construction contracts costing the government some $200,000,000 in termination fees, demobilization costs, and delays in project schedules.

Over the years, the conferees have granted the Corps of Engineers great latitude to reprogram funds from studies, construction projects, and maintenance activities which are either delayed or are being terminated to those where the funds can be effectively used to keep projects moving and accelerate completion. The conferees believe that the ability to reprogram funds is essential to the Corps' ability to effectively manage its program. Accordingly, the conferees were very concerned to learn that the Corps of Engineers has not been reprogramming funds from a number of projects that are obviously not moving forward. It has been and continues to be the intent of the conferees that when any project is not moving forward, the Corps of Engineers look to reprogram the funds appropriated for that project to one where the funds can be effectively utilized unless explicitly instructed not to do so by the Committees on Appropriations.

The conferees are aware that the Corps of Engineers may choose not to reprogram funds out of some inactive or slow-moving projects because of the reluctance of the member who requested funding to see it moved. The conferees expect that funds moved out of any authorized project would be restored to that project once obstacles to its progress had been resolved, and urge that the Corps should not let these objections stand in the way of using scarce funding where it is most needed. In order to better assess this "hoarding" problem, the conferees direct the Corps of Engineers to submit to the Committees on Appropriations of the House and the Senate, by May 1st of 2004, a report as to the "carried over" funds on hand at the beginning of fiscal 2004, by project, and the details of all reprogramming actions from carried over funds in the first six months of fiscal 2004.

The conferees are aware that the Corps of Engineers has exercised its existing authorities to take advantage of a good construction season and as a result, has been executing its construction program at an increased rate using funds available from under-performing projects. Though the conferees understand that the Federal government yields benefits and cost savings when a project is completed ahead of schedule, the conferees are very concerned about the Corps responding to contractor demands for higher execution rates at the expense of those projects that the Congress has determined reflect the Nation's priorities. Therefore, the conferees direct the Corps, within 90 days of enactment of this Act, to submit a report that outlines the Corps' processes and procedures for determining and evaluating which projects are under-performing and how the resulting unobligated funds are transferred to a project which is executing at a rate higher than anticipated. The conferees note as well, that some projects have fared very well when contractors are able to accelerate work; in fiscal years 2002 and 2003, some $30,000,000 was reprogrammed into just one such project from others. The Corps of Engineers has explained that this reprogramming results from their policy of allowing contractors to choose their own pace for work on continuing contracts, with the option to work on deferred payment terms, and sometimes to collect interest, when money appropriated for a given fiscal year is exhausted. The conferees admonish the Corps to curtail this practice, which amounts to allowing contractors to make many of its most crucial fiscal management decisions, and to include in the report required above the status of continuing construction contracts.

The conferees are also concerned that Corps of Engineers' technical and planning capabilities have diminished over the past decade. This diminished capability has been evident in recent controversial studies such as the Upper Mississippi River and Illinois Waterway System Navigation Study and the Delaware River Deepening Study. The conferees urge the Corps of Engineers to review ways in which it can improve this capability, to include concentrating its technical and planning expertise in regional centers. The conferees believe that there is much the Corps can do to leverage its highly skilled workforce in an effort to better utilize their expertise on a national level. With constrained budgets and ever-changing technology, the current work environment lends itself well to the movement of knowledge and information across great distances in a matter of minutes. Therefore, the conferees remain committed to the concept of the regional centers because they will enable the Corps to maximize its expertise across the country over a wide variety of projects and problems just by tapping its own resources. Though many problems are regionalized, many of their solutions are not. With the implementation of regional centers the Corps will be able to manage the agency's workload across the Nation rather than just in a district or division.

GENERAL INVESTIGATIONS

The conference agreement appropriates $116,949,000 for General Investigations instead of $117,788,000 as proposed by the House and $131,700,000 as proposed by the Senate.

The conference agreement provides $150,000 for the completion of an environmental assessment on the Tonto Creek in Tonto Basin element of the Gila River and Tributaries, Arizona, project.

Funds for the American River Watershed (Folsom Dam Mini-Raise), California, project are included in the Construction, General account.

The conferees have provided $100,000 for the Corps of Engineers to continue investigations of environmental infrastructure issues for the City of Norwalk, California.

The conferees have provided $1,100,000 for the Sacramento-San Joaquin Delta, California, study including $350,000 for a reconnaissance study to evaluate environmental restoration, flood protection, recreation, and related purposes for the California Bay-Delta Authority North Delta Improvements project, and $500,000 to initiate and complete a reconnaissance study to prioritize and evaluate environmental restoration, flood protection and related purposes for the Delta Islands and Levees. The remaining funding is provided for the Delta Special Study.

The conference agreement provides $1,500,000 for the Sacramento-San Joaquin River Basins Comprehensive Study in California, including funds to initiate and complete three $100,000 reconnaissance studies to evaluate environmental restoration, flood protection, and related purposes for the Lower San Joaquin River, USACE Reservoir Re-Operation, and Butte Basin, and $500,000 to initiate a feasibility study for the Mokelumne River, Calaveras River, and Stanislaus River Watersheds in Calaveras County.

The conferees urge the Secretary of the Army to continue planning and preconstruction engineering and design efforts on the Sacramento-San Joaquin River Basins Comprehensive Study-Hamilton City Flood Damage Reduction and Ecosystem Restoration Initial Project and to include in the study an area extending from 2 miles due north to 4 miles due south of State Highway 32, and extending at least 1.2 miles due south of Road 23. The study should incorporate locally preferred options that provide protection to agricultural lands on the southern end of the study area, as well as residential properties in Hamilton City, while providing opportunities for ecosystem restoration. In addition, the conferees support the efforts of the non-Federal sponsors to receive credit toward the non-Federal cost share for work, including ecosystem restoration work, determined by the Corps to be integral to the project, that is carried out by non-Federal sponsors or their partners after the completion of the final report—even if such work is carried out prior to the date of the project cost share agreement.

The conferees direct the Secretary of the Army to conduct a feasibility study with respect to shoreline stabilization of Egmont Key, Florida, which is threatened by erosion. The conferees further direct that the study shall be completed at full Federal expense, notwithstanding the conclusions of the initial reconnaissance report.

The conferees direct that the Secretary use any remaining funds heretofore appropriated and made available in Public Law 106–316, for construction of the Savannah Harbor Deepening Project, Savannah, Georgia, for the Savannah Harbor Expansion Project, Savannah, Georgia.

The conferees have moved funding previously provided by the House under General Investigations for riverfront restoration project at Fort Dodge, Iowa, to Construction, General under the already existing Des Moines Recreation River and Greenbelt authority. The conferees understand that moving the funds to Construction, General under the Greenbelt authorization, will allow the Corps of Engineers to continue to work at Fort Dodge with greater flexibility and speed.

The conferees have removed funding previously proposed under General Investigations for Turkey Creek Basin, Kansas and Missouri, and provided $500,000 for this project under Construction, General.

The conferees have provided additional funding above the Administration's request for the Upper Mississippi and Illinois Navigation Study with the intent that the Corps of Engineers diligently work to complete this critical study.

The conferees have included $2,500,000 for the Louisiana Coastal Area Ecosystem Restoration study to allow for initiation of project implementation reports. The conferees remain very concerned about the progress of this study and that the Corps may not be maintaining the rigor required for such a study. Therefore, the conferees direct the Corps to provide a report no later than 60 days after the enactment of this Act, on the study's progress and how it plans to refocus this critical effort.

The conference agreement includes $200,000 to initiate one or more of a number of feasibility studies identified in the reconnaissance phase of the Middle Potomac Watershed study, Maryland and Virginia. It is the intent of the conferees that the Holmes Run watershed in Virginia continues to be within the scope of this study. In addition, the conference agreement includes, within available funds, $100,000 for the Corps of Engineers to identify flood mitigation measures to protect the City of Alexandria, Virginia from future storm surges and flooding.

The conferees have provided $800,000 to initiate the feasibility phase of the Eastern Shore—Mid Chesapeake Bay Island, Maryland project, which will focus on the use of dredged material to restore and expand the habitat of a variety of animal life. It is the intent of the conferees that this funding be used for the identification and study of existing islands in need of restoration, and not artificial islands.

In order to optimize needed coordination with highway work being performed by the State of Nebraska, the conferees direct the Secretary of the Army to work closely with the local sponsor on the Sand Creek Environmental Restoration, Nebraska project, accepting advance funds offered by the sponsor, and agreeing to credits and reimbursements, as appropriate, for work done by the sponsor, including work performed in connection with the design and construction of seven upstream detention storage structures.

The conference agreement includes $350,000 for the Lower Las Vegas Wash Wetlands, Nevada, project and $150,000 for Technical Assistance for Tahoe Regional Planning, Nevada.

The conferees understand that there exists some confusion regarding the Passaic River, New Jersey, Environmental Restoration study and the Hudson Raritan Estuary-Lower Passaic River, New Jersey, study. The Passaic River, New Jersey Environmental Restoration study, in the past, has been referred to as the Lower Passaic, New Jersey study and use of this latter reference should be discontinued. The conferees further note that the Passaic River, New Jersey, Environmental Restoration study is a separate and distinct effort from the ongoing Hudson Raritan Estuary-Lower Passaic River, New Jersey, study.

The conferees have included $500,000 for the preconstruction, engineering, and design for the Upper Passaic River and Tributaries, New Jersey project and moved this project from General Investigations to Section 205 of the Continuing Authorities Program under Construction, General.

The conference agreement includes language, proposed by the House, regarding credits for the sponsors of the Ohio Riverfront, Cincinnati, Ohio, project.

The conferees expect the Secretary of the Army to review the Corps of Engineers report on the Nueces River, Texas published as House Document 235, Sixty-third Congress, 1st Session and other pertinent reports, to determine the feasibility of measures for improvements to address water resources needs of Texas within the Nueces River basin in the interest of comprehensive watershed and stream corridor management, including flood damage reduction, ecosystem restoration and protection, water conservation and supply, water quality, aquifer recharge, and other allied purposes. The review should coordinate and integrate ongoing study efforts within the basin.

The conference agreement deletes language, proposed by the Senate regarding the Park City Water Supply Infrastructure, Utah, project. Funding for this work is included in the amount appropriated for the Bureau of Reclamation under the Water and Related Resources account.

In light of the damage done to the area by Hurricane Isabel, the conferees have included $100,000 to continue preconstruction engineering and design for the Vicinity of Willoughby Spit, Norfolk, Virginia, project.

The conference agreement does not include funds in this account for the Duwamish and Green River, Washington, project. Funds for this project are included in the Construction, General account.

The conference agreement includes $7,500,000 for the Flood Plain Management Services Program. Within the funds provided, the conferees expect the Corps of Engineers to undertake the activities described in the House and Senate Reports, including $500,000 to advance development of the geographic information system for flood plain management in East Baton Rouge, Louisiana.

The conferees have included $400,000 within available funds under the Other Coordination Programs for the Corps of Engineers to provide programmatic support to Lake Tahoe restoration activities, including coordination with the Federal Interagency Partnership and the Tahoe Regional Planning Agency, to implement the Environmental Improvement Program.

The conference agreement includes $6,500,000 for the Planning Assistance to States Program. Within the funds provided for this program, the conferees expect the Corps of Engineers to undertake the activities described in the House and Senate Reports including providing assistance to Salcha, Alaska as outlined in the Senate Report. The conferees have also included $100,000 for the Corps of Engineers to prepare the Arkansas River Corridor Plan in Oklahoma; and $200,000 for Georgetown and Williamsburg Counties, South Carolina.

The conferees include $100,000 to continue the feasibility phase of the Tujunga Wash environmental restoration project in Studio City, California. In addition, the conferees provide $200,000 for the Corps to advance the Tujunga Wash, California, ecosystem restoration project under the Section 1135 Continuing Authorities Program in the Construction, General account. Additionally, the Corps is expected to complete the feasibility phase of the Long Lake, Indiana, project with funding from the Section 206, Continuing Authorities Program in the Construction, General account.

The conferees have not provided funding requested by the Administration for the Ex Post Facto National Study or the Independent Review National Study. The conferees understand that studies of this sort are among the concerns of the authorizing committees and are under discussion. The Corps should not undertake such studies with any funds made available until the authorizers have made clear their policies and intentions in future law.

Within the funds provided for the Corps of Engineers Research and Development Program, $1,000,000 is provided for innovative technology demonstrations for urban flooding and channel restoration. These demonstrations shall be conducted in close coordination and cooperation with the Urban Water Research Program of the Desert Research Institute of Nevada. The conferees encourage the Corps of Engineers to continue its work in the area of Submerged Aquatic Vegetation or "seagrasses" and restoration efforts in the Chesapeake Bay, Maryland.

The conferees are also aware of the potential benefits of incorporating modular plastic belting technology into fish screen devices. Accordingly, the conferees ask the Corps of Engineers to consider evaluating the technology's operational and cost benefits and to consider its deployment if the Corps determines that the technology is environmentally and scientifically sound, feasible and effective.

Language, provided by the Senate, has been included in the bill regarding the Southwest Valley Flood Damage Reduction study in New Mexico, the Waikiki Beach, Hawaii, project and the Kihei Beach, Hawaii, project.

Construction, General

The conference agreement appropriates $1,722,319,000 for Construction, General instead of $1,642,911,000 as proposed by the House and $1,538,000,000 as proposed by the Senate.

The conferees recognize the urgent need to remove and remediate contaminated soils from the uplands adjacent to the Salt Lagoon and its outfall channel at St. Paul Island, Alaska. The conferees further recognize that the Corps of Engineers has an ongoing project to dredge and excavate sediments from the nearby St. Paul Harbor and to reestablish, by excavation, the traditional flow channel between the harbor and the Salt Lagoon. Given the extremely high cost of mobilizing equipment to St. Paul Island and the Corps of Engineers' expertise in remediating contaminated materials, the conferees direct and authorize the Secretary of the Army to enter into an agreement with the Secretary of Transportation to supplement this ongoing construction project, and to remove and remediate the contaminated materials to an approved disposal site. Funding for the remediation of the contaminated material is to come from funds provided to the National Oceanic and Atmospheric Administration (NOAA) for this purpose.

The conference agreement does not include funding in the Construction, General account for the Dam Site Park at Greers Ferry Lake, Arkansas. The conferees have provided $8,391,000 for Greers Ferry Lake, Arkansas, including $2,000,000 for the modernization of the Dam Site Park recreation facilities under Operations and Maintenance, General.

Within funds provided for the American River Watershed (Folsom Dam Mini-Raise), California, project, $600,000 shall be provided to the Folsom Dam replacement road and bridge.

The conference agreement for Oakland Harbor, California, includes $20,000,000 for this critical project. The conferees regret that they cannot provide optimum funding efforts, which are hampered because the Administration only requested $7,000,000 for this project. Given that this project is already under construction, the conferees encourage the Administration to include realistic project funding in future budget submissions.

The conference agreement includes $7,300,000 to complete Federal funding for all aspects of the Petaluma River, California, flood control project. The Corps of Engineers and the sponsors are urged to proceed expeditiously so that the project can be finished with funds made available and the full benefits of this project are not further delayed.

The conference recommendation includes $15,000,000 for the Port of Los Angeles, California, project. Despite the fact this project is already under construction, the Administration did not propose any funding for this project. The conferees expect the Administration to budget for a project of this scope more responsibly in the future.

The conference agreement provides $22,500,000 for continued construction of the Santa Ana River Mainstem, California, project, including $7,000,000 for the acceleration of work on the San Timoteo Creek element.

The conferees have provided $500,000 for continuation of a feasibility study of perchlorate contamination in the City of Santa Clarita, California.

The conference agreement includes $500,000 to initiate construction on the Delaware Bay Coastline, Bethany Beach to South Bethany Beach, Delaware project.

The conference agreement includes $500,000 for the Florida Keys Water Quality Improvements project, which was not included in the Administration's budget request. The conferees ask that the Administration give consideration to including this critical work in future funding requests, and to the possibility of including it in the larger Everglades Restoration effort.

The conference agreement includes additional language, proposed by the House, concerning availability of funds appropriated for the Florida Everglades and for the New York and New Jersey Harbors, New York, and New Jersey.

The conferees have provided $300,000 for the Martin County, Florida, project.

The conferees have provided an additional $4,350,000 for wildlife mitigation at the Richard B. Russell Dam and Lake, Georgia and South Carolina. These funds, combined with funds provided in Fiscal Year 2003, satisfy the Federal obligation for the lump sum payment to the State of South Carolina required by Section 348(k) of the Water Resources Development Act of 2000.

The conference agreement includes $4,450,000 for environmental infrastructure projects as authorized in Section 595 of the Water Resources Development Act, as amended, in Rural Idaho. Funds are to be used for the following Idaho projects: City of

Burley, Coolin Sewer District, City of Horseshoe Bend, Upper St. Joe Distribution Line, Blackfoot Water Diversion, Spirit Lake Restoration, Emmett Wastewater, McCammon Wastewater, and the Middleton Water and Sewer Authority.

The conferees note that in addition to the Construction, General funding provided for the Chicago Sanitary and Ship Canal, Illinois, $750,000 is also provided in the Section 1135 Continuing Authorities Program to continue the work on a second barrier.

The conferees have provided $100,000 to initiate construction of the Little Grassy Pump feature of the Wood River Drainage and Levee District project in Illinois.

The conference agreement includes $500,000 for Northeastern Minnesota, Minnesota.

The conference agreement deletes funding in this account proposed for the Table Rock Lake, Missouri facility, modernization project. The conferees have provided $9,000,000 for Table Rock Lake, Missouri, under Operations and Maintenance, General, including $3,500,000 for the modernization of day use, boat launch, and other recreation facilities at its Campbell Point, Cape Fair, Indian Point and Baxter parks, and for other maintenance items.

The conferees have included $3,000,000 for rural Montana projects. Within the funds provided, the Corps of Engineers is directed to give consideration to projects at Conrad, Laurel, Belgrade, Drummond, Wisdom, Melston, Manhattan and Grant Creek. Other communities that meet the program criteria should be considered as funding allows.

The conferees have included $9,000,000 for Rural Nevada projects. Within the funds provided, the Corps of Engineers is directed to give consideration to projects at Boulder City, Mesquite, Tonopah, Lyon County (Carson River Regional Water System), Gerlach, Incline Village, Lawton-Verdi, Esmeralda County, Churchill County, West Wendover and Searchlight. Other communities that meet the program criteria should be considered as funding allows.

The conferees have provided $1,000,000 for the Corps of Engineers to initiate construction of the Barnegat Inlet to Little Egg Harbor Inlet, New Jersey, beach erosion control project.

The conference agreement includes $500,000 for the Delaware Bay Coastline, Villas and Vicinity, New Jersey, project.

The conferees have provided $9,000,000 for the Delaware Main Channel, New Jersey, Delaware, and Pennsylvania, project, which continues to undergo a rigorous cost-benefit reanalysis and verification by independent reviewers. The Corps of Engineers is to be commended for this effort. The conferees are aware that the production of a complete justification may consume several additional months and urge that these funds be temporarily re-programmed to other high-priority work if they are not required for the deepening effort in fiscal year 2004.

The conference recommendation includes $5,000,000 for the Central New Mexico, project; $4,000,000 for completion of the construction work on the Double Eagle II Infrastructure Upgrade, the Bosque Farms Plant, the Tijeras Water System upgrade and the Bernalillo plant; and, $1,000,000 for the Black Mesa Area Flood Management project.

The Secretary of the Army is urged to utilize up to $2,000,000 annually of the funds provided from the New York and New Jersey Harbor, New York and New Jersey project from the Construction, General appropriations through fiscal year 2008, to plan for and enter into an agreement with a state or non-Federal sponsor to develop a dredged material processing facility that would accomplish the objectives of reducing the cost of dredged material management in the port and preparing dredged material for beneficial uses, and to implement a project utilizing innovative dredged material management technologies.

The conferees agree that the Secretary of the Army may use any remaining available funds from funds appropriated in Public Law 101–101 for the Hamlet City Lake, North Carolina project, to provide assistance in carrying out any authorized water-related infrastructure projects in Richmond County, North Carolina.

The conference agreement includes $350,000 for the Stanly County Wastewater Infrastructure project in North Carolina.

The conferees have provided $3,900,000 for the Mill Creek, Ohio, Flood Control project and have included language in the bill which direct the Secretary of the Army to complete the General Reevaluation Report within 15 months of this legislation at 100 percent Federal cost. The General Reevaluation Report shall provide plans for flood damage reduction throughout the basin equivalent to and commensurate with that afforded by the authorized, partially implemented Mill Creek, Ohio, Flood Damage Reduction Project, as authorized in Section 201 of the Flood Control Act of 1970 (P.L. No. 91–611). Funding provided herein, is to continue the General Reevaluation Report and the repair of the previously constructed Section 3 area.

The conferees direct that none of the funds provided for the Olmsted Locks and Dam, Ohio project be used to reimburse the Claims and Judgment Fund.

The conferees have provided $75,000 for the Corps of Engineers to initiate plans and specifications for the Ottawa River Harbor navigation project in Ohio.

The conferees note relative to the Cheyenne River Sioux Tribe, Lower Brule Sioux, South Dakota project, that Title VI of the Water Resources Development Act of 1999, as amended, authorizes funding to pay administrative expenses, implementation of terrestrial wildlife plans, activities associated with land transferred or to be transferred, and annual expenses for operating recreational areas. Within the funds provided, the conferees direct that not more than $1,000,000 shall be provided for administrative expenses, and that the Corps is to distribute remaining funds as directed by Title VI to the State of South Dakota, the Cheyenne River Sioux Tribe and Lower Brule Sioux Tribe.

The conference agreement provides $1,072,000 to complete the Black Fox, Murfree, and Oaklands Springs Wetlands, Murfreesboro, Tennessee, project. The conferees are aware that this project has exhibited growth in both scope and cost since its inception, and agree that no additional Federal funds will be appropriated; the Corps of Engineers and the sponsors are therefore urged to take necessary measures to bring the project to fruition as soon as possible.

The conferees have included $5,400,000 to continue design and initiate construction for Chickamauga Lock, Tennessee.

The conference report includes $500,000 to continue major rehabilitation work on the Whitney Lake Powerhouse, Texas.

The conference agreement includes language, proposed by the Senate, regarding the continued construction of the Dallas Floodway Extension project in Texas.

The conference agreement includes language, proposed by the Senate, concerning the acceptance of advance funds for the Los Angeles, California, project.

The conference agreement includes language, proposed by the Senate, directing use of funds for the Hawaii Water Management and Kaumalapau Harbor projects, in Hawaii.

The conference agreement includes language, proposed by the Senate, directing the use of Dam Safety and Seepage/Stability Correction Program funds for the project at Waterbury Dam, Vermont.

The conference agreement includes language, proposed by the Senate and the House, providing for use of funds for elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project, West Virginia, Virginia, and Kentucky.

The conference agreement includes language, proposed by the Senate, concerning the construction of the Seward Harbor, Alaska, project: the upgrades at Kake, Alaska; and the construction of the Wrangell Harbor, Alaska, project.

The conference agreement includes language, proposed by the Senate, providing direction for the use of funds for the Tampa Harbor, Florida, project.

The conference agreement includes language, proposed by the Senate, addressing the introduction of non-native oyster species into the Chesapeake Bay.

The conference agreement includes language providing direction for construction of the Miami Harbor, Florida, project.

The conference agreement includes language, proposed by the House, providing for authorization for reconstruction of the Cape Girardeau, Missouri, project.

The conferees have determined that certain activities associated with the flood control project identified in the House Report under the Construction, General account for Washington, D.C. & Vicinity will be funded under the General Investigations account. The conferees have provided $250,000 for the Corps of Engineers to execute the appropriate Memoranda of Understanding and Memoranda of Agreements to pave the way for project construction.

The conference agreement provides $4,000,000 for the Aquatic Plant Control Program. Within the appropriated amount, the conferees have provided $200,000 for the Corps to undertake aquatic plant control in high priority sites in Texas and $100,000 for the control of Hydrilla in the Potomac River and Tributaries, Virginia, Maryland, and the District of Columbia. Program funds also include $300,000 for a cost shared effort with the State of South Carolina and $400,000 for a cost shared effort with the State of Vermont. The conferees urge the Corps to establish a cost shared program with the State of Hawaii.

The conferees direct the Corps of Engineers to undertake the projects listed in the House and Senate Reports and any additional projects described below for the various continuing authority programs. The recommended funding levels for these programs are as follows: Section 206—$18,050,000; Section 204—$6,000,000; Section 14—$9,000,000; Section 205—$30,000,000; Section 111—$1,500,000; Section 1135—$17,000,000; Section 107—$9,000,000; Section 103—$3,500,000; and Section 208—$500,000. The conferees are aware that there are funding requirements for ongoing continuing authorities projects that may not be accommodated within the funds provided for each program. It is not the intent of the conferees that ongoing projects be terminated. If additional funds are needed during the year to keep ongoing work in any program on schedule, the conferees urge the Corps of Engineers to reprogram funds into the program.

Under the Section 206 program, the conferees have included $500,000 for the Stevenson Creek project in Pinellas County, Florida; $220,000 to complete a feasibility study for Long Lake, Indiana; $50,000 for aquatic restoration of Ventura Marsh at Clear Lake Watershed in Iowa; $200,000 to continue a feasibility study for the Paint Branch Fish Passage project in Maryland; $300,000 to advance the feasibility study for Echo Bay, New Rochelle, New York; $75,000 for Little Sugar Creek, North Carolina; and $100,000 for the West Cary Stream restoration in North Carolina. The conference agreement also includes $513,000 for the Corps to address acid mine drainage for the Cheat River Basin, Lick Run project in West Virginia under the Section 206 program.

Within the funds provided under the Section 204 program, the conference agreement includes $3,000,000 in connection with the harbor of Morehead City, North Carolina, a project to disperse sand along Bogue Banks.

Under the Section 14 program, the conference agreement corrects the jurisdictional reference for the Borough of Rumson from "New York" to "New Jersey". The conferees provide $40,000 for the Concordia University Section 14 project in Mequon, Wisconsin. The conference agreement also deletes Section 14 funding for Ottawa River, Shoreline Drive in Toledo, Ohio; Engel Park, Town of Ossining, New York; and for Burlington, Vermont.

Under the Section 205 program, the conference agreement includes $100,000 for the Corps of Engineers to produce a feasibility study of flooding problems at the KellyUSA site in Bexar County, Texas. The conferees have included $130,000 to continue feasibility studies for the Indian and Dry Run Creeks Watershed, and the Cedar River Levee, in Cedar Rapids, Iowa. Also included in the conference agreement under Section 205 are $200,000 for engineering, and design of the Upper Passaic River and Tributaries, New Jersey project and $300,000 for Parke Run, Downingtown, Pennsylvania. The conference agreement for the Section 205 program does not include funding for the Higginson, Arkansas project or the Bono, Arkansas feasibility study.

Within the funds provided under the Section 1135 program, the conference agreement includes $350,000 for ecosystem restoration of the Bull Creek Channel in California, and $100,000 for Rathbun Lake Wetlands Habitat Restoration, Iowa. Also included under this program is $500,000 for completion of the design and initiation of construction of the McCarran Ranch, Nevada, environmental restoration project.

Within the funds provided under the Section 103 program, the conference agreement includes $100,000 for Bayou Teche, Louisiana.

Within the funds provided under the Section 208 program, the conference agreement includes $67,000 for Deep River, Lake Station, Indiana.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI AND TENNESSEE

The conference agreement appropriates $324,222,000 for Flood Control, Mississippi River and Tributaries, instead of $301,054,000 as proposed by the House and $329,000,000 as proposed by the Senate.

The conferees recognize the critical need of advancing much needed construction work on the Mississippi River Levees project to ensure the integrity of the levee system and to protect people and property from flooding. Therefore, the conferees have included $47,000,000 for Mississippi River Levees, including $500,000 for initiation of Birds Point-New Madrid, Missouri, flowage easements; $450,000 to initiate St. Johns-New Madrid, Missouri, mitigation lands, box culverts, and levee closure; and $2,070,000 for Nash, Missouri, relief wells. Funding will also support preparation of plans and specifications and initiation of construction on the Lower Mississippi River Museum and Riverfront Interpretive Site.

The conferees are also aware of the backlog of critical maintenance items in the Mississippi River Levees project and have included $11,000,000 in the conference agreement. The additional funds include $750,000 to repair or replace culverts at Mound Creek, Illinois and New Madrid, Missouri; $500,000 to repair the Cairo, Illinois, floodwall; $600,000 to provide gravel surfacing to selected leveetop roads in Arkansas, Mississippi, and Louisiana; $2,000,000 to provide levee crown surfaces in Louisiana, and $1,500,000 to repair the Birds Point-New Madrid, Missouri, levee setback with lime injection.

The conference agreement includes language, proposed by the Senate, directing activities on the Yazoo Backwater, Yazoo Backwater Pumping Plant, Mississippi, and the Grand Prairie, Arkansas, projects.

OPERATION AND MAINTENANCE, GENERAL

The conference agreement appropriates $1,967,925,000 for Operation and Maintenance, General instead of $1,932,575,000 as proposed by the House and $2,014,000,000 as proposed by the Senate.

During fiscal year 2002, the General Accounting Office [GAO] reviewed the benefits and effects of current and proposed restrictions on the Corps of Engineers' hopper dredge fleet. Congress faces significant future investments in the Corps hopper dredge fleet, as it is rapidly aging. The conferees believe that the investment decisions must take into consideration the subsequent use of the fleet. The final GAO report, released March 2003, reviewed the impacts of operational changes to the fleet since fiscal year 1993. GAO's findings made it clear to the conferees that additional costs have been imposed upon the Corps with the decreased use of the fleet, but that the benefits have not been realized. Additionally, the GAO found that the Corps' contracting process for hopper dredges was not effective. Most importantly, the GAO reported that the Corps did not have even a limited system to evaluate the costs and benefits of the varying operational levels of its hopper dredge fleet, nor did it have a means to make maintenance and repair decisions of the fleet taking operational use into consideration. The conferees remain concerned that since 2000, the Corps has provided to Congress, a report which has been found to have no analytical basis, thus calling into question the ready reserve policy.

Therefore, the conferees direct the Corps of Engineers to report to the Appropriations Committees within 6 months of enactment of this Act, with a detailed plan of how it intends to rectify the current situation. The plan is to include how the Corps intends to establish a baseline for determining the appropriate use of the Corps hopper dredge fleet in the future. Finally, the Corps shall include a comprehensive analysis of the costs and benefits of the existing and proposed restrictions on the use of the fleet. Overall, the conferees expect the Corps to put in place measures by which better investment decisions regarding the fleet can be made.

The conferees have provided $22,500,000 in funding for Tennessee-Tombigbee Waterway, Alabama and Mississippi, including $500,000 for continued restoration of the historic Snagboat Montgomery.

The conferees are in agreement that capital costs of new site security and anti-terrorism improvements at flood control projects in Central California for which non-Federal interests have repayment contracts with the Bureau of Reclamation shall be subject to the Bureau's current policy for repayment of such anti-terrorism expenditures.

The conferees have provided $6,000,000 for operation and maintenance of the Los Angeles County Drainage Area project, including activities at Hansen Dam.

The conferees include $500,000 for maintenance dredging at Port Hueneme in Ventura County, California.

The conference agreement provides $500,000 for continued dredging at San Pablo Bay and Mare Island Strait, including Pinole Shoal, in California.

The conference agreement includes $5,185,000 for maintenance dredging of the Tampa Harbor, Florida project.

The conferees have provided $5,000,000 for the Apalachicola, Chattahoochee, and Flint Rivers project which includes annual dredging of the river, annual operations and maintenance of the George W. Andrews Lock, spot dredging of shoals, continuation of slough mouth restorations, continuation of restoration efforts at Corley Slough, and routine operations and maintenance of the project.

The conference agreement includes, within available funds, $100,000 under Operation and Maintenance, General, to continue report activities associated with Lucas Berg. Pit, Worth, Illinois, which is part of the Illinois Waterway (MVR portion), Illinois and Indiana project.

Within the funds provided, up to the amount of $300,000, the conferees direct the Corps of Engineers to perform maintenance dredging at Saugatuck Harbor, Michigan. The conferees have also provided $250,000 for maintenance dredging of Bolles Harbor at La Plaisance Creek in Michigan.

As part of the Mississippi River Between Missouri River and Minneapolis project, the conferees have agreed that the Corps should give consideration to Tow Haulage Unit Replacement and the conservation of the endangered Higgins Eye Mussel.

The conferees have provided additional funds for the Delaware River, Philadelphia to the Sea, New Jersey, Pennsylvania, and Delaware project to continue construction at Pea Patch Island.

The conferees have provided $250,000 for sediment removal and dam repair at Junaluska, North Carolina.

The conference report includes an additional $300,000 for mosquito control and prevention, and limited facility improvements at Garrison Dam, Lake Sakakawea, North Dakota.

The conference agreement includes $500,000 for serious safety repairs for the John Day Lock and Dam, Oregon and Washington, on the Columbia-Snake Waterway system. The conferees believe that the budget request does not adequately address the serious nature of the problems at this structure and has accordingly provided funds above the budget request. The problems being experienced at this structure are indicative of the way maintenance of structures in the Federal inventory has been shortchanged. Timely, adequate maintenance funding would have likely prevented the costly measures that must now be undertaken to correct the problems. The conferees strongly encourage that adequate funding for maintenance be included in future budget submissions.

Within the $342,000 additional funding for the Monongahela River, Pennsylvania and West Virginia, project, the conferees urge that the Corps of Engineers examine the practicality of remote control automation devices at the Hildebrand, Morgantown, and Opekiska Locks and to report to the Committees on Appropriations of its findings by March 31, 2004.

The conferees urge that the Federal Navigation Project for the Providence River and Harbor shall include maintenance dredging of the Pawtuxet Cove Federal Navigation Project in Cranston and Warwick, Rhode Island, and the Bullocks Point Cove Federal Navigation Project in East Providence and Barrington, Rhode Island, and disposal of dredged material from these projects in the Confined Aquatic Disposal cells in the Providence River.

The conference agreement includes $150,000 within the authority made available for Removal of Sunken Vessels, for the Corps to perform a detailed examination of the remains of the vessel "State of Pennsylvania" located in the Christina River in an effort to assess the cost for its removal. In addition, the conferees express support for efforts to raise the CSS Georgia and hope that the Army Corps of Engineers will continue to advise and assist with options for raising this important historic artifact.

The conferees note that Title VI of the Water Resources Development Act of 1999, as amended, requires that funding to inventory and stabilize cultural and historic sites along the Missouri River in South Dakota, and to carry out the terrestrial wildlife habitat programs, shall be provided from the Operation and Maintenance account. The conference agreement provides $5,000,000 to protect cultural resource sites and provide funding to the State and Tribes for approved restoration and stewardship plans and in compliance with the requirements of Title VI, directs the Corps to contract with or reimburse the State of South Dakota and affected Tribes to carry out these duties.

The conference agreement includes $1,400,000 for continued maintenance dredging of the Waterway on the Coast of Virginia, project.

The conferees note the proximity of Corps navigation facilities on the Columbia River between Chinook and the Head of Sand Island, Washington, and at Baker Bay, Washington, and encourage the Corps of Engineers to seek ways to achieve cost savings and efficiency, such as by utilizing appropriate contracting methods while having these two projects be considered together when seeking bids and awarding contracts.

The conferees have provided $15,000,000 in funding for extraordinary maintenance; these funds are provided in recognition of the inability of the Corps of Engineers, for the last several years, to fund storm damage remediation in West Virginia, Michigan, Missouri, and other states. The conferees expect that the Corps will devote this funding to storm damages not previously addressed, rather than routine or backlog maintenance items.

The conference agreement includes language, proposed by the Senate, concerning operation and maintenance costs for the SR1 Bridge, Delaware.

The conference agreement includes language, proposed by the Senate, regarding the rehabilitation of the dredged material disposal site at Bodega Bay, California.

The conference agreement includes language directing the use of funds by the Corps of Engineers for the Laguna Madre portion of the Gulf Intracoastal Waterway in Texas, and conditions for performing necessary maintenance along the Gulf Intracoastal Waterway, Texas.

The conference agreement includes language providing direction for the removal of a weir on the Mayfield Creek and Tributaries, Kentucky, project.

The conferees direct that the Corps of Engineers shall not obligate any surplus funds resulting from the enactment of the Power Marketing Administrations direct funding legislation prior to the submission of a plan, for approval, by the House and Senate Appropriations Committees.

REGULATORY PROGRAM

The conference agreement appropriates $140,000,000 for the Regulatory Program instead of $144,000,000 as proposed by the House and $139,000,000 as proposed by the Senate.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

The conference agreement appropriates $140,000,000 for the Formerly Utilized Sites Remedial Action Program (FUSRAP) as proposed by the House and the Senate. The conferees provide the Corps of Engineers with reprogramming authority for FUSRAP projects of up to 15 percent of the base of the receiving project. Reprogrammed funds must be excess to the source project.

FLOOD CONTROL AND COASTAL EMERGENCIES

In light of the recent replenishment of the Flood Control and Coastal Emergencies reserve fund, the conferees have provided no additional funds for this account. The recent depletion of this account, however, calls attention to two areas of concern about how this account is funded and administered. First, the drawing down of funds which could have been used to respond to actual emergency events to meet routine administrative and readiness expenses suggests that the Nation would be better served if response and readiness funds were provided and administered separately. Second, justification provided by the Corps of Engineers suggests that those administrative and readiness expenses have grown to unacceptable levels. The Secretary is directed to consider changes in the separate management of these funds, and to report to the Appropriations Committees of the House and Senate within 180 days of enactment of this legislation into law.

The Nation deserves the best, most reliable, most economical tools which technology can provide for the protection of its citizenry and their property when confronted with natural disaster. The conferees are aware of the preliminary testing of the Rapid Deployment Flood Wall at the Engineering Research and Development Center in Vicksburg, Mississippi. This technology has shown promise in the effort to fight floods. Its proponents claim, and preliminary tests tend to confirm, that it can be cost-effective, quick to deploy, and superior to traditional sandbags in protecting property from flood damages totaling millions in dollars each year. The conferees therefore direct the Corps of Engineers, within funds available in the Flood Control and Coastal Emergencies account, to act immediately to devise real world testing procedures for this and other promising alternative flood fighting technologies, and to provide a status report to the Committees on Appropriations with 180 days of enactment of this legislation.

REVOLVING FUND

The conferees are concerned about the cost of aircraft maintenance by the Corps of Engineers. The conferees realize that reliable and readily available transportation is necessary for the Corps to effectively perform many of its missions, especially those related to emergencies, and that the Corps division offices support these missions in the geographic regions for which they are responsible. The conferees found the report required as part of the fiscal year 2003 appropriations activities lacking and therefore direct the Corps to re-evaluate the costs and benefits of the Corps maintaining its own aircraft. This reanalysis must include all other options for air transportation, including the use of military aircraft. With constricted budgets, the conferees are skeptical that the possession and maintenance of an aircraft by any division or district is both cost-effective and mission-essential when compared to alternatives, such as use of military aircraft and leasing. Therefore, the Corps must present to the House and Senate Appropriations Subcommittees on Energy and Water Development a justification that includes a complete and thorough economic analysis for approval before any additional aircraft are acquired. The Corps is directed to submit, within 6 months, a justification and economic analysis to support the continued maintenance of aircraft by the Corps as an asset. For purposes of this analysis, and for the purpose of determining whether or not use of a Corps-owned aircraft is appropriate for a discrete mission, the Corps is directed to employ realistic measures of time saved and the full value of that time.

GENERAL EXPENSES

The conferees are aware that there has been a change in which audit organization conducts the audit of the financial statements of the Army Corps of Engineers. Further, the conferees are aware that the budget request included $7,000,000 for an audit of the Corps of Engineers and the conferees have not included funds for this audit. The conferees direct that the Corps continue to produce and provide audit information as it has in past years.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

Section 101. The conference agreement includes language proposed by the House and the Senate, which places a limit on credits and reimbursements allowable per year and per project.

Section 102. The conference agreement includes language proposed by the House prohibiting the expenditure of funds related to a proposed landfill in Tuscarawas County, Ohio.

Section 103. The conference agreement includes language proposed by the Senate which prohibits the reorganization or change of the Corps of Engineers statutory mission without a subsequent Act of Congress.

Section 104. The conference agreement includes language proposed by the House prohibiting the expenditure of funds related to a proposed landfill in Sandy Township, Stark County, Ohio.

Section 105. The conference agreement includes language proposed by the Senate amending the authorization of the Alamogordo, New Mexico, flood control project.

Section 106. The conference agreement includes language proposed by the House that renames Lock and Dam 3 on the Allegheny River in Pennsylvania.

Section 107. The conference agreement includes language providing that the Secretary of the Army may utilize continuing contracts in carrying out the studying, planning, or designing of a water resources project authorized for study, prior to the authorization of the project for construction.

Section 108. The conference agreement includes language proposed by the Senate which authorizes oil bollard and debris removal at Burlington Harbor, Vermont.

Section 109. The conference agreement includes language, proposed by the Senate which makes technical corrections for the Kake Dam Replacement in Kake, Alaska.

Section 110. The conference agreement includes language proposed by the Senate deauthorizing some components of the federal navigation channel in Pawtuxet Cove, Rhode Island.

Section 111. The conference agreement includes language proposed by the Senate authorizing the Secretary of the Army to provide assistance to non-Federal interests at Tar Creek, Ottawa County, Oklahoma.

Section 112. The conference agreement includes language proposed by the Senate to use previously appropriated funds for technical assistance related to coastal erosion in Alaskan communities, at full Federal expense.

Section 113. The conference agreement includes language proposed by the Senate which prohibits the use of funds for closure or removal of the St. Georges Bridge, Delaware.

Section 114. The conference agreement includes language proposed by the Senate extending the date for which the Corps of Engineers can accept funds from non-Federal entities to process permits.

Section 115. The conference agreement includes language proposed by the Senate regarding Section 353 of Public Law 105–227.

Section 116. The conference agreement includes language proposed by the Senate for emergency project restoration at Middle Rio Grande bosque in and around Albuquerque, New Mexico.

Section 117. The conference agreement includes language proposed by the Senate amending Section 595 of the Water Resources Development Act of 1999.

Section 118. The conference agreement includes language proposed by the Senate amending Section 560(f) of Public Law 106–53.

Section 119. The conference agreement includes language, proposed by the Senate which further amends Section 219(f) of the Water Resources Development Act of 1992 (Public Law 202–580; 106 Stat. 4835), as amended, to include authorization for wastewater infrastructure at Coronado, California.

Section 120. The conference agreement includes language, proposed by the Senate amending Section 592(g) of the Water Resources Development Act of 1999.

Section 121. The conference agreement includes language, proposed by the Senate amending the authorization for the Park River, Grafton, North Dakota, project.

Section 122. The conference agreement includes language proposed by the Senate that provides assistance for Schuylkill River Park in Philadelphia, Pennsylvania, pursuant to the Water Resources Development Act of 1996, and as contained in the February 2003 Corps of Engineers report.

Section 123. The conference agreement includes language proposed by the Senate authorizing the Corps of Engineers to implement ecosystem restoration for the Gwynns Falls Watershed in Baltimore, Maryland.

Section 124. The conference agreement includes language proposed by the Senate authorizing the Snake River Confluence Interpretive Center in Clarkston, Washington.

Section 125. The conference agreement provides language providing direction for completion of the flood damage reduction general reevaluation report for Mill Creek, Cincinnati, Ohio.

Section 126. The conference agreement includes language amending Section 219(f)(25) of the Water Resources Development Act of 1992 relative to Lakes Marion and Moultrie, South Carolina.

Section 127. The conference agreement includes language amending Section 219(f) of the Water Resources Development Act of 1992 relative to Charleston, South Carolina.

Section 128. The conference agreement includes language authorizing the project for flood damage reduction and environmental restoration of the American River Watershed, California and directs the Secretary of the Army to immediately commence studies for and the design of a permanent bridge.

Section 129. The conference agreement modifies the authorizing legislation and subsequent modifications for the American and Sacramento Rivers, California and directs the Secretary to carry out the project.

Section 130. The conference agreement includes language allowing the Secretary of the Army to establish an environmental assistance program for Placer and El Dorado Counties, California.

Section 131. The conference agreement amends Section 219(f)(23) of the Water Resources Development Act of 1992 for the Sacramento Area, California.

Section 132. The conference agreement includes language allowing the Secretary of the Army to establish an environmental assistance program for the Upper Klamath Basin, California.

Section 133. The conference agreement amends Section 219(f) of the Water Resources Development Act of 1992 for Placer and El Dorado Counties, California; and for Lassen, Plumas, Butte, Sierra, and Nevada Counties, California.

Section 134. The conference agreement includes language which authorizes funds to be appropriated for the construction of a permanent bridge for the American River Watershed.

Section 135. The conference agreement amends Section 504(a)(2) of the Water Resources Development Act of 1999 by striking "Kehly Run Dam" and inserting "Kehly Run Dams".

Section 136. The conference agreement modifies the authorization for the McClellan-Kerr Arkansas River Navigation project to a project depth of 12 feet.

Section 137. The conference agreement includes a provision to credit the non-Federal sponsor for environmental dredging at Ashtabula River, Ohio.

Section 138. The conference agreement includes language providing authorization for review of a feasibility report for waterfront development at Gateway Point, North Tonawanda, New York.

Section 139. The conference agreement includes language affecting specific portions of the projects for navigation for Chicago River and Chicago Harbor, Illinois.

Section 140. The conference agreement provides direction for activities under the authority provided by Section 214 of the Water Resources Development Act of 2000.

Section 141. The conference agreement includes language regarding credits for Wolf Lake, Indiana.

Section 142. The conference agreement provides direction to the Secretary of the Army involving credit for the cost of design work completed by the non-Federal interests for the Cook County, Illinois, project.

Section 143. The conference agreement includes language regarding credits for the non-Federal sponsor for Los Angeles Harbor, Los Angeles, California.

Section 144. The conference agreement includes language concerning credits for San Lorenzo, California.

Section 145. The conference agreement includes language amending Section 219(f)(12) of the Water Resources Development Act of 1992 for the Calumet Region, Indiana.

Section 146. The conference agreement includes authorization regarding the Meramec River Basin, Valley Park Levee project in Missouri.

Section 147. The conference agreement includes language modifying the authorization for the flood control project for Saw Mill Run, Pennsylvania.

Section 148. The conference agreement includes language which modifies the authorization for the flood control project for Roanoke River Upper Basin, Virginia.

Section 149. The conference agreement includes language modifying the authorization for the harbor deepening project at Brunswick Harbor, Georgia.

Section 150. The conference agreement modifies the authorization for the flood control project at Lackawanna River at Olyphant, Pennsylvania.

Section 151. The conference agreement includes language which modifies the authorization for the Perry Creek Flood Control project at Sioux City, Iowa.

Section 152. The conference agreement provides language regarding Section 358 of Public Law 105–53 for Elizabeth River, Chesapeake, Virginia.

Section 153. The conference agreement provides language amending Section 219(f) of the Water Resources Development Act of 1992.

Section 154. The conference agreement includes language modifying Flood Control Act of 1938 provisions regarding the Mississippi River and Big Muddy River, Illinois.

Section 155. The conference agreement provides authorization for a project to restore lake depths at Moss Lake, Louisiana.

Section 156. The conference agreement provides language amending the authorization for Manatee Harbor, Florida.

Section 157. The conference agreement includes language which authorizes the Secretary of the Army to conduct a study to determine the feasibility of carrying out a project for flood damage reduction in the Harris Gully Watershed, Harris County, Texas.

Section 158. The conference agreement includes language which provides that the Secretary of the Army may carry out the Reach J, Segment 1, element of the Morganza to the Gulf, Louisiana, project in accordance with the report of the Chief of Engineers, dated August 23, 2002, and supplemental report dated July 22, 2003.

Provisions not included in the conference agreement.—The conference agreement does not include language, proposed by the Senate to deauthorize inactive Corps of Engineers projects.

The conference agreement does not include language, proposed by the Senate regarding the use of Power Marketing Administration receipts by the Corps of Engineers.

The conference agreement does not include language, proposed by the Senate that limits the minimum funding levels for Great Lakes Remedial Action Plans and Sediment Remediation Programs, under the funding available for this program under General Investigations.

The conference agreement does not include language, proposed by the Senate for providing funding to the International Mountain Bicycling Association under the Operation and Maintenance, General, account.

The conference agreement does not include language, proposed by the Senate for funding to be made available under Construction, General, for future work under Section 560 of the Water Resources Development Act of 1999.

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
ALABAMA				
BREWTON AND EAST BREWTON, AL	300	---	300	---
CAHABA RIVER WATERSHED, AL	50	---	50	---
VILLAGE CREEK, JEFFERSON COUNTY (BIRMINGHAM WATERSHED)	200	---	200	---
ALASKA				
ADAK, AK	---	---	100	---
AKUTAN HARBOR, AK	100	---	100	200
ANCHORAGE HARBOR DEEPENING, AK	50	---	200	---
BARROW COASTAL STORM DAMAGE REDUCTION, AK	200	---	900	---
COFFMAN COVE, AK	---	---	200	---
CRAIG HARBOR, AK	50	---	200	---
DELONG MOUNTAIN HARBOR, AK	200	---	566	---
EKLUTNA RIVER WATERSHED, AK	100	---	300	---
HAINES HARBOR, AK	100	---	100	200
HOMER HARBOR, AK	---	---	100	---
KAKTOVIK BEACH EROSION STUDY, AK	---	---	200	---
KETCHIKAN HARBOR, AK	50	---	200	---
KLAWOCK HARBOR, AK	---	---	100	---
KNIK BRIDGE CROSSING, AK	---	---	200	---
KOTZEBUE SMALL BOAT HARBOR, AK	50	---	250	---
LITTLE DIOMEDE HARBOR, AK	50	---	50	---
MCGRATH BANK STABILIZATION, AK	---	---	300	---
MATANUSKA RIVER EROSION CONTROL, AK	---	---	250	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
MEKORYUK HARBOR, AK	50	---	100	---
PORT LIONS HARBOR, AK	100	---	100	---
REGIONAL PORT STUDY, AK	---	---	300	---
SAINT GEORGE NAVIGATION IMPROVEMENTS, AK	50	---	50	---
SKAGWAY, AK	---	---	100	---
UNALAKLEET HARBOR, AK	50	---	200	---
UNALASKA HARBOR, AK	150	---	500	---
VALDEZ HARBOR EXPANSION, AK	50	---	50	---
WHITTIER BREAKWATER, AK	50	---	50	---
YAKUTAK, AK	---	---	100	---
AMERICAN SOMOA				
TUTUILA HARBOR, AS	46	---	46	---
ARIZONA				
AGUA FRIA RIVER, AZ	150	---	150	---
CANADA DEL ORO WASH, AZ	100	---	---	---
GILA RIVER AND TRIBUTARIES, AZ	---	---	150	---
NAVAJO NATION, AZ, NM & UT	130	---	160	---
PIMA COUNTY, AZ	300	---	1,000	---
RILLITO RIVER, PIMA COUNTY, AZ	300	---	300	---
RIO SALADO OESTE, SALT RIVER, AZ	250	---	600	---
SANTA CRUZ RIVER, GRANT RD TO FT LOWELL RD, AZ	100	---	100	---
SANTA CRUZ RIVER, PASEO DE LAS IGLESIAS, AZ	152	---	152	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
VA SHLY-AY AKIMEL SALT RIVER RESTORATION PROJECT, AZ	370	---	800	---
ARKANSAS				
ARKANSAS RIVER LEVEES, AR	---	---	---	200
ARKANSAS RIVER NAVIGATION STUDY, AR & OK	1,070	---	1,200	---
MAY BRANCH, FORT SMITH, AR	---	---	---	100
NORTH LITTLE ROCK, DARK HOLLOW, AR	---	---	---	200
HOT SPRINGS CREEK, AR	---	---	31	---
PINE MOUNTAIN DAM, AR	---	---	---	150
RED RIVER NAVIGATION, SOUTHWEST ARKANSAS, AR AND LA	---	---	---	150
WHITE RIVER BASIN COMPREHENSIVE, AR & MO	300	---	1,000	---
WHITE RIVER MINIMUM FLOWS, AR & MO	---	---	---	150
WHITE RIVER NAVIGATION STUDY	---	---	---	150
CALIFORNIA				
ALISO CREEK MAINSTEM, CA	150	---	150	---
ARANA GULCH WATERSHED, CA	100	---	100	---
ARROYO SECO WATERSHED RESTORATION, CA	150	---	150	---
BALLONA CREEK ECOSYSTEM RESTORATION, CA	150	---	250	---
BOLINAS LAGOON ECOSYSTEM RESTORATION	---	---	100	---
CALIFORNIA COASTAL SEDIMENT MASTER PLAN	---	---	200	---
CITY OF INGLEWOOD, CA	---	---	300	---
CITY OF NORWALK, CA	---	---	100	---
CITY OF SANTA CLARITA, CA	141	---	141	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
CITY OF SAN BERNADINO, CALIFORNIA (CITY OF SAN BERNADI	---	---	100	---
COAST OF CALIFORNIA, LOS ANGELES COUNTY, CA (STORM & T	---	---	500	---
COYOTE DAM, CA	100	---	100	---
DESERT HOT SPRINGS, CA	---	---	200	---
GRAYSON AND MURDERER'S CREEKS, CA	400	---	400	---
HUMBOLDT BAY LONG TERM SHOAL MANAGEMENT, CA	---	---	100	---
LA RIVER WATERCOURSE, HEADWORKS AREA, CA	250	---	250	---
LA RIVER WATERCOURSE, SAN JOSE CREEK, CA	100	---	100	---
LAGUNA DE SANTA ROSA, CA	150	---	150	---
LAKE ELSINORE ENVIRONMENTAL RESTORATION, CA	50	---	50	---
LOWER CACHE CREEK, YOLO COUNTY, CA	---	---	---	100
LLAGAS CREEK FLOOD PROTECTION PROJECT	---	---	---	250
LOS ANGELES COUNTY, CA	150	---	400	---
LOWER MISSION CREEK (FLOOD CONTROL & REHABILITATION PR	---	---	---	200
MALIBU CREEK WATERSHED, CA	270	---	270	---
MARINA DEL REY AND BALLONA CREEK, CA	150	---	150	---
MATILIJA DAM, CA	300	---	600	---
MIDDLE CREEK, CA	---	---	---	100
MORRO BAY ESTUARY, CA	250	---	250	---
MUGU LAGOON, CA	150	---	150	---
N CA STREAMS, LOWER SACRAMENTO RVR RIPARIAN REVEGETATI	200	---	200	---
NAPA RIVER, SALT MARSH RESTORATION, CA	200	---	200	200
NAPA VALLEY WATERSHED MANAGEMENT, CA	150	---	200	---
NEWPORT BAY/SAN DIEGO CREEK WATERSHED, CA	186	---	186	---
OCEAN BEACH, CA	100	---	100	---
ORANGE COUNTY SPECIAL AREA MANAGEMENT PLAN, CA	---	---	190	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
ORANGE COUNTY SHORELINE, LOWER SANTA ANA RIVER WATERSH	100	---	100	---
ORANGE COUNTY, SANTA ANA RIVER BASIN, CA	150	---	150	---
PAJARO RIVER AT WATSONVILLE, CA	---	---	---	500
PAJARO RIVER BASIN STUDY, CA	100	---	100	---
PINE FLAT DAM, FISH & WILDLIFE HABITAT, CA	---	---	---	50
POSO CREEK, CA	300	---	300	---
PRADO BASIN ENVIRONMENTAL RESTORATION, CA	100	---	100	---
RIVERSIDE COUNTY SPECIAL AREA MANAGEMENT PLAN, CA	---	---	200	---
RUSSIAN RIVER ECOSYSTEM RESTORATION, CA	150	---	150	---
SACRAMENTO - SAN JOAQUIN DELTA, CA	1,100	---	1,100	---
SACRAMENTO AND SAN JOAQUIN COMPREHENSIVE BASIN STUDY,	1,020	---	---	1,500
SAN BERNARDINO COUNTY, CA	100	---	125	---
SAN CLEMENTE SHORELINE, CA	100	---	150	---
SAN DIEGO COUNTY SPECIAL AREA MANAGEMENT PLAN, CA	---	---	150	---
SAN DIEGO SHORELINE, CA	---	---	---	200
SAN FRANCISCO BAY, CA	420	---	---	---
SAN FRANCISQUITO CREEK, CA	100	---	100	---
SAN JACINTO RIVER, CA	100	---	100	---
SAN JOAQUIN RB, W STANISLAUS, DEL PUERTO & SALADO CREE	50	---	50	---
SAN JOAQUIN RB, WEST STANISLAUS COUNTY, ORESTIMBA CREE	300	---	300	---
SAN JOAQUIN RIVER BASIN, CONSUMNES & MOKELUMNE RIVERS,	200	---	200	---
SAN JOAQUIN RIVER BASIN, FRAZIER CREEK, CA	100	---	100	---
SAN JOAQUIN RIVER BASIN, TUOLUMNE RIVER, CA	350	---	350	---
SAN JUAN CREEK, SOUTH ORANGE COUNTY, CA	100	---	100	---
SAN PABLO BAY WATERSHED, CA	200	---	200	---
SANTA ANA RIVER AND TRIBUTARIES, BIG BEAR LAKE, CA	200	---	200	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
SANTA CLARA RIVER, CITY OF SANTA CLARITA, CA	150	---	150	---
SANTA ROSA CREEK WATERSHED, CA	120	---	120	---
SOLANA BEACH/ENCINITAS SHORELINE PROTECTION STUDY, CA	---	---	900	---
SONOMA CREEK AND TRIBUTARIES, CA	150	---	150	---
SOUTH SAN FRANCISCO SHORELINE STUDY, CA	---	---	100	---
STRONG AND CHICKEN RANCH SLOUGHS, CA	50	---	50	---
SUTTER COUNTY, CA	200	---	200	---
TAHOE BASIN, CA & NV	1,000	---	1,000	50
TIJUANA RIVER VALLEY, CA	100	---	200	---
TUJUNGA WASH RESTORATION, CA	---	---	100	---
UPPER GUADALUPE RIVER,CA	---	---	---	150
UPPER PENITENCIA CREEK, CA	460	---	460	---
UPPER SANTA ANA RIVER WATERSHED, CA	150	---	150	---
VENTURA AND SANTA BARBARA COUNTY SHORELINE, CA	100	---	100	---
VENTURA HARBOR SAND BYPASS, CA	121	---	121	---
WESTMINSTER, COYOTE AND CARBON CANYON CREEK WATERSHEDS	150	---	150	---
WESTMINSTER, EAST GARDEN GROVE, CA	100	---	100	---
WHITE RIVER AND DEER CREEK, CA	100	---	100	---
WHITEWATER RIVER BASIN, CA	---	---	---	150
WILDCAT AND SAN PABLO CREEKS, CA	100	---	100	---
COLORADO				
ADAMS COUNTY (DENVER), CO	---	---	100	---
CACHE LA POUDRE RIVER FLOODWAY, GREELEY, CO	---	---	32	---
CHATFIELD, CHERRY CREEK AND BEAR CREEK RESERVOIRS, CO	260	---	260	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
FOUNTAIN CREEK AND TRIBUTARIES, CO	350	---	350	---
ZUNI AND SUN VALLEY REACHES, SOUTH PLATTE RIVER, CO	---	186	---	186
COMMONWEALTH OF NORTHERN MARIANA ISLANDS				
ROTA HARBOR MODIFICATIONS, CNMI	102	---	102	---
TINIAN HARBOR MODIFICATIONS, CNMI	102	---	102	---
DELAWARE				
DELAWARE COAST, CAPE HENLOPEN TO FENWICK ISLAND, DE	---	214	---	---
DISCTRICT OF COLUMBIA				
WASHINGTON DC AND VICINITY, DC	---	---	---	250
FLORIDA				
BISCAYNE BAY FEASIBILITY, FL	---	---	100	---
DAYTONA BEACH SHORES, VOLUSIA COUNTY, FL	---	---	100	---
EGMONT KEY SHORELINE STABILIZATION, FL	---	---	500	---
FLAGLER COUNTY, FL	---	---	100	---
HILLSBOROUGH RIVER, FL	340	---	340	---
LAKE WORTH INLET, PALM BEACH COUNTY, FL	370	---	370	---
SARASOTA COUNTY, LIDO KEY, FL	---	---	---	200
LITTLE TALBOT ISLAND, FL	---	---	---	100

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
PORT EVERGLADES HARBOR, FL	---	---	---	100
ST. JOHNS COUNTY, FL	---	---	100	---
ST. PETERSBURG HARBOR, FL	---	---	---	400
ST. LUCIE COUNTY, FL	---	---	100	---
WALTON COUNTY BEACH & ENVIRONMENTAL RESTORATION STUDY,	---	---	300	---
WITHLACOOCHEE RIVER, FL	340	---	340	---
GEORGIA				
ALLATOONA LAKE, GA	150	---	150	---
ARABIA MOUNTAIN, GA	150	---	150	---
AUGUSTA, GA	300	---	300	---
INDIAN, SUGAR, ENTRENCHMENT & FEDERAL PRISON CREEKS	175	---	175	---
LONG ISLAND, MARSH AND JOHNS CREEKS, GA	150	---	150	---
SAVANNAH ESTUARY AND FRESHWATER WETLANDS, GA	---	---	100	---
SAVANNAH HARBOR ECOSYSTEM RESTORATION, GA	150	---	150	---
SAVANNAH HARBOR EXPANSION, GA & SC	---	---	---	500
SAVANNAH HARBOR SEDIMENT CONTROL WORKS, GA & SC	100	---	100	---
SAVANNAH RIVER BASIN COMPREHENSIVE, GA & SC	200	---	200	---
UTOY, SANDY AND PROCTOR CREEKS, GA	100	---	100	---
GUAM				
HAGATNA RIVER, GUAM	---	---	100	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
HAWAII				
ALA WAI CANAL, OAHU, HI	100	---	100	---
BARBERS POINT HARBOR MODIFICATION, OAHU, HI	100	---	100	---
IAO STREAM FLOOD CONTROL, HI (ISLAND OF MAUI)	---	---	---	100
KAHUKU, HI	100	---	100	---
KAWAIHAE DEEP DRAFT HARBOR MODIFICATIONS, HAWAII, HI	100	---	100	---
KIHEI AREA EROSION, HI	100	---	100	---
NAWILIWILI HARBOR MODIFICATION, KAUAI, HI	100	---	100	---
WAILUPE STREAM FLOOD CONTROL STUDY, HI	---	---	---	200
WAIKIKI BEACH EROSION CONTROL PROJECT, OAHU, HI	---	---	---	250
IDAHO				
BOISE RIVER, BOISE, ID	110	---	110	---
LITTLE WOOD RIVER, GOODING, ID	100	---	100	100
ILLINOIS				
ALEXANDER AND PULASKI COUNTIES, IL	103	---	103	---
DES PLAINES RIVER, IL (PHASE II)	278	---	400	---
GREAT LAKES FISHERY & ECOSYSTEM RESTORATION, IL, IN, M	---	---	36	---
ILLINOIS RIVER AT BEARDSTOWN, IL (BEARDSTOWN HARBOR)	---	---	100	---
ILLINOIS RIVER BASIN RESTORATION, IL	504	---	600	---
ILLINOIS RIVER ECOSYSTEM RESTORATION, IL	148	---	148	---
PEORIA RIVERFRONT DEVELOPMENT, IL	---	600	---	600

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
ROCK RIVER, IL & WI	48	---	48	---
UPPER MISS & ILLINOIS NAV STUDY, IL, IA, MN, MO & WI	3,216	---	3,700	---
UPPER MISS RVR COMPREHENSIVE PLAN, IL, IA, MO, MN & WI	494	---	2,000	---
WAUKEGAN HARBOR, IL (1970 MODIFICATION)	---	---	---	175
WOOD RIVER LEVEE, IL	---	---	---	200
INDIANA				
INDIANA HARBOR, IN	150	---	500	---
JOHN T. MYERS LOCK AND DAM, IN & KY	---	---	---	1,300
IOWA				
CLEAR LAKE WATERSHED, IA	---	---	100	---
DAVENPORT, IA	---	159	---	159
DES MOINES AND RACCOON RIVERS, IA	565	---	565	---
FORT DODGE, IA	23	---	---	---
LOWER DES MOINES RIVER, IA & MO	50	---	50	---
KANSAS				
BRUSH CREEK BASIN STUDY, KS & MO	---	---	100	---
GRAND (NEOSHO) RIVER BASIN WATERSHED, KS & OK	---	---	100	---
TOPEKA, KS	125	---	125	50
TURKEY CREEK BASIN, KS & MO	---	205	---	---
UPPER TURKEY CREEK, KS	229	---	---	229

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
WALNUT AND WHITEWATER RIVER WATERSHEDS, KS	160	---	160	---
KENTUCKY				
DEWEY LAKE WATER REALLOCATION, KY	---	---	100	---
GREENUP LOCKS AND DAM, OHIO RIVER, KY & OH	---	2,895	---	2,895
LICKING RIVER WATER SUPPLY, CYNTHIANA, KY	---	---	100	---
METROPOLITAN LOUISVILLE, JEFFERSON COUNTY, KY	200	---	200	---
METROPOLITAN LOUISVILLE, MILL CREEK BASIN, KY	176	---	176	---
METROPOLITAN LOUISVILLE, SOUTHWEST, KY	225	---	400	---
OHIO RIVER MAIN STEM SYSTEMS STUDY, KY, IL, IN, PA, WV	1,350	---	1,350	---
LOUISIANA				
AMITE RIVER AND TRIBUTARIES ECOSYSTEM RESTORATION, LA	50	---	50	---
AMITE RIVER AND TRIBUTARIES, BAYOU MANCHAC, LA	100	---	200	---
ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK, L	150	---	1,150	---
BAYOU SORREL LOCK, LA	---	707	---	707
BOSSIER PARISH LEVEE AND FLOOD CONTROL, LA	---	---	100	---
CALCASIEU LOCK, LA	100	---	100	---
CALCASIEU RIVER BASIN, LA	50	---	50	---
CALCASIEU RIVER PASS SHIP CHANNEL ENLARGEMENT, LA	---	---	150	---
CROSS LAKE, LA WATER SUPPLY IMPROVEMENTS	---	---	100	---
GIWW ECOSYSTEM RESTORATION, LA	100	---	100	---
HURRICANE PROTECTION, LA	100	---	100	---
JEFFERSON PARISH, LA	---	---	---	25

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
LAFAYETTE PARISH, LA	---	645	---	645
LOUISIANA COASTAL AREA ECOSYSTEM RESTORATION, LA	848	---	2,500	---
ORLEANS PARISH, LA	---	---	---	25
PLAQUEMINES PARISH URBAN FLOOD CONTROL, LA	100	---	100	---
PORT OF IBERIA, LA	150	---	1,150	---
ST BERNARD PARISH URBAN FLOOD CONTROL, LA	100	---	100	---
ST CHARLES PARISH URBAN FLOOD CONTROL, LA	100	---	100	---
ST JOHN THE BAPTIST PARISH, LA	100	---	350	---
WEST BATON ROUGE PARISH, LA	---	---	---	100
WEST SHORE - LAKE PONTCHARTRAIN, LA, FEASIBILITY STUDY	---	---	---	300
MAINE				
SEARSPORT HARBOR, ME	---	---	100	---
MARYLAND				
ANACOSTIA RIVER & TRIBUTARIES, MD & DC	---	---	200	---
ANACOSTIA RIVER, PG COUNTY LEVEE, MD & DC	194	---	194	---
BALTIMORE METROPOLITAN WATER RESOURCES, GWYNNS FALLS,	---	---	---	300
CHESAPEAKE BAY SHORELINE EROSION, MD, VA & DE	200	---	450	---
EASTERN SHORE, MID CHESAPEAKE BAY ISLAND, MD	351	---	800	---
LOWER POTOMAC ESTUARY WATERSHED, ST MARY'S, MD	200	---	294	---
MIDDLE POTOMAC RIVER BASIN, MD	100	---	200	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
MASSACHUSETTS				
BLACKSTONE RIVER WATERSHED RESTORATION, MA & RI	50	---	50	---
BOSTON HARBOR (45-FOOT CHANNEL), MA	500	---	500	---
COASTAL MASSACHUSETTS ECOSYSTEM RESTORATION, MA	170	---	170	---
SOMERSET AND SEARSBURG DAMS, MA & VT	---	---	---	100
MICHIGAN				
DETROIT RIVER MASTER PLAN, MI	---	---	100	---
DETROIT RIVER SEAWALLS, MI	---	---	---	150
GREAT LAKES NAV SYST STUDY, MI, IL, IN, MN, NY, OH, PA	740	---	2,000	---
JOHN GLENN GREAT LAKES BASIN (STRATEGIC PLAN), MI, IL,	---	---	131	---
JOHN GLENN GREAT LAKES BASIN (BIOHYDROLOGICAL), MI, IL	---	---	45	---
JOHN GLENN GREAT LAKES BASIN (RECREATION BOATING), MI,	---	---	300	---
LANSING, MI	---	---	100	---
MUSKEGON LAKE, MI - ENVIRONMENTAL DREDGING	---	---	---	100
ROUGE RIVER SUPP PLAN, MI	---	---	100	---
ROUGE RIVER ENVIRONMENTAL DREDGING, MI	---	---	25	---
MINNESOTA				
MINNEHAHA CREEK WATERSHED, UMR LAKE ITASCA TO L&D 2, M	250	---	250	---
MINNESOTA RIVER BASIN, MN & SD	---	---	132	---
RED RIVER OF THE NORTH BASIN, MN, ND, SD & MANITOBA, C	1,200	---	1,200	---
SOUTH WASHINGTON CTY WATERSHED, UMR LAKE ITASCA TO L&D	250	---	250	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
MISSISSIPPI				
GULFPORT AND HARRISON COUNTY WATERSHED STUDY, MS	100	---	100	---
HANCOCK COUNTY SEAWALL RESTORATION, MS	150	---	150	---
PEARL RIVER WATERSHED, MS	400	---	550	---
MISSOURI				
CHESTERFIELD, MO	---	439	---	350
KANSAS CITYS, MO & KS	316	---	500	---
MISSOURI RIVER LEVEE SYSTEM, UNITS L455 & R460-471, MO	150	---	150	---
RIVER DES PERES,MO	---	---	---	100
SPRINGFIELD, MO	230	---	400	---
ST. LOUIS FLOOD PROTECTION, MO	---	---	---	100
ST. LOUIS HARBOR, MO	---	---	---	100
ST LOUIS MISSISSIPPI RIVERFRONT, MO & IL	151	---	200	---
SWOPE PARK INDUSTRIAL AREA, KANSAS CITY, MO	---	---	---	350
WEARS CREEK, JEFFERSON CITY, MO	100	---	100	---
MONTANA				
YELLOWSTONE RIVER CORRIDOR, MT	209	---	209	---
NEBRASKA				
LOWER PLATTE RIVER AND TRIBUTARIES, NE	191	---	191	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
SAND CREEK WATERSHED, WAHOO, NE	---	546	---	546
WESTERN SARPY AND CLEAR CREEK, NE	---	318	---	318
NEVADA				
LAS VEGAS WASH, NORTH LAS VEGAS, NV	50	---	50	---
LOWER LAS VEGAS WASH WETLANDS, NV	50	---	350	---
TECHNICAL ASSISTANCE, TAHOE REGIONAL PLANNING, NV	---	---	150	---
TRUCKEE MEADOWS, NV	---	---	---	2,000
WALKER RIVER BASIN, NV	100	---	100	---
NEW HAMPSHIRE				
CONNECTICUT RIVER ECOSYSTEM RESTORATION, NH & VT	115	---	115	---
MERRIMACK RIVER BASIN, NH	400	---	400	---
PORTSMOUTH HARBOR & PISCATAQUA TURNING BASIN, NH	---	---	100	---
NEW JERSEY				
BARNEGAT BAY ECOSYSTEM RESTORATION, NJ	---	---	---	200
DELAWARE RIVER BASIN COMPREHENSIVE, NJ, NY, DE & PA	50	---	200	---
GOFFLE BROOK, BOROUGH OF HAWTHORNE, NJ	25	---	50	---
GREAT EGG INLET TO TOWNSEND INLET, NJ	---	539	---	600
HUDSON - RARITAN ESTUARY, HACKENSACK MEADOWLANDS, NJ	100	---	800	---
HUDSON - RARITAN ESTUARY, LOWER PASSAIC RIVER, NJ	25	---	400	---
MANASQUAN INLET TO BARNEGAT INLET, NJ	---	---	---	150

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
MID-DELAWARE RIVER BASIN COMPREHENSIVE, NJ, PA........	---	---	100	---
NEW JERSEY INTRACOASTAL WATERWAY, ENVIRONMENTAL RESTOR	---	---	---	150
NEW JERSEY SHORE PROTECTION, HEREFORD TO CAPE MAY INLE	100	---	100	---
NEW JERSEY SHORELINE ALTERNATIVE LONG-TERM NOURISHMENT	100	---	150	---
PASSAIC RIVER, HARRISON, NJ..........................	---	---	---	150
PASSAIC RIVER ENVIRONMENTAL RESTORATION...............	25	---	100	---
PECKMAN RIVER AND TRIBUTARIES, NJ....................	200	---	300	---
RAHWAY RIVER BASIN, NJ...............................	150	---	150	---
RARITAN BAY AND SANDY HOOK BAY, HIGHLANDS, NJ.........	200	---	200	---
RARITAN BAY AND SANDY HOOK BAY, KEYPORT, NJ...........	200	---	200	---
RARITAN BAY AND SANDY HOOK BAY, LEONARDO, NJ..........	150	---	150	---
RARITAN BAY AND SANDY HOOK UNION BEACH, NJ............	---	---	---	100
RARITAN BAY AND SANDY HOOK BAY, PORT MONMOUTH, NJ.....	---	---	---	250
SHREWSBURY RIVER AND TRIBUTARIES, NJ.................	150	---	150	---
SOUTH RIVER, RARITAN RIVER BASIN.....................	---	---	---	100
STONY BROOK, MILLSTONE RIVER BASIN, NJ...............	200	---	200	---
UPPER ROCKAWAY RIVER, NJ.............................	441	---	400	---
WOODBRIDGE RIVER BASIN, NJ...........................	150	---	175	---
NEW MEXICO				
EAST MESA, LAS CRUCES, NM............................	---	---	130	---
ESPANOLA VALLEY, RIO GRANDE AND TRIBUTARIES, NM.......	50	---	510	20
MIDDLE RIO GRANDE BOSQUE, NM.........................	225	---	300	---
RIO GRANDE BASIN, NM, CO & TX........................	125	---	164	---
SANTA FE, NM...	225	---	250	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
SOUTHWEST VALLEY FLOOD DAMAGE REDUCTION STUDY, ALBUQUE	---	---	---	250
NEW YORK				
BRONX RIVER BASIN, NY	50	---	50	---
BUFFALO RIVER ENVIRONMENTAL DREDGING, NY	52	---	75	---
EAST RIVER SEAWALL, QUEENS COUNTY, NY	---	---	100	---
EIGHTEENMILE CREEK, NIAGARA COUNTY, NY (GREAT LAKES RE	---	---	75	---
FLUSHING BAY & CREEK, NY	---	---	---	25
FREEPORT CREEK, VILLAGE OF FREEPORT, NY	25	---	25	---
GATEWAY POINT, NORTH TONAWANDA, NY	---	---	100	---
HUDSON - RARITAN ESTUARY, GOWANUS CANAL, NY & NJ	255	---	400	---
HUDSON - RARITAN ESTUARY, NY & NJ	685	---	1,000	---
HUDSON RIVER HABITAT RESTORATION, NY	25	---	25	25
JAMAICA BAY, MARINE PARK AND PLUMB BEACH, NY	147	---	147	---
LAKE MONTAUK HARBOR, NY	85	---	85	---
NEW YORK HARBOR ANCHORAGE AREAS, NY	---	---	---	50
NORTH SHORE OF LONG ISLAND, ASHAROKEN, NY	134	---	134	---
NORTH SHORE OF LONG ISLAND, BAYVILLE, NY	170	---	170	---
ONONDAGA LAKE, NY	307	---	800	---
SAW MILL RIVER AND TRIBUTARIES, NY	50	---	50	---
SOUTH SHORE OF STATEN ISLAND, NY	250	---	275	---
SUSQUEHANNA RIVER BASIN ENVIRONMENTAL RESTORATION AND.	---	---	150	---
TONAWANDA CREEK WATERSHED, NY	---	---	100	---
UPPER DELAWARE RIVER WATERSHED, NY	50	---	50	---
UPPER SUSQUEHANNA RIVER BASIN ENVIRON RESTORATION, NY.	200	---	200	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
NORTH CAROLINA				
BOGUE BANKS, NC	400	---	400	---
CURRITUCK SOUND, NC	150	---	150	---
DARE COUNTY BEACHES, HATTERAS AND OCRACOKE ISLANDS, NC	150	---	300	---
NEUSE RIVER BASIN, NC	100	---	100	---
SURF CITY AND NORTH TOPSAIL BEACH, NC	200	---	200	---
TAR RIVER BASIN, NC	100	---	100	---
OHIO				
ASHTABULA RIVER ENVIRONMENTAL DREDGING, OH	---	250	---	450
COLUMBUS METROPOLITAN AREA, OH	365	---	365	---
DUCK CREEK WATERSHED IN WASHINGTON, NOBLE, GUERNSEY &	---	---	100	---
HOCKING RIVER BASIN ENV RESTORATION, MONDAY CREEK, OH	40	---	40	100
MAHONING RIVER ENVIRONMENTAL DREDGING, OH & PA	450	---	642	100
MUSKINGUM BASIN SYSTEM STUDY, OH	357	---	357	---
OHIO RIVERFRONT, CINCINNATI, OH	---	---	---	350
WESTERN LAKE ERIE BASIN, OH, IN & MI	130	---	200	---
WHEELING CREEK, OH	---	---	100	---
OKLAHOMA				
GRAND LAKE, OK	---	---	150	---
MIAMI AND VICINITY, OK	231	---	231	---
OOLOGAH LAKE WATERSHED, OK & KS	259	---	259	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
SOUTHEAST OKLAHOMA WATER RESOURCE STUDY, OK	50	---	50	---
SPAVINAW CREEK WATERSHED, OK & AR	---	---	100	---
WISTER LAKE WATERSHED, OK	---	---	100	---
WASHITA RIVER BASIN	---	---	100	---
OREGON				
AMAZON CREEK, OR	250	---	250	---
LOWER COLUMBIA RIVER ECOSYSTEM RESTORATION, OR & WA	250	---	250	---
TILLAMOOK BAY AND ESTUARY ECOSYSTEM RESTORATION, OR	43	---	43	350
WALLA WALLA RIVER WATERSHED, OR & WA	439	---	439	---
WILLAMETTE RIVER BASIN REVIEW, OR	94	---	94	---
WILLAMETTE RIVER ENVIRONMENTAL DREDGING, OR	313	---	313	---
WILLAMETTE RIVER FLOODPLAIN RESTORATION, OR	210	---	210	---
PENNSYLVANIA				
CHRISTINA RIVER WATERSHED, PA, DE & MD	50	---	50	---
SCHUYKILL ESTUARINE RIVER BASIN, PA	---	---	200	---
SCHUYLKILL RIVER, WISSAHICKON, PA	50	---	50	---
SUSQUEHANNA & DELAWARE RIVER BASIN (SOUTHERN ANTHRACIT	---	---	75	---
TOWN OF BLOOMSBURG LOCAL FLOOD PROTECTION PROJECT, PA.	---	---	65	---
UNAMI CREEK, PA	---	---	32	---
UPPER OHIO RIVER NAVIGATION SYSTEM STUDY, PA (EMSWORTH	---	---	600	---
UPPER SUSQUEHANNA RIVER BASIN, PA (PHASE II)	180	---	180	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
PUERTO RICO				
CANO MARTIN PENA, SAN JUAN, PR (ENVIRONMENTAL RESTORAT	---	---	---	200
RHODE ISLAND				
RHODE ISLAND ECOSYSTEM RESTORATION, RI	20	---	20	---
SOUTH CAROLINA				
ATLANTIC INTRACOASTAL WATERWAY, SC	430	---	430	---
BROAD RIVER BASIN, SC	100	---	100	---
EDISTO ISLAND, SC	---	---	100	---
PAWLEYS ISLAND, SC	---	---	---	100
REEDY RIVER, SC	170	---	170	---
SANTEE DELTA ENVIRONMENTAL RESTORATION, SC	75	---	75	---
WACCAMAW RIVER, SC	50	---	50	---
SOUTH DAKOTA				
JAMES RIVER, SD & ND	150	---	400	---
WATERTOWN & VICINITY, SD	---	---	---	473
TENNESSEE				
DAVIDSON COUNTY, TN	243	---	300	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
TEXAS				
ABILENE, TX (BRAZOS RIVER BASIN - ELM CREEK)	---	---	200	---
BUFFALO BAYOU AND TRIBUTARIES, WHITE OAK BAYOU, TX	100	---	575	---
BUFFALO BAYOU & TRIBUTARIES (MAINSTEM), TX	---	---	---	100
CEDAR BAYOU, TX	---	---	---	275
COLONIAS - LOWER RIO GRANDE BASIN, TX	---	---	---	300
CORPUS CHRISTI SHIP CHANNEL, TX	---	---	---	400
FREEPORT HARBOR, TX	250	---	250	---
FREEPORT HURRICANE PROTECTION LEVEE, TX	200	---	200	---
GIWW MODIFICATIONS, TX	350	---	350	---
GIWW, BRAZOS RIVER TO PORT O'CONNOR, TX	361	---	361	---
GIWW, HIGH ISLAND TO BRAZOS RIVER REALIGNMENTS, TX	200	---	200	---
GIWW, VICINITY OF PORT ISABEL, (CAMERON COUNTY), TX	---	---	200	---
GIWW, HIGH ISLAND TO BRAZOS RIVER, TX	---	315	---	315
GIWW, MATAGORDA BAY, TX	---	100	---	100
GIWW, PORT O'CONNOR TO CORPUS CHRISTI BAY, TX	400	---	400	---
GREENS BAYOU, HOUSTON, TX	---	774	---	774
GUADALUPE AND SAN ANTONIO RIVER BASINS, TX	150	---	500	---
HARRIS GULLY, HOUSTON, TX	---	---	100	---
LOWER COLORADO RIVER BASIN, TX	600	---	1,000	---
LOWER SABINE RIVER, TX & LA	---	---	100	---
MIDDLE BRAZOS RIVER, TX	50	---	300	---
MATAGORDA SHIP CHANNEL (PORT LAVACA), TX	---	---	350	---
NORTHWEST EL PASO, TX	300	---	300	---
NUECES RIVER AND TRIBUTARIES, TX	100	---	100	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
RAYMONDVILLE DRAIN, TX	---	---	---	650
RESACAS AT BROWNSVILLE, TX	300	---	300	---
RIO GRANDE BASIN, TX	---	---	100	---
RIVERSIDE OXBOW, UPPER TRINITY BASIN, FT WORTH, TX	---	350	---	350
SABINE - NECHES WATERWAY, TX	300	---	325	---
SABINE PASS TO GALVESTON BAY, TX	450	---	450	---
SOUTH MAIN CHANNEL, TX	---	---	---	275
SPARKS ARROYO COLONIA, EL PASO COUNTY, TX	235	---	235	---
SULPHUR RIVER ENVIRONMENTAL RESTORATION, TX	50	---	50	---
TEXAS CITY CHANNEL, TX	---	---	---	800
TRI-COUNTY FLOOD STUDY, SAN ANTONIO RIVER, TX	100	---	300	---
UPPER TRINITY RIVER BASIN, TX	400	---	1,000	---
UNITED STATES VIRGIN ISLANDS				
CROWN BAY, ST. THOMAS, USVI	---	---	---	250
UTAH				
PROVO AND VICINITY, UT	100	---	100	---
VIRGINIA				
AIWW, BRIDGES AT DEEP CREEK, VA	---	694	---	1,000
DISMAL SWAMP & DISMAL SWAMP CANAL	---	---	100	---
ELIZABETH RIVER BASIN, ENV RESTORATION, VA (PHASE II)	200	---	200	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
ELIZABETH RIVER, HAMPTON ROADS, VA	---	75	---	75
FOURMILE RUN, VA	150	---	150	---
GATHRIGHT DAM & LAKE MOOMAW, VA	---	---	150	---
JAMES RIVER CHANNEL, VA	---	---	---	150
JOHN H KERR DAM AND RESERVOIR, VA & NC (SECTION 216)	250	---	250	---
LYNNHAVEN RIVER BASIN, VA	300	---	300	---
NORFOLK HARBOR AND CHANNELS, CRANEY ISLAND, VA	56	---	56	---
PHILPOTT LAKE STUDY (SEC 216)	---	---	100	---
POWELL RIVER WATERSHED, VA	197	---	197	---
VICINITY OF WILLOUGHBY SPIT, VA	---	---	---	100
WASHINGTON				
CENTRALIA, WA	---	---	---	100
CHEHALIS RIVER BASIN, WA	310	---	310	---
ELLIOTT BAY SEAWALL, SEATTLE, WA	---	---	400	---
LAKE WASHINGTON SHIP CANAL, WA	446	---	446	---
PUGET SOUND NEARSHORE MARINE HABITAT RESTORATION, WA	350	---	350	---
SKAGIT RIVER, WA	350	---	750	---
STILLAGUAMISH RIVER BASIN, WA	---	---	---	100
WHITE RIVER FLOOD CONTROL AND ECOSYSTEM RESTORATION, W	250	---	250	---
WEST VIRGINIA				
LITTLE KANAWHA RIVER, WV	65	---	65	---
NEW RIVER BASIN, WV, NC & VA	130	---	130	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
SOUTH CHARLESTON PORT, WV	---	---	164	---
WISCONSIN				
BARABOO RIVER, WI	500	---	500	---
FOX RIVER, WI	100	---	100	---
MISCELLANEOUS				
COASTAL FIELD DATA COLLECTION	2,500	---	3,500	---
ENVIRONMENTAL DATA STUDIES	100	---	100	---
EX POST FACTO NATIONAL STUDY	2,000	---	---	---
FLOOD DAMAGE DATA	300	---	300	---
FLOOD PLAIN MANAGEMENT SERVICES	7,500	---	7,500	---
GREAT LAKES REMEDIAL ACTION PLAN	---	---	1,000	---
HYDROLOGIC STUDIES	400	---	400	---
INDEPENDENT REVIEW NATIONAL STUDY	3,000	---	---	---
INTERNATIONAL WATER STUDIES	400	---	400	---
NATIONAL SHORELINE	500	---	500	---
OTHER COORDINATION PROGRAMS	4,850	---	4,850	---
PLANNING ASSISTANCE TO STATES	6,000	---	6,500	---
PRECIPITATION STUDIES (NATIONAL WEATHER SERVICE)	300	---	300	---
REMOTE SENSING/GEOGRAPHIC INFORMATION SYSTEM SUPPORT	200	---	200	---
RESEARCH AND DEVELOPMENT	22,000	---	23,000	---
SCIENTIFIC AND TECHNICAL INFORMATION CENTERS	100	---	100	---
STREAM GAGING (U.S. GEOLOGICAL SURVEY)	500	---	500	---

CORPS OF ENGINEERS - GENERAL INVESTIGATIONS
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	INVESTIGATIONS	PLANNING	INVESTIGATIONS	PLANNING
TRANSPORTATION SYSTEMS	500	---	500	---
TRI-SERVICE CADD/GIS TECHNOLOGY CENTER	450	---	450	---
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-20,400	---	-55,528	---
TOTAL, GENERAL INVESTIGATIONS	89,989	10,011	87,382	29,567

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
ALABAMA		
DUCK RIVER WATER SUPPLY PROJECT, CULLMAN, AL	---	100
MOBILE HARBOR, AL	2,003	2,003
WALTER F GEORGE POWERHOUSE AND DAM, AL & GA (MAJOR REH	12,035	12,035
WALTER F GEORGE POWERPLANT, AL & GA (MAJOR REHAB)	3,000	3,000
ALASKA		
DILLINGHAM EMERGENCY BANK, AK	---	4,000
DILLINGHAM SMALL BOAK, AK	---	3,000
KAKE DAM, AK	---	4,000
NOME HARBOR IMPROVEMENTS, AK	6,000	6,000
SAND POINT,AK	---	1,000
SEWARD, AK	---	1,000
SITKA, AK	---	1,000
ST PAUL HARBOR, AK	3,826	3,826
WRANGELL, AK	---	4,000
ARIZONA		
TUSCON DRAINAGE AREA, AZ	---	2,500
NOGALES WASH, AZ	---	1,200
RIO DE FLAG, FLAGSTAFF, AZ	---	3,500
RIO SALADO, PHOENIX AND TEMPE REACHES, AZ	11,600	17,000
TRES RIOS, AZ	---	5,000
ARKANSAS		
MCCLELLAN - KERR ARKANSAS RIVER NAVIGATION SYSTEM, AR.	3,300	3,300
MONTGOMERY POINT LOCK AND DAM, AR	20,000	23,500
OZARK-JETA TAYLOR (POWERHOUSE, MAJOR REHAB), AR	---	2,000
RED RIVER BELOW DENISON DAM, AR, LA & TX	---	750
RED RIVER EMERGENCY BANK, AR & LA	---	1,250
CALIFORNIA		
AMERICAN RIVER WATERSHED (FOLSOM DAM MINI-RAISE), CA	---	4,000
AMERICAN RIVER WATERSHED (FOLSOM DAM MODIFICATIONS), C	4,000	4,000
AMERICAN RIVER WATERSHED, CA	4,000	4,000
CAMBRIA SEAWATER DESALINIZATION INFRASTRUCTURE, CA	---	500
CITY OF SANTA CLARITA, CA	---	500
CORTE MADERA CREEK FLOOD CONTROL	---	125
COYOTE & BERRYESSA CREEKS, CA	---	250
FARMINGTON RECHARGE DEMONSTRATION PROJECT, CA	---	1,000
GUADALUPE RIVER, CA	13,000	14,000
HARBOR/SOUTH BAY WATER RECYCLING PROJECT, LOS ANGELES.	---	4,500
HAMILTON AIRFIELD WETLANDS RESTORATION, CA	2,000	3,000
IMPERIAL BEACH (SILVER STRAND BEACH RESTORATION PROJEC	---	300
KAWEAH RIVER, CA	8,400	8,400
MARYSVILLE/YUBA CITY LEVEE RECONSTRUCTION, CA	500	750
MERCED COUNTY STREAMS, CA	---	200
MID-VALLEY AREA LEVEE RECONSTRUCTION, CA	500	500
MURRIETA CREEK, CA (FLOOD CONTROL PROJECT)	---	1,000
NAPA RIVER, CA	7,500	10,000
NORTH VALLEY REGIONAL WATER INFRASTRUCTURE (CITY OF LA	---	2,500
OAKLAND HARBOR (50 FOOT PROJECT), CA	7,000	20,000
PETALUMA RIVER, CA	2,000	7,300
PORT OF LOS ANGELES, CA (MAIN CHANNEL DEEPENING)	---	15,000
SACRAMENTO AREA	---	8,600
SACRAMENTO RIVER BANK PROTECTION PROJECT, CA	2,000	2,000
SACRAMENTO RIVER DEEP WATER SHIP CHANNEL	---	250
SAN FRANCISCO BAY TO STOCKTON, CA	---	750
SAN RAMON VALLEY RECYCLED WATER PROJECT, CA	---	750
SANTA ANA RIVER MAINSTEM, CA	15,700	22,500
SOUTH PERRIS, CA (WATER SUPPLY DESALINIZATION)	---	750

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
SOUTH SACRAMENTO COUNTY STREAMS, CA..................	2,100	3,500
STOCKTON METROPOLITIAN FLOOD CONTROL REIMBURSEMENT, CA	500	500
SUCCESS DAM, TULE RIVER, CA (DAM SAFETY).............	1,000	1,000
TULE RIVER, CA.......................................	1,600	1,850
UPPER NEWPORT BAY, CA................................	---	500
UPPER SACRAMENTO AREA LEVEE RECONSTRUCTION, CA........	1,000	1,500
YUBA RIVER BASIN PROJECT, CA.........................	---	750
DELAWARE		
DELAWARE BAY COASTLINE, BETHANY TO SOUTH BETHANY, DE..	---	500
DELAWARE BAY COASTLINE, DE & NJ - PT. MAHON, DE.......	---	750
DELAWARE BAY COASTLINE, ROOSEVELT INLET TO LEWES BEACH	2,008	2,008
DELAWARE COAST, CAPE HENLOPEN TO FENWICK ISLAND, DE...	---	214
DELAWARE COAST PROTECTION, DE........................	285	285
DELAWARE COAST, REHOBOTH BEACH TO DEWEY BEACH, DE.....	5,768	5,768
FLORIDA		
BREVARD COUNTY SHORE PROTECTION, FL..................	---	250
BROWARD COUNTY SHORE PROTECTION, FL..................	---	1,500
CANAVERAL HARBOR, FL.................................	2,000	2,500
CENTRAL AND SOUTHERN FLORIDA, FL.....................	112,498	105,000
DADE COUNTY (BEACH EROSION CONTROL & HURRICANE PROTECT	---	1,000
DUVAL COUNTY SHORE PROTECTION PROJECT, FL............	---	500
EVERGLADES AND SOUTH FLORIDA ECOSYSTEM RESTORATION, FL	14,835	14,835
FLORIDA KEYS WATER QUALITY IMPROVEMENTS, FL...........	---	500
FORT PIERCE BEACH, FL................................	---	750
HERBERT HOOVER DIKE, FL (MAJOR REHAB)................	1,000	1,000
JACKSONVILLE HARBOR, FL..............................	2,000	2,500
JIM WOODRUFF LOCK AND DAM POWERHOUSE, FL & GA (MAJOR R	873	873
KISSIMMEE RIVER, FL..................................	17,706	17,706
LEE COUNTY(SHORE PROTECTION, ALL ELEMENTS), FL........	---	1,000
MANATEE HARBOR, FL...................................	---	1,500
MARTIN COUNTY, FL....................................	---	300
MIAMI HARBOR CHANNEL, FL.............................	2,700	2,700
PALM BEACH COUNTY (DELRAY BEACH, JUPITER/CARLIN CENTRA	---	1,500
PINELLAS COUNTY, FL..................................	---	2,500
PONCE DE LEON INLET, SOUTH JETTY, FL.................	---	500
PORT EVERGLADES, FL - (SOUTHPORT CHANNEL & TURNING NOT	---	600
SARASOTA COUNTY (CITY OF VENICE SEGMENT), FL.........	---	1,000
TAMPA HARBOR, FL.....................................	---	2,500
TAMPA HARBOR - ALAFIA RIVER, FL......................	---	7,000
TAMPA HARBOR (BIG BEND CHANNEL), FL..................	---	4,000
GEORGIA		
BRUNSWICK HARBOR, GA.................................	4,500	7,200
BUFORD POWERHOUSE, GA (MAJOR REHAB)..................	3,000	3,000
OATES CREEK, RICHMOND COUNTY, GA (DEF CORR)..........	500	500
RICHARD B RUSSELL DAM AND LAKE, GA & SC..............	4,328	8,678
THURMOND LAKE POWERHOUSE, GA & SC (MAJOR REHAB).......	5,500	5,500
TYBEE ISLAND SHORE PROTECTION, GA....................	---	150
HAWAII		
HAWAII WATER MANAGEMENT, HI..........................	---	750
IAO STREAM FLOOD CONTROL, HI.........................	---	175
KAUMALAPAU HARBOR (ISLAND OF LANAI), HI..............	---	2,500
KIKIAOLA SMALL BOAT HARBOR, KAUAI, HI................	3,633	3,633
MAALAEA HARBOR, MAUI, HI.............................	191	191
IDAHO		
RURAL IDAHO..	---	4,450

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
ILLINOIS		
CHAIN OF ROCKS CANAL, MISSISSIPPI RIVER, IL (DEF CORR)	2,300	2,300
CHICAGO SANITARY AND SHIP CANAL DISPERSAL BARRIER, IL.	500	700
CHICAGO SHORELINE, IL..................................	24,000	24,500
DES PLAINES RIVER, IL (PHASE I).......................	---	250
EAST ST LOUIS, IL.....................................	815	815
EAST ST. LOUIS & VICINITY INTERIOR FLOOD CONTROL, IL..	---	200
COOK COUNTY ENVIRONMENTAL INFRASTRUCTURE, IL..........	---	350
GREAT LAKES FISHERY & ECO REST, IL, IN, MI, MN, OH, PA	---	700
ILLINOIS RIVER BASIN RESTORATION, IL..................	---	1,500
LOCK AND DAM 24, MISSISSIPPI RIVER, IL & MO (MAJOR REH	13,000	15,000
LOVES PARK, IL..	5,785	5,785
MADISON & ST. CLAIR COUNTIES, IL (ENVIRONMENTAL INFRAS	---	850
MCCOOK AND THORNTON RESERVOIRS, IL....................	18,000	19,500
MELVIN PRICE LOCK AND DAM, IL & MO....................	600	600
NUTWOOD DRAINAGE AND LEVEE DISTRICT, IL...............	---	200
OLMSTED LOCKS AND DAM, OHIO RIVER, IL & KY............	73,000	63,000
UPPER MISS RVR SYSTEM ENV MGMT PROGRAM, IL, IA, MN, MO	33,320	19,000
WOOD RIVER DRAINAGE AND LEVEE DISTRICT, IL............	---	100
INDIANA		
CALUMET REGION ENVIRON INFRASTRUCTURE, IN.............	---	3,000
GRAND CALUMET RIVER REMEDIAL ACTION PLAN, IN..........	---	150
INDIANAPOLIS, ENVIRONMENTAL INFRASTRUCTURE PLANNING (C	---	1,000
INDIANA HARBOR (CONFINED DISPOSAL FACILITY), IN.......	5,700	7,000
INDIANA SHORELINE (DUNES), IN.........................	---	1,000
INDIANAPOLIS, WHITE RIVER (NORTH), IN.................	2,600	2,600
JOHN T. MYERS LOCKS AND DAM, IN.......................	---	500
LITTLE CALUMET RIVER BASIN (CADY MARSH DITCH), IN.....	---	4,500
LITTLE CALUMET RIVER, IN..............................	3,800	4,000
MISSISSINEWA LAKE, IN (MAJOR REHAB)...................	21,000	21,000
OHIO RIVER GREENWAY PUBLIC ACCESS, IN.................	1,000	1,000
OHIO RIVER FLOOD PROTECTION, IN (INDIANA SHORELINE)...	---	650
IOWA		
DES MOINES RECREATION RIVER & GREENBELT, IA...........	---	3,217
LOCK AND DAM 11, MISSISSIPPI RIVER, IA (MAJOR REHAB)..	1,313	1,313
LOCK AND DAM 19, MISSISSIPPI RIVER, IA (MAJOR REHAB)..	---	750
MISSOURI RIVER FISH AND WILDLIFE MITIGATION, IA, NE, K	22,000	18,000
MISSOURI RIVER LEVEE SYSTEM, IA, NE, KS & MO..........	7,000	11,500
PERRY CREEK, IA.......................................	2,200	2,200
KANSAS		
ARKANSAS CITY, KS.....................................	2,600	2,600
TURKEY CREEK BASIN, KS & MO...........................	---	500
KENTUCKY		
DEWEY LAKE, KY (DAM SAFETY)...........................	1,946	1,946
KENTUCKY LOCK AND DAM, TENNESSEE RIVER, KY............	24,866	29,866
KENTUCKY RIVER LOCK AND DAM 10, KY....................	---	500
LOUISVILLE WATERFRONT PARK, PHASE II & PHASE III, KY..	---	750
MCALPINE LOCKS AND DAM, OHIO RIVER, KY & IN...........	26,100	35,000
METROPOLITAN LOUISVILLE, BEARGRASS CREEK, KY..........	1,400	1,400
METROPOLITAN LOUISVILLE, POND CREEK, KY...............	2,500	2,500
SOUTHERN & EASTERN KY.................................	---	2,500
LOUISIANA		
ASCENSION PARISH ENVIRONMENTAL INFRASTRUCTURE, LA.....	---	400
COMITE RIVER, LA......................................	2,000	3,500
EAST BATON ROUGE, LA ENVIRONMENTAL INFRASTRUCTURE.....	---	750

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
EAST BATON ROUGE, LA FLOOD CONTROL PROJECT...........	---	250
GRAND ISLE & VICINITY, LA............................	---	150
IBERIA PARISH ENVIRONMENTAL INFRASTRUCTURE, LA........	---	100
INNER HARBOR NAVIGATION CANAL LOCK, LA...............	7,000	12,000
J BENNETT JOHNSTON WATERWAY, LA......................	13,700	15,600
LAKE PONTCHARTRAIN AND VICINITY, LA (HURRICANE PROTECT	3,000	5,500
LAROSE TO GOLDEN MEADOW, LA (HURRICANE PROTECTION)....	461	461
LIVINGSTON PARISH ENVIRONMENTAL INFRASTRUCTURE, LA....	---	600
MISSISSIPPI RIVER-GULF OUTLET, LA (REEVALUATION STUDY)	---	813
MISSISSIPPI RIVER SHIP CHANNEL, GULF TO BATON ROUGE, L	196	196
NEW ORLEANS TO VENICE, LA (HURRICANE PROTECTION)......	2,000	2,000
OUACHITA RIVER LEVEES, LA............................	---	1,000
SOUTHEAST LOUISIANA, LA..............................	16,500	34,000
WEST BANK AND VICINITY, NEW ORLEANS, LA..............	35,000	28,500
MARYLAND		
ASSATEAGUE ISLAND, MD................................	1,003	1,003
ATLANTIC COAST OF MARYLAND, MD.......................	500	500
CHESAPEAKE BAY ENVIRO. RES. & PROTECTION, MD & VA.....	---	1,000
CHESAPEAKE BAY OYSTER RECOVERY, MD & VA..............	3,000	4,000
CUMBERLAND, MD.......................................	---	3,000
POPLAR ISLAND, MD....................................	14,101	14,101
MASSACHUSETTS		
CAPE COD CANAL RAILROAD BRIDGE, MA (MAJOR REHAB)......	9,895	9,895
MUDDY RIVER, BOSTON AND BROOKLINE, MA................	---	1,000
MICHIGAN		
GENESEE COUNTY, MI (WASTEWATER INFRASTRUCTURE ASSIST).	---	800
NEGAUNEE, MI (ENVIRONMENTAL INFRASTRUCTURE)..........	---	200
SAULT STE MARIE REPLACEMENT LOCK, MI.................	---	2,500
TWELVE TOWNS (GEORGE W. KUHN) DRAIN RETENTION TREATMEN	---	388
MINNESOTA		
BRECKENRIDGE, MN.....................................	---	1,000
CROOKSTON, MN..	1,043	1,043
LOCK AND DAM 3, MISSISSIPPI RIVER, MN (MAJOR REHAB)...	600	600
LOWER ST. ANTHONY FALLS RAPIDS RESTORATION, MINNEAPOLI	---	750
MILLE LACS REGIONAL SEWAGE TREATMENT PLANT, MN........	---	750
NORTHEASTERN MINNESOTA, MN...........................	---	500
UPPER MISSISSIPPI RIVER, MISSISSIPPI PLACE, ST PAUL,MN	---	250
MISSISSIPPI		
GULFPORT HARBOR, MS..................................	---	2,000
DESOTO COUNTY, WASTEWATER TREATMENT, MS..............	---	9,000
MISSISSIPPI ENVIRON. INFRASTRUCTURE (SEC. 592), MS....	---	5,500
PASCAGOULA HARBOR, MS................................	2,989	2,989
MISSOURI		
BLUE RIVER BASIN, KANSAS CITY, MO....................	2,000	2,000
BLUE RIVER CHANNEL, KANSAS CITY, MO..................	6,000	8,500
BOIS BRULE LEVEE & DRAINAGE DISTRICT, MO.............	---	1,200
CAPE GIRARDEAU (FLOODWALL), MO.......................	---	500
CHESTERFIELD, MO.....................................	---	89
MERAMEC RIVER BASIN, VALLEY PARK LEVEE, MO...........	2,000	2,750
MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO	1,700	1,700
MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT, MO	---	2,000
STE GENEVIEVE, MO....................................	150	150
ST. LOUIS, MO (COMBINED SEWER OVERFLOWS PROJECT)......	---	1,000
TABLE ROCK LAKE, MO & AR (DAM SAFETY)................	5,000	5,000

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
MONTANA		
FORT PECK FISH HATCHERY, MT	---	7,000
RURAL MONTANA	---	3,000
NEBRASKA		
SAND CREEK WATERSHED, NE	---	500
WESTERN SARPY AND CLEAR CREEK, NE	---	500
ANTELOPE CREEK, LINCOLN, NE	---	1,500
MISSOURI NATIONAL RECREATIONAL RIVER, NE & SD	1,000	1,000
WOOD RIVER, GRAND ISLAND, NE	1,082	1,082
NEVADA		
RURAL NEVADA	---	9,000
TROPICANA AND FLAMINGO WASHES, NV	23,300	26,300
NEW HAMPSHIRE		
LEBANON, NH (CSOS)	---	750
NASHUA, NH (CSOS)	---	750
NEW JERSEY		
BARNEGAT TO LITTLE EGG HARBOR INLET, NJ	---	1,000
BRIGANTINE INLET TO GREAT EGG INLET (ABSECON ISLAND),	1,000	2,500
BRIGANTINE INLET TO GREAT EGG HARBOR INLET (BRIGANTINE	---	500
CAPE MAY INLET TO LOWER TOWNSHIP, NJ	1,728	1,728
DELAWARE BAY COASTLINE, DE & NJ, REEDS BEACH TO PIERCE	---	750
DELAWARE BAY COASTLINE, VILLAS & VICINITY, NJ	---	500
DELAWARE RIVER MAIN CHANNEL, NJ, PA & DE	300	9,000
GREAT EGG HARBOR INLET AND PECK BEACH, NJ	7,355	7,355
HACKENSACK MEADOWLANDS, NJ	---	100
LOWER CAPE MAY MEADOWS, CAPE MAY POINT, NJ	1,841	2,000
PASSAIC RIVER FLOOD MANAGEMENT, NJ	---	500
PASSAIC RIVER PRESERVATION OF NATURAL STORAGE AREAS, N	1,000	2,000
PASSAIC RIVER STEAMBANK RESTORATION, (MINISH PARK), NJ	---	1,000
RAMAPO & MAHWAY RIVERS, MAHWAH, NJ & SUFFERN, NY	---	400
RARITAN BAY AND SANDY HOOK BAY, NJ	100	100
RARITAN RIVER BASIN, GREEN BROOK SUB-BASIN, NJ	6,488	7,000
SANDY HOOK TO BARNEGAT INLET, NJ	3,000	3,000
TOWN OF NEWTON, NJ (WATER SUPPLY FILTRATION PLANT)	---	300
TOWNSENDS INLET TO CAPE MAY INLET, NJ	9,200	9,200
NEW MEXICO		
ACEQUIAS IRRIGATION SYSTEM, NM	1,800	2,500
ALAMOGORDO, NM	3,500	4,100
RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE,	---	600
CENTRAL, NM	---	5,000
MIDDLE RIO GRANDE FLOOD PROTECTION, BERNALILLO TO BELE	---	600
NEW YORK		
ATLANTIC COAST OF NYC, ROCKAWAY INLET TO NORTON POINT,	1,750	1,750
EAST ROCKAWAY INLET TO ROCKAWAY INLET AND JAMAICA BAY,	1,250	1,250
FIRE ISLAND INLET TO JONES INLET, NY	2,700	3,000
FIRE ISLAND INLET TO MONTAUK POINT, NY	3,800	3,800
NEW YORK AND NEW JERSEY HARBOR, NY & NJ	115,000	110,000
NEW YORK STATE CANAL SYSTEM, NY	---	750
NORTH CAROLINA		
BRUNSWICK COUNTY BEACHES, NC	2,040	2,040
CAROLINA BEACH AND VICINITY, NC	3,510	3,510

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
DARE COUNTY BEACHES, BODIE ISLAND, NC................	---	1,000
STANLY COUNTY WASTEWATER INFRASTRUCTURE, NC..........	---	350
WEST ONSLOW BEACH & NEW RIVER INLET, NC (GRR).........	---	150
WILMINGTON HARBOR, NC................................	9,650	17,500
NORTH DAKOTA		
BUFORD - TRENTON IRRIGATION DISTRICT LAND ACQUISITION,	1,518	2,000
GARRISON DAM AND POWER PLANT, ND (MAJOR REHAB)........	6,500	6,500
GRAFTON, PARK RIVER, ND..............................	---	750
GRAND FORKS, ND - EAST GRAND FORKS, MN...............	23,496	36,000
MISSOURI RIVER RESTORATION, ND.......................	---	50
SHEYENNE RIVER, ND...................................	3,367	3,367
OHIO		
HOLES CREEK, WEST CARROLLTON, OH.....................	---	2,000
METROPOLITAN REGION OF CINCINNATI, DUCK CREEK, OH.....	8,500	8,500
MILL CREEK, OH.......................................	3,900	3,900
WEST COLUMBUS, OH....................................	1,800	1,800
OHIO ENVIRONMENTAL INFRASTRUCTURE....................	---	17,000
OTTAWA RIVER HARBOR, OH..............................	---	75
OKLAHOMA		
CANTON LAKE, OK (DAM SAFETY).........................	---	1,500
LAWTON, OK, WASTEWATER INFRASTRUCTURE REHABILITATION P	---	1,000
TAR CREEK CLEANUP, OK................................	---	5,000
TENKILLER FERRY LAKE, OK (DAM SAFETY)................	4,400	4,400
OREGON		
BONNEVILLE POWERHOUSE PHASE II, OR & WA (MAJOR REHAB).	3,363	5,000
COLUMBIA RIVER CHANNEL IMPROVEMENTS, OR & WA..........	---	3,500
COLUMBIA RIVER TREATY FISHING ACCESS SITES, OR & WA...	2,900	2,900
ELK CREEK LAKE, OR...................................	500	500
LOWER COLUMBIA RIVER ECOSYSTEM RESTORATION, OR & WA...	2,000	2,000
WILLAMETTE RIVER TEMPERATURE CONTROL, OR.............	10,000	10,000
PENNSYLVANIA		
3 RIVERS WET WEATHER DEMONSTRATION PROJECT, PA........	---	750
CONEMAUGH RIVER, NANTY GLO ENVIRONMENTAL RESTORATION P	---	1,000
LOCKS AND DAMS 2, 3 AND 4, MONONGAHELA RIVER, PA......	35,000	37,500
NORTHEAST PENNSYLVANIA INFRASTRUCTURE PROGRAM, PA.....	---	1,000
PRESQUE ISLE PENINSULA, PA (PERMANENT)...............	600	600
SCHUYKILL RIVER PARK, PA.............................	---	750
SOUTH CENTRAL PENNSYLVANIA ENVIRONMENT IMPROVEMENT PRO	---	11,000
SOUTHEASTERN PENNSYLVANIA (SEC. 566, WRDA 1996), CITY.	---	500
WYOMING VALLEY, PA (LEVEE RAISING)...................	10,021	10,021
PUERTO RICO		
ARECIBO RIVER, PR....................................	1,000	1,000
PORTUGUES AND BUCANA RIVERS, PR......................	5,200	4,000
RIO DE LA PLATA, PR..................................	1,100	1,100
RIO PUERTO NUEVO, PR.................................	16,500	12,000
SOUTH CAROLINA		
CHARLESTON HARBOR, SC (DEEPENING & WIDENING)..........	5,000	5,000
FOLLY BEACH, SC......................................	---	200
LAKES MARION AND MOULTRIE, SC........................	---	350

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
SOUTH DAKOTA		
BIG SIOUX RIVER, SIOUX FALLS, SD	6,000	6,000
CHEYENNE RIVER SIOUX TRIBE, LOWER BRULE SIOUX, SD	2,800	9,000
MISSOURI RIVER RESTORATION, SD	---	500
PIERRE, SD	4,300	6,000
TENNESSEE		
BLACK FOX, MURFREE, & OAKLAND SPRINGS WETLANDS, MURFRE	---	1,072
CHICKAMAUGA LOCK, TN	---	5,400
CUMBERLAND COUNTY WATER SUPPLY, TN	---	1,250
TEXAS		
BRAYS BAYOU, HOUSTON, TX	4,700	6,000
CHANNEL TO VICTORIA, TX	2,966	2,966
CLEAR CREEK, TX	---	1,200
DALLAS FLOODWAY EXTENSION, TX	---	9,280
EL PASO, TX	2,800	2,800
HOUSTON - GALVESTON NAVIGATION CHANNELS, TX	18,726	35,500
HUNTING BAYOU, TX	---	750
JOHNSON CREEK, UPPER TRINITY BASIN, ARLINGTON, TX	2,200	2,200
MOUTH OF COLORADO RIVER, TX	---	100
NECHES RIVER AND TRIBUTARIES SALTWATER BARRIER, TX	4,108	4,108
NORTH PADRE ISLAND, PACKERY CHANNEL, TX	---	3,000
RED RIVER CHLORIDE CONTROL PROJECT, WICHITA RIVER BASI	---	1,500
SALT CREEK, GRAHAM, TX	---	750
SAN ANTONIO CHANNEL IMPROVEMENT, TX	---	1,000
SIMS BAYOU, HOUSTON, TX	12,000	12,000
WACO LAKE (AIRPORT PARK), TX	---	1,000
WHITNEY LAKE (MAJOR REHAB), TX	---	500
VERMONT		
LAKE CHAMPLAIN WATERSHED INITIATIVE, VT	---	500
VIRGINIA		
AIWW, BRIDGE AT GREAT BRIDGE, VA	9,706	9,706
EMBREY DAM, VA	---	2,500
ENVIRONMENTAL REMEDIATION, FRONT ROYAL, VA (AVTEX)	---	5,000
JAMES RIVER, VA (TURNING BASIN)	---	1,000
JOHN H KERR DAM AND RESERVOIR, VA & NC (MAJOR REHAB)	6,000	6,000
LAKE MERRIWEATHER, LITTLE CALFPASTURE (GOSHEN DAM), VA	---	2,000
LYNCHBURG (COMBINED SEWER OVERFLOWS, VA	---	500
NORFOLK HARBOR DEEPENING, VA	---	3,000
OCCOQUAN RIVER, VA	---	710
RICHMOND (COMBINED SEWER OVERFLOWS, VA	---	500
ROANOKE RIVER UPPER BASIN, HEADWATERS AREA, VA	2,000	2,000
VIRGINIA BEACH, VA (HURRICANE PROTECTION)	2,294	2,294
WASHINGTON		
CHIEF JOSEPH DAM GAS ABATEMENT, WA	900	2,500
COLUMBIA RIVER FISH MITIGATION, WA, OR & ID	95,000	85,000
DUWAMISH AND GREEN RIVERS, WA	---	500
HOWARD HANSON DAM ECOSYSTEM RESTORATION, WA	9,500	10,000
LOWER SNAKE RIVER FISH & WILDLIFE COMPENSATION, WA, OR	2,000	2,000
MT ST HELENS SEDIMENT CONTROL, WA	200	550
MUD MOUNTAIN DAM, WA (DAM SAFETY)	1,400	1,400
PUGET SOUND & ADJACENT WATERS RESTORATION, WA	---	1,000
SHOALWATER BAY SHORELINE EROSION, WA	---	1,000
SNAKE RIVER INTERPRETIVE CENTER, CLARKSTON, WA	---	500
THE DALLES POWERHOUSE (UNITS 1-14), WA & OR (MAJOR REH	250	250

CONSTRUCTION GENERAL
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
WEST VIRGINIA		
BLUESTONE LAKE, WV (DAM SAFETY).......................	2,600	4,300
GREENBRRIAR RIVER, WV................................	---	2,500
CENTRAL WEST VIRGINIA ENVIRONMENTAL INFRASTRUCTURE....	---	1,000
LEVISA AND TUG FORKS AND UPPER CUMBERLAND RIVER, WV, V	15,000	55,800
LOWER MUD RIVER, MILTON, WV...........................	---	750
MARMET LOCK, KANAWHA RIVER, WV........................	52,154	65,200
ROBERT C BYRD LOCKS AND DAM, OHIO RIVER, WV & OH......	2,500	2,500
SOUTHERN WEST VIRGINIA ENVIRONMENTAL INFRASTRUCTURE...	---	2,000
WINFIELD LOCKS AND DAM, KANAWHA RIVER, WV.............	2,000	2,000
WYOMING		
JACKSON HOLE, WY......................................	---	250
WISCONSIN		
NORTHERN WISCONSIN ENVIRONMENTAL ASSISTANCE...........	---	10,000
MISCELLANEOUS		
ABANDONED/INACTIVE NONCOAL MINE RESTORATION...........	---	1,000
AQUATIC ECOSYSTEM RESTORATION (SECTION 206)...........	10,000	18,050
AQUATIC PLANT CONTROL PROGRAM.........................	3,000	4,000
BENEFICIAL USES OF DREDGED MATERIAL	3,000	6,000
DAM SAFETY AND SEEPAGE/STABILITY CORRECTION PROGRAM...	8,000	14,000
DREDGED MATERIAL DISPOSAL FACILITIES PROGRAM..........	7,000	7,000
EMERGENCY STREAMBANK & SHORELINE PROTECTION (SEC. 14).	7,000	9,000
EMPLOYEES' COMPENSATION...............................	19,130	19,130
ESTUARY RESTORATION PROGRAM (PL 106-457)..............	---	1,500
FLOOD CONTROL PROJECTS (SECTION 205)..................	20,000	30,000
INLAND WATERWAYS USERS BOARD - BOARD EXPENSE..........	45	45
INLAND WATERWAYS USERS BOARD - CORPS EXPENSE..........	185	185
NAVIGATION MITIGATION PROJECT (SECTION 111)...........	500	1,500
NAVIGATION PROJECTS (SECTION 107).....................	6,000	9,000
PROJECT MODIFICATIONS FOR IMPROVEMENT OF THE ENVIRONME	14,000	17,000
SHORELINE EROSION CONTROL DEVELOPMENT AND DEMONSTRATIO	6,000	6,000
SHORELINE PROTECTION PROJECTS (SECTION 103)...........	3,500	3,500
SNAGGING AND CLEARING PROJECT (SECTION 208)...........	500	500
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE........	-116,095	-270,430
TOTAL, CONSTRUCTION GENERAL....................	1,350,000	1,722,319

FLOOD CONTROL - MISSISSIPPI RIVER AND TRIBUTARIES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
GENERAL INVESTIGATIONS		
BAYOU METO, AR	---	500
SOUTHEAST ARKANSAS, AR	---	250
ALEXANDRIA TO THE GULF, LA	435	435
DONALDSONVILLE TO THE GULF, LA	800	850
SPRING BAYOU, LA	500	500
TENSAS RIVER BASIN, LA	---	200
COLDWATER RIVER BASIN BELOW ARKABUTLA LAKE, MS	185	300
FLETCHER CREEK, TN	120	120
GERMANTOWN, TN	51	61
MEMPHIS HARBOR, MEMPHIS, TN	---	150
MILLINGTON AND VICINITY, TN	84	84
MORGANZA TO THE GULF, LA	3,487	4,200
COLLECTION AND STUDY OF BASIC DATA	695	695
SUBTOTAL, GENERAL INVESTIGATIONS	6,357	8,345
CONSTRUCTION		
CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN	39,562	41,742
FRANCIS BLAND FLOODWAY DITCH (EIGHT MILE CREEK), AR	2,050	2,050
HELENA AND VICINITY, AR	2,180	2,180
MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	42,919	47,000
ST FRANCIS BASIN, AR & MO	2,365	5,000
ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	7,768	7,768
ATCHAFALAYA BASIN, LA	14,075	15,000
MISSISSIPPI DELTA REGION, LA	3,200	3,200
MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, LA & MS	---	30
ST. JOHNS BAYOU & NEW MADRID FLOODWAY, MO	---	4,000
HORN LAKE CREEK & TRIBUTARIES, MS & TN	---	300
YAZOO BASIN:	(7,740)	(23,555)
BACKWATER PUMP, MS	---	12,000
BIG SUNFLOWER RIVER, MS	890	950
MAIN STEM, MS	---	25
REFORMULATION UNIT, MS	---	375
TRIBUTARIES, MS	205	205
UPPER YAZOO PROJECTS, MS	6,645	10,000
DELTA HEADWATERS PROJECT, MS (FORMERLY DEMONSTRATION E	---	15,500
NONCONNAH CREEK, TN & MS	2,618	3,100
WEST TENNESSEE TRIBUTARIES, TN	---	100
WOLF RIVER (RESTORATION), TN	---	1,000
SUBTOTAL, CONSTRUCTION	124,477	171,525
MAINTENANCE		
CHANNEL IMPROVEMENT, AR, IL, KY, LA, MS, MO & TN	69,688	69,688
HELENA HARBOR, PHILLIPS COUNTY, AR	370	370
INSPECTION OF COMPLETED WORKS, AR	466	466
LOWER ARKANSAS RIVER, NORTH BANK, AR	105	105
LOWER ARKANSAS RIVER, SOUTH BANK, AR	135	135
MISSISSIPPI RIVER LEVEES, AR, IL, KY, LA, MS, MO & TN.	6,340	11,000
ST FRANCIS BASIN, AR & MO	7,505	9,000
TENSAS BASIN, BOEUF AND TENSAS RIVERS, AR & LA	2,400	2,400
WHITE RIVER BACKWATER, AR	1,290	1,290
INSPECTION OF COMPLETED WORKS, IL	50	50
INSPECTION OF COMPLETED WORKS, KY	35	35
ATCHAFALAYA BASIN, FLOODWAY SYSTEM, LA	2,450	2,450
ATCHAFALAYA BASIN, LA	13,335	13,335
BATON ROUGE HARBOR, DEVIL SWAMP, LA	15	175
BAYOU COCODRIE AND TRIBUTARIES, LA	85	85
BONNET CARRE, LA	1,975	1,975
INSPECTION OF COMPLETED WORKS, LA	550	550
LOWER RED RIVER, SOUTH BANK LEVEES, LA	2,207	2,207
MISSISSIPPI DELTA REGION, LA	910	910

FLOOD CONTROL - MISSISSIPPI RIVER AND TRIBUTARIES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
OLD RIVER, LA	9,915	9,915
TENSAS BASIN, RED RIVER BACKWATER, LA	3,425	3,425
GREENVILLE HARBOR, MS	30	200
INSPECTION OF COMPLETED WORKS, MS	296	296
VICKSBURG HARBOR, MS	35	250
YAZOO BASIN:	(32,050)	(36,465)
ARKABUTLA LAKE, MS	6,300	7,000
BIG SUNFLOWER RIVER, MS	170	2,000
ENID LAKE, MS	5,505	5,700
GREENWOOD, MS	650	750
GRENADA LAKE, MS	6,170	6,500
MAIN STEM, MS	1,480	2,200
SARDIS LAKE, MS	8,630	9,000
TRIBUTARIES, MS	1,135	1,135
WILL M WHITTINGTON AUX CHAN, MS	470	470
YAZOO BACKWATER AREA, MS	730	900
YAZOO CITY, MS	810	810
INSPECTION OF COMPLETED WORKS, MO	167	167
WAPPAPELLO LAKE, MO	4,265	5,000
INSPECTION OF COMPLETED WORKS, TN	101	101
MEMPHIS HARBOR, MCKELLAR LAKE, TN	1,010	1,010
MAPPING	1,235	1,235
SUBTOTAL, MAINTENANCE	162,440	174,290
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-13,274	-29,938
TOTAL, FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES	280,000	324,222

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
ALABAMA		
ALABAMA - COOSA COMPREHENSIVE WATER STUDY, AL	285	285
ALABAMA - COOSA RIVER, AL	2,961	4,000
BAYOU LA BATRE, AL	2,000	2,000
BLACK WARRIOR AND TOMBIGBEE RIVERS, AL	22,100	23,600
GULF INTRACOASTAL WATERWAY, AL	5,000	5,000
INSPECTION OF COMPLETED WORKS, AL	50	50
MILLERS FERRY LOCK AND DAM, WILLIAM "BILL" DANNELLY LA	5,429	5,429
MOBILE HARBOR, AL	19,040	22,040
ROBERT F HENRY LOCK AND DAM, AL	5,726	5,726
SCHEDULING RESERVOIR OPERATIONS, AL	100	100
TENNESSEE - TOMBIGBEE WATERWAY WILDLIFE MITIGATION, AL	1,500	1,500
TENNESSEE - TOMBIGBEE WATERWAY, AL & MS	21,500	22,500
WALTER F GEORGE LOCK AND DAM, AL & GA	6,892	6,892
ALASKA		
ANCHORAGE HARBOR, AK	2,969	2,969
CHENA RIVER LAKES, AK	3,259	3,259
COOK INLET SHOALS, AK	---	750
CORDOVA HARBOR, AK	400	400
DILLINGHAM HARBOR, AK	906	906
HOMER HARBOR, AK	370	370
INSPECTION OF COMPLETED WORKS, AK	41	41
NINILCHIK HARBOR, AK	239	239
NOME HARBOR, AK	285	1,000
PROJECT CONDITION SURVEYS, AK	533	533
ARIZONA		
ALAMO LAKE, AZ	1,563	1,563
INSPECTION OF COMPLETED WORKS, AZ	87	87
PAINTED ROCK DAM, AZ	1,498	1,498
SCHEDULING RESERVOIR OPERATIONS, AZ	35	35
WHITLOW RANCH DAM, AZ	184	184
ARKANSAS		
BEAVER LAKE, AR	4,297	4,297
BLAKELY MT DAM, LAKE OUACHITA, AR	6,126	6,126
BLUE MOUNTAIN LAKE, AR	1,751	1,751
BULL SHOALS LAKE, AR	5,180	5,180
DARDANELLE LOCK AND DAM, AR	5,319	5,319
DEGRAY LAKE, AR	7,103	7,103
DEQUEEN LAKE, AR	1,567	1,567
DIERKS LAKE, AR	1,131	1,131
GILLHAM LAKE, AR	1,531	1,531
GREERS FERRY LAKE, AR	6,391	8,391
HELENA HARBOR, PHILLIPS COUNTY, AR	25	300
INSPECTION OF COMPLETED WORKS, AR	192	192
MCCLELLAN - KERR ARKANSAS RIVER NAVIGATION SYSTEM, AR.	29,493	29,493
MILLWOOD LAKE, AR	1,503	1,503
NARROWS DAM, LAKE GREESON, AR	5,559	5,559
NIMROD LAKE, AR	2,036	2,036
NORFORK LAKE, AR	3,471	3,471
OSCEOLA HARBOR, AR	25	750
OUACHITA AND BLACK RIVERS, AR & LA	10,221	10,221
OZARK - JETA TAYLOR LOCK AND DAM, AR	3,917	3,917
PROJECT CONDITION SURVEYS, AR	6	6
WHITE RIVER, AR	200	800
YELLOW BEND PORT, AR	15	126
CALIFORNIA		
BLACK BUTTE LAKE, CA	2,269	2,269

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
BODEGA BAY, CA	---	1,900
BUCHANAN DAM, H V EASTMAN LAKE, CA	2,526	2,526
CHANNEL ISLANDS HARBOR, VENTURA COUNTY, CA (DREDGING S	---	40
COYOTE VALLEY DAM, LAKE MENDOCINO, CA	3,401	3,401
DRY CREEK (WARM SPRINGS) LAKE AND CHANNEL, CA	4,421	4,421
FARMINGTON DAM, CA	341	341
HIDDEN DAM, HENSLEY LAKE, CA	2,621	2,621
HUMBOLDT HARBOR AND BAY, CA	6,945	6,945
INSPECTION OF COMPLETED WORKS, CA	1,167	1,167
ISABELLA LAKE, CA	1,365	1,365
LOS ANGELES - LONG BEACH HARBOR MODEL, CA	175	175
LOS ANGELES COUNTY DRAINAGE AREA, CA	4,931	6,000
MARINA DEL REY (ENTRANCE CHANNEL), CA	---	100
MERCED COUNTY STREAMS, CA	280	280
MOJAVE RIVER DAM, CA	282	282
MORRO BAY HARBOR, CA	1,460	1,460
MOSS LANDING HARBOR, CA	---	600
NEW HOGAN LAKE, CA	2,789	2,789
NEW MELONES LAKE, DOWNSTREAM CHANNEL, CA	1,697	1,697
OAKLAND HARBOR, CA	6,785	9,000
OCEANSIDE HARBOR, CA	1,160	1,160
PETALUMA RIVER, CA	---	1,000
PILLAR POINT HARBOR, CA	---	300
PINE FLAT LAKE, CA	2,732	2,732
PORT HUENEME, CA	---	500
PROJECT CONDITION SURVEYS, CA	1,960	1,960
REDWOOD CITY, CA	---	200
RICHMOND HARBOR, CA	6,250	6,250
SACRAMENTO RIVER (30 FOOT PROJECT), CA	2,106	2,106
SACRAMENTO RIVER AND TRIBUTARIES (DEBRIS CONTROL), CA	1,255	1,255
SAN DIEGO RIVER AND MISSION BAY, CA	60	60
SAN FRANCISCO BAY, DELTA MODEL STRUCTURE, CA	1,273	1,273
SAN FRANCISCO BAY, LONG TERM MANAGEMENT STRATEGY (LTMS	---	2,000
SAN FRANCISCO HARBOR AND BAY, CA (DRIFT REMOVAL)	2,189	2,189
SAN FRANCISCO HARBOR, CA	2,092	2,092
SAN JOAQUIN RIVER, CA	2,065	2,500
SAN PABLO BAY AND MARE ISLAND STRAIT, CA	---	500
SANTA ANA RIVER BASIN, CA	3,815	3,815
SANTA BARBARA HARBOR, CA	1,905	1,905
SCHEDULING RESERVOIR OPERATIONS, CA	1,447	1,447
SUCCESS LAKE, CA	2,132	2,132
SUISUN BAY CHANNEL, CA	5,172	5,172
TERMINUS DAM, LAKE KAWEAH, CA	1,818	1,818
VENTURA HARBOR, CA	2,910	2,910
YUBA RIVER, CA	56	66
COLORADO		
BEAR CREEK LAKE, CO	282	282
CHATFIELD LAKE, CO	1,690	2,023
CHERRY CREEK LAKE, CO	839	1,172
INSPECTION OF COMPLETED WORKS, CO	92	92
JOHN MARTIN RESERVOIR, CO	2,338	2,338
SCHEDULING RESERVOIR OPERATIONS, CO	292	292
TRINIDAD LAKE, CO	1,441	1,775
CONNECTICUT		
BLACK ROCK LAKE, CT	343	343
COLEBROOK RIVER LAKE, CT	459	459
HANCOCK BROOK LAKE, CT	252	252
HOP BROOK LAKE, CT	857	857
INSPECTION OF COMPLETED WORKS, CT	81	81
MANSFIELD HOLLOW LAKE, CT	406	406
NORTHFIELD BROOK LAKE, CT	330	330
NORWALK HARBOR, CT	---	1,000

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
PROJECT CONDITION SURVEYS, CT........................	1,303	1,303
SOUTHPORT HARBOR, CT.................................	---	500
STAMFORD HURRICANE BARRIER, CT.......................	353	353
THOMASTON DAM, CT....................................	442	442
TREATMENT OF DREDGED MATERIAL FROM LONG ISLAND SOUND,.	---	750
WEST THOMPSON LAKE, CT...............................	452	452
DELAWARE		
INTRACOASTAL WATERWAY, DELAWARE R TO CHESAPEAKE BAY, D	14,994	14,994
INTRACOASTAL WATERWAY, REHOBOTH BAY TO DELAWARE BAY, D	48	48
PROJECT CONDITION SURVEYS, DE........................	55	55
WILMINGTON HARBOR, DE................................	4,366	4,366
DISTRICT OF COLUMBIA		
INSPECTION OF COMPLETED WORKS, DC....................	7	7
POTOMAC AND ANACOSTIA RIVERS, DC (DRIFT REMOVAL)......	1,100	1,100
POTOMAC RIVER BELOW WASHINGTON, DC...................	---	320
PROJECT CONDITION SURVEYS, DC........................	35	35
WASHINGTON HARBOR, DC................................	50	50
FLORIDA		
CANAVERAL HARBOR, FL.................................	3,800	3,800
CENTRAL AND SOUTHERN FLORIDA, FL.....................	13,005	13,005
ESCAMBIA AND CONECUH RIVERS, FL......................	1,000	1,000
FERNANDINA HARBOR, FL................................	2,556	2,556
FORT PIERCE HARBOR, FL...............................	65	65
INSPECTION OF COMPLETED WORKS, FL....................	200	200
INTRACOASTAL WATERWAY, JACKSONVILLE TO MIAMI, FL......	680	4,000
JACKSONVILLE HARBOR, FL..............................	6,551	6,551
JIM WOODRUFF LOCK AND DAM, LAKE SEMINOLE, FL, AL & GA.	6,686	6,686
MIAMI HARBOR, FL.....................................	1,515	1,515
MIAMI RIVER, FL......................................	5,850	5,850
OKEECHOBEE WATERWAY, FL..............................	4,316	4,316
PALM BEACH HARBOR, FL................................	1,916	1,916
PANAMA CITY HARBOR, FL...............................	500	500
PENSACOLA HARBOR, FL.................................	1,500	1,500
PORT EVERGLADES HARBOR, FL...........................	1,255	1,255
PROJECT CONDITION SURVEYS, FL........................	1,000	1,000
REMOVAL OF AQUATIC GROWTH, FL........................	3,400	3,400
TAMPA HARBOR, FL.....................................	3,985	5,185
GEORGIA		
ALLATOONA LAKE, GA...................................	6,000	6,000
APALACHICOLA, CHATTAHOOCHEE AND FLINT RIVERS, GA, AL &	1,500	5,000
ATLANTIC INTRACOASTAL WATERWAY, GA...................	178	178
BRUNSWICK HARBOR, GA.................................	3,993	3,993
BUFORD DAM AND LAKE SIDNEY LANIER, GA................	9,100	9,100
CARTERS DAM AND LAKE, GA.............................	10,012	10,012
HARTWELL LAKE, GA & SC...............................	13,964	13,964
INSPECTION OF COMPLETED WORKS, GA....................	41	41
J STROM THURMOND LAKE, GA & SC.......................	11,747	11,747
RICHARD B RUSSELL DAM AND LAKE, GA & SC..............	7,746	7,746
SAVANNAH HARBOR, GA..................................	12,540	12,540
SAVANNAH RIVER BELOW AUGUSTA, GA.....................	154	154
WEST POINT DAM AND LAKE, GA & AL.....................	6,600	6,900
HAWAII		
BARBERS POINT HARBOR, HI.............................	176	176
INSPECTION OF COMPLETED WORKS, HI....................	191	191
MANELE SMALL BOAT HARBOR, HI.........................	656	656
PORT ALLEN HARBOR, KAUAI, HI.........................	90	90

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
PROJECT CONDITION SURVEYS, HI	485	485
IDAHO		
ALBENI FALLS DAM, ID	2,202	2,202
DWORSHAK DAM AND RESERVOIR, ID	2,271	2,500
INSPECTION OF COMPLETED WORKS, ID	72	72
LUCKY PEAK LAKE, ID	2,167	2,167
SCHEDULING RESERVOIR OPERATIONS, ID	394	394
ILLINOIS		
CALUMET HARBOR AND RIVER, IL & IN	3,985	3,985
CARLYLE LAKE, IL	4,410	4,410
CHICAGO HARBOR, IL	2,319	2,319
CHICAGO RIVER, IL	362	362
FARM CREEK RESERVOIRS, IL	213	213
ILLINOIS WATERWAY (MVR PORTION), IL & IN	25,726	25,726
ILLINOIS WATERWAY (MVS PORTION), IL & IN	1,889	1,889
INSPECTION OF COMPLETED WORKS, IL	546	546
KASKASKIA RIVER NAVIGATION, IL	1,688	2,188
LAKE MICHIGAN DIVERSION, IL	537	537
LAKE SHELBYVILLE, IL	5,495	5,495
MISS RIVER BTWN MO RIVER AND MINNEAPOLIS (MVR PORTION)	44,429	45,000
MISS RIVER BTWN MO RIVER AND MINNEAPOLIS (MVS PORTION)	17,374	18,000
PROJECT CONDITION SURVEYS, IL	30	30
REND LAKE, IL	4,818	4,818
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, IL	111	111
WAUKEGAN HARBOR, IL	2,027	2,027
INDIANA		
BROOKVILLE LAKE, IN	684	684
BURNS WATERWAY HARBOR, IN	2,774	2,774
CAGLES MILL LAKE, IN	635	635
CECIL M HARDEN LAKE, IN	745	745
INDIANA HARBOR, IN	316	316
INSPECTION OF COMPLETED WORKS, IN	346	346
J EDWARD ROUSH LAKE, IN	951	951
MICHIGAN CITY HARBOR, IN	1,970	1,970
MISSISSINEWA LAKE, IN	1,234	1,234
MONROE LAKE, IN	762	762
PATOKA LAKE, IN	687	687
PROJECT CONDITION SURVEYS, IN	55	55
SALAMONIE LAKE, IN	681	681
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, IN	115	115
IOWA		
CORALVILLE LAKE, IA	3,037	3,500
FORT MADISON, IA	---	50
INSPECTION OF COMPLETED WORKS, IA	190	190
MISSOURI RIVER - KENSLERS BEND, NE TO SIOUX CITY, IA	157	157
MISSOURI RIVER - RULO TO MOUTH, IA, NE, KS & MO	5,355	6,000
MISSOURI RIVER - SIOUX CITY TO RULO, IA & NE	2,260	2,260
MUSCATINE, IA	---	150
RATHBUN LAKE, IA	3,438	3,438
RED ROCK DAM AND LAKE RED ROCK, IA	3,663	4,000
SAYLORVILLE LAKE, IA	4,223	4,223
SCHELDULING RESERVOIR OPERATIONS, IA	---	334
KANSAS		
CLINTON LAKE, KS	1,857	1,857
COUNCIL GROVE LAKE, KS	1,760	1,840
EL DORADO LAKE, KS	939	939

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
ELK CITY LAKE, KS	650	650
FALL RIVER LAKE, KS	1,385	1,500
HILLSDALE LAKE, KS	759	759
JOHN REDMOND DAM AND RESERVOIR, KS	2,025	2,100
KANOPOLIS LAKE, KS	1,269	1,269
MARION LAKE, KS	2,443	2,800
MELVERN LAKE, KS	1,731	1,731
MILFORD LAKE, KS	2,783	2,783
PEARSON - SKUBITZ BIG HILL LAKE, KS	984	984
PERRY LAKE, KS	2,090	2,890
POMONA LAKE, KS	1,931	1,931
SCHEDULING RESERVOIR OPERATIONS, KS	129	129
TORONTO LAKE, KS	464	464
TUTTLE CREEK LAKE, KS	1,839	1,839
WILSON LAKE, KS	1,377	1,377
KENTUCKY		
BARKLEY DAM AND LAKE BARKLEY, KY & TN	8,902	8,902
BARREN RIVER LAKE, KY	2,484	2,484
BIG SANDY HARBOR, KY	35	35
BUCKHORN LAKE, KY	1,394	1,394
CARR CREEK LAKE, KY	1,448	1,448
CAVE RUN LAKE, KY	819	819
DEWEY LAKE, KY	1,636	1,636
ELVIS STAHR (HICKMAN) HARBOR, KY	25	480
FISHTRAP LAKE, KY	1,681	1,681
GRAYSON LAKE, KY	1,241	1,241
GREEN AND BARREN RIVERS, KY	1,205	1,205
GREEN RIVER LAKE, KY	2,359	2,359
INSPECTION OF COMPLETED WORKS, KY	97	97
KENTUCKY RIVER, KY	17	17
LAUREL RIVER LAKE, KY	1,572	1,572
MARTINS FORK LAKE, KY	583	583
MIDDLESBORO CUMBERLAND RIVER BASIN, KY	92	92
NOLIN LAKE, KY	2,056	2,056
OHIO RIVER LOCKS AND DAMS, KY, IL, IN & OH	31,372	31,372
OHIO RIVER OPEN CHANNEL WORK, KY, IL, IN & OH	4,560	4,560
PAINTSVILLE LAKE, KY	1,030	1,030
PROJECT CONDITION SURVEYS, KY	6	6
ROUGH RIVER LAKE, KY	2,848	2,848
TAYLORSVILLE LAKE, KY	981	981
WOLF CREEK DAM, LAKE CUMBERLAND, KY	10,670	10,670
YATESVILLE LAKE, KY	1,082	1,082
LOUISIANA		
ATCHAFALAYA RIVER AND BAYOUS CHENE, BOEUF AND BLACK, L	19,367	20,000
BARATARIA BAY WATERWAY, LA	286	2,000
BAYOU BODCAU RESERVOIR, LA	864	864
BAYOU LAFOURCHE AND LAFOURCHE JUMP WATERWAY, LA	133	900
BAYOU LACOMBE, LA	---	315
BAYOU PIERRE, LA	31	31
BAYOU SEGNETTE WATERWAY, LA	165	800
BAYOU TECHE AND VERMILION RIVER, LA	35	35
BAYOU TECHE, LA	48	200
CADDO LAKE, LA	183	183
CALCASIEU RIVER AND PASS, LA	12,064	12,064
FRESHWATER BAYOU, LA	1,558	1,558
GULF INTRACOASTAL WATERWAY, LA	19,418	19,418
HOUMA NAVIGATION CANAL, LA	1,242	1,242
INSPECTION OF COMPLETED WORKS, LA	797	797
J BENNETT JOHNSTON WATERWAY, LA	12,013	14,000
LAKE PROVIDENCE HARBOR, LA	32	350
MADISON PARISH PORT, LA	13	80
MERMENTAU RIVER, LA	2,651	3,000

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
MISSISSIPPI RIVER OUTLETS AT VENICE, LA	1,841	3,500
MISSISSIPPI RIVER, BATON ROUGE TO THE GULF OF MEXICO,	56,206	56,206
MISSISSIPPI RIVER, GULF OUTLET, LA	13,485	13,485
PROJECT CONDITION SURVEYS, LA	80	80
REMOVAL OF AQUATIC GROWTH, LA	2,000	2,000
WALLACE LAKE, LA	312	312
WATERWAY FROM EMPIRE TO THE GULF, LA	7	200
WATERWAY FROM INTRACOASTAL WATERWAY TO B DULAC, LA	37	200
MAINE		
INSPECTION OF COMPLETED WORKS, ME	17	17
KENNEBEC RIVER, ME	45	45
NARRAGUAGUS, ME	---	750
PROJECT CONDITION SURVEYS, ME	1,886	1,886
SCARBOROUGH RIVER, ME	---	300
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, ME	17	17
WELLS HARBOR, ME	50	50
MARYLAND		
BALTIMORE HARBOR ANCHORAGES AND CHANNELS, MD & VA	68	68
BALTIMORE HARBOR AND CHANNELS (50 FOOT), MD	18,416	18,416
BALTIMORE HARBOR, MD (DRIFT REMOVAL)	500	500
BALTIMORE HARBOR, MD (PREVENTION OF OBSTRUCTIVE DEPOSI	676	676
CHESTER RIVER, MD	930	930
CRISFIELD HARBOR, MD	---	30
CUMBERLAND, MD AND RIDGELEY, WV	165	165
DREDGING/SHOAL REMOVAL, ELK RIVER, CECIL COUNTY, MD	---	175
FISHING CREEK, MD	---	300
HONGA RIVER AND TAR BAY, MD	80	1,250
INSPECTION OF COMPLETED WORKS, MD	34	34
JENNINGS RANDOLPH LAKE, MD & WV	1,774	2,500
KNAPPS NARROWS, MD	651	651
OCEAN CITY HARBOR AND INLET AND SINEPUXENT BAY, MD	960	960
PARISH CREEK, MD	---	80
POCOMOKE RIVER, MD	989	989
PROJECT CONDITION SURVEYS, MD	365	365
SCHEDULING RESERVOIR OPERATIONS, MD	96	96
TILGHMAN ISLAND HARBOR, MD	---	400
TOLCHESTER CHANNEL, MD	1,364	1,364
UPPER THOROFARE, SOMERSET, MD	---	600
WICOMICO RIVER, MD	1,514	1,514
MASSACHUSETTS		
AUNT LYDIA'S COVE, CHATHAM, MA	300	300
BARRE FALLS DAM, MA	486	486
BIRCH HILL DAM, MA	450	450
BOSTON HARBOR, MA	3,000	3,000
BUFFUMVILLE LAKE, MA	447	447
CAPE COD CANAL, MA	7,772	7,772
CHARLES RIVER NATURAL VALLEY STORAGE AREA, MA	227	227
CONANT BROOK LAKE, MA	171	171
EAST BRIMFIELD LAKE, MA	301	301
GREEN HARBOR, MA	310	310
HODGES VILLAGE DAM, MA	428	428
INSPECTION OF COMPLETED WORKS, MA	114	114
KNIGHTVILLE DAM, MA	453	453
LITTLEVILLE LAKE, MA	364	364
NEW BEDFORD FAIRHAVEN AND ACUSHNET HURRICANE BARRIER,	300	300
NEW BEDFORD AND FAIRHAVEN HARBOR, MA	---	500
PLYMOUTH HARBOR & LONG BEACH DIKE, MA	---	100
PROJECT CONDITION SURVEYS, MA	1,316	1,316
TULLY LAKE, MA	412	412
WEST HILL DAM, MA	573	573

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
WESTVILLE LAKE, MA	407	407
WEYMOUTH, FORE & TOWN RIVERS, MA	---	750
MICHIGAN		
ARCADIA HARBOR, MI	20	80
BLACK RIVER, PORT HURON, MI	16	16
BOLLES HARBOR, LA PLAISANCE CREEK, MI	---	250
CHANNELS IN LAKE ST CLAIR, MI	466	466
CHARLEVOIX HARBOR, MI	119	119
DETROIT RIVER, MI	3,458	3,458
FRANKFORT HARBOR, MI	3,112	3,112
GRAND HAVEN HARBOR, MI	810	810
HOLLAND HARBOR, MI	618	618
INSPECTION OF COMPLETED WORKS, MI	153	153
KEWEENAW WATERWAY, MI	428	428
LELAND HARBOR, MI	20	170
LEXINGTON HARBOR, MI	10	10
LITTLE LAKE HARBOR, MI	12	208
LUDINGTON HARBOR, MI	946	946
MANISTEE HARBOR, MI	227	227
MARQUETTE HARBOR, MI	10	10
MENOMINEE HARBOR, MI & WI	154	154
MONROE HARBOR, MI	138	138
MUSKEGON HARBOR, MI	21	21
ONTONAGON HARBOR, MI	473	473
PENTWATER HARBOR, MI	45	170
PORT AUSTIN HARBOR, MI	20	214
PORT SANILAC HARBOR, MI	27	27
PORTAGE LAKE HARBOR, MI	1,167	1,167
PROJECT CONDITION SURVEYS, MI	182	182
ROUGE RIVER, MI	177	177
SAGINAW RIVER, MI	2,001	2,251
SAUGATUCK HARBOR, MI	1,203	1,203
SEBEWAING RIVER (ICE JAM REMOVAL), MI	7	7
ST CLAIR RIVER, MI	1,565	1,565
ST JOSEPH HARBOR, MI	561	561
ST MARYS RIVER, MI	19,092	19,092
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, MI	2,410	2,410
MINNESOTA		
BIGSTONE LAKE WHETSTONE RIVER, MN & SD	255	255
DULUTH - SUPERIOR HARBOR, MN & WI	4,991	4,991
INSPECTION OF COMPLETED WORKS, MN	107	107
LAC QUI PARLE LAKES, MINNESOTA RIVER, MN	568	568
MINNESOTA RIVER, MN	175	175
MISS RIVER BTWN MO RIVER AND MINNEAPOLIS (MVP PORTION)	36,056	36,056
ORWELL LAKE, MN	1,045	1,045
PROJECT CONDITION SURVEYS, MN	67	67
RED LAKE RESERVOIR, MN	99	99
RESERVOIRS AT HEADWATERS OF MISSISSIPPI RIVER, MN	4,196	5,000
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, MN	273	273
MISSISSIPPI		
ARKABUTLA LAKE, MS	685	685
BILOXI HARBOR, MS	---	1,000
CLAIBORNE COUNTY PORT, MS	8	87
EAST FORK, TOMBIGBEE RIVER, MS	170	170
ENID LAKE, MS	682	682
GRENADA LAKE, MS	700	700
GULFPORT HARBOR, MS	2,500	2,500
INSPECTION OF COMPLETED WORKS, MS	57	57
MOUTH OF YAZOO RIVER, MS	26	51
OKATIBBEE LAKE, MS	1,600	1,600

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
PASCAGOULA HARBOR, MS	4,460	4,460
PEARL RIVER, MS & LA	343	343
PROJECT CONDITION SURVEYS, MS	180	180
ROSEDALE HARBOR, MS	21	450
SARDIS LAKE, MS	545	545
WOLF AND JORDAN RIVERS, MS	---	1,000
YAZOO RIVER, MS	115	115
MISSOURI		
CARUTHERSVILLE HARBOR, MO	30	330
CLARENCE CANNON DAM AND MARK TWAIN LAKE, MO	6,440	6,440
CLEARWATER LAKE, MO	1,959	2,500
HARRY S TRUMAN DAM AND RESERVOIR, MO	10,977	10,977
INSPECTION OF COMPLETED WORKS, MO	817	817
LITTLE BLUE RIVER LAKES, MO	850	850
LONG BRANCH LAKE, MO	875	875
MISS RIVER BTWN THE OHIO AND MO RIVERS (REG WORKS), MO	18,099	18,099
NEW MADRID HARBOR, MO	22	340
POMME DE TERRE LAKE, MO	1,828	1,828
PROJECT CONDITION SURVEYS, MO	6	6
SCHEDULING RESERVOIR OPERATIONS, MO	316	316
SMITHVILLE LAKE, MO	1,118	1,118
SOUTHEAST MISSOURI PORT, MO	---	375
STOCKTON LAKE, MO	5,362	5,701
TABLE ROCK LAKE, MO	5,772	9,000
UNION LAKE, MO	10	10
WAPPAPELLO LAKE, MO	234	234
MONTANA		
FT PECK DAM AND LAKE, MT	5,413	5,413
INSPECTION OF COMPLETED WORKS, MT	12	12
LIBBY DAM, LAKE KOOCANUSA, MT	1,453	1,453
SCHEDULING RESERVOIR OPERATIONS, MT	87	87
NEBRASKA		
GAVINS POINT DAM, LEWIS AND CLARK LAKE, NE & SD	8,422	8,422
HARLAN COUNTY LAKE, NE	1,486	1,486
INSPECTION OF COMPLETED WORKS, NE	122	122
MISSOURI R MASTER WTR CONTROL MANUAL, NE, IA, KS, MO	350	350
PAPILLION CREEK AND TRIBUTARIES LAKES, NE	564	564
SALT CREEK AND TRIBUTARIES, NE	708	708
NEVADA		
INSPECTION OF COMPLETED WORKS, NV	43	43
MARTIS CREEK LAKE, NV & CA	552	552
PINE AND MATHEWS CANYONS LAKES, NV	288	368
NEW HAMPSHIRE		
BLACKWATER DAM, NH	461	461
COCHECO RIVER, NH	---	1,000
COMPREHENSIVE UPLAND DREDGE DISPOSAL SITE EVALUATION	---	250
EDWARD MACDOWELL LAKE, NH	481	481
FRANKLIN FALLS DAM, NH	500	500
HOPKINTON - EVERETT LAKES, NH	887	887
INSPECTION OF COMPLETED WORKS, NH	12	12
OTTER BROOK LAKE, NH	537	537
PROJECT CONDITION SURVEYS, NH	300	300
SURRY MOUNTAIN LAKE, NH	498	498

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
NEW JERSEY		
BARNEGAT INLET, NJ	1,520	1,720
COLD SPRING INLET, NJ	500	725
DELAWARE RIVER AT CAMDEN, NJ	20	20
DELAWARE RIVER, PHILADELPHIA TO THE SEA, NJ, PA & DE	19,290	20,800
DELAWARE RIVER, PHILADELPHIA, PA TO TRENTON, NJ	3,615	3,615
INSPECTION OF COMPLETED WORKS, NJ	89	89
NEW JERSEY INTRACOASTAL WATERWAY, NJ	1,815	2,000
NEWARK BAY, HACKENSACK AND PASSAIC RIVERS, NJ	100	100
MANAQUAN RIVER, NJ	---	175
PASSAIC RIVER FLOOD WARNING SYSTEMS, NJ	425	425
PROJECT CONDITION SURVEYS, NJ	785	785
RARITAN RIVER, NJ	450	450
SANDY HOOK BAY AT LEONARD, NJ	70	70
SALEM RIVER, NJ	---	700
SHARK RIVER, NJ	70	70
NEW MEXICO		
ABIQUIU DAM, NM	1,712	3,200
COCHITI LAKE, NM	2,569	7,079
CONCHAS LAKE, NM	1,560	2,000
GALISTEO DAM, NM	434	534
INSPECTION OF COMPLETED WORKS, NM	137	137
JEMEZ CANYON DAM, NM	637	3,000
SANTA ROSA DAM AND LAKE, NM	1,176	1,300
SCHEDULING RESERVOIR OPERATIONS, NM	227	227
TWO RIVERS DAM, NM	463	463
UPPER RIO GRANDE WATER OPERATIONS MODEL, NM	---	1,000
NEW YORK		
ALMOND LAKE, NY	471	471
ARKPORT DAM, NY	275	275
BARCELONA HARBOR, NY	3	3
BLACK ROCK CHANNEL AND TONAWANDA HARBOR, NY	2,950	2,950
BROWNS CREEK, NY	80	80
BUFFALO HARBOR, NY	1,263	1,263
BUTTERMILK CHANNEL, NY	300	300
CATTARAUGUS CREEK HARBOR, NY	5	5
DUNKIRK HARBOR, NY	305	305
EAST ROCKAWAY INLET, NY	140	140
EAST SIDNEY LAKE, NY	500	500
FIRE ISLAND INLET TO JONES INLET, NY	2,350	2,350
FLUSHING BAY & CREEK, NY	---	1,500
GLEN COVE CREEK, NY	100	100
GREAT SODUS BAY HARBOR, NY	---	400
HUDSON RIVER CHANNEL, NY	350	350
HUDSON RIVER, NY (MAINT)	2,510	2,510
HUDSON RIVER, NY (O&C)	2,935	2,935
INSPECTION OF COMPLETED WORKS, NY	454	454
JAMAICA BAY, NY	140	140
LONG ISLAND INTRACOASTAL WATERWAY, NY	2,000	2,000
MATTITUCK HARBOR, NY	---	700
MORICHES INLET, NY	30	300
MT MORRIS LAKE, NY	2,753	2,753
NEW YORK AND NEW JERSEY CHANNELS, NY	3,660	3,660
NEW YORK HARBOR, NY	4,460	4,460
NEW YORK HARBOR, NY & NJ (DRIFT REMOVAL)	5,344	5,344
NEW YORK HARBOR, NY (PREVENTION OF OBSTRUCTIVE DEPOSIT	750	750
OAK ORCHARD HARBOR, NY (POINT BREEZE)	---	200
OLCOTT HARBOR, NY	5	5
OSWEGO HARBOR, NY (MAINTENANCE DREDGING)	---	200
PLATTSBURGH HARBOR, NY	---	750
PROJECT CONDITION SURVEYS, NY	1,220	1,220

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
ROCHESTER HARBOR, NY	55	300
RONDOUT HARBOR, NY	150	150
SAG HARBOR, NY	100	100
SHINNECOCK INLET, NY	416	1,000
SOUTHERN NEW YORK FLOOD CONTROL PROJECTS, NY	774	774
STURGEON POINT HARBOR, NY	20	20
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, NY	586	586
WHITNEY POINT LAKE, NY	1,044	1,044
WILSON HARBOR, NY	3	3
NORTH CAROLINA		
ATLANTIC INTRACOASTAL WATERWAY, NC	831	2,200
B EVERETT JORDAN DAM AND LAKE, NC	1,993	1,993
BEAUFORT HARBOR, NC	400	400
BOGUE INLET AND CHANNEL, NC	866	866
CAPE FEAR RIVER ABOVE WILMINGTON, NC	803	803
CAROLINA BEACH INLET, NC	1,088	1,088
FALLS LAKE, NC	2,113	2,113
INSPECTION OF COMPLETED WORKS, NC	33	33
LAKE JUNALUSKA, NC	---	250
LOCKWOODS FOLLY RIVER, NC	1,017	1,017
MANTEO (SHALLOWBAG) BAY, NC	6,390	6,390
MASONBORO INLET AND CONNECTING CHANNELS, NC	50	50
MOREHEAD CITY HARBOR, NC	12,917	12,917
NEW RIVER INLET, NC	839	839
NEW TOPSAIL INLET AND CONNECTING CHANNELS, NC	665	665
PAMLICO AND TAR RIVERS, NC	219	219
PROJECT CONDITION SURVEYS, NC	75	75
ROANOKE RIVER, NC	178	178
W KERR SCOTT DAM AND RESERVOIR, NC	2,853	2,853
WILMINGTON HARBOR, NC	6,906	6,906
NORTH DAKOTA		
BOWMAN - HALEY LAKE, ND	163	163
GARRISON DAM, LAKE SAKAKAWEA, ND	12,664	12,964
HOMME LAKE, ND	921	921
INSPECTION OF COMPLETED WORKS, ND	68	68
LAKE ASHTABULA AND BALDHILL DAM, ND	1,944	1,944
PIPESTEM LAKE, ND	461	461
SCHEDULING RESERVOIR OPERATIONS, ND	113	113
SOURIS RIVER, ND	340	340
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, ND	29	29
OHIO		
ALUM CREEK LAKE, OH	699	1,200
ASHTABULA HARBOR, OH	1,245	1,245
BERLIN LAKE, OH	1,690	1,690
CAESAR CREEK LAKE, OH	1,490	1,490
CLARENCE J BROWN DAM, OH	888	888
CLEVELAND HARBOR, OH	3,235	3,235
CONNEAUT HARBOR, OH	579	800
COOLEY CANAL, OH	20	300
DEER CREEK LAKE, OH	637	637
DELAWARE LAKE, OH	1,181	1,181
DILLON LAKE, OH	532	532
FAIRPORT HARBOR, OH	735	735
HURON HARBOR, OH	108	108
INSPECTION OF COMPLETED WORKS, OH	210	210
LORAIN HARBOR, OH	4,483	4,483
MASSILLON LOCAL PROTECTION PROJECT, OH	25	25
MICHAEL J KIRWAN DAM AND RESERVOIR, OH	793	793
MOSQUITO CREEK LAKE, OH	1,176	1,176
MUSKINGUM RIVER LAKES, OH	7,799	9,399

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
NORTH BRANCH KOKOSING RIVER LAKE, OH	185	185
PAINT CREEK LAKE, OH	788	788
PORT CLINTON HARBOR, OH	10	10
PROJECT CONDITION SURVEYS, OH	129	129
ROCKY RIVER, OH	3	350
ROSEVILLE LOCAL PROTECTION PROJECT, OH	30	30
SANDUSKY HARBOR, OH	825	825
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, OH	165	165
TOLEDO HARBOR, OH	4,004	4,004
TOM JENKINS DAM, OH	238	238
TOUSSAINT RIVER, OH	20	20
VERMILION HARBOR, OH	28	350
WEST FORK OF MILL CREEK LAKE, OH	455	455
WEST HARBOR, OH	3	503
WILLIAM H HARSHA LAKE, OH	941	941
OKLAHOMA		
ARCADIA LAKE, OK	715	715
BIRCH LAKE, OK	482	482
BROKEN BOW LAKE, OK	1,684	1,684
CANDY LAKE, OK	20	20
CANTON LAKE, OK	2,302	2,302
COPAN LAKE, OK	707	707
EUFAULA LAKE, OK	5,889	5,889
FORT GIBSON LAKE, OK	6,463	6,463
FORT SUPPLY LAKE, OK	846	846
GREAT SALT PLAINS LAKE, OK	514	514
HEYBURN LAKE, OK	612	612
HUGO LAKE, OK	1,638	1,638
HULAH LAKE, OK	1,230	1,230
KAW LAKE, OK	2,016	2,016
KEYSTONE LAKE, OK	6,834	6,834
OOLOGAH LAKE, OK	2,099	2,099
OPTIMA LAKE, OK	406	406
PENSACOLA RESERVOIR, LAKE OF THE CHEROKEES, OK	35	35
PINE CREEK LAKE, OK	921	921
ROBERT S KERR LOCK AND DAM AND RESERVOIRS, OK	4,275	4,495
SARDIS LAKE, OK	1,096	1,096
SCHEDULING RESERVOIR OPERATIONS, OK	387	387
SKIATOOK LAKE, OK	1,353	1,353
TENKILLER FERRY LAKE, OK	3,217	3,217
WAURIKA LAKE, OK	1,241	1,241
WEBBERS FALLS LOCK AND DAM, OK	6,551	6,551
WISTER LAKE, OK	948	948
OREGON		
APPLEGATE LAKE, OR	666	666
BLUE RIVER LAKE, OR	261	261
BONNEVILLE LOCK AND DAM, OR & WA	4,849	4,849
CHETCO RIVER, OR	---	350
COLUMBIA & LWR WILLAMETTE R BLW VANCOUVER, WA & PORTLA	16,674	17,500
COLUMBIA RIVER AT BAKER BAY, WA	---	350
COLUMBIA RIVER AT THE MOUTH, OR & WA	10,028	10,028
COLUMBIA RIVER BETWEEN VANCOUVER, WA AND THE DALLES, O	382	382
COOS BAY, OR	3,598	3,598
COQUILLE RIVER, OR	---	300
COTTAGE GROVE LAKE, OR	724	724
COUGAR LAKE, OR	3,577	3,577
DEPOE BAY (HARBOR WALL STABILIZATION), OR	---	400
DETROIT LAKE, OR	2,002	2,002
DORENA LAKE, OR	535	535
FALL CREEK LAKE, OR	464	464
FERN RIDGE LAKE, OR	956	1,500
GREEN PETER - FOSTER LAKES, OR	2,545	2,545

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
HILLS CREEK LAKE, OR	4,895	4,895
INSPECTION OF COMPLETED WORKS, OR	161	161
JOHN DAY LOCK AND DAM, OR & WA	4,038	4,538
LOOKOUT POINT LAKE, OR	2,027	2,027
LOST CREEK LAKE, OR	5,154	5,154
MCNARY LOCK AND DAM, OR & WA	5,484	5,484
PORT ORFORD, OR	---	250
PROJECT CONDITION SURVEYS, OR	200	200
ROUGE RIVER, GOLD BEACH, OR	---	400
SCHEDULING RESERVOIR OPERATIONS, OR	60	60
SIUSLAW RIVER, OR	---	150
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, OR	134	134
TILLAMOOK BAY AND BAR, OR	---	400
UMPQUA RIVER, OR	---	425
WILLAMETTE RIVER AT WILLAMETTE FALLS, OR	259	359
WILLAMETTE RIVER BANK PROTECTION, OR	58	58
WILLOW CREEK LAKE, OR	599	599
YAQUINA BAY AND HARBOR, OR	1,228	1,228
PENNSYLVANIA		
ALLEGHENY RIVER, PA	4,596	4,846
ALVIN R BUSH DAM, PA	712	712
AYLESWORTH CREEK LAKE, PA	254	254
BELTZVILLE LAKE, PA	1,095	1,095
BLUE MARSH LAKE, PA	2,810	2,810
CONEMAUGH RIVER LAKE, PA	962	962
COWANESQUE LAKE, PA	3,118	3,118
CROOKED CREEK LAKE, PA	1,369	1,369
CURWENSVILLE LAKE, PA	743	743
EAST BRANCH CLARION RIVER LAKE, PA	1,057	1,057
ERIE HARBOR, PA	135	135
FOSTER JOSEPH SAYERS DAM, PA	789	789
FRANCIS E WALTER DAM, PA	681	1,000
GENERAL EDGAR JADWIN DAM AND RESERVOIR, PA	348	348
INSPECTION OF COMPLETED WORKS, PA	271	271
JOHNSTOWN, PA	997	2,247
KINZUA DAM AND ALLEGHENY RESERVOIR, PA	1,437	1,437
LOYALHANNA LAKE, PA	885	885
MAHONING CREEK LAKE, PA	820	820
MONONGAHELA RIVER, PA	15,158	15,500
OHIO RIVER LOCKS AND DAMS, PA, OH & WV	22,504	22,504
OHIO RIVER OPEN CHANNEL WORK, PA, OH & WV	488	488
PROJECT CONDITION SURVEYS, PA	21	21
PROMPTON LAKE, PA	455	455
PUNXSUTAWNEY, PA	17	17
RAYSTOWN LAKE, PA	5,674	6,074
SCHEDULING RESERVOIR OPERATIONS, PA	57	57
SCHUYLKILL RIVER, PA	1,360	1,360
SHENANGO RIVER LAKE, PA	1,829	1,829
STILLWATER LAKE, PA	385	385
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, PA	79	79
TIOGA - HAMMOND LAKES, PA	3,852	4,352
TIONESTA LAKE, PA	1,790	2,340
UNION CITY LAKE, PA	224	224
WOODCOCK CREEK LAKE, PA	810	810
YORK INDIAN ROCK DAM, PA	691	691
YOUGHIOGHENY RIVER LAKE, PA & MD	1,804	1,804
RHODE ISLAND		
INSPECTION OF COMPLETED WORKS, RI	6	6
PROJECT CONDITION SURVEYS, RI	2,163	2,163
PROVIDENCE RIVER AND HARBOR, RI	21,000	21,000

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
SOUTH CAROLINA		
ATLANTIC INTRACOASTAL WATERWAY, SC	269	1,432
CHARLESTON HARBOR, SC	9,740	10,000
COOPER RIVER, CHARLESTON HARBOR, SC	3,380	3,380
FOLLY RIVER, SC	277	400
GEORGETOWN HARBOR, SC	2,719	2,719
INSPECTION OF COMPLETED WORKS, SC	26	26
MURRELLS INLET, SC	45	45
PROJECT CONDITION SURVEYS, SC	229	229
TOWN CREEK, SC	419	419
SOUTH DAKOTA		
BIG BEND DAM, LAKE SHARPE, SD	6,715	6,715
CHEYENNE, RIVER SIOUX TRIBE, LOWER BRULE, SD	---	5,000
COLD BROOK LAKE, SD	238	238
COTTONWOOD SPRINGS LAKE, SD	192	192
FORT RANDALL DAM, LAKE FRANCIS CASE, SD	6,873	6,873
INSPECTION OF COMPLETED WORKS, SD	21	21
LAKE TRAVERSE, SD & MN	907	907
MISSOURI R BETWEEN FORT PECK DAM AND GAVINS PT, SD, MT	410	410
OAHE DAM, LAKE OAHE, SD & ND	13,768	13,768
SCHEDULING RESERVOIR OPERATIONS, SD	48	48
TENNESSEE		
CENTER HILL LAKE, TN	8,604	8,604
CHEATHAM LOCK AND DAM, TN	5,612	5,612
CHICKAMAUGA LOCK, TN	2,480	2,480
CORDELL HULL DAM AND RESERVOIR, TN	3,870	3,870
DALE HOLLOW LAKE, TN	6,120	6,120
INSPECTION OF COMPLETED WORKS, TN	127	127
J PERCY PRIEST DAM AND RESERVOIR, TN	3,150	3,150
OLD HICKORY LOCK AND DAM, TN	7,685	7,685
PROJECT CONDITION SURVEYS, TN	6	6
TENNESSEE RIVER, TN	16,521	17,200
WOLF RIVER HARBOR, TN	20	530
TEXAS		
AQUILLA LAKE, TX	589	589
ARKANSAS - RED RIVER BASINS CHLORIDE CONTROL - AREA VI	1,262	1,262
BARBOUR TERMINAL CHANNEL, TX	659	659
BARDWELL LAKE, TX	1,598	1,598
BELTON LAKE, TX	3,299	4,100
BENBROOK LAKE, TX	2,038	2,038
BUFFALO BAYOU AND TRIBUTARIES, TX	2,413	2,413
CANYON LAKE, TX	2,770	2,770
CORPUS CHRISTI SHIP CHANNEL, TX	6,650	6,650
DENISON DAM, LAKE TEXOMA, TX	8,500	8,800
ESTELLINE SPRINGS EXPERIMENTAL PROJECT, TX	3	3
FERRELLS BRIDGE DAM, LAKE O' THE PINES, TX	2,660	2 660
FREEPORT HARBOR, TX	4,500	4,500
GALVESTON HARBOR AND CHANNEL, TX	4,676	4,676
GRANGER DAM AND LAKE, TX	1,568	1,568
GRAPEVINE LAKE, TX	2,596	2,596
GULF INTRACOASTAL WATERWAY, TX	21,329	21,329
HORDS CREEK LAKE, TX	1,223	1,223
HOUSTON SHIP CHANNEL, TX	13,539	13,539
INSPECTION OF COMPLETED WORKS, TX	256	256
JIM CHAPMAN LAKE, TX	1,141	1,141
JOE POOL LAKE, TX	626	626
LAKE KEMP, TX	487	487
LAVON LAKE, TX	3,312	3,312
LEWISVILLE DAM, TX	3,124	3,124

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
MATAGORDA SHIP CHANNEL, TX	4,690	4,690
NAVARRO MILLS LAKE, TX	1,597	1,597
NORTH SAN GABRIEL DAM AND LAKE GEORGETOWN, TX	1,711	1,711
O C FISHER DAM AND LAKE, TX	1,419	1,419
PAT MAYSE LAKE, TX	794	900
PROCTOR LAKE, TX	1,683	1,683
PROJECT CONDITION SURVEYS, TX	50	50
RAY ROBERTS LAKE, TX	689	1,200
SABINE - NECHES WATERWAY, TX	8,849	8,849
SAM RAYBURN DAM AND RESERVOIR, TX	5,618	5,618
SCHEDULING RESERVOIR OPERATIONS, TX	190	190
SOMERVILLE LAKE, TX	3,323	3,323
STILLHOUSE HOLLOW DAM, TX	2,487	2,600
TEXAS CITY SHIP CHANNEL, TX	---	1,000
TEXAS WATER ALLOCATION ASSESSMENT, TX	100	100
TOWN BLUFF DAM, B A STEINHAGEN LAKE, TX	1,946	2,500
WACO LAKE, TX	2,316	2,816
WALLISVILLE LAKE, TX	958	958
WHITNEY LAKE, TX	4,695	4,695
WRIGHT PATMAN DAM AND LAKE, TX	3,404	3,464
UTAH		
INSPECTION OF COMPLETED WORKS, UT	65	65
SCHEDULING RESERVOIR OPERATIONS, UT	464	464
VERMONT		
BALL MOUNTAIN LAKE, VT	651	651
INSPECTION OF COMPLETED WORKS, VT	42	42
NARROWS OF LAKE CHAMPLAIN, VT & NY	50	50
NORTH HARTLAND LAKE, VT	582	582
NORTH SPRINGFIELD LAKE, VT	621	621
TOWNSHEND LAKE, VT	595	595
UNION VILLAGE DAM, VT	545	545
WINHALL BROOK, VT	---	600
VIRGINIA		
APPOMATTOX RIVER, VA	---	150
ATLANTIC INTRACOASTAL WATERWAY - ACC, VA	1,991	1,991
ATLANTIC INTRACOASTAL WATERWAY - DSC, VA	1,033	1,033
BONUM CREEK, VA	705	705
CAPE CHARLES CITY HARBOR, VA	25	25
CHINCOTEAGUE INLET, VA	915	915
DEEP CREEK, NEWPORT NEWS, VA	---	350
GATHRIGHT DAM AND LAKE MOOMAW, VA	1,756	1,756
HAMPTON CREEK, VA	733	733
HAMPTON RDS, NORFOLK & NEWPORT NEWS HBR, VA (DRIFT REM	1,200	1,200
HOSKINS CREEK, VA	1,479	1,479
INSPECTION OF COMPLETED WORKS, VA	111	111
JAMES RIVER CHANNEL, VA	3,107	3,107
JOHN H KERR LAKE, VA & NC	10,839	10,839
JOHN W FLANNAGAN DAM AND RESERVOIR, VA	1,341	1,341
LYNNHAVEN INLET, VA	200	200
MONROE BAY AND CREEK, VA	422	422
NORFOLK HARBOR, VA	7,115	7,115
NORFOLK HARBOR, VA (PREVENTION OF OBSTRUCTIVE DEPOSITS	200	200
NORTH FORK OF POUND RIVER LAKE, VA	343	343
OYSTER CHANNEL, VA	310	310
PAGAN RIVER, VA	---	300
PHILPOTT LAKE, VA	3,854	3,854
PROJECT CONDITION SURVEYS, VA	750	750
QUINBY CREEK, VA	40	40
RUDEE INLET, VA	1,180	1,180
TYLER'S BEACH DREDGING PROJECT	---	100

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
WATERWAY ON THE COAST OF VIRGINIA, VA	1,285	1,400
YORK RIVER, VA	1,585	1,585
WASHINGTON		
BELLINGHAM HARBOR, WA	50	50
CHIEF JOSEPH DAM, WA	711	711
COLUMBIA RIVER BTWN CHINOOK & HEAD OF SAND ISLAND, WA.	---	500
EVERETT HARBOR AND SNOHOMISH RIVER, WA	1,579	1,579
GRAYS HARBOR AND CHEHALIS RIVER, WA	8,377	9,377
HOWARD HANSON DAM, WA	2,050	2,050
ICE HARBOR LOCK AND DAM, WA	7,770	7,770
INSPECTION OF COMPLETED WORKS, WA	295	295
LAKE CROCKETT (KEYSTONE HARBOR), WA	7	7
LAKE WASHINGTON SHIP CANAL, WA	6,262	6,262
LITTLE GOOSE LOCK AND DAM, WA	1,342	1,342
LOWER GRANITE LOCK AND DAM, WA	2,074	2,074
LOWER MONUMENTAL LOCK AND DAM, WA	2,004	2,004
MILL CREEK LAKE, WA	1,196	1,196
MT ST HELENS SEDIMENT CONTROL, WA	263	263
MUD MOUNTAIN DAM, WA	2,931	2,931
PROJECT CONDITION SURVEYS, WA	347	347
PUGET SOUND AND TRIBUTARY WATERS, WA	961	961
SCHEDULING RESERVOIR OPERATIONS, WA	472	472
SEATTLE HARBOR, WA	985	985
STILLAGUAMISH RIVER, WA	254	254
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WA	62	62
SWINOMISH CHANNEL, WA	520	520
TACOMA, PUYALLUP RIVER, WA	115	115
THE DALLES LOCK AND DAM, WA & OR	3,278	3,278
WILLAPA RIVER AND HARBOR, WA	510	510
WEST VIRGINIA		
BEECH FORK LAKE, WV	1,061	1,061
BLUESTONE LAKE, WV	1,074	1,074
BURNSVILLE LAKE, WV	1,446	1,446
EAST LYNN LAKE, WV	1,609	1,609
ELKINS, WV	18	18
INSPECTION OF COMPLETED WORKS, WV	106	106
KANAWHA RIVER LOCKS AND DAMS, WV	7,655	7,655
OHIO RIVER LOCKS AND DAMS, WV, KY & OH	24,270	24,270
OHIO RIVER OPEN CHANNEL WORK, WV, KY & OH	2,366	2,366
R D BAILEY LAKE, WV	1,457	1,607
STONEWALL JACKSON LAKE, WV	836	836
SUMMERSVILLE LAKE, WV	1,469	1,469
SUTTON LAKE, WV	1,785	3,000
TYGART LAKE, WV	4,195	4,195
WISCONSIN		
EAU GALLE RIVER LAKE, WI	1,599	1,599
FOX RIVER, WI	3,929	3,929
GREEN BAY HARBOR, WI	3,492	3,492
INSPECTION OF COMPLETED WORKS, WI	47	47
KENOSHA HARBOR, WI	178	178
KEWAUNEE HARBOR, WI	120	120
MANITOWOC HARBOR, WI	63	63
MILWAUKEE HARBOR, WI	781	781
PORT WASHINGTON HARBOR, WI	170	170
PROJECT CONDITION SURVEYS, WI	96	96
SHEBOYGAN HARBOR, WI	991	991
STURGEON BAY HARBOR AND LAKE MICHIGAN SHIP CANAL, WI	317	317
SURVEILLANCE OF NORTHERN BOUNDARY WATERS, WI	472	472
TWO RIVERS HARBOR, WI	1,200	1,200

OPERATION AND MAINTENANCE
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST	CONFERENCE
WYOMING		
INSPECTION OF COMPLETED WORKS, WY	11	11
JACKSON HOLE LEVEES, WY	1,217	1,217
SCHEDULING RESERVOIR OPERATIONS, WY	86	86
MISCELLANEOUS		
AQUATIC NUISANCE CONTROL RESEARCH	725	1,025
AUTOMATED BUDGET SYSTEM (ABS)	285	285
COASTAL INLET RESEARCH PROGRAM	2,750	3,050
CULTURAL RESOURCES (NAGPRA/CURATION)	1,545	1,545
DREDGE WHEELER READY RESERVE	8,000	8,000
DREDGING DATA AND LOCK PERFORMANCE MONITORING SYSTEM	1,180	1,180
DREDGING OPERATIONS AND ENVIRONMENTAL RESEARCH (DOER)	6,755	6,755
DREDGING OPERATIONS TECHNICAL SUPPORT PROGRAM	1,545	1,545
EARTHQUAKE HAZARDS REDUCTION PROGRAM	300	300
EXTRAORDINARY MAINTENANCE	---	15,000
FACILITY PROTECTION	13,000	13,000
GREAT LAKES SEDIMENT TRANSPORT MODELS	1,000	1,000
HARBOR MAINTENANCE FEE DATA COLLECTION	675	675
INLAND WATERWAY NAVIGATION CHARTS	4,120	4,120
LONG TERM OPTION ASSESSMENT FOR LOW USE NAVIGATION	1,000	---
MONITORING OF COMPLETED NAVIGATION PROJECTS	1,750	1,750
NATIONAL DAM SAFETY PROGRAM	45	45
NATIONAL DAM SECURITY PROGRAM	30	30
NATIONAL EMERGENCY PREPAREDNESS PROGRAM (NEPP)	6,000	6,000
NATIONAL LEWIS AND CLARK COMMEMORATION COORDINATOR	310	310
PERFORMANCE BASED BUDGETING SUPPORT PROGRAM	815	815
PROTECT, CLEAR AND STRAIGHTEN CHANNELS(SEC 3)	50	50
RECREATION MANAGEMENT SUPPORT PROGRAM (RMSP)	1,545	1,545
REGIONAL SEDIMENT MANAGEMENT DEMONSTRATION PROGRAM	1,545	1,795
RELIABILITY MODELS PROGRAM FOR MAJOR REHABILITATION	675	675
REMOVAL OF SUNKEN VESSELS	500	500
WATER OPERATIONS TECHNICAL SUPPORT (WOTS)	725	725
WATERBORNE COMMERCE STATISTICS	4,745	4,745
REDUCTION FOR ANTICIPATED SAVINGS AND SLIPPAGE	-13,491	-114,038
TOTAL, OPERATION AND MAINTENANCE	1,939,000	1,967,925

TITLE II

DEPARTMENT OF THE INTERIOR

CENTRAL UTAH PROJECT

CENTRAL UTAH PROJECT COMPLETION ACCOUNT

The conference agreement appropriates $38,191,000 to carry out the provisions of the Central Utah Project Completion Act as proposed by the House and the Senate.

Section 402(b)(3)(B) of the Central Utah Project Completion Act directed that the Secretary of Energy, out of funds appropriated to the Western Area Power Administration, contribute funds annually to the Utah Reclamation Mitigation and Conservation Fund. On May 9, 2003, the Administration submitted a budget amendment proposing to transfer that responsibility to the Secretary of the Interior and requesting an additional $6,000,000 in this account for that purpose. The conference agreement (Section 214) provides that this payment shall continue to be made from funds appropriated to the Western Power Administration for ten years from the date of enactment of this Act.

BUREAU OF RECLAMATION

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Bureau of Reclamation. Additional items of conference agreement are discussed below.

WATER AND RELATED RESOURCES

The conference agreement appropriates $857,498,000 for Water and Related Resources instead of $817,913,000 as proposed by the House and $859,517,000 as proposed by the Senate.

The conference agreement includes $4,500,000 for the Colorado River Front Work and Levee system project, $1,000,000 more than the budget request. The Bureau of Reclamation is directed to carry out the work on the water management reservoirs. near the All American Canal and associated facilities under the authority of the Colorado River Front Work and Levee System (P.L. 585 and P.L. 560, as amended).

The conferees are concerned that the Bureau of Reclamation is having to make excess releases of more than 100,000 acre-feet of water per year from storage in Colorado River reservoirs in order to meet the delivery requirements of the 1944 Treaty with Mexico. This is due to not counting Wellton-Mohawk Irrigation and Drainage District drainage flows that are bypassed to the Cienega de Santa Clara as part of the 1.5 million acre-feet required to satisfy the Treaty. This loss of water has become particularly acute due to the drought in the Colorado River Basin. The loss of more than 100,000 acre-feet per year robs all seven basin states of badly needed water. Title I of the Colorado River Basin Salinity Control Act identified construction and operation of the Yuma Desalting Plant as the solution to the agreement between the United States and Mexico preferred by all parties. Accordingly, the conferees direct the Bureau of Reclamation to expedite its modifications of the plant to accomplish state of the art operation, and accelerate the permitting and environmental compliance activities needed for operation of the plant. The Bureau of Reclamation is directed to report to the House and Senate Committees on Appropriations on the status of those activities within 180 days of enactment of this Act.

The amount provided for the Delta Division of the Central Valley Project includes: $1,000,000 for the Bureau of Reclamation to continue design of an intertie between the Delta-Mendota Canal and the California Aqueduct; $500,000 to continue oversight activities in coordination with the CALFED Program Implementation Plan; and $1,000,000 to continue activities associated with the enlargement of Los Vaqueros Reservoir.

The amount provided for the Friant Division of the Central Valley Project includes $1,500,000 to continue Upper San Joaquin River Basin storage investigations.

The amount provided for Miscellaneous Project Programs of the Central Valley Project includes: $400,000 for the Kaweah River Delta Corridor Enhancement Study; $3,500,000 to continue work on Sacramento River fish screen projects; $1,000,000 for the administration of storage, conveyance, water use efficiency, ecosystem restoration, science, and water transfer activities in support of the CALFED program; $1,000,000 for technical assistance to the State of California; and an additional $2,000,000 for the Environmental Water Account.

The amount provided for the Sacramento River Division of the Central Valley Project includes: an additional $1,800,000 for the Glenn-Colusa Irrigation District fish passage improvement project, including funds for the Bureau of Reclamation to reimburse the Glenn-Colusa Irrigation District for costs incurred by the District in excess of its non-Federal cost-sharing requirement; $1,250,000 to continue planning and study activities for Sites Reservoir, including an evaluation of the utilization of both the GCID Main Canal and the Tehama-Colusa Canal as a means to convey water to the proposed reservoir; and $400,000 to continue work on the Colusa Basin Integrated Resources Management Plan.

The amount provided for the Shasta Division of the Central Valley Project includes $750,000 to continue the evaluation of potential impacts of the proposed Shasta Dam raise.

The amount provided for the West San Joaquin Division of the Central Valley Project includes $1,000,000 for implementation of the Westside Regional Drainage Plan. The conferees have not provided the funds requested for the payment of settlement costs in the case of *Sumner Peck Ranch* v. *Bureau of Reclamation.*

The conference agreement includes $4,000,000 for the Salton Sea Research Project in California, including $1,000,000 to continue environmental restoration efforts at the New and Alamo Rivers, including efforts in and around Calexico, California, $1,000,000 to continue the Imperial Valley groundwater assessment in cooperation with Lawrence Livermore National Laboratory, and $1,000,000 for additional work needed to prepare for the construction of pilot desalination and demonstration facilities.

The conferees have provided $1,835,000 for the Southern California Investigations Program, including $300,000 to continue the Chino Basin Conjunctive Use Project, and an additional $400,000 for the Los Angeles Basin Watershed Water Supply Augmentation study.

The conference agreement includes bill language proposed by the House which provides that $10,000,000 of the funds appropriated for Water and Related Resources shall be deposited in the San Gabriel Basin Restoration Fund to continue the program to design, construct, and operate projects to contain and treat the spreading groundwater contamination in the San Gabriel and Central Groundwater Basins in California.

The conference agreement includes $52,000,000 for the Bureau of Reclamation to continue construction of the Animas-La Plata project in Colorado. The conferees are very concerned about the recently announced $162,000,000 cost increase for this project. This cost increase threatens the project schedule set forth in the authorizing legislation and the ability of the Congress to continue to fund this important project. The conferees direct the Bureau of Reclamation to submit to the Committees on Appropriations within 90 days of enactment of this Act, a detailed report on the cost increase, including an explanation of the elements that comprise the cost increase, the impact of the cost increase on the project schedule, and the need for additional authorization for completion of the project.

The conference agreement includes $15,000,000 for the Columbia and Snake Rivers Salmon Recovery Project. The conference agreement does not include the $4,000,000 requested by the Administration for construction activities that require additional authorization.

The conference agreement includes an additional $270,000 for the Boise Area Projects in Idaho to offset costs associated with water service contract renewals for Lucky Peak Reservoir. The conferees direct the Bureau of Reclamation to not seek reimbursement of these funds from water users.

The conferees have provided an additional $700,000 under the Oklahoma Investigations Program for the Bureau of Reclamation to continue studies of ways to better manage the resources of the Arbuckle-Simpson aquifer.

The conference agreement includes $350,000 for the Bend Feed Canal element of the Deschutes Project in Oregon. The conferees understand that this funding will complete the Federal obligation for this project.

The conference agreement deletes bill language proposed by the Senate regarding the Mni Wiconi project in South Dakota. The amount appropriated for Water and Related Resources includes $25,217,000 to continue construction of the Mni Wiconi project.

The conference agreement includes $500,000 for the Bureau of Reclamation to continue a feasibility study of water supply infrastructure improvements in Park City, Utah. The Senate had proposed to fund this effort within the programs of the U.S. Army Corps of Engineers.

The conference agreement includes $4,000,000 for the Drought Emergency Assistance Program. Within the funds provided, $1,000,000 is for emergency assistance in Nebraska, $1,000,000 is for assistance to the Navajo Nation in New Mexico and Arizona, and $1,000,000 is for the completion of emergency wells in Santa Fe, New Mexico. The conference agreement includes language directing the Bureau of Reclamation to complete the Santa Fe wells project through a cooperative agreement with the City of Santa Fe. In addition, the conferees urge the Bureau of Reclamation to provide full and fair consideration to the request for drought assistance from the State of Hawaii. The conferees also encourage the Bureau of Reclamation to investigate the use of moisture sensor irrigation control systems and to give consideration to a demonstration project on Bureau property at the Boulder City, Nevada, office. The demonstration project would determine water savings that might be achieved by use of moisture sensor irrigation control systems where individual and separately adjustable moisture sensors are placed in each irrigation zone on a landscape to monitor and automatically terminate irrigation on a zone-by-zone basis.

The conference agreement includes $12,871,000 for the Endangered Species Recovery Implementation Program, $500,000 below the budget request. Of the amount provided, $2,000,000 is for the program in the Platte River basin. The conferees are very concerned about the lack of clear authority for the Bureau of Reclamation to participate in this large, multi-year effort. Although the cost of the first increment of this program is currently estimated at $75,000,000, the Bureau of Reclamation indicates that costs could be as much as $150,000,000. The only authority cited by the Bureau of Reclamation for its participation in this effort is the Endangered Species Act, which would seem to limit Reclamation's participation to addressing impacts of operation of its projects on the species at risk. The Commissioner of Reclamation testified that a specific authorization for the program would provide clearer guidance for the expenditure of funds. The conferees agree with that assessment and urge the Administration to work with the states and other Federal agencies to develop a specific authorization for this multi-year, multi-million dollar undertaking.

The conferees have provided $3,980,000 for the Title XVI Water Reclamation and Reuse Program. Within the amount provided, $2,000,000 is to continue support to the WateReuse Foundation's research program, $300,000 is for the Alamogordo, New Mexico desalination study, and $200,000 is for the Bureau of Reclamation to work with local authorities in Hawaii on water reclamation and reuse opportunities as described in the Senate Report.

The conference agreement includes $8,400,000 for the Bureau of Reclamation's new Western Water Initiative. Of the funds provided, $1,000,000 is for the Desert Research Institute to address water quality and environmental issues in ways that will bring industry and regulators to mutually acceptable answers, $1,750,000 is for efficiency improvements in the Middle Rio Grande Conservancy District, and $1,000,000 is for the Bureau of Reclamation to enter into a strategic alliance with the International Center for Water Resources Management at Central State University in Ohio, the Ohio View Consortium, and Colorado State University for the development of advanced remote sensing technologies for use in operational decisions to deal with the current drought conditions, and to develop optimal strategies for managing water resources to deal with future constraining events. The House had proposed to fund this work under the Science and Technology Program. In addition, the conferees urge the Bureau of Reclamation to undertake a pilot project for innovative water conservation measures within the Klamath Basin project.

BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

The conference agreement includes $200,000 for administrative expenses for the Bureau of Reclamation Loan Program as proposed by the House and the Senate.

CENTRAL VALLEY PROJECT RESTORATION FUND

The conference agreement appropriates $39,600,000 for the Central Valley Project Restoration Fund as proposed by the House and the Senate.

Within the Anadromous Fish Restoration Program, the conferees urge the Bureau of Reclamation to use $500,000 to facilitate cooperative efforts between the Bureau of Reclamation and local agencies or conservation entities in the Mill Creek Watershed to evaluate and undertake water diversion and fishery options on Mill Creek, and to develop guidelines for resource valuation and Restoration Fund crediting for restoration activities under the Central Valley Project Improvement Act.

The conference agreement includes language proposed by the House which provides that none of the funds made available from the Central Valley Project Restoration Fund may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

CALIFORNIA BAY-DELTA ECOSYSTEM RESTORATION

The conference agreement includes no funds in the California Bay-Delta Ecosystem Restoration account as proposed by the House and the Senate.

The conferees have provided additional finds within the various units of the Central Valley Project under the Water and Related Resources account for activities that support the goals of the California Bay-Delta Ecosystem Restoration Program as proposed by the Senate. The conferees are aware that legislation to authorize this multi-year, multi-billion dollar program is under consideration by the Congress, but has yet to be enacted. Absent such an authorization, it will be difficult for the Congress to continue its support for this program. Therefore, the conferees strongly urge the parties involved to work to enact an authorization for the program so additional funding can be considered in the fiscal year 2005 appropriations cycle. The additional funds provided in support of the program are to be used as described in the Senate report except for storage investigations in the Upper San Joaquin Watershed, for which a total of $1,500,000 is provided, and activities related to Sites Reservoir, for which a total of $1,250,000 is provided.

Should funding requirements shift within the CALFED related activities funded within the Central Valley Project, the conferees would consider requests to reprogram funding within the designated CALFED items.

POLICY AND ADMINISTRATION

The conference agreement appropriates $55,525,000 for Policy and Administration instead of $56,525,000 as proposed by the House and instead of $54,425,000 as proposed by the Senate.

The conference agreement does not include language proposed by the Senate regarding acquisitions made by the Department of the Interior of articles, materials and supplies manufactured outside the United States.

Contracting Out.—The conferees continue to be committed to increasing the contracting out of the Bureau of Reclamation's functions which can be reasonably performed in the private sector, particularly planning, engineering and design work. However, the conferees also believe that some Federal capability is necessary and needs to be maintained. The conferees are pleased that the Bureau achieved the 10 percent target for fiscal year 2003, and look forward to working with the Commissioner to further the Administration's initiative in this area with regard to the Bureau of Reclamation.

Underfinancing.—The conferees are very concerned about the way the Bureau of Reclamation applied underfinancing in the Water and Related Resources account for fiscal year 2003. The conferees recognize that the total amount of underfinancing and the lateness of the fiscal year 2003 appropriation placed the Bureau of Reclamation in a difficult situation. However, the conferees believe that in fiscal year 2003, the Bureau of Reclamation used underfinancing to inappropriately reduce funding for Congressional priorities to the benefit of its own priorities. The use of underfinancing is a recognition that during the course of the year, it is inevitable that some projects and activities will fall behind schedule for a wide variety of reasons. The conferees agree that underfinancing should be applied against those activities or projects. However, underfinancing should not be used to pick winners and losers. The conferees remind the Bureau of Reclamation that current law provides that, "Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law." (31 U.S.C. 1301). The best expression of the purposes for which funds are appropriated are the House and Senate reports which accompany appropriations acts. Underfinancing should not be used to subvert the will of the Congress as expressed in those documents. Accordingly, the conferees direct that the Bureau of Reclamation apply the amount of underfinancing provided in this Act proportionately to all projects and activities funded in the Water and Related Resources account. As the year progresses, the Bureau of Reclamation has available to it the normal reprogramming procedures to adjust the funding levels for individual projects or activities to reflect actual project performance.

WORKING CAPITAL FUND

The conference agreement rescinds $4,525,000 of unobligated balances in the Working Capital Fund as proposed by the House and the Senate.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

Section 201. The conference agreement includes language proposed by the House and the Senate regarding the San Luis Unit and the Kesterson Reservoir in California.

Section 202. The conference agreement includes language proposed by the House and the Senate which prohibits the use of funds for any water acquisition or lease in the Middle Rio Grande or Carlsbad Projects in New Mexico unless the acquisition is in compliance with existing State law and administered under State priority allocation.

Section 203. The conference agreement includes language proposed by the House which amends Section 206 of Public Law 101–514 regarding water supply contracts for Sacramento County Water Agency and the San Juan Suburban Water District in California.

Section 204. The conference agreement includes language proposed by the House which authorizes and directs the Secretary of the Interior to amend the Central Valley Project water supply contracts for the Sacramento County Water Agency and the San Juan Suburban Water District by deleting a provision requiring a determination of annual water needs.

Section 205. The conference agreement includes language proposed by the House, modified to make technical corrections, regarding funds available in the Lower Colorado River Basin Development Fund. The Senate bill included a similar provision.

Section 206. The conference agreement includes language proposed by the House which provides that funds provided to the Bureau of Reclamation may be used for the payment of claims not exceeding $5,000,000.

Section 207. The conference agreement includes language proposed by the Senate concerning drought emergency assistance.

Section 208. The conference agreement includes language proposed by the Senate regarding Endangered Species Act requirements on the Rio Grande River in New Mexico. The language has been amended to state that the restrictions on changes to water deliveries also apply to water stored in Heron Reservoir, to clarify that it only applies to Federal and non-Federal actions addressed in the March 17, 2003, Biological Opinion, and to provide that subsection (b) shall remain in effect for 2 years from the date of enactment of this Act.

The conferees recognize that the six Middle Rio Grande Pueblos (Sandia, Isleta, San Felipe, Cochiti, Santa Ana, and Santo Domingo) were not parties to the *Silvery Minnow* v. *Keys*, 333 F.3d 1109 (10th Cir. 2003) litigation. The conferees also recognize that the ruling of the three judge panel may potentially impact them. The conferees therefore direct the Secretary of the Interior to report to Congress, within 180 days of the enactment of this Act, on the impact of the ruling on the Pueblos' water rights and water deliveries with regard to the enforcement of the silvery minnow biological opinion by the Bureau of Reclamation.

Section 209. The conference agreement includes language proposed by the Senate which reforms the Endangered Species Collaborative Program. The language has been amended to change the representation in the Collaborative Program executive committee and change the effective date of the section.

Section 210. The conference agreement includes language proposed by the Senate regarding the Tularosa Basin National Research Facility in New Mexico.

Section 211. The conference agreement includes language proposed by the Senate regarding feasibility studies undertaken in connection with CALFED-related activities.

Section 212. The conference agreement includes language proposed by the Senate regarding the Western Water Initiative.

Section 213. The conference agreement includes language proposed by the Senate amending the Hawaii Water Resources Act of 2000.

Section 214. The conference agreement includes language proposed by the Senate regarding contributions of the Western Area Power Administration to the Utah Reclamation Mitigation and Conservation Account.

Section 215. The conference agreement includes language proposed by the Senate regarding a feasibility study in the Tualatin River Basin in Oregon.

Section 216. The conference agreement includes language proposed by the Senate regarding Indian water rights settlements in the State of Arizona.

Section 217. The conference agreement includes language proposed by the Senate regarding the restoration of fish and wildlife habitat in the vicinity of Fallon, Nevada. The language has been amended to make technical corrections.

Section 218. The conference agreement includes language which extends the terms of Sacramento River Settlement Contracts.

Section 219. The conference agreement includes language which amends the authorization to construct temperature control devices at Folsom Dam in California.

Section 220. The conference agreement includes language authorizing the Secretary of the Interior to undertake activities at Savage Rapids Dam in Oregon.

Section 221. The conference agreement includes language extending certain irrigation project contracts in Wyoming and Nebraska.

Provisions not included in the conference agreement.—The conference agreement does not include language proposed by the Senate regarding the Bureau of Reclamation program to provide grants to institutions of higher learning to support the training of Native Americans to manage their water resources. The fiscal year 2003 Energy and Water Development Appropriations Act made this provision permanent.

The conference agreement does not include language proposed by the Senate providing funds for the Middle Rio Grande project in New Mexico and the Lake Tahoe Regional Wetlands Development project in California and Nevada. Funding for those projects is included within the amount appropriated for Water and Related Resources.

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
WATER AND RELATED RESOURCES				
ARIZONA				
AK CHIN INDIAN WATER RIGHTS SETTLEMENT ACT PROJECT....	---	5,743	---	5,743
CENTRAL ARIZONA PROJECT, COLORADO RIVER BASIN.........	34,009	78	34,009	78
COLORADO RIVER BASIN SALINITY CONTROL PROJECT, TITLE I	751	10,499	751	10,499
COLORADO RIVER FRONT WORK AND LEVEE SYSTEM...........	3,500	---	4,500	---
FORT MCDOWELL SETTLEMENT ACT.........................	1,000	---	1,000	---
NORTHERN ARIZONA INVESTIGATIONS PROGRAM..............	325	---	325	---
PHOENIX METROPOLITAN WATER RECLAMATION & REUSE PROJ...	250	---	250	---
SALT RIVER PROJECT...................................	87	---	87	---
SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT PROJ.....	4,017	---	4,017	---
SOUTH/CENTRAL ARIZONA INVESTIGATIONS PROGRAM..........	775	---	775	---
TRES RIOS WETLANDS DEMONSTRATION.....................	630	---	630	---
YUMA AREA PROJECTS...................................	1,552	21,120	1,552	21,120
CALIFORNIA				
CACHUMA PROJECT......................................	751	665	751	665
CALIFORNIA INVESTIGATIONS PROGRAMS...................	215	---	215	---
CALLEGUAS MUNICIPAL WATER DISTRICT RECYCLING PROJECT..	700	---	1,100	---
CENTRAL VALLEY PROJECT:				
AMERICAN RIVER DIVISION..........................	1,966	7,033	1,966	7,033
AUBURN-FOLSOM SOUTH UNIT.........................	9,899	100	9,899	100

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
DELTA DIVISION	10,039	6,041	12,539	6,041
EAST SIDE DIVISION	1,465	2,450	1,465	2,450
FRIANT DIVISION	2,393	3,782	3,893	3,782
MISCELLANEOUS PROJECT PROGRAMS	13,284	1,087	21,184	1,087
REPLACEMENTS, ADDITIONS, & EXTRAORDINARY MAINT	---	24,000	---	14,000
SACRAMENTO RIVER DIVISION	4,215	1,808	7,665	1,808
SAN FELIPE DIVISION	745	---	745	---
SAN JOAQUIN DIVISION	383	---	383	---
SHASTA DIVISION	831	7,134	1,581	7,134
TRINITY RIVER DIVISION	7,616	2,970	7,616	2,970
WATER AND POWER OPERATIONS	1,800	11,076	1,800	11,076
WEST SAN JOAQUIN DIVISION, SAN LUIS UNIT	40,437	6,538	7,437	6,538
YIELD FEASIBILITY INVESTIGATION	1,000	---	1,000	---
LAKE TAHOE REGIONAL WETLANDS DEVELOPMENT	200	---	4,500	---
LONG BEACH AREA WATER RECLAMATION AND REUSE PROJECT	1,100	---	1,800	---
LONG BEACH DESALINATION RESEARCH/ DEVELOPMENT PROJ	---	---	700	---
NAPA-SOMOMA-MARIN AGRICULTURAL REUSE PROJECT	---	---	500	---
NORTH SAN DIEGO COUNTY AREA WATER RECYCLING PROJECT	1,300	---	3,000	---
ORANGE COUNTY REGIONAL WTR RECLAMATION PROJ, PHS 1	1,300	---	3,500	---
ORLAND PROJECT	41	445	41	445
PASADENA RECLAIMED WATER PROJECT	---	---	250	---
SALTON SEA RESEARCH PROJECT	1,000	---	4,000	---
SAN DIEGO AREA WATER RECLAMATION PROGRAM	4,300	---	4,300	---
SAN GABRIEL BASIN PROJECT	1,300	---	1,300	---
SAN GABRIEL BASIN RESTORATION PROJECT	---	---	10,000	---

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
SAN JOSE WATER RECLAMATION AND REUSE PROGRAM	1,000	---	3,000	---
SANTA MARGARITA RIVER CONJUNCTIVE USE PROJECT	---	---	500	---
SOLANO PROJECT	1,522	2,693	1,522	2,693
SOUTHERN CALIFORNIA INVESTIGATIONS PROGRAM	1,135	---	1,835	---
WATSONVILLE AREA WATER RECYCLING PROJECT	---	---	1,500	---
VENTURA RIVER PROJECT	529	---	529	---
COLORADO				
ANIMAS-LA PLATA PROJECT, CRSP SECTIONS 5 & 8	58,000	---	52,000	---
COLLBRAN PROJECT	184	1,513	184	1,513
COLORADO-BIG THOMPSON PROJECT	12	10,198	12	10,198
COLORADO-BIG THOMPSON PROJECT - HORSETOOTH DAM	---	3,153	---	3,153
COLORADO INVESTIGATIONS PROGRAM	77	---	77	---
GRAND VALLEY UNIT, CRBSCP, TITLE II	206	546	206	546
PARADOX VALLEY UNIT, CRBSCP, TITLE II	52	2,050	52	2,050
FRUITGROWERS DAM PROJECT	69	145	69	145
FRYINGPAN-ARKANSAS PROJECT	---	5,443	200	5,443
LEADVILLE/ARKANSAS RIVER RECOVERY	593	1,838	593	1,838
MANCOS PROJECT	88	57	88	57
PINE RIVER PROJECT	141	113	141	113
SAN LUIS VALLEY PROJECT	356	4,237	356	4,237
UNCOMPAHGRE PROJECT	181	124	181	124

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
HAWAII				
HAWAIIAN RECLAIM AND REUSE STUDY	---	---	100	---
IDAHO				
BOISE AREA PROJECTS	2,637	4,047	2,907	4,047
COLUMBIA AND SNAKE RIVER SALMON RECOVERY PROJECT	19,000	---	15,000	---
DRAIN WATER MANAGEMENT STUDY, BOISE	200	---	200	---
IDAHO INVESTIGATIONS PROGRAM	580	---	580	---
MINIDOKA AREA PROJECTS	3,459	2,041	3,459	2,041
MINIDOKA NORTHSIDE DRAIN WATER MANAGEMENT PROJECT	200	---	200	---
KANSAS				
KANSAS INVESTIGATIONS PROGRAM	143	---	143	---
WICHITA PROJECT	7	208	7	208
MONTANA				
FORT PECK DRY PRAIRIE RURAL WATER SYSTEM	---	---	7,500	---
HUNGRY HORSE PROJECT	---	1,056	---	1,056
MILK RIVER PROJECT	1,045	558	1,045	558
MONTANA INVESTIGATIONS	533	---	533	---
N. CENTRAL MT. RURAL WATER SUPPLY SYSTEM (ROCKY BOYS)	---	---	915	---

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	----- BUDGET REQUEST ----		------- CONFERENCE ------	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
NEBRASKA				
MIRAGE FLATS PROJECT	---	58	---	58
NEBRASKA INVESTIGATIONS PROGRAM	191	---	191	---
SANTEE SIOUX RESERVATION WATER SYSTEM	---	---	300	---
NEW MEXICO				
ALBUQUERQUE METRO AREA WATER & RECLAMATION REUSE	---	---	1,360	---
CARLSBAD PROJECT	2,036	1,056	2,036	1,056
EASTERN NEW MEXICO WATER SUPPLY	---	---	175	---
MIDDLE RIO GRANDE PROJECT	6,467	10,921	16,567	17,921
NAVAJO NATION INVESTIGATIONS PROGRAM	300	---	300	---
NAVAJO-GALLUP WATER SUPPLY PROJECT	391	---	500	---
PECOS RIVER BASIN WATER SALVAGE PROJECT	---	127	---	327
RIO GRANDE PROJECT	796	3,186	796	3,186
SAN JUAN RIVER BASIN INVESTIGATIONS PROGRAM	179	---	179	---
SANTA FE-WATER RECLAMATION AND REUSE PROJECT	---	---	400	---
TUCUMCARI PROJECT	104	4	104	4
NEVADA				
CITY OF NORTH LAS VEGAS WATER REUSE, NV	---	---	1,000	---
HALFWAY WASH PROJECT STUDY	100	---	500	---
LAHONTAN BASIN PROJECT (HUMBOLT, NEWLANDS, WASHOE)	6,467	2,446	6,467	2,446

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
LAKE MEAD /LAS VEGAS WASH PROGRAM	1,408	---	1,408	---
SOUTHERN NEVADA WATER RECYCLING PROJECT	---	---	3,000	---
NORTH DAKOTA				
DAKOTAS INVESTIGATIONS PROGRAM	223	---	223	---
DAKOTAS TRIBES INVESTIGATIONS PROGRAM	326	---	326	---
PICK-SLOAN MISSOURI BASIN PROGRAM, GARRISON DIVERSION	13,928	3,386	24,000	3,386
OKLAHOMA				
ARBUCKLE PROJECT	---	205	---	205
MCGEE CREEK PROJECT	---	460	---	460
MOUNTAIN PARK PROJECT	---	267	---	267
NORMAN PROJECT	250	176	250	176
NORTH FORK OF THE RED RIVER PROJECT	---	---	150	---
OKLAHOMA INVESTIGATIONS PROGRAM	188	---	888	---
W.C. AUSTIN PROJECT	---	314	---	314
WASHITA BASIN PROJECT	---	887	---	887
OREGON				
CROOKED RIVER PROJECT	212	465	212	465
DESCHUTES ECOSYSTEM RESTORATION PROJECT	500	---	900	---
DESCHUTES PROJECT	418	155	418	155

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
DESCHUTES PROJECT, TUMALO, BEND FEED CANAL	---	---	350	---
DESCHUTES PROJECT, WICKIUP DAM	---	3,000	---	3,000
EASTERN OREGON PROJECTS	781	280	781	280
GRANDE RONDE WATER OPTIMIZATION STUDY	100	---	100	---
KLAMATH PROJECT	20,041	776	22,041	3,376
OREGON INVESTIGATIONS PROGRAM	620	---	620	---
ROGUE RIVER BASIN PROJECT, TALENT DIVISION	554	172	554	172
TUALATIN PROJECT	287	127	287	127
UMATILLA BASIN PROJECT, PHASE III STUDY	200	---	200	---
UMATILLA PROJECT, OR	601	2,101	601	2,101
WESTLANDS-RAMOS, OR	---	---	200	---
WILLOW LAKE NATURAL TREATMENT SYSTEM, OR	---	---	300	---
SOUTH DAKOTA				
LEWIS & CLARK RURAL WATER PROJECT	---	---	17,000	---
MID-DAKOTA RURAL WATER PROJECT	2,000	15	15,000	15
MNI WICONI PROJECT	6,717	6,254	25,217	6,254
PERKINS COUNTY RURAL WATER DISTRICT	---	---	1,000	---
RAPID VALLEY PROJECT, DEERFIELD DAM	---	28	---	28
TEXAS				
CANADIAN RIVER PROJECT	---	117	---	117
EL PASO WATER RECLAMATION AND REUSE	---	---	370	---

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
LOWER RIO GRANDE VALLEY WATER RESOURCES	---	---	4,500	---
NUECES RIVER	---	536	---	536
SAN ANGELO PROJECT	---	276	---	276
TEXAS INVESTIGATIONS PROGRAM	202	---	202	---
UTAH				
HYRUM PROJECT	128	62	128	62
MOON LAKE PROJECT	45	15	45	15
NEWTON PROJECT	61	24	61	24
NORTHERN UTAH INVESTIGATIONS PROGRAM	280	---	280	---
OGDEN RIVER PROJECT	373	40	373	40
PARK CITY, UT	---	---	500	---
PROVO RIVER PROJECT	843	355	843	355
SCOFIELD PROJECT	121	66	121	66
SOUTHERN UTAH INVESTIGATIONS PROGRAM	300	---	300	---
STRAWBERRY VALLEY PROJECT	198	7	198	7
WEBER BASIN PROJECT	1,650	431	1,650	431
WEBER RIVER PROJECT	87	63	87	63
WASHINGTON				
COLUMBIA BASIN PROJECT	4,547	4,435	4,547	4,435
LOWER ELWHA KLALLAM WATER SUPPLY FEASIBILITY STUDY	25	---	100	---
MAKAH INDIAN COMMUNITY WATER SUPPLY FEASIBILITY	25	---	100	---

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
STORAGE DAM FISH PASSAGE FEASIBILITY STUDY	550	---	250	---
TULALIP TRIBES WATER QUALITY FEASIBILITY STUDY	50	---	100	---
WASHINGTON INVESTIGATIONS PROGRAM	525	---	525	---
YAKIMA PROJECT	1,179	6,066	1,179	6,066
YAKIMA PROJECT, KEECHELUS DAM, SOD	---	3,700	---	3,700
YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT	12,730	---	12,730	---
YAKIMA RIVER BASIN WATER STORAGE	---	---	1,500	---
WYOMING				
KENDRICK PROJECT	6	4,048	6	4,048
NORTH PLATTE PROJECT	10	1,038	10	1,038
SHOSHONE PROJECT	10	1,193	10	1,193
VARIOUS				
COLORADO RIVER BASIN SALINITY CONTROL PROJECT, TITLE I	9,198	---	9,198	---
COLORADO RIVER STORAGE PROJECT, (CRSP), SECTION 5	7,553	2,469	7,553	2,469
COLORADO RIVER STORAGE PROJECT, SECTION 8	4,914	---	3,992	---
COLORADO RIVER WATER QUALITY IMPROVEMENT PROGRAM	450	---	450	---
DAM SAFETY PROGRAM:				
DEPARTMENT DAM SAFETY PROGRAM	---	1,700	---	1,700
INITIATE SOD CORRECTIVE ACTION	---	40,900	---	38,900
SAFETY EVALUATION OF EXISTING DAMS	---	18,000	---	18,000
SAFETY OF DAMS CORRECTIVE ACTION STUDIES	---	500	---	500

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
DEPARTMENTAL IRRIGATION DRAINAGE PROGRAM	2,623	---	3,623	---
DROUGHT EMERGENCY ASSISTANCE	1,120	---	4,000	---
EFFICIENCY INCENTIVES PROGRAM	3,265	---	3,515	---
EMERGENCY PLANNING & DISASTER RESPONSE PROGRAM	---	450	---	450
ENDANGERED SPECIES RECOVERY IMPLEMENTATION	13,371	---	12,871	---
ENVIRONMENTAL & INTERAGENCY COORDINATION ACTIVITIES	1,804	---	1,804	---
ENVIRONMENTAL PROGRAM ADMINISTRATION	1,483	---	1,483	---
EXAMINATION OF EXISTING STRUCTURES	---	5,521	---	5,521
FEDERAL BUILDING SEISMIC SAFETY PROGRAM	---	1,575	---	1,575
GENERAL PLANNING STUDIES	1,989	---	2,089	---
LAND RESOURCES MANAGEMENT PROGRAM	8,994	---	8,994	---
LOWER COLORADO RIVER OPERATIONS PROGRAM	13,822	---	13,822	---
LOWER COLORADO RIVER INVESTIGATIONS PROGRAM	325	---	525	---
MISCELLANEOUS FLOOD CONTROL OPERATIONS	---	639	---	639
NATIVE AMERICAN AFFAIRS PROGRAM	8,600	---	8,600	---
NEGOTIATION & ADMINISTRATION OF WATER MARKETING	1,571	---	1,571	---
OPERATION & MAINTENANCE PROGRAM MANAGEMENT	344	1,029	344	1,029
PICK-SLOAN MISSOURI BASIN PROGRAM, OTHER PROJECTS	2,998	34,709	2,998	34,709
POWER PROGRAM SERVICES	991	250	1,141	250
PUBLIC ACCESS AND SAFETY PROGRAM	565	---	565	---
RECLAMATION LAW ADMINISTRATION	4,491	---	4,491	---
RECLAMATION RECREATION MANAGEMENT	2,800	---	2,800	---
RECREATION AND FISH & WILDLIFE PROGRAM ADMIN	1,720	---	1,720	---

WATER AND RELATED RESOURCES
(AMOUNTS IN THOUSANDS)

	BUDGET REQUEST		CONFERENCE	
	RESOURCES MANAGEMENT	FACILITIES OM&R	RESOURCES MANAGEMENT	FACILITIES OM&R
SCIENCE AND TECHNOLOGY PROGRAM:				
ADVANCED WATER TREATMENT DESALINATION PROGRAM	2,000	---	2,000	---
APPLIED SCIENCE/TECHNOLOGY AND DEVELOPMENT	4,190	---	4,190	---
DESALINATION RESEARCH AND DEVELOPMENT PROGRAM	775	---	7,375	---
HYDROELECTRIC INFRASTRUCTURE PROTECTION/ENHANCE	990	---	990	---
TECHNOLOGY ADVANCEMENT	350	---	350	---
WATERSHED/RIVER SYSTEMS MANAGEMENT PROGRAM	1,000	---	1,000	---
SITE SECURITY	---	28,583	---	28,583
SOIL AND MOISTURE CONSERVATION	267	---	267	---
TECHNICAL ASSISTANCE TO STATES	1,908	---	1,908	---
TITLE XVI, WATER RECLAMATION AND REUSE PROGRAM	1,430	---	3,980	---
WATER MANAGEMENT & CONSERVATION PROGRAM	6,639	---	6,639	---
WESTERN WATER INITIATIVE	11,000	---	8,400	---
WETLANDS DEVELOPMENT	---	---	1,000	---
UNDISTRIBUTED REDUCTION BASED ON ANTICIP DELAYS	-40,030	---	-53,945	-7,133
TOTAL, WATER AND RELATED RESOURCES	422,965	348,252	518,579	338,919

TITLE III

DEPARTMENT OF ENERGY

The summary tables at the end of this title set forth the conference agreement with respect to the individual appropriations, programs, and activities of the Department of Energy. Additional items of conference agreement are discussed below.

SAFEGUARDS AND SECURITY FUNDING

The conferees agree with House concerns about the problems with direct funding of safeguards and security and the desirability of returning to indirect funding of these costs, with appropriate controls and reporting. However, the conferees also recognize the difficulty in making such a shift in one fiscal year, and that safeguards and security requirements may change significantly with implementation of the revised Design Basis Threat. Therefore, the conferees instruct the Department to continue budgeting safeguards and security funding as a separate line item in fiscal year 2005, and to transition back to indirect funding of these costs beginning in fiscal year 2006. The conferees are receptive to a phased implementation during this transition period, beginning with single-purpose projects and sites in fiscal year 2006 and addressing the more complex multi-program sites in subsequent fiscal years.

HOMELAND SECURITY-RELATED WORK

The conferees concur with the House-proposed requirement for an annual report on all homeland security work being performed by Department of Energy (DOE) contractors, including direct funded DOE work, work for other agencies, laboratory directed research and development, and work funded via any other funding mechanism.

PROJECT MANAGEMENT

The conferees support language included in the House report regarding the efforts to improve the Department's construction and project management.

FACILITIES AND INFRASTRUCTURE

The conferees agree with House language regarding the need to strengthen and standardize management of the Department's facilities and infrastructure (F&I) activities throughout all programs of the Department. The conferees urge the Department to compete contracts for the decontamination, decommissioning, and demolition of excess facilities to the maximum extent practicable, and to identify the costs for removing these excess facilities in construction project data sheets.

SAFETY AT DOE FACILITIES

The conferees concur with the House language requiring an annual report on the backlog of safety deficiencies at National Nuclear Security Administration and defense cleanup sites and the estimated cost and schedule for corrective actions.

LABORATORY DIRECTED RESEARCH AND DEVELOPMENT

The conferees agree with the House concerns regarding the Laboratory Directed Research and Development (LDRD) program and with the guidance to streamline the annual LDRD report to Congress.

AUGMENTING FEDERAL STAFF

The conferees agree that the number of management and operating contractor employees assigned to the Washington metropolitan area shall not exceed 220 in fiscal year 2004, the same as the fiscal year 2003 ceiling. The reporting requirements remain as proposed by the House.

STRATEGIC INITIATIVE AND BUSINESS DEVELOPMENT FUNDS

The conferees agree with the guidance provided in the House report.

REPROGRAMMING GUIDELINES

The conferees require the Department to promptly and fully inform the House and Senate Committees on Appropriations when a change in program execution or funding is required during the fiscal year. A reprogramming includes the reallocation of funds from one activity to another within an appropriation, or any significant departure from a program, project, or activity described in the agency's budget justification as presented to and approved by Congress. For construction projects, a reprogramming constitutes the reallocation of funds from one construction project identified in the justifications to another project or a significant change in the scope of an approved project.

A reprogramming should be made only when an unforeseen situation arises, and then only if delay of the project or the activity until the next appropriations year would result in a detrimental impact to an agency program or priority. The Department should not submit reprogrammings in the fourth quarter of the fiscal year unless necessitated by an unforeseeable change in external circumstances. Reprogrammings may also be considered if the Department can show that significant cost savings can accrue by increasing funding for an activity. Mere convenience or desire should not be factors for consideration.

Reprogrammings should not be employed to initiate new programs or to change program, project, or activity allocations specifically denied, limited, or increased by Congress in the Act or report. In cases where unforeseen events or conditions are deemed to require such changes, proposals shall be submitted in advance to the Committees and be fully explained and justified.

The conferees have not provided statutory language to define the reprogramming guidelines, but do expect the Department to follow the spirit and the letter of the guidance provided in this report. The conferees have not provided the Department with any internal reprogramming flexibility in fiscal year 2004, unless specifically identified in the House, Senate, or conference reports. Any reallocation of new or prior year budget authority or prior year deobligations must be submitted to the Committees in writing and may not be implemented prior to approval by the Committees on Appropriations.

REDUCTIONS NECESSARY TO ACCOMMODATE SPECIFIC PROGRAM DIRECTIONS

The Department is directed to provide a report to the House and Senate Committees on Appropriations by March 30, 2004, on the actual application of any general reductions of funding or applications of prior year balances contained in this conference agreement. Such reductions are to be applied proportionately against each program, project, or activity. If necessary, the Department must submit a reprogramming to reallocate funds if the proportional reduction unduly impacts a specific program, project, or activity.

ENERGY SUPPLY

The conference agreement provides $737,537,000 for Energy Supply instead of $691,534,000 as proposed by the House and $920,357,000 as proposed by the Senate.

RENEWABLE ENERGY RESOURCES

The conference agreement provides $344,400,000 instead of $330,144,000 as proposed by the House and $358,476,000 as proposed by the Senate for renewable energy resources. The conference agreement does not include language specifying funding allocations as contained in the House and Senate reports. As in fiscal year 2003, funds for Renewable Energy Resources shall remain available until expended.

Biomass/biofuels.—The conference agreement includes $75,000,000 for biomass/biofuels. As in prior fiscal years, the conferees have combined the subprograms for power systems and transportation into a single program for biomass/biofuels and no longer provide separate allocations for power systems and transportation. The conference agreement includes $20,000,000, the amount of the request, for the Bioconversion Production Integration Program.

The conference agreement includes $3,000,000 for the Consortium for Plant Biotechnology Research (CPBR), of which $750,000 is for CPBR research in Ohio and $1,000,000 is for CPBR research at the University of Kentucky; $1,000,000 for the E-Diesel research project by the National Corn Growers Association; $1,000,000 for the Iowa State University Center for Catalysis; $1,000,000 for work on biobased products by the New Uses Information and Entrepreneur Development Center in Belvidere, Illinois; $300,000 for the University of Louisville Ethanol Production from Biomass large-scale facility design project; $2,000,000 for the development of sustainable biobased products and bioenergy at Purdue University in cooperation with the Midwest Consortium for Sustainable Biobased Products and Bioenergy; $3,000,000 for continued work on the Gridley Rice Straw Project; $1,000,000 for the McMinnville Biodiesel Project; $960,000 for the Mount Mass CC Bio Wood Gasification Project; and $200,000 for the North Central Texas Dairy Waste Control Pilot Project.

The conference agreement includes $1,000,000 for the Mississippi State Biodiesel Production Project; $1,000,000 for Maine Forest Bioproducts research and development; $1,000,000 for the University of Tennesssee Switchgrass Demonstration Project; $250,000 for clean energy from the gasification of switchgrass at Iowa State University; $300,000 for the Missouri Soybean Association biodiesel demonstration; and $500,000 for research in Nebraska on improved soybean oil for biodiesel fuel.

The conference agreement includes $2,000,000 for the Regional Biomass Energy Program; $750,000 for the On-Farm Small Scale Waste Energy Demonstration Project; $1,000,000 for the Oxydiesel demonstration program in California and Nevada; $500,000 for a biorefinery at the Louisiana State University Agricultural Center; $500,000 for the Center for Biomass Utilization at the University of North Dakota; $400,000 for the Vermont Biomass Energy Center; $250,000 for the biomass/cogeneration project at North Country Hospital; $500,000 for the gasification of switchgrass at the University of Iowa; $1,000,000 for the Ag-Based Industrial Lubricants Center at the University of Northern Iowa; and $2,000,000 for the Michigan Biotechnology Initiative. In addition, the conferees direct the Department to continue the Iowa switchgrass project at agreed-upon levels.

Geothermal.—The conference agreement includes $26,000,000 for geothermal activities. The conferees direct the Department to continue funding university research and Geopowering the West at the fiscal year 2003 funding level. The conference agreement includes $1,000,000 for the Full Circle Project in

Lake County, California, and $1,000,000 for geothermal research at the University of Nevada-Reno.

Hydrogen.—The conference agreement includes $78,000,000 for hydrogen activities. The conferees remind the Department that the requirements for competition and industry cost sharing, as specified in the Hydrogen Future Act of 1996 (P.L. 104–271, 42 U.S.C. 12403), apply to this research, and urge the Department to compete the hydrogen research program to the fullest extent possible.

From within available funds, the Department is directed to spend not less than $2,500,000 for a competitive solicitation for solid oxide fuel cell research. The conference agreement also includes $1,000,000 for the Lansing Community College Alternative Energy Center; $3,000,000 for the Edison Materials Technology Center to develop improved materials to support the hydrogen economy; $3,000,000 for the National Center for Manufacturing Sciences to develop advanced manufacturing technologies for renewable energy applications; $2,000,000 for the HI–Way Initiative in New York State; $1,000,000 for the Shared Technology Transfer Program by Nicholls State University; $2,000,000 for the Florida Hydrogen Partnership; $2,000,000 for fuel cell research by the University of South Florida; $2,000,000 for fuel cell development for distributed generation and carbon sequestration in Northwest Indiana; $3,000,000 for the Hydrogen Regional Infrastructure Program in Pennsylvania; $955,000 for the Evermont hydrogen electrolyzer project; $300,000 for the residential fuel cell demonstration by the Delaware County Electric Cooperative; and $2,200,000 for the Expanding Clean Energy Research and Education Program at the University of South Carolina.

The conference agreement includes $750,000 for the Hydrogen Futures Park at the University of Montana; $2,000,000 for the Fuel Cell Mine Loader and Prototype Locomotive; $3,000,000 for the evaluation of solar-powered thermo-chemical production of hydrogen from water at the University of Nevada-Las Vegas; $3,000,000 for the University of Nevada-Las Vegas renewable hydrogen fueling station system; $500,000 for the Startech Hydrogen Production Project; $2,000,000 for the hydrogen fuel cell project for the Regional Transportation Commission of Washoe County, Nevada; $500,000 for the Hawaii Hydrogen Center for Development and Deployment of Distributed Energy Systems; and $500,000 for the Smart Energy Management Control System.

Hydropower.—The conference agreement provides $5,000,000 for hydropower, including $400,000 to assess low head and low power hydropower resources.

Solar Energy.—The conference agreement includes $85,000,000 for solar energy programs. As in prior fiscal years, the conferees have combined the concentrating solar power, photovoltaic energy systems, and solar building technology subprograms into a single program for solar energy, with the control level at the solar energy program account level.

The conferees include $5,500,000 from within available funds for concentrating solar power (CSP). Of these funds, $1,000,000 is provided for industry based 20–25 kW Dish-Stirling and the Department is directed to continue with deployment of the 1.0 MW dish engine project. If the Department needs more than $5,500,000 in fiscal year 2004 to regain lost momentum in the CSP program, the conferees urge the Department to seek a reprogramming.

The conference agreement includes $250,000 for the solar energy project in Yucca Valley, California; $400,000 for the Center for Ecological Technology; and $500,000 for the Hackensack University Green Building Medical Center. The Department should continue funding for the Southeast and Southwest photovoltaic experiment stations and the Million Solar Roofs program at current year levels.

Zero Energy Buildings.—The conference agreement does not provide any separate funds for Zero Energy Buildings in fiscal year 2004, although the Department is directed to spend up to $4,000,000 of available funds within Solar Energy for Zero Energy Building activities related to solar energy. If the Department seeks funds for Zero Energy Buildings in fiscal year 2005, it should request those funds as part of its Interior and Related Agencies appropriation request.

Wind.—The conference agreement includes $41,600,000 for wind programs. The conference agreement includes $147,000 for a wind farm feasibility study by Saint Francis University; $300,000 for the Saginaw Chippewa Wind Energy Development Project; $500,000 for the Vermont Wind Energy Program; and $1,000,000 to continue the ongoing wind turbine effort in Bellevue, Washington. The Wind Powering America initiative is to be continued at last year's funding level. The conferees continue to recognize the need for a set-aside for small wind programs. The conferees are aware that the potential for expanding wind generated energy to new locations is significant, but further development in the Dakotas and the Upper Midwest is stymied by transmission constraints. The conferees are committed to developing the potential of wind energy in the United States and especially on tribal lands. The conferees direct the Department to work with the transmission industry to conduct a comprehensive analysis of upper Midwest wind energy locations and transmission requirements and to report to the Committees on Appropriations by May 31, 2004.

Electricity Reliability.—The funds originally requested for Electricity Reliability are provided under the new Electricity Transmission and Distribution account within the Energy Supply appropriation, as requested by the Department.

Intergovernmental Activities.—The conference agreement includes $15,000,000 for renewable support and implementation. This amount includes $6,000,000 for the international renewable energy program, including $2,000,000 for the International Utility Efficiency Partnership (IUEP); $5,000,000 for tribal energy activities, including $1,000,000 for the Council of Renewable Energy Tribes (CERT), $1,300,000 for the Intertribal Council on Utility Policy, and $1,000,000 for the Pyramid Lake Paiute Tribe Renewable Energy Park; and $4,000,000 for the Renewable Energy Production Incentive (REPI). From within available funds, the conference agreement provides $750,000 for the Renewable Energy Policy Project.

The conferees adopt the Senate proposal for the Clean Energy Technology Exports (CETE) initiative, requiring the interagency group, through the Department of Energy and other Federal agency partners, to provide the Appropriations Committees with a report, no later than January 15, 2004, on the status of the implementation of the strategic plan and specific actions that each of the participating agencies have taken in fiscal year 2003 and will take in fiscal year 2004 to engage non-governmental, private sector, and other international partners. In addition, the conferees direct the Department to make $400,000 available to establish an interagency CETE center in the Office of International Energy Market Development. All energy technology program offices and other agencies participating in the CETE initiative are urged to contribute to this nine-agency effort. To provide further leverage for this initiative, the Department should also consider establishing a Federal Advisory Committee Act board and complementary demonstration and deployment efforts.

Renewable Support and Implementation.—The conference agreement provides $6,000,000, including $2,000,000 for departmental energy management and $4,000,000 to continue the efforts of the National Renewable Energy Laboratory (NREL) to develop renewable energy resources uniquely suited to the Southwestern United States through its virtual site office in Nevada.

National Climate Change Technology Initiative.—The conferees provide no funds for this initiative, consistent with the rationale provided in the House and Senate reports.

Facilities and Infrastructure.—The conference agreement provides the requested amount of $4,200,000 for the National Renewable Energy Laboratory (NREL) and includes an additional $4,000,000 to initiate construction of the new Science and Technology facility at NREL (project 02–EERE–001). Funding for the new Energy Reliability and Efficiency Laboratory at Oak Ridge National Laboratory (project 04–E–TBD) is provided in the new Electricity Transmission and Distribution account. The conference agreement includes $5,000,000 for the National Center on Energy Management and Building Technologies.

Program direction.—The conference agreement includes $12,600,000 for program direction.

Use of prior year balances.—The conference agreement includes the use of $13,000,000 of prior year funds carried over from fiscal year 2003 to offset fiscal year 2004 requirements.

ELECTRICITY TRANSMISSION AND DISTRIBUTION

The conference agreement provides $82,377,000 for the new Office of Electricity Transmission and Distribution, $5,000,000 over the requested amount. The conferees provide the additional $5,000,000 for the Department of Energy to complete its investigation into the causes of the August 14th, 2003 blackout. These funds shall be used to conduct an extensive investigation, to include modeling and analysis, of the various electrical and System Control and Data Analysis (SCADA) systems, the reliability rules, systems operations and other factors, such as cyber situations and disturbances, that might have caused or contributed to the outage.

Within available funds, the conferees urge the Department to continue its high temperature superconductivity research and development program at the requested level of $47,838,000. The conference agreement also includes the requested $750,000 for the new Energy Reliability and Efficiency Laboratory at Oak Ridge National Laboratory (project 04–E–TBD), and removes the industry cost sharing requirement for this facility as proposed in the budget request. The industry cost sharing requirement applies to research activities, not to construction of this new facility. The Department should include full funding for the construction and operation of the facility in future budget requests.

The conference agreement includes $4,000,000 to continue research on aluminum matrix composite conductors; $3,000,000 for research into lead carbon acid asymmetric supercapacitors; $300,000 for research on advanced ceramic engines and materials for energy applications; $1,000,000 for a joint research program between Wright State University and the University of Albany, in collaboration with Wright Patterson Air Force Base, to enhance the performance of second-generation, high temperature coated superconductors; $2,000,000 for the PowerGrid simulator at Drexel University and the New Jersey Institute of Technology; $500,000 for the Center for Distributed Generation and Thermal Distribution at Washington State University; $1,000,000 for electricity transmission research at the University of Missouri-Rolla; $300,000 for research at the Georgia Institute of Technology on the use of recycled carpet as fuel for kilns; $1,000,000 for distributed generation projects in Northwest Indiana; $2,000,000 for the Connecticut Power Technologies project; $3,000,000 for the Electric Infrastructure Technology, Training, and Assessment Program in Pennsylvania; and $1,000,000 for the Indian Point Energy Center Study in New York.

The conference agreement includes $3,000,000 for the Navajo electrification demonstration program; $1,000,000 to continue development of the bipolar nickel metal hydride battery storage system; $250,000 for the Microgrid distributed generation prototype in Vermont; $500,000 for the Natural Energy Laboratory in Hawaii to continue development and deployment of distributed energy systems; $2,000,000 for research, development, and demonstration of advanced thermal energy storage technology integrated with renewable thermal energy technology; and $400,000 for the Diné Power Authority.

NUCLEAR ENERGY

The conference agreement provides $300,763,000 for nuclear energy activities instead of $268,016,000 as proposed by the House and $437,422,000 as proposed by the Senate. The conference agreement does not include language specifying funding allocations as contained in the House and Senate reports. With the designation of the Office of Nuclear Energy, Science and Technology as the lead office with landlord responsibilities for the Idaho site, $112,306,000 of costs are allocated to the 050 budget function and are funded in the Other Defense Activities account. The Department should follow this structure in its fiscal year 2005 budget submission.

Radiological Facilities Management.—The Office of Nuclear Energy, Science and Technology operates a variety of facilities and equipment to support the needs of space, defense, and medical customers who obtain radiological materials from the Department of Energy on a reimbursable basis.

Space and defense power systems infrastructure.—The conference agreement includes $36,230,000 to maintain the infrastructure necessary to support future national security needs and National Aeronautics and Space Administration missions.

Medical isotopes infrastructure.—The conference agreement includes $28,425,000 for the medical isotope program. From within available funds, the Department is directed to provide $4,000,000 for upgrades of radiological facilities at Oak Ridge National Laboratory.

University reactor fuel assistance and support.—The conference agreement includes $23,500,000, an increase of $5,000,000 over the budget request. The conferees provide an additional $2,500,000 to fund more regional university reactor consortia, and the conferees strongly encourage the Department to request sufficient funding in future years to fund all meritorious proposals. The conferees also provide an additional $2,500,000 to pay for the university costs of transporting spent nuclear fuel from university reactors. The conferees encourage the Department to support the new graduate program in nuclear engineering at the University of South Carolina and the new program being considered at the University of Nevada-Las Vegas.

Research and development.—The conference agreement provides $132,500,000 for nuclear energy research and development activities, an increase of $5,475,000 over the budget request. The conference agreement includes $3,000,000 for nuclear energy plant optimization (NEPO), $11,000,000 for the nuclear energy research initiative (NERI), $44,000,000 for nuclear energy technologies, $6,500,000 for the nuclear hydrogen initiative, and $68,000,000 for the Advanced Fuel Cycle Initiative (AFCI).

Within the funds provided for NEPO, the conferees include $1,000,000 to expand the transfer of the Mechanical Stress Improvement Process (MSIP) technology to other countries in the former Soviet Union.

Of the $44,000,000 made available for nuclear energy technologies, $20,000,000 is for Nuclear Power 2010 and $24,000,000 is for the Generation IV initiative. The Department is directed to use $15,000,000 provided under the Generation IV initiative to begin the research, development, and design work for an advanced reactor hydrogen co-generation project at Idaho National Laboratory.

The $6,500,000 made available for the nuclear hydrogen initiative includes $2,000,000 to support research and development on high temperature electrolysis and sulfur-iodine thermochemical technologies necessary to support the advanced reactor hydrogen co-generation project at Idaho National Laboratory, and $2,000,000 for the University of Nevada-Las Vegas Research Foundation to continue the development, in partnership with industry and national laboratories, of an efficient high temperature heat exchanger.

Within the funds available for AFCI, the conference agreement includes $2,000,000 for the Idaho Accelerator Center; $3,500,000 for the University of Nevada-Las Vegas; and $3,000,000 for directed research aimed at enhancing university-based collaborations on AFCI. The conferees also direct the Secretary to conduct the study, described in more detail in the Senate report, to identify the necessary capacities and time scales for implementation of advanced recycle technologies, and to report to Congress by March 2005 with quantitative goals for the AFCI work. The conferees expect the Department to partner with universities and industry, as well as use existing expertise at national laboratories, in this effort.

Idaho Facilities Management.—The conference agreement provides $42,615,000 for ANL–West operations, including an additional $5,000,000 for the addition of a high temperature gas loop in the Advanced Test Reactor and $6,000,000 for deferred landlord activities and critical infrastructure needs. The conference agreement provides $31,605,000 for infrastructure at the Idaho National Engineering and Environmental Laboratory (INEEL), of which $21,415,000 is allocated to the 050 budget function. The conference agreement provides the requested amounts of $500,000 for project 95–E–201 and $1,840,000 for project 99-E–200, both at the Test Reactor Area.

Idaho Sitewide Safeguards and Security.—The conference agreement provides $56,654,000 for Idaho sitewide safeguards and security. Consistent with the request, all of these costs are assigned to the 050 budget function.

Program direction.—The conference agreement includes $59,200,000 for program direction. Of this amount, $34,815,000 is assigned to the 050 budget function.

Funding adjustments.—The conferees direct the Department to use $20,000,000 of prior year funds to meet a portion of the Department's liability stemming from the termination of the contract with the Ohio Valley Electric Corporation for power to supply the Portsmouth Gaseous Diffusion Plant. The conference agreement also includes an offset of $112,306,000 from Other Defense Activities, which represents the contribution for the defense share of costs at the Idaho site.

ENVIRONMENT, SAFETY AND HEALTH

The conference agreement provides $23,000,000 for non-defense environment, safety and health activities, which include $16,000,000 for program direction. The conference agreement includes the transfer of $2,000,000 to the Occupational Safety and Health Administration (OSHA) for the costs of OSHA regulation of worker health and safety at DOE's non-nuclear facilities not covered under the Atomic Energy Act, and to complete the ongoing safety audits of DOE's ten Science laboratories. The conferees concur with the revised date of May 31, 2004, as proposed by the House for the submission of these audits and associated cost estimates.

ENERGY SUPPLY INFRASTRUCTURE

The conference agreement does not include this new program as proposed by the Senate.

FUNDING ADJUSTMENTS

The conference agreement includes a general reduction of $10,000,000, and an offset of $3,003,000 for the safeguards and security charge for reimbursable work, as proposed in the budget request.

NON-DEFENSE SITE ACCELERATION COMPLETION

The conference agreement provides $163,375,000 for Non-Defense Site Acceleration Completion instead of $170,875,000 as proposed by the House and $171,875,000 as proposed by the Senate. None of these funds are available for economic development activities.

2006 Accelerated Completions.—The conference agreement provides $48,677,000, the same as the budget request, including the requested amounts of $37,520,000 for soil and water remediation and graphite research reactor decommissioning at Brookhaven National Laboratory, $3,272,000 for soil and water remediation at Lawrence Berkeley National Laboratory, and $2,416,000 for soil and water remediation at the Stanford Linear Accelerator Center.

2012 Accelerated Completions.—The conference agreement provides $119,750,000, the same as the budget request, including the requested amounts of $99,558,000 for the West Valley Demonstration Project, $1,320,000 for the High Flux Beam Reactor at Brookhaven National Laboratory, and $18,467,000 for decontamination and decommissioning of the Energy Technology Engineering Center.

2035 Accelerated Completions.—The conference agreement provides $4,948,000, including an additional $2,500,000 to provide a total of $4,500,000 to accelerate remediation of the Atlas uranium mill tailings site in Moab, Utah.

Funding adjustment.—The conference agreement includes an adjustment of $10,000,000 for the use of prior year balances.

NON-DEFENSE ENVIRONMENTAL SERVICES

The conference agreement provides $339,468,000 for non-defense environmental services, an increase of $47,347,000 over the budget request. None of these funds are available for economic development activities. Additional funds are provided for the depleted uranium hexaflouride conversion project at Paducah and for cleanup activities at Portsmouth, and for the non-defense costs of the new Office of Legacy Management.

Community and regulatory support.—The conference agreement provides $1,034,000, the same as the budget request.

Environmental cleanup projects.—The conference agreement provides $43,842,000, the same as the budget request.

Office of Legacy Management (non-defense).—The conference agreement includes $28,347,000 for the non-defense share of the costs of the new Office of Legacy Management, which is funded primarily under the Other Defense Activities account.

Non-closure environmental activities.—The conference agreement provides $276,245,000, an increase of $29,000,000 over the request. The conference agreement includes an additional $12,000,000 for construction of the depleted uranium hexaflouride conversion project at Paducah, Kentucky. The conference agreement also provides an additional $17,000,000 to continue the Department's activities at Portsmouth, including enhanced cold standby, deposit removal, cleanup of technetium-99 contamination, and accelerated cleanup of the Gaseous Centrifuge Enrichment Plant (GCEP). The Department is encouraged to work with the contractors and the unions to redeploy the existing cold standby workforce to this variety of tasks in fiscal year 2004. The conferees encourage the Department to continue the existing barter arrangement for part of fiscal year 2004 to resolve the problem of uranium contaminated with technetium-99, and direct the Department to budget funds for this activity in fiscal year 2005. The conference agreement also includes a reduction of $323,000 for Oak Ridge cleanup activities as requested by the Department.

Funding adjustment.—The conference agreement includes the use of $10,000,000 of prior year balances to offset fiscal year 2004 spending.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

The conference agreement provides $416,484,000 for activities funded from the Uranium Enrichment Decontamination and Decommissioning Fund, instead of $392,002,000 as proposed by the House and $396,124,000 as proposed by the Senate. None of these funds are available for economic development activities.

This agreement includes $365,484,000 for decontamination and decommissioning activities. This amount includes an increase of $2,000,000 over the request to continue support of the Kentucky Consortium for Energy and Environment. Given that the Department and the State of Kentucky have reached agreement on accelerated cleanup for the Paducah site, the conference agreement restores the $26,122,000 reduction proposed by the House. The conference agreement also includes a reduction of $3,640,000 for Oak Ridge cleanup activities as requested by the Department.

The conferees provide $51,000,000 for uranium and thorium reimbursements, the same as the requested amount.

SCIENCE

The conference agreement provides $3,451,700,000 instead of $3,480,180,000 as proposed by the House and $3,360,435,000 as proposed by the Senate. The conference agreement does not include language specifying funding allocations as contained in the House and Senate reports. The conferees encourage the Department to request sufficient funds for the Office of Science in fiscal year 2005 to increase operating time, enhance user support, and upgrade essential equipment at the Department's Science user facilities.

The conferees reiterate their support for broader participation by universities in DOE's research programs, including existing user facilities and potential new user facilities. The conferees are aware of the Office of Science's strategy for future facilities. Where existing facilities provide capabilities critical to a new user facility, co-location is appropriate; where this is not the case, the location of new user facilities should be openly competed. Regardless of location, broad participation in design by staff from national laboratories, user faculty from universities, and industrial investigators and groups should be sought. All these user groups must have access to these capabilities on a competitive basis.

High energy physics.—The conference agreement provides $725,478,000 for high energy physics research, the same as the budget request. The conference agreement also includes the requested amount, $12,500,000, for construction of the Neutrinos at the Main Injector project at Fermilab. The conferees recognize the efforts by Fermilab, the Office of Science, and the other Science laboratories on the challenges posed by the Tevatron luminosity upgrade. The conferees encourage the Department to accelerate progress on the Supernova/Accelerator Probe (SNAP).

Nuclear physics.—The conference agreement provides $391,930,000 for nuclear physics, $2,500,000 over the budget request. The additional funds are provided for research and development and preconceptual design activities in support of the Rare Isotope Accelerator. The conferees encourage the Department to increase operational time for the Continuous Electron Beam Accelerator Facility at the Thomas Jefferson National Accelerator Facility and to move forward expeditiously with the 12GeV upgrade for this facility.

Biological and environmental research.—The conference agreement includes $592,000,000 for biological and environmental research, an increase of $92,465,000 over the budget request. The conference agreement provides an additional $5,000,000 for the Genomes to Life program, an additional $2,000,000 for the Environmental Molecular Sciences Laboratory, and $5,000,000 to develop new molecular imaging probes. The conference agreement provides the requested amounts of $7,776,000 for the Savannah River Ecology Laboratory and $17,496,000 for low dose radiation research.

The conference agreement provides $250,000 for surgical robotics research at the Keck Cancer Center with the Cleveland Clinic; $250,000 for the Genomics Laboratory at SUNY-Oneonta; $750,000 for the San Antonio Cancer Therapy and Research Center; $250,000 for the University of South Alabama Cancer Center; $250,000 for the University of South Carolina study of groundwater contamination; $750,000 for the Jacksonville University Environmental Science Center; $750,000 for the St. Joseph Hospital technology upgrade in California; $250,000 for green power technology development at Grand Valley State University; $750,000 to upgrade the Drew University Hall of Science in New Jersey; $750,000 to upgrade the Pahrump Medical Center; $750,000 to upgrade the Grover C. Dils Medical Center; $7,500,000 for the Judson College library, academic and service center; $500,000 for the T3 MRI for St. Jude's Children Research Hospital in Tennessee; $250,000 for Ohio State University for environmental research in cooperation with Earth University; $5,000,000 for the Community Improvement Corporation of Springfield-Clark County for a computing and data management center; $750,000 for the Mercer University Critical Personnel Development Program; $750,000 for the Michigan Research Institute life sciences research; $750,000 for the University of Arizona Institute for Biomedical Science and Biotechnology; $250,000 for the St. Francis Medical Center Rapid Treatment Unit in Illinois; $300,000 for the Boulder City Hospital Emergency Room Expansion; $750,000 for the National Childhood Cancer Foundation; $750,000 for functional genomics research by the University of Kentucky and the University of Alabama; $750,000 for the Rensselaer Polytech Center for Quantitative Bioscience; $750,000 for the Western Carolinas Biotechnology Initiative; $750,000 for the Vanguard University Science Center; $750,000 for the Syracuse University Environmental Systems Center; $750,000 for the University of Tennessee Climate Change Research Initiative; and $300,000 for the Eckerd College Science Center.

The conference agreement includes $500,000 for the Biomedical Engineering Laboratory at the Center for Biomedical Engineering in Louisiana; $150,000 for the Derby Center for Science and Mathematics at Lyon College; $500,000 for the Experimental Medicine Program at the Dana Farber Cancer Institute; $500,000 for the Clafin University Science Center; $500,000 for the Life Sciences Facility, Tennessee State University; $1,000,000 for the Rush-Presbyterian-St. Luke's Medical Center; $1,000,000 for the Carnegie Mellon University Green Chemistry Project; $500,000 for the College of Mount St. Vincent Science Hall; $500,000 for the Urban Education Research Center in Pennsylvania; $500,000 for genomics research at Indiana University; $1,000,000 for the Illinois Museum of Science and Industry; $1,000,000 for the Georgia State University Science Research & Teaching Lab; $1,000,000 for the Northwestern University Institute of Bioengineering and Nanoscience in Medicine; $500,000 for the Nuclear Resonance Mass Spectrometer at the University of Massachusetts Medical School; $500,000 for St. Joseph Hospital in Arizona; $500,000 for Comparative Functional Genomics at New York University; $1,000,000 for Augsburg College; $1,000,000 for the Bronx Community Center for Sustainable Energy; $1,000,000 for the Carolinas Medical Center; $1,000,000 for the Michigan Technology Center for Nanostructure and Light Weight Materials; $500,000 for the Tri-State University Technology Center; $2,000,000 for the Notre Dame Multi-Discipline Engineering Center; and $1,000,000 for the University of Southern California Center for Excellence in Neurogenetics.

The conference agreement includes $10,000,000 for the Mental Illness and Neuroscience Discovery Institute; $2,000,000 for the University of New Mexico medical building; $2,500,000 for the University of Northern Iowa building design and engineering; $500,000 for the University of Dubuque Environmental Science Center; $750,000 for the University of Missouri Cancer Center; $1,000,000 for the Earth University Foundation in Georgia; $750,000 for material research for energy security in Idaho; $750,000 for advanced bioreactor technology development in Montana; $1,000,000 for the CHP project at Mississippi State University; $1,000,000 for the University of Alabama-Huntsville Climate Action

Project; $500,000 for the Hackensack medical building in New Jersey; $750,000 for the Middletown Regional Hospital in Ohio; $1,000,000 for Clean Energy Research at the University of Delaware; and $500,000 for the Center for Advanced Research in Texas.

The conference agreement includes $750,000 for the Swedish American Regional Cancer Center; $250,000 for the Cancer Center at Edward Hospital; $500,000 for the Morgan State University Center for Environmental Toxicology; $1,000,000 for Digitalization of the Cardiac Cath Lab at the University Medical Center of Southern Nevada; $1,000,000 for Mega Voltage Cargo Imaging Development Applications for the Nevada Test Site; $1,000,000 for the Nevada Cancer Institute; $1,500,000 for a Structural Biology Research Center at the Hauptman-Woodward Medical Research Institute; $2,000,000 for the University of Buffalo Center of Excellence in Bioinformatics; $1,000,000 for the Huntsman Cancer Institute; $250,000 for the St. Francis Hospital Emergency Services Department; $300,000 for the Christiana Comprehensive Cancer Initiative; $500,000 for the University of Massachusetts at Boston Multidisciplinary Research Facility and Library; $400,000 for the Robert Wood Johnson University Hospital; $100,000 for the Hackensack University Medical Center; $1,000,000 for the Coastal Research Center at the Medical University of South Carolina; $500,000 for the Mary Bird Perkins Cancer Center; $750,000 for the Tahoe Center for Environmental Sciences; $500,000 for Adventist Health Care; $1,000,000 for the Environmental Control and Life Support Project; $1,000,000 for the Southern California Water Education Center; $1,000,000 for the University of Nevada-Reno to conduct nuclear waste repository research in the areas of materials evaluation, fundamental studies on degradation mechanisms, alternate materials and design, and computational and analytical modeling; $1,000,000 for the Research Foundation at the University of Nevada-Las Vegas to conduct safety and risk analyses, simulation and modeling, systems planning, and operations and management to support radioactive and hazardous materials transportation; $1,000,000 for the Research Foundation at the University of Nevada-Las Vegas to assess earthquake hazards and seismic risk in Southern Nevada; $1,000,000 for the University of Nevada-Reno to expand the earthquake engineering and simulation facility; and $100,000 for the Space Grant Consortium at the Desert Research Institute.

Basic energy sciences.—The conference agreement includes $1,016,575,000 for basic energy sciences, an increase of $8,000,000 over the budget request. The conference agreement includes $575,711,000 for materials sciences and engineering research, and $220,914,000 for chemical sciences, geosciences, and energy biosciences. The additional $8,000,000 for materials sciences and engineering research is to support additional nanoscience research at existing user facilities and the new nanoscale science research centers. For purposes of reprogramming in fiscal year 2004, the Department may reallocate funding among all operating accounts within Basic Energy Sciences.

The conference agreement provides the requested amounts of $124,600,000 for construction of the Spallation Neutron Source (99–E–334); $35,000,000 for the Molecular Foundry (94–R–313); $29,850,000 for the Center for Integrated Nanotechnologies (04–R–313); $20,000,000 for the Center for Nanophase Materials Sciences (03–R–312); $7,500,000 for project engineering and design (PED) for the Linac Coherent Light Source (03–SC–002); and $3,000,000 for the Center for Functional Nanomaterials (02–SC–002). The conference agreement also provides the request of $7,673,000 for the Experimental Program to Stimulate Competitive Research (EPSCoR).

Advanced scientific computing research.—The conference agreement includes $203,490,000 for advanced scientific computing research (ASCR), an increase of $30,000,000 over the budget request. The conferees provide these additional funds for the Department to acquire additional advanced computing capability to support existing users in the near term and to initiate longer-term research and development on next generation. computer architectures. The conferees expect that, to the maximum extent practicable, these funds will be awarded among various technologies, laboratories, universities, and private sector suppliers using a merit-based, competitive process. The conferees support the High End Computing Revitalization Task Force established by the Office of Science and Technology Policy, and expect the Department to participate fully in this interagency effort.

Science laboratories infrastructure.—The conference agreement provides $54,590,000 for science laboratories infrastructure, including an additional $10,000,000 to correct safety deficiencies at Science laboratories for the purpose described in the House report, and $1,000,000 additional for excess facilities disposal for the 88-inch cyclotron at Lawrence Berkeley National Laboratory. From within available funds, the conferees expect the Department to provide not less than $15,600,000 to meet infrastructure needs at Oak Ridge National Laboratory.

The conferees support the ongoing effort to determine realistic costs for the transition to external regulation, and adopt the House-recommended date of May 31, 2004, for completion of the safety compliance audits and associated costs estimates for the ten Science laboratories. The conferees also support the House direction to the Department to begin budgeting for the necessary corrective actions beginning in fiscal year 2005.

The conference agreement provides the requested amounts of $1,520,000 for infrastructure support, $5,079,000 for Oak Ridge landlord costs, $29,936,000 for construction of various infrastructure projects (MEL–001), and $2,000,000 for project MEL–001–36 at the Stanford Linear Accelerator Center under Science Laboratories Infrastructure Project Engineering Design (04–SC–001).

Fusion energy sciences.—The conference agreement includes $264,110,000 for fusion energy sciences, an increase of $6,800,000 over the budget request. The budget request proposed $12,000,000 for the International Thermonuclear Experimental Reactor (ITER), but did so by displacing $10,800,000 of ongoing domestic fusion research. The conference agreement provides $8,000,000 for ITER activities in fiscal year 2004, and restores $6,800,000 to domestic fusion research. The conferees strongly caution the Department against submitting any future budget requests for ITER that are funded at the expense of domestic research.

Safeguards and security.—The conference agreement includes $51,887,000 for safeguards and security activities at laboratories and facilities managed by the Office of Science. The additional $3,760,000 over the budget request represents the costs for safeguards and security support contracts that were transferred out of Science Program Direction into this subaccount.

Science workforce development.—The conference agreement provides the requested amount of $6,470,000 for science workforce development. The conferees advise the Department to apply the Laboratory Science Teacher Professional Development initiative to all five multiprogram Science laboratories rather than just to one laboratory. The conferees also encourage the Department to provide funds and technical expertise for high school students to participate in the 2004 For Inspiration and Recognition of Science and Technology (FIRST) Robotics competition. FIRST has proven to be a valuable program to introduce and mentor students in math and science.

Science program direction.—The conference agreement includes $147,053,000 for science program direction. This amount includes $80,102,000 for field offices, $58,217,000 for headquarters, $7,714,000 for the Technical Information Management program, and $1,020,000 for Energy Research Analyses. The control level for fiscal year 2004 is at the program account level of Science Program Direction.

Funding adjustments.—The conference agreement includes an offset of $4,383,000 for the safeguards and security charge for reimbursable work, as proposed in the budget request. The conference agreement also includes the use of $10,000,000 of prior year balances.

NUCLEAR WASTE DISPOSAL

The conference agreement provides $190,000,000 for Nuclear Waste Disposal, instead of $335,000,000 as proposed by the House and $140,000,000 as proposed by the Senate. When combined with the $390,000,000 appropriated from the Defense Nuclear Waste Disposal account, a total of $580,000,000 will be available for program activities in fiscal year 2004.

DEPARTMENTAL ADMINISTRATION

The conference agreement provides $313,212,000 for Departmental Administration expenses. Including a transfer of $86,679,000 from Other Defense Activities, revenues of $123,000,000, the same as estimated by the Congressional Budget Office, and the use of $10,000,000 of prior year balances, this results in a net appropriation of $93,533,000.

Specific funding levels for each Departmental organization are provided in the accompanying table.

Chief Information Officer.—The conferees provide $35,000,000 and direct the additional funds over the fiscal year 2003 funding level be used for implementation of STARS and the data warehouse for the Department's financial data.

Office of Management, Budget and Evaluation.—The conference agreement directs the Office of Environmental Management to transfer $2,500,000 from Defense Site Acceleration Completion to continue external independent reviews by the Office of Engineering and Construction Management of proposed Environmental Management projects and programs and to provide increased oversight of the Environmental Management accelerated cleanup contracts. To continue to train and certify DOE project managers, the conferees direct the Department to arrange financing of not less than $2,500,000 from the Working Capital Fund to fund training under the Project Management Career Development Program.

Working Capital Fund.—The conferees renew the guidance as presented in House Report 107–681 regarding management of the Working Capital Fund.

Work for Others.—The conference agreement for the cost of the Work for Others program is $69,682,000, the same as in fiscal year

2003. The conferees adopt the Congressional Budget Office estimate of $123,000,000 for revenues from Work for Others activities.

Funding Adjustments.—The conference agreement includes the use of $10,000,000 of prior year balances.

Transfer from Other Defense Activities.—The conferees believe that defense-related programs should fund a proportional share of total Departmental Administration costs. By the conferees' calculation, the Department's defense-related activities account for 70.3 percent of the Department's total budget request for fiscal year 2004. Subtracting out the costs for the National Nuclear Security Administration (NNSA), which has largely established its own corporate functions analogous to Departmental Administration functions, the remaining defense-related costs account for 32.7 percent of the Department's total budget. For the gross Departmental Administration request of $351,306,000 in fiscal year 2004, the minimum defense contribution should have been $114,877,000. Using some other system of mathematics, the Department requested only $25,000,000 as the defense share of Departmental Administration. The conferees consider this an inadequate share of Departmental Administration costs, and provide instead $86,679,000, the same contribution from Other Defense Activities as provided in fiscal year 2003. The conferees direct the Department to submit a budget request for fiscal year 2005 that reflects a proportional contribution from Other Defense Activities for these Departmental Administration costs.

Reprogramming guidelines.—The conference agreement provides reprogramming authority of $1,000,000 or 10 percent, whichever is less, within the Departmental Administration account without prior submission of a reprogramming to be approved by the House and Senate Committees on Appropriations. No individual program account may be increased or decreased by more than this amount during the fiscal year using this reprogramming authority. Congressional notification within 30 days of the use of this reprogramming authority is required. Transfers which would result in increases or decreases in excess of $1,000,000 or 10 percent to an individual program account require prior notification and approval.

OFFICE OF THE INSPECTOR GENERAL

The conference agreement provides $39,462,000 for the Inspector General as proposed by the House and the Senate.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

The National Nuclear Security Administration (NNSA), a semi-autonomous agency within the Department of Energy, manages the Nation's nuclear weapons, nuclear nonproliferation, and naval reactors activities.

Availability of funds.—The conference agreement makes funds appropriated to the NNSA available until expended as proposed by the Senate.

Stockpile Plan.—The conferees direct the Secretary of Energy in conjunction with the Secretary of Defense to provide a report to the Appropriations and Armed Services Committees of Congress providing a revised Nuclear Weapons Stockpile plan that supports the President's revised Nuclear Weapons Stockpile Memorandum. The revised Nuclear Weapons Stockpile plan should detail the Department of Defense and Department of Energy's program plan and detailed schedule to achieve the President's proposed inventory adjustments to the Total Strategic Stockpile, reducing the Operationally Deployed weapons to 1,700–2,200 by 2012, as well as the inventory adjustments to the other categories of the nuclear stockpile (i.e., Strategic Active and Inactive Stockpile) by weapon systems and warhead type. The conference agreement restricts a portion of the funds provided for Advanced Concepts research on nuclear weapons pending congressional review of the Nuclear Stockpile report. This report is due to the Appropriations and Armed Services Committees concurrent with the submission of the fiscal year 2005 budget request.

WEAPONS ACTIVITIES

The conference agreement provides $6,272,511,000 for Weapons Activities instead of $6,117,609,000 as proposed by the House and $6,473,814,000 as proposed by the Senate.

Reprogramming.—The conference agreement provides limited reprogramming authority within the Weapons Activities account without submission of a reprogramming to be approved in advance by the House and Senate Committees on Appropriations. The reprogramming thresholds will be as follows: directed stockpile work, science campaigns, engineering campaigns, inertial confinement fusion, advanced simulation and computing, pit manufacturing and certification, readiness campaigns, and operating expenses for readiness in technical base and facilities. This should provide the needed flexibility to manage these programs.

In addition, funding of not more than $5,000,000 may be transferred between each of these categories and each construction project subject to the following limitations: only one transfer may be made to or from any program or project; the transfer must be necessary to address a risk to health, safety or the environment or to assure the most efficient use of weapons activities funds at a site; and funds may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

Congressional notification within 15 days of the use of this reprogramming authority is required. Transfers during the fiscal year which would result in increases or decreases in excess of $5,000,000 or which would be subject to the limitations outlined in the previous paragraph require prior notification and approval from the House and Senate Committees on Appropriations. Failure to notify the Committees within the 15-day period will result in denial of the reprogramming.

W80 life extension project.—The conferees have had a special interest in the W80 warhead stockpile life extension project (W80 LEP) and have consistently asked for unambiguous answers from the NNSA and the Air Force justifying the significant budget increases and the aggressive schedule for the W80 LEP. In fiscal year 2000, the Nuclear Weapons Council agreed to a W80 LEP schedule assuming a W80 LEP First Production Unit (FPU) in fiscal year 2006. Based on information provided by the Department of Energy submitted subsequent to the fiscal year 2004 budget request, the conferees understand that both the NNSA and the Department of Defense have agreed to a revised W80 LEP baseline delaying the FPU requirement until 4th quarter fiscal year 2007. Because the fiscal year 2006 FPU baseline milestone resulted in a very aggressive W80 LEP program, the conferees reduced the significant budget request for the W80 LEP in fiscal year 2004.

Directed stockpile work.—The conference agreement includes $1,340,286,000 for directed stockpile work instead of $1,343,786,000 as proposed by the House and $1,367,786,000 as proposed by the Senate.

The conference agreement provides $412,650,000 for stockpile research and development, a reduction of $20,500,000 from the budget request. The budget adjustments in stockpile R&D include a reduction of $13,000,000 from the budget request consistent with the W80 rebaselining reductions and a $7,500,000 reduction in the robust nuclear earth penetrator study budget request.

Advanced Concepts.—The conferees provide $6,000,000 for Advanced Concepts, as proposed by the Senate, of which $4,000,000 is available for obligation only after the official delivery of a revised Nuclear Weapons Stockpile plan to Congress and a 90-day review period by the House and Senate Committees on Appropriations and the Committees on Armed Services. The revised Nuclear Weapons Stockpile plan should detail the Department of Defense and Department of Energy's program plan and detailed schedule to achieve the President's proposed inventory adjustments to the Total Strategic Stockpile, including the Strategic Active Stockpile and Inactive Stockpile, by weapon systems and warhead type.

Robust Nuclear Earth Penetrator.—The conferees provide $7,500,000 for the Robust Nuclear Earth Penetrator study, instead of $5,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. The conferees remind the Administration that none of the funds provided may be made used for activities at the engineering development phases, phase 3 or 6.3, or beyond, in support of advanced nuclear weapons concepts, including the Robust Nuclear Earth Penetrator.

The conference agreement provides $409,746,000 for stockpile maintenance, an increase of $4,000,000 from the budget request. Within the funds available for stockpile maintenance the conference agreement provides a $10,000,000 increase for activities at the Y–12 plant in Tennessee to complete closeout W87 LEP activities in fiscal year 2004. The conference agreement includes a $6,000,000 reduction in W80 stockpile maintenance activities consistent with the W80 rebaselining. The conference agreement provides $201,885,000 for stockpile evaluation, a reduction of $1,000,000 from the budget request consistent with the W80 rebaselining reductions. In the dismantlement/disposal program the conferees have provided $37,722,000, the same as the budget request. In the production support program, the conferees have provided $271,113,000, a reduction of $7,000,000 from the budget request. In field engineering, training and manuals program, the conferees have provided $7,170,000, the same as the budget request.

Campaigns.—Funding for individual campaigns is shown on the accompanying table. The conferees agree with the House language requesting detailed project baseline data for each campaign showing the total, annual, and five-year costs, schedule, scope, and deliverables for individual project activities as part of the annual budget request.

From within funds provided for the various campaigns, $4,300,000 is provided for the University Research Program in Robotics.

For science campaigns, the conference agreement provides $250,548,000, a reduction of $19,000,000 from the budget request. The conference agreement provides $57,849,000 for primary certification, a reduction of $8,000,000 from the budget request. In the dynamic materials properties program, the conferees have provided $82,251,000 the same as the budget request. Using $5,000,000 within the funds provided for dynamic materials properties, the NNSA is directed to make full use of existing and developing capabilities for materials properties studies, including the subcritical experiments at the U1a facility, Joint Actinide Shock Physics Experimental Research facility and the Atlas facility at the Nevada Test Site. In the advanced radiography program, the conferees have provided $55,985,000, a reduction of $10,000,000 from the budget request. In the secondary certification and nuclear systems margins program, the conferees have provided $54,463,000, a reduction of $1,000,000 from the budget request.

For engineering campaigns, the conference agreement provides $344,387,000, an increase of $13,200,000 over the budget request. Enhanced surety is funded at $32,974,000, a reduction of $5,000,000 from the request, consistent with the W80 rebaselining reductions. In the weapons system engineering certification program, the conferees have provided $27,238,000, a reduction of $1,000,000 from the budget request. In the nuclear survivability program, the conferees have provided $22,977,000, a reduction of $1,000,000 from the budget request. In the enhanced surveillance program, the conferees have provided $91,781,000, a reduction of $3,000,000 from the budget request. In the advanced design and production technologies program, the conferees have provided $77,917,000, a reduction of $2,000,000 from the budget request.

Engineering campaign construction projects.—The conference agreement provides $87,000,000, an increase of $25,200,000 over the budget request, for Project 01–D–108, Microsystem and engineering science applications (MESA) at Sandia, in New Mexico.

Inertial Confinement Fusion (ICF) Ignition and High Yield.—The conferees include $517,269,000 for the inertial confinement fusion ignition and high yield program, an increase of $50,500,000 over the budget request.

National Ignition Facility.—Within the funds provided, $150,000,000 is for National Ignition Facility (NIF) construction, Project 96–D–111, and $367,269,000 is for the ICF ignition and high yield program. Within the funds provided for the NIF program, the conferees direct the Department to fund a public-private research and development activity focused on damage resistant gratings at not less than $1,000,000.

The conferees note that NIF construction funds and NIF program funds have been provided consistent with the Administration's request, but are concerned that these budget figures are not consistent with the revised NIF baseline due to the Department's decision to fund a variety of NIF-related projects and programs within the overall NIF program. While the conferees are supportive of these activities and believe them necessary to achieve the goal of ignition, they strongly recommend that the Department submit future budgets that fund these activities as one or more separate line items.

Inertial Fusion Technology.—The conferees also include $25,000,000 to continue development of high average power lasers and supporting science and technology, the budget request of $10,467,000 for the Naval Research Laboratory, and $63,132,000 for the University of Rochester, an increase of $20,000,000 over the budget request. The additional funding is provided to the University of Rochester's Laboratory for Laser Energetics for the OMEGA Extended Performance (EP) Facility in support of the Nation's stockpile stewardship program. The conferees expect additional funding requirements to complete Omega EP construction will be included by the Department in future budget requests. Additionally, the conferees provide funding of $4,000,000 to initiate assessments and initial development and testing of Z-Pinch inertial fusion energy.

Petawatt Lasers.—The conferees also include an additional $4,500,000 for university grants and other support. Within this amount, $2,500,000 is provided for the continued development of an ultra short-pulse petawatt laser at the University of Texas; and $2,000,000 is provided to continue short-pulse laser development and research at the University of Nevada-Reno.

The conferees agree with the Senate position that high intensity laser physics enables major new areas of science and engineering endeavor in the United States and that advances in this field will enable important progress in critical aspects of basic science, fusion energy, and national security. A robust, coordinated program in high intensity lasers will affordably maintain U.S. leadership in this critically important area. Accordingly, the conferees direct the Department to pursue a joint high intensity laser program with the National Science Foundation. The conferees further direct the NNSA and the Department's Office of Science to develop, in collaboration with the NSF, a report that identifies the benefits and disadvantages of multi-agency coordinated research in high intensity laser science and delineates how a joint program in this area will be structured. This report shall be delivered to the House and Senate Committees on Appropriations no later than April 15, 2004.

For advanced simulation and computing, the conference agreement provides $725,626,000, as proposed by the Senate. From within available funds for advanced simulation and computing, $6,000,000 is provided for the development of a data-intensive computing center to be operated by the Ohio Supercomputing Center at its Springfield, Ohio site; $3,000,000 is provided to demonstrate three-dimensional chip scale packaging integrated with spray cooling. The conferees direct the University Partnerships program be funded at the budget request.

For the pit manufacturing and certification campaign, the conference agreement provides $298,528,000 a reduction of $21,700,000 from the budget request. The conference agreement provides $126,773,000 for W88 pit manufacturing and $108,592,000 for W88 pit certification, the same as the budget request. Providing the requested level of funding will ensure that the NNSA maintains its commitment to produce a certified W88 pit by 2007. The conference agreement provides $10,000,000 for Pit Manufacturing Capability instead of $4,700,000 as proposed by the House and $19,700,000 as proposed by the Senate. The conference agreement provides $10,810,000 for the Modern Pit Facility, a reduction of $12,000,000 from the request. The conferees agree with the House Report that until the Congress reviews the revised future Stockpile plan it is premature to pursue further decisions regarding the Modern Pit Facility.

For readiness campaigns, the conference agreement provides $247,097,000, a reduction of $10,000,000 from the budget request. Funding for the Stockpile readiness campaign includes $55,158,000, the same as the budget request. High explosives manufacturing and weapons assembly/disassembly readiness is funded at $23,649,000, instead of $19,649,000 as proposed by the House and $27,649,000 as proposed by the Senate. The $6,000,000 reduction to the budget request for this program slows the significant program growth from the previous year. The conference agreement provides $33,397,000 for Non-nuclear readiness, a reduction of $4,000,000 as proposed by the House, consistent with the W80 rebaselining reductions. Funding for the tritium readiness campaign includes $134,893,000, the same as the budget request.

Readiness in technical base and facilities.—For readiness in technical base and facilities, the conference agreement provides $1,027,773,000 for operations of facilities, an increase of $55,000,000 over the budget request, and includes several funding adjustments.

Within funds provided for operations of facilities, the conferees direct that, at a minimum, an additional $5,000,000 be provided for the Pantex Plant in Texas and an additional $5,000,000 be provided for the Y–12 Plant in Oak Ridge, Tennessee; an additional $5,000,000 for the Kansas City Plant to address pension liability issues; and an additional $10,000,000 for Los Alamos National Laboratory. The conference agreement provides an additional $5,000,000 to support operation of facilities at the Nevada Test Site, (NTS) including the Device Assembly Facility, the Joint Actinide Shock Physics Experimental Research facility, operations associated with the Atlas relocation project, U1a operations, general plant projects and other NTS support facilities. An additional $25,000,000 is provided for continued facility upgrades, refurbishments, operations and maintenance costs associated with and for the National Center for Combating Terrorism (NCCT). Within the funds available for the NCCT, not less than $5,000,000 is provided jointly to the Institute for Security Studies at UNLV and the Consortium of Terrorism Studies and Fire Science at the University of Nevada, Reno. The conference agreement includes an additional $5,000,000 for modifications of the Z-beamlet laser to the Z machine operations at Sandia. Within available funds, the conference agreement includes $3,000,000 for technology transfer activities as proposed by the Senate. The conference agreement provides $500,000 within available funds for the NNSA to utilize the capabilities of its national laboratories for a joint effort with the U.S. Consumer Product Safety Commission on sensor technologies and applications as proposed by the Senate.

For program readiness, the conference agreement provides $131,093,000 the same as the budget request.

Test Readiness.—Within funds provided for program readiness activities the conference agreement provides $24,891,000 for test readiness in Nevada, the same as the budget request. The conferees recognize that test readiness activities in Nevada were allowed to atrophy during the last decade under the current nuclear test moratorium as documented by the DOE Inspector General and the NNSA's internal assessments. However, the conferees expect the NNSA to focus on restoring a rigorous test readiness program that is capable of meeting the current 24–month requirement before requesting significant additional funds to pursue a more aggressive goal of an 18–month readiness posture. The conferees expect the House and Senate Appropriations Committees be kept informed on the progress of restoring the current test readiness program. The conferees remind the Administration that Congressional authorization must be obtained before proceeding with specific activities that support the resumption of testing.

For special projects, the conference agreement provides $51,675,000, an increase of

$8,700,000 over the budget request. Within funds provided for special projects, the conference agreement includes $6,900,000 for the New Mexico Education Enrichment Foundation; $1,000,000 for the preservation of Manhattan Project historical sites; $500,000 for the Atomic Testing History Institute; $1,000,000 for the UNLV Research Foundation; $2,000,000 for stockpile stewardship research at the Nevada terarwatt facility at the University of Nevada-Reno; $3,000,000 is provided for Total Asset Management Suite (TAMS) technology to be applied to a defense lab or site; $3,000,000 is provided for a defense and security research center; and the budget request for the Los Alamos County Schools.

The conference agreement includes $76,189,000 for materials recycle and recovery, the same as the budget request.

The conference agreement includes the budget request of $16,006,000 for containers, $11,365,000 for storage, and $89,694,000 for nuclear weapons incident response.

Construction projects.—For construction projects in RTBF, the conference agreement includes $260,440,000, a $12,936,000 reduction from the budget request. The conferees included the following adjustments to reflect the latest program planning assumption. The conference agreement provides $10,000,000 for Project 04–D–125, Chemistry and Metallurgy Facility Replacement (CMR–R) at Los Alamos in New Mexico, a reduction of $10,500,000 from the budget request; $11,300,000 for Project 03–D–121, Gas Transfer Capacity Expansion, at Kansas City Plant, Kansas City, a reduction of $4,000,000 from the budget request; $3,564,000 for Project 04–D–103, Project Engineering and Design (PED), various locations, an increase of $1,564,000 from the budget request.

Facilities and infrastructure recapitalization.—The conference agreement includes $240,123,000 for the facilities and infrastructure (F&I) recapitalization program, a reduction of $25,000,000 from the budget request due to funding constraints. The conferees agree with the House direction to procure decontamination, decommissioning and demolition services through an open competitive process to the greatest extent practicable. At least $45,000,000 is to be used to dispose of excess facilities.

Secure Transportation Asset.—The conference agreement provides $162,400,000 for secure transportation asset, as proposed by the Senate. The fiscal year 2003 supplemental included an additional $20,000,000 for the secure transportation asset and the conferees direct the use of the carryover balances for fiscal year 2004. The secure transportation asset program provides for the safe, secure movement of nuclear weapons, special nuclear material, and weapon components between military locations and nuclear complex facilities within the United States.

Safeguards and security.—The conference agreement includes $585,750,000, the same as the budget request, for safeguards and security activities at laboratories and facilities managed by the National Nuclear Security Administration. The conferees are aware that there are unique security requirements at the Y-12 plant in Tennessee and that additional resources are needed to address the current deficiencies. The conferees direct the NNSA to address those security needs within available funds or propose a reprogramming action to provide the necessary resources.

Funding adjustments.—The conference agreement includes an adjustment of $28,985,000 for a security charge for reimbursable work, as proposed in the budget, and the use of $74,753,000 in prior year balances. In addition, the conferees direct the Department to use $23,000,000 of prior year funds to meet a portion of the Department's liability stemming from the termination of the contract with the Ohio Valley Electric Corporation for power to supply the Portsmouth Gaseous Diffusion Plant.

DEFENSE NUCLEAR NONPROLIFERATION

The conference agreement provides $1,327,612,000 for Defense Nuclear Nonproliferation instead of $1,280,195,000 as proposed by the House and $1,340,195,000 as proposed by the Senate.

Availability of funds.—The conference agreement makes the funds available until expended as proposed by the Senate.

Liability Protection for U.S. interests in Russia.—The conferees are greatly concerned with the continued impasse between the United States and Russia on negotiations over liability protections for U.S. companies and personnel conducting nonproliferation work in Russia. The conferees place great importance on the continued successful implementation of the Department's nuclear nonproliferation activities and are concerned that in allowing the government-to-government implementing agreements to lapse for the Nuclear Cities Initiative and Plutonium Disposition activities, the Administration is creating unnecessary impediments to the effective implementation of nuclear nonproliferation programs. Additional delays in program implementation not only carry the risk of disrupting important nuclear nonproliferation activities but also exacerbate the problem of ever-increasing prior year balances carried by the Nuclear Nonproliferation program each year. The conferees urge a speedy resolution to the liability negotiations.

Nonproliferation and verification research and development.—The conference agreement provides $233,373,000 for nonproliferation and verification research and development, an increase of $29,500,000 from the request. The conference agreement includes $20,000,000, the same as the budget request, for ground-based systems for treaty monitoring.

The conference agreement does not adopt the House language requiring all nonproliferation and verification research and development funds be competed using the Technical Support Working Group (TSWG) Broad Area Announcement process.

From within available funds for research and development activities, $7,000,000 is provided to support ongoing activities at the Remote Sensing Test and Evaluation Center (RSL) at the Nevada Test Site to recover eroding emergency response infrastructure, replace aging equipment, and upgrade current technology. From within the funds provided to RSL, the recommendation includes $2,000,000 for the University of Nevada-Reno for the development of chemical, biological, and nuclear detection sensors.

The conference agreement provides $3,000,000 for the Incorporated Research Institutions for Seismology PASSCAL Instrument Center. The conferees intend fiscal year 2004 to be the last year of funding for the PASSCAL Instrument Center provided for within this account. Within available funds, the NNSA is directed to provide $15,000,000 in support of the nuclear and radiological national security program. The conference agreement provides $2,500,000 for the University of South Florida Center for Biological Defense; $1,000,000 for the George Mason University Center for Biodefense; and $1,000,000 for SUNY-Binghamton Advanced Sensor Design and Threat Detection.

The conferees continue to support more opportunity for open competition in appropriate areas of the nonproliferation and verification research and development program. The conferees expect the Department to continue to implement recommendations provided by the external review group in support of open competition and direct the Department to continue a free and open competitive process for at least 25 percent of its research and development activities during fiscal year 2004 for ground-based systems treaty monitoring. The competitive process should be open to all Federal and non-Federal entities. From within funds provided for ground-based systems treaty monitoring, the conferees include $2,500,000 in support of the Caucasus Seismic Information Network. These funds are provided outside the 25 percent of ground-based systems treaty monitoring funds to be awarded by the Department through a free and open competitive process.

Nonproliferation and international security.—The conference agreement provides $110,734,000 for nonproliferation and international security, an increase of $9,000,000 over the budget request. Within the additional funds, the conferees provide the budget request of $3,000,000 for accelerated Reduced Enrichment for Research and Test Reactors (RERTR) and $1,000,000 for the HEU Research Reactor Fuel Purchase initiative as proposed under the Accelerated Materials Disposition proposal. The conferees provide $5,000,000 for initiatives focused on removing nuclear weapons-usable materials from vulnerable sites around the world as proposed by Senate.

Nonproliferation programs with Russia.—The conferees continue to be concerned that too much of the money for Russian programs is being spent in the United States at the Department of Energy's own facilities rather than going to the facilities in Russia. The Department is directed to submit a plan to the Committees on Appropriations that shows how the ratio of the funding within each program that is spent in Russia versus the funding that remains in the United States for the Department's contractors will be increased significantly in each subsequent fiscal year.

International materials protection, control and cooperation (MPC&A).—The conference agreement includes $260,000,000 for the MPC&A program, an increase of $34,000,000 over the budget request. Within funds provided for MPC&A, the conferees provide $28,000,000 for accelerating the Second Line of Defense MegaPorts Initiative and other critical border activities and $5,000,000 for other high priority MPC&A activities, to include countries outside the Former Soviet Union (FSU) such as Pakistan, India, and China.

Accelerated Materials Disposition.—The conferees provide no funding for the Accelerated Materials Disposition (AMD) initiative. The conferees continue to be highly supportive of the successful U.S./Russian HEU Purchase Agreement to blend down 500 metric tons of highly enriched uranium over twenty years. The conferees are supportive of the House language on the AMD proposal and direct the Department to develop a rigorous risk-based priority setting process for allocating budget resources to the activity with the highest nonproliferation benefit. The conferees provide the funding request for accelerated Reduced Enrichment for Research and Test Reactors (RERTR) and the HEU Research Reactor Fuel Purchase under Nonproliferation and International Security account and the accelerated Material Consolidation and Conversion (MCC) program in the International materials protection, control and cooperation (MPC&A) account.

Russian Transition Initiatives.—The conference agreement provides $40,000,000, the same as the budget request, for the Initiatives for Proliferation Prevention (IPP) program and the Nuclear Cities Initiative (NCI). The conferees are troubled by the continuing liability provision impasse that caused the lapsing of the NCI implementing agreement. The conferees urge the Department to work aggressively with the State Department and their Russian counterparts to conclude the liability provision negotiations expeditiously prior to significant delays to nonproliferation work in Russia.

HEU transparency implementation.—The conference agreement provides $18,000,000, the same as the budget request.

International nuclear safety.—The conference agreement provides $4,000,000, a reduction of $10,083,000 from the budget request, for the international nuclear safety program. The conferees note the successful conclusion of the Soviet-designed reactor safety program in fiscal year 2003 and expect the Department to close out all remaining International Nuclear Safety activities in fiscal year 2004 with the funds provided.

Elimination of weapons-grade plutonium production.—The conference agreement includes the budget request of $50,000,000 for the elimination of weapons-grade plutonium production program.

Fissile materials disposition.—The conference agreement provides $656,505,000 for fissile materials disposition, the same as the budget request. The conferees direct the Department to continue the thorium-based fuel cycle program currently being conducted by the Russian Research Centre Kurchatov Institute in conjunction with their U.S. industrial partners. Within available funds the conference agreement provides $4,000,000 to be used in Russia for testing and evaluation of those test results to confirm this thorium-based fuel's plutonium disposition qualities in Russian VVER–1000 reactors and other non-proliferation and environmental benefits. The testing will include irradiation experiments at the IR–8 reactor at Kurchatov Institute. The objective of this testing and evaluation is to assess the timeframe, cost, and technical feasibility of this thorium-based fuel cycle for plutonium disposition in Russia, with a goal of lead test assemblies in 2006 in a Russian VVER–1000 nuclear power plant.

Funding adjustments.—The conference agreement includes the use of $45,000,000 of prior year balances.

NAVAL REACTORS

The conference agreement provides $766,400,000 for Naval Reactors.

Funding adjustments.—The conference agreement includes the use of $2,000,000 of prior year balances. In addition, the conferees direct the Department to use $2,000,000 of prior year balances to meet a portion of the Department's liability stemming from the termination of the contract with the Ohio Valley Electric Corporation for power to supply the Portsmouth Gaseous Diffusion Plant.

OFFICE OF THE ADMINISTRATOR

The conference agreement provides $339,980,000 for the Office of the Administrator instead of $341,980,000 as proposed by the House and $337,980,000 as proposed by the Senate. These funds are available until expended as proposed by the Senate. Statutory language providing $12,000 for official reception and representation expenses has also been included.

The conferees direct the Administrator of NNSA to provide at least $2,500,000 for the NNSA Office of Project Management and Engineering Support to continue its project oversight work and to provide training and mentoring programs to improve the skills of NNSA program and project managers.

Defense Nuclear Nonproliferation.—The conference agreement provides $58,000,000 for the Federal employees in the Office of Defense Nuclear Nonproliferation. None of these funds may be taxed by the NNSA for any purpose without prior notification and approval by the House and Senate Committees on Appropriations.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL MANAGEMENT

The conference agreement provides a total of $6,626,877,000 for Defense Environmental Management instead of $6,748,457,000 as proposed by the House and $6,743,045,000 as proposed by the Senate. This funding is provided in two separate appropriations: $5,651,062,000 for Defense Site Acceleration Completion and $991,144,000 for Defense Environmental Services, and also includes a rescission of $15,329,000 from the Defense Environmental Management Privatization account.

Lack of Agreement for Accelerated Performance Management Plans.—The conferees share the concerns articulated in the House report regarding the linkage between additional funding for accelerated cleanup and the agreement of State regulators to the accelerated performance management plans. The House withheld funds for specific accelerated cleanup projects where State agreement was lacking. Where the necessary State agreement has been reached by the time of this conference, those funds have been restored. Although a final agreement has not yet been reached with the State of New Mexico on the accelerated cleanup plan for the Los Alamos National Laboratory, the Department believes such agreement will be reached shortly. The conferees provide funds for accelerated cleanup of this site in fiscal year 2004, but remind the Department and the State of New Mexico that these funds for accelerated cleanup activities at Los Alamos are contingent on the Department and the State reaching final agreement in the near future.

Statutory Changes Required for Accelerated Cleanup.—The conferees strongly object to the Department sending forth its contractors to advocate for legislative changes that are necessary to execute accelerated cleanup plans, as was apparently the case with the proposal to consider the material in the Fernald silos as suitable for disposal as 11e.(2) material. If such statutory changes are responsible and for the benefit of the Government and the taxpayer, then the Department should submit such changes as part of a formal legislative proposal from the Administration to the Congress. The conferees direct the Department to review its current Performance Management Plans and cleanup contracts to identify any other instances where statutory changes are required to execute accelerated cleanup. The conferees direct the Department to report to the House and Senate Committees on Appropriations and to the relevant House and Senate authorizing committees within 60 days after enactment of this Act with the results of this review, and to submit a comprehensive legislative proposal with the fiscal year 2005 budget request including all such proposed changes to existing law.

Review of Cost and Schedule Baselines.—The conferees share the concerns expressed in the House and Senate reports regarding the recent 33 percent cost increase for the Hanford Waste Treatment and Immobilization Plant. This increase reflects a troubling lack of accountability at the Department for prior cost and schedule estimates, and does not inspire Congressional confidence in the reliability of the current cost and schedule baseline for this project and for other major cleanup projects. Therefore, the conferees direct the Department to transfer $1,500,000 to the U.S. Army Corps of Engineers Directorate of Expertise for Cost Engineering (i.e., the Corps Walla Walla District) to conduct a detailed, bottoms-up, independent review of the cost and schedule baseline for the Hanford Waste Treatment and Immobilization Plant. This independent review should be completed no later than April 30, 2004, to allow the results of the Corps review to inform the House and Senate Committees on Appropriations in their consideration of the Department's fiscal year 2005 budget request. The conferees expect the Department to execute this fund transfer within 30 days of enactment of this Act, and to provide full cooperation to the Corps in executing this independent review.

The conference agreement also directs the Department to transfer $2,500,000 from the Office of Environmental Management to the Office of Management, Budget and Evaluation to increase its oversight of the Department's accelerated cleanup projects. The conferees concur with the Senate language directing the Department to report back to the House and Senate Committees on Appropriations by March 15, 2004, with a specific proposal on how to use these additional funds to establish a formal process by which the Office of Management, Budget and Evaluation shall certify to the Committees that new acceleration and reform agreements based on the site performance management plans are comprehensive in their cost estimates and contain adequate contingency amounts.

Oak Ridge Adjustments.—At the request of the Department, the conference agreement makes a number of reallocations to reflect the current cleanup plans for Oak Ridge National Laboratory, the East Tennessee Technology Park, and the Y–12 Plant. The reallocations occur in the Defense Site Acceleration Completion, Defense Environmental Services, Non-Defense Environmental Services, and Uranium Enrichment D&D Fund accounts, and net to zero.

DEFENSE SITE ACCELERATION COMPLETION

The conference agreement provides $5,651,062,000 for defense site acceleration completion, instead of $5,758,278,000 as proposed by the House and $5,770,695,000 as proposed by the Senate.

Accelerated Completions 2006.—The conference agreement provides $1,248,453,000, an increase of $3,282,000 over the request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

Accelerated Completions 2012.—The conference agreement provides $2,236,252,000, an increase of $7,938,000 over the request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

Accelerated Completions 2035.—The conference agreement provides $1,929,536,000, a reduction of $49,061,000 from the budget request to reflect the adjustment for accelerated Oak Ridge cleanup activities.

From within available funds, the conferees direct the Department to provide a total of $6,000,000 for worker training programs and supporting communications infrastructure, oversight, and management activities at the Hazardous Materials Management and Emergency Response Training and Education Center. The conferees direct the Department to provide $8,500,000 for the Hazardous Waste Worker Training Program from within available funds. The conference agreement provides $750,000 from within available funds to the State of Oregon for its oversight activities related to the Hanford cleanup.

The conferees direct the Department to pay its title V air permitting fees at the Idaho National Laboratory consistent with prior year levels, and to bring the Pit 9 litigation to an end as expeditiously as possible. The conference agreement includes the budget request of $1,356,000 for activities at Amchitka Island, Alaska.

Waste Isolation Pilot Plant.—The Department's activities at the Waste Isolation Pilot Plant (WIPP) are primarily funded under the Accelerated Completions 2035 subaccount within the Defense Site Acceleration Completion account. From within available funds for Accelerated Completions 2035, the conferees direct the Department to provide an additional $3,500,000 to the Carlsbad community for educational support, infrastructure improvements, and related initiatives to address the impacts of accelerated operations at WIPP, and an additional $1,500,000 to consolidate at Carlsbad all record archives relevant to the operations of WIPP and the transuranic waste in WIPP.

Technology Development and Deployment.—The conference agreement provides $66,920,000, an increase of $3,000,000 over the budget request. From within available funds, the conference agreement provides $4,500,000 to continue the five-year agreement with AEA technology and $7,000,000 to continue the five-year agreement with Florida International University's Hemispheric Center for Environmental Technology.

Within available funds, the conference agreement provides $5,000,000 for the Western Environmental Technology Office; $5,000,000 for the Diagnostic Instrumentation and Analysis Laboratory; $2,000,000 for work on the subsurface science research institute by Idaho National Laboratory and the Inland Northwest Research Alliance institutions; and $3,000,000 for the Mid-Atlantic Recycling Center for End-of-Life Electronics. The conferees direct the Department to renew its cooperative agreements with the University of Nevada-Las Vegas Research Foundation and the University of Nevada-Reno, and to continue its support of the Tribal Colleges Initiative involving Crownpoint Institute of Technology, Diné College in New Mexico, and the Southwestern Indian Polytechnic Institute to develop high quality environmental programs at tribal colleges.

Within available funds, the conference agreement provides $3,000,000 to continue the arsenic removal research in conjunction with the American Water Works Association as begun in fiscal year 2003; $3,000,000 in support of desalination research consistent with the Desalination and Water Purification Technology roadmap developed in partnership with the Bureau of Reclamation; $750,000 to support the public/private ZeroNet Energy Water Initiative; and $3,000,000 to fund the demonstration on Native American reservations of a stand-alone stirling engine combined with an advanced vapor compression distillation system for removing water contaminants.

Within available funds, the conference agreement provides $1,500,000 for the Advanced Monitoring Systems Initiative at the Nevada Test Site; $1,000,000 for the Management of Nevada Natural Resources with Remote Sensing Systems program; $1,000,000 for the Desert Research Institute's Yucca Mountain Environmental Monitoring Program; and $500,000 to initiate development of an electrochemical system utilizing ceramic ionic transport membranes for the recycle and disposal of radioactive sodium-ion waste.

Reprogramming authority.— The conferees support the need for flexibility to meet changing funding requirements at sites that are undergoing accelerated cleanup activities. In fiscal year 2004, each site manager may transfer up to $5,000,000 between Defense Site Acceleration Completion subaccounts (i.e., accelerated completions 2006, accelerated completions 2012, accelerated completions 2035, and line item construction projects) to reduce health or safety risks or to gain cost savings as long as no program or project is increased or decreased by more than a total of $5,000,000 during the fiscal year. This reprogramming authority may not be used to initiate new programs or programs specifically denied, limited, or increased by Congress in the Act or report. The Committees on Appropriations in the House and Senate must be notified within thirty days of the use of this reprogramming authority.

Safeguards and security.—The conference agreement includes $303,606,000, an increase of $3,629,000 over the budget request, for safeguards and security activities at laboratories and facilities managed by the Office of Environmental Management. The increase reflects the adjustment for accelerated Oak Ridge cleanup activities.

Funding adjustments.—The conference agreement includes the use of $132,361,000 of prior year balances to offset fiscal year 2004 spending. In addition, the conferees direct the Department to use $21,000,000 of prior year balances to meet a portion of the Department's liability stemming from the termination of the contract with the Ohio Valley Electric Corporation for power to supply the Portsmouth Gaseous Diffusion Plant. The conference agreement also includes an offset of $1,344,000 for the security costs associated with reimbursable work.

DEFENSE ENVIRONMENTAL SERVICES

The conference agreement provides $991,144,000 instead of $990,179,000 as proposed by the House and $987,679,000 as proposed by the Senate. The conference agreement includes $61,570,000 for community and regulatory support, $452,000,000 for the Federal contribution to the Uranium Enrichment Decontamination and Decommissioning Fund, $210,430,000 for non-closure environmental activities, and $287,144,000 for program direction. The conference agreement includes within these amounts an additional $20,732,000 in non-closure environmental activities and an additional $233,000 in community and regulatory support to reflect the adjustment for accelerated Oak Ridge cleanup activities.

Within available funds, the conference agreement includes $2,500,000 for the Waste Management Education and Research Consortium consistent with the terms of its cooperative agreement with the Department, and $500,000 to support the Energy and Environmental Hispanic Community Participation project of the Self Reliance Foundation.

From within available funds for Community and Regulatory Support, the conferees direct the Department to use $1,000,000 for regulatory and technical assistance to the State of New Mexico to amend the existing WIPP Hazardous Waste Permit to comply with the provisions of section 310 of this Act. Also from within available funds, the conferees provide $3,000,000 for the US-Mexico Border Program and expect the funds to be allocated for the following activities which focus on reducing waste streams that threaten public health along the US-Mexico border: Ongoing university programs associated with the needs of Carlsbad and WIPP and the Center of Excellence in Hazardous Materials.

Within the funds available for community and regulatory support, the conferees direct the Department to provide $1,000,000 for the State of Nevada and $4,000,000 for the affected units of local government for external oversight activities related to nuclear waste disposal in Nevada.

DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION

(RESCISSION)

The conference agreement includes the rescission of $15,329,000 from the Defense Environmental Management Privatization account as proposed by the Senate. The balances shall be derived as follows: $13,329,000 from the Paducah Disposal Facility Privatization (OR–574) and $2,000,000 from the Portsmouth Disposal Facility Privatization (OR–674).

OTHER DEFENSE ACTIVITIES

The conference agreement provides $674,491,000 for Other Defense Activities instead of $666,516,000 as proposed by the House and $492,209,000 as proposed by the Senate. Details of the conference agreement are provided below.

ENERGY SECURITY AND ASSURANCE

The conference agreement provides $22,472,000 for the energy security and assurance program. Of the additional funds included for the Office of Energy Assurance, $16,000,000 shall be available for the National Energy Technology Laboratory (NETL) to implement and manage a national energy assurance training capability and other related activities to support the Department in accordance with its National Agenda for Energy Assurance activities, including $3,500,000 for program direction costs, travel, and other related direct and indirect expenses. An additional $4,000,000 shall be for NETL to implement and manage construction, renovation, furnishing, and demolition of agency facilities. The conferees provide $2,472,000 for program direction in the Office of Energy Security and Assurance.

OFFICE OF SECURITY

The conference agreement provides $211,757,000, the same as the budget request, for the Office of Security.

INTELLIGENCE

The conference agreement includes $39,823,000, the same as the budget request, for the Department's intelligence program.

COUNTERINTELLIGENCE

The conference agreement includes $45,955,000, the same as the budget request, for the Department's counterintelligence program.

INDEPENDENT OVERSIGHT AND PERFORMANCE ASSURANCE

The conference agreement provides $22,575,000, the same as the budget request, for the independent oversight and performance assurance program.

ENVIRONMENT, SAFETY AND HEALTH (DEFENSE)

The conference agreement provides $112,261,000 for defense-related environment, safety and health activities, including

$18,910,000 for program direction. The conferees have provided $3,075,000, an increase of $2,075,000 above the budget request, for medical monitoring at the gaseous diffusion plants at Paducah, Kentucky, and Portsmouth, Ohio, and Oak Ridge, Tennessee. The conferees have provided $4,000,000 to continue the DOE worker records digitization project through the Research Foundation at the University of Nevada-Las Vegas. The conferees direct the Department to establish an employee field resource center in the Bay Area of the State of California within 120 days of enactment.

Energy Employees Compensation Initiative.—The conferees are very concerned about the Department's lackluster performance to date in processing the employee claims under Subtitle D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000. The conferees do not adopt the Senate proposal to transfer responsibility for processing the Subtitle D claims from the Department of Energy to the Department of Labor. However, if the Department does not show significant improvement in processing Subtitle D claims during fiscal year 2004, the conferees will consider seriously such a transfer next fiscal year. The conferees also encourage the Department to work with the authorizing committees to streamline Subtitle D of the EEOICPA. Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to the House and Senate Committees on Appropriations and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on administrative expenditures of the Department for the EEOICPA.

WORKER AND COMMUNITY TRANSITION

The conference agreement provides $13,400,000 for the worker and community transition program. Funding of $1,400,000 has been provided for the Pinellas Community Reuse Organization to complete the STAR Center transition, as proposed by the House. The conferees agree with the Senate language on incorporating the mission of the Office of Worker and Community Transition with the Office of Legacy Management. The conferees expect the two separate activities for worker and community transition and legacy management to continue to be identified separately in future budget requests.

No funds may be used to augment the $13,400,000 made available for obligation for severance payments and other benefits and community assistance grants unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees.

LEGACY MANAGEMENT

The conferees support the fiscal year 2004 budget request proposal to establish the Office of Legacy Management to manage the long-term stewardship responsibilities at the Department's cleanup sites. The conference agreement provides a total of $47,525,000 for the Office of Legacy Management, the same as the budget request, of which $19,178,000 is provided in Other Defense Activities and the balance is provided in Non-Defense Environmental Services. The conferees encourage the Department to utilize the Mike Mansfield Advanced Technology Center to support the new Office of Legacy Management.

FUNDING FOR DEFENSE ACTIVITIES IN IDAHO

The conference agreement provides $112,306,000 as proposed in the House Report to fund the defense-related activities at the Idaho National Engineering and Environmental Laboratory (INEEL) and associated Idaho cleanup sites.

NATIONAL SECURITY PROGRAMS ADMINISTRATIVE SUPPORT

The conference agreement provides $86,679,000 as proposed by the House for national security programs administrative support.

OFFICE OF HEARINGS AND APPEALS

The conference agreement provides $3,797,000 for the Office of Hearings and Appeals, the same as the budget request.

FUNDING ADJUSTMENTS

Funding adjustments include a security charge for reimbursable work of $712,000 and a reduction of $15,000,000 to be applied to those programs that have balances carried over from prior fiscal years and lower priority program activities.

Defense Nuclear Waste Disposal

The conference agreement provides $390,000,000 for the defense contribution to the nuclear waste repository program, a reduction of $40,000,000 from the request.

Power Marketing Administrations

BONNEVILLE POWER ADMINISTRATION FUND

The conferees are aware of the Department of the Treasury's concerns relating to Bonneville Power Administration's financial accounting practices and expect Bonneville to rectify the situation as soon as is possible. The conferees agree with the House Report language directing the Secretary of Energy to conduct a review of Bonneville's mission, management, and financial condition and make specific recommendations to Congress to address GAO findings. The Secretary should submit this report to the House and Senate Committees on Appropriations by April 30, 2004. No new direct loan obligations may be made during fiscal year 2004.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

The conference agreement includes $5,100,000, the same as the budget request, for the Southeastern Power Administration. The conference agreement provides $34,000,000 for purchase power and wheeling in fiscal year 2004. The offsetting collections total of $34,000,000 includes $15,000,000 made available in Public Law 106–377 for use in fiscal year 2004, plus an additional $19,000,000 provided in this Act.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

The conference agreement includes $28,600,000, the same as the budget request, for the Southwestern Power Administration. The conference agreement provides $1,800,000 for purchase power and wheeling in fiscal year 2004. The offsetting collections total of $1,800,000 includes $288,000 made available in Public Law 106–377 for use in fiscal year 2004, plus an additional $1,512,000 provided in this Act. The Committee recommendation also provides authority for Southwestern to accept advances from non-Federal entities to provide interconnections to Southwestern's transmission system.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

The conference agreement provides $177,950,000, an increase of $6,950,000 over the budget request for Western Area Power Administration. The conference agreement includes $6,200,000 for the Utah Mitigation and Conservation Account and $750,000 on a non-reimbursable basis for a transmission study on the placement of 500 MW of wind energy in North Dakota and South Dakota. The conference agreement provides $186,100,000 for purchase power and wheeling in fiscal year 2004. The offsetting collections for purchase power and wheeling includes $20,000,000 made available in Public Law 106–377 for use in fiscal year 2004, plus an additional $162,108,000 provided in this Act. The conference agreement includes $4,825,000 for upgrades to substations and transmission lines for the South of Phoenix portion of the Parker-Davis project as proposed by the House.

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

The conference agreement includes $2,640,000, the same as the budget request, for the Falcon and Amistad Operating and Maintenance Fund.

Federal Energy Regulatory Commission

SALARIES AND EXPENSES

The conference agreement includes $204,400,000 for the Federal Energy Regulatory Commission (FERC), an increase of $5,000,000 over the budget request. The conferees provide the additional funds for FERC work related to the August 2003 blackout and for subsequent implementation of enforceable reliability standards. Revenues for FERC are set at an amount equal to the budget authority, resulting in a net appropriation of $0.

The conferees are concerned that the cyber security standard recently announced by the North American Electric Reliability Council omits process control systems, distributed control systems, and electronic relays for generating stations, switching stations, and substations from the definition of critical cyber assets. Computer systems that provide security to the national power grid are increasingly integrated among generation, transmission, and distribution, and control and communication functions, and therefore share interdependent vulnerability. Given that technologies exist in the marketplace to protect plant-level control systems, the conferees encourage the Federal Energy Regulatory Commission to ensure that process control systems, switching stations, and substations are adequately protected by any cyber security standards issued for the national power grid.

The conferees have concerns regarding the continuing impacts of Enron's past business practices on electricity customers in Nevada wherein Enron Power Marketing, Inc., terminated forward power contracts it entered into with Sierra Pacific Power Company and Nevada Power Company and is now seeking under bankruptcy protection to enforce full collection of termination payments for such contracts even though no power was ever delivered. In addition to the substantial record of fraud and market manipulation which has been established through Congressional oversight, the FERC, based upon its own investigation has appropriately sanctioned Enron with a "death penalty" prohibition against participation in the energy trading business in the future. The conferees expect FERC to review carefully the uniquely inequitable circumstances such as those in Nevada which could result in additional adverse impacts on electricity consumers resulting from Enron's past illegal activities. Further, the conferees encourage FERC to view any contract for the sale of electric energy at wholesale that contains rates, terms, or conditions affected by any manipulative or fraudulent activity to be deemed contrary to the public interest.

General Provisions

Department of Energy

Sec. 301. The conference agreement modifies bill and report language proposed by the

House requiring competition of certain management and operating (M&O) contracts of the Department of Energy. This section applies to those M&O contracts that were awarded non-competitively over fifty years ago (i.e., fifty years prior to the start of fiscal year 2004). The affected contracts are specifically identified as: Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

Subsection (a) limits the use of appropriated funds to pay for these contracts unless the Secretary, not later than 60 days after enactment of this Act, notifies Congress and publishes in the Federal Register a notice of his decision to compete these contracts when their current terms expire. Subsection (a)(2) allows the Secretary to use a reasonable amount of funds to maintain operations of these contracts during the 60-day period beginning on the date of enactment of this Act.

The conferees recognize the challenges inherent in competing these contracts, especially those that are currently managed by non-profit educational institutions and those that are located on university property. The conferees expect that the Secretary's Blue Ribbon Commission on the Use of Competitive Procedures for DOE Laboratories will advise the Secretary how to address these challenges. Further, the conferees recognize the difficulties of competing these five laboratory contracts over the next two fiscal years, which is the time span during which the current contracts will expire. The conferees expect the Secretary to use the flexibility provided by subsection (a)(3) to stagger the award dates for these five contracts, so that incumbents and other potential bidders do not have to compete for multiple contracts with the same award date, as would be the case with the Argonne-East and Argonne-West contracts.

The conferees strongly encourage the Secretary to use the competitive procedures outlined in 41 U.S.C. 253. The exemption from full and open competition for federally funded research and development centers (FFRDCs), as provided in 41 U.S.C. 253(c)(3), shall not be used as a rationale for not competing these five laboratory contracts. The Department has successfully competed a number of contracts for other DOE laboratories that have been, and continue to be, designated as FFRDCs, and the FFRDC status of the five laboratories that are the subject of this section should not be used to avoid competition for those contracts. The Secretary may, however, use the flexibility provided in 41 U.S.C. 253 to tailor a procurement that will attract both for-profit and non-profit bidders.

Sec. 302. The conference agreement includes a provision proposed by the House and Senate that none of the funds may be used to prepare or implement workforce restructuring plans or provide enhanced severance payments and other benefits and community assistance grants for Federal employees of the Department of Energy under section 3161 of the National Defense Authorization Act of Fiscal Year 1993, Public Law 102-484. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 303. The conference agreement includes a provision proposed by the House and Senate that none of the funds may be used to augment the $13,400,000 made available for obligation for severance payments and other benefits and community assistance grants unless the Department of Energy submits a reprogramming request subject to approval by the appropriate Congressional committees. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 304. The conference agreement includes a provision proposed by the House and Senate that none of the funds may be used to prepare or initiate Requests for Proposals for a program if that program has not been funded by Congress in the current fiscal year. This provision also precludes the Department from initiating activities for new programs which have been proposed in the budget request, but which have not yet been funded by Congress. This provision has been carried in previous Energy and Water Development Appropriations Acts.

(TRANSFERS OF UNEXPENDED BALANCES)

Sec. 305. The conference agreement includes a provision proposed by the House and Senate that permits the transfer and merger of unexpended balances of prior appropriations with appropriation accounts established in this bill. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 306. The conference agreement includes a provision proposed by the House and Senate prohibiting the Bonneville Power Administration from performing energy efficiency services outside the legally defined Bonneville service territory unless the Administrator certifies in advance that such services are not available from private sector businesses. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 307. The conference agreement includes a provision proposed by the House establishing certain notice and competition requirements for Department of Energy user facilities. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 308. The conference agreement includes a provision proposed by the House and Senate allowing the Administrator of the National Nuclear Security Administration to authorize certain nuclear weapons production plants, including the Nevada Test Site, to use not more than 2 percent of available funds for research, development and demonstration activities. This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 309. The conference agreement includes a provision proposed by the House and Senate which would authorize intelligence activities of the Department of Energy for purposes of section 504 of the National Security Act of 1947 until enactment of the Intelligence Authorization Act for fiscal year 2004.

Sec. 310. The conference agreement includes a provision proposed by the Senate limiting the types of waste that can be disposed of in the Waste Isolation Pilot Plant in New Mexico. None of the funds may be used to dispose of transuranic waste in excess of 20 percent plutonium by weight for the aggregate of any material category. At the Rocky Flats site, this provision includes: ash residues; salt residues; wet residues; direct repackage residues; and scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site". This provision has been carried in previous Energy and Water Development Appropriations Acts.

Sec. 311. The conference agreement includes a provision that requires that waste characterization at WIPP be limited to determining that the waste is not ignitable, corrosive, or reactive. This confirmation will be performed using radiography or visual examination of a representative subpopulation of the waste. The language directs the Department of Energy to seek a modification to the WIPP Hazardous Waste Facility Permit to implement the provisions of this section.

Sec. 312. The conference agreement modifies a provision proposed by the Senate allowing the disposal of certain waste at Fernald, Ohio, and the Niagara Falls Storage Site as "byproduct material" as defined by section 11e.(2) of the Atomic Energy Act.

Sec. 313. The conference agreement includes a provision proposed by the Senate limiting the funds that may be expended under the Advanced Concepts Initiative.

Sec. 314. The conference agreement modifies a provision proposed by the Senate relating to the Martin's Cove lease.

Sec. 315. The conference agreement includes a provision proposed by the Senate regarding the reinstatement and transfer of the FERC License for Project No. 2696.

Sec. 316. The conference agreement includes a provision limiting the use of funds provided for external oversight activities by the State of Nevada and the affected units of local government.

Provisions not adopted by the conference.—The conference agreement deletes language proposed by the Senate that: changes the arrangement for funding from the power marketing administrations for Corps of Engineers hydropower operation and maintenance activities; the limitation on funds available for engineering development of the robust nuclear earth penetrator; transfer responsibility for Subtitle D of the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) from the Department of Energy to the Department of Labor; and that requires a report on administrative expenditures by DOE for EEOICPA activities.

CONFERENCE RECOMMENDATIONS

The conference agreement's detailed funding recommendations for programs in title III are contained in the following table.

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
ENERGY SUPPLY		
RENEWABLE ENERGY RESOURCES		
Renewable energy technologies		
Biomass/biofuels energy systems	69,750	75,000
Geothermal technology development	25,500	26,000
Hydrogen research	87,982	78,000
Hydropower	7,489	5,000
Solar energy	79,693	85,000
Zero energy building	4,000	---
Wind energy systems	41,600	41,600
Intergovernmental activities	12,500	15,000
Electricity reliability	76,866	---
Total, Renewable energy technologies	405,380	325,600
Renewable support and implementation		
Departmental energy management	2,300	2,000
Renewable program support	---	4,000
Total, Renewable support and implementation	2,300	6,000
National climate change technology initiative	15,000	---
Facilities and infrastructure		
National renewable energy laboratory	4,200	9,200
Construction		
02-E-001 Science and technology facility, NREL Golden, CO	---	4,000
Total, National renewable energy laboratory	4,200	13,200
Oak Ridge national laboratory		
Construction		
04-E-TBD Plant engineering and design (PED), energy reliability and efficiency laboratory	750	---
Total, Facilities and infrastructure	4,950	13,200
Program direction	16,577	12,600
Subtotal, Renewable Energy Resources	444,207	357,400
Use of prior year balances	---	-13,000
TOTAL, RENEWABLE ENERGY RESOURCES	444,207	344,400
ELECTRICITY TRANSMISSION AND DISTRIBUTION		
Research and development	---	70,807
Electricity restructuring	---	7,059
Program direction	---	3,761
Construction		
04-E-TBD Plant engineering and design (PED), energy reliability and efficiency laboratory	---	750
TOTAL, ELECTRICITY TRANSMISSION AND DISTRIBUTION	---	82,377

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
NUCLEAR ENERGY		
Radiological facilities management		
Space and defense infrastructure	36,230	36,230
Medical isotopes infrastructure	26,425	28,425
Total, Radiological facilities management	62,655	64,655
University reactor fuel assistance and support	18,500	23,500
Research and development		
Nuclear energy plant optimization	---	3,000
Nuclear energy research initiative	12,000	11,000
Nuclear energy technologies	48,000	44,000
Nuclear hydrogen initiative	4,000	6,500
Advanced fuel cycle initiative	63,025	68,000
Total, Research and development	127,025	132,500
Idaho facilities management		
ANL-West operations	31,615	42,615
INEEL infrastructure	10,190	31,605
Construction		
99-E-200 Test reactor area electrical utility upgrade, Idaho National Engineering Lab, ID...	1,840	1,840
95-E-201 Test reactor area fire and life safety improvements, Idaho National Engineering Lab, ID	500	500
Subtotal, Construction	2,340	2,340
Subtotal, INEEL infrastructure	12,530	33,945
Total, Idaho facilities management	44,145	76,560
Idaho sitewide safeguards and security	---	56,654
Program direction	24,800	59,200
Subtotal, Nuclear Energy	277,125	413,069
Funding from other defense activities	---	-112,306
TOTAL, NUCLEAR ENERGY	277,125	300,763
ENVIRONMENT, SAFETY AND HEALTH		
Office of Environment, Safety and Health (non-defense)	10,000	7,000
Program direction	20,000	16,000
TOTAL, ENVIRONMENT, SAFETY AND HEALTH	30,000	23,000
Subtotal, Energy supply	751,332	750,540
General reduction	---	-10,000
Less security charge from reimbursable work	-3,003	-3,003
TOTAL, ENERGY SUPPLY	748,329	737,537

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
NON-DEFENSE SITE ACCELERATION COMPLETION		
Accelerated completions, 2006	48,677	48,677
Accelerated completions, 2012	119,750	119,750
Accelerated completions, 2035	2,448	4,948
Subtotal, Non-defense Site Acceleration Completion	170,875	173,375
Use of prior year balances	---	-10,000
TOTAL, NON-DEFENSE SITE ACCELERATION COMPLETION	170,875	163,375
URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND		
Decontamination and decommissioning	367,124	365,484
Uranium/thorium reimbursement	51,000	51,000
TOTAL, URANIUM ENRICHMENT D&D FUND	418,124	416,484
NON-DEFENSE ENVIRONMENTAL SERVICES		
Community and regulatory support	1,034	1,034
Environmental cleanup projects	43,842	43,842
Office of Legacy Management (non-defense)	---	28,347
Non-closure environmental activities	160,445	177,445
Construction		
02-U-101 Depleted uranium hexafluoride conversion project, Paducah, KY and Portsmouth, OH	86,800	98,800
Total, Non-closure environmental activities	247,245	276,245
Subtotal, Non-defense Environmental Services	292,121	349,468
Use of prior year balances	---	-10,000
TOTAL, NON-DEFENSE ENVIRONMENTAL SERVICES	292,121	339,468
SCIENCE		
High energy physics		
Proton accelerator-based physics	399,494	399,494
Electron accelerator-based physics	159,486	159,486
Non-accelerator physics	43,000	43,000
Theoretical physics	42,256	42,256
Advanced technology R&D	81,242	81,242
Subtotal	725,478	725,478
Construction		
98-G-304 Neutrinos at the main injector, Fermilab	12,500	12,500
Total, High energy physics	737,978	737,978
Nuclear physics	389,430	391,930
Biological and environmental research	499,535	592,000

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Basic energy sciences		
Research		
Materials sciences and engineering research	567,711	575,711
Chemical sciences, geosciences and energy biosciences	220,914	220,914
Subtotal, Research	788,625	796,625
Construction		
04-R-313-Nanoscale science research center, the molecular foundry	35,000	35,000
04-R-313 Nanoscale science research center, the center for integrated nontechnologies, SNL/LASL	29,850	29,850
03-SC-002 Project engineering & design. (PED) SLAC	7,500	7,500
03-R-312 Center for nanophase materials sciences, ORNL	20,000	20,000
02-SC-002 Project engineering and design (VL)	3,000	3,000
99-E-334 Spallation neutron source (ORNL)	124,600	124,600
Subtotal, Construction	219,950	219,950
Total, Basic energy sciences	1,008,575	1,016,575
Advanced scientific computing research	173,490	203,490
Science laboratories infrastructure		
Infrastructure support	1,520	1,520
Oak Ridge landlord	5,079	5,079
Excess facilities disposal	5,055	6,055
Safety-related corrective actions	---	10,000
Construction		
04-SC-001 Project engineering and design (PED), various locations	2,000	2,000
MEL-001 Multiprogram energy laboratory infrastructure projects, various locations	29,936	29,936
Subtotal, Construction	31,936	31,936
Total, Science laboratories infrastructure	43,590	54,590
Fusion energy sciences	257,310	264,110
Safeguards and security	48,127	51,887
Science workforce development	6,470	6,470
Science program direction		
Field offices	83,802	80,102
Headquarters	58,217	58,217
Technical information management program	7,774	7,714
Energy research analyses	1,020	1,020
Total, Science program direction	150,813	147,053
Subtotal, Science	3,315,318	3,466,083

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
General reduction/use of prior year balances..........	---	-10,000
Less security charge for reimbursable work...........	-4,383	-4,383
TOTAL, SCIENCE..................................	3,310,935	3,451,700
NUCLEAR WASTE DISPOSAL		
Repository program..................................	85,830	109,830
Program direction...................................	75,170	80,170
TOTAL, NUCLEAR WASTE DISPOSAL....................	161,000	190,000
DEPARTMENTAL ADMINISTRATION		
Administrative operations		
Salaries and expenses		
Office of the Secretary............................	4,624	4,251
Board of contract appeals..........................	653	653
Chief information officer..........................	42,214	35,000
Congressional and intergovernmental affairs.......	4,724	4,449
Economic impact and diversity......................	4,701	4,701
General counsel....................................	22,879	20,000
Office of Management, Budget and Evaluation.......	104,210	104,210
Policy and international affairs...................	17,777	13,822
Public affairs.....................................	4,465	3,854
Subtotal, Salaries and expenses................	206,247	190,940
Program support		
Minority economic impact...........................	1,400	1,192
Policy analysis and system studies................	1,000	397
Energy security and assurance.....................	2,000	---
Environmental policy studies......................	1,500	569
Cybersecurity and secure communications...........	26,432	26,432
Corporate management information program..........	37,632	24,000
Subtotal, Program support......................	69,964	52,590
Total, Administrative operations.................	276,211	243,530
Cost of work for others............................	75,095	69,682
Subtotal, Departmental Administration............	351,306	313,212
Use of prior year balances and other adjustments......	---	-10,000
Funding from other defense activities................	-25,000	-86,679
Total, Departmental administration (gross)........	326,306	216,533
Miscellaneous revenues..............................	-146,668	-123,000
TOTAL, DEPARTMENTAL ADMINISTRATION (net)..........	179,638	93,533
OFFICE OF INSPECTOR GENERAL		
Office of Inspector General..........................	39,462	39,462
TOTAL, OFFICE OF INSPECTOR GENERAL...............	39,462	39,462

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
ATOMIC ENERGY DEFENSE ACTIVITIES		
NATIONAL NUCLEAR SECURITY ADMINISTRATION		
WEAPONS ACTIVITIES		
Directed stockpile work		
Stockpile research and development	433,150	412,650
Stockpile maintenance	405,746	409,746
Stockpile evaluation	202,885	201,885
Dismantlement/disposal	37,722	37,722
Production support	278,113	271,113
Field engineering, training and manuals	7,170	7,170
Total, Directed stockpile work	1,364,786	1,340,286
Campaigns		
Science campaigns		
Primary certification	65,849	57,849
Dynamic materials properties	82,251	82,251
Advanced radiography	65,985	55,985
Secondary certification and nuclear systems margins	55,463	54,463
Subtotal, Science campaigns	269,548	250,548
Engineering campaigns		
Enhanced surety	37,974	32,974
Weapons system engineering certification	28,238	27,238
Nuclear survivability	23,977	22,977
Enhanced surveillance	94,781	91,781
Advanced design and production technologies	79,917	77,917
Engineering campaigns construction activities	4,500	4,500
Construction		
01-D-108 Microsystem and engineering science applications (MESA), SNL, Albuquerque, NM	61,800	87,000
Subtotal, Engineering campaigns & construction	66,300	91,500
Subtotal, Engineering campaigns	331,187	344,387
Inertial confinement fusion ignition and high yield.	316,769	367,269
Construction		
96-D-111 National ignition facility, LLNL	150,000	150,000
Subtotal, Inertial confinement fusion	466,769	517,269
Advanced simulation and computing	713,326	688,326
Construction		
01-D-101 Distributed information systems laboratory, SNL, Livermore, CA	12,300	12,300
00-D-103, Terascale simulation facility, LLNL, Livermore, CA	25,000	25,000
Subtotal, Construction	37,300	37,300
Subtotal, Advanced simulation and computing	750,626	725,626
Pit manufacturing and certification	320,228	298,528

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Readiness campaigns		
Stockpile readiness	55,158	55,158
High explosives manufacturing and weapons assembly/disassembly readiness	29,649	23,649
Non-nuclear readiness	37,397	33,397
Tritium readiness	59,893	59,893
Construction		
98-D-125 Tritium extraction facility, SR	75,000	75,000
Subtotal, Tritium readiness	134,893	134,893
Subtotal, Readiness campaigns	257,097	247,097
Total, Campaigns	2,395,455	2,383,455
Readiness in technical base and facilities		
Operations of facilities	972,773	1,027,773
Program readiness	131,093	131,093
Special projects	42,975	51,675
Material recycle and recovery	76,189	76,189
Containers	16,006	16,006
Storage	11,365	11,365
Nuclear weapons incident response	89,694	89,694
Subtotal, Readiness in technical base and fac	1,340,095	1,403,795
Construction		
04-D-101 Test capabilities revitalization, Sandia National Laboratories, Albuquerque, NM	36,450	36,450
04-D-102 Exterior communications infrastructure modernization, Sandia National Laboratories	20,000	20,000
04-D-103 Project engineering and design (PED), various locations	2,000	3,564
04-D-104 National security sciences building, Los Alamos National Laboratory, Los Alamos, NM	50,000	50,000
04-D-125 Chemistry and metallurgy facility replacement project, Los Alamos National Laboratory, Los Alamos, NM	20,500	10,000
04-D-126 Building 12-44 production cells upgrade, Pantex plant, Amarillo, TX	8,780	8,780
04-D-127 Cleaning and loading modifications, Savannah River site, Aiken, SC	2,750	2,750
04-D-128 TA-18 mission relocation project, Los Alamos Laboratory, Los Alamos, NM	8,820	8,820
03-D-103 Project engineering and design various locations	10,570	10,570
03-D-121 Gas transfer capacity expansion, Kansas City Plant, Kansas City, MO	15,300	11,300
03-D-123 Special nuclear materials requalification, Pantex plant, Amarillo, TX	7,628	7,628
02-D-103 Project engineering and design, various locations	10,950	10,950

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
02-D-105 Engineering technology complex upgrade, LLNL, CA	9,776	9,776
02-D-107 Electrical power systems safety communications and bus upgrades, NV	2,887	2,887
01-D-103 Project engineering and design (PE&D), various locations	1,600	1,600
01-D-124 HEU materials facility, Y-12 plant, Oak Ridge, TN	45,000	45,000
01-D-126 Weapons Evaluation Test Laboratory Pantex Plant, Amarillo, TX	2,838	2,838
99-D-104 Protection of real property (roof reconstruction-Phase II), LLNL, Livermore, CA	3,500	3,500
99-D-127 Stockpile management restructuring initiative, Kansas City plant, Kansas City, MO	12,475	12,475
96-D-102 Stockpile stewardship facilities revitalization (Phase VI), various locations	1,552	1,552
Subtotal, Construction	273,376	260,440
Total, Readiness in technical base and facilities	1,613,471	1,664,235
Facilities and infrastructure recapitalization program	261,404	236,404
Construction		
04-D-203 Facilities and infrastructure recapitalization program (FIRP), project engineering design (PED), various locations	3,719	3,719
Total, Facilities and infrastructure recapitalization program	265,123	240,123
Secure transportation asset		
Operations and equipment	123,605	123,605
Program direction	58,795	58,795
Subtotal, Secure transportation asset	182,400	182,400
Use of prior year balances	---	-20,000
Total, Secure transportation asset	182,400	162,400
Safeguards and security	582,067	582,067
Construction		
99-D-132 SMRI nuclear material safeguards and security upgrade project (LANL), Los Alamos, NM	3,683	3,683
Total, Safeguards and security	585,750	585,750
Subtotal, Weapons activities	6,406,985	6,376,249

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Use of prior year balances	---	-74,753
Less security charge for reimbursable work	-28,985	-28,985
Subtotal, Weapons Activities	6,378,000	6,272,511
TOTAL, WEAPONS ACTIVITIES	6,378,000	6,272,511
DEFENSE NUCLEAR NONPROLIFERATION		
Nonproliferation and verification, R&D	203,873	233,373
Nonproliferation and international security	101,734	110,734
Nonproliferation programs with Russia		
International materials protection, control, and cooperation	226,000	260,000
Accelerated highly enriched uranium (HEU) Russian transition initiative	40,000	40,000
HEU transparency implementation	18,000	18,000
International nuclear safety	14,083	4,000
Elimination of weapons-grade plutonium production program	50,000	50,000
Accelerated materials disposition	30,000	---
Fissile materials disposition		
U.S. surplus materials disposition	193,805	193,805
Russian surplus materials disposition	47,100	47,100
Construction		
99-D-141 Pit disassembly and conversion facility Savannah River, SC	13,600	13,600
99-D-143 Mixed oxide fuel fabrication facility, Savannah River, SC	402,000	402,000
Subtotal, Construction	415,600	415,600
Subtotal, Fissile materials disposition	656,505	656,505
Total, Nonproliferation programs with Russia	1,034,588	1,028,505
Subtotal, Defense Nuclear Nonproliferation	1,340,195	1,372,612
Use of prior year balances	---	-45,000
TOTAL, DEFENSE NUCLEAR NONPROLIFERATION	1,340,195	1,327,612
NAVAL REACTORS		
Naval reactors development	724,600	723,100
Construction		
03-D-201 Cleanroom technology facility, Bettis atomic power lab, West Mifflin, PA	300	300
90-N-102 Expended core facility dry cell project, Naval Reactors Facility, ID	18,300	18,300
Subtotal, Construction	18,600	18,600
Total, Naval reactors development	743,200	741,700

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Program direction	25,200	26,700
Subtotal, Naval Reactors	768,400	768,400
Use of prior year balances	---	-2,000
TOTAL, NAVAL REACTORS	768,400	766,400
OFFICE OF THE ADMINISTRATOR		
Office of the Administrator	347,980	281,980
Defense nuclear nonproliferation	---	58,000
TOTAL, OFFICE OF THE ADMINISTRATOR	347,980	339,980
TOTAL, NATIONAL NUCLEAR SECURITY ADMINISTRATION	8,834,575	8,706,503
DEFENSE SITE ACCELERATION COMPLETION		
Accelerated completions, 2006	1,245,171	1,248,453
Accelerated completions, 2012	1,512,554	1,520,492
Construction		
04-D-414 Project engineering and design (PED), various locations	23,500	23,500
04-D-423 Container surveillance capability in 235-F, Savannah River	1,134	1,134
02-D-402 Intec cathodic protection system expansion project, INEEL, Idaho Falls, ID	1,126	1,126
01-D-416 Hanford waste treatment plnt, Richland WA	690,000	690,000
Subtotal, Construction	715,760	715,760
Total, Acclerated completions, 2012	2,228,314	2,236,252
Acclerated completions, 2035	1,892,884	1,843,823
Construction		
04-D-408 Glass waste storage building #2, Savannah River	20,259	20,259
03-D-403 Immobilized high-level waste interim storage facility, Richland, WA	13,954	13,954
03-D-414 Project enginnering and design (PED), various locations	51,500	51,500
Subtotal, Construction	85,713	85,713
Total, Accelerated completions, 2035	1,978,597	1,929,536
Safeguards and security	299,977	303,606
Technology development and deployment	63,920	66,920
Subtotal, Defense Site Acceleration Completion	5,815,979	5,784,767

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Less security charge for reimbursable work	-1,344	-1,344
Use of prior year balances	---	-132,361
TOTAL, DEFENSE SITE ACCELERATION COMPLETION	5,814,635	5,651,062
DEFENSE ENVIRONMENTAL SERVICES		
Community and regulatory support	61,337	61,570
Federal contribution to the uranium enrichment	452,000	452,000
Non-closure environmental activities	189,698	210,430
Program direction	292,144	287,144
Use of prior year balances	---	-20,000
TOTAL, DEFENSE ENVIRONMENTAL SERVICES	995,179	991,144
Defense Environmental Management Privatization (rescission)	---	-15,329
TOTAL, DEFENSE ENVIRONMENTAL MANAGEMENT	6,809,814	6,626,877
OTHER DEFENSE ACTIVITIES		
Other national security programs		
Energy security and assurance		
Energy security	---	20,000
Program direction	4,272	2,472
Subtotal, Energy security and assurance	4,272	22,472
Office of Security		
Nuclear safeguards and security	104,713	104,713
Security investigations	54,554	54,554
Program direction	52,490	52,490
Subtotal, Office of Security	211,757	211,757
Intelligence	39,823	39,823
Counterintelligence	45,955	45,955
Independent oversight and performance assurance	22,575	22,575
Environment, safety and health (Defense)	87,276	93,351
Program direction - EH	20,410	18,910
Subtotal, Environment, safety & health (Defense)	107,686	112,261
Worker and community transition	12,321	10,721
Program direction - WT	2,679	2,679
Subtotal, Worker and community transition	15,000	13,400
Office of Legacy Management (defense)	47,525	19,178
National Security programs administrative support	25,000	86,679
Defense activities at INEEL	113,476	112,306
Office of hearings and appeals	3,797	3,797
Subtotal, Other Defense Activities	636,866	690,203

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
Use of prior year balances	---	-15,000
Less security charge for reimbursable work	-712	-712
TOTAL, OTHER DEFENSE ACTIVITIES	636,154	674,491
DEFENSE NUCLEAR WASTE DISPOSAL		
Defense nuclear waste disposal	430,000	390,000
CERRO GRANDE FIRE ACTIVITIES		
Cerro Grande fire activites (rescission)	-75,000	---
TOTAL, ATOMIC ENERGY DEFENSE ACTIVITIES	16,635,543	16,397,871
POWER MARKETING ADMINISTRATIONS		
SOUTHEASTERN POWER ADMINISTRATION		
Operation and maintenance		
Purchase power and wheeling	15,000	34,000
Program direction	5,100	5,100
Subtotal, Operation and maintenance	20,100	39,100
Offsetting collections	---	-19,000
Carryover offsetting collections (P.L. 106-377)	-15,000	-15,000
TOTAL, SOUTHEASTERN POWER ADMINISTRATION	5,100	5,100
SOUTHWESTERN POWER ADMINISTRATION		
Operation and maintenance		
Operating expenses	4,663	4,663
Purchase power and wheeling	288	1,800
Program direction	19,205	19,205
Construction	4,732	4,732
Subtotal, Operation and maintenance	28,888	30,400
Offsetting collections	---	-1,512
Carryover offsetting collections (P.L. 106-377)	-288	-288
TOTAL, SOUTHWESTERN POWER ADMINISTRATION	28,600	28,600
WESTERN AREA POWER ADMINISTRATION		
Operation and maintenance		
Construction and rehabilitation	12,200	12,950
System operation and maintenance	36,204	36,204
Purchase power and wheeling	20,000	186,100
Program direction	126,588	126,588
Utah mitigation and conservation	---	6,200
Subtotal, Operation and maintenance	194,992	368,042
Offsetting collections	---	-166,100
Carryover offsetting collections (P.L. 98-381)	-3,992	-3,992
Carryover offsetting collections (P.L. 106-377)	-20,000	-20,000
TOTAL, WESTERN AREA POWER ADMINISTRATION	171,000	177,950

DEPARTMENT OF ENERGY
(Amounts in thousands)

	Budget Request	Conference
FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND		
Operation and maintenance	2,640	2,640
TOTAL, POWER MARKETING ADMINISTRATIONS	207,340	214,290
FEDERAL ENERGY REGULATORY COMMISSION		
Federal energy regulatory commission	199,400	204,400
FERC revenues	-199,400	-204,400
GRAND TOTAL, DEPARTMENT OF ENERGY	22,163,367	22,043,720

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

The conference agreement appropriates $66,000,000 for the Appalachian Regional Commission instead of $33,145,000 as proposed by the House and $71,145,000 as proposed by the Senate. The conferees support the Appalachian-Turkish Trade Project to promote trade and investment opportunities. From within available funds, $1,000,000 is provided to construct a multi-purpose facility for Noxubee County, Mississippi.

The conferees direct that no Appalachian Regional Commission funds shall be appropriated to Local Development Districts or other recipients of Commission funds who do not make available to the public on request their audited statements, annual budgets, minutes of meetings, and who do not give reasonable notification of their meetings to the public and allow the public to attend such meetings.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

The conference agreement includes $19,559,000 for the Defense Nuclear Facilities Safety Board as proposed by the House and Senate.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

The conference agreement appropriates $5,000,000 for the Delta Regional Authority instead of $2,000,000 as proposed by the House and $7,000,000 as proposed by the Senate. The conferees direct the Authority to submit to the House and Senate Committees on Appropriations quarterly financial reports providing detailed accounting data on the expenditures of funds during fiscal year 2004. The conferees also expect to receive from the Authority a detailed budget justification for the fiscal year 2005 budget. The Authority failed to comply with this requirement in fiscal year 2004.

DENALI COMMISSION

The conference agreement appropriates $55,000,000 for the Denali Commission instead of $48,500,000 as proposed by the Senate and no funding as proposed by the House. Within the funds provided, the conferees expect the Denali Commission to fund the projects outlined in the Senate Report, the Hope distribution line relocation, and the Southeastern Alaska Intertie System including the Upper Lynn Canal power supply project, the Swan Lake-Lake Tyee segment, the Juneau-Green's Creek-Hoonah segment, and planning and permitting for the Petersburg-Kake segment.

The conferees are very concerned that the Commission did not comply with the requirement that it submit a detailed budget justification for fiscal year 2004. Therefore, the conferees have agreed to include a provision in the bill which provides that $5,500,000 shall not be available to the Commission until the Commission submits a detailed budget justification for the fiscal year 2005 budget.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

The conference agreement includes $618,800,000 as proposed by the House and the Senate, to be offset by revenues of $538,844,000, for a net appropriation of $79,956,000. This reflects the statutory language adopted by the conference in fiscal year 2001 to reduce the fee recovery requirement to 92 percent in fiscal year 2004.

The conferees direct the Nuclear Regulatory Commission to contract with the National Academy of Sciences for a study of spent nuclear fuel storage at commercial reactor sites. The study should assess (1) potential safety and security risks of spent nuclear fuel presently stored in cooling pools, including the density of such storage; (2) safety and security advantages, if any, of dry cask storage versus wet pool storage at reactor sites; and (3) potential safety and security advantages, if any, of dry cask storage using various single-, dual-, and multi-purpose cask designs. In light of the September 11, 2001, terrorist attacks, this study should explicitly consider the risks of terrorist attacks on these materials and the risk these materials might be used to construct a radiological dispersal device. The National Academy of Sciences should deliver a classified report to the House and Senate Committees on Appropriations no later than six months after funding is provided to undertake this study and an unclassified summary as soon as practicable thereafter.

From within funds made available to the Nuclear Regulatory Commission, the conferees direct the Commission to transfer $1,000,000 to the National Academy of Sciences to undertake this study. The conferees expect the Commission to execute this transfer within 30 days of enactment of this Act. This study should be conducted in coordination with the Department of Homeland Security and the Department of Energy. The conferees expect the Nuclear Regulatory Commission, the Department of Homeland Security, and the Department of Energy to make available to the National Academy of Sciences the information it needs to complete this study in a timely manner. Further, the Department of Homeland Security is expected to contribute funding to this National Academy of Sciences study to meet its requirement for a separate analysis of the safety and security of spent nuclear fuel storage at commercial nuclear power plants.

TITLE V

GENERAL PROVISIONS

Section 501. The conference agreement includes language proposed by the House and the Senate directing that none of the funds appropriated in this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress except to communicate to Members of Congress.

Section 502. The conference agreement includes language proposed by the Senate regarding the purchase of American-made equipment and products, and prohibiting contracts with persons falsely labeling products as made in America. The House bill included a provision regarding the false labeling of products.

Section 503. The conference agreement includes language proposed by the House regarding the transfer of funds made available in this Act to other departments or agencies of the Federal government.

Section 504. The conference agreement includes language proposed by the House making a technical correction to the Consolidated Appropriations Resolution, 2003.

Provisions not included in the conference agreement.—The conference agreement does not include language proposed by the House regarding the release of water from the San Juan Chama project and the Middle Rio Grande project and language proposed by the House regarding the export of certain materials to the Peoples' Republic of North Korea.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2004 recommended by the Committee of Conference, with comparisons to the fiscal year 2003 amount, the 2004 budget estimates, and the House and Senate bills for 2004 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2003	$26,712,195
Budget estimates of new (obligational) authority, fiscal year 2004	27,427,496
House bill, fiscal year 2004	27,585,000
Senate bill, fiscal year 2004	27,857,232
Conference agreement, fiscal year 2004	27,830,900
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2003	+1,118,705
Budget estimates of new (obligational) authority, fiscal year 2004	+403,404
House bill, fiscal year 2004	+245,900
Senate bill, fiscal year 2004	−26,332

DAVID L. HOBSON,
RODNEY P. FRELINGHUYSEN,
TOM LATHAM,
ZACH WAMP,
JO ANN EMERSON,
JOHN T. DOOLITTLE
JOHN E. PETERSON,
MICHAEL K. SIMPSON,
BILL YOUNG,
PETER J. VISCLOSKY,
CHET EDWARDS,
ED PASTOR,
JAMES E. CLYBURN,
MARION BERRY,
DAVID R. OBEY,
Managers on the Part of the House.

PETE V. DOMENICI,
THAD COCHRAN,
MITCH MCCONNELL,
ROBERT F. BENNETT,
CONRAD BURNS,
LARRY CRAIG,
CHRISTOPHER BOND,
TED STEVENS,
HARRY REID,
ROBERT BYRD,
FRITZ HOLLINGS,
PATTY MURRAY,
BYRON L. DORGAN,
DIANNE FEINSTEIN,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3232. An act to reauthorize certain school lunch and child nutrition programs through March 31, 2004.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a Joint Resolution of the House of the following title:

H.J. Res. 63. Joint Resolution to approve the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", and otherwise to amend Public Law 99-239, and to appropriate for the purposes of amended Public Law 99-239 for fiscal years ending on or before September 30, 2023, and for other purposes.

The message also announced that the Senate has passed without amendment a Joint Resolution of the House of the following title:

H.J. Res. 76. Joint Resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1066. An act to correct a technical error from Unit T-07 of the John H. Chafee Coastal Barrier Resources System.

S. 1643. An act to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Insurance Act of 1968.

S. 1663. An act to replace certain Coastal Barrier Resources System maps.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, at this time I am pleased to yield to the distinguished majority leader, the gentleman from Texas (Mr. DELAY), for the purposes of informing us of the schedule for next week and, perhaps, the coming weeks.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland (Mr. HOYER) for yielding to me.

Mr. Speaker, the House will convene on Wednesday of next week at 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to the Members' offices by the end of today. Any votes called on these measures will be rolled until 6:30 p.m.

On Thursday the House will convene at 10 a.m. for legislative business. We plan to consider the conference report on H.R. 6, the Energy Policy Act of 2003, and the conference report on H.R. 2754, the Energy and Water Development Appropriations Act for fiscal year 2004.

Now for the following week, the week of November 17, we expect our first votes to occur after 6:30 p.m. on Monday. We will confirm this schedule early next week as we get a better sense of the workload and timing for completion of the various conference reports. But Members should know that there is a good chance that we would be in session through Saturday, November 22.

Mr. Speaker, I thank the gentleman for yielding, and I will be glad to answer any questions.

Mr. HOYER. Mr. Speaker, reclaiming my time, I am not sure by the announcement regarding next week's schedule. Is it the gentleman's expectation that we will be in next Friday or not?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, I do not anticipate being in next Friday.

Mr. HOYER. All right. So we will be off Friday. Now, is the gentleman pretty definite on the following Monday that we will be in at 6:30 as opposed to the normal Tuesday?

Mr. DELAY. Mr. Speaker, as definite as one can be. But as I mentioned, we will evaluate the workload for that week. If at all possible, we could probably start on Tuesday. But I think Members need to plan that we could very well have votes on Monday night.

Mr. HOYER. Mr. Speaker, I thank the majority leader. Last week we passed a continuing resolution until November 21. The gentleman did not indicate in his discussion of the schedule for the next 2 weeks the balance of appropriations bills that are pending, nor did he mention an omnibus appropriation bill. Can he clarify and give us his best thinking at this point in time as to where we are on the CR for November 21 and being able to leave on November 21? I know the gentleman mentioned the possibility of being here on Saturday, November 22. And does the gentleman expect any appropriations bills other than the energy and water, which he did reference would be on the floor either next week or the following week?

I yield to the gentleman.

Mr. DELAY. Mr. Speaker, as the gentleman knows, we have five conference reports completed. We have three more bills in conference and one more, agriculture, that we could be able to go to conference on next week. It is my understanding that the Senate may attempt to complete additional bills next week. But at some point I would anticipate that the Senate would ask us to consider several of the remaining bills in a larger package.

When, and if, they do, we will try to do our best to maximize the House's position based on the bills that the House has already passed. The gentleman knows that the House has passed all 13 of the appropriations bills, and I would hope that whatever process is necessary to wrap up these appropriations measures we would be able to complete them by November 21, thereby not requiring another continuing resolution that week. However, if all that falls apart, obviously we would be considering a continuing resolution in that week.

Mr. HOYER. Reclaiming my time, I thank the gentleman for that information. If that occurs, as the gentleman says may happen, if that occurs, can you give us your current thinking with reference to the date to which a further continuing resolution would be targeted?

Mr. DELAY. I cannot anticipate that right now. Those discussions have not gone on. Actually, people are focused on getting the appropriations process done by November 21.

Mr. HOYER. Reclaiming my time, Mr. Leader, the FSC bill, Foreign Sales Corporations Extraterritorial Income legislation, you did not mention that. Can you tell me when or if you expect that bill to come to the floor? I yield to the gentleman.

Mr. DELAY. I thank the gentleman for yielding. We do not intend to consider that, the tax proposal, next week, but would still like for the House to consider it before the end of this session and before the EU has the opportunity to retaliate against American businesses.

Mr. HOYER. Reclaiming my time, we too are concerned about the WTO's finding of noncompliance and the EU's assertion that if we do not act by the end of the year they are going to act. That is a $4 billion item possible cost to this country.

My understanding is the gentleman from California (Mr. THOMAS) has a bill. As the gentleman knows, there is an alternative available which, I think, frankly enjoys bipartisan support, at least the letters that are being sent around to colleagues would indicate that. In light of the fact that we want to pass legislation, Mr. Leader, can you assure us that the Crane-Rangel-Manzullo alternative would be allowed as a substitute to that piece of legislation to assure that we could, in fact, pass something?

Mr. DELAY. Mr. Speaker, I would anticipate that we would follow regular order and the traditions of the House. And a bill that comes from the Committee on Ways and Means is always tightly held in a rule. I cannot anticipate what the Committee on Rules may write at this particular time, but it has been our tradition in this House that at least one substitute or a motion to recommit, or both, have been allowed on bills that come from the Committee on Ways and Means.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that observation.

With respect to the Labor-HHS-Education bill, which is the largest appropriation bill, as the gentleman knows, that still is outstanding, do you expect that we will have a freestanding conference report on that bill, or do you expect it to be rolled into an omnibus?

Mr. DELAY. If the gentleman would yield, I hope, and I know, I hope that the Labor-HHS appropriations bill for 2004 would be considered freestanding and on its own. A lot of work has been put into that bill. The conference committee is working as hard as it can to get it out before November 21. And as this House has been working so hard to have all these bills freestanding conference reports so that Members can consider them individually, I would hope that it would be freestanding and the House could vote on it. However, if things fall apart, it could be a candidate for the larger package.

Mr. HOYER. Mr. Speaker, reclaiming my time, as the majority leader knows, there is substantial concern on this side of the aisle in this part of the House that some 206 or more districts, perhaps, will be left out of this bill in terms of consideration for individual education and/or health projects. I want to express our great concern about that. There has been a lot of discussion about it in the press, a lot of discussion about it on the floor. The gentleman does not necessarily need to comment on it, but I want to emphasize to him the great concern that we have, as two people who have served on the Committee on Appropriations. The majority leader is not on the Committee on Appropriations now, but he has served on that committee. I am not sure he has been on there 2 decades, but a long time. If that occurs, in my memory that would be the first time.

Now, of course when Mr. Natcher was the Chair, there were no specific projects delineated for individual districts listed in that bill. But from the time that that started to be done in the mid-90s, this is the first time that I can recall on this bill or any other bill, that there has been a blanket preclusion of over 200 districts from participation in the investments made in those bills in the welfare of the American people. So I want to express that. The gentleman does not need to respond to that. I will yield to him if he wants to make a comment. He does not need to respond, but I want to reiterate that.

Mr. Leader, on the conference report on energy, I also want to ask you about the labor-health because of the magnitude of these bills.

□ 1230

The energy bill, obviously, is a major piece of legislation, an important piece of legislation. For the past several weeks you and I have been talking about conferences. You indicated this bill is coming to the floor. I again bring to your attention, Mr. Leader, that our Members appointed by the Speaker to the conference have no knowledge of a meaningful conference having been held on this bill. They do not have any meaningful knowledge of what might be in the bill.

That is true as well, I will tell the leader, of the labor-health bill. I am a conferee on the labor-health bill. I have received no notices of meetings. I have attended no meetings. I have learned of no meetings with respect to that bill. The lack of the ability of Democrats to participate in these conferences, again, I tell the leader from my perspective, is unprecedented. It is certainly not unprecedented when Members meet with them. One side of the aisle would talk about their strategies, their priorities, their objectives. But, historically, when conferences have met, both sides have been invited to attend. There has been discussion about issues.

The energy bill which is contemplated to come to this floor next week, I tell the gentleman, our side does not perceive that has happened. They have not participated. And I know that there has been a pledge that the conferees will at least, even though they are not participating, not invited, not able to articulate their view, will at least get 48 hours receipt of the conference report for the opportunity to review it for 2 days before it comes to the floor.

I ask the leader in the case of the energy bill, will that be the policy on this side of the aisle and, therefore, if the energy bill is coming on Wednesday or Thursday, will the conferees receive at least a copy of the conference report no later than Monday?

Mr. DELAY. After consulting with the gentleman from Louisiana (Mr. TAUZIN), I am confident that the House will be able to take up this conference report next week; and if we go forward with that schedule, I can assure the gentleman that the language of the conference report will be circulated sometime on Monday so that the conferees will have the opportunity to review it before the conference committee completes its business.

This schedule should also allow plenty of time for all Members of the House to review the conference report before it is scheduled. As the gentleman also knows, the conference is a long time coming. There was a full conference formal meeting on September 5. All Members were invited and I think all Members attended. But I would like to point out to the gentleman, Mr. Speaker, that in House committees alone there have been 80 public hearings, 11 markups and 224 amendments considered on this bill. And since 2001 the House has dedicated 5 legislative days to debating the energy bill on the floor with 39 amendments considered.

Since 2002, the energy conferees have held nine public meetings to debate the comprehensive national energy bill for a total of 24 hours and 47 minutes. And in 2003 alone, Republican and Democratic energy conference staff have met no less than 10 times for more than 48 hours of discussions. And, ultimately, the decision on whether or not there will be additional conference committees does not lie in the House because the Senate is chairing the conference. And should there be an additional meeting, I can assure the gentleman that all the Members on the House side of that conference will be invited to attend.

Mr. HOYER. Reclaiming my time, the key phrase there, Mr. Leader, is should a conference be required. You are having meetings. We know that. You are having discussions. We know that. I reiterate again, notwithstanding all your numbers there, the Democrats are not included.

I will tell the gentleman further, as he knows, that in the other body the bill that passed the Senate was the Senate-passed bill from last year. Senator DOMENICI, who is one of the conferees on the floor, said we are going to substantially rewrite this bill in conference. So the debate on the floor seemed somewhat irrelevant. It was a device to get them to conference.

So this conference, more than some others where real bills were passed in both Houses, is a very important venue for the formulation of policy. Democrats are not being given access to those considerations in a full manner. But I am pleased, Mr. Leader, that 48 hours prior to the conference meeting, that we will be getting, whenever that may occur, that we will be getting a copy of the marked up proposal so that we can consider that, digest it, and bring our views to the conference.

I assume, Mr. Leader, that that conference will be unlike the FAA conference to which this body recommitted a bill, which never met as the gentleman from Florida (Mr. MICA) pointed out on the floor, it never met, and as the gentleman from California (Mr. DREIER) has lamented and, as a result, you have to waive the rules.

Mr. Leader, with respect to Medicare, we are in the same position. Do you expect the Medicare prescription drug bill to be on the floor any time in the next 2 weeks?

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. This is a very complicated bill. It is very extensive. It has taken hours, hundreds of hours of work on staff and Members' parts. The gentleman from California (Mr. THOMAS) is trying to put together a proposal that he can submit to the conference committee. Various Members from both sides of the aisle and both sides of the Capitol have been offering him input on this proposal. And based on my conversations with the chairman, his proposal could come very soon, or at least in the next 2 weeks. But I cannot predict for certain when the conference committee will meet to consider this proposal or when the House will vote on the Medicare conference report.

I am aware of the anxieties many of the Members feel about the progress of the Medicare legislation, but the gentleman from California (Mr. THOMAS), chairman of the conference, is working with all of the Members who want to improve the bill in order to craft a final product he can present to all the conferees.

We know how important this legislation is to the credibility of this body and to the well-being of American seniors for years to come. So I am sure that you would understand the need not to hurry in this process. And so, that said, the gentleman from California (Mr. THOMAS) is very close to completing years of work that have been put into this bill and has assured the leadership that he will have a proposal to present to all conferees in the very near future.

Mr. HOYER. I thank the gentleman for his observation; but, Mr. Leader, let me say something. Really what you just said is the gentleman from California (Mr. THOMAS) is meeting with all those who seek to improve the legislation. Improvement, of course, is in the eye of the beholder. There are 435 Members elected to this House, Mr. Leader, as we all know. Their perspective on what improves or harms legislation differs, sometimes very substantially. But our Founding Fathers, Mr. Leader, formed a House representing a diverse American public, from many regions of this country, many areas of every State. Every State has differences within that State. My State does. Your State does.

To say that the gentleman from California (Mr. THOMAS) is only going to talk to those that he perceives as interested in improving that legislation is to say that a bill that passed this House by one vote after the roll was kept open for some 45 minutes is to say that at least half of this House will be excluded.

Mr. Leader, that is not in my opinion and in the opinion of this side of the aisle, and I believe in the opinion of the American people, the way they expect this House to run. It is not the gentleman from California's (Mr. THOMAS) view of what improves or does not improve this bill that counts. It is each of us who are elected to represent our constituents and put on the table the alternatives we believe improve that bill. They ought to be considered. We do not believe that is being done, Mr. Leader.

Mr. DELAY. If the gentleman will yield, I just have to say to the gentleman, I know the gentleman is trying to change the process of the House. We are not operating any differently than this House has always operated.

Every Member that wants to have input on this bill can find ways to have input. It has been expressed time and time again by the leadership on your side of the aisle and others that they do not want this bill. They want a different kind of bill and a different approach.

You have had that opportunity in presenting that approach and in presenting an alternative and a substitute for the will of the House, and the gentleman made a grand attempt to do that. He failed. He did not have the votes to do it.

In that process we went to conference committee. Those Members that are willing to work with, instead of obstruct, the process of getting a Medicare bill to this floor have been consulted on both sides of the aisle by many different people, not just the chairman of the conference committee. So the process is open and available to those who are willing to work with us and be constructive and productive in getting a bill so that the House can vote on it. That is the way this place works. It is the way it has always worked.

Mr. HOYER. Reclaiming my time, Mr. Leader, you and I may have a different perspective obviously. You recall, as I have discussed in the past, the Patients' Bill of Rights. Everybody was for the Patients' Bill of Rights. In fact, in the 106th Congress, as the leader will well recognize, when he was the whip and responsible for counting votes, the Patients' Bill of Rights passed this House with over 250 votes of people who saw it in a way that ought to pass, ought to be the law of the land.

As you will recall, the Speaker appointed eight out of the nine Republican conferees who had opposed the bill. Now, maybe that is the way the House in your recollection has always worked where 250 people vote for something. It never came out of conference, not surprisingly, when you had eight out of nine of the Republican conferees in the majority that opposed the bill that were in the conference. So apparently if it is on your side of the aisle and you oppose something, locking it up in conference is okay. If you are on our side of the aisle and you want to see a Patients' Bill of Rights or you want to see a Medicare prescription bill and you want to see a prescription drug bill that does not eliminate Medicare, that provides for affordable and accessible health care at a price that can be afforded by all of our seniors, then somehow you are perceived as not wanting to improve the bill and, therefore, is not worth being included.

As you know, the gentleman from New York (Mr. RANGEL), one of the senior Members of this House, the gentleman from California (Mr. THOMAS) tried to have arrested not too long ago and thrown out of the Committee on Ways and Means by the Capitol Police.

You will recall that the gentleman from New York (Mr. RANGEL) has now gone to where the conferees, theoretically, were meeting and was asked to leave. The gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means, one of the seniors.

Now, I will remind the chairman that Mr. Rostenkowski chaired this committee and invariably made sure that Republicans were, in fact, included, and invariably when bills came to the floor, he had Republicans supporting those bills and they worked with him. And you will recall that he worked with the President of the United States when we were in the majority to pass the 1986 tax bill. So that may be your recollection, Mr. Leader, of how the House runs.

Mr. DELAY. If the gentleman will yield, my recollection is completely different than yours.

I can remember serving in the minority, too, and having the same frustrations that you have had. It is part of the frustrations of being in the minority.

As the gentleman understands, we are not operating in this regard any differently than the gentleman operated when you were in the majority. You work with people that want to get a bill. You do not waste a lot of time with people that do not want a bill. And then you give everybody the opportunity through the Rules of the House to participate either in the full committee, formal conference committee meetings or here on the floor of the House, and certainly ultimately expressing themselves with their vote.

Mr. HOYER. Reclaiming my time, I agree with the leader. We disagree. Our recollections are not the same. Our experiences are not the same.

Now, I have been here a little longer than the leader, but we have both been here a long time, and when we were in charge you complained as well. Therefore, you can empathize, as you say, with the pain that we feel in the minority.

□ 1245

But it is not the pain that we feel is so important, we want a bill. We may want a slightly different kind of bill than we think that the majority will report out on prescription drugs, but we want a bill. And the people who supported us want a bill, and they may want a bill that is slightly different; and democracy works when all sit down together and discuss their perspectives and try to forge a bill which accomplishes their objective. I do not think we are doing that. I lament that, and I do not think it is in the best interests of the American people.

Mr. Speaker, it is not in the quality of legislation that both the gentleman from Texas and I want to pass, even if we see that quality somewhat differently. I thank the gentleman for the information he has given us.

ADJOURNMENT TO MONDAY, NOVEMBER 10, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday, November 10, 2003.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT FROM MONDAY, NOVEMBER 10, 2003 TO WEDNESDAY, NOVEMBER 12, 2003

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, November 10, 2003, it adjourn to meet at 2 p.m. on Wednesday, November 12, 2003.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT OF OFFICIAL OBJECTORS FOR PRIVATE CALENDAR FOR 108TH CONGRESS

The SPEAKER pro tempore. On behalf of the majority and minority leaderships, the Chair announces that the official objectors for the Private Calendar for the 108th Congress are as follows:

For the majority:
Mr. COBLE of North Carolina;
Mr. CHABOT of Ohio; and
Mrs. BLACKBURN of Tennessee.
For the minority:
Mr. BOUCHER of Virginia;
Mr. SCHIFF of California; and
Mr. GRIJALVA of Arizona.

PERSONAL EXPLANATION

(Mr. PEARCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEARCE. Mr. Speaker, I rise for the purpose of entering into the RECORD how I would have voted on issues before the House on which I was unavailable to vote on Wednesday, October 29; Thursday, October 30; and Friday, October 31.

On Wednesday, October 29, on rollcall No. 577, I would have voted "yes." On rollcall No. 578, I would have voted "yes." On rollcall No. 579, I would have voted "yes."

On Thursday, October 30, on rollcall No. 580, I would have voted "no." On rollcall No. 581, I would have voted "yes." On rollcall No. 582, I would have voted "yes." On rollcall No. 583, I would have voted "yes." On rollcall No. 584, I would have voted "no." On rollcall No. 585, I would have voted "no." On rollcall No. 586, I would have voted "yes." On rollcall No. 587, I would have voted "yes." On rollcall No. 588, I would have voted "no." On rollcall No. 589, I would have voted "no." On rollcall No. 590, I would have voted "no." On rollcall No. 591, I would have voted "no." On rollcall No. 592, I would have voted "yes." On rollcall No. 593, I would have voted "yes." On rollcall No. 594, I would have voted "no." On rollcall No. 595, I would have voted "yes." On rollcall No. 596, I would have voted "yes." On rollcall No. 597, I would have voted "yes." On rollcall No. 598, I would have voted "no." On rollcall No. 599, I would have voted "no." On rollcall No. 600, I would have voted "no." On rollcall No. 601, I would have voted "yes."

Mr. Speaker, the reason for my absence and for not voting on these important issues was because I was a member of a congressional delegation that went to Iraq to visit our troops and to personally observe conditions there.

We were able to visit our troops in Landstuhl, Germany, who have been injured bringing freedom to Iraq. We saw the excellent job our forces are doing, simultaneously setting up a free and fair democracy while bringing evildoers to justice and establishing peace in Iraq. We saw the people working together regardless of ethnicity or religion, to restore businesses and hope to a country formerly under control of despots. Because of our troops and the freedom they are establishing in Iraq, the people there have hope, which they have not had since Saddam Hussein became dictator.

Mr. Speaker, while the business before this House is important, we must also realize that the foundation for all of our actions in this Chamber is the freedoms granted to us in the Constitution and the Bill of Rights. Our presence in Iraq is allowing the Iraqi people to, for the first time, establish a Constitution where the Iraqis will have the freedom to vote for a representative government, where the rule of law will prevail, where citizens will not fear for their lives, their property or their freedom. Let us not forget why we are able to participate in this body, and let us not deny that freedom to Iraq.

PEACE THROUGHOUT THE WORLD

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I simply want to talk about the issue of peace for a very brief moment.

Just a few minutes ago, this House passed the defense authorization bill. As a strong opponent of the initial entry into Iraq of our troops in 2002 when the resolution was on the floor, my opposition stems from the fact that there was a question as to whether or not there were weapons of mass destruction and whether we were under imminent attack. I rise today to say that there is a very important role that our troops around the world can play. The United States has always had the high moral ground on the question of peace.

I would like to turn our attention in this Nation and this administration to the idea beginning to formulate plans for peacekeeping. That is not what is occurring in Iraq today. Primarily as we see the loss of life accelerate, we need to begin to work steadfastly to draw out collaborators and allies around the question of peace.

We were successful in Kosovo and Bosnia because we had the NATO allies. We were successful in Liberia because we had the work of President Obasajno of Nigeria and his peacekeeping efforts. It is imperative that this Nation begins to formulate a strategy for peace and utilize our troops to lift up peace in this world.

DISCOUNT DRUG CARDS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, the Medicare conferees are about to wrap up their important work on providing a prescription drug coverage plan for America's seniors; and I am excited about the impact it will have on my district, the 16th Congressional District of Florida, which has the fifth largest population of Medicare-eligible seniors in America. Legislation I have worked on over 4 years with Senator HAGEL includes the drug discount card which is part of this historic landmark legislation which will provide for over 40 million seniors the opportunity to receive up to a 25 percent discount on their prescription drug costs.

This is good news for seniors, welcomed good news for our seniors in the 16th Congressional District, and I am hopeful as we continue our bipartisan negotiations that when we conclude our work on Medicare, it will not only be reformed, it will become cost effective, and it will also contain the vital new programs necessary to modernize for the first time in over 35 years this vitally important safety net, a medical delivery system for our seniors.

Mr. Speaker, I am excited about the drug discount card, I applaud the White House for their leadership in taking the idea of Senator HAGEL and myself to make it permanent law, and we welcome the opportunity to reach out to seniors with this good plan.

VETERANS ISSUES

(Mr. BALLANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLANCE. Mr. Speaker, next week we will honor our Nation's military veterans for their dedication and service to the Nation, and I take great pride in this day of remembrance. A little more than 30 years ago, I had the privilege of serving in our National Guard of North Carolina, and so it is with distinction today that we remember the veterans: the veterans of the allied engagement in the Persian Gulf War, the brave men of the 7th Cavalry at the battle of Ia Drang, the airmen of MiG Alley in Korea, the Tuskegee Airmen of World War II, and so many others deserving of the highest honors. They all are brave men and women who are our United States veterans, and I am proud this morning to stand in honor of our veterans.

Next week we will honor our nation's military veterans for their dedication and service to the nation, and I take great pride in this day of remembrance.

A little more than 30 years ago, I service in the North Carolina Army National Guard, during the conflict in Vietnam. Times were uncertain then, soldiers were leaving the nation in droves, coming back seasoned veterans of a war. We did not honor our veterans in the way they deserved those many decades ago, and we have learned since that time.

And so it is with distinction today that we remember the veteran; the veteran of the allied engagement in the Persian Gulf War, the brave men of the 7th Calvary at the battle of Ia Drang, the airmen of MiG Alley in Korea, the Tuskegee Airmen of World War II, and so many others deserving of the highest honors. They all are our brave men and women who are the United States Veteran.

I am of the belief, Mr. Speaker, that the men and women who served our nation should be honored every day, not merely once a year, and I believe that America should fully honor the debt we owe to our veterans.

Right now, more than 250,000 troops are stationed in Iraq, all of whom will come home as war veterans. America's military veterans are there for us, wherever and whenever duty calls. It is our turn to stand up for them.

Through the "Salute to Veterans and Armed Forces Act," House Democrats are fighting to preserve and protect the health care and financial future of our nation's veterans.

As we speak, disabled veterans are prevented from collecting both their retirement pensions and disability compensation because of the unfair Disabled Veterans Tax.

Five hundred sixty thousand disabled military retirees see their retirement pension reduced one dollar for every dollar of disability pay.

They sacrificed their well-being for the Nation, and should receive their full disability pay. Every dollar.

In the 1st Congressional District which I am proud to represent, which encompasses rural eastern North Carolina, nearly 1,500 veterans lose benefits every year to the Disabled Veterans Tax, costing each veteran approximately $5,664 in lost benefits.

Mr. Speaker, the working families in my district are already hard hit by tough economic times and widespread plant closings. The veterans in eastern North Carolina barely get by as it is.

This unfair tax on their rightfully earned income, translates into a total loss in benefits for the 1st Congressional District of almost $8.5 million for an economically devastated area.

Mr. Speaker, my Democratic colleagues and I are fighting for an additional $1.8 billion in veterans' health benefit that have been recently cut from the budget.

It is nothing less than shameful that military veterans have to wait as long as six months for a doctor's appointment.

Imagine, Mr. Speaker, if your child fell ill, and yet, you had to wait six months to get them help. This unacceptable scenario is a reality for 60,000 American Military Veterans every year in this country.

We are fighting to expand veterans' job training, higher education and housing programs. If we have money to send them to war we must also provide for their full benefits when they come home.

This is the call for true shared sacrifices. We were able to spend $1.3 trillion in tax cuts; we should be able to spend for our veterans.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

END PARTIAL BIRTH ABORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

Mr. GARRETT of New Jersey. Mr. Speaker, 2 days ago the President of the United States signed into law a historic piece of legislation, a bill that would end partial birth abortion, a law that will now end this heinous and truly gruesome, barbaric act of killing innocent little boys and girls.

But as was all too expected, a lawsuit was immediately filed and a court immediately prevented this life-saving law from going into effect. Most appalling is the fact that the court did so not on any sound basis of law, but on what is becoming all too often the case with courts in this Nation, a decision by the court to simply impose its feelings on the issue over the findings of a legislative body, this United States Congress.

As has been reported in the press, the U.S. Department of Justice asked the court, as courts should do, to give deference to the finding of fact by Congress. Instead, the court replied to that request that it could find no record of any doctor who performs abortions in the last trimester to testify before Congress. The court stated: "Isn't that important if Congress was really interested in knowing about this procedure?" Indeed, if this court was truly being honest, it would realize that no abortionist would ever want to testify before Congress because in so doing, the awful truth about this heinous act would be revealed before the opponents of this act, before this House. It is telling that no abortionist of such late-term abortions would want to testify about such horrific acts that they do.

It is so patently clear that the court here was searching for a way to impose its personal view instead of abiding by the law of the land, a law which is supported by the vast majority of the people of this Nation, as well as most State governments. The court simply refused to abide by the findings of this Congress that a health exception was not necessary. The court stated: "While it is also true that Congress found that a health exception is not needed, at the very least it is problematic whether I should defer to such a conclusion when the Supreme Court has found otherwise." Problematic, court?

If the court was indeed wanting to uphold the law of the Nation and not its personal views, it would have recognized that the Supreme Court's holdings were not its own, but were the opinions of a lower court that the Supreme Court simply did not have sufficient legal basis to overrule.

Congress, however, very clearly and upon substantial hearings and evidence set out its findings of fact of no need for a health exception. This court, however, as past Supreme Courts have stated, should have abided by the findings of facts by this Congress. This court has failed to uphold the findings of this Congress. This court has failed to abide by the precedent of the Supreme Court in granting due deference to such findings of fact. And most tragic of all, this court's actions may well result in more deaths to innocent little children.

LIGHT RAIL IN HOUSTON, TEXAS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, many times I have come to the floor of the House to express what I believe should be the chief responsibility of the Federal Government, problem solvers, working with local communities to enhance the quality of life of all of our citizens throughout America.

So today I take the special privilege of saluting my local community in Houston, Texas. It has been a 30-year journey, 30 years of trials and tribulations, of misrepresentations of the facts, and yet we have overcome it.

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But I do not fault those who opposed rail in totality because I do believe in democracy, and a vigorous debate has occurred in Houston, Texas on the question of implementing a light rail system. Those that hear my voice might say that that is probably not one of the more serious issues that we have in our community and in our Nation, but all of the long work of my community leaders, the Metro board, the City of Houston, deserve the tribute because in Houston it is a serious matter.

I do want to thank the mayor of the City of Houston, Lee P. Brown, and I am delighted to have been one of the strongest stalwarts and supporters of the Metro system over the last 30 years. One would not like to count those long journeys that we have had to take and the stark and strong opposition that we have had. And so I pay tribute to the members of the Metro board, former Ambassador Arthur Louis Schechter, the chairman; Mr. Thomas E. Whitson, vice chairman; Mr. Jackie Freeman, secretary; Mr. James E. Cumming; Dr. Samuel J. Gilbert, Sr.; Dr. Carol Lewis; Mr. Art Morales; Ms. Janie Reyes; and Mr. Don Wang. I also pay tribute to Metro's political action committee, Citizens for Public Transportation, led by Mr. Ed Wolfe; Community Outreach and Governmental Affairs Division led by Mr. Frank Russ and Mr. Tom Jasien; and most importantly the people of the Houston communities, all of the Houston communities and Harris County in the Metro service area who will benefit from this tremendous victory, all of my constituents in the 18th Congressional District who came together to cast a total of almost 400,000 votes and the majority of those supported the implementation of a Metro system.

What does it mean? It means that we will have a 50 percent increase in Metro's existing bus service. We will have new light rail, new commuter service and we will have no new taxes. We realize that in order to enhance the quality of life for the physically challenged and others who are disabled, for veterans, we will need a real light rail system in Houston.

Let me share with you that the distance between the earth and the sun is about 93 million miles. Houstonians drive about 156 million miles a day through a weave of roadway that will further ensure the congestion and the entanglement on our freeways and highways and byways. Furthermore, the Texas Commission on Environmental Quality tells us that one-third of Houston's air pollution comes from our cars and trucks. Since light rail is powered by electricity, it produces no on-site emissions. Houston residents need and deserve nonpolluting transportation choices like light rail, and now the plans will come to fruition.

Over the years we will support a 72-mile system that will go into Sunnyside and Akers Home and into the Gulf Gate region, into East End, into areas near the small cities. And I want to thank my friends in Fort Bend and out in the Woodlands. We will be looking forward to a commuter rail that will take us to the airport, to the Fort Bend area, to Sugarland and certainly to the northwest area. We are looking for the support of our entire community, the county officials, city officials, and it is imperative that the next mayor of the City of Houston be a vigorous supporter of light rail. The citizens will tolerate nothing less, that that person be vigorous and that they will not be overcome by special interests that will tell them that we cannot move on the 39-mile system and then the 72-mile system. It is interesting to watch those who are physically challenged relish to have a system that is accessible to the disabled and then to our senior citizens who need to have, if you will, low-priced but good service, clean service, mobility systems that they can access. And our senior citizens who we are fighting for on this floor to give them a guaranteed Medicare prescription drug benefit need the complement of good rail systems and a good Social Security system. That is what we have planned for them in Houston with the vote of the Metro system.

Mr. Speaker, I include for the RECORD my op-ed in the Houston Chronicle on Derailing Metro Transit Plan Isn't an Alternative and here we support in totality the Metro plan that has passed and the 72 miles.

Hooray. Congratulations to our city for doing the smart thing and being smart on transit. You deserve congratulations today.

Mr. Speaker, I rise today to pay special tribute to a local victory—I pay tribute to the Houston Metropolitan Transit Authority (METRO) of Harris County, Houston Texas for having successfully won the vote of approval for its light rail project in a referendum held on November 4.

Because of the undaunted effort of (1) the Houston METRO Board of Directors which consists of former Ambassador Arthur Louis Schechter—Chairman, Mr. Thomas E. Whitson—Vice Chairman, Mr. Jackie Freeman—Secretary, Mr. James E. Cumming, Dr. Samuel J. Gilbert, Sr., Dr. Carol Abel Lewis, Mr. Art Morales, Ms. Janie Palomo Reyes, and Mr. Don J. Wang; (2) METRO's Political Action Committee "Citizens for Public Transportation" led by its able Chairman Mr. Ed Wolfe; (3) METRO's Community Outreach and Governmental Affairs Division with Mr. Frank Russ and Mr. Tom Jasien; and (4) most importantly the people of the Houston communities who will benefit from this tremendous victory.

The victorious results of the November 4 referendum—of a total 366,226 votes cast from a pool of citizens of Harris County, Ft. Bend County, and Montgomery County, 189,443 (52%) voted for METRO Solutions and 176,783 voted against it—was the fruit of over two (2) years of hard work by the METRO Board, Staff, PAC, and the community all working together as a cohesive unit. Now, we may concentrate on the actual benefits that the METRO Solutions plan will achieve: 50% increase in METRO's existing bus service, including approximately 44 new local, signature express, and Park & Ride bus routes; Nine (9) new Transit Centers and nine (9) new Park & Ride lots, as well as expansion and upgrading existing facilities; Expansion of the METRORail line and commuter line components. The overall plan includes 72.8 miles of rail; Extension of the payments to local governments for street and other mobility improvements for five additional years (2010–2014); Initiating of the first 10 years of construction, which includes 22 miles of rail with no new taxes!

Road and freeway improvements, as well as the construction of an enhanced public transportation system, will now be put in place to alleviate problems such as congestion and pollution while generating significant tax dollars. Statistically, Houstonians travel more miles per day than there are miles between the Earth and the sun. The distance between the Earth and the sun is about 93 million miles. Houstonians drive about 156 million miles per day! Houston has one of the worst air quality problems in the nation. Furthermore, the Texas Commission on Environmental Quality tells us that one-third of Houston's air pollution comes from our cars and trucks. Since light rail is powered by electricity, it produces no on-site emissions. Houston residents need and deserve non-polluting transportation choices like light rail and now the plans will come to fruition.

This victory demonstrates that despite the force of an extremely well-financed opposition driven by special interests and partisan influence, the great effort and the will of the people overcame in the end. I would actually like to thank my friend on the other side of the aisle, Mr. DELAY for his efforts to aid in giving METRO the funds it needed to conduct the studies that concluded that the METRO Solutions plan is smart.

Congratulations to METRO and congratulations to the local government.

[From the Houston Chronicle, Oct. 23, 2003]

DERAILING METRO TRANSIT PLAN ISN'T ALTERNATIVE

(By Sheila Jackson Lee)

Just over one century ago, in 1880, Houston, the powerhouse of Texas business, had a population of only approximately 16,000 people, according to a federal census. Since then, the metropolis has seen unprecedented growth to become one of America's most populous cities. That's why we need a public transportation system that is funded by the public and will be used by the public.

The greater Houston area is subdivided into six counties: Chambers, Fort Bend, Harris, Liberty, Montgomery and Waller, Harris County proudly hosts the city of Houston, and that is where the largest part of the population is concentrated. In 2000, approximately 3.5 million people lived in Harris County alone. Over the next 20 years, the population of the Houston region will continue to grow. In fact, the influx of more than 2 million additional people in Harris County and another million in the surrounding counties is expected. With respect to transportation, Houston and Harris County already experience serious problems. The imminent increase in population will only exacerbate the problems and will have a negative impact on the overall quality of life in the region. All forms of infrastructure improvements must provide the solution.

Road and freeway improvements, as well as the construction of an enhanced public transportation system, will alleviate the problems while generating significant tax dollars. Statistically, Houstonians travel more miles per day than there are miles between the Earth and the Sun. The distance between the Earth and the Sun is about 93 million miles. Houstonians drive about 156 million miles per day!

The Metropolitan Transit Authority has worked over the past two years to create a long-range plan for mass transit in the Houston area called Metro Solutions. Texas has a Transportation Code, and it is authorized to act in this field of local government through Metro. Given the need for the service to be provided by Metro's plan and the state's jurisdiction to implement a plant that has been accepted by the public, why does the federal government and a member of the House Appropriations Committee need to interfere with its progress?

This member has worked to hinder this highly beneficial transportation project for quite some time. In fact, his amendment to the Transportation, Treasury, and Independent Agencies Appropriations Act for fiscal year 2004, also known as H.R. 2989 and incorporated as Section 163, aimed directly at this project with proposed restrictions that are both redundant and unnecessary. This member introduced Section 163 under the guise of ensuring that the citizens in the transit authority service area had an opportunity to voice their desires with respect to the light-rail proposal. He took these measures despite his knowledge that the Metro board has been diligently working with the community to establish development plans that do not violate Texas law and despite the fact that Chapter 451 of the Texas Transportation Code requires the referendum process that will take place on Nov. 4.

Furthermore, his actions likely precipitated the issuance of an opinion by the Federal Transit Administration's chief counsel as to the denial of funds for the Advanced Transit Plan largely due to the redundant prohibitions of Section 163. Although Metro has called for a referendum pursuant to Chapter 451 of the Texas Transportation Code, in addition to having held several public hearings on the matter, the FTA, by way of this opinion, had summarily deemed the process insufficient for purposes of the Section 163 prohibitions. Because neither H.R. 2989 nor Section 163 is law, the FTA opinion effectively disrupted and interfered with the local administration of a transportation project that has been fully accepted and supported by members of the community.

In addition to the fact that the basis for this opinion was premature, i.e., the fact that both Section 163 and H.R. 2989 are not law as yet, the Metro board held a meeting to change the language of its referendum ballot for Nov. 4 to further conform to these prohibitions that are not yet law. This ballot was then accepted by the Department of Transportation for compliance with federal regulations. Metro held 178 public and stakeholder meetings during its development of the Metro Solutions plan between December 2001 and July 2003.

The alternative plan backed by Metro Solutions opponents and formulated by the Houston-Galveston Area Council, the "100 Percent Solution" plan, is still in draft form and has not yet had specific public involvement for the additional 5,000 lane-miles on top of the already planned 5,600 lane-miles. In terms of economic benefits projected for Metro solutions, between $130 million and $200 million per year in regulatory costs will be saved to reduce pollution emissions.

The opponents of Metro solutions offer the 100 Percent plan as an alternative. However, it is not an alternative. First, unlike the Metro solutions plan, the 100 Percent plan is an unfinished study and not a plan at all. Secondly, Metro Solutions covers only a portion of the eight-county region, while the 100 Percent plan contemplates the incorporation of the Regional Transportation Plan, or RTP, which is a multimodal plan that covers the entire eight-county region. The RTP is not an alternative to Metro Solutions—it includes Metro Solutions. Also, unlike Metro Solutions, the 100 Percent plan is based on a wish list of regional road and transit projects that have no identified funding and would require significant amounts of right of way. The claim by Metro Solutions opponents that the 100 Percent solution plan can reduce congestion depends upon the sudden appearance of this wish list of projects that the federal government currently prohibits local officials from planning and programming, as they have no existing revenue streams to fund such projects.

In conclusion, there is no need to impede or to derail the Metro Solutions plan. Houston is the only city in the United States that was affected by funding restrictions of H.R. 2989. As a result, the city has been singled out and excluded from the 25 slices of a funding pie worth $1.2 billion federal dollars. Dallas is slated to receive $30 million under the act. The referendum vote on Nov. 4 will translate to more needed rail, more buses and more roads with no new taxes. Metro Solutions is a public transportation plan that will serve the public—therefore, the will of the community should supersede any federal special interests. I strongly urge a yes vote on the Metro referendum.

CHILD SAFETY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, before I begin, I want to take a moment to thank the chairman of the Subcommittee on Human Resources of the Committee on Ways and Means, the gentleman from California (Mr. HERGER), for calling a hearing yesterday to examine the failure of our system to protect our children. It was a very, very difficult hearing for those of us who attended to listen to the traumatic and heartbreaking story of four young men in a family, the Jackson family of New Jersey.

As someone who has worked on child protection for my career in the Congress and in the State legislature and as cochairman of the Congressional Missing and Exploited Children's Caucus, I was shocked to hear and to see the photos of these four young men who were suffering at the hands of their adoptive parents. What struck me even more, or at least made me more outrageous, was the fact that the Division of Youth and Family Services from New Jersey had visited the home of this family over 38 times in the past several years.

What did they fail to observe in these visits? For one, they failed to observe a 19-year-old boy who weighed just 45 pounds and was a mere 4 feet tall; a 14-year-old boy who was 3 feet in height and, I believe, less than 40 pounds. Where were they protecting these children?

The fact is, Mr. Speaker, most Americans treat their pets better than New Jersey cared for their children. We heard arguments, which we always do when there is a child tragedy, that, A, we lack resources and funding, we have too many caseloads. Those excuses and finger-pointing and blame-gaming must stop, because they are outrageous accusations suggesting money was at the root of the children's problems. The family received over $30,000 annually in a subsidy to care for these children from the Federal and State government. $30,000. There is no excuse that money, or shortage of money, was the reason these children were starved. Thirty-eight visits by a caseworker to this house indicates obviously that they had a routine appearance in the household.

What did they fail to observe? One thing they failed to observe is that there were locks on the doors to the kitchen, not allowing the children to come into this home, into their own kitchen to eat. When you look at the photos, and you have probably seen these photos if you have picked up any paper in this country because they have been blasted across the headlines of every newspaper in America, including both TV and print journalists.

We have to in this country get a handle on this problem because this is sickening to its core that children that would be in the hands of people would be allowed to be treated so miserably. And regrettably at yesterday's hearing a person, a man of the cloth from the church where the Jackson family attends, actually got up and defended the parents and started to blame the children, suggesting they had eating disorders, that they were violent children. We are talking about 19, 17 and younger than that. I would have accepted some of that argument from this reverend had the family sought medical attention or had the family chosen to return the children to foster care because they were too difficult to care for. But no, they did not do any of that. What they did was cash checks from the welfare system and then fail to feed the children.

Testimony from children's services indicate all of these boys have now had remarkable weight gain in the last several weeks. So the argument put forward by the reverend that these children were eating three square meals a day and they suffered from eating disorders is absolutely false and spurious when you look at the results of the care and feeding under Division of Youth Services of that State.

At the end of the day, and fortunately for the gentleman from California's leadership in calling this hearing, we may get to the bottom of some of these problems, but we must act quickly. We are not talking about overdue library books, we are talking about human life. We are talking about children who are allowed to starve, we are talking about a system that is run amuck, and we are talking about only getting a response when some politician's job is on the line.

It is time to get serious. It is time to get to the job of protecting our children. I only hope that there is never again an example like the Jackson family suffering at the hands of a State agency.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, on October 14, the Supreme Court agreed to hear a dispute over the phrase "one Nation under God" in the Pledge of Allegiance. Make no mistake, this lawsuit is another attempt by atheists to exterminate America's religious heritage. Michael Newdow is an atheist who wants the government to adopt his religious views. He argues that his daughter was, in legal terms, injured by having to be exposed to the recitation of the Pledge of Allegiance in school. The underlying idea behind Mr. Newdow's efforts was expressed perfectly by the ancient Greek philosopher Protagoras. He said, "Man is the measure of all things." What this statement means is that human beings, not a God or an unchanging moral law, is the ultimate source of value.

The Declaration of Independence tells us differently. The Declaration tells us exactly what the ultimate source of our laws and liberties are and where they came from. It reads that all men are created equal, endowed by their Creator with certain unalienable rights. Among these are life, liberty and the pursuit of happiness.

There is a central question in this controversy, whether or not public officials in the government itself can acknowledge a higher power than themselves. Can the government acknowledge God or must we agree that man is the measure of all things?

The background on this case is interesting. The child involved in the present suit is not required to recite the Pledge. Mr. Newdow argues that his daughter should not even have to listen to the Pledge. In the factual and procedural background section of Newdow v. U.S. Congress, Mr. Newdow argues his daughter is injured when she is compelled to watch and listen as her State-employed teacher in her State-run school leads her classmates in a ritual proclaiming that there is a God and that ours is one Nation under that God. If Mr. Newdow's daughter is injured by listening to the pledge with the words "under God" in it, what about the other students? In the dissenting opinion of Newdow v. U.S., Circuit Judge Fernandez makes the point well.

He says:

I recognize that some people may not feel good about hearing the phrases recited in their presence, but then others might not feel good if they are omitted.

This application of logic to Newdow's argument proves that we need something more to shed light on the constitutionality of the phrase "under God." We must also look to the history of the phrase itself. By doing so, we can shed light on the legitimacy of recognizing God in our government and in our laws.

To shed light on this controversy, it would be helpful to look at the history of the phrase "under God" and the words of the people who helped write our Constitution.

The Pledge of Allegiance was written in 1892 by Francis Bellamy, a Massachusetts educator. Bellamy was planning celebrations to mark Columbus Day and the 400th anniversary of the discovery of America. The Pledge emphasized the permanence of union and the liberty of the people. The Pledge was written only 27 years after the Civil War. The 1892 version of the Pledge read, "I pledge allegiance to my Flag and to the Republic for which it stands, one nation indivisible with liberty and justice for all."

Because of large numbers of immigrants, some thought the reference to "my Flag" might encourage immigrants to retain loyalty to their former country's flag. And so in 1924, the National Flag Conference approved a change in the Pledge. It now in 1924 read, "I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation indivisible with liberty and justice for all."

In 1942, Congress codified the pledge into law when it was added to the U.S. Flag Code. This version did not include the words "under God." Again it read, "I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation indivisible with liberty and justice for all."

In 1954, Congress inserted the words "under God" into the Pledge of Allegiance. In 1943, Jehovah's Witnesses filed suit and challenged the mandatory recitation of the Pledge.

□ 1315

The Court ruled that governments should not force students to recite the pledge against their will or contrary to their beliefs. Judge Fernandez again from the dissenting opinion in Newdow v. Congress. In West Virginia Board of Education versus Barnett, for example, the Supreme Court did not say that the pledge could not be recited in the presence of Jehovah Witness children. It merely said that they did not have to recite it. That fully protected their constitutional rights by precluding the government from trenching upon the sphere of intellect and spirit. In the law they concluded the Pledge of Allegiance simply stated that standing was a sign of respect for the Nation and its laws. Public Law 396 states: "However, civilians will always show full respect to the flag when the Pledge is given by merely standing at attention."

In conclusion, students are not forced to say the Pledge of Allegiance. Reciting the Pledge in the presence of students who object to it does not violate the Constitution. Congress's addition of "under God" was only reference to God during that time. In 1955 by unanimous vote, Congress required the U.S. Mint to place the words "In God We Trust" on all of our currency. And over the Speaker's desk on that marble wall are the words "In God We Trust." In 1956 Congress adopts "In God We Trust" as the national motto. Were these enactments by Congress isolated? Not at all. The Nation has long publicly declared its dependence on divine providence.

There are references to our dependence on God in earlier American history. Lincoln's consecration of the Gettysburg speech, in which he said: "It is for us the living rather to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation under God shall have a new birth of freedom, and that government of the people, by the people, and for the people shall not perish from the earth."

What did Lincoln mean by saying "this Nation under God"? That the United States is under the protection of God? That we are also under God's judgment, that we must conduct ourselves according to his standards of justice? Lincoln said in his second inaugural address: " . . . and that He gives to both North and South this terrible war, as the woe due to those for whom the offense" of slavery "came."

Lincoln, by declaring our Nation "under God," seems to be echoing a man even closer to the writing of the Constitution and Declaration of Independence, Thomas Jefferson: "And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are a gift of God? That they are not to be violated but with His wrath? Indeed I tremble for my country when I reflect that God is just, and His justice cannot sleep forever . . . " Thomas Jefferson's wisdom reinforces Mr. Lincoln's assertion stated earlier that the Civil War was divine judgment for slavery. In that sense America is a Nation under God.

Why was America being judged by God during the Civil War? Because slavery was a violation of the principle of equality proclaimed in the Declaration of Independence. Even though slavery was allowed in the Constitution, it was still a violation of another of Jefferson's principles. In his first inaugural address, Jefferson said: "All, too, will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable." Was slavery reasonable? No, Jefferson said. "All eyes are opening to the rights of man. The general spread of the light of science has already laid open to every view the palpable truth that the mass of mankind has not been born with saddles on their backs, nor a favored few booted and spurred, ready to ride them legitimately, by the grace of God."

Lincoln and Jefferson reinforced each other's arguments, that the United States is a Nation under God's judgment and protection, that our rights come from God and that no violation of our God-given rights can be tolerated.

Can we go back further to see if God is mentioned in any other documents around the founding era? Yes. The Declaration of Independence. We teach the Declaration of Independence in our schools to advance freedom. John Adams said: "Children should be educated and instructed to the principles of freedom." The Declaration also teaches us about Americans' beliefs about God. The Declaration teaches us four things about God: one, He is the author of the laws of nature and nature's God; two, he has endowed us with inalienable rights; three, He is the supreme judge of the world; and, four, he provides the protection of divine providence.

What happens when the Declaration of Independence is taught in public schools? Are they violating the separation of church and State? How preposterous. Do schools that teach the Declaration and its description of God violate the Constitution? The absurdity of the argument of atheists like Mr. Newdow is readily apparent. There are several implications in Mr. Newdow's argument, Mr. Speaker. If the Court rules the Pledge of Allegiance with the words "under God" unconstitutional next summer, what will be next? "God bless America"? Mr. Speaker, what would happen if Congress required the recitation of the preamble to the Declaration every morning instead of the Pledge? The conclusion of the argument atheists make must be the Declaration of Independence violates the Constitution.

We have examined the writings of Thomas Jefferson and Abraham Lincoln. We have examined the Declaration of Independence and the Constitution. We have looked at the history of the phrase "under God." It is obvious that our government has long declared a dependence on God. Acknowledging God as a source of our inalienable rights is what makes our rights secure. Our history, our Declaration, our Constitution teach us several lessons: that God is the source of our rights, that our Nation is under God's judgment and we must act accordingly.

Mr. Speaker, I am an elected official in the Federal legislature. I have mentioned God many times in this speech in the House of Representatives. I hope the Supreme Court will not rule I have violated the Constitution.

Mr. Speaker, the words of the Constitution are very clear, but what is not clear is what our Founding Fathers meant by those words, and that is why the discussion today of whether the words "under God" are appropriate in our Pledge of Allegiance to the flag.

What I would like to do is go back to our Founding Fathers to see what they might advise us could they be resurrected and meet with us today. If we put in the context of the time the Declaration of Independence and the Constitution, we may be better able to understand what they meant by their words. No one disagrees on what the words are, but there is a big disagreement on what the words mean.

Patrick Henry is called the firebrand of the American Revolution, and every student in school knows what he said: "I know not what course others may take, but as for me, give me liberty or give me death." But I will wager, Mr. Speaker, that if any of the listeners go to the textbooks in their school, they will find no reference to the context in which this statement was made. It was made in a church, St. Johns Church in Richmond on March 23, 1775, and here is more of that statement. He says: "An appeal to arms and the God of Hosts is all that is left us, but we shall not fight our battle alone, there is a just God that presides over the destinies of nations. That battle, sir, is not to the strong alone. Is life so dear or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God. I know not what course others may take, but as for me, give me liberty or give me death."

Do my colleagues think Patrick Henry would tell us that it is not okay to have the phrase "under God" in the Pledge of Allegiance to the flag? Was Patrick Henry a Christian? The following year, in 1776, he wrote this: "It cannot be emphasized too strongly or too often that this great Nation was founded not by religionists but by Christians, not on religions but on the gospel of Jesus Christ. For that reason alone, people of other faiths have been afforded freedom of worship here." Do my colleagues think he would tell us that it is not okay to have "under God" in the Pledge of Allegiance?

Benjamin Franklin, who is frequently referred to by modern-day educators as a deist, that is, a person who believed that there was a God but don't bother praying to Him because He created us and set in place certain physical laws and our destiny is going to be determined by how we relate ourselves to those laws, let me read what Benjamin Franklin said, and then the Members conclude as to whether they think he was an atheist or not. These words were uttered in 1887 when he arose in the Continental Congress in Philadelphia. They were deadlocked, and it was not certain we would have a Constitution. He was, I think, 82 years old, the Governor of Pennsylvania, I think the oldest and probably the most respected member of that convention, and this is what he said: "In the days of our contest with Great Britain when we were sensible of danger, we had daily prayer in this room for divine protection. Our prayers, sir, were heard and they were graciously answered. All of us who were engaged in the struggle must have observed frequent instances of superintending providence in our favor. To that kind providence, we owe this happy opportunity to establish our Nation. And have we now forgotten that powerful friend? Do we imagine that we no longer need His assistance?" And then these words that I think are so powerful: "I have lived, sir, a long time, and the longer I live, the more convincing proofs I see of this truth, that God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that a new Nation can rise without His aid?" And then he went on to say that he begged leave to move that henceforth they would begin each of their meetings with prayer. We still do that, Mr. Speaker. We began our session today with prayer.

Do my colleagues think Benjamin Franklin was a deist, and more importantly, do my colleagues think that he would say that it is not okay, that it is not appropriate to have "under God" in the Pledge of Allegiance to the flag?

Thomas Jefferson, the major architect of the Declaration of Independence and the Constitution, also referred to frequently as a deist, and this is what he said: "I am a real Christian. That is to say, a disciple of the doctrines of Jesus. I have little doubt that our whole country will soon be rallied to the unity of our Creator, and I hope to the pure doctrine of Jesus also." Do my colleagues think that Thomas Jefferson, with those convictions, would say that it is not okay to have "under God" in the Pledge of Allegiance to the flag?

George Washington, our first President: "It is impossible to govern the world without God and the Bible. Of all of the dispositions and habits that lead to political prosperity, our religion and morality are the indispensable supporters. Let us with caution indulge this supposition, that is, the notion or idea, that morality can be maintained without religion. Reason and experience both forbid us to expect that our national morality can prevail in exclusion of religious principle."

In his prayer book, he wrote: "O eternal and everlasting God, direct my thoughts, words and work, wash away my sins in the immaculate blood of the lamb, and purge my heart by Thy Holy Spirit. Daily frame me more and more in the likeness of Thy son, Jesus Christ, that living in Thy fear and dying in Thy favor, I may in Thy appointed time obtain the resurrection of the justified unto eternal life. Bless, 0 Lord, the whole race of mankind and let the world be filled with the knowledge of Thee and Thy son, Jesus Christ." What counsel do my colleagues think George Washington would give us? Would he tell us that it is not okay, that it is not appropriate to have "under God" in the Pledge of Allegiance to the flag?

John Adams, our second President, also President of the American Bible Society: "We have no government armed with the power capable of contending with human passions unbridled by morality and true religion. Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other." Could John Adams possibly have believed that we could not think that "under God" is appropriate in the Pledge of Allegiance to our flag?

John Jay, our first Supreme Court Justice said: "Providence has given to our people the choice of their rulers, and it is the duty as well as the privilege and interest of our Christian Nation to select and prefer Christians for their rulers." Could John Jay, the first Supreme Court Justice, have imagined that we would think it inappropriate to have "under God" in our Pledge of Allegiance to the flag?

John Quincy Adams, President of the American Bible Society, and he said that his Presidency there he valued more than his Presidency of this country:

□ 1330

"The highest glory of the American Revolution was this. It connected in one indissoluble bond the principles of civil government with the principles of Christianity. From the day of the Declaration," that is, the Declaration of Independence, "they," the fathers, "were bound by the laws of God, which they all acknowledged as their rules of conduct."

What would John Quincy Adams advise us about the appropriateness of the words "under God" in the Pledge of Allegiance to the flag?

And later on in history, Calvin Coolidge, "America seeks no empire built on blood and forces. She cherishes no purpose, save to merit the favor of almighty God."

He later wrote, "The foundations of our society and our government rests so much on the teachings of the Bible that it would be difficult to support them if faith in these doctrines would cease to be practically universal in our country."

Would President Coolidge have believed it inappropriate to have "under God" in our Pledge of Allegiance to the flag?

Let us turn now to our early Supreme Court. For 160 years, every Supreme Court decision in this arena was diametrically opposed to Supreme Court decisions from 1947 on.

In 1947, the Supreme Court did a radical about-face, repudiating the precedents of 160 years. They completely reversed their opinions.

The Supreme Court in 1811, People v. Ruggles, Ruggles had publicly slandered the Bible. This is what the Supreme Court said. "You have attacked the Bible, and in attacking the Bible you attacked Jesus Christ. In attacking Jesus Christ, you have attacked the roots of our nation. Whatever strikes at the roots of Christianity manifests in the dissolving of our civil government."

By the way, I would like to note that it might be appropriate in today's environment to use the words Judeo-Christian. Those words were apparently not used by our Founding Fathers, but I am sure recognizing the origin of all of these beliefs from the Bible, which is clearly Judeo-Christian, that Judeo-Christian might be a better way. But I am reading the actual words of our Founding Fathers. Please read Judeo-Christian when they say Christian.

"Why not use the Bible, especially the New Testament? It should be read and taught as the divine revelation in the schools."

This was the comment of the Supreme Court relative to a case relative to a case, Veta v. Gerrand, where a woman teacher, a lady teacher, was not using the Bible to teach morality. I have no idea how this got to be a court case and got to the Supreme Court. But this is what they said in 1845. "Why not use the Bible, especially the New Testament. It should be read and taught as the divine revelation in our schools. Where can the purest principles of morality be learned so clearly and so perfectly as from the New Testament?"

Could this Supreme Court possibly have imagined that our court would be considering whether or not "under God" is appropriate in the Pledge of Allegiance to the flag?

In 1892, the Supreme Court said, and this was the Church of the Holy Spirit and they contended that Christianity was not the faith of the people. This is what the Supreme Court said. "Our laws and our institutions must necessarily be based upon and embody the teachings of the Redeemer of Mankind. It is impossible that they should be otherwise, and in this sense and to this extent our civilization and institutions are emphatically Christian. No purpose of action against our religion can be imputed to any legislation, state or national, because this is a religious people. This is historically true. From the discovery of this continent to this present hour, there is a single voice making this affirmation."

Then the justices went on to cite 87 different legal precedents to affirm that America was formed as a Christian nation by believing Christians.

Mr. Speaker, as I have already noted, the Supreme Court in 1947, packed by Franklin Delano Roosevelt from seven to nine, completely repudiated 160 years of precedents when they declared there was a wall of separation between church and state. Those words do not appear in our Constitution, do not appear in the Declaration of Independence, and what we are trying to do today, Mr. Speaker, is to determine what our Founding Fathers meant by that magnificent establishment clause in the First Amendment.

Let us move now to the Congress and see what the Congress of our forefathers might have advised us. March 27, 1854, the Senate Committee on the Judiciary issued a final report on a year study. Humanism and Darwinism was sweeping our country, and the Supreme Court commissioned a year study, and this is what was said in their final report.

"The First Amendment clause speaks against an establishment of religion. The Founding Fathers intended by this amendment to prohibit an establishment of religion such as the Church of England presented or anything like it, but they had no fear or jealousy of religion itself, nor did they wish to see us as an irreligious Nation."

Then, I really love these words. Obviously they were not watching much television when they used this vocabulary. "They did not intend to spread over all the public authorities and the whole public action of the Nation the dead and revolting spectacle of atheistic apathy. Had the people during the Revolution had a suspicion of any attempt to war against Christianity, that revolution would have been strangled in its cradle. At the time of the adoption of the Constitution and the Amendments, the universal sentiment was that Christianity should be encouraged, not just one sect. The object was not to substitute Judaism or Islam or infidelity, but to prevent rivalry among the Christian denominations to the exclusion of others. Christianity must be considered as the foundation on which the whole structure rests. Laws will not have permanence or power without the sanction of religious sentiment, without the firm belief that there is power above us that will reward our virtues and punish our vices."

Would that Congress have indicated that the words "under God" are inappropriate?

"In this age, there can be no substitute of Christianity. By its great principles, the Christian faith is the great conserving element on which we must rely for the purity and permanence of our free institutions."

This is, again, from the Congress.

"That was the religion of our Founding Fathers, of the Republic, and they expect it to remain the religion of their descendants."

Let us look now at what was taught in our schools. By the way, before we leave the Congress, in 1854 there was a resolution, we pass many resolutions in our Congress, they passed a resolution. This is what it said. "The Congress of the United States recommends and approves the Holy Bible for use in our schools."

Would that Congress have indicated it is inappropriate to have "under God" in our Pledge of Allegiance to the flag?

Let us look at our schools, because that reflects the milieu in which our Declaration of Independence and our Constitution was written. For over 200 years, the New England Primer was used, and this is the way it taught the alphabet.

A, a wise son makes a glad father, but a foolish son is heaviness to his mother.

B, better is little with the fear of the Lord than abundance apart from him.

C, come unto Christ all you who are weary and heavily laden.

D, do not the abominable thing, which I hate, sayeth the Lord.

E, except a man be born again, he cannot see the Kingdom of God.

And so it went through all the 26 letters of the alphabet.

Do you think that the society at that time, with that kind of a primer in their schools, would have imagined that we could be debating today whether it was okay to say "under God" in our Pledge of Allegiance to the flag?

The McGuffey Reader, used for over 100 years, it was so successful in getting children to read that a few years ago it was brought back to some of our school districts where children were not learning to read with the hope that there was something magic about the McGuffey Reader.

"The Christian religion is the religion of our country. From it are derived our notions on the character of God, on the great moral governor of the universe. On its doctrines are founded the peculiarities of our free institutions. From no source," and this is all from the author of the McGuffey Reader, "from no source has the author drawn more conspicuously than from the sacred scriptures. For all these extracts from the Bible, I make no apologies."

Do you think that all of those thousands of school children and their families who used the McGuffey Reader could have imagined that we would be debating this subject today?

Of our first 108 schools in this country, 106 were distinctly religious. Harvard University, the first university, named after a beloved New England pastor, John Harvard, this is what they said. "Let every student be plainly instructed and expressly and earnestly pressed to consider well the main end of his life and studies is to know God and Jesus Christ, which is eternal life. John 17:3, and, therefore, to lay Jesus Christ as the only foundation of all sound knowledge and learning."

This was in the student handbook for Harvard University. For over 100 years, more than 50 percent of all Harvard's graduates were pastors.

What have we reaped in our Nation in our departure from recognizing that God is a part of our heritage and it is perfectly appropriate to say "under God" in our Pledge of Allegiance to the flag?

America 100 years ago had the highest literacy rate of any nation on Earth. Today we spend more on education than any nation in the world, and yet since 1987 we have graduated more than 1 million high school students who could not even read their diploma.

We spend more money than any nation in the industrialized world to educate our children, and yet SAT scores fell for 24 straight years before finally leveling off at the bottom in the nineties, and they are not yet coming back up.

In a 1960 survey, 53 percent of America's teenagers had never kissed, and 57 percent said they never necked, that is, to hug and kiss. Ninety-two percent of teenagers in America said they were virgins in 1960. Just 30 years later, 75 percent of American high school students are sexually active by age 18.

In the next 5 years, we spent $4 billion to educate them on how to be immoral through trumpeting the solution of safe sex, and it worked. One in five teenagers in America today lose their virginity before their 13th birthday, and 19 percent of America's teenagers say they have had more than four sexual partners before graduation.

The result, every day, 2,700 students get pregnant, 1,100 get abortions, 1,200 give birth. Every day another 900 contract a sexually-transmitted disease, many incurable. AIDS infection among high school students climbed 700 percent between 1990 and 1995. We have 3.3 million problem drinkers on our high school campuses, over half a million alcoholics, and on any given weekend in America, 30 percent of the school population spends some time under the influence of alcohol.

Do we really want to take "under God" out of our Pledge of Allegiance to the flag? Should we not be doing something, Mr. Speaker, to reverse these trends in our country, rather to encourage them?

I would like to read now a prayer that was written by an Oklahoma high school student, a little poem written about prayer. "Our New School Prayer."

"Now I sit me down in school
Where praying is against the rule.
For this great Nation under God,
Finds mention of him very odd.

If scripture now the class recites
It violates the Bill of Rights.
And any time my head I bow
Becomes a Federal matter now.

Our hair can be purple, orange, or green,
That's no offense; it's a freedom scene.
The law is specific, the law is precise,
Only prayers spoken out loud are a serious vice.

For praying in a public hall
May offend someone with no faith at all.
In silence alone we must meditate,
God's name is prohibited by the state.

We are allowed to cuss and dress like freaks,
And pierce our noses, tongues and cheeks.
They have outlawed guns, but FIRST the Bible,
To quote the Good Book makes me liable.

We can elect a pregnant Senior Queen,
And the unwed daddy our Senior king.
It is inappropriate to teach right from wrong,
We are taught that such "judgments" do not belong.

We can get our condoms and birth controls,
Study witchcraft, vampires and totem poles.
But the Ten Commandments are not allowed,
No word of God must reach this crowd.

It is scary here I must confess,
When chaos reigns the school's a mess.
So Lord, this silent plea I make,
Should I be shot, my soul please take."

Our Nation, which used to lead the world in every arena, now leads the world in these areas. We are number one in violent crime, we are number one in divorce, we are number one in teenage pregnancies, we are number one in volunteer abortions, we are number one in illegal drug abuse, and we are number one in the industrialized world for illiteracy.

Do you think, Mr. Speaker, that taking the phrase "under God" out of the Pledge of Allegiance to the flag is going to lead us in the right direction, or the wrong direction?

Alexis de Tocqueville, and this is really a significant observation, traveled this country, a young Frenchman, for 5 years, and he wrote, "I sought for the key to the greatness and genius of America in her great harbors, her fertile fields and boundless forests, in her rich mines and vast world commerce, in the universal public school system and institutions of learning. I sought for it in her democratic Congress and in her matchless Constitution."

Mr. Speaker, had he visited us today when we represent only one person in 22 in the world, and yet we represent 25 percent of all of the goods and services in the world, one person in 22, somehow we have 25 percent of all the good things in the world, might he have wondered further about how we got there and what was significant?

"But not until I went into the churches of America," he said, "and heard her pulpits flame with righteousness, did I understand the secret of her genius and power." Alexis de Tocqueville, after watching us for 5 years, concluded that the secret of our greatness and power did not lie in any of these great harbors or grain fields or military, not in our matchless Constitution, our Declaration of Independence, but he said, "but not until I went into the churches of America and heard her pulpits flame with righteousness did I understand the secret of her genius and power."

□ 1345

America is great because America is good; and if America ever ceases to be good, America will cease to be great.

Do you think, Mr. Speaker, that taking the words "under God" out of our Pledge of Allegiance to the Flag will make us a better people?

I would like to quote Abraham Lincoln again: "We have been the recipients of the choicest bounties of heaven. We have been preserved these many years in peace and prosperity. We have grown in numbers, wealth, and power as no other Nation has ever grown."

Mr. Lincoln, after 227 years in this great, longest-enduring Republic in the history of the world, these words are even more significant, because relatively today we are a greater Nation among the nations of the world than we were at your time. Thank you, Mr. Lincoln, for your words.

"But we have forgotten God," he says. "We have forgotten the gracious hand which preserved us in peace and multiplied and enriched us, and we have vainly imagined in the deceitfulness of our hearts that all of these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming of preserving grace, too proud to pray to the God that made us. It behooves us then to humble ourselves before the offended power to confess our national sins and to pray for clemency and forgiveness."

Do you think, Mr. Speaker, that Abraham Lincoln would understand why we are even debating in our Supreme Court the appropriateness of the words "under God" in our Pledge of Allegiance to the Flag?

I know that I quoted the words earlier, but I think that we need to hear them again. Abraham Lincoln said: "It is rather for us to be here dedicated to the great task remaining before us than from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here, highly resolved that these dead shall not have died in vain; that this Nation, under God, shall have a new birth of freedom."

Mr. Speaker, I think that we face this discussion today because we would have forgotten from whence we came. Indeed, Mr. Speaker, I do not think that the newest generation has forgotten; I do not think they ever knew, because our textbooks have been bled dry of all of the references to our Christian heritage.

Mr. Speaker, I firmly believe that if the decision of this Supreme Court is grounded in the milieu in which our Declaration of Independence was written and our Constitution was written, they can reach no other conclusion but that the words "under God" in our Pledge of Allegiance to the Flag are completely appropriate, were completely anticipated by those who framed our Constitution, by the Roman Catholic who could not vote in Old Virginia or could not vote in Maryland, Charles Carroll, for whom Carroll County in Maryland is named and Carroll Creek that runs through Frederick City, Charles Keller a major architect of that establishment clause.

They did not mean, Mr. Speaker, that religion was unimportant in our country. What they wanted to accomplish is very clear in the words that they stated: "Make no law concerning the establishment of religion." They did not want the Congress to empower one religion over another so that it could oppress the other religions. Because, Mr. Speaker, our Founding Fathers had come here from countries in the British Isles and in Europe, almost all of which were ruled by a king or an emperor who claimed, and was granted, divine rights. So they came here in our Declaration of Independence saying that all men are created equal.

We read those words, Mr. Speaker, but we do not realize how important they were in that day and time, that all men are created equal. "No emperor or no king created above the others and endowed by their creator." And four times in the Declaration of Independence God is referred to, endowed by their creator with certain unalienable rights. Our Founding Fathers came here to escape two tyrannies, Mr. Speaker. One was the tyranny of the Church and the other was the tyranny of the Crown. On the continent, the Church was generally the Roman Church. In the British Isles, it was the Episcopal Church, and those countries empowered those Churches so they could if they wished oppress others, and they did.

When our Founding Fathers came here because of their resentment of that oppression in Old Virginia and in colonial Maryland, Roman Catholics could not vote. But when it came time to write the amendments to our Constitution, they recognized how important it was that we provide religious freedom to everybody, so they chose a Roman Catholic to be a major architect of that. It is no coincidence, I think, Mr. Speaker, that in the very first of these amendments, they addressed their concern that all people should be free to worship as they please, that they should empower no religion over another religion. They could not have imagined that we would interpret these words as requiring freedom from religion. They clearly meant them to assure freedom of religion.

I fervently hope, Mr. Speaker, that the Supreme Court reviews in their private meditations the origins of our country, the milieu in which the Declaration of Independence and the Constitution were written, so that they can reach what I think is the only acceptable conclusion, and that is that our Founding Fathers clearly anticipated that a phrase like this would be very appropriate to our heritage and would be very helpful to our people.

Mr. Speaker, it is my prayer that we will not need to come to this Chamber again to talk about this kind of a subject, that the Supreme Court will make a decision that will set to rest the concern about the role of God in our country. No one religion should be empowered so it can oppress the others. But beyond that, all people are free to worship as they please, and religion is not an inappropriate subject in the public domain.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HINCHEY (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. HOOLEY of Oregon (at the request of Ms. PELOSI) for today after noon on account of personal reasons.

Mrs. NAPOLITANO (at the request of Ms. PELOSI) for today on account of business in the district.

Mr. ORTIZ (at the request of Ms. PELOSI) for November 6 after 4:00 p.m. and today on account of official business.

Mr. WU (at the request of Ms. PELOSI) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

(The following Members (at the request of Mr. FOLEY) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, November 12.

Mr. PENCE, for 5 minutes, today.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1066. An act to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System; to the Committee on Resources.

S. 1643. An act to exempt certain coastal barrier property from financial assistance and flood insurance limitations under the Coastal Barriers Resources Act and the National Flood Insurance Act of 1968; to the Committee on Resources and in addition to the Committee on Financial Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 1663. An act to replace certain Coastal Barrier Resources System maps; to the Committee on Resources.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 76. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 53 minutes p.m.), under its previous order, the House adjourned until Monday, November 10, 2003, at noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5167. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Hingham Fourth of July Fireworks — Hingham, Massachusetts [CGD1-03-014] (RIN: 1625-A A00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5168. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Lynn Fourth of July Fireworks — Lynn, Massachusetts. [CGD1-03-018] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5169. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Middletown July 4th Celebration Fireworks Display, Middletown, CT [CGD1-03-067] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5170. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Westport Police Athletics League Fireworks Display, Westport, CT [CGD1-03-072] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5171. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Norwalk Firework Display, Norwalk, CT [CGD1-03-073] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5172. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety/Security Zone; Georgetown Channel, Potomac River, Washington, D.C. [CGD-05-03-094] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5173. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Riverfest 2003, Hartford, CT [CGD1-03-074] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5174. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Hampton Roads, Craney Island Flats, Norfolk Harbor Reach, VA [CGD05-03-096] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5175. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Town of Stratford. Fireworks Display, Stratford, CT [CGD1-03-075] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5176. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Atlantic Ocean, Atlantic City, New Jersey [CGD05-03-097] (RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5177. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Hampton Roads, Elizabeth River, Chesapeake, Virginia Beach, Albemarle Chesapeake Canal, Intracoastal Waterway, Virginia [CGD05-03-100] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5178. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Town of Norwich Fireworks, Norwich, CT [CGD1-03-076] (RIN: 1625-AA00) received Novmeber 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5179. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Pamlico River, Washington, NC [CGD05-03-104] (RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5180. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Coast Guard Activities New York [CGD1-03-078] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5181. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-106] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5182. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Sunset Lake, Wildwood Crest, NJ [CGD05-03-109] (RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5183. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Town of Branford Annual Fireworks Display, Branford, CT [CGD1-03-079] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5184. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Isle of Wight Bay, Ocean City, Maryland [CGD05-03-114] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5185. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Chesapeake Bay, Hampton, Virginia [CGD05-03-115]

(RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5186. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Old Black Point Beach Fireworks, Niantic, CT [CGD1-03-084] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5187. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Hampton Roads, Elizabeth River, Chesapeake, Virginia Beach, Albemarle Chesapeake Canal, Intracoastal Waterway, Virginia [CGD05-03-120] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5188. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Weekly Dockside Restaurant Fireworks Display, Port Jefferson, NY [CGD1-03-085] (RIN: 1625-AA11) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5189. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety/Security zone; Cruise Ship GALAXY, Patapsco River and tributaries, Maryland [CGD05-03-123] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5190. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-127] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5191. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Martins Creek, Tullytown, PA [CGD05-03-128] (RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5192. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Chesapeake Bay, Hampton, Virginia [CGD05-03-134] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5193. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Salem Heritage Days fireworks, Salem, Massachusetts [CGD1-03-089] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5194. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-135] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5195. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zones; First Circuit Court Judicial Conference, World Trade Center and Moakley Federal Courthouse, South Boston, MA [CGD01-03-090] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5196. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-136] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5197. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-137] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5198. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; North East RIver, North East, Maryland [CGD105-03-076] (RIN: 0625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5199. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-138] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee oh Transportation and Infrastructure.

5200. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Assawoman Bay, Ocean City, MD [CGD05-03-077] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5201. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-139] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5202. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-140] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5203. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Ocean City, Maryland [CGD05-03-079] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5204. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-141] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5205. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; All the waters within the Captain of the Port Wilmington zone as defined by 33 CFR 3.25-20 [CGD05-03-142] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5206. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port of Hampton Roads [CGD05-03-143] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5207. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Chesapeake Bay and its tributaries [CGD05-03-144] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5208. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Delaware River and Bay, Schuylkill River, C&D Canal to the Maryland and Delaware border, coastal waters of Delaware, and coastal waters of New Jersey from Cape May to Long Branch [CGD05-03-145] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5209. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Isle of Wight Bay, Ocean City, Maryland [CGD05-03-080] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5210. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Chesapeake Bay, James River, Newport News, Virginia [CGD05-03-081] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5211. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Paxtuxent River, Solomans, Maryland [CGD05-03-082] (RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5212. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Middle River, Baltimore County, Maryland [CGD05-03-083]

(RIN: 1625-AA08) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5213. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries [CGD05-03-085] (RIN; 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5214. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Chesapeake Bay, Linkhorn Bay, Virginia Beach, Virginia [CGD05-03-086] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5215. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Chesapeake Bay, Piankatank River, Virginia [CGD05-03-088] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5216. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Chesapeake Bay, York River, Virginia [CGD05-03-089] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5217. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homelnad Security, transmitting the Department's final rule — Safety Zone: Atlantic Ocean, Chesapeake Bay, Chickahominy River, Virginia [CGD05-03-087] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 3209. A bill to amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project (Rept. 108–356). Referred to the Committee of the Whole House on the State of the Union.

Mr. HOBSON: Committee of Conference. Conference report on H.R. 2754. A bill making appropriations for energy and water development for the fiscal year ending September 30, 2004, and for other purposes (Rept. 108–357). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 1856. A bill to reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, and for other purposes, with an amendment; referred to the Committee on Transportation and Infrastructure for a period ending not later than November 21, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(q), rule X.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII, the following action was taken by the Speaker:

H.R. 180. Referral to the Committee on Rules extended for a period ending not later than November 21, 2003.

H.R. 1081. Referral to the Committees on Transportation and Infrastructure, Resources, and House Administration for a period ending not later than November 21, 2003.

H.R. 1856. Referral to the Committee on Resources extended for a period ending not later than November 21, 2003.

H.R. 2120. Referral to the Committee on the Judiciary extended for a period ending not later than November 21, 2003.

H.R. 2802. Referral to the Committee on Government Reform extended for a period ending not later than November 21, 2003.

H.R. 3358. Referral to the Committee on the Budget extended for a period ending not later than November 21, 2003.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SCHROCK (for himself, Mr. EVANS, Mr. FROST, Mr. FILNER, Ms. CORRINE BROWN of Florida, Mr. BISHOP of Georgia, Mr. GILLMOR, Mr. ENGLISH, and Mr. KILDEE):

H.R. 3476. A bill to require the Secretary of Defense to develop and implement a plan to provide chiropractic health care services and benefits as part of the TRICARE program; to the Committee on Armed Services.

By Mr. CALVERT:

H.R. 3477. A bill to require the Secretary of the Treasury to mint coins in commemoration of the recipients of the Congressional Medal of Honor; to the Committee on Financial Services.

By Mr. PUTNAM (for himself and Mr. CLAY):

H.R. 3478. A bill to amend title 44, United States Code, to improve the efficiency of operations by the National Archives and Records Administration; to the Committee on Government Reform.

By Ms. BORDALLO (for herself, Mr. ABERCROMBIE, and Mr. CASE):

H.R. 3479. A bill to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CUNNINGHAM (for himself and Ms. HARMAN):

H.R. 3480. A bill to require the construction at Arlington National Cemetery of a memorial to noncitizens killed in the line of duty while serving in the Armed Forces of the United States of America; to the Committee on Veterans' Affairs.

By Mr. LEWIS of Georgia:

H.R. 3481. A bill to amend title XVIII of the Social Security Act to eliminate cost-sharing under the Medicare Program for bone mass measurements; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself and Mr. OSBORNE):

H.R. 3482. A bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States; to the Committee on Agriculture.

By Mr. UDALL of New Mexico (for himself and Mrs. KELLY):

H.R. 3483. A bill to amend the Small Business Act to establish a temporary loan program and a temporary vocational development program for small business concerns owned and controlled by veterans; to the Committee on Small Business.

By Mr. WHITFIELD (for himself, Mr. FARR, Mr. KILDEE, Mrs. TAUSCHER, Mr. MCDERMOTT, Mr. FILNER, Mr. GEORGE MILLER of California, Mr. KIRK, Mr. BERMAN, Mr. BILIRAKIS, Mr. OLVER, Mr. MORAN of Virginia, Mr. SHAYS, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. LEACH, Ms. MCCOLLUM, Mr. LEVIN, Mr. STARK, Mr. DEUTSCH, Mr. BLUMENAUER, Mr. KOLBE, Mr. HONDA, Mr. HOLT, Mr. WEXLER, Mr. LIPINSKI, Mr. UPTON, Mr. COSTELLO, Ms. ESHOO, Mr. PASTOR, Mrs. LOWEY, Mr. ENGLISH, Mr. PALLONE, Mr. SHERMAN, Ms. WOOSLEY, Ms. BERKLEY, and Mr. INSLEE):

H.R. 3484. A bill to amend the Animal Welfare Act to improve the standards for the care and treatment of certain animals, and for other purposes; to the Committee on Agriculture.

By Mr. RANGEL (for himself, Ms. SCHAKOWSKY, Ms. LEE, Ms. WOOLSEY, Mr. OWENS, Ms. CARSON of Indiana, Mr. CLAY, Mr. GRIJALVA, Mr. STARK, Mr. PALLONE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of Mississippi, Mr. GEORGE MILLER of California, Mr. DAVIS of Illinois, Ms. SOLIS, Mr. DOGGETT, Mr. BROWN of Ohio, Mr. NADLER, Ms. WATERS, Mr. MEEKS of New York, Mr. MCDERMOTT, Ms. WATSON, Mr. FRANK of Massachusetts, Mr. KUCINICH, Mr. GUTIERREZ, and Ms. KAPTUR):

H. Con. Res. 323. Concurrent resolution urging the President to immediately request the resignation of Secretary of Defense Donald Rumsfeld; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 58: Mrs. CAPPS.

H.R. 195: Mr. EHLERS.

H.R. 198: Mr. HEFLEY.

H.R. 235: Mr. WAMP.

H.R. 303: Mr. CRANE.

H.R. 371: Mr. BERRY, Mr. NADLER, and Mr. TOWNS.

H.R. 426: Mr. Hefley.

H.R. 523: Mr. Neugebauer.

H.R. 525: Mr. Bartlett of Maryland, Ms. McCollum, Ms. Waters, Ms. Slaughter, Mrs. Biggert, Mr. Ose, Mr. Tiahrt, Mr. Smith of Washington, Mr. Green of Wisconsin, Mr. Hyde, Mr. Wicker, Mr. Wolf, Mr. Kingston, Mr. Hayworth, Mr. Hobson, Ms. Harman, Mr. Lewis of California, Mr. Shays, Mr. Coble, Mr. Goodlatte, Mr. Wamp, Ms. Ginny Brown-Waite of Florida, Mr. Tauzin, and Mr. Blumenauer.

H.R. 548: Mr. Lewis of Georgia.

H.R. 645: Mrs. Davis of California, Mr. Marshall, Mr. Price of North Carolina, and Mr. Moore.

H.R. 713: Mr. Hall, Mr. Janklow, and Mrs. Jones of Ohio.

H.R. 727: Mrs. Capps.

H.R. 791: Mr. Crane.

H.R. 834: Mr. Inslee.

H.R. 857: Ms. Berkley.

H.R. 956: Mr. Moran of Virginia.

H.R. 962: Mr. Serrano.

H.R. 996: Mr. Ortiz.

H.R. 1068: Mr. Michaud.

H.R. 1206: Mr. Franks of Arizona.

H.R. 1229: Mr. Cantor.

H.R. 1258: Mr. Farr.

H.R. 1279: Mr. Miller of North Carolina.

H.R. 1372: Mr. Cole and Mr. Capuano.

H.R. 1448: Ms. Lee.

H.R. 1469: Mr. Grijalva.

H.R. 1600: Mr. Cummings and Mr. Grijalva.

H.R. 1684: Ms. Harman and Mr. Emanuel.

H.R. 1708: Mr. Hill.

H.R. 1895: Mr. Emanuel, Mr. Frost, Mr. Gonzalez, Mr. Grijalva, and Ms. Jackson-Lee of Texas.

H.R. 1910: Mr. Ortiz and Mr. Gibbons.

H.R. 2045: Mr. Camp.

H.R. 2127: Ms. Bordallo.

H.R. 2193: Ms. Millender-McDonald.

H.R. 2217: Mr. Filner, Mr. Gutierrez, Ms. Lee, Mr. Costello, Mr. Green of Wisconsin, Ms. Jackson-Lee of Texas, Ms. Norton, Mr. Crowley, Ms. Lofgren, Mr. Markey, Mr. Rothman, Mr. Hinojosa, Mr. Sanders, Ms. Carson of Indiana, and Mr. Thompson of Mississippi.

H.R. 2246: Mr. Ackerman, Mr. Stenholm, Mrs. Maloney, Mr. Scott of Georgia, Mr. Price of North Carolina, Ms. Slaughter, Mr. Weiner, Mr. Meeks of New York, Mr. Walsh, Mr. Nadler, Mr. Miller of North Carolina, Ms. Carson of Indiana, Mr. Norwood, Mr. Visclosky, and Mr. Sandlin.

H.R. 2256: Ms. Norton and Mr. Olver.

H.R. 2490: Mr. Van Hollen.

H.R. 2511: Mr. Sanders.

H.R. 2569: Mr. Lewis of Georgia and Mr. Oberstar.

H.R. 2662: Mr. Simmons.

H.R. 2719: Mr. Bilirakis.

H.R. 2720: Mr. Ramstad, Mr. Sabo, and Mr. Weldon of Pennsylvania.

H.R. 2823: Mr. Green of Wisconsin, Mr. Whitfield, and Mr. Snyder.

H.R. 2829: Ms. Carson of Indiana.

H.R. 2900: Mr. Burgess.

H.R. 2944: Mr. Schrock and Mr. Hefley.

H.R. 2946: Mr. Ferguson.

H.R. 2959: Mr. Abercrombie, Ms. Millender-McDonald, and Mr. Michaud.

H.R. 3015: Mr. Evans.

H.R. 3035: Mr. Grijalva

H.R. 3109: Mr. Bass, Mr. Beauprez, Mrs. Blackburn, Mr. Boehner, Mr. Brady of Texas, Mr. Brown of South Carolina, Ms. Ginny Brown-Waite of Florida, Mr. Burgess, Mr. Carter, Mr. Chocola, Mr. Crane, Mrs. Cubin, Mr. Cunningham, Mr. DeMint, Mr. Doolittle, Mr. English, Mr. Feeney, Mr. Ferguson, Mr. Foley, Mr. Forbes, Mr. Franks of Arizona, Mr. Gallegly, Mr. Garrett of New Jersey, Mr. Gerlach, Mr. Gilchrest, Mr. Greenwood, Mr. Hayworth, Mr. Herger, Mr. Isakson, Mr. Issa, Mr. Johnson of Illinois, Mr. Keller, Mrs. Kelly, Mr. Latham, Mr. McKeon, Mr. Manzullo, Mr. Mica, Mr. Miller of Florida, Mrs. Musgrave, Mr. Nethercutt, Mr. Osborne, Mr. Pearce, Mr. Pence, Mr. Porter, Mr. Rehberg, Mr. Renzi, Mr. Rogers of Michigan, Mr. Rogers of Alabama, Mr. Sessions, Mr. Shays, Mr. Sherwood, Mr. Tancredo, Mr. Tiahrt, Mr. Turner of Ohio, Mr. Upton, Mr. Walsh, Mr. Weldon of Florida, Mr. Whitfield, and Mr. Young of Alaska.

H.R. 3119: Mr. Moore, Mr. Moran of Kansas, Mr. Burton of Indiana, and Mr. Pence.

H.R. 3125: Mr. Souder.

H.R. 3130: Mr. Istook.

H.R. 3142: Mrs. Kelly, Mr. Nussle, Ms. Slaughter, Mr. Serrano, Ms. McCollum, Mr. Sherwood, Ms. Loretta Sanchez of California, Mr. Boyd, and Mr. Leach.

H.R. 3165: Mr. Owens and Mr. Burns.

H.R. 3178: Mr. Sandlin, Ms. Kilpatrick, Mr. DeFazio, Mrs. Kelly, Mr. English, Mr. Waxman, Mr. Michaud, Mrs. Jo Ann Davis of Virginia, and Mr. Pearce.

H.R. 3180: Mr. Costello.

H.R. 3184: Mr. Foley.

H.R. 3193: Mr. Chabot, Mr. Stearns, Mr. Thornberry, and Mr. Garrett of New Jersey.

H.R. 3215: Mr. Calvert, Mr. Duncan, Mr. Taylor of North Carolina, and Mr. Vitter.

H.R. 3227: Mrs. Tauscher and Mr. Serrano.

H.R. 3228: Mr. Wilson of South Carolina.

H.R. 3242: Mr. Wilson of South Carolina and Mr. Kildee.

H.R. 3243: Mr. Houghton.

H.R. 3251: Mrs. Jones of Ohio.

H.R. 3275: Ms. Norton, Ms. McCollum, and Ms. Woolsey.

H.R. 3292: Ms. Lee, Mr. Udall of New Mexico, and Mr. Green of Texas.

H.R. 3344: Mr. Goode, Mr. Jackson of Illinois, and Mr. Doggett.

H.R. 3350: Mr. Castle.

H.R. 3370: Mr. Kildee, Mr. McNulty, and Ms. Berkley.

H.R. 3380: Mr. Burr, Mr. McIntyre, Mr. Price of North Carolina, and Mr. Miller of North Carolina.

H.R. 3385: Mr. Barrett of South Carolina.

H.R. 3416: Ms. Millender-McDonald, Mr. Farr, Mr. Menendez, Ms. Solis, Mr. McDermott, Ms. Lee, Mr. Green of Texas, Mr. Conyers, and Mr. Crowley.

H.R. 3424: Mr. Grijalva and Mr. Hinchey.

H.R. 3425: Mr. Gonzalez, Mrs. Maloney, Mr. Gutierrez, Ms. Millender-McDonald, Mr. Kildee, and Mr. Grijalva.

H.R. 3438: Ms. Kilpatrick, Mr. Grijalva, Mr. Shaw, and Mr. Ackerman.

H.R. 3440: Mr. McGovern, Mr. Edwards, Mr. Cardoza, Mr. Rahall, Mrs. Maloney, and Mrs. Tauscher.

H.J. Res. 37: Mr. Kirk.

H. Con. Res. 60: Mr. Vitter.

H. Con. Res. 98: Mr. Mica.

H. Con. Res. 196: Mr. Michaud.

H. Con. Res. 247: Mr. Fletcher.

H. Con. Res. 254: Mr. Kucinich.

H. Con. Res. 285: Mr. Michaud.

H. Con. Res. 298: Mr. Wamp, Mr. Matheson, and Mr. Foley.

H. Res. 157: Mr. Shays and Mr. Ehlers.

H. Res. 354: Mr. Grijalva.

H. Res. 382: Mr. Blumenauer.

H. Res. 393: Mrs. Lowey and Mr. Ehlers.

H. Res. 408: Mr. Kingston.

H. Res. 412: Mr. Calvert.

H. Res. 427: Mr. Hyde, Mr. Lantos, Ms. Ros-Lehtinen, Mr. Rohrabacher, Mr. Green of Texas, Mr. Wexler, Mr. Delahunt, Mrs. Jo Ann Davis of Virginia, Ms. Watson, Mr. McNulty, Mr. Berman, Mr. Crowley, Mrs. Napolitano, Mr. Schiff, and Mr. Hoeffel.

H. Res. 431: Mr. Gibbons.

H. Res. 432: Mrs. Maloney, Ms. Millender-McDonald, Ms. Norton, Mr. Serrano, Mr. Farr, Ms. Berkley, Ms. Watson, and Ms. Lee.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 4, by Ms. DARLENE HOOLEY on House Resolution 398: Harold E. Ford, Jr., Luis V. Gutierrez, Brad Miller, Bart Stupak, Collin C. Peterson, Richard E. Neal, Ralph M. Hall, and Charles W. Stenholm.

EXTENSIONS OF REMARKS

THE JOHN W. KLUGE PRIZE FOR LIFETIME ACHIEVEMENT IN THE HUMAN SCIENCES

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. HOLT. Mr. Speaker, this week, the first inaugural John W. Kluge Prize for Lifetime Achievement in the Human Sciences was awarded in a ceremony at the Library of Congress. The Kluge Prize is given for lifetime achievement in the humanities and social sciences, areas of scholarship for which there are no Nobel Prizes.

Mr. Kluge and the Librarian of Congress James H. Billington deserve our congratulations for conceiving, developing and funding this prize. It will provide recognition for the influence the humanities have on human welfare. The first recipient of the million-dollar Kluge Prize is Leszek Kolakowski, whose achievements as a philosopher, historian and essayist have influenced and affected the course of European history within his lifetime. Librarian of Congress James H. Billington recognized Kolakowski for not only his accomplishments but "the trajectory of a scholarly lifetime," evidencing growth in both intellectual range and maturity over more than half a century. The selection process included consideration of the wide range of nominations by a worldwide Scholars Council established for the purpose. Professor Kilakowski, sometimes described as the philosopher of the Solidarity Movement, is a worthy choice for the first Kluge Prize because it truly shows the constructive power of thought.

Professor Kolakowski, who currently lives in Oxford, England, was born in Radom, Poland, in 1927. He was educated at Lodz University (1945–50) and Warsaw University, where he received his doctorate in 1953, staying on to become Chairman of the Section of History of Philosophy at Warsaw. He concurrently worked in the Institute of Philosophy of the Polish Academy of Sciences and as editor-in-chief of the main philosophical journal in Poland. Having been expelled for political reasons from his university post by the Polish government in March 1968, he held a series of professorships of Philosophy abroad: McGill University, Montreal (1968–69), the University of California, Berkeley (1969–70), and Yale University (1974). From 1981 to 1994 he was Professor on the Committee of Social Thought at the University of Chicago. He was also a Senior Research Fellow of All Souls College, Oxford, from 1970 until his retirement in 1995. During the years, he has been widely honored and received the German Booksellers Peace Prize (1977), the Erasmus Prize (1980), the Veillon Foundation European Prize for the Essay (1980), the Jefferson Award (1986), the MacArthur Award (1982), the University of Chicago Laing Award (1990), and Tocqueville Prize (1994).

He has written more than 30 books and 400 other writings on a wide range of subjects in four languages, primarily focused on the history of philosophy and the philosophy of religion. His best known and most influential work is the three-volume Main Currents of Marxism: Its Rise, Growth and Dissolution (1976–78). Written in exile from Poland, it was, and remains, the most lucid and comprehensive history of the origins, structure and posthumous development of the system of thought that had the greatest impact on the 20th century. Prof. Kolakowski's ideas informed the anti-totalitarian youth movement inside Poland, and he became an adviser and active supporter-in-exile of the Solidarity movement that challenged and began unraveling, in a non-violent way, the Soviet system in Eastern Europe. As one of the leaders of Solidarity put it:

> This skeptical student of enlightenment thought, this scholar of the highest intellectual rigor, this opponent of all illusions, played the most romantic and Promethean of roles. He was the awakener of human hopes.

In other words, this man demonstrated that philosophical thought and the study of history can lead to world-changing action, as Dr. Kolakowski's work helped to change the world though the Solidarity Movement. The word academic sometimes is used to mean "without practical or useful significance.", For Leszek Kolakowski academic research is not academic.

Dr. Billington began soliciting nominations for the first Kluge Prize over two years ago, but he first developed the idea in the late 1970's while serving as Director of the Woodrow Wilson International Center for Scholars. Dr. Billington obtained congressional authorization for a Nobel-type prize in the field of social and political thought, to honor the late Senator Hubert Humphrey, founding chairman of the Wilson Center Board. The prize was never funded, but Dr. Billington brought the idea with him when he came to the Library of Congress in 1987. Endowed by Library benefactor John W. Kluge, this prize will reward lifetime achievement in the wide range of disciplines not covered by the Nobel prizes. Such disciplines include history, philosophy, politics, anthropology, sociology, religion, criticism in the arts and humanities, and linguistics. The award is at the financial level of the Nobel awards. The prize is international; the recipient may be of any nationality, writing in any language.

Dr. Billington believes it is important and appropriate to award the prize at the Library of Congress, in the nation's capital, in recognition of America's long tradition of devoting energy and resources into the serious and ranging study of the human sciences—more than any other nation over the last century. The international nature of the prize reflects America's role as a world civilization whose thinkers and ideas trace their origins to all corners of the world. Please join me in congratulating Leszek Kolakowski on this important award and thank him for his contribution to the world we live in.

HONORING MARSHA EMANUEL OF WILMETTE, ILLINOIS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. EMANUEL. Mr. Speaker, I rise to recognize and congratulate my generous and loving mother, Marsha Emanuel, back home in Wilmette, Illinois on her 70th birthday.

For the last 40 years, my mother has dedicated her life to her profession, her husband, her children, and her community.

The former Marsha Smulevitz began her career as a nurse in Chicago where she met my father, Benjamin, during his medical residency. They soon thereafter wed and settled in Chicago's North Andersonville neighborhood where they went on to have four children: me, my brothers Ezekiel and Ariel, and my sister, Shoshana.

As if raising four children was not challenging enough, my mother continued to dedicate herself to public service and the civil rights struggle of that time, working to build a just society for all Americans. In the early 1960's, my mother served four years on the Congress of Racial Equality, founded by students at the University of Chicago, through which she participated in the Freedom March in the South.

Following her activism in the civil rights movement, my mother traveled an entrepreneurial path. She went on to own the Daisy Patch Night Club on Chicago's north side where many local bands came to play their first performances.

As her children entered their teens, my mother returned to school. Never having graduated from high school, she earned her GED. She continued her academic pursuits by studying social work at Roosevelt University and earning an advanced degree in social work from Northeastern Illinois University. For over twenty years, my mother has maintained her commitment to public service by working as a social worker and counselor to local children and adults.

Mr. Speaker, on this, her 70th birthday, I am so very proud of and sincerely thank my mother, Marsha Emanuel, for always being a guiding light to her husband, her four children, and her eleven grandchildren. Happy Birthday, Mom.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO COACH VAN ROSE AND THE SHAWNEE MISSION NORTHEAST HIGH SCHOOL BOYS' CROSS COUNTRY TEAM

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. MOORE. Mr. Speaker, I would like to take this opportunity to commend a remarkable man who lives and works in the Third Congressional District of Kansas. Van Rose, a calculus teacher and cross country coach at Shawnee Mission Northwest High School, should be recognized for his undying commitment to the students he coaches on Shawnee Mission Northwest's "Cougars" cross country team.

On November 1, 2003, the Cougars' boys' team picked up their 10th straight state championship title in the Kansas high school 6A division. But that's only the beginning. Under his leadership, the girls' cross country team has won eight championships over the past 10 years. Combined, his teams have won more than 20 state titles since 1977.

After spending countless hours coaching his team, and preparing lesson plans for his calculus students, Mr. Rose finds the time to contribute to his community. For the past 25 years, he has volunteered every summer at the PowerAde Freedom Run in downtown Lenexa, Kansas.

Coach Rose is noted for his dedication to youth and his selfless attitude. Despite his obvious talents as a coach, teacher, leader, and mentor, he always gives his runners all the credit for the teams' successes.

Mr. Speaker, for his dedication and selflessness, I proudly commend Coach Van Rose as he and the Cougars celebrate another victory this year as Kansas cross country state champs.

HONORING ST. JOSEPH HIGH SCHOOL BOYS SOCCER ON STATE CHAMPIONSHIP AND GIRLS SOCCER ON STATE RUNNER-UP

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. CHOCOLA. Mr. Speaker, I rise today to congratulate the young men and women of St. Joseph High School Indians' boys and girls soccer teams.

St. Joe High School, located in my District in South Bend, Indiana, has about 750 students. On a cold Sunday, the 22–member boys team set out to win their first-ever state championship.

Mr. Speaker, these young men not only captured their first Indiana High School Athletic Association State Soccer Championship, but they did it in dramatic fashion. They finished with a perfect record—twenty-four wins and no losses.

This great triumph is a direct result of years of hard work, discipline, dedication, and devotion to the sport. In fact, I know that the 10 seniors on the team have been playing together since the age of 8. The players, coaching staff, and parents brought the game of soccer to new levels, and the entire team should be congratulated for a season that will no doubt go down in school history.

The girls soccer team also had a fantastic season. Finishing with seventeen victories, the Lady Indians marked their return to the state finals with a valiant effort. They should be very proud of their runnerup state champion title.

I would like to acknowledge Coach LeRoy Krempec and Coach Johan Kuitse for their brilliant seasons.

On behalf of the citizens of the Second Congressional District, I would like to congratulate Brian Wynne, Joe Leary, Raynor Dongieux, James Urbany, Andy Urbany, David Pope-Davis, Sam Fallon, Michael Hughes, Spencer McCollester, Jason Bathrick, Alejandro Gurule, John Cananaugh, Collin Fitzsimmons, Peter Sabo, Patrick Bishop, Logan Conner, Patrick Murphy, Mike McDonald, Patrick Kelly, Wil Banik, Michael Brady, Matthew Pellegrino, Assistant Coach Todd Peterson, and student manger Kevin McCombs on their state championship.

Additionally, I would also like to congratulate Alison Smith, Carolyn Murphy, Julie Veldman, Stephanie Horvath, Kristen Hayes, Meg McHugh, Susan Pinnick, Meghan Paladino, Alison Lindsey, Jenny Thornton, Christine Sweeney, Julie Paunicka, Lizzie Gerard, Ali Nellis, Erin James, Cathrine Guentert, Collen Kelly, Morgan Cox, Lindsey Hyduk, Caitlyn Edmonds, Kelly Roberson, Allison Sweeney, Assistant Coaches Phil DePauw, Marianne Ciolitto, and Carrie Applegate for their remarkable season.

Mr. Speaker, I know that these young men and women will go far in their future endeavors. They have already demonstrated they have what it takes to be a champion. I wish the seniors the best of luck.

Again, I would like to congratulate the St. Joe High School boys soccer team for winning their first-ever state title and the girls soccer team for their exceptional runner-up finish at the state tournament.

COMMEMORATION FOR FORMER WASHINGTON, D.C. MAYOR WALTER EDWARD WASHINGTON

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. NORTON. Mr. Speaker, funeral services were held for the first elected Mayor of the District of Columbia in the 20th century, Mayor Walter E. Washington, on Saturday, November 1, 2003. The funeral had the full trappings of a state funeral that Mayor Washington deserved. He lay in state at the John A. Wilson Building (the District Building) on Friday, October 31. Following memorial services, which took place at the Washington National Cathedral, Mayor Washington's coffin, draped with the District of Columbia flag, was carried through the city on a large fire truck, passing through neighborhoods associated with his life in our city, including LeDroit Park, where he lived, Howard University, where he attended undergraduate and law school, and the City Museum which he helped to found. He was laid to rest at the Lincoln Memorial Cemetery.

I paid tribute to Mayor Washington in remarks last week and also placed in the RECORD a Washington Post editorial and a personal tribute from Post editorial writer, Colbert King. Howard University Law School Professor J. Clay Smith, Jr., who served with me when I chaired the Equal Employment Opportunity Commission, has asked me to share with the House his reflections to the faculty and students of the law school concerning Mayor Washington. I am pleased to submit his remarks for the RECORD.

IN MEMORY OF WALTER E. WASHINGTON 1915–2003

(By Professor J. Clay Smith, Jr.)

Dear Faculty and Students:

I pause today to share with you just a bit of information about one of our most esteemed graduate, the Honorable Walter E. Washington.

Many of our students attend law school because they are interested in politics or public service. For nearly 140 years our law school has produced several leading political figures in the Nation and beyond. One of our graduates, the Honorable Walter E. Washington, class of 1938, died this week. Why is his life important to us? He was a graduate of Howard University School of Law, who is an example of what our students can do to make the world a better place. It is an opportunity for us to reflect, even for a moment and consider why we came to Howard Law School and the aspirations that directed us to enter the profession of law or to teach.

Walter Washington was a friend of many people in Washington and abroad. He was graduated during a period when life was hard, but his spirit to achieve was strong and his determination unstoppable. There was little if any scholarship money when Walter Washington entered the law school. His generation worked their way through school, but they studied long hours at night into the morning sun. Washington, like so many of the students of his generation, were guided by their law teachers, yet they also brought with them seeds planted for the future from their high schools, colleges, families, and friends.

Washington was a graduated from Howard University and its law school. I was honored to know him personally, but not as much as I would have like to have known the depth of his extraordinary intellect and perseverance in his early years. Many people knew of him very early in his life and most must have predicted that he would be successful in his calling to the law. But he stretched beyond the law to the political arena and in 1973, he was first appointed by President Johnson as Mayor-Commissioner of the District of Columbia becoming the first African American Mayor in a large city in the Nation. He was subsequently elected as Mayor of Washington, DC in 1974. As a recent law graduate, I remember his election well because he was a graduate of the very law school that I attended. It made me proud of our school and caused me to respect him all these years even as an outsider to the life that he lived, except for the past 7 years during which I got to know him in more professional surroundings.

I bring this message to the faculty and more importantly to our students as an example of what students are capable of becoming and how we influence them in the ways each of us teach and inspire them, even students who may not see the value or the power of their intellects that will rest upon recognition of their own worth and accountability. Walter Washington loved his law school and the friends that he made during his matriculation at Howard University. In so many ways, Mayor Washington's life is like so many of our graduates who placed or left marks in the sand that will not and cannot be brushed away. Mayor Washington will be remembered not only by the wonderful articles that appear in today's newspaper (Washington Post Oct. 28, 2003), he is to be studied by our students as an exemplar of what (you) can become. As for us who teach, I hope that from time to time we remind our students that what we do here at the law school is to help mold them toward law so that they can lead as Walter E. Washington and so many others of our graduates have done to secure the democracy, to find answers to secure the poor, to create better housing, to be honored by the people as leaders from the law school of its first Dean, John Mercer Langston.

Nevertheless, to achieve these wonderful levels, giants like Washington, to hear him tell it, meant that a 100% effort was required in the study of law. Greatness may be defined in many ways, our law school has graduated many great people, and many more will come and leave this law school that will and who have prepared themselves to be leaders and successful lawyers in communities they will serve. Mayor Washington was one of such students. He will be missed, but he has left with us, particularly our law school, seeds that will grow many others like him.

INTRODUCTION OF "THE MEMORIAL TO NONCITIZEN PATRIOTS ACT"

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. HARMAN. Mr. Speaker, I rise today to join my colleague from California, Mr. CUNNINGHAM, to honor our nation's veterans with introduction of the "Memorial to Noncitizen Patriots Act."

George Washington once said, "The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional to how they perceive the veterans of earlier wars were treated and appreciated by their nation."

Honoring our veterans is a process that begins on the battlefield through ensuring that our troops have the best training, equipment and other support. It continues as we welcome them home upon returning from war, when we fly the POW–MIA flag, when we care for them and their families and, ultimately, when we lay them to rest with appropriate remembrance and tribute.

Our country, while divided in its views on specific military actions, is united in its support for our service men and women who are prepared to make the ultimate sacrifice to defend our freedom.

Many American military heroes, past and present, were born outside of the United States. From the thousands of noncitizens who fought for the Union Army during the Civil War, to the 36,177 noncitizen members of today's Armed Forces, these men and women have sacrificed for our country and the preservation of our precious freedom.

To date, we have lost 17 noncitizen service members in Iraq. Marine Lance Corporal Jose Gutierrez from Lomita, California, in my Congressional District, was born in Guatemala and lost his life this spring. Like Corporal Gutierrez, all of these men and women have fought just as bravely as their American-born counterparts and have dedicated themselves to serving the country they are proud to call their own.

It is time that we appropriately recognize their bravery, valor, and patriotism.

I am pleased to pay tribute to Corporal Gutierrez and other foreign-born noncitizen patriots who died in combat with the introduction of the "Memorial to Noncitizen Patriots Act." This legislation would authorize construction of a memorial at Arlington National Cemetery honoring the service and sacrifice of noncitizens killed in the line of duty while serving in the U.S. Armed Forces.

Arlington, the nation's premier military cemetery and shrine honoring the men and women who served in the Armed Forces, is a particularly fitting place for this tribute. I hope that my colleagues will join me in supporting this bill.

INTRODUCTION OF SEEDS FOR SOLDIERS ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Seeds for Soldiers Act, a bill intended to help our veterans jumpstart new small businesses.

This bill contains two main components. First, it creates a specialized loan program for veterans through the Small Business Administration. This program provides veterans with loans up to $3 million, allows for debt refinancing, and permits borrowers to defer payments for up to one year without any accumulation of interest. To encourage lenders to provide capital, the program will carry reduced costs and a higher government loan guarantee

Second, the bill establishes a vocational rehabilitation program for veterans specifically designed to assist in the transition out of service to become entrepreneurs. The program will be established within the existing Small Business Development Centers and will provide both technical and vocational assistance to assist veterans in transforming their skills learned in military training to areas where there is market demand. In addition, the program will provide the entrepreneurial assistance for veterans to set up their own business. It will provide these veterans the tools to move from the workplace to the marketplace. The program will authorize $25 million with minimum grants of $500,000.

As a member of both the House Veterans' Affairs Committee and the Small Business Committee, I strongly support assisting our Nation's veterans in establishing their own businesses. As a Nation currently welcoming home our newest veterans, we must act in every way possible to assist those heroes in their success upon return. This bill provides the seeds for veteran-owned businesses, so that they may grow into sustainable entities.

I thank Representative Sue Kelly for her support of this bill, and I urge my colleagues to join us in supporting both our veterans, and the benefits that small businesses contribute to our economy, by cosponsoring this bill.

COMMENDING PRESIDENT BUSH'S REMARKS AT THE 20TH ANNIVERSARY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise to commend President George W. Bush for his extremely important and inspirational remarks at the 20th anniversary of the National Endowment for Democracy on November 6, 2003.

The National Endowment for Democracy was formed 20 years ago to answer President Ronald Reagan's ground breaking speech before the British Parliament in London on June 8, 1982. President Reagan said:

> The objective I propose is quite simple to state: to foster the infrastructure of democracy-the system of a free press, unions, political parties, universities- which allows a people to choose their own way, to develop their own culture, to reconcile their own differences through peaceful means.

Since its inception at the height of the Cold War, the National Endowment for Democracy has been a bipartisan, non-profit organization with the singular aim of promoting democracy and freedom throughout the world. The National Endowment for Democracy has lived up to its mission of "supporting freedom throughout the world."

Yesterday, President George W. Bush renewed America's commitment to the cause of freedom with these stirring words:

> The advance of freedom is the calling of our time; it is the calling of our country. From the Fourteen Points to the Four Freedoms, to the Speech at Westminster, America has put our power at the service of principle. We believe that liberty is the design of nature; we believe that liberty is the direction of history. We believe that human fulfillment and excellence come in the responsible exercise of liberty. And we believe that freedom—the freedom we prize—is not for us alone, it is the right and the capacity of all mankind.

Mr. Speaker, I applaud President Bush for his vision, steadfast commitment and leadership in the advancement of freedom throughout the world.

It is now my distinct priviledge to ask unanimous consent that the full text of President Bush's remarks at the 20th anniversary of the National Endowment for Democracy be included in the CONGRESSIONAL RECORD at this time.

REMARKS BY PRESIDENT GEORGE W. BUSH AT THE 20TH ANNIVERSARY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY

The PRESIDENT. Thank you all very much. Please be seated. Thanks for the warm welcome, and thanks for inviting me to join you in this 20th anniversary of the National Endowment for Democracy. The staff and directors of this organization have seen a lot of history over the last two decades, you've been a part of that history. By speaking for and standing for freedom, you've lifted the hopes of people around the world, and you've brought great credit to America.

I appreciate Vin for the short introduction. I'm a man who likes short introductions. And he didn't let me down. But more importantly, I appreciate the invitation. I appreciate the members of Congress who are here, senators from both political parties, members of the House of Representatives from both political parties. I appreciate the ambassadors who are here. I appreciate the guests who have come. I appreciate the bipartisan spirit, the nonpartisan spirit of the National Endowment for Democracy. I'm glad that Republicans and Democrats and independents are working together to advance human liberty.

The roots of our democracy can be traced to England, and to its Parliament—and so can the roots of this organization. In June of 1982, President Ronald Reagan spoke at Westminster Palace and declared, the turning point had arrived in history. He argued that Soviet communism had failed, precisely because it did not respect its own people—their creativity, their genius and their rights.

President Reagan said that the day of Soviet tyranny was passing, that freedom had a momentum which would not be halted. He gave this organization its mandate: to add to the momentum of freedom across the world. Your mandate was important 20 years ago; it is equally important today. (Applause.)

A number of critics were dismissive of that speech by the President. According to one editorial of the time, "It seems hard to be a sophisticated European and also an admirer of Ronald Reagan." (Laughter.) Some observers on both sides of the Atlantic pronounced the speech simplistic and naive, and even dangerous. In fact, Ronald Reagan's words were courageous and optimistic and entirely correct. (Applause.)

The great democratic movement President Reagan described was already well underway. In the early 1970s, there were about 40 democracies in the world. By the middle of that decade, Portugal and Spain and Greece held free elections. Soon there were new democracies in Latin America, and free institutions were spreading in Korea, in Taiwan, and in East Asia. This very week in 1989, there were protests in East Berlin and in Leipzig. By the end of that year, every communist dictatorship in Central America had collapsed. Within another year, the South African government released Nelson Mandela. Four years later, he was elected president of his country—ascending, like Walesa and Havel, from prisoner of state to head of state.

As the 20th century ended, there were around 120 democracies in the world—and I can assure you more are on the way. (Applause.) Ronald Reagan would be pleased, and he would not be surprised.

We've witnessed, in little over a generation, the swiftest advance of freedom in the 2,500 year story of democracy. Historians in the future will offer their own explanations for why this happened. Yet we already know some of the reasons they will cite. It is no accident that the rise of so many democracies took place in a time when the world's most influential nation was itself a democracy.

The United States made military and moral commitments in Europe and Asia, which protected free nations from aggression, and created the conditions in which new democracies could flourish. As we provided security for whole nations, we also provided inspiration for oppressed peoples. In prison camps, in banned union meetings, in clandestine churches, men and women knew that the whole world was not sharing their own nightmare. They knew of at least one place—a bright and hopeful land—where freedom was valued and secure. And they prayed that America would not forget them, or forget the mission to promote liberty around the world.

Historians will note that in many nations, the advance of markets and free enterprise helped to create a middle class that was confident enough to demand their own rights. They will point to the role of technology in frustrating censorship and central control—and marvel at the power of instant communications to spread the truth, the news, and courage across borders.

Historians in the future will reflect on an extraordinary, undeniable fact: Over time, free nations grow stronger and dictatorships grow weaker. In the middle of the 20th century, some imagined that the central planning and social regimentation were a shortcut to national strength. In fact, the prosperity, and social vitality and technological progress of a people are directly determined by extent of their liberty. Freedom honors and unleashes human creativity—and creativity determines the strength and wealth of nations. Liberty is both the plan of Heaven for humanity, and the best hope for progress here on Earth.

The progress of liberty is a powerful trend. Yet, we also know that liberty, if not defended, can be lost. The success of freedom is not determined by some dialectic of history. By definition, the success of freedom rests upon the choices and the courage of free peoples, and upon their willingness to sacrifice. In the trenches of World War I, through a two-front war in the 1940s, the difficult battles of Korea and Vietnam, and in missions of rescue and liberation on nearly every continent, Americans have amply displayed our willingness to sacrifice for liberty.

The sacrifices of Americans have not always been recognized or appreciated, yet they have been worthwhile. Because we and our allies were steadfast, Germany and Japan are democratic nations that no longer threaten the world. A global nuclear standoff with the Soviet Union ended peacefully—as did the Soviet Union. The nations of Europe are moving towards unity, not dividing into armed camps and descending into genocide. Every nation has learned, or should have learned, an important lesson: Freedom is worth fighting for, dying for, and standing for—and the advance of freedom leads to peace. (Applause.)

And now we must apply that lesson in our own time. We've reached another great turning point—and the resolve we show will shape the next stage of the world democratic movement.

Our commitment to democracy is tested in countries like Cuba and Burma and North Korea and Zimbabwe—outposts of oppression in our world. The people in these nations live in captivity, and fear and silence. Yet, these regimes cannot hold back freedom forever—and, one day, from prison camps and prison cells, and from exile, the leaders of new democracies will arrive. (Applause.) Communism, and militarism and rule by the capricious and corrupt are the relics of a passing era. And we will stand with these oppressed peoples until the day of their freedom finally arrives. (Applause.)

Our commitment to democracy is tested in China. That nation now has a sliver, a fragment of liberty. Yet, China's people will eventually want their liberty pure and whole. China has discovered that economic freedom leads to national wealth. China's leaders will also discover that freedom is indivisible—that social and religious freedom is also essential to national greatness and national dignity. Eventually, men and women who are allowed to control their own wealth will insist on controlling their own lives and their own country.

Our commitment to democracy is also tested in the Middle East, which is my focus today, and must be a focus of American policy for decades to come. In many nations of the Middle East—countries of great strategic importance—democracy has not yet taken root. And the questions arise: Are the peoples of the Middle East somehow beyond the reach of liberty? Are millions of men and women and children condemned by history or culture to live in despotism? Are they alone never to know freedom, and never even to have a choice in the matter? I, for one, do not believe it. I believe every person has the ability and the right to be free. (Applause.)

Some skeptics of democracy assert that the traditions of Islam are inhospitable to the representative government. This "cultural condescension," as Ronald Reagan termed it, has a long history. After the Japanese surrender in 1945, a so-called Japan expert asserted that democracy in that former empire would "never work." Another observer declared the prospects for democracy in post-Hitler Germany are, and I quote, "most uncertain at best"—he made that claim in 1957. Seventy-four years ago, The Sunday London Times declared nine-tenths of the population of India to be "illiterates not caring a fig for politics." Yet when Indian democracy was imperiled in the 1970s, the Indian people showed their commitment to liberty in a national referendum that saved their form of government.

Time after time, observers have questioned whether this country, or that people, or this group, are "ready" for democracy—as if freedom were a prize you win for meeting our own Western standards of progress. In fact, the daily work of democracy itself is the path of progress. It teaches cooperation, the free exchange of ideas, and the peaceful resolution of differences. As men and women are showing, from Bangladesh to Botswana, to Mongolia, it is the practice of democracy that makes a nation ready for democracy, and every nation can start on this path.

It should be clear to all that Islam—the faith of one-fifth of humanity—is consistent with democratic rule. Democratic progress is found in many predominantly Muslim countries—in Turkey and Indonesia, and Senegal and Albania, Niger and Sierra Leone. Muslim men and women are good citizens of India and South Africa, of the nations of Western Europe, and of the United States of America.

More than half of all the Muslims in the world live in freedom under democratically constituted governments. They succeed in democratic societies, not in spite of their faith, but because of it. A religion that demands individual moral accountability, and encourages the encounter of the individual with God, is fully compatible with the rights and responsibilities of self-government.

Yet there's a great challenge today in the Middle East. In the words of a recent report by Arab scholars, the global wave of democracy has—and I quote—"barely reached the Arab states." They continue: "This freedom deficit undermines human development and is one of the most painful manifestations of lagging political development." The freedom deficit they describe has terrible consequences, of the people of the Middle East and for the world. In many Middle Eastern countries, poverty is deep and it is spreading, women lack rights and are denied schooling. Whole societies remain stagnant while the world moves ahead. These are not the failures of a culture or a religion. These are the failures of political and economic doctrines.

As the colonial era passed away, the Middle East saw the establishment of many military dictatorships. Some rulers adopted the dogmas of socialism, seized total control of political parties and the media and universities. They allied themselves with the Soviet bloc and with international terrorism. Dictators in Iraq and Syria promised the restoration of national honor, a return to ancient glories. They've left instead a legacy of torture, oppression, misery, and ruin.

Other men, and groups of men, have gained influence in the Middle East and beyond through an ideology of theocratic terror. Behind their language of religion is the ambition for absolute political power. Ruling cabals like the Taliban show their version of religious piety in public whippings of women, ruthless suppression of any difference or dissent, and support for terrorists who arm and train to murder the innocent. The Taliban promised religious purity and national pride. Instead, by systematically destroying a proud and working society, they left behind suffering and starvation.

Many Middle Eastern governments now understand that military dictatorship and theocratic rule are a straight, smooth highway to nowhere. But some governments still cling to the old habits of central control. There are governments that still fear and repress independent thought and creativity, and private enterprise—the human qualities that make for a—strong and successful societies. Even when these nations have vast natural resources, they do not respect or develop their greatest resources—the talent and energy of men and women working and living in freedom.

Instead of dwelling on past wrongs and blaming others, governments in the Middle East need to confront real problems, and serve the true interests of their nations. The good and capable people of the Middle East all deserve responsible leadership. For too long, many people in that region have been victims and subjects—they deserve to be active citizens.

Governments across the Middle East and North Africa are beginning to see the need for change. Morocco has a diverse new parliament; King Mohammed has urged it to extend the rights to women. Here is how His Majesty explained his reforms to parliament: "How can society achieve progress while women, who represent half the nation, see their rights violated and suffer as a result of injustice, violence, and marginalization, notwithstanding the dignity and justice granted to them by our glorious religion?" The King of Morocco is correct: The future of Muslim nations will be better for all with the full participation of women. (Applause.)

In Bahrain last year, citizens elected their own parliament for the first time in nearly three decades. Oman has extended the vote to all adult citizens; Qatar has a new constitution; Yemen has a multiparty political system; Kuwait has a directly elected national assembly; and Jordan held historic elections this summer. Recent surveys in Arab nations reveal broad support for political pluralism, the rule of law, and free speech. These are the stirrings of Middle Eastern democracy, and they carry the promise of greater change to come.

As changes come to the Middle Eastern region, those with power should ask themselves: Will they be remembered for resisting reform, or for leading it? In Iran, the demand for democracy is strong and broad, as we saw last month when thousands gathered to welcome home Shirin Ebadi, the winner of the Nobel Peace Prize. The regime in Teheran must heed the democratic demands of the Iranian people, or lose its last claim to legitimacy. (Applause.)

For the Palestinian people, the only path to independence and dignity and progress is the path of democracy. (Applause.) And the Palestinian leaders who block and undermine democratic reform, and feed hatred and encourage violence are not leaders at all. They're the main obstacles to peace, and to the success of the Palestinian people.

The Saudi government is taking first steps toward reform, including a plan for gradual introduction of elections. By giving the Saudi people a greater role in their own society, the Saudi government can demonstrate true leadership in the region.

The great and proud nation of Egypt has shown the way toward peace in the Middle East, and now should show the way toward democracy in the Middle East. (Applause.) Champions of democracy in the region understand that democracy is not perfect, it is not the path to utopia, but it's the only path to national success and dignity.

As we watch and encourage reforms in the region, we are mindful that modernization is not the same as Westernization. Representative governments in the Middle East will reflect their own cultures. They will not, and should not, look like us. Democratic nations may be constitutional monarchies, federal republics, or parliamentary systems. And working democracies always need time to develop—as did our own. We've taken a 200 year journey toward inclusion and justice—and this makes us patient and understanding as other nations are at different stages of this journey.

There are, however, essential principles common to every successful society, in every culture. Successful societies limit the power of the state and the power of the military—so that governments respond to the will of the people, and not the will of an elite. Successful societies protect freedom with the consistent and impartial rule of law, instead of selecting applying—selectively applying the law to punish political opponents. Successful societies allow room for healthy civic institutions—for political parties and labor unions and independent newspapers and broadcast media. Successful societies guarantee religious liberty—the right to serve and honor God without fear of persecution. Successful societies privatize their economies, and secure the rights of property. They prohibit and punish official corruption, and invest in the health and education of their people. They recognize the rights of women. And instead of directing hatred and resentment against others, successful societies appeal to the hopes of their own people. (Applause.)

These vital principles are being applies in the nations of Afghanistan and Iraq. With the steady leadership of President Karzai, the people of Afghanistan are building a modern and peaceful government. Next month, 500 delegates will convene a national assembly in Kabul to approve a new Afghan constitution. The proposed draft would establish a bicameral parliament, set national elections next year, and recognize Afghanistan's Muslim identity, while protecting the rights of all citizens. Afghanistan faces continuing economic and security challenges—it will face those challenges as a free and stable democracy. (Applause.)

In Iraq, the Coalition Provisional Authority and the Iraqi Governing Council are also working together to build a democracy—and after three decades of tyranny, this work is not easy. The former dictator ruled by terror and treachery, and left deeply ingrained habits of fear and distrust. Remnants of his regime, joined by foreign terrorists, continue their battle against order and against civilization. Our coalition is responding to recent attacks with precision raids, guided by intelligence provided by the Iraqis, themselves. And we're working closely with Iraqi citizens as they prepare a constitution, as they move toward free elections and take increasing responsibility for their own affairs. As in the defense of Greece in 1947, and later in the Berlin Airlift, the strength and will of free peoples are now being tested before a watching world. And we will meet this test. (Applause.)

Securing democracy in Iraq is the work of many hands. American and coalition forces are sacrificing for the peace of Iraq and for the security of free nations. Aid workers from many countries are facing danger to help the Iraqi people. The National Endowment for Democracy is promoting women's rights, and training Iraqi journalists, and teaching the skills of political participation. Iraqis, themselves—police and borders guards and local officials—are joining in the work and they are sharing in the sacrifice.

This is a massive and difficult undertaking—it is worth our effort, it is worth our sacrifice, because we know the stakes. The failure of Iraqi democracy would embolden terrorists around the world, increase dangers to the American people, and extinguish the hopes of millions in the region. Iraqi democracy will succeed—and that success will send forth the news, from Damascus to Teheran—that freedom can be the future of every nation. (Applause.) The establishment of a free Iraq at the heart of the Middle East will be a watershed event in the global democratic revolution. (Applause.)

Sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did nothing to make us safe—because in the long run, stability cannot be purchased at the expense of liberty. As long as the Middle East remains a place where freedom does not flourish, it will remain a place of stagnation, resentment, and violence ready for export. And with the spread of weapons that can bring catastrophic harm to our country and to our friends, it would be reckless to accept the status quo. (Applause.)

Therefore, the United States has adopted a new policy, a forward strategy of freedom in the Middle East. This strategy requires the same persistence and energy and idealism we have shown before. And it will yield the same results. As in Europe, as in Asia, as in every region of the world, the advance of freedom leads to peace. (Applause.)

The advance of freedom is the calling of our time; it is the calling of our country.

From the Fourteen Points to the Four Freedoms, to the Speech at Westminster, America has put our power at the service of principle. We believe that liberty is the design of nature; we believe that liberty is the direction of history. We believe that human fulfillment and excellence come in the responsible exercise of liberty. And we believe that freedom—the freedom we prize—is not for us alone, it is the right and the capacity of all mankind. (Applause.)

Working for the spread of freedom can be hard. Yet, America has accomplished hard tasks before. Our nation is strong; we're strong of heart. And we're not alone. Freedom is finding allies in every country; freedom finds allies in every culture. And as we meet the terror and violence of the world, we can be certain the author of freedom is not indifferent to the fate of freedom.

With all the tests and all the challenges of our age, this is, above all, the age of liberty. Each of you at this Endowment is fully engaged in the great cause of liberty. And I thank you. May God bless your work. And may God continue to bless America. (Applause.)

TRIBUTE TO W. JASON MORGAN

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. HOLT. Mr. Speaker, this week, W. Jason Morgan was awarded the National Medal of Science Award at the White House for discoveries underlying modern studies of earthquakes and volcanoes.

A geophysicist, W. Jason Morgan has been selected to receive the National Medal of Science—the nation's highest scientific honor—for theories that describe how land masses move, volcanoes arise and many other features of the land and sea take shape.

W. Jason Morgan, the Knox Taylor Professor of Geography at Princeton University, is among eight scientists and engineers selected to receive the award.

The award recognizes Morgan for his work in pioneering two fundamental ideas—plate tectonics and mantle plumes. The first describes how the Earth's surface consists of a dozen plates that move with respect to each other. This work provided a unified framework for understanding earthquakes and volcanoes as well as the formation of continents, mountains, ocean basins and other surface features. It also underlies nearly all current research into deposits of petroleum and other natural resources and the evolution of the Earth's climate and life.

The theory of plate tectonics he published in 1968 is one of the major milestones of U.S. science in the 20th century, said Anthony Dahlen, chair of the Princeton Department of Geosciences.

Essentially all of the research in solid-earth geophysical sciences in the past 30 to 35 years has been firmly grounded upon Jason Morgan's plate tectonic theory, Dahlen said. The scientific careers of a generation of geologists and geophysicists have been founded upon his landmark 1968 paper.

The second area of Morgan's work cited in the award explains how heat within the Earth forces columns of solid, but ductile material through the Earth's mantle creating "hot spots" at the surface. This rising material, known as a mantle plume, causes ridges and volcanoes to form when oceanic plates pass above it. Morgan first reported his findings regarding mantle plumes in 1971 and has published extensively on the subject over the last three decades.

I am thrilled to see Jason Morgan honored so appropriately, said Princeton University President Shirley M. Tilghman. He is not only a remarkable scientist, but a skilled and enthusiastic teacher. He has mentored generations of students, often taking them into the field to experience first-hand the power of science to explain the most basic workings of our planet.

After receiving a bachelor's degree from the Georgia Institute of Technology, Morgan came to Princeton as a graduate student in physics and studied under Robert Dicke, a renowned mentor of many important 20th-century physicists. Morgan received his Ph.D. in 1964 and joined the geosciences department the same year. In 1988, he was named to Princeton's Taylor professorship. He has received numerous awards, including the Japan Prize, the Maurice Ewing Medal, the Leon Lutaud Prize, the Alfred Wegener Medal and the Walter Bucher Award. He was elected to the National Academy of Sciences in 1982. Morgan has announced he will retire in February 2004.

I congratulate Mr. Morgan on his award, and I thank him for the contributions he has made to better our society.

TRIBUTE TO BETHEL BAPTIST CHURCH OF KANSAS CITY, KANSAS

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. MOORE. Mr. Speaker, I rise today to congratulate the Bethel Baptist Church of Kansas City, Kansas, on reaching its 84th anniversary, which will occur on November 23rd. This church was organized in 1919 under the leadership of the fast pastor, the late Reverend Harris. While many ministers have served this church, none has meant more to the church than the current pastor, Reverend R.C. Higgs. Pastor Higgs has led Bethel Baptist Church for 43 years, over half of the years of the church's existence.

During the last 84 years, the Bethel Baptist Church has helped hundreds in the church and in the community of Kansas City, Kansas. I know the House joins me in wishing Pastor Higgs and his congregants our very best on this anniversary, and for many more years of spiritual and community leadership in Kansas City and the Third Congressional District of Kansas.

HONORING OUR VETERANS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. EMANUEL. Mr. Speaker, I rise to recognize and pay tribute to America's heroic veterans. I am proud to represent over 34,000 veterans who live in the Fifth Congressional District of Illinois. As we observe Veterans Day this year, perhaps there is no greater time in American history to reflect on what it means to be a veteran.

Our country's sense of security is being defended by the soldiers fighting the global war on terrorism in Iraq and Afghanistan. Through the example of the brave men and women in uniform who fought during World War II, the Korean War, the Vietnam War or the Gulf War, today's troops know they can and will persevere even as they face extended tours of duty and grueling and frightening conditions on a daily basis.

There is no better way to honor those who sacrificed their lives for our country than by ensuring that today's veterans are treated with dignity and respect. We must do that with more than words and symbolic gestures of patriotism. We must honor the soldiers, marines, sailors and airmen of wars past and present by ensuring that the covenant they entered when they donned the uniform and served our country is maintained. Regardless of the economic climate, this nation must keep its promises to veterans to provide the health care, education, and financial benefits our veterans have earned.

Mr. Speaker, next week when I join veterans in the 5th District at the Franklin Park U.S. Military Armed Forces Veterans Memorial, the Northcenter Flag-Raising Ceremony, and the Mayfair Community Veterans Memorial, I will thank our veterans for their service, sacrifice and commitment to duty to protect the freedom that we enjoy. I will also thank the families of those brave men and women in uniform who will become our nation's newest veterans upon their return. We will always remember their valor and service to America.

I thank our veterans one and all for their service, sacrifice, and commitment to duty, which has been to stand vigilant and strong while protecting the freedom that we enjoy. I also thank the families of those brave men and women in uniform who will become our Nation's most recent veterans upon their return. We will always remember the valor and service to America.

CONGRATULATING THE CONCORD HIGH SCHOOL MARCHING MINUTEMEN ON THEIR CLASS B STATE BAND CHAMPIONSHIP

HON. CHRIS CHOCOLA

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. CHOCOLA. Mr. Speaker, I rise today to congratulate the Concord Marching Minutemen on their Class B Indiana State School

Music Association Championship. The young men and women of the Concord High School marching band, located in my District in Elkhart, Indiana, competed in the ISSMA championships on Sunday, October 26, in the RCA Dome in Indianapolis, Indiana. On this day, Mr. Speaker, Concord marched out of the RCA Dome as champions.

Concord was the final band to compete in the class, proving the old adage "Save the best for last." I've been told the band delivered a flawless performance of its colorful "Guitarras Espanoles," which includes "La Fiesta Mexicana" and "Malaguena."

This was the band's second championship. They won their first in 1992. I'd like to congratulate drum majors Ryan Tahara, Sarah Nagy and Patrick Doherty for leading their band to victory.

The 2003 Class B champs include: Piccolo: Amanda Bechtel, Brynne Bourdon; Flute: Kelly Aaron, Peter Boshart, Alyssa Byrum, Ashley Hardy, Danielle Hudkins, Anita Kaoma, Renae Kerwood, Mindy Lux, Rachel McKenzie, April Miller, Erica Moskowitz, Luke Overton, Emily Parks, Amber Parsons, Cassie Rhude, Erica Schmucker, Whitney VanHook, Brittany Victor, Brandi Walters, Libby Watson, Kim Yoder; Clarinet: Audrey Acosta, Marisa Amos, Kate Barghahn, Christine Cameron, Heather Collins, Lacey Conwell, Daniela de la Reza, Diana de la Reza, Kimberlie Dina, Dustin Doherty, Julie Elmore, Amy Guarnuccio, Megan Gunn, Jenni Hillyer, Mandy Himes, Michelle James, Alarice Johnson, Kylie Kern, Kayla Killian, Catie Lynch, Nicole Lynch, Kaitlin McClure, Holly Meyers, Jessica Miller, Larisa Murray, Laura Pauwels, Jordan Reyes, Erin Shroyer, Mark, Smith, Nicole Smith, Monica Torres; Bass Clarinet: Ana Rodriguez, Kimberly Berndt, Logan Bourdon, Carl Byler, Cora Christophel, Amy Fager, Jon Rhoades, Andrew Troyer, Brian Zimmerle; Alto Saxophone: Cameron Bradley, Megan Cikara, Deb Elliott, Lizzie Fish, Celby Hadley, Dustin Knight, Mike Koscielny, Ryan Perkins, Matthew Schmucker, Stephanie Stevens, Aaron Yoder; Tenor Saxophone: Josh Cranmer, Ian Faigh, Ryan Shroyer, Kayleigh Shurtz, Daniel Weaver; Trumpet: Blake Baker, Missy Barton, Megan Bortner, Mark Brown, Andrew Christophel, Vanessa Clark, Thomas Davidhizar, Andrew Davis, Ryan Detwiler, Colin Doherty, Daniel Fischer, Evan Jarvis, Bradley Kime, Grant Longenbaugh, Richie Lutes, Tyler Maxey, Julie McCarty, Keith McCrorey, Jason Miller, Justin Moore, Jared Nymeyer, Jeremy Parker, Ross Sawyer, Kelly Schaffer, Laurie Schalliol, Jim Schoeffler, Craig Searer, Sam Shafer, Nakia Simpson, Andrew Smole, Bryce Victor, Justin Watts, A J Willett, Ellen Wilson, Adam Yoder; Mellophone: Melanie Gingerich, Genni Housman, Stephen Kauffman, Mike Kennel, Amy Kronemyer, Kathy Lambright, Samantha Nagy, Megan Shaw, Melissa Toby; Trombone: Sean Allison, Jeremy Crawford, Katie Dina, Derek Eller, Sean Emmons, Chad Hoien, Brandy Jackson, Steven Karanja, Brent Lehman, Kevin Lipp, Veronica Meade, Betsy Ritchie, Alec Sanderson, Brandon Schenk, Andrew Stout, Kenneth White, Teneen Zimmer; Baritone: Jeffrey Eads, Bryan Eichorst, John Kauffman, Matthew Lanouette, Derek Lipp, Ryan McCarty, Trenton Prieshoff, Robert Stout, Alan Tack, Paul Tucker; Tuba: Aaron Bowser, Jonathan Freel, Suzanne Holcomb, Jared Klingler, Brandon Long, Jeremy Rowe, Andrew Trosper; Guitar: Jordan Swartzendruber, Matt Tompkins; Snare Drum: Lisa Bennett, Jennifer Bollero, Eric Rhude, Nick Stubbs; Quad Drums: John Bibbee, George Wright; Bass Drum: Justin Miracle, Derek Richard, Michael Johnson, Susie Bower, Brandon Dascoli; Cymbals: Bryce Canen, April Mascola, Dustin McLain, Bryant Quist, Sarah Runswick; Percussion Pit: Cory Allison, Amy Clark, Jonathan Faloon, Eric Foley, Matthew Schnaars, Andrew Stevens, Mark Wyrick; Color Guard: Elise Arvidson, Alicia Baer, Tiffany Baker, Mandy Beer, Karen Berndt, Ashley Bunch, Heather Dean, Hillary Durie, Mikala Ellsworth, Ashley Faloon, Ashley Guerra, Olivia Guevara, Chrissy Hoover, Jessica Hoover, Brittney Houston, DeAnna Jackson, Danielle Johnson, Leanne Johnson, Audrey Lanning, Allison Matthews, Jessica Meade, Amber Miller, Kourtney Mumaw, Kelly Perkins, Jessica Scott, Tara Scott, Jill Sheldon, Rachel Sirinek, Sierra Smith, Kristen Weaver.

I would also like to congratulate Director of Music Max Jones, Associate Band Director Scott Spradling, Assistant Band Directors Scott Spradling, April Duffey, Bryan Golden and Steve Peterson, Dance & Color Guard instructor Colleen Piekarz, Sound Technicians Aaron Ulrich and Scott Preheim, and Percussion Specialist Amy Davis for developing an award-winning program. Shirley Dyer, Dianne Jones, Matt Hall, Kelly Novy, and Katie Shoufler also deserve a note of thanks for helping make things run smoothly.

Mr. Speaker, you have to admire the dedication of the students, instructors and parents. It takes a lot of long hours and hard work to be a champion and the young men and women at Concord High School have proven they have what it takes to be champions.

Again, on behalf of the citizens of the Second Congressional District, I would like to congratulate the Concord Marching Minutemen on their Class B state championship. We are all proud of you.

IN SUPPORT OF OUR NATION'S VETERANS

HON. SHELLEY BERKLEY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of our nation's veterans. These brave men and women risked their lives for their country—for our country. We owe it to them to live up to all of the promises that we made when they entered the military.

I go home every weekend, and I hear from the veterans in my community. These veterans don't have a multi-specialty clinic; they don't have a hospital, and they don't have a long term care facility. But southern Nevada does have one of the fastest growing veterans populations in the nation.

Because of this growth, the VA predicts that the number of annual visits by veterans in the Las Vegas Valley to their primary health care clinic will rise from 200,000 now to more than half-a-million by the end of the decade. And the number of hospital beds needed to serve the veterans in my community will increase by over 50 percent.

The VA is already struggling to address and meet the current demands on the VA health care structure in the Las Vegas Valley, and these demands will only continue to grow.

Last year, 1500 southern Nevada veterans were sent to neighboring states because we could not provide the needed services locally. This is an unfair burden on these veterans and their families. They should not have to travel hundreds of miles for care.

To make matters worse, the VA evacuated the Guy Clinic—the Las Vegas Valley's only ambulatory care clinic after only 5 years of service—forcing veterans to rely on a string of temporary clinics scattered across the community.

Imagine what it is like for an 80-year-old veteran waiting in the desert heat to be shuttled from clinic to clinic to receive the health care he needs. For example, a veteran may have to shuttle from a temporary site for a CT scan, then to another site to obtain a prescription for a controlled narcotic, and then to a third site for mental health services.

And female veterans who need mammograms will have to shuttle to a different clinic just for that service.

As one 81-year old World War II veteran described the situation, "You're going from one place to another and it gets confusing." Don't our veterans deserve a permanent facility to meet their health care needs?

In short, southern Nevada is facing a veterans health care crisis and my community is not alone. But here in Washington, Republicans have refused to provide an additional $1.8 billion for veterans health care this year.

As a nation, we promised our veterans that we would meet their health care needs, but we have not. We promised to provide them with affordable housing and access to a college education, but we have fallen far short. We have broken one promise after another to those who have put their lives on the line to serve their country. Consider the Disabled Veterans Tax. Under this unfair tax, disabled veterans who retire from the military lose one dollar from their military retirement pay for every dollar they receive for a service connected disability.

When a retired Marine Corps major from Nevada was diagnosed with Lou Gehrig's disease, he lost more than $2,000 in monthly retirement pay because of the Disabled Veterans Tax. To make up for that loss of income, his wife had to work overtime just to make ends meet at home.

I support the Democratic plan that gives our veterans full payment of both retirement pay and disability pay. It is unconscionable that Republicans, who say they support our country's veterans, still have not allowed Members of this body to vote on ending the Disabled Veterans Tax.

Instead they have offered a plan that will take 10 years to enact and penalizes those veterans with a 40 percent or less disability rating. But it isn't just honoring the commitments to our men and women who fought for this country, it is also about their families.

Whether it is income lost because of the Disabled Veterans Tax or the financial burden a family faces when they lose their loved one.

That is why I introduced legislation that would increase the benefits to cover veterans' burial costs. Since 1973, when burial benefits were enacted, these benefits have seriously eroded due to inflation. For example, in 1973, the burial allowance for veterans with service connected injury covered 72 percent of funeral costs. Now, the benefit covers only 39 percent of the funeral costs.

Our veterans' families are forced to make up the costs. And for a widow or widower struggling with the loss of a loved one, this financial strain can take a tremendous emotional toll.

Our veterans not only deserve better, they deserve the best we have to offer. It is time for all Members of Congress to honor the commitments we made to those who fought and are currently fighting around the world for our nation. Support for our veterans is more than rousing rhetoric on Veterans' Day, it is doing what is fair and moral to fulfill our duties and promises to them.

HONORING AFRICAN AMERICAN VETERANS

SPEECH OF

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mr. DAVIS of Illinois. Few people realize that even before there was a Declaration of Independence or a Constitution, African-Americans could be counted among our most dedicated revolutionaries. In the fall of 1775, the Continental Army tried to appease large landholders in the South by barring all slaves and most freemen from enlisting or re-enlisting. But by the end of the year the war took a turn for the worse, and the order was rescinded. So on Christmas night, in 1776, African-American soldiers made that famous crossing of the Delaware River with Washington to help him capture the Hessians at Trenton. All told, some 5,000 African-Americans served for the cause of Independence, and their sacrifices have been little remembered but should never be forgotten.

There has never been any war fought involving America, whether in time of slavery or freedom, segregation or integration, that African Americans did not serve and become major contributors in serving their country. African American veterans have a long honor roll in serving America. During World War II more than one million African Americans in uniform distinguished themselves as P–40 fighter pilots and Navy Seabees, Sherman tank drivers, orderlies and engineers. Let us remember Dorie Miller, a steward aboard the USS *Arizona* at Pearl Harbor, who saw his captain fall wounded and pulled him to safety and then despite the fire, he manned a machine gun and downed several enemy planes.

At the Battle of the Bulge the men of the 3496th Truck Company hauled weapons, soldiers and prisoners down roads that the rain had turned into rivers of mud and ice. They unloaded their 2.5 ton trucks as mortars fell all around them.

Also, let us remember the Tuskegee Airmen of World War II who overcame resentment, suspicion and segregation to become the first African-American fighter pilots, and time and again they flew over 1,500 combat missions and never lost a single bomber under their escort on bombing runs into Germany. When African Americans broke the color barrier in the Marine Corps, they went to the frontlines of Guam, Saipan, Iwo Jima and Okinawa.

Although these are just a few instances of African Americans having courage, valor, bravery and commitment to the ideas in preserving and fighting for freedom and justice for all. We as a people have a long history of achievement in defending and protecting America's sovereignty. It was revealed in a few, even though many African Americans in earlier years were excluded from recognition due to pervasive racism, who received the Congressional Medal of Honor. The Congressional Medal of Honor was approved by President Lincoln on December 21, 1861 for the Navy and July 12, 1862 for the Army, it is the highest American award for military valor.

There were 23 Congressional Medals of Honor awarded to African Americans for bravery and gallantry in the Civil War. Eight Medals of Honor for Naval service recipients from 1865 to 1898, 17 Medals of Honor during the Western Campaigns, 6 Medals of Honor for the Spanish-American War, one Medal of Honor to Corporal Freddie Stowers of the 370th Infantry Regiment, 93rd Infantry Division which was awarded in 1991. Seven Medals of Honor for World War II African American veterans who were not awarded until 1997, when only one of seven—Vernon Baker—was still alive (four of the seven were killed in action).

Today, I commend all of our veterans who fought and loss their lives to defend our country from the Revolutionary war of 1775 to 1781, the War of 1812, Civil War 1861 to 1865, Spanish-American War 1898, World War I 1917 to 1918, World War II 1941 to 1945, Korean conflict 1950 to 1953, Vietnam conflict 1960 to 1972, Persian Gulf War 1991, and our future veterans of the Iraq conflict. Thank you for your service.

TRIBUTE TO THE ALABAMA SOLDIERS WHO SERVED IN THE KOREAN WAR

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. CRAMER. Mr. Speaker, I rise today to recognize the soldiers from Alabama who answered President Truman's call to protect democracy and stop the spread of communist aggression across the globe.

Mr. Speaker, the Korean War was supposed to be a short and a decisive victory for our soldiers. However, from 1950 to 1953, our country was embattled in a bitter fight along the 38th Parallel. All told, over 750 soldiers from Alabama perished during this conflict. However, when the fighting ceased and the guns were finally silenced, South Korea remained a free and democratic state.

For many people, the Korean War is known as the forgotten war. This is an unfortunate misrepresentation. Mr. Speaker, the Korean War set the precedent that the United States will not sit idle as aggressors invade and try to destroy another nation's freedom. The Korean War is a war that cannot, and will not be forgotten.

Tomorrow in Athens, Alabama, Edward McMunn and the other members of the Alabama Korean War Commemorative Committee will unveil and dedicate a monument to honor the Alabama soldiers who died during the Korean War. The monument includes a central marble stone memorial with an engraved map of Korea that is surrounded by four carved granite stones on pedestals bearing the names of each soldier.

Mr. Speaker, tomorrow's ceremony is a fitting tribute to those that died in the defense of freedom and democracy. On behalf of all the residents of North Alabama, I commend Edward McMunn, and all the members of the Alabama Korean War Commemorative Committee, for their hard work and dedication that made this monument become a reality.

TRIBUTE TO EVELYN M. WITKIN

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. HOLT. Mr. Speaker, today at the White House, Evelyn M. Witkin was awarded the National Medal of Science Award, the nation's highest science and engineering honor.

"The ideas and breakthroughs in fundamental science and engineering by these extraordinary pioneers have influenced thousands of other researchers," said Rita Colwell, director of the National Science Foundation (NSF). "We now see the daily evidence of the tremendous advancements in technological capabilities, human health and vast new knowledge within our physical world due to these heroes of science we celebrate today," Colwell said.

The National Medal of Science, established by the 86th Congress in 1959 and administered by the NSF, honors the impact of individuals on the present state of knowledge in the physical, biological, mathematical, engineering, social and behavioral sciences. Not including the 2002 recipients, the medal has been awarded to 409 distinguished scientists and engineers, including three previous Rutgers winners.

Witkin was largely responsible for creating the field of DNA mutagenesis and DNA repair, which focuses on how mutations, most of which are unhealthy, occur in DNA and how they may be corrected. Her work, which furthered our understanding of the genetic response to harmful environmental factors such as radiation, has played an important role in the biochemical sciences and in clinical radiation therapy for cancer.

"I had no idea that anything like this was possible. I am very gratified by the award," said Witkin. "That I was nominated by colleagues means a lot to me, having been in the field of genetics since the mid-1940's."

Witkin's investigations into DNA repair led to her discovery of genes that can heighten bacterial resistance to DNA-damaging agents. In 1973, while on the faculty of Rutgers' Douglass College, she defined the E. coli "SOS Response," a system that is triggered by DNA damage. This system activates at least 40 genes that promote DNA repair and enhances individual and population survival. We now know that humans and many other organisms use the same kinds of DNA repair mechanisms.

Witkin came to Douglass College in 1971 and taught in the department of biology for 12 years. She then spent eight years on the faculty of the Waksman Institute of Microbiology until her retirement in 1991.

I congratulate Evelyn Witkin on her award, and I thank her for the contribution she has made to improve our society.

IN RECOGNITION OF VETERANS' DAY 2004

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. SHAW. Mr. Speaker, I rise today in recognition of Veterans' Day. It is my honor to acknowledge the men and women who have fought in the Armed Forces to protect the United States from all enemies, foreign and domestic. Observed on November 11, each year, Veterans' Day is a national day of honor, respect, and remembrance of the sacrifice of the few to protect the freedoms of the many. So today I rise with pride for America's veterans, both past and present, and salute them for their service.

The year was 1918. On the eleventh hour, of the eleventh day, of the eleventh month, the world was finally at peace after the bloody ending of WWI, the war to end all wars. Veterans' Day was first established as a national holiday on May 13, 1938, twenty years after the conclusion of the war, and was intended to honor those who fought in WWI. Originally called, "Armistice Day," this holiday was intended to celebrate world peace and mutual understanding among nations. Congress proclaimed that all government buildings display the flag of the United States as well as observe the day in schools, churches, and all other areas of public and private services.

Although Armistice Day was intended to honor only those who fought in WWI, the events of the next two decades quickly changed the sentiments of Americans. In 1954, after WWII claimed the most lives and machine power of any war in history, and following the conclusion of the Korean conflict, the 83rd Congress struck out the words "Armistice" and inserted "Veterans" in its stead. Thus, the national holiday observed on November 11th would no longer honor just those veterans of WWI, but all veterans of all wars and would hence be known as Veterans' Day.

Later that same year, President Eisenhower instituted a Veterans' Day Committee, which would be chaired by the Administer of Veterans' Affairs. This new committee, headed by the Honorable Harvey V. Higley, would oversee all appointments and national planning around the holiday.

The first major change to Veterans' Day came on June 28, 1968, when Congress passed the Uniforms Holiday bill. This bill sought to give the American people four, three-day holidays during the year. Those holidays included, George Washington's Birthday, Memorial Day, Veterans' Day, and Columbus Day, were all rearranged and moved to different days. Most states refused to obey, however, and continued to recognize these holidays on their original days. The first Veterans' Day under this new law did not fall on November 11th as it previously had, but on October 25th.

Realizing the importance of these holidays, especially Veterans' Day, President Gerald Ford signed Public Law 94–97 on September 20, 1975. This law reversed the Uniforms Holiday law and moved Veterans' Day back to its original date of November 11, starting in 1978.

With the change back to November 11th, the history and honor of the holiday remains intact and the memory of those that fought and died in service of the United States in all major conflicts is preserved forever. Regardless of the day, Veterans' Day continues to remain one of the most respected and honored holidays of the year and always inspires the nation to reflect. Today, there are many organizations that sponsor a year-round tribute to veterans, such as the American Legion and the Veterans of Foreign Wars. On Veterans' Day, these groups raise money for charities in memory and honor of the wounded men and women who have returned from war.

As we speak, the United States and indeed the world are again at war. The war on terrorism reaches all corners of the globe and is in no way uniquely American. The men and women who bravely fight for freedom in Iraq, Afghanistan, and all other countries where freedom is opposed, deserve equal praise as those who fought before them.

Mr. Speaker, on Tuesday, November 11, 2004, I, along with millions of fellow Americans, will proudly honor those men and women who have fought, and continue to fight, for our freedom. Our veterans made the ultimate sacrifice by placing themselves in harms way when they served our country to protect the liberty all humankind deserves. May God bless our veterans and may He continue to bless America.

APPOINTMENT OF CONFEREES ON H.R. 1904, HEALTHY FOREST RESTORATION ACT OF 2003

SPEECH OF

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 6, 2003

Mrs. DAVIS of California. Mr. Speaker, I join my colleagues in support of the principle of open conference committee meetings that are bipartisan as well as bicameral, as required in H.R. 1904. It is past time that this body return to the basic principles of democracy in its own practices.

Yesterday, I had the privilege of leading the entire bipartisan House delegation from California and many members from other states in honoring those firefighters and other public servants who worked so heroically to fight the devastating wildfires which we have just experienced in Southern California. That was the time to focus solely on the celebration of human courage and sacrifice.

Today, it is time to come together to find the best possible legislation that will finally focus on how to protect our urban environments from wildfires—whether they are frequent seasonal fires or the massive, historically destructive fire we suffered last week.

First, it is important for everyone to be clear that the Cedar fire in San Diego County was initially and primarily fueled by the chaparral which covers the mesas and foothills of Southern California. Later, it also moved into our national forest lands, where many of the trees had been affected by the beetle infestation.

As I toured the Cedar Fire area in San Diego by helicopter, it was stunning to realize the speed with which the firestorm driven by the Santa Ana winds overtook hundreds of thousands of acres of our open lands, much of which are public not private lands.

This fire was not about environmental laws preventing logging that would have prevented this fire. It was not about lack of roads that hindered fighting the fires.

It was about the failure to prevent the buildup of fuel by using authorized funding for removal of hazardous material which is adjacent to urban areas and the failure of the federal government to supply funds to deal with the pest infestations in these forests, as the Governor requested last spring and FEMA declined to do.

While it may or may not be possible to find the best legislation and also meet the deadline included in this bill, there are several basic principles that must be in the final conference bill. Many of them are found in the bill just passed by the Senate.

First, we must prioritize the protection for urban areas.

Second, there must be significant money authorized for this purpose. While there may be authorization in other bills for "such sums" as may be necessary to address hazardous fuel reduction, we in Congress have inadequately appropriated these funds because they are not specified.

Instead, the funds which have been allocated for treatment and prevention have been required to fight the fires that result from inadequate protection. Real funding must be clearly identified and available to begin the needed protection. It must not be based solely on the sale of logged trees because so much of our land needing fuel reduction is covered with chaparral, which has no logging value. We must also be sure that this legislation will continue to protect old growth timber.

I believe that the members of the committees going to conference can and will be able to fashion a conference report that can be a model for returning this Congress to open, bipartisan, bicameral conferences that reach appropriate, compromise legislation. I look forward to this result.

TRIBUTE TO TENNESSEE SENATOR DOUGLAS HENRY

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mrs. BLACKBURN. Mr. Speaker, today I rise to pay tribute to one of Nashville, Tennessee's most beloved citizens. Through many years of public service, he is building a legacy of selfless devotion to his state, his home city and his state senate district.

Senator Douglas Henry is being honored this weekend by the Friends of Radnor Lake for his three decades of commitment to conservation issues. In 1973, Senator Henry worked tirelessly to be certain that Radnor Lake was named Tennessee's first state natural area. He has continued to work to protect the lake and the funding necessary to support the protection of the natural area.

Senator Douglas Henry could be honored on this floor for any number of reasons. He has chaired the Finance committee of the Tennessee senate for many years, he is a staunch supporter for the rights of women and children and has a deep interest in public policy affecting them. He has served as chairman of the Southern Legislative conference and the Council of World Regions, the Law and Justice Institute in Washington, DC. However, it is my pleasure to stand today and honor him, not only for these accomplishments but for the commitment to preservation and conservation that he has to his district and our state.

HONORING BOULDER CITY LEND A HAND AND THE LATE ED ANDREWS

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. PORTER. Mr. Speaker, I rise today to honor Boulder City Lend A Hand and the late Ed Andrews, one of Lend A Hand's most active and well-known volunteers. Ed, originally from Los Angeles and a leader in the aviation industry, joined Boulder City Lend A Hand just one year after its founding in 1989, and quickly became Master of Ceremonies for their events and a hard-working team member for its primary mission, providing assistance to Senior Citizens in Boulder City. Ed was famous for his booming voice, which endeared him to all who knew him and quickly earned the respect of those who didn't.

Sadly, Ed Andrews passed away in March of 2003, and is survived by his wife Nita, one of the founders of Boulder City Lend A Hand, two daughters and three sons, and many grandchildren. Ed will be missed by all who knew him, especially those whom he served in Boulder City.

Lend A Hand is a program designed to help the elderly and chronically ill of Boulder City, Nevada remain in their homes by providing a variety of services by volunteers. Services include staying with persons needing assistance so that their caregivers can 'take a break' for rest and relaxation or to attend to personal business. Other services available are helping individuals by running errands, going shopping, driving to medical appointments or by providing companion services in the home.

I am pleased to be a supporter of Boulder City Lend A Hand, and to have had the opportunity to know Ed. I urge the House to join me in remembering Ed Andrews, thanking his wife Nita for her service to the community, and honoring Boulder City Lend A Hand for its commitment to meeting the needs of our seniors.

TRIBUTE TO EDWARD WITTEN

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. HOLT. Mr. Speaker, today at the White House, Edward Witten was awarded the National Medal of Science Award, the nation's highest science and engineering honor.

The presidential medal is the nation's highest honor for researchers who make major impacts in fields of science and engineering through career-long, ground-breaking achievements. The medal, established by Congress in 1959, also recognizes contributions to innovation, industry or education.

Edward Witten, the Charles Simonyi Professor of Physics at the Institute for Advanced Study, received the award "for his leadership role in advancing a broad range of topics in theoretical physics, including attempts to understand the fundamental forces of nature through string theory; and his unparalleled inspiration in using insights from physics to unify apparently disparate mathematical areas." Professor Witten may be best known as the world leader in "string theory," an attempt by physicists to describe in one unified way all the known forces of nature, as well as to understand nature at the most basic level. The combination of the four fundamental forces (electromagnetic, strong, weak, and gravitational) in one theoretical framework was a goal sought, but unattained by Albert Einstein. The concept underlying string theory is to replace the usual point-like representation of fundamental particles with vanishingly small vibrating strings. This resolves an incompatibility between quantum mechanics and general relativity, which is the premier challenge of theoretical physics. Dr. Witten's original contributions and incisive surveys have set the agenda for many developments, such as the progress in "dualities," which suggest that all known string theories are related.

Dr. Witten's earliest papers produced advances in quantum chromodynamics (QCD), a theory that describes the interactions among the fundamental particles (quarks and gluons) that make up all nuclei. In particular, he solved the problem of expressing radioactive corrections arising from heavy particles in terms of effective light quarks. In other early work, he understood how to combine properties of the Dirac equation with those of the Riemann curvature tensor, to get a new formula for the gravitational energy, and to give a new and direct proof of the positive energy theorem in general relativity. He also discovered new solutions of the equations of C.N. Yang and Robert Mills, and realized their importance for physics.

Dr. Witten discovered many relations between "supersymmetric quantum theory" and geometry. Supersymmetry lies at the basis of a picture of fundamental particles studied at the Fermilab Tevatron, and soon at the Large Hadron Collider under construction at CERN. Dr. Witten showed that a mathematical theory of Michael Atiyah and I.M. Singer parallels supersymmetry and plays a central role in particle physics. He applied this concept to the study of nonperturbative supersymmetry breaking. He used this same concept to produce a new derivation of a fundamental mathematical theory of Marston Morse.

One of Dr. Witten's deepest mathematical insights arose from his glimpsing the relation between the physics of gauge theory and the mathematics of knots. This work has led to a revolution in mathematics, including the understanding of the classification of higher dimensional spaces. For this work, Dr. Witten became the only theoretical physicist ever to receive the Fields Medal, the most prestigious award in pure mathematics. Conversely, Dr. Witten was broadly responsible for the demonstration that algebraic geometry and topology, core disciplines of modern mathematics, hold the key to understanding the deepest properties of string theory and gauge field theory.

Dr. Witten is as clear and engaging a speaker as he is a creative and powerful theorist I find it especially commendable that he also is an effective thinker and worker for peace and social justice in the Middle East and the world.

Dr. Witten, who has been on the Faculty of the Institute for Advanced Study since 1987, is the recipient of a 1982 MacArthur Fellowship; the 1985 Einstein Medal from the Einstein Society of Berne, Switzerland; the 1985 Dirac Medal from the International Center for Theoretical Physics; the 1990 Fields Medal; and numerous other awards. He is a member of the American Academy of Arts and Sciences, the National Academy of Sciences, a foreign member of the Royal Society, and an associate member of the Academy of Sciences of Paris. Ed Witten is a good friend of mine, and I am pleased to congratulate him on his award, and I thank him for the contribution he has made to improve our knowledge and understanding.

25TH ANNIVERSARY OF ENACTMENT OF INDIAN CHILD WELFARE ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to note that tomorrow, on November 8, 2003, will mark the 25th anniversary of enactment of the Indian Child Welfare Act (ICWA). At a time when American Indian and Alaska Native tribes and families throughout the country were being ravaged by abusive child welfare practices that caused untold thousands of

American Indian and Alaska Native children to be unnecessarily placed in foster homes, adoptive homes and Bureau of Indian Affairs (BIA) boarding schools, the 95th Congress said no more and unanimously adopted the ICWA. I am proud to have been a member when that occurred—truly one of the finest moments in the history of Congress and in my service.

The ICWA stands as perhaps the most important Indian law the Congress has enacted. For the first and only time, Congress explicitly acknowledged that the trust responsibility of the United States extends to "protecting American Indian and Alaska Native children" and the integrity of Native American families and tribes, a sine qua non to this Nation's commitment to securing the "continued existence and integrity" of Indian tribes as both governments and societies.

The ICWA recognized that tribes have a parens patriae relationship to their children that supersedes any like interest of the States. Accordingly, the law enhances the sovereign right of tribes to determine, under tribal law, whether and under what circumstances children require out-of-home placement. Concomitantly, the law reduces and conditions the authority of States in this regard by compelling an overarching commitment to preventing out-of-home and out-of-tribe placement of American Indian and Alaska Native children. When, as a last resort, placement occurs, the ICWA requires States to make every effort to return American Indian and Alaska Native children to their families and tribal communities. And, when that is not possible, the ICWA mandates that, except in unusual circumstances, these children are preferentially placed in tribal homes.

In the 25 years since enactment, the fulfillment of ICWA's purpose "to protect the best interest of American Indian and Alaska Native children" has been remarkable. Tribes have acted forcefully to help keep families intact. Because of the ICWA, many tribes and States have developed significant cooperative relationships aimed at eliminating State child welfare practices harmful to American Indian and Alaska Native families and children and implementing policies and practices targeted at maintaining the integrity of American Indian and Alaska Native families and tribes. As a result, ICWA's promise to benefit the welfare of American Indian and Alaska Native children has benefitted many thousands of these children, enabling them to mature into functioning and contributing citizens of their tribes and of the Nation.

Although the achievements of the ICWA are many and noteworthy, much remains to be done. Full and effective implementation of the ICWA has not occurred either because of deliberate resistance, outright obstruction, ignorance of or inattentiveness to ICWA's requirements, or just misunderstanding the relationship between the ICWA and the requirements of other federal child welfare laws. To address and remedy ICWA implementation problems of most concern to tribes, I introduced H.R. 2750 on July 15, 2003. This measure—

Clarifies that the ICWA applies to all American Indian and Alaska Native children involved in "child custody proceedings" (as defined in the ICWA) and defines the minimum efforts that must be undertaken to prevent the breakup of an American Indian or Alaska Native child's family through involuntary out-of-home placement.

Requires detailed notice to American Indian and Alaska Native tribes in all voluntary child custody proceedings, to parents in voluntary adoption proceedings, and to parents and tribes in all involuntary proceedings.

Clarifies the right of American Indian and Alaska Native tribes to intervene in all voluntary state court custody proceedings, provided that the tribe files a notice of intent to intervene or a written objection within 45 days of receiving notice of a voluntary termination of parental rights or within 100 days of receiving notice of a particular adoptive placement, and certifies that a child is a member, eligible for membership, or is the child of a member.

Requires notice to extended family members and recognizes their right to intervene in state child custody proceedings.

Requires attorneys, public and private agencies to provide detailed information to American Indian and Alaska Native parents of their rights under ICWA.

Limits parents' rights to withdraw consent to an adoption to 6 months after relinquishment of the child or 30 days after the filing of an adoption petition, whichever is later.

Clarifies tribal jurisdiction in Alaska.

Facilitates the ability of tribes without reservations, including tribes in Alaska and Oklahoma or with disestablished reservations, to assume jurisdiction over child custody proceedings.

Narrows the grounds upon which state courts can refuse to transfer cases to tribal courts.

Clarifies tribal court authority over children transferred to tribal court jurisdiction.

Defines the circumstances under which state ICWA violations may be reviewed by federal courts and provides for federal review of state ICWA compliance.

Provides for criminal sanctions for anyone who assists a person to lie about their American Indian and Alaska Native ancestry for the purpose of avoiding application of the ICWA.

Allows state courts to enter enforceable orders providing for visitation or contact between tribes, natural parents, extended family and an adopted child.

Extends ICWA (in some cases) to cover children of state recognized and Canadian Indian tribes, and children who reside or are domiciled on a reservation and are the child of a member, but who are not eligible for tribal membership.

Makes it easier to American Indian and Alaska Native adoptees to gain access to their birth records.

Establishes that foster and adoptive homes licensed or approved by American Indian and Alaska Native tribes in compliance with the Indian Child Protection and Family Violence Prevention Act shall satisfy the requirements for foster and adoptive home licensing under any other federal law.

Clarifies that the terms of tribal-state agreements regarding the care and custody of and jurisdiction over American Indian and Alaska Native children shall be controlling even when another federal law may have different requirements.

On this 25th anniversary of the ICWA, I urge my colleagues to take another historic step and enact H.R. 2750. Enactment would assure that on ICWA's 50th anniversary, American Indian and Alaska Native families are strong, their children are healthy and their communities are thriving. For the betterment of our Nation and all of its people, our legacy should be no less.

PERSONAL EXPLANATION

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mrs. NORTHUP. Mr. Speaker, on rollcall Nos. 602 and 603, I was unavoidably detained. Had I been present, I would have voted "aye."

CONGRATULATING ROHAN SINGH AS STUDENT ENTREPRENEUR OF THE YEAR

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. INSLEE. Mr. Speaker, I rise today to honor a special young man from my district, Mr. Rohan Singh.

It is my pleasure to announce that Rohan has been named Junior Achievement's 2003 Student Entrepreneur of the Year.

Last year, Rohan used just $60 to establish FuzzelFish.com, which sells software products over the internet. Today, Rohan has a thriving small business and I just want to take this opportunity to congratulate him and wish him luck with his business and his studies.

I recently had the chance to meet Rohan in my Washington, DC office. Let me tell you, he is an intelligent and upstanding young man who, I'm sure, will have a very bright and productive future.

I also rise today to say that I am encouraged to see that the entrepreneurial spirit is alive and well among teens in the United States. According to a recent poll by Junior Achievement and Harris Interactive, more teens believe that "owning your own business" provides greater job security than "working for a company." This, Mr. Speaker, is good news for the future of this great nation.

In closing, I want to say again how proud I am of Rohan Singh and believe that his story should be an example to all young people that everyone can and should play a part in the American Dream.

TRIBUTE TO THE HONORABLE YVONNE SCARLETT-GOLDEN ON HER ELECTION AS MAYOR OF THE CITY OF DAYTONA BEACH

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. MEEK of Florida. Mr. Speaker, it is my great privilege and pleasure to rise today to congratulate The Honorable Yvonne Scarlett-Golden, a dear personal and family friend, a mentor, and the newly elected Mayor of the City of Daytona Beach.

Yesterday, November 4, 2003, Commissioner Scarlett-Golden became Daytona Beach's first black mayor and only the second woman in history to hold that position.

Her elevation to the office of Mayor is a natural next step for a native of Daytona Beach who has devoted her entire life to public service. Commissioner Scarlett-Golden wants to build on Daytona Beach's existing assets: sun and fun and families. She is just the person to do it, for her energy and hard work are legendary.

Yvonne Scarlett-Golden is an educator and a community servant. She received her bachelor's degree and an Honorary Doctor of Law from Bethune-Cookman College, and earned her master's degree from Boston University. Before running for Mayor, she was a school administrator for twenty-five years and served as a city commissioner from the west side of Daytona Beach for seven years.

Experienced, fair, knowledgeable and firmly committed to public service, Yvonne Scarlett-Golden's priority is to unite the City and improve the quality of life for every citizen, return fiscal responsibility to government, focus on economic development and establish strong public and private partnerships for City programs.

Commissioner Scarlett-Golden has been honored as a role model to African Americans and women all over the nation. I know that all my colleagues join with me in congratulating her today and wishing her every success in the future.

INTRODUCTION OF THE BROWN TREE SNAKE CONTROL AND ERADICATION ACT

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. BORDALLO. Mr. Speaker, roughly a half-century ago my home island of Guam was invaded by an unwelcome alien pest. Believed to have arrived on Guam as a passive stowaway in a military cargo ship shortly after World War II, the brown tree snake has kept our island's native wild life under siege ever since and has emerged to become the single greatest threat to Guam's natural environment.

Today, I am introducing legislation along with my colleagues from Hawaii, Mr. CASE and Mr. ABERCROMBIE, to combat the brown tree snake by increasing authorized funding levels for research, control and prevention of the spread of this species with the ultimate goal of eradication in Guam. In doing so, the legislation aims to improve the coordination among Federal agencies and other institutions in dealing with the problems brought about by the brown tree snake.

The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, which established a Federal program to prevent the introduction and spread of aquatic nuisance species, included an authorization for programmatic efforts to combat the brown tree snake as well. Since then the Federal Government has gradually increased efforts to prevent the brown tree snake from departing Guam and to reduce the population of the brown tree snake in certain targeted areas in Guam. Our legislation would enhance these efforts by improving the coordination and consistency of actions undertaken by Federal agencies and by providing an adequate authorized funding schedule to achieve the goal of eradication. Our legislation clarifies the responsibility for funding brown tree snake programs and places that responsibility in the appropriate Federal agencies. In the past the Department of the Interior's Office of Insular Affairs has had to contribute funds meant for territorial technical assistance to the brown tree snake program in order to make up for shortfalls in other Federal agencies' budgets. While we appreciate the Office of Insular Affair's efforts in the past, it is preferable to secure funding from those with direct responsibility and expertise for these issues.

Since 1993, Congress has attempted to address the brown tree snake problem, but I would contend, by indirect and inconsistent means. Currently, Federal funding to fight the brown tree snake has remained stagnant over the past decade and has been realized, in addition to the contributions from the Office of Insular Affairs, through the efforts of a Senate Appropriations $1 million annual earmark in the Department of Defense Operations and Maintenance account for the Defense Health Services. These funds have been the basis for the progress made to date, but these appropriations funds are not specifically authorized, which has caused difficulty in securing the appropriation each year. In addition, as an earmark, these efforts have been misinterpreted by interest groups opposed to such earmarks and has at times been characterized as "pork" spending.

If we do not adequately address these funding shortfalls, significant brown tree snake containment efforts may fail resulting in the spread of a very aggressive invasive species to other areas of the United States. The brown tree snake has caused severe environmental damage on Guam, and our experience has been that once introduced, this species is extremely difficult to eradicate. The environmental cost in protecting other species in other areas that may become endangered by this alien predator is enormous, thus making the prevention of the spread of the brown tree snake an economic issue. This is a clear example of a situation where an ounce of prevention is worth a pound of cure.

This bill is also notable for its emphasis on control and eradication. Guam has had the unfortunate experience of having the brown tree snake threaten the extinction of our own indigenous species of birds.

I look forward to moving this bill through the legislative process. I thank my colleagues from Hawaii, Mr. CASE and Mr. ABERCROMBIE, for their diligent work in crafting this legislation with me. I also wish to commend stakeholders in Guam and Hawaii, including the Government of Guam's Department of Agriculture, for their valuable input. I urge my colleagues to support the Brown Tree Snake Control and Eradication Act.

INTRODUCTION OF THE BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2003

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. CASE. Mr. Speaker, today I am pleased to join with my colleague from Guam, Congresswoman MADELEINE Z. BORDALLO, and Congressman NEIL ABERCROMBIE from Hawaii, to introduce the Brown Tree Snake Control and Eradication Act of 2003.

This legislation proposes a long-overdue comprehensive approach, through the Departments of Interior and Agriculture, to eradicate the brown tree snake in Guam and to prevent its introduction to affected jurisdictions in the Pacific, including my home state of Hawaii.

The devastating ecological, economic, and human health impacts of the brown tree snake have been long known among the affected jurisdictions in the Pacific and the federal, state, and territorial agencies charged with implementing brown tree snake preventative control programs.

However, it is clear that unless we address this challenge with a long-term, coordinated, and comprehensive approach, Guam will continue to struggle with the adverse impacts of the brown tree snake, and we in Hawaii will increasingly risk the introduction of the snake into our fragile environment. A total of eight brown tree snakes have been found live or dead in Hawaii since the mid-1980s. All have been associated with the movement of civilian and military vehicles or cargo from Guam.

As background, the brown tree snake was accidently introduced into Guam in the late 1940s and 1950s, likely via U.S. military cargo, from an area in the Pacific where the snakes are native. Unfortunately, because Guam had no natural predator but abundant prey, the brown tree snake population spread throughout the island.

Because the brown tree snake's preferred prey is birds, it is directly responsible for the extinction of 9 of 13 native forest birds and 3 of 12 native lizards on Guam. Economically, the snakes have caused more than 1600 power outages over a 20-year period in Guam, costing the island $4.5 million per year without considering their impact on transformers, and damages inside electrical substations. The disruptions affect all aspects of everyday life in homes and work, as well as for the government and the business community.

In Hawaii, the brown tree snake represents one of the greatest terrestrial ecological threats due to its potential impact on our endangered bird species, which are found nowhere else on earth. As a result of Hawaii's geographical isolation and lush environment, there were more than 140 endemic bird species in the islands prior to human contact. Today, among the remaining 71 endemic forms, 30 are federally listed as endangered, and fifteen of these are on the brink of extinction. Any negative impact on our native bird species in Hawaii will inevitably impact our native flora as well. Hawaii has the highest known number of endemic terrestrial plants of any major island group.

Economically, a University of Hawaii study estimates that the introduction of the brown tree snake to Hawaii will cause between $28 million and $450 million annually in electrical power outages. This does not include the potential devastation to our agriculture industry. In Guam, the brown tree snake has contributed to the decline in production of the island's agriculture industry, particularly the commercial poultry industry, because the snakes eat eggs and chicks. The snake has also impacted the growing of fruits and vegetables because insects that are no longer naturally controlled by birds and lizards inflict increased damage on crops.

To address the brown tree snake problem, a Brown Tree Snake Control Committee was established subsequent to provisions in the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. A multi-agency Memorandum of Agreement on Brown Tree Snake Control was also signed in 1992 and renewed in 1999. However, it expires in March 2004.

The Brown Tree Snake Control and Eradication Act of 2003 will statutorily authorize the Brown Tree Snake Control and Eradication Committee to ensure the ongoing activities of federal agencies, enhance the effectiveness of the present Committee, provide the necessary resources from agencies actually conducting the work, and strengthen the coordination between federal and regional stakeholders in Hawaii and the Pacific in a more systemic fashion.

Among the authorized activities is the expansion of science-based eradication and control programs in Guam; the expansion of interagency and intergovernmental rapid response teams in Guam, the Commonwealth of the Northern Mariana Islands, and Hawaii; the expansion of science-based efforts to protect and restore native wildlife in Guam or elsewhere damaged by the brown tree snake; continuation and expansion of sustained research funding from the Animal and Plant Health Inspection Service, Wildlife Services, and National Wildlife Research Center; and the expansion of long-term research into chemical and biological control techniques that could lead to large-scale reduction of brown tree snake populations in Guam.

This legislation is a product of collaboration between my office, the offices of Congresswoman BORDALLO and Congressman ABERCOMBIE, the Nature Conservancy in Hawaii, and other key federal, state, and territorial stakeholders in the region.

I look forward to working with my colleagues on this vital issue.

PERSONAL EXPLANATION

HON. JIM DeMINT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. DEMINT. Mr. Speaker, I was absent during rollcall votes 569, 570, 571, 572, 573, and 591. Had I been present, I would have voted "yea" on rollcall votes 569 and 570. I would have voted "nay" on rollcall votes 571, 572, 573, and 591.

PERSONAL EXPLANATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. BURTON of Indiana. Mr. Speaker, due to a scheduling conflict, I was unable to be in Washington during rollcall votes 616–619. Had I been here I would have voted "no" for rollcall vote 616, "aye" for rollcall vote 617 and "no" for rollcall votes 618–619.

TRIBUTE TO SAGINAW VALLEY STATE UNIVERSITY ON THE OCCASION OF ITS FORTIETH ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to the mission and accomplishments of Saginaw Valley State University in Saginaw County, Michigan as it celebrates forty years of educating students for a modern world.

I can attest to the quality of the learning experience that Saginaw Valley State provides its students, because I received a bachelor's degree from SVSU in criminal justice in 1977 while I was a Michigan State Trooper. As a returning adult student who also worked full time as a Trooper, it was particularly important to me to have accomplished professors and to be enrolled in classes that were academically challenging but also geared to practical accomplishment in the real world.

SVSU was chartered as a private college on November 13, 1963. In 1965 it was made part of Michigan's system of state supported colleges. The first class of ten students graduated in 1966.

That small but dedicated graduating class led the way for student enrollment that had grown to more than 8,000 students by the end of the millennium. International students by the hundreds now walk the campus.

SVSU is known for its programs in teacher education, an engineering program that is well-recognized in the area's automotive serving industries, programs in nursing and allied health sciences, business administration and the humanities, to name just some of the university's successful curriculum efforts.

In the past ten years, the university campus has grown by leaps and bounds, adding Founders Hall and the West Complex with its Performing Arts Center, Rhea Miller Recital Hall, Groening Commons, new classrooms and faculty offices, as well as conference facilities. Curtiss Hall, the new Herbert Dow Doan Science Building and the Student Center and Fitness Center were all completed. A Regional Education Center, the Zahnow Library addition, additions to the Marshal M. Fredericks Sculpture Museum and to student housing also were dedicated in 2003.

It would be understandable if the faculty, staff, students, alumni and supporters of Saginaw Valley State University took a moment to rest on their laurels, but my understanding is that all of the new facilities and programs are instead powerful motivation for the SVSU learning community to continue to grow and to seek excellence in all its endeavors.

I heartily congratulate everyone involved in the dramatic success of Saginaw Valley State University. As an alumnus of SVSU, I take personal pride and pleasure in its forty years of achievement.

Mr. Speaker, I ask that you and my colleagues join me in offering congratulations to Saginaw Valley State University on its fortieth anniversary.

MOROCCAN KING COMMENDED FOR HIS CALL FOR WOMEN'S EQUALITY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. DELAURO. Mr. Speaker, I would like to call your attention to the following column which ran in the Washington Post last month. Women's rights are a critical component of any nation's development, and I commend Morocco's King Mohammed VI for his call to improve the status of women in his nation.

[From the Washington Post, Oct. 16, 2003]

A KING'S APPEAL

(By Jim Hoagland)

Western democracies won the Cold War by shaking open closed societies and exposing their failures and crimes to citizens who then refused to go on living that way. The great political challenge of today is to induce similar change in Arab nations and other Islamic countries that do not respect the rights and dignity of their own citizens.

Think of it as collateral repair: The coming wave of epochal change must also be driven by internal forces, with restrained but committed support from abroad. The ultimate goal is reform within Islam conceived and carried out by Muslim leaders, scholars and civic groups, substantively welcomed by the West.

And that reform must begin with the role and rights of women in the Islamic world. A question posed last week in as important a speech as I have read recently makes that unblinkingly clear:

"How can society achieve progress while women, who represent half the nation, see their rights violated and suffer as a result of injustice, violence and marginalization, notwithstanding the dignity and justice granted them by our glorious religion?"

The irrefutable logic about the high cost of institutionalized gender discrimination was voiced by Morocco's King Mohammed VI last Friday at the opening of Parliament in Rabat. He then outlined far-reaching changes in family and divorce laws for the kingdom that would effectively lessen the intrusive reach of religious authorities into gender issues.

I am aware that speeches are given in the Arab world, as well as in Washington, to postpone or avoid the actions they describe. And in fairness to the globe's 1.2 billion Muslims, it has to be noted that all religions have been used at some point as a tool of control by unscrupulous political and religious leaders, and misogynists of all stripes—as Islam is used today far too often.

But Mohammed VI outlined highly specific remedies and committed both his religious and political authority to getting them enacted. And he repeatedly invoked the language of the Koran to denounce the unfairness of polygamy, marriage contracts, guardianships and divorce laws as they are practiced in his country and by implication elsewhere in the Muslim world.

As befits a 40-year-old monarch whose followers call him "the Commander of the Faithful" and who claims descent from the prophet Muhammad, the king argued that solutions can and should be found in Islam. But his words also implicitly acknowledged that Islam has been deformed into an instrument of repression in much of the Arab world and elsewhere.

Consider this: Two-thirds of all illiterate Arab adults are women, who are kept out of schools by custom, lack of resources.and, in many places, by determined opposition from religious authorities. The Moroccan king took aim at a sickness that deprives many Islamic societies of the talents and productive labor of half their populations.

Morocco perches on the North African Atlantic shoulder of the Arab world. The immediate, direct consequences of Mohammed VI's words in Egypt, Saudi Arabia and elsewhere may be slight. (They went largely unreported in the United States as well.) But the king's embrace of this cause represents both catalyst and reflection of broader change that is rapidly bearing down on the region.

It is part generational change as aging autocrats give way to younger leaders. Change is also being stirred by the deposing of a uniquely evil regime in Iraq, a thunderclap that is reverberating throughout the region, and by the pressures of the shadow war being fought between global terrorists and the U.S.-led coalition.

Mohammed VI's speech makes clear that he was not intimidated by the bombings in his country last May carried out by Islamic fundamentalists tied to al Qaeda. Nor does he seem cowed by the reactionary religious establishments that have contributed so much to the backwardness and turmoil now evident in Islamic nations.

An effective reform movement is straining to be born. In the same week the Moroccan king spoke, the Nobel Committee awarded the 2003 peace prize to Shirin Ebadi, an Iranian lawyer who leads the fight in her country for women's rights and democracy—two causes that cannot be separated in the Islamic world. This is a good example of collateral repair: restrained but focused Western encouragement of reform.

Mohammed VI provides a standard to which Arabs, Iranians, Pakistanis and others can and should be held. They are not being asked to live up to Western standards by improving the opportunities and lives of "their" women. This is a descendant of the prophet, not Gloria Steinem, who is telling them that they must change or fall ever deeper into self-destructive decline.

VETERANS DAY 2003 50TH ANNIVERSARY

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. CORRINE BROWN of Florida. Mr. Speaker, I am pleased to support of America's 25 million living veterans. Our soldiers, sailors, airmen, and Marines are surely the best of the best.

More than 48 million heroic men and women have served in our military since the start of the Republic. Veterans have served this great Nation honorably during times of peace, and of war. It is appropriate that we set aside one special day a year to honor their service. However, we must not reserve this day for remembrance and then forget our veterans the other 364 days a year. Daily, we owe veterans our heartfelt gratitude and respect.

As the Congresswoman representing Florida's third district, I am proud of the patriotism and loyalty that the people of Florida have shown to this Nation—it inspires me daily as a senior member of the House Committee on Veterans' Affairs. There are nearly two million veterans in the state of Florida, and I thank them each for answering the call to service.

At this time, more than any other, we should stop and pay homage to America's veterans. Today's servicemember is tomorrow's veteran. Right now, there are 130,000 Americans serving in Operation Iraqi Freedom. On Thursday, the Administration announced a plan that would send 128,000 fresh troops to Iraq early next year. This plan calls-up 43,000 National Guard and Reserve troops for one-year tours. We need to promise these servicemembers that they will not be forgotten when they return home.

Congress needs to take action and fully fund concurrent receipt for the 560,000 eligible veterans. It is the right thing to do. We must promise this generation of career service members that they will be treated on par with other federal employees in the event that they become disabled. A recent study, undertaken by the United States House of Representatives Committee on Government Reform, shows that the Disabled Veterans Tax affects approximately 57,300, or one in three, veterans in Florida. 2,738 veterans are affected by this tax in the third district of Florida. Statewide, Florida's veterans lose $300 million in benefits annually to the Disabled Veterans Tax. In Florida's third district, veterans cumulatively lose $13,923,588 in benefits a year—with an average loss of $5,085 per veteran annually.

The Bush Administration argues that there is a cost barrier to fully funding concurrent receipt. This argument shows where the Administration's priorities are misplaced. If we can come up with an $87.5 billion supplemental appropriation for the war in Iraq, then we can surely find the money to bring our Nation's military retirees on par with the rest of federal employees. We cannot say that we have enough money to fight wars, but not enough to compensate the servicemembers injured in them.

This year's budget process shows why we need mandatory funding for VA health care. The funding system for veterans' health care is seriously flawed. Instead of being based on need or costs like other federal health programs it is funded based on residual funding for discretionary programs. Veterans are paying for this defective funding system with curtailment in enrollment in the VA health care system, newly proposed copayments and enrollment fees, and increased waiting times. VA does well with the funding it receives, but with a stable and reliable funding stream, it could provide better access to high-quality care for our veterans.

It appears that the House will agree to the Senate's provision that will provide a $1.3 billion increase above the Administration's budget request. However, it will still fall short of the 2004 funding level that was promised in the budget resolution. Veterans should not have to come begging at our doors for adequate funding of the VA health care system.

Today, and everyday, we should honor those who have worn this Nation's uniform. I thank them and will continue to work to fulfill Abraham Lincoln's pledge, "to care for him who shall have borne the battle, and for his widow and orphans."

HONORING WOMEN AIRFORCE SERVICE PILOTS

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Mr. ISRAEL. Mr. Speaker, as Veterans Day approaches, I want to take the time to recognize the patriotism and sacrifice of a special group of women. I rise today to honor and recognize servicewomen who served as Women Airforce Service Pilots (WASP) during the Second World War.

The generation that defeated the Nazis has correctly been referred to as the "Greatest Generation." But for many years, the contributions of this select group of young women pilots were overlooked.

As the first women in history trained to fly American military aircraft, the WASP shattered traditional conceptions about women's roles and became pioneers, heroes, and role models for generations of women to come.

They compiled an admirable record, performing essential services that freed males for combat-related service overseas, but their accomplishments did not come without a cost. Thirty-eight members of the WASP made the ultimate sacrifice and lost their lives in the course of their service.

Although these women had answered the call to duty at America's time of greatest need, when the WASP were disbanded on December 20, 1944, they received no GI benefits or military honors.

America tried to forget them, leaving them with only their personal satisfaction that they had done their duty.

Congress finally corrected this wrong in 1977 when it formally recognized the service of members of the WASP as active military service, making them eligible for veterans benefits.

As we watch women serving bravely in the War Against Terror, it is safe to say that the future of women in the military seems assured. But it is important to remember that this was not always the case.

It is not an exaggeration that we owe a big part of the freedom we enjoy today to these women pilots. Their love of country and love of flying is something for which we will always be grateful.

At this time I would like to thank the thirty-eight who gave their lives. Let us remember Jane Champlin, Susan Clark, Margie L. Davis, Katherine Dussaq, Marjorie D. Edwards, Elizabeth Erickson. Cornelia Fort, Frances Grimes, Mary Hartson, Mary H. Howson, Edith Keene, Kathryn B. Lawrence, Hazel Ying Lee, Paula Loop, Alice Lovejoy, Lea Ola McDonald, Peggy Martin, Marie N. Michell, Virginia Moffatt, Beverly Moses, Dorothy Nichols, Jeanne L. Norbeck, Margaret Oldenburg, Mabel Rawlinson, Gleanna Roberts, Betty Scott, Margaret J. Seip, Helen J. Severson, Marie Sharon, Evelyn Sharp, Betty P. Stine, Marion Toevs, Gertrude Tompkins, Mary Trebing, Bonnie Jean Welz, Betty T. Wood, and Mary L. Webster.

In these dangerous times, their courage is an inspiration for all Americans. I encourage everyone to learn more about the history of the service of these courageous women.

CONFERENCE REPORT H.R. 2691, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

SPEECH OF

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 30, 2003

Mr. WALDEN of Oregon. Mr. Speaker, I regrettably come to the floor in opposition to the Interior conference report that my friend from North Carolina and the Chairman of the Subcommittee, Mr. TAYLOR, worked so hard in putting together. There are many things in this conference report for which I'm very grateful. I'm grateful to the Chairman for working with me to give the Bureau of Indian Affairs the authority to fund the first phase of the recommendations from the Chiloquin dam study, a critical effort in the Klamath Basin of southern Oregon to improve endangered sucker fish habitat and lighten the burden on agriculture. I also want to extend my sincere appreciation to the Chairman for funding PILT at $227,500,000—one of its highest levels ever. While it is not the fully authorized level of $360 million that I have been a staunch advocate for, it's much better than it has been in the past and the good Chairman and his top-notch staff are to thank for this. Finally, I want to commend the Chairman for his work in getting $400 million included in the conference report to replenish the exhausted fire suppression accounts of the BLM and Forest Service, and I commend him for including almost $2.5 billion to implement the National fire plan next year. These are significant accomplishments and I have enthusiastically supported them.

However, even with the inclusion of all these excellent provisions, I reluctantly must vote against the conference report because of the language included that undermines the efforts of my friend from California, the Chairman of the Resources Committee, to find a legislative solution to the complicated problem of tribal trust accounting. The language added to the conference report would interrupt the Department of the Interior's conduct of its historical accounting of individual Indian trust fund accounts, which is mandated by federal court order in Cobell v. Norton. The language would suspend any such accounting until either December 31, 2004 or until Congress revised the American Indian Trust Management Reform Act to limit this forensic accounting activity. The added language not only interferes with a court-required accounting for hundreds of thousands of Native Americans, but also seeks to force a potentially hasty decision on an exceptionally complex issue and overlooks an agreement reached between Chairman POMBO and Chairman TAYLOR during House floor consideration of this bill in July. That agreement stated that settlement of the Cobell matter would be left to Chairman POMBO's Resources Committee to resolve, the proper authorizing committee venue. Unfortunately, the conference report language does not comport with that agreement, and so I will reluctantly vote against this bill in its current form. I am hopeful that this provision can successfully be resolved in the correct legislative forum, and that the many other outstanding provisions of the Interior Appropriations bill developed under the fine leadership of Chairman TAYLOR remain intact.

TRIBUTE TO THE COLORADO TRIAL LAWYERS ASSOCIATION

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 7, 2003

Ms. DEGETTE. Mr. Speaker, I would like to recognize the exceptional endeavors and notable undertakings of an extraordinary professional membership organization in the State of Colorado. It is both fitting and proper that we recognize this outstanding association for its leadership in government and the legal community and for its enduring service to the people of our state. It is to commend this distinguished organization that I rise to honor the Colorado Trial Lawyers Association on the occasion of its 50th Anniversary.

The Colorado Trial Lawyers Association (CTLA) has been on the front lines of progress since its inception and has proven to be a powerful force in transforming the legal landscape of our state. CTLA's statement of purpose merits mention. "The Colorado Trial Lawyers Association is comprised of Colorado trial lawyers who are committed to the protection and advancement of individuals rights and to the advancement of trial advocacy skills, high ethical standards and professionalism in the ongoing effort to preserve and improve the American system of jurisprudence." Within this unequivocal statement lies the touchstone that has guided CTLA's work with government and its immeasurable contribution to the legal profession in Colorado.

For the last half-century, CTLA and its members have been resolute in their commitment to protecting the health, safety and welfare of Colorado consumers. It has been active in educating the public concerning the efficacy of individual rights and the pivotal role of the trial lawyer in protecting those rights. CTLA has recognized, and continues to recognize, that it has a public trust of considerable magnitude. Through its legislative advocacy, CTLA has provided vital information and invaluable counsel to Members of the Colorado General Assembly and the United States Congress on issues that protect consumers and impact our civil justice system. Due in no small part to CTLA's advocacy, many detrimental legislative proposals have been defeated, particularly those that would have prevented or hindered access to the courts for redress of grievances.

Trial advocacy is facing considerable change, technological and otherwise. CTLA has given the legal profession inestimable service through its outstanding legal education programs by providing state-of-the-art instruction concerning law, ethics and professional conduct for members and non-members alike. CTLA has demonstrated an unwavering commitment to those in need. Countless members have provided pro-bono legal aid, including free legal assistance to the victims of the terrorist attacks of September 11th through the Trial Lawyers Care Program. My membership in CTLA has had a profound impact on my career in the practice of law and public service.

Please join me in commending the Colorado Trial Lawyers Association on the occasion of its 50th Anniversary. It is leadership, advocacy and commitment of the Colorado Trial Lawyers Association that continually enhances our lives and builds a better future for all Americans.

HOUSE OF REPRESENTATIVES—*Monday, November 10, 2003*

The House met at noon and was called to order by the Speaker pro tempore (Mr. WOLF).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 10, 2003.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend John Boyles, President, Faith Prepared Network, Washington, DC, offered the following prayer:

O Lord God, may Your wisdom and Your Spirit be present here today and in this new week to guide and to bless deliberations here made by Members.

Give strength to all who labor here, O Lord, to preserve and to serve and to prepare to protect the life and security of our Nation and its people. Grant, O Lord, resolve to apply the lessons of wisdom and of faith to decisions here made that all would be strengthened, both materially and spiritually, as one Nation under Your name, O God.

And in times and places of peril for our Nation outside these walls, we would pray now for Your protection for those who work to make our Nation secure, abroad in service and within Nation's bounds, and that in this land, that statehouse and courthouse, and sites of Nation's history, or place of country's commerce would be shielded from harm, and that houses of worship would be sanctuaries of safety and security, all to the end that freedom and faith would flourish unto new generations.

And preserve here, O Lord, in this very place, these Chambers, and dome, these places of work and halls of history, and grant, O Lord, Your own strength to those who here deliberate and discuss, debate and decide; for the good of all the people of our land, and to Your glory, O great God. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 274. An act to authorize the Secretary of the Interior to acquire the property in Cecil County, Maryland, known as Garrett Island for inclusion in the Blackwater National Wildlife Refuge.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 313) "An Act to amend the Federal Food, Drug, and Cosmetic Act to establish a program of fees relating to animal drugs.".

APPOINTMENT OF MEMBERS TO BOARD OF VISITORS TO UNITED STATES AIR FORCE ACADEMY

The SPEAKER pro tempore. Pursuant to 10 U.S.C. 9335(a), and the order of the House of January 8, 2003, the Chair announces the Speaker's appointment of the following Members of the House to the Board of Visitors to the United States Air Force Academy:

Mr. THOMPSON of California and
Ms. KILPATRICK of Michigan.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 2 p.m. Wednesday, November 12, 2003.

There was no objection.

Accordingly (at 12 o'clock and 4 minutes p.m.), under its previous order, the House adjourned until Wednesday, November 12, 2003, at 2 p.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the third and fourth quarters of 2003, pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. J. RANDY FORBES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 27 AND JULY 2, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. J. Randy Forbes	6/27	7/2	Italy		2,532.00						2,532.00
Committee total					2,532.00						2,532.00

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. RANDY FORBES, Oct. 8, 2003.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, FRED TURNER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 8 AND OCT. 12, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Fred Turner	10/8	10/12	Italy	1,514.61	1,784.00					1,514.61	1,784.00
Committee total					1,784.00						1,784.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

FRED TURNER, Oct. 20, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Bob Goodlatte	7/26	7/31	Brazil		1,675.00		(3)				1,675.00
	7/31	8/3	Chile		822.00		(3)				822.00
	8/3	8/5	Costa Rica		450.00		(3)				450.00
	9/11	9/15	Mexico		2,565.00		(3)				2,565.00
Hon. Frank Lucas	7/26	7/31	Brazil		1,675.00		(3)				1,675.00
	7/31	8/3	Chile		822.00		(3)				822.00
	8/3	8/5	Costa Rica		450.00		(3)				450.00
Hon. Devin Nunes	7/26	7/31	Brazil		1,675.00		(3)				1,675.00
	7/31	8/3	Chile		822.00		(3)				822.00
	8/3	8/5	Costa Rica		450.00		(3)				450.00
Jason Vaillancourt	7/26	7/31	Brazil		1,675.00		(3)				1,675.00
	7/31	8/3	Chile		822.00		(3)				822.00
	8/3	8/5	Costa Rica		450.00		(3)				450.00
	9/10	9/15	Mexico		2,582.00		2,184.15				4,766.15
Lynn Gallagher	7/26	7/31	Brazil		1,675.00		(3)				1,675.00
	7/31	8/3	Chile		822.00		(3)				822.00
	8/3	8/5	Costa Rica		450.00		(3)				450.00
	9/11	9/15	Mexico		2,405.00		1,282.00				3,687.00
Elyse Bauer	9/11	9/15	Mexico		2,405.00		2,350.69				4,755.69
Brent Gattis	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Vernie Hubert	9/11	9/15	Mexico		2,405.00		2,350.69				4,755.69
Bill O'Connor	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Andy Baker	9/11	9/15	Mexico		2,405.00		2,350.69				4,755.69
Hon. Steve King	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Randy Neugebauer	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Charles Stenholm	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Cal Dooley	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Nick Smith	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Adam Putnam	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Hon. Mike Ross	9/11	9/15	Mexico		2,405.00		(3)				2,405.00
Chip Conley	7/27	7/29	Canada		548.00		428.55				976.55
Craig Jagger	7/27	7/29	Canada		548.00		428.55				976.55
Committee total					52,243.00		11,375.32				63,618.32

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB GOODLATTE, Chairman, Oct. 15, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Visit to the United Kingdom, July 1–3, 2003:											
Hon. Curt Weldon	7/1	7/3	United Kingdom		820.00						820.00
Commercial airfare							5,345.44				5,345.44
Visit to Italy with CODEL Young, July 26–Aug. 1, 2003:											
Hon. Neil Abercrombie	7/26	8/1	Italy		2,560.00						2,560.00
Visit to Poland, Portugal and United Kingdom with CODEL Lewis, July 26–Aug 5, 2003:											
Hon. John M. McHugh	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		1,192.14						1,192.14
	8/1	8/5	United Kingdom		1,840.00						1,840.00
Hon. Ken Calvert	7/26	7/29	Poland		1,215.00						1,215.00
	7/29	8/1	Portugal		1,192.14						1,192.14
	8/1	8/5	United Kingdom		1,840.00						1,840.00
Visit to Germany, Italy and Kosovo, Aug. 16–21, 2003:											
Hon. Loretta Sanchez	8/16	8/19	Germany		661.00						661.00
	8/19	8/24	Italy		1,789.00						1,789.00
	8/21	8/21	Kosovo								
Commercial airfare							4,254.23				4,254.23
Visit to Kuwait, Iraq, Turkey, and Germany with CODEL Murtha, August 17–20, 2003:											
Hon. John B. Larson	8/17	8/18	Kuwait		389.00						389.00
	8/18	8/18	Iraq								
	8/18	8/19	Turkey		281.00						281.00
	8/19	8/20	Germany		235.00						235.00
Visit to Serbia and Montenegro, Ukraine, Russia, Uzbekistan, Azerbaijan and France, August 22–29, 2003:											
Hon. Curt Weldon	8/22	8/23	Serbia & Montenegro		287.00						287.00
	8/23	8/24	Ukraine		309.00						309.00
	8/24	8/26	Russia		688.00						688.00
	8/26	8/27	Uzbekistan		333.00						333.00
	8/27	8/28	Azerbaijan		332.00						332.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/28	8/29	France		397.00						397.00
Hon. Solomon P. Ortiz	8/22	8/23	Serbia & Montenegro		287.00						287.00
	8/23	8/24	Ukraine		309.00						309.00
	8/24	8/26	Russia		688.00						688.00
	8/26	8/27	Uzbekistan		333.00						333.00
	8/27	8/28	Azerbaijan		332.00						332.00
	8/28	8/29	France		397.00						397.00
Hon. Silvestre Reyes	8/24	8/26	Russia		688.00						688.00
	8/26	8/27	Uzbekistan		333.00						333.00
	8/27	8/28	Azerbaijan		332.00						332.00
	8/28	8/29	France		397.00						397.00
Commercial airfare							2,405.40				2,405.40
Douglas C. Roach	8/22	8/23	Serbia & Montenegro		287.00						287.00
	8/23	8/24	Ukraine		309.00						309.00
	8/24	8/26	Russia		688.00						688.00
	8/26	8/27	Uzbekistan		333.00						333.00
	8/27	8/28	Azerbaijan		332.00						332.00
	8/28	8/29	France		397.00						397.00
Visit to Kuwait, Iraq and Turkey with CODEL Davis, Aug. 25–30, 2003:											
Hon. Marty Meehan	8/25	8/28	Kuwait		1.167.00						1.167.00
	8/25	8/27	Iraq (day trips)								
	8/28	8/30	Turkey		452.00						452.00
Visit to Germany, Sept. 2, 2003:											
Hon. Jim Ryan	9/2	9/2	Germany								
Commercial airfare	9/2	9/2	Germany				5,378.46				5,378.46
Visit to Kuwait, Iraq, and Germany, Sept. 12–16, 2003:											
Hon. J. Randy Forbes	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		41.00						41.00
Hon. Ike Skelton	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		43.95						43.95
Hon. Jeff Miller	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		36.00						36.00
Hon. John Spratt	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		42.50						42.50
Hon. Joe Wilson	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		39.50						39.50
Hon. Gene Taylor	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		36.00						36.00
Hon. Jim Marshall	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		41.00						41.00
Mr. James M. Lariviere	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		42.00						42.00
Ms. Erin C. Conaton	9/12	9/13	Kuwait		1,167.00						1,167.00
	9/13	9/15	Iraq (day trips)								
	9/15	9/16	Germany		41.00						41.00
Visit to Jordan, Iraq and spain with CODEL Lewis, Sept. 26–29, 2003:											
Hon. Ken Calvert	9/26	9/27	Jordan		476.00						476.00
	9/27	9/28	Iraq (day trips)								
Hon. Ellen O. Tauscher	9/28	9/29	Spain		259.00						259.00
	9/26	9/27	Jordan		476.00						476.00
	9/27	9/28	Iraq (day trips)								
	9/28	9/29	Spain		259.00						259.00
Hon. Susan A. Davis	9/26	9/27	Jordan		476.00						476.00
	9/27	9/28	Iraq (day trips)								
	9/28	9/29	Spain		259.00						259.00
Hon. Rick Larsen	9/26	9/27	Jordan		476.00						476.00
	9/27	9/28	Iraq (day trips)								
	9/28	9/29	Spain		259.00						259.00
Mr. Eric R. Sterner	9/26	9/27	Jordan		476.00						476.00
	9/27	9/28	Iraq (day trips)								
	9/28	9/29	Spain		259.00						259.00
Visit to France, September 28–30, 2003: [3]											
Hon. Curt Weldon	9/28	9/30	France		794.00						794.00
							4,534.53				4,534.53
Committee total					40,151.23		21,918.06				62,069.29

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial airfare.

DUNCAN HUNTER, Oct. 31, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Harold E. Ford	8/17	8/19	Israel		724.00		(3)				
	8/19	8/21	Kuwait		778.00		(3)				
	8/21	8/21	United States				3,174.97				
Committee total					1,502.00		3,174.97				

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JIM NUSSLE, Oct. 29, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT REFORM, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David Young	6/30	7/1	Latvia		257.00		5,788.14				
	7/1	7/3	Germany		724.00						
Jason Chung	6/30	7/1	Latvia		257.00		5,788.14				
	7/1	7/3	Germany		724.00						
Tim Westmoreland	7/12	7/18	France		2,359.86		821,15				
Hon. Tom Davis	7/5	7/7	Colombia		542.00						
Hon. Mark Souder	7/5	7/7	Colombia		542.00						
David Marin	7/5	7/7	Colombia		542.00						
Christopher Donesa	7/5	7/7	Colombia		542.00						
Susie Schulte	7/5	7/7	Colombia		542.00						
Hon. Adam Putnam	7/26	7/29	Poland		1,215.00						
	7/29	8/1	Portugal		468.00						
	8/1	8/5	United Kingdom		1,640.00						
John Cuaderes	8/25	8/27	Kuwait		1,227.00						
	8/28	8/30	Turkey		452.00						
Ronald Martinson	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
Phil Barnett	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
Lawrence Halloran	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
Hon. Carolyn Maloney	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
Hon. Ed Schrock	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
Hon. Christopher Shays	8/26	8/27	Kuwait		387.00						
	8/28	8/30	Turkey		452.00						
Nicholas Palarino	8/26	8/27	Turkey		387.00						
Hon. Tom Davis	8/25	8/27	Kuwait		1,167.00						
	8/28	8/30	Turkey		452.00						
	8/30	9/2	Egypt		434.00		2,641.89				
Hon. Christopher Shays	8/16	8/17	Stockholm		347.00		10,507.15				
	8/17	8/19	Belgium		682.00						
	8/19	8/22	Geneva		1,131.00						
	8/22	8/26	Kuwait		1,945.00						
Nicholas Palarino	8/16	8/17	Stockholm		347.00		3,965.97				
	8/17	8/19	Belgium		682.00						
	8/19	8/22	Geneva		1,131.00						
	8/22	8/26	Kuwait		1,945.00						
Tom Costa	8/17	8/19	Belgium		682.00		5,836.08				
	8/19	8/22	Geneva		1,131.00						
	8/22	8/25	Greece		783.00						
Marsha Blackburn	8/4	8/6	Guatamala		454.00						
	8/6	8/8	El Salvador		213.00		1,265.45				
Candice Miller	9/26	9/27	Costa Rica								
	9/27	9/29	Guatamala		434.00						
Hon. Mark Souder	9/20	9/23	Italy		446.00		5,384.87				
Hon. Marc Wheat	9/20	9/23	Italy		446.00		5,384.87				
Hon. Nicholas Coleman	9/20	9/23	Italy		446.00		5,384.87				
Hon. Todd Platts	9/26	9/28	Jordan		211.00						
	9/28	9/29	Spain		259.00						
Committee total					37,347,86		52,748,58				90,096.44

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

TOM DAVIS, Chairman, Oct. 28, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Robert W. Ney	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
	8/28	8/30	Two Below				4,822.29				4,822.29
	8/29	8/30	United Kingdom		414.00						414.00
William Heaton	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
	8/28	8/30	Two Below				4,822.29				4,822.29
	8/28	8/29	Sweden		297.00						297.00
	8/29	8/30	United Kingdom		414.00						414.00
Lynne Crow	7/30	8/6	Three Below				1,987.71				1,987.71
	7/30	8/3	Russia		1,197.00		209.00				1,406.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Christopher Krueger	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Paul Vinovich	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
John Erickson	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON HOUSE ADMINISTRATION, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Jennie Vollor	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Chris Otillio	8/28	8/30	Two Below				4,822.29				4,822.29
	8/28	8/29	Sweden		297.00						297.00
	8/29	8/30	United Kingdom		414.00						414.00
George Shevlin	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Catherine Tran	7/30	8/6	Three Below				1,987.71				1,987.71
	7/30	8/3	Russia		1,197.00		209.00				1,406.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Sterling Spriggs	7/31	8/6	Three Below				2,196.00				2,196.00
	7/31	8/3	Russia		1,920.00		209.00				2,129.00
	8/3	8/5	Czech Republic		850.00						850.00
	8/5	8/6	United Kingdom		311.00						311.00
Committee total					31,497.00		38,100.29				65,597.29

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BOB NEY, Chairman, Oct. 21, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Blaine Aaron	6/25	7/2	Italy		3,545.00		(3)				3,545.00
David Abramowitz	7/28	8/2	Afghanistan		472.00		6,981.40				7,453.40
Douglas Anderson	8/15	8/18	Hong Kong		1,083.00				[4] 100.62		1,183.62
	8/18	8/24	Philippines		970.00						970.00
Round trip airfare	8/15	8/24					5,473.10				5,473.10
Renee Austell	8/4	8/6	Rwanda		302.00						302.00
	8/6	8/10	Congo		955.00						955.00
Round trip airfare	8/4	8/10					7,806.08				7,806.08
Hon. Cass Ballenger	8/4	8/6	Guatemala		454.00						454.00
	8/6	8/7	El Salvador		213.00						213.00
	8/7	8/8	Nicaragua		111.00		(3)				111.00
Hon. Howard Berman	7/2	7/6	Poland		1,182.00		76.05				1,258.05
Hon. Earl Blumenauer	9/26	9/27	Costa Rica		175.00						175.00
	9/27	9/27	Honduras		163.00						163.00
	9/27	9/29	Guatemala		177.00		(3)				177.00
Ted Brennan	8/3	8/6	Guatemala		540.00						540.00
	8/6	8/7	El Salvador		86.00						86.00
	8/7	8/8	Nicaragua		115.00						115.00
Round trip airfare	8/3	8/8					884.00				884.00
	8/27	9/1	Colombia		741.00		1,812.49				2,553.49
Malik Chaka	8/19	8/26	Zimbabwe		950.00		8,132.02				9,082.02
Joan Condon	6/30	7/4	Sierra Leone		260.00						260.00
	7/4	7/5	Ghana		200.00						200.00
Round trip airfare	6/30	7/5					10,355.92				10,355.92
	8/4	8/6	Rwanda		302.00						302.00
	8/6	8/10	Congo		955.00						955.00
Round trip airfare	8/4	8/10					7,806.08				7,806.08
Ted Dagne	7/25	7/31	Kenya		1,770.00						1,770.00
	7/31	8/2	Congo		894.00						894.00
	8/2	8/5	Rwanda		412.00						412.00
Round trip airfare	7/25	8/5					9,424.78				9,424.78
Hon. Jo Ann Davis	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hon. William Delahunt	8/8	8/10	Germany		676.00		5,094.44				5,770.44
Hon. Eliot Engel	8/14	8/17	England		1,899.00		2,656.40				4,555.40
David Fite	6/30	7/1	Switzerland		348.00						348.00
	7/1	7/3	France		590.00						590.00
Round trip airfare	6/30	7/3					6,040.00				6,040.00
Kirsti Garlock	6/30	7/1	Switzerland		348.00						348.00
	7/1	7/3	France		590.00				[4] 116.00		706.00
Round trip airfare	6/30	7/3					6,296.41				6,296.41
Kristen Gilley	6/30	7/1	Switzerland		348.00						348.00
	7/1	7/3	France		590.00						590.00
Round trip airfare	6/30	7/3					6,296.41				6,296.41
Dennis Halpin	7/25	7/31	South Korea		844.00						844.00
	7/31	8/3	Mongolia		447.00						447.00
	7/26	8/6	Russia		1,707.00						1,707.00
Round trip airfare	7/25	8/6					7,964.90				7,964.90
Hon. Katherine Harris	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hon. Henry Hyde	6/27	7/2	Italy		2,532.00		(3)		[4] 90,548.34		93,080.34
Trish Katyoka	8/21	8/26	Zambia		480.00						480.00
	8/26	8/28	Angola		652.00						652.00
	8/28	8/29	South Africa		65.00						65.00
Round trip airfare	8/21	8/29					9,479.56				9,479.56
Jonathan Katz	6/27	6/29	Italy		1,013.00						1,013.00
	6/30	7/3	Cyprus		585.48						585.48
Round trip airfare	6/27	7/3					5,717.75				5,717.75
	9/15	9/16	Belgium		682.00		5,685.17				6,367.17
David Killion	7/25	7/31	South Korea		844.00						844.00
	7/31	8/3	Mongolia		549.00						549.00
	7/26	8/6	Russia		1,707.00						1,707.00
Round trip airfare	7/25	8/6					7,175.77				7,175.77

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
	9/26	9/30	France		2,388.00		5,957.06				8,345.06
Young Kim	7/25	7/31	South Korea		844.00						844.00
	7/31	8/3	Mongolia		549.00						549.00
	7/26	8/6	Russia		1,707.00						1,707.00
Round trip airfare	7/25	8/6			6,564.00						6,564.00
Bob King	6/28	7/2	Italy		976.00						976.00
	7/2	7/5	Malta		759.00						759.00
Round trip airfare	6/28	7/5					7,463.28				7,463.28
Kay King	6/27	7/2	Italy		2,532.00		(3)				2,532.00
	7/2	7/5	Malta		425.00		4,124.04				4,549.04
Sheila Klein	6/25	7/1	Italy		3,344.00		5,411.20				8,755.20
Hon. Thomas Lantos	9/25	9/30	France		2,388.00		5,957.06				8,345.06
Hon. James Leach	8/26	8/27	Japan		339.00						339.00
	8/27	8/28	South Korea		318.00						318.00
	8/28	8/30	China		554.00						554.00
	8/30	8/31	Hong Kong		410.00				[4] 886.48		1,296.48
	8/31	9/2	Taiwan		556.00				[4] 1,550.00		2,106.00
Round trip airfare	8/26	9/2					5,350.98				5,350.98
Hon. Barbara Lee	8/24	8/27	Zambia		588.00						588.00
	8/28	8/29	Ethiopia		167.00				[4] 1,443.93		1,610.93
Round trip airfare	8/24	8/29					11,920.45				11,920.45
Jessica Lewis	8/3	8/6	Guatemala		381.00						381.00
	8/6	8/8	El Salvador		213.00						213.00
Round trip airfare	8/3	8/8					1,505.00				1,505.00
Noelle Lusane	8/21	8/26	Zambia		730.00						730.00
	8/26	8/28	Angola		526.00						526.00
	8/28	8/29	South Africa		105.00						105.00
Round trip airfare	8/21	8/29					9,479.56				9,479.56
Don MacDonald	8/24	8/27	Mexico		623.00						623.00
	8/27	9/1	Colombia		655.00						655.00
Round trip airfare	8/24	9/1					1,946.43				1,946.43
Caleb McCarry	8/3	8/6	Guatemala		681.00		1,319.40				2,000.40
Jamie McCormick	8/26	8/27	Japan		339.00						339.00
	8/27	8/28	South Korea		318.00						318.00
	8/28	8/30	China		554.00						554.00
	8/30	8/31	Hong Kong		410.00						410.00
	8/31	9/2	Taiwan		556.00						556.00
Round trip airfare	8/26	9/2					5,439.48				5,439.48
Hon. Thaddeus McCotter	6/27	7/2	Italy		2,532.00		(3)				2,532.00
John Mackey	8/25	8/27	Mexico		522.00						522.00
	8/27	9/1	Colombia		875.00						875.00
Roundtrip airfare	8/25	9/1					1,901.99				1,901.99
Alan Makovsky	6/29	7/3	Cyprus		287.00						287.00
	7/3	7/6	Greece		808.46						808.46
Roundtrip airfare	6/29	7/6					5,322.74				5,322.74
Pearl-Alice Marsh	8/24	8/27	Zambia		538.00						538.00
	8/28	8/29	Ethiopia		126.25						126.25
Roundtrip airfare	8/24	8/29					10,645.45				10,645.45
Richard Mereu	8/24	8/27	Mexico		753.71						753.71
	8/27	8/30	Colombia		460.01						460.01
Roundtrip airfare	8/24	8/30					2,172.86				2,172.86
Thomas Mooney	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Vince Morelli	6/29	7/3	Cyprus		287.00		5,086.20				5,373.20
Hon. Grace Napolitano	7/26	7/29	Senegal		730.75						730.75
	7/29	7/31	Tunisia		412.00						412.00
	7/31	8/2	Malta		103.30		(3)				103.30
Paul Oostbur Sanz	8/25	8/27	Mexico		517.00						517.00
	8/27	9/1	Colombia		853.00						853.00
Roundtrip airfare	8/25	9/1					1,946.43				1,946.43
Joe Painter	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Jennifer Palmer	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hon. Donald Payne	7/27	7/31	Kenya		1,180.00						1,180.00
	7/31	8/2	Congo		894.00						894.00
	8/2	8/5	Rwanda		412.00						412.00
Roundtrip airfare	7/27	8/5					11,260.50				11,260.50
Frank Record	6/27	7/2	Italy		2,282.00		(3)				2,282.00
Walker Roberts	8/18	8/24	Philippines		970.00		4,739.99				5,709.99
Laura Rush	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Sue Scheisser	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hon. Adam Schiff	8/25	8/28	Kuwait		1,167.00						1,167.00
	8/28	8/30	Turkey		452.00		(3)				452.00
Sam Stratman	7/25	7/31	South Korea		844.00						844.00
	7/31	8/3	Mongolia		434.00						434.00
	7/26	8/6	Russia		1,707.00						1,707.00
Round trip airfare	7/25	8/6			8,073.00						8,073.00
Hon. Thomas Tancredo	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hon. Diane Watson	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Hillel Weinberg	6/27	7/2	Italy		2,232.00		(3)				2,232.00
	7/2	7/5	Malta		709.00		4,124.04				4,833.04.00
	9/14	9/16	Belgium		682.00		5,685.17				6,367.17.00
Hon. Gerald Weller	8/4	8/6	Guatemala		454.00						454.00
	8/6	8/7	El Salvador		213.00						213.00
	8/7	8/8	Nicaragua		226.00		(3)				226.00
Hon. Robert Wexler	6/30	7/3	Cyprus		439.11						439.11
	7/3	7/6	Greece		704.30						704.30
Round trip airfare	6/30	7/6					5,118.94				5,118.94
	9/15	9/16	Belgium		682.00		5,685.17				6,367.17
Judy Wolverton	6/27	7/2	Italy		2,532.00		(3)				2,532.00
Committee total					126,204.37		250,722.55		94,645.37		471,572.29

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military airtransportion.
[4] Indicates delegation costs.

HENRY HYDE, Chairman, Oct 29, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RESOURCES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Dave Whaley	8/16	8/22	Switzerland		1,508.00		5,462.39				6,970.39
Committee total					1,508.00		5,462.39				6,970.39

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RICHARD POMBO, Chairman, Oct. 20, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Jim Clark	7/26	8/6	China								
	8/6	8/9	Thailand								
	8/9	8/12	Singapore				5,907.00		2,402.00		8,309.00
Ian Deason	7/26	8/6	China								
	8/6	8/9	Thailand								
	8/9	8/12	Singapore				5,907.00		2,402.00		8,309.00
J. Matthew Szymanski	7/26	8/6	China								
	8/6	8/9	Thailand								
	8/9	8/12	Singapore				5,907.00		2,402.00		8,309.00
Committee total							17,721.00		7,206.00		24,927.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Each traveler returned $2,192 of their per diem.

DONALD A. MANZULLO, Chairman, Oct. 30, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John Mica	6/27	7/2	Italy		2,532.00		(3)				2,532.000
Hon. John Boozman	7/5	7/7	Columbia		542.00		(3)				542.00
Hon. John Duncan	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. Jerry Costello	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. Peter DeFazio	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/29	Germany		430.00		588.00				1,018.00
Hon. Bud Cramer	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. Tim Holden	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. E.B. Johnson	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(2)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. John Mica	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. Leonard Boswell	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. Michael Capuano	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Jimmy Miller	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Ken Kopocis	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
John Anderson	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Raga Elim	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Ryan Seiger	8/21	8/23	Russia		714.00		(3)				714.00
	8/23	8/26	Czech Republic		849.00		(3)				849.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
	8/26	8/28	Malta		506.00		(3)				506.00
	8/28	8/30	Germany		430.00		(3)				430.00
Hon. John Mica	9/18	9/20	Canada		526.00		223.00				526.00
	9/21	9/23	Canada		972.00						972.00
Adam Tsao	9/18	9/20	Canada		526.00		559.00		69.00		595.00
	9/21	9/23	Canada		972.00						972.00
Anastasia Soumbeniotis	9/18	9/20	Canada		526.00		1,052.00		49.00		575.00
	9/21	9/22	Canada		648.00						648.00
Holly E. Woodruff	9/18	9/20	Canada		526.00		1,052.00		26.00		552.00
	9/21	9/22	Canada		648.00						648.00
Hon. Corrine Brown	8/23	8/24	Ukraine		309.00		4,044.00				4,353.00
	8/24	8/26	Russia		688.00		(3)				688.00
	8/26	8/27	Uzbekistan		333.00		(3)				333.00
	8/27	8/28	Azerbaijan		332.00		(3)				332.00
	8/28	8/29	France		397.00		(3)				397.00
Hon. Mark Kennedy	8/25	8/27	Kuwait		1,167.00		(3)				1,167.00
	8/28	8/30	Turkey		452.00		(3)				452.00
Hon. Michael Burgess	8/25	8/27	Kuwait		1,167.00		(3)				1 167.00
	8/28	8/30	Turkey		452.00		(3)				452.00
Hon. Tim Holden	9/26	9/27	Jordan		476.00		(3)				476.00
	9/28	9/29	Spain		259.00		(3)				259.00
Committee total					49,436.00		7,518.00			144.00	54,213.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation

DON YOUNG, Chairman, Oct. 20, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Kevin Brady	8/4	8/6	Guatemala		450.00		1,702.90				2,152.90
	8/6	8/8	El Salvador		426.00						426.00
Hon. Bill Thomas	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Kevin Brady	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Phil English	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Mark Foley	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Sander Levin	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Wally Herger	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Clay Shaw	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Earl Pomeroy	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Kenny Hulshof	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Sam Johnson	9/10	9/13	Mexico		708.00		(3)				708.00
Ms. Julie Hasler	9/10	9/13	Mexico		708.00		(3)				708.00
Ms. Angela Ellard	9/10	9/13	Mexico		708.00		(3)				708.00
Ms. Stephanie Henning	9/10	9/13	Mexico		708.00		(3)				708.00
Mr. David Kavanaugh	9/10	9/13	Mexico		708.00		(3)				708.00
Ms. Viji Rangaswami	9/10	9/13	Mexico		708.00		(3)				708.00
Mr. Tim Reif	9/10	9/13	Mexico		708.00		(3)				708.00
Hon. Earl Pomeroy	8/10	8/14	Kuwait		952.00		(3)	4,537.10			5,489.10
	8/14	8/15	United Kingdom		414.00		(3)				414.00
Committee totals					4,198.00			4,537.10			8,735.10

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BILL THOMAS, Chairman, Oct. 28, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Robert Myhill	7/7	7/8	Europe		461.00		194.97				655.97
Hon. Porter J. Goss	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Hon. Jane Harman	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Hon. Jim Gibbons	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Hon. Bud Cramer	7/7	7/9	Europe		922.00		(3)				922.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Patrick Murray	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Brant Bassett	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
John Keefe	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Marcel Lettre	7/8	7/9	Europe		461.00		(3)				461.00
	7/9	7/11	Middle East		455.00		(3)				455.00
Riley Perdue	7/28	8/1	Europe		1,245.00		(3)				1,245.00
Commercial aircraft							6,348.16				6,348.16
Michael Ennis	8/1	8/6	Europe		1,510.00						1,510.00
Commercial aircraft							4,903.40				4,903.40

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003—Continued

Name of member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Jim Gibbons	8/2	8/16	Europe		3,763.00						3,763.00
Commercial aircraft							9,984.97				9,984.97
Brant Bassett	8/2	8/16	Europe		3,763.00						3,763.00
Commercial aircraft							9,993.97				9,993.97
Patrick Murray	8/4	8/7	Europe		1,191.00						1,191.00
Commercial aircraft							6,105.59				6,105.59
Hon. Peter Hoekstra	8/10	8/14	Middle East		1,405.00						1,405.00
	8/14	8/15	Europe		414.00						414.00
Commercial aircraft							9,843.83				9,843.83
James Lewis	8/10	8/14	Middle East		1,405.00						1,405.00
	8/14	8/15	Europe		414.00						414.00
Commercial aircraft							8,036.83				8,036.83
Kathleen Riley	8/10	8/14	Middle East		1,405.00						1,405.00
	8/14	8/15	Europe		414.00						414.00
Commercial Aircraft							6,817.83				6,817.83
Hon. Porter J. Goss	8/13	8/16	Australia		1,050.00		[3]				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Jane Harman	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Douglas Bereuter	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Richard Burr	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Mac Collins	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Alcee Hastings	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Sylvestre Reyes	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Rush Holt	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Hon. Barbara Bennett	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Michael Ennis	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Delores Jackson	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Patrick Kelly	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Michael Kostiw	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Elizabeth Larson	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Wyndee Parker	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Ilene Romack	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
John Stopher	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,503.00		(3)				1,503.00
Claire Young	8/13	8/16	Australia		1,050.00		(3)				1,050.00
	8/16	8/23	Asia		1,569.00		(3)				1,569.00
Merrell Moorhead	8/13	8/16	Australia		1,050.00						1,050.00
	8/16	8/18	Asia		522.00						522.00
	8/18	8/19	Australia		221.00						221.00
Commercial Aircraft							6,236.39				6,236.39
Patrick Murray	8/18	8/22	Asia		808.00						808.00
Commercial Aircraft							6,184.70				6,184.70
Hon. C.A. Dutch Ruppersberger	8/19	8/23	Thailand		819.00						819.00
Commercial Aircraft							4,725.88				4,725.88
Riley Perdue	8/21	8/30	Asia		2,701.00						2,701.00
Commercial Aircraft							6,056.84				6,056.84
Committee total					78,376.00		85,433.36				163,809.36

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] Military air transportation.

PORTER J. GOSS, Chairman, Oct. 21, 2003.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPTEMBER 30, 2003

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Knox Thames		7/15	United States				5,516.00				5,516.00
	7/16	7/19	Austria		729.00						729.00
		9/2	United States				5,593.00				5,593.00
	9/3	9/6	Austria		696.00						696.00
Janice Helwig		8/18	United States				5,659.00				5,659.00
	8/19	9/30	Austria		9,976.00						9,976.00
Committee total					11,401.00		16,768.00				28,169.00

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[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHRISTOPHER H. SMITH, Chairman, Oct. 30, 2003.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5218. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Strategic Booming Exercise in Corson's Inlet, NJ [CGD05-03-146] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5219. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Captain of the Port Detroit Zone, Renaissance Center [CGD09-03-276] (RIN: 2115-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5220. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sailing Vessels Red Witch, Pride of Baltimore II, Larinda, Green Bay, Wisconsin [CGD09-03-282] (RIN: 1625-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5221. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Zone Hampton Roads, Virginia [CGD05-03-147] (RIN: 1625-AA00) received Novmber 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5222. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones; Tall Ships Challenge 2003, Muskegon, MI [CGD09-03-298] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5223. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Chesapeake Bay, Hampton Roads, Virginia [CGD05-03-148] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5224. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Harley Davidson Motor Company 100th Anniversary Fireworks, Milwaukee, Wisconsin [CGD09-03-301] (RIN: 1625-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5225. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Captain of the Port Wilmington zone. [CGD05-03-149] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5226. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Harley Davidson Motor Company 100th Anniversary Milwaukee, Wisconsin [CGD09-03-302] (RIN: 1625-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5227. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; China Basin, San Francisco, CA [CGD11-03-002] (RIN: 1625-AA09) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5228. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety zone; Patapsco River, Baltimore, Maryland [CGD 05-03-152] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5229. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display in Coos Bay, OR [CGD 13-03-019] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5230. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — SAFETY ZONE; Local Regulation for Marine Events; Milwaukee River, Milwaukee, Wisconsin [CGD09-03-199] (RIN: 2115-AE46) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5231. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations, Motor Vessel CASSEIPEIA LEADER, Blair Waterway, Commencement Bay, Puget Sound, Washington [CGD13-03-020] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5232. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Michigan, Dune Acres, IN [CGD09-03-221] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5233. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display on the Willamette River, Milwaukie, OR [CGD 13-03-024] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5234. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Columbia River, Portland International Airport, Portland, OR [CGD 13-03-030] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5235. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Snake River, Ice Harbor Lock and Dam, Kennewick, WA [CGD 13-03-031] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5236. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Willamette River, Swan Island, Portland, OR [CGD 13-03-032] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5237. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Muskego Air Fair, Muskegon, MI [CGD09-03-234] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5238. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulations; Hunt Point, Lake Washington, WA [CGD 13-030-033] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5239. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-03-237] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5240. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Charleston Harbor, Cooper River, S.C. [COTP Charleston-03-140] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5241. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Put-In-Bay, OH, Lake Erie. [CGD09-03-239] (RIN: 2115-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5242. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Eagle Creek Marina, Lake Ontario, Kendall, NY [CGD09-03-240] (RIN: 1625-AA00) received Novmber 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5243. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Ontario, Olcott Harbor, Olcott, NY [CGD09-03-242] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5244. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Rocky River Centennial Fireworks, Rocky River, Ohio, Lake Erie [CGD09-03-243] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5245. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Michigan, Chicago, IL [CGD09-03-244] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5246. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sailing Vessel Amistad, Sheboygan, Wisconsin [CGD09-03-246] (RIN: 1625-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5247. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Charleston, SC [COTP Charleston 03-142] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5248. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX [COTP Corpus Christi-03-002] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5249. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Corpus Christi Ship Channel, Corpus Christi, TX [COTP Corpus Christi-03-005] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5250. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Galveston Channel, Galveston, TX [COTP Houston-Galveston-03-005] (RIN: 2115-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5251. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River Miles 171.5 to 172.5, Marietta, OH [COTP Huntington-03-001] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5252. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Elk River Mile 0.0 to 4.0, Charleston, WV [COTP Huntington-03-003] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5253. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Sailing Vessel HMS Bounty, Port Washington, Wisconsin [CGD09-03-247] (RIN: 1625-AA97) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5254. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, Palatka, FL [COTP Jacksonville 03-097] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5255. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Indian River, 4th of July Celebration, Cocoa, FL [COTP Jacksonville 03-098] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5256. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; New Buffalo Ship & Shore Festival, New Buffalo, MI [CGD09-03-251] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5257. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Intracoastal Waterway, Melbourne, FL [COTP Jacksonville 03-099] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5258. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Coast Guard Festival Venetian Parade, Grand Haven, MI [CGD09-03-252] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5259. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Oswego Harbor, Oswego, NY [CGD09-03-255] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5260. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. John River, Jacksonville, FL [COTP Jacksonville 03-100] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5261. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; River Fest, Elgin, IL [CGD09-03-262] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5262. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, Orange Park Jacksonville, FL [COTP Jacksonville 03-101] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5263. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Presque Isle Bay, Erie, PA [CGD09-03-263] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5264. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; St. Johns River, Orange Park, FL [COTP Jacksonville 03-102] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5265. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Cleveland National Air Show, Cleveland, OH [CGD09-03-264] (RIN: 2115-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5266. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Halifax River, Ormond Beach, FL [COTP Jacksonville 03-103] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5267. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Michigan, Frankfort, MI [CGD09-03-266] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5268. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Daytona Beach, FL [COTP Jacksonville 03-104] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5269. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Niagara River, Buffalo, NY [CGD09-03-267] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5270. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Matanzas River, St. Augustine, FL [COTP Jacksonville 03-105] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5271. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Head of the Cuyahoga Regatta, Cleveland, Ohio [CGD09-03-269] (RIN: 1625-AA00) received Novemebr 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5272. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Atlantic Ocean, Jacksonville Beach, FL [COTP Jacksonville 03-106] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5273. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Wisconsin Central Rail Road Bridge Fox River, Green Bay, Wisconsin. [CGD09-03-270] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5274. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Temporary Safety Zone; Trenton Channel, Michigan. [CGD09-03-271] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5275. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Motor Vessel Vancourverborg Menominee, Wisconsin [CGD09-03-272] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5276. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Staten Island Ferry Launching, Menominee River, Marinette, Wisconsin. [CGD09-03-273] (RIN: 1625-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5277. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; River Raisin, Monroe, Michigan. [CGD09-03-274] (RIN: 2115-AA00) received November 5, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KENNEDY of Minnesota (for himself, Mr. KLINE, Mr. SABO, Mr. GUTKNECHT, and Mr. OBERSTAR):

H. Res. 438. A resolution congratulating John Gagliardi, football coach of St. John's University, on the occasion of his becoming the all-time winningest coach in collegiate football history; to the Committee on Education and the Workforce.

By Mr. REYES (for himself and Mr. DREIER):

H. Res. 439. A resolution honoring the life and career of Willie Shoemaker and expressing the condolences of the House of Representatives to his family and friends on his death; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 857: Mr. PICKERING.

H.R. 1532: Mr. SABO, Mr. GIBBONS, and Ms. BERKLEY.

H.R. 2022: Mr. PICKERING.

H.R. 2539: Mr. KUCINICH.

H.R. 2720: Mr. KANJORSKI and Mr. BRADY of Pennsylvania.

H.R. 2863: Mr. DOYLE, Mr. MARSHALL, Ms. PRYCE of Ohio, Mr. LANTOS, Mr. INSLEE, Mr. Murphy, Ms. MCCOLLUM, and Mr. CALVERT.

H.R. 2880: Mr. KENNEDY of Rhode Island.

H.R. 2927: Mr. MATHESON and Mrs. JONES of Ohio.

H.R. 2948: Mrs. JONES of Ohio.

H.R. 2949: Ms. DEGETTE.

H.R. 3277: Mr. DREIER, Mr. MCCOTTER, and Mr. CASTLE.

H.R. 3355: Mr. LAMPSON, Ms. CARSON of Indiana, Ms. LEE, and Mr. SERRANO.

H.R. 3361: Ms. SLAUGHTER, Mr. MEEKS of New York, Mr. GUTIERREZ, Mr. SERRANO, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, Mr. BERMAN, Mr. HASTINGS of Florida, Mr. MCHUGH, Ms. MCCOLLUM, and Ms. WOOLSEY.

H.R. 3432: Mr. SCHIFF, Ms. PELOSI, Mr. BERMAN, Ms. LEE, and Mr. MILLER of North Carolina.

H. Res. 386: Mrs. JONES of Ohio, Mr. MEEKS of New York, Mrs. MALONEY, Mr. MCDERMOTT, Mr. OWENS, Mr. RANGEL, Mr. FROST, Mr. TIERNEY, and Mr. BERMAN.

H. Res. 402: Mr. KENNEDY of Rhode Island.

SENATE—*Monday, November 10, 2003*

The Senate met at 1 p.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray:

Eternal Spirit, who created us for harmony, You decide the number of the stars and call each one by name. Lord, a challenging week beckons and we desperately need Your spirit, power, and wisdom.

Long hours promise to test our patience and civility as unresolved issues seek to exasperate, producing discord. Help the Members of this body to sidestep the divisive power of contention and find common ground. Remind them that soft answers turn away anger. Destroy the winner-takes-all mentality and help them seek to understand before they are understood.

Make them exemplary models of reconciliation for a nation and world that watch their deliberations. May their serious efforts to build bridges have a ripple effect that will have a positive impact on our Nation and world.

We pray this in the name of the God of peace and concord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The assistant majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today we will begin consideration of the Commerce-Justice-State appropriations bill. Several Members have indicated they are prepared to offer amendments during today's session. Senators should expect rollcall votes to occur this afternoon. It is hoped that we can make substantial progress on the bill today. As a reminder, the Senate will be in session tomorrow. There is a lot of important work remaining before we adjourn for the year.

In addition to the appropriations bills, there is the Military Construction appropriations conference report, and also the Department of Defense authorization conference report is available and will need to be disposed of early this week.

Also, as a reminder, we have a short time agreement with respect to the Syria Accountability Act. We will be scheduling that matter quickly as well.

Mr. McCAIN. Will the Senator from Kentucky yield?

Mr. McCONNELL. Yes, I yield.

Mr. McCAIN. Mr. President, my colleagues may be wondering what happened on the Internet tax moratorium bill. I wish to make a couple of comments. There was significant disagreement over a variety of issues on both sides of the aisle concerning various provisions of S. 150, the Internet tax moratorium bill. It is now narrowed down to one final difference—the rest are negotiable or have been negotiated—and that is the definition of "Internet access." It sounds pretty technical and a bit arcane, but it is really the vital aspect of this issue.

I think both opponents and supporters of the Internet tax moratorium will agree to some kind of moratorium, but the question of the definition of Internet access, particularly as it has been affected by the development of new technologies that now apply to the Internet, has complicated the issue. Intense negotiations are going on, on both sides. I think there is a recognition on both sides that we need to act on the issue of the Internet tax moratorium. I will be actively engaged in those negotiations, and I hope that absolutely before we leave for the Christmas break, we will have this issue resolved and voted on by the Senate.

I thank my friend from Kentucky.

Mr. McCONNELL. Mr. President, I thank the Senator from Arizona, the chairman of the Commerce Committee, for his tireless efforts to get this important piece of legislation through the Senate. I wish him well. We really must achieve something in that area before we leave for this year.

Mr. President, I am going to ask for a few moments to address the Senate as in morning business. I don't know whether the Senator from Nevada would like to make a couple of observations prior to that time.

Mr. REID. Mr. President, simply when the Senator completes his statement, I am going to manage the bill for a while until Senator HOLLINGS arrives. I wanted to let everybody know that.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

Mr. McCONNELL. Mr. President, I ask permission to address the Senate as in morning business.

The PRESIDENT pro tempore. Is there objection?

Mr. REID. Certainly I have no objection, Mr. President. Could the Senator give us an idea of how long he wishes to speak?

Mr. McCONNELL. Mr. President, 5 or 10 minutes, maximum.

The PRESIDENT pro tempore. The Senator from Kentucky is recognized for 10 minutes.

FUNCTIONING OF THE SENATE

Mr. McCONNELL. Mr. President, when the Constitution was written, Thomas Jefferson was away in France. He wrote George Washington asking him to explain the function of the Senate. Jefferson understood the role of the House to be a place of great passion and quick reaction, but he wasn't quite sure what this Senate was going to be like. So Washington used a Southern analogy of drinking tea, where folks in those days would pour the hot tea down into the saucer, let it cool, and then pour it back into the cup.

Washington suggested that the Senate was the cooling saucer—a place where things cooled off—of this new Federal Government they were creating, where the heated passions that might bubble over could cool down. That is the way the Senate has worked for over 200 years. I suggest it is unworthy of the Senate when those in it, Members of the Senate, fail to heed to the role of this body, which is to provide cool, reasoned, and less passionate judgment as we do the people's business.

Recently, we have heard the venting of frustration by leaders on the minority side. Callow, petulant characterizations have been directed at our leader, such as "amateur." Someone on the Senate floor referred to the Republican leader last week as "amateur" and used the term "mismanagement."

Well, Mr. President, in addition to that being quite unsenatorial, let us recall that this leader is laboring under a one-vote margin, just as the last leader had to endure. Given that same burden, it might be appropriate and timely to compare the hard facts.

Those hard facts deal with the passage of bills through the Senate. With the same one-vote majority, Senator FRIST has pushed 10 appropriations bills across the Senate floor while last year's leadership delivered only 3. That is over three times as many appropriations bills through the Senate in this year compared to last year.

Now, the 11th bill has been the subject of a filibuster, and the remaining 2

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

should be dealt with this week. Again, last year, three appropriations bills moved through the Senate—the worst record in at least two decades.

Let me repeat that, Mr. President. Last year only three appropriations bills made it through the Senate, the worst record in at least two decades.

Let's look at bills signed into law. With the same one-vote majority as the other side had last year, Senator FRIST has delivered six appropriations bills into law. Last year only two were delivered.

Using the terms employed by the Democratic leadership, delivering just two appropriations bills into law is the worst Senate management record in 16 years. Let me repeat, Mr. President. Delivering just two bills into law, which is what happened last year, is the worst Senate management record in 16 years.

This year and last year, with the same one-vote majority, Senator FRIST has just done his job in funding the Government for this year. He did the job of last year's leadership by passing last year's funding bills back in January. What is amateur, to use the Democratic leadership's terminology, is not doing your job and blaming someone else. That is what is amateur, not doing your job and blaming someone else.

With a one-vote margin, this leader passed a budget, a jobs package, a prescription drug benefit for seniors, a global AIDS bill with record funding, established the Department of Homeland Security, and is completing the appropriations bills. That is the record of this leader, Senator FRIST.

Mr. GREGG. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I will yield for a question.

Mr. GREGG. Mr. President, the Senator mentioned the budget. As I recall, no budget was passed under the prior leadership in the prior year for the first time in—I don't know how long. Isn't it appropriate to pass a budget of the Government, and didn't the Republican leader pass that budget with a one-vote majority where it was not passed in the prior Congress?

Mr. MCCONNELL. The Senator from New Hampshire is entirely correct. Last year is the first year since the Budget Act was passed when the Senate didn't pass a budget. Last year, the leadership—I was about to get into that—didn't pass a budget and failed to enact all but two of the appropriations bills. They had plenty of time and energy to complain about jobs, and they did nothing about them.

The results are very different this year. We passed a jobs program, and today more Americans are at work than any time in U.S. history, a record 138 million jobs. This new leadership stands in sharp contrast to the past leadership.

Last year, the old leadership stalled desperately needed legislation on homeland security. For months, they could not decide whether to reduce or increase the President's power to fight terrorism. It took an election to break that deadlock. To use the Democratic leadership's words, it took the American people to say that amateur hour was over, and that is what the American people said a year ago.

These are the facts of leadership. When the margin of the majority is the same but the record of accomplishment is so different, the answer can only be leadership. A one-vote majority this year versus a one-vote majority last year, and I would argue the big difference is the leadership of Senator Bill Frist of Tennessee, the majority leader.

I don't believe these types of attacks help in any way to advance the important business of the American people, the business they, in fact, elected us to do. The people want results, not name calling. We need to focus on the job, stop hurling epithets, stop the blame game, and instead complete the work the American people sent us here to do.

We all know that the last 2 weeks of this session are going to have ample opportunity for tension and disagreement. We have probably been together about as long as we ought to be this year, but the job is going to be finished by November 21, and it would be a lot easier if we could keep our rhetoric in check and not say things in the passion of the moment that we subsequently regret.

Much work remains to be done. We intend to accomplish the major tasks remaining for this year prior to Thanksgiving, and we are well on our way to doing that.

Mr. President, I yield the floor.

DEPARTMENT OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 2799, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2799) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Nevada.

Mr. REID. Mr. President, this is a most important bill. I understand how important it is. I also understand it is normal procedure to have the chairman of the subcommittee speak first and the ranking member speak second. But I feel it is appropriate, in talking about this bill, to respond very briefly to my friend from Kentucky.

It is obvious to anyone who understands Senate procedure why things did not go well last year. It is because the minority stopped us from doing our work. We worked very hard to allow these pieces of legislation to pass. We have been partners with them. The Senator from Kentucky can talk all he wants about leadership, but everyone knows that the situation where we now have, toward the last few days of this Congress, a time set aside—30 hours—to talk about judges, and the comments in that regard upstairs by Senator DASCHLE and by me indicated that was something we thought was amateurish.

Mr. President, one of the chief aims of the Commerce-State-Justice appropriations bill is to articulate the priorities of the United States on matters related to business and the economy.

This legislation contains funding for the Small Business Administration, U.S. Trade Representative, the National Trade Administration, the Bureau of Industry, the Economic Development Agency, the Minority Development Business Agency, and a lot more.

I think everyone today should understand we are not going to have any votes for a while. Maybe by 6 o'clock, if people still want to vote they can vote, but I am going to be talking until 6 o'clock today and, if necessary, talk longer than that.

I, of course, understand the rules relating to the Senate. I understand there is a rule that for the first 3 hours, a Senator has to be talking about issues relating to this bill. I can certainly do that. But I say to my friend—and I have the deepest respect and regard for the chairman of this subcommittee, a former Governor of New Hampshire, a former Member of the House of Representatives, and now a Senator—that I am going to be talking for a while. If he wants to hang around and listen to me, he can do that. But this has certainly nothing to do with my friend from New Hampshire. It has everything to do with the way that I, speaking for myself, believe the Senate is being run.

I think it is inappropriate that we are not going to be able to work through this week; that we are going to take 2 days to talk about judges. I don't know the exact count anymore but I think it is about 168, 169 to 4, but yet we are going to take valuable time to deliver a message—I have been told the reason it is being done is to deliver a message to the base. I don't know what that means, except it is being done for reasons that I don't think are appropriate for the Senate.

The legislation that is now before the Senate is important. These entities that I have talked about serve one key mission, and that is to promote the development of American business and the American economy. As we think about how these agencies should carry out this important mission, it is appropriate to spend some time reviewing where the economy stands.

Certainly, one of the most important indicators of how the economy is faring is the unemployment rate. On Friday morning, the Department of Labor issued its report on the October 2003 unemployment figures. The unemployment rate was essentially unchanged, from 6.1 percent last month to 6 percent this month. We heard a lot about the fact that the economy grew by 126,000 new jobs in October. Sounds like a lot of jobs, until we understand it is catchup time and the 126,000 does not even keep up with the current population growth in the United States.

The administration lost no time putting out a series of press releases that said: Stronger growth; 126,000 new jobs in October show President's jobs and growth plan is working, but there is still more to do.

This bill, S. 1585, making appropriations for the Department of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, is important legislation. One reason it is important is to talk about how—

Mr. GREGG. Will the Senator yield for a question?

Mr. REID. No. I will in half an hour or so.

Mr. GREGG. My question was going to be as to how much time the Senator is going to take?

Mr. REID. When the Senator was off the floor—and I will repeat—I indicated my great respect and admiration for someone with a record of accomplishment that certainly is significant—Governor, Member of the House of Representatives, Senator, and I indicated publicly, and I will say again, my speaking today for an extended period of time has nothing to do with my regard for the Senator from New Hampshire. I am going to talk for probably 4 or 5 hours today.

Mr. GREGG. Will the Senator yield for a question? That is not a problem for myself. I would just like to know the approximate time.

Mr. REID. I have answered the Senator's questions, and I would appreciate it if he would not interrupt.

I do not think the President's plan is working for 9 million Americans who are unemployed. I do not think it is working for 2 million of those people who have been out of work for longer than 6 months. Gaining 126,000 new jobs is certainly better than losing an average of 85,000 jobs a month, which is what the country did for the entire first half of the year, but it does not mean their plan is working, and it does not mean it is getting easier to find a job.

In fact, it is not. October job growth does not even keep up with the population growth. October is the best month we have had in a long time in terms of job growth. Even October's job creation does not keep up with the population growth. So that means for the average person who wants a job, it is getting more difficult to land a position, not less difficult. Let me say why.

The number of young people entering the workforce is greater than the number of people retiring out of the workforce. The population of people who want to work rises every month, so there must be some level of increase in the number of jobs every month just to keep pace with this growth. Put another way, between the beginning of the Bush recession in March 2001 and last month, the U.S. working age population increased by almost 8 million people. Since March 2001, the U.S. working-age population has grown by 3.4 percent. Because of this influx of working-age people, it is not enough just to keep employment level; we need to be adding jobs every month just to keep our heads above water. Most economists say we need to create about 150,000 new jobs every month just to hold steady with population growth. That is 150,000 just to remain static. October numbers do not get us that far.

One of the chief aims of the Commerce-State-Justice appropriations bill is to articulate the priorities of the U.S. Congress and the American people in matters related to business and the economy.

My distinguished friend, the majority whip, indicated the great accomplishments of the Senate this year, and I think we have had some, but we have been complicit. We have been partners in passing that legislation. Just so everyone understands that compromise is important in the Senate, not in the House of Representatives. In the House of Representatives, the majority party can run right over the minority party, but in the Senate it cannot be done.

Senator DASCHLE and I agreed the week before last and last week that we would work today and tomorrow, full-time, even though tomorrow is a legal holiday, and then out of the blue we learned there is going to be 30 hours spent on judges all Wednesday night and all day Thursday until 12 midnight Thursday night. This is a one-man show to indicate that the Senate cannot necessarily be run unless we work together. So there can be votes, but they will be tonight sometime. They are not going to be early this afternoon, as the majority has indicated to some of its Members.

The Commerce-State-Justice appropriations bill is an important bill. As I indicated, we need 150,000 new jobs every month just to remain static. October numbers do not get us even that far. That is why this bill is so important.

The Departments of Commerce, State, and Justice have wide-ranging jurisdiction, and the 126,000 jobs that the economy generated in October will not even absorb the new entrants into the labor market last month. Given how bad things are, and that seems to be a pretty modest goal, keeping up with population growth, should we not please try to keep up with job growth? We cannot even grow enough jobs to make that happen, let alone make up for 3 million private sector jobs that we lost since the recession began.

How many jobs should have been created by now? The difference between the number of jobs—and I will get some charts in a minute when the floor staff brings them to me. They will show in very significant detail the difference between the number of jobs we actually had in October and the number of jobs we have had if we had merely kept up with the population growth since the beginning of the recession is over 7 million.

Not only did we lose 2.6 million jobs, but we also never created the 4.5 million jobs necessary to keep pace with the population growth. So we are over 7 million jobs in the hole since the beginning of the Bush recession, and the White House declares that their plan is working. If it is working, we are in deep trouble.

October job growth is less than the President promised in February. The administration continues to make promises it cannot keep when it comes to job creation. In February, when the President was trying to win votes for his latest tax cut, the White House predicted that his so-called jobs and growth plan would create an additional 1.4 million jobs. That was 1.4 million jobs over and above the 4.1 million jobs that it was projected would be created even if no new taxes were passed. So we are supposed to get a total of 5.5 million jobs before the end of the next year. So this bill we are talking about that helps create job growth is something that has to be looked at very closely. This bill making appropriations for the Department of Commerce provided for funding for responding to the threat of terrorism. That has had a tremendous negative impact on job creation, but the President has not responded appropriately, and we will talk about this later, as well as the unfunded mandates that he has passed on to the States.

This bill deals with drug enforcement, judicial process, conducting commerce within the United States—and I want to make sure the Parliamentarian hears that, conducting commerce within the United States. It would seem to me that a discussion about jobs would certainly deal with commerce within the United States. In February, the President was trying to obviously win votes for his latest tax plan, which was a tax cut, and predicted at that time that his so-called jobs and growth plan would create an additional 1.4 million jobs. He said it. I did not. That was 1.4 million jobs over and above the 4.1 million jobs that were projected would be created even if there were no new tax cuts.

We were supposed to get a total of 5.5 million jobs before the end of next year. That is a job creation pace of over 300,000 a month. That would represent some strong growth. I think that would be tremendous. If the U.S. economy was adding jobs at that rate over a long period of time, we would be in much better shape.

In fact, if the economy added 300,000 jobs per month starting today, by next summer we would be approaching the levels we were at when President Clinton was in office, before the Bush recession began. But of course we have not approached that level of growth in any month since the plan was adopted. We have not even come close.

As I said before, most months we have slid further and further into the hole. Mr. President, 126,000 jobs is better than no jobs, and that is what we have had in the past; it is better than negative jobs, but it is not good enough.

The failure of this administration's latest plan should come as no surprise. We all remember the White House promising that the 2001 tax cut would create 800,000 new jobs by the end of last year. It didn't work. Instead of creating the 800,000 new jobs, we lost 1.2 million jobs. That is a net change of 3.2 million jobs. October job growth was less than the Secretary promised. Last month, John Snow, Secretary of the Treasury, told the New York Times he thought the economy would create about 200,000 new jobs per month.

I think the reason he said that was there were signs that even the Republicans were beginning to realize the plan was not a success. That is 100,000 fewer jobs than Snow promised, than he had even predicted a few months before when they were trying to get the plan passed.

Revising their estimates down by a third is a pretty surprising admission that they know their policy isn't working. Then they failed to even meet their lowered expectations.

On Friday, the White House issued a statement saying:

> The President's jobs and growth agenda is working. The economy created 126,000 jobs in October. Employment has now grown 3 months in a row for a total jobs gain of over a quarter of a million. The President's jobs and growth agenda is working.

That is what the administration says. That is not the reality. The administration promised us this plan would create 918,000 jobs over the past 3 months. Then the Treasury Secretary assured us it would create 600,000 in just 3 months.

This bill that talks about conducting commerce within the United States—jobs is commerce. I think it is very important we realize this legislation is dealing with commerce. Jobs is commerce. I think it is very important we spend some time talking about jobs.

The administration's Treasury Secretary assured us it would create 600,000 jobs in 3 months when we just heard previously it would be over 900,000 jobs. Now the administration is claiming its plan is working because it created over 250,000 jobs. Again, the math doesn't add up. We need 300,000 jobs just to keep up with the normal population growth. In fact, that is not keeping up with the pace the administration said the economy would achieve without the tax cut.

If this is a plan that is working, then it is sure not the same plan the administration told to Congress 6 months ago. That sounds like a plan the Enron accountants were involved in.

Let's not forget this was not an inexpensive proposal. We spent $350 billion on this scheme. Is the $350 billion plan a success? No, not because it created 250,000 jobs. It is a failure. They acknowledge, themselves, that without the tax cut, more jobs than that would be created. If my math is right, that works out to be $1.4 million per job.

We are here talking about the Commerce-State-Justice bill. It is an important piece of legislation. One of the things this bill talks about in some detail is security and cooperation in Europe. It talks about judges, it talks about general administration, asset forfeiture, Office of Justice Programs. It talks about the National Institute of Standards and Technology. There are other matters, of course, that take up a significant amount of space in this dealing with Alaskan fisheries. It deals with noncredit business assistance. It is an important piece of legislation dealing with an automated biometric identification system. It deals with a joint automated booking system. It deals with detention trustees, administration reviews, counterterrorism fund, Office of Inspector General. It deals with the U.S. Parole Commission, Antitrust Division, National Childhood Vaccine Injury Act, salaries and expenses of the U.S. attorneys, U.S. Marshals Service, Foreign Claims Settlement Commission. It deals with courthouse security equipment all over the United States. It deals with the U.S. military construction programs all over the country, Marshals Service programs all over the country, interagency law enforcement, interagency crime and drug enforcement. It deals with programs with the FBI.

There are many programs there that we will come back and talk about later dealing with the FBI, including a polygraph program. They polygraph themselves, but of course it has been declared it doesn't work very well for others. The Bureau of Alcohol, Tobacco, Firearms, and Explosives; activation of new prison facilities in Hazelton, WV; Canaan, PA; Terre Haute, IN; Victorville, CA; Forrest City, AR; Herlong/Sierra, CA; Williamsburg, SC; Bennettsville, SC. There is a total of almost 10,000 beds for a prison facility.

So there is certainly a lot of meat in this bill, items to talk about other than the job loss that has been created in this country.

There are other things we could do to create jobs in this country. The President has talked about tax cuts. It has resulted in a few jobs, but in reality this President is headed for the worst record of job growth in more than 50 years. This goes back to the days probably of Herbert Hoover. All other Presidents created jobs. There was net job growth even in the 2 Eisenhower years—one term of his Presidency lost jobs overall, the other gained jobs.

In no other time have we had a President who has lost jobs—as you can see here, lots and lots of jobs. It is now over 3 million. Every other President has created jobs.

If things continue—and it appears they will—this will be "George W. Hoover Bush's Presidency," creating no jobs, losing jobs. When they issue a press release saying, "Boy, we are doing well; we created 126,000 jobs," understand that doesn't keep up with the 300,000 necessary to keep up with the population growth.

What are some of the other things we can do? Prior to September 11, I had a plan that was accepted by cities, counties, and States all over America. The National Council of Mayors met here in Washington and passed a resolution approving my suggested legislation. It would be a jobs program for sure. It would be the Federal Government spending money to create jobs in infrastructure development: highways, bridges, water systems, sewer plants. These are things that are in such desperate need of repair, renovation, and construction.

All over America there are blueprints stacked up gathering dust. They are ready to be effectuated, but there is no money. Why is this important? It is important that we do this to effect commerce in this country because for every $1 billion we spent, we would create 47,000 high-paying jobs. Those are direct jobs. And the spinoff from those jobs would certainly be more. People who work at those infrastructure development jobs would need more fuel for their cars, they would need more cars, they would need refrigerators, carpets, clothing—on and on. And every one of those products they buy, someone has to produce them, and it would create jobs in America.

The spinoff would be very significant.

That is how this administration should create jobs, but it has shown little interest in investing in our country.

This year's Transportation bill is one of the largest bills we have. Up until now—hopefully, they will join with us in producing a highway bill—we have fought for months to get a high enough number so we could have a highway bill. We hope to be able to mark something up on that maybe even this Wednesday if the judges issue doesn't get in the way of that.

But the highway bill, home building, highway construction—those are jobs that are created. I remember when I first came to Washington how important those two areas of commerce were—building houses and building roads.

We need to move beyond that and do something about the bridges. A significant number of bridges we have are in a state of disrepair. They won't allow school buses to drive over some of them because they are in such bad shape.

We know how important it is to do something about our water systems throughout the country. Sewer systems—we could have been much further down that line today and looking at significant job creation if the administration had focused on measures which we know work rather than squandering the surplus on tax cuts for the wealthy—for the elite. There is nothing wrong with being wealthy—for the elite.

The administration's $350 billion tax was supposed to be a jobs and growth act. Where are the jobs? If we spent $10 billion for needed road construction, for sewer systems which need to be repaired, and for water systems which are in need of renovation and repair in Colorado and Nevada, and the other 48 States, we would be creating thousands of jobs. If we spent $10 billion directly, we would create 470,000 jobs. Of course, $20 billion would create 920,000 jobs. The spinoff from those would be so absolutely, unbelievably powerful for this economy. But we are not doing that.

The jobs I am talking about can't be shipped overseas. If you are going to build a road, it will be built here in America. If you fix a sewer plant, it will be done here in America. If you repair a water system, it will be done here in America. If you fix a bridge, it will be an American bridge. You can't ship those overseas to the lowest bidder.

Where have all the jobs gone? What has happened to the jobs? They are going to different places. I have a few charts, and we have a lot of time today. We will spend a little time talking about that.

Goodyear Tire lost 1,100 jobs; Levi Strauss, San Antonio, TX, lost 800 jobs just this past month; Sumco in the State of Oregon, 190 jobs just last month; John Harland, Decatur, GA, 3,500 jobs last month; Johnson & Johnson, New Brunswick, NJ, almost 100 jobs in September of this year; DSM Pharma, Greenville, NC, 2,000 jobs in October—a month ago; TRW, Greenville, NC, 229 jobs, September 2003; Bluebird—you have seen Bluebird, the big, beautiful buses which I am told are the Cadillac of recreational vehicles—Fort Valley, GA, 400 jobs lost just last month; Dan River, Fort Valley, GA, 447 jobs last month; YKK, Macon, GA, 36 jobs the month before last; Timken, Torrington, CT, almost 200 jobs last month; Spring Industries, Lancaster, SC, 330 jobs the month before last; and, Bronx, NY, 100 jobs this month. Bronx, NY, is where the company that makes Everlast equipment is located. Boxers have Everlast on all of their boxing equipment, such as Everlast boxing gloves. They do not have many jobs left in Bronx, NY, anymore. They are checking out. They lost 100 jobs.

Brylane, Indianapolis, IN, 415 jobs; Olin Brass, Indianapolis, IN, 310 jobs gone; Inland Paperboard, 287; General Electric, Schenectady, NY, 400 jobs last month; Tysons, Hope, AR, birthplace of President Clinton, lost 500 jobs—I can imagine how significant that was in that little community—just the month before last; Kelly Springfield, Tyler, TX, lost 200 jobs in October of 2003; Bristol Compressors, Bristol, VA, 300 jobs; Internet, Radford, VA, 348 jobs the month before last; and Alcoa, Bellingham, WA, 200 jobs.

Throughout the afternoon we will refer to some of these. You can kind of get the picture of why jobs are leaving.

I am worried about my constituents. I am confident that every Member of this Senate is worried.

What am I supposed to tell the people in Nevada who are unemployed? Should I tell them that the $350 billion which was used to help mostly the wealthy is going to help put them back to work when we have waited this long for two huge tax cuts to create new jobs? It only lost jobs. I voted against the plan because I didn't think it would create jobs. But once it passed, it was the only game in town. I hoped it would succeed, but it hasn't.

I am not in favor of higher taxes, not at all. I wish taxes were much lower. But we have to be realistic. We have to see that people are happier with jobs—not tax cuts for the elite of this country. I want to see my unemployed constituents have the opportunity to go back to work. Too many of them are still anxious and hurting and waiting. They have waited for a long time. It really tears at your heartstrings.

I don't see all of the letters. I wish I could. But I see a lot of them. I don't see all of the letters and the e-mails pouring in these days. But my staff picks out those that are representative of a large group of letters.

I have been hearing from large groups of people in Nevada who have never been unemployed in their whole lives. They have never been unemployed. These aren't people who are holding out for cushy, high-paying jobs. They are proud people with a strong work ethic who are willing to do whatever amount of hard work it takes to keep a roof over their heads and food on their tables, people who never thought they would be in this position. They are still having no luck finding work.

I received a letter a few weeks ago from a woman who lives in Spring Creek, NV. Spring Creek is a place in northeastern Nevada. It is a community that has grown up over the past 25 years. It is a beautiful community. She said she wrote to me and she wrote to the President and to Congressman GIBBONS who is the Member of Congress who represents that part of the State of Nevada. She said:

> I really do not expect any of you will actually read this letter. It will probably go to an aide, and if I am lucky I may get a response. But why am I writing this letter?

She answers her own question:

> Because there are many other people in this country who are unemployed and have run out of unemployment benefits. Many people like me feel that writing a letter like this is a waste of time. Many have no hope but I believe that one person's voice can make a difference. I live in a small community in northern Nevada. There are at least 50 people applying for every job opening. We have thought about moving to other cities but the job market is tight everywhere. My husband is disabled and receives a small Social Security check every month, but it pays all but $15 for our first mortgage on our house. I have to supply the money to pay a second mortgage and all of our living expenses. The company that I was working for updated their computer system to make it easier to purchase items over the Internet web site. As a result, they laid off some people, including me. Since then I have sent out hundreds of resumes with little response. I am not writing this letter to get a handout or for sympathy. I have faith in God that he has a perfect job for me that he will provide for us. There are many thousands of people who do not have hope. They have been laid off multiple times and are eligible for little or no unemployment benefits. I have friends that were laid off over a year ago and are still trying to find work. Unemployment should not be a free ride. All I'm asking is that people who are truly trying to find work, get a fair chance to provide for their families while they seek employment. I would work a part-time job or two part-time jobs in lieu of a full time job if I could find one. So the solution is to get the economy going so the people like me can find a decent job or jobs. Gentlemen, this is the greatest country in the world. The middle class needs a break. I don't want a free ride, I just want a job or jobs to supply the basic needs of our family.

Mr. President, she is right. It is our job to get the economy going so she can get on with her life. It is astounding we spent $350 billion on a jobs proposal and it did not make a bit of difference in the circumstances she and many millions of people face.

We have job losses all over America. Bradford, WA, we talked about, 348 jobs; Alcoas Intelco in Bellingham, WA, 200 jobs lost last month.

My friend, RON WYDEN, the distinguished senior Senator from Oregon, said Oregon has the highest unemployment of any State in the Union—the beautiful State of Oregon, the highest unemployment of any place in America. That is too bad for RON WYDEN and Senator GORDON SMITH and the people who live in Oregon.

Graphic Packaging, West Monroe, LA, 30 jobs. Think of that, 30 people who have a job one day and do not have a job the next day. What does this do to their families? Thirty people, that is what people say. Remember, are the 30 people going to be able to continue to make their house payments? The average person in America is out of work 5 months. The people who work at Graphic Packaging in West Monroe, LA, how will they handle bills for 5 months? Some get a job in 8 months, some in 4 months, unless things get worse. It averages 5 months. What do they do for car payments? Or the payments due when they bought the refrigerator they had to buy because the old one broke down? What about the house payments, the rental payments? What are those 30 people going to do? What are they going to do for Christmas? Remember, these people in West Monroe, LA, were laid off just the month before last. What are they going to tell their children come Christmastime? Is it a single-parent family that is taking care of the children and lost her job in West Monroe, LA? Is it a two-parent family with both working? We can envision the circumstances of those 30 people. It is scary. It is frightening. Only 30 people, some would say, but remember, every one of the 30 is a human being, with a job they no longer have.

Trane, Lacrosse, WI, 350 jobs last month; Bob's Candles, Albany, GA, 54 jobs. I have purchased Bob's Candles. There are 54 less people who are working at Bob's Candles. That happened last month. Parker Hamilton, 100 jobs, Akron, OH; Delphi Packard, Warren, OH, 214. I am confident this company is making parts of automobiles. Brach's Candy, based in Chicago, 1,000 jobs gone a month before last; Hussman in Bridgeton, MO, 250 jobs; Waterbury Plastics, Randolph, Vermont, 29 jobs—only 29 jobs—the month before last. Vermont is a sparsely populated State that has gotten a lot of attention in recent months because of a Presidential candidate, former Governor Dean of Vermont. Kodak, Rochester, NY. Many years ago when I was there I visited the man who ran the company then and went to his home in Rochester; 800 jobs; ConStar Plastics, Reserve, LA, 69 jobs; Kosa Textiles, Cleveland County, North Carolina, 150 jobs; Cone Mills, Rutherford County, North Carolina, 600 jobs.

I heard Senator HOLLINGS from South Carolina talking about the textile industry being so devastated. North Carolina has a lot of new things happening and it is certainly good, but they are losing a lot of jobs—600 jobs at Cone Mills.

Radio Shack, Swannanoa, NC, 140 jobs; American Uniform, Robbinsville, NC, 34 jobs; Hewlett-Packard, Nashua, NH, 50 jobs; Delco Remy, Bay Springs, MI. They are losing jobs because of the auto industry. Trellborg Automotive, Logansport, IN, 454 jobs; Coca-Cola, Highstown, NJ, 900 jobs; Thompson Consumer Electric, Marion, IA, 820 jobs; Lear, Traverse City, MI, 300 jobs; Gateway, Hampton, VA, 450 jobs; Hamilton Beach, Washington, NC, 1,400 jobs. They all went to Mexico. Pfizer, Kalamazoo, MI, 615 jobs; Ramtex, Ramseur, NC, 90 jobs; Boeing, Seattle, WA, 710 jobs just last month; Outokampu, Buffalo, NY, 26 jobs; Motorola, Elma, NC, 60 jobs.

This is happening all over America; thousands and thousands of jobs are lost, and I have only talked about a few of them. I will talk about more later.

We could have done a better job to spend part of the $350 billion on infrastructure and investments which meet our basic needs. They are an amazing job stimulus, as I have spoken. All over the country we have an infrastructure need—roads that have been on the drawing board for years with no money to pay for them; airports in need of renovation, but there is no money to pay for them; sewer systems that need repairs, but there is no money to pay for them.

I held a hearing shortly before September 11 and I invited the mayors of Washington, DC, Atlanta, GA, I think maybe Denver, CO, Las Vegas, NV, and we talked about what was going on around their cities with the need for renovating and repairing sewer systems. I can remember very clearly the mayor of Atlanta, GA, said he was looking forward to getting out of office and the reason he was so anxious to get out of office is because he is sure, in the foreseeable future, the whole water system in Atlanta will collapse. It is old and needs huge amounts of money to bring it up to a condition that is not one that will fail. That is basically what all the mayors say.

The mayor from Las Vegas had a different situation. There the growth is so tremendous—even though in Atlanta the growth is tremendous, their concern is in old Atlanta—in Las Vegas, with the new people moving in, just last month, 8,500 people moved to Las Vegas. They need help with the infrastructure.

Schools are crumbling. The average school in America is about 50 years old and in a state of disrepair.

In Las Vegas, the Clark County School District has a little different situation. We cannot keep up with the growth, even though we are dedicating one new school a month. We held the record 2 separate years. We built and dedicated and opened 18 new schools. We need some help.

But that is the way it is all over America. Other places need the money to renovate schools. It is something that is badly needed, but it is so important to not only creating jobs but giving kids a decent place to work on their school studies. With a lot of the old schools, we can get them all the new computer equipment you want, but they are not wired to handle the new computer equipment. They need to be rewired. They need to be fixed so they can use modern technology, which they cannot do now.

For every $1 billion, 47,000 direct high-quality new jobs are created. These new jobs create thousands of additional jobs through the ripple effect that I talked about. When someone gets a job as a surveyor for a new road, a bricklayer for a new school, one engineer for a water project, or a crew member on a road construction project, these jobs help all layers of our society—the educated, the people who are not educated in books but know how to run heavy equipment, as I indicated, those who lay brick; those who can do work in a house, carpenters.

These are the kinds of things that are important. This is the ripple effect I am talking about. As I said, someone gets a job as a surveyor for a new road. What follows that? Then you have to have someone come and do the engineering after the survey. That creates jobs. After that is done, you put it out to bid, and then the people come in.

As an example, in my little town of Searchlight, NV, we had—it is no longer the case—the busiest two-lane road in all of Nevada. It was a death trap: 36 miles of it from Railroad Pass to Searchlight, a two-lane road, traffic would back up for 4 or 5 miles. Big trucks would slow down traffic to 40, 45 miles an hour. People would get anxious and try to pass, and there would be head-on collisions, with many people killed.

We were able to get 18—or half that distance—put out to bid, and now that is completed. I was home this past weekend; I drove that 18 miles. It was so nice, so safe. Then the other 18 miles—which is put out to bid as we speak—it was not as bad as it used to be because there the congestion was not as much because people knew within 18 miles they would be out of the traffic jam. They were a little more patient.

But on that road to Searchlight, as I just indicated—with the heavy equipment there, graders and bulldozers, and those carryalls, those huge things that have to level the place where the road is going to be; and this is not a very hilly area, in fact, not hilly at all—people were there doing cement work for the culverts, and hundreds of people were put to work as a result of that job. I really do not know what the bid was on that, but I am sure it was $25-$30 million, and it created lots of jobs, as you can see.

These people who do this work—the people who built the road to Searchlight—every one of those people with these high-paying, good jobs were able to go out and have dinner more often than they had in the past. They were able to buy that coat for winter. They were able to take a little weekend trip, maybe to LA, or visit relatives someplace else, maybe in Salt Lake City, and spend a few dollars along the way.

That is what this is all about. They have money to spend on a car or a dishwasher. As I indicated, all over America we will have more people coming to Las Vegas. Multiply that person, that one person who is working on that road to Searchlight, by 47,000, and you suddenly have the business of the auto dealers, the hotels, and the airlines picking up. Soon they decide it is time to bring on more sales people, more hotel workers, more pilots. That is the ripple effect we need.

That is why this bill we are debating today from the Committee on Appropriations, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, is an important bill. It is a bill that I have talked about before that does a lot of things that are important for this country.

This bill provides for conducting commerce within the United States—conducting commerce within the United States—among other things. That is a part of the bill I am talking about now: conducting commerce, jobs. There is no more important commerce in all of America, all the world, than jobs.

What is it like to have a job? What is it like not to have a job? I come from one of the smallest States, population-wise, although certainly for many generations we, population-wise, were the smallest State in the Union. We are now about 35th, 36th. There are a significant number of States smaller than we are but a lot of them bigger.

On the Senate floor, just the other day, I was having a dialog with my friend from the State of Michigan, the junior Senator from Michigan, Ms. STABENOW. She indicated that the State of Michigan has 9 million people in it. That same day, a few minutes later, I asked the Senator from Illinois how many people live in the State of Illinois. The senior Senator from Illinois indicated that 12.5 million people live in the State of Illinois.

Nevada, Mr. President, is approaching 2.5 million people, so it is significantly smaller than those States, but we still have tens of thousands of people who are not employed. We do not know the exact figures. Between 60,000 and 80,000 people are unemployed who are officially counted as unemployed. There are many more, of course, who are unemployed. The official classification undercounts the number of people who are interested in jobs and available for work. So the true number of unemployed people is significantly higher than the 60,000 or 80,000 I talked about.

These are tens of thousands of people anxious to find work but unable to do so. Think about that. Sometimes we get overwhelmed by statistics. But think about that piece of information for just a minute.

Let's take the lower figure. Let's say 60,000 people. I think it is higher than that, but let's say there are 60,000 people without a job. Each represents a family struggling or going without, the American dream deferred, sometimes disappearing forever.

I have already talked about people being concerned about losing a job. People are worried about how to make their next mortgage or rent payment. They are worried about what will happen if they encounter unexpected medical bills. They worry about buying clothes for their kids. They worry about how long this jobless recovery is going to last and what will become of them when it is over.

In America today, there are 44 million people with no health insurance. There are millions of others who are underinsured—people who have insurance, but it is not very good.

I would hope that we would spend some time on that. Wouldn't it be good if we spent 30 hours of the Senate's time debating health care for all Americans—health care for all Americans? But we are going to spend 30 hours talking about judges.

As Senator TRENT LOTT said when he was majority leader, every time he went back to Mississippi, no one ever asked him about judges. He said—and I am paraphrasing—it is a nonissue. That is true, especially when you have what is taking place during the present President's tenure in office: 168 judges approved, 4 disapproved; 168 to 4. We are going to spend 30 hours nonstop of the Senate's time talking about a ratio of 168 to 4. I wonder if they would move to 30 hours if instead of having a 98-percent track record, it was 99 percent. Maybe that would only require 15 hours. If it was a 99.5-percent track record, maybe they would only spend 10 hours talking about judges.

And I see constantly—I see constantly, Mr. President—statements being made that there has never been a filibuster before of a judge. In fact, there was a statement issued today. I have it here on my Blackberry. Here it is right here. I am sorry to hold up the Senate. Here it is right here. This is a statement from Senator FRIST. He says:

> What we are doing to move our judicial nominations forward. This year the Senate has suffered unprecedented obstruction of a Presidential judicial nominee by filibuster. In the history of our Nation, this has never been done before.

(Mr. CHAMBLISS assumed the Chair.)

Mr. REID. Whoever prepared this for Senator FRIST had better revise it. During the time I have been in the Senate, there have been filibusters. I can think of a couple. I can think of three filibusters that had to be ended by a vote of the Senate. Of course, previously there were all kinds of filibusters. We know that. So this is simply untrue: "in the history of our Nation, this has never been done before." That is simply untrue.

Rather than spend this time on the 168-to-4 record this President has, the country would be well served if we spent 30 nonstop hours talking about the lack of health insurance in America. Forty-four million people have no health insurance. Many millions of others have a lack of health insurance. There are millions of people who have no jobs. We are going to spend 30 hours talking about four people who want a new job. They already have a job. They want a new job.

Thirty hours should be spent talking about the need for health care reform in America. The doctors would appreciate it. The patients would appreciate it. All over America, we see doctors making less money, we see patients getting less care. Where is the money going? It is going to the middlemen, HMOs, insurance companies. Why don't we spend the 30 hours talking about health care, have a real debate on that subject? We have no legislation dealing with health care. We have a Medicare bill through which we are trying to get prescription drug benefits to seniors. In fact, at 1 o'clock today, I understand, there was a meeting going on, a very important laydown of that legislation.

There is not now a bill dealing with prescription drugs for senior citizens, as all senior citizens in America know. It spilled over into Medicare in an attempt to revise Medicare, to privatize Medicare. The chairman of the House conferees has said that that is one of the most important issues, to develop "privatization." They have a fancy new name for it, but that is all it means. The American people aren't going to stand for that. Why don't we have a debate for 30 hours dealing with health care?

These people in Nevada who are out of a job, they really understand how important it is to do something to create jobs. It is a bleak picture and can drag on and on for families in this situation. These people who used to get up every morning and go to work all day, who used to feel the sense of purpose and pride that comes with holding a job, now that security is gone.

Why don't we spend 30 hours talking about why we haven't increased the minimum wage? That would help commerce in this country. That would work within the confines of this legislation. The minimum wage is now $5.15 an hour. Take that math and figure out how tough it is. That is why two people are working two jobs, just like the woman whose letter I read into the RECORD saying she would work two minimum-wage jobs gladly.

Who are the people who have these minimum-wage jobs? Are they kids in high school at McDonald's flipping hamburgers? No. Sixty percent of the people who draw the minimum wage are women. For the majority of those women, that is the only job they have for their families. Why don't we talk about the minimum wage? Let's spend 30 hours talking about people who are working two jobs at $5.15 an hour, who have no benefits, no medical benefits, no retirement benefits. We should spend a little time on them, on the minimum wage. I think that would be something that would be very beneficial.

San Francisco just passed a citywide minimum-wage bill. It has been done in other places in the country. But in the Federal Government we can't do that. We are going to spend 30 hours talking about four people who already have jobs who want a new job. They want to be an appellate judge.

Estrada is not unemployed. Owens is not unemployed. Pryor is not unemployed. Pickering is not unemployed. In fact, Judge Pickering is already a Federal judge. Pryor is attorney general of the State of Alabama. Owens is a supreme court justice of California. Miguel Estrada is one of the highest paid lawyers in the community. But we are going to spend 30 hours talking about four judges or wannabe judges who already have jobs. But no time do we spend on the minimum wage. No way let's back away from that, because all that affects is a bunch of kids flipping hamburgers.

Why don't we talk about the majority of the people who draw the minimum wage who are women, desperate for work for themselves and their families. We are going to spend 30 hours, starting Wednesday at 6 o'clock, until midnight Thursday, talking about four people who already have jobs. We are not going to talk about the people who are unemployed in my State or about the minimum wage or about health care reform.

It is a bleak picture. Today, the average unemployed worker is out of work for up to 5 months. That is the average. The number of people unemployed for greater than 6 months is at a 20-year high.

It is time we look at some of the places we are losing jobs again. These are jobs that have been lost in the last few months. Just to talk about some of them: Central Textiles, Pickens, SC, 140 jobs, the month before last. I am not familiar with this company: Leica, Depew, NY, 55 jobs; a company called Tecumseh—that is an Indian name—Douglas, GA, 535 jobs last month; General Electric—we have heard that before; they must be cutting jobs all over the country—General Electric, Greensville, SC, 600 jobs just last month; Albany International, Greenville, again, South Carolina, 120 jobs, the month before last; Rockwell Collins, Cedar Rapids, IA, 155 jobs; General Electric again, Shreveport, LA, 200 jobs—that is 800 jobs; if you add all those on the other charts, it is well over 1,000—Carrier Corporation, 1,200 jobs, Syracuse, NY; Tolcheim, Washington, IN, I don't know how many jobs. That is off my chart so I am sorry about that; Nestles USA, Fulton, NY, 400 jobs; Sonoco Flexible Packaging, Fulton, NY, 1,300 jobs; Black Clawson, Fulton, NY, 322 jobs; Tyco, that has made a little bit of news lately; the guy had a birthday or anniversary party that cost $6 million—one of the bosses—Argyle, NY, 335 jobs. New management decided how to handle things: Just move the jobs to Mexico. That is what they decided to do.

Back to the chart: Maytag, Galesburg, IL, 380 jobs; Gates Corporation, Galesburg, IL, 76 jobs; Mettler-Toledo, Inman, OH, 150 jobs; Paper Converting, Green Bay, WI, 115 jobs; Slater Steel, Fort Wayne, IN, 418 jobs; Cognotti Industries, 100 jobs; Tolcheim, Fort Wayne, Freemont, IN, 454 jobs; International Paper, Sartell, MN, 542 jobs; R.J. Ray, Buffalo Grove, IL, 56 jobs;

These jobs were all lost within the last couple of months—some last month.

Playtex Products, Dover, DE, 94 jobs; Parker Hannifin, Marion, OH, 165 jobs; from Greencamp, OH, again, Parker Hannifin, 165 jobs; Amcast, Richmond, IN, 133 jobs; Delco Remy, 349 jobs, Anderson, IN; Dana Perfect Circle, Richmond, IN, 182 jobs; Royal Precision, Torrington, CT, 110 jobs, the month before last.

It is going on as we speak. We have this administration boasting they created 126,000 jobs, which doesn't keep up with growth. Although I was immensely relieved to see the economy stop losing jobs, I have been more than a little concerned about the administration's promise. It doesn't seem to know whether the current unemployment rate of 6 percent is a problem or not. I think it probably is.

During the last full month President Clinton was in office, the unemployment rate was 3.9 percent. The reversal has been enormous. On February 4, the President's Council of Economic Advisers published a report entitled "Strengthening America's Economy: The President's Jobs and Growth Proposals." In that report, the President's economic advisers laid out the case for a new tax cut, saying:

> Thus far in the recovery, the labor market remains a weak spot, with the unemployment rate reaching 6 percent in November and December.

This past Friday, the White House issued a statement claiming, again:

> The President's jobs and growth agenda is working.

The unemployment rate is 6 percent. How can this jobs plan be working now when the unemployment rate is exactly the same as when the President's smartest economic advisers called the labor market a "weak spot." In February they considered 6 percent such an urgent problem that it was a justification for a $300 billion tax cut. Now 6 percent unemployment is reason to celebrate and claim credit for its successful economic plan.

We have a situation here where the distinguished majority whip came to the floor and criticized statements where we on this side talked about this 30 hours being something that was not very smart—for lack of a better word—to do. Then they talked about the one-vote majority. We had a one-vote majority, and now they have a one-vote majority. Now things are "so much better."

Well, I hope today people understand why they are so much better. We can help a lot, as we have this past year, in passing the legislation and the shortness of time on the appropriations bills we were unable to accomplish. We did not have the luxury of the cooperation of the minority. We have been cooperating. As you can see, today isn't the most cooperative day. I think the majority should learn the lesson they need to work with us, not against us. We can work together. We have worked together in the past. We will work together in the future. But everyone understands the Senate is a body created more than 200 years ago and it was created to protect the minority, not the majority. The majority can always protect itself. The minority needs help. What gives us that help is the Constitution. The majority should understand it just cannot run over us, say we are going to work Monday and Tuesday, then have 30 hours for judges, votes in the afternoon on Monday, and then we will decide what we are going to do Tuesday later. We need to be part of the plan, part of the program.

The Senate is an interesting place. Everything has to be done here by unanimous consent. If there is no unanimous consent, not much happens. Today, not much is happening because there is no unanimous consent. It is normal on a bill like this appropriations bill for the subcommittee chair to give a nice little statement, the ranking member gives a nice little statement, and then you go to amendments. We have been so cooperative. The reason the majority today has been able to pass these appropriations bills is because we have cooperated. We have not tried to stall them. We did not speak at extended lengths of time on amendments. I worked to get amendments taken off the list so we could move forward to the next appropriations bill. That is the way the Senate should work. We have set an example as a minority on how it should work. There should be an example set by the majority as to how things should work.

You just cannot run over us. The Senate is set up to protect one Senator. There are 49 of us. We need some protection, some help, some cooperation, some partnership. I hope everybody understands that when the majority decided to move along, we were whipping through these appropriations bills. I had many conversations with the Appropriations Committee chair, Senator TED STEVENS—a wonderful, fine friend and a great Senator—and we had a plan to finish these bills. We could have finished them. I don't expect anybody in the majority to publicly criticize their leader, but I believe there is criticism in the hearts of some of the people in the majority.

What a ridiculous thing to have 30 hours—a week before trying to get out of here—spent on the jobs of 4 people, when there are over 3 million people who have lost their jobs and more than that are unemployed. We are going to spend 30 hours on the lives of four judges. That just doesn't seem right to me. If people are wondering why we are not moving along, you can do all the name calling you want, but I think the history books will reflect how the leadership has been—at least during the past few days when you interrupt the ending days of a session to spend 30 hours on a wasteful exercise.

I agreed with the administration back in February when it believed the 6 percent unemployment indicated the economy was weak. That is why I look forward to this bill being done—this bill dealing with the legislation that is led by the senior Senator from New Hampshire and the senior Senator from South Carolina. It is important legislation. It is just not the number of people out of work that is disturbing; it is also the fact it is taking people so long to find something new. In fact, wages and salaries are falling precipitously. There is an increasing amount of slack in the labor supply.

It is impossible to truly understand how bad the job market is now without being aware of a couple factors:

First, the record length of time jobs have been declining; second, the growth in the working-age population since the recession began in 2001; third, the fact that many people have stopped looking for a job out of hopelessness, not because they no longer want to work, and they are no longer counted as unemployed. Until this job slump, the number of jobs had never fallen steadily for 2½ years. These numbers go back to 1939. As of November 2003, payroll jobs had fallen by 2.6 million below the level of March 2001. Unfortunately, at the same time that job market shrank 2 percent, the working-age population grew by 2.4 percent. Had job growth kept up with working-age population instead of falling, we would have 7.2 million more jobs right now.

I watched on TV—it may have been last night. I got home from Nevada last evening. It could have been last night. It could have been the day before. They did an interview about a young woman who had gotten her first job. She was so excited. She had graduated from college and for almost 2 years she was unable to find a job. She had finally gotten a job.

The picture I want to paint here is the fact that the people who are out of work are not just a bunch of people who are looking to dig ditches. They are people from a wide spectrum of our society, people like the woman I saw on TV, who is highly educated, and not just people who have no education. Everyone in between is out of work and needs a job.

This job deficit hits everybody. We should recognize that we have not only the problem of creating new jobs to fill the jobless market created by those people who lost work but also the new jobs that need to be created because of new people moving into the workforce. But, sad to say, job creation has occurred mostly in low-quality jobs.

As glad as we should be that any new jobs are actually springing up, it is still worth examining what kinds of jobs are growing in today's economy. The firm of Challenger, Gray, and Christmas analyzed the October job growth figures and determined that job creation was the heaviest in some of the sectors where the pay was the lowest—retail, temporary help service firms, bars, and restaurants.

Jobs, commerce—Commerce-Justice-State, it is a very important topic. I am going to talk about some of the other things in the bill later on dealing with the State Department and the Justice Department, but now I am just talking about the Department of Commerce—jobs, commerce for this country. Most of the jobs that have been created are low-quality jobs.

As I look back over my work career, I remember some of the jobs I have held. I have been very fortunate, I understand, to have the job I have now, a contract with the people of the State of Nevada. I have a little over a year left to run on that contract.

I have done a lot of jobs. I have worked with my hands. I dug ditches and got paid for doing that. I remember one job I had digging holes to put up wooden telephone poles for power to the top of a mountain, some kind of microwave relay station. The man I worked with didn't speak English. I was a young boy, maybe 16 years old. Oh, it was such hard work. We had a bar, and it was hard getting the dirt out of that hole. We spent all day together and we couldn't talk to each other, except by facial expressions. When it was time to eat, we kind of got that idea. That was one job. I was happy to have that job.

I drove a truck for two summers. I worked as a warehouseman. For many years—they were special summers—I worked in service stations where I pumped gas and tried to sell lubes, carburetors, greasing the bearings—doing minor mechanical work.

I was a janitor part time in college. I was a radio dispatcher for the city of Las Vegas building department. I was a Capitol policeman right here. I worked in a post office. I had lots of different jobs before I graduated from law school, but they were all jobs.

I was so fortunate. I never had to look for a job. I always had a job. I am very fortunate because for a lot of people that is not the case. There are lots of people who have never had a job.

We have a wonderful program in Nevada. We have given Federal appropriations to this program. It was originally started because of the largess, the generosity of Kirk Kerkorian, a very wealthy man, a former client of mine who is one of America's entrepreneurs. He wanted to set up a job-creating program in a high unemployment area in west Las Vegas. Now it is run by a conglomerate. Kerkorian got it started and has since given it up. Now the Federal Government is involved in it. Labor unions are involved in it.

What it did was create jobs, teach people how to work who had never worked before. It is an amazing program. We have lots of service jobs in Las Vegas. Las Vegas, as you know, has about 140,000 hotel rooms. We have more hotel rooms on the four corners of Tropicana and the strip than the entire city of San Francisco. We have lots of hotel rooms, and we need people to make beds in those rooms, to clean those rooms. We need people to be waiters and waitresses in those large hotels.

What we do at that facility that I just toured again a few weeks ago is teach people who have never worked before to work. We teach them the meaning of a job; why they have to be on time; why they are not supposed to take time off unless it is absolutely critical they take time off. It has worked well.

We place over 80 percent of these people. Those who are not placed we really would have trouble placing them anyplace because the jobs are not there.

We need to create jobs. We need to be involved in the creation of jobs. Even though we are creating many low—what is the word, not low quality because they are important jobs—jobs in the lower sector because they don't pay enough. We need to create jobs, like I got a job digging post holes. It was a very important job for me. It helped me get through school. It was important I had that job.

In these jobs where job creation has been the heaviest in recent years, including this group that is paid the lowest—that is the word I was thinking of—the firm of Challenger, Gray, and Christmas found weekly earnings in these work places—temporary service, bars, restaurants—average $336, $318, and $225 respectfully. Each of these sectors pays wages well below the average of $521 per week for all these industries.

This firm found that nearly one out of four unemployed Americans has been out of work for 6 months or more. The largest percentage, 47 percent of those experiencing extended unemployment, are white-collar workers in management, professional, sales, and office occupations. Of those unemployed, 1.4 million said they were able to find only part-time work. That figure represents a 27-percent increase from just a year ago when only 1.1 million workers were trapped involuntarily in part-time jobs. Now it is up another 200,000.

Mr. President, 7.5 million Americans worked two or more jobs in October, up from 7.3 million just a year ago. That is an increase of 200,000. The percentage of people for part-time jobs increased from 1.7 million to 1.8 million over the same course of the year.

I want to look at where some more of these jobs have been lost.

Hedstrom, Ashland, OH, 60 jobs, just last month; Laurel Hills, NC, Spring Industries, 120 jobs, month before last; Wolverine Tube, Bonneville, MS, 300 jobs, month before last; Rome Cable in Rome, NY, 240 jobs, month before last; Union Tools, Frankfort, NY, 80 jobs, month before last; Arvin Industries, Franklin, IN, 850 jobs, month before last; Alpine Electric, Greenwood, IN, 195 jobs; Standard Motor Products, Argos, IN, 150 jobs; Cavalier Specialty Yarn, Gaston County, SC, again Senator HOLLINGS' home State, 120 jobs; Bowling Green Mill, Gastonia, NC, 160 jobs; Parkdale Mills, Belmont, NC, another 161 jobs.

In Wichita, KS, we have a situation where Boeing just laid off 4,800 people in the last year or so.

Tecumseh—we have seen that name before. Now we see it in New Holstein, WI, 300 jobs; Sheboygan, WI, 292; Perry Judd, Waterloo, WI, 372 jobs; Gateway, Sioux City, SD, 700 jobs in a small State such as South Dakota. They must feel that very significantly. International Polymers, Hamblen County, TN, 450 jobs; Lea Industries, North Carolina, 120 jobs; Chiquola, Kingsport, TN, 200 jobs; Modine Manufacturing, Clinton, TN, 200 jobs; Lucent, Genoa, IL.

These are the issues I have focus on today. There are more. This is not from the Bureau of Vital Statistics or the Department of Commerce. These are jobs that have been lost, that we have had staff pick up reading different news articles around the country. It is demonstrative of what is happening to jobs in America. They are leaving us.

The New York Times, I agree with it on occasion; I disagree with it on occasion. It is a newspaper that is a very substantial part of the American political body. People certainly view it as an important newspaper. The editorial section is probably one of the best in the world, if not the best. I was struck by a column written by Bob Herbert just a few days ago, on October 27. This article is so good, and the subject matter of it is so important that I thought I should read it.

I want to read what Bob Herbert said in the New York Times because, trying to paraphrase what he says does not capture all of his arguments in this October 27 column. It is entitled: "There is a Catch: Jobs."

He is, of course, referring to the economic growth announcement last week. Here is what he said:

> The President tells us the economy is accelerating, and the statistics seem to bear him out. But don't hold your breath waiting for your standard of living to improve. Bush country is not a good environment for working families.
>
> In the real world, which is the world of families trying to pay their mortgages and get their children off to college, the economy remains troubled. While the analysts and commentators of the comfortable class are assuring us that the President's tax cuts and the billions being spent on Iraq have been good for the gross domestic product, the workaday folks are locked in a less sanguine reality.
>
> It's a reality in which: The number of Americans living in poverty has increased by three million in the past two years. The median household income has fallen in the past two years. The number of dual-income families, particularly those with children under 18, has declined sharply. .
>
> The administration can spin its "recovery" any way it wants. But working families can't pay their bills with data about the gross domestic product. They need the income from steady employment. And when it comes to employment, the Bush administration's has compiled the worst record since the Great Depression.
>
> The jobs picture is far more harrowing than it is usually presented by the media. Despite modest wage increases for those who are working, the unemployment rate is 6.1 percent, which represents almost nine million people. Millions more have become discouraged and left the labor market. And there are millions of men and women who are employed but working significantly fewer hours than they'd like.
>
> Jared Bernstein, a senior economist at the Economic Policy Institute, has taken a look at the hours being worked by families, rather than individuals. It's a calculation that gets to the heart of a family's standard of living.
>
> The declines he found were "of a magnitude that's historically been commensurate with double-digit unemployment rates. It is not just that there were fewer family members working. The ones who are employed were working fewer hours."
>
> According to government statistics, there are nearly 4.5 million people working part-time because they have been unable to find full-time work. In many cases, as the outplacement firm Challenger, Gray & Christmas noted in a recent report, the part-time worker is "earning far less money than his or her background and experience warrant—i.e. a computer programmer working at a coffee shop."
>
> Economists expect some modest job creation to occur over the next several months. But there is a "just in time for the election" quality to the current economic surge, and even Republicans are worried that the momentum may not last. The President has played his tax-cut card. The spending on Iraq, most Americans fervently hope, will not go on indefinitely. And President Bush's own Treasury secretary is talking about an inevitable return to higher interest rates.
>
> Where's the jobs creation miracle in this dismal mix? Meanwhile, these are some of the things working (and jobless) Americans continue to face: Sharply increasing local taxes, including property taxes; steep annual increases in health care costs; soaring tuition costs at public and private universities. Families are living very close to the edge economically, and this situation is compounded, made even more precarious, by the mountains of debt American families are carrying—mortgages, overloaded credit cards, college loans, et cetera.
>
> The Bush administration has made absolutely no secret of the fact that it is committed to the interests of the very wealthy. Leona Helmsley is supposed to have said that only little people pay taxes. The Bush crowd has turned that into a national fiat.
>
> A cornerstone of post-Depression policy in this country has been a commitment to policies aimed at raising the standard of living of the poor and the middle class. That's over.
>
> When it comes to jobs, taxes, education and middle-class entitlement programs like Social Security, the message from the Bush administration couldn't be clearer. You're on your own.

Now, what did he say in this column? What did he say? He said that what is going on in this administration is not good for working men and women. He said, among other things, Bush country is not a good environment for working families. He said the administration can spin its recovery any way it wants, but working families cannot pay their bills with data about the gross domestic product.

As I said, people in America are more concerned about J-O-B, not GDP. They are more concerned about jobs than the gross domestic product.

I think it is interesting to note that Herbert also says that in addition to the gross domestic product not being something that people are concerned about—they are more concerned about jobs—economists expect some modest job creation to occur over the next several months. Remember, we need 300,000 jobs just to keep up with normal growth in this country. Meanwhile, those things that American families, the jobless Americans, continue to face, sharply increasing local taxes, sharply increased local taxes—Nevada was one of about 41 States during this year's legislative sessions that were in deep financial trouble. Nevada had three or four special sessions of the legislature called in an attempt to try to right the ship, to try to figure out some way that they could afford to handle this rapidly growing State.

As I indicated earlier, talk about commerce, this bill in Commerce-State-Justice, commerce in Nevada is very difficult because just last month, in September, we had 8,500 new people move into the Las Vegas area. I think we have to understand that the legislature had to keep up with the demand for services that we had throughout the State of Nevada, but they were faced with some unfunded mandates, such as Leave No Child Behind.

Clark County School District, I think, is the sixth largest school district, maybe the fifth now, 270,000 students or thereabouts, a difficult time because of what we passed on to them with Leave No Child Behind. We are leaving lots of children behind because we have not funded the Leave No Child Behind Act.

Homeland security, I had a conversation with Tom Ridge last week. Tom Ridge is a wonderful man. He is my friend. We came to Congress together in 1982. He was a good Governor of the State of Pennsylvania, one of our very highly populated States. I was happy to see the President select him as head of the Department of Homeland Security and now the Secretary of Homeland Security. He has a difficult job, and in Nevada we are faced with significant problems. We have huge responsibilities. We have responsibilities for people visiting Nevada from the State of Georgia. We have to take care of the people from the State of Georgia just like we have to take care of the people of the State of Nevada if there is some kind of emergency. There is no separation. But when we have, on any given day, 300,000 to 500,000 tourists in Las Vegas, it makes it really tough. We have had lots of added responsibilities because of the legislation we have passed dealing with homeland security.

I spoke with the Secretary about the need to try to do something to help an area where we have so many tourists on any given day. We need help. I am confident the Secretary understood and listened and will try to do his very best to help. But we have unfunded mandates because of that.

I heard my friend, the distinguished junior Senator from Tennessee, the former Governor of Tennessee, and he should understand what unfunded mandates are about. LAMAR ALEXANDER spoke in the Chamber last week on several occasions about an unfunded mandate dealing with the Internet tax debate we brought up last week. He said that is an unfunded mandate.

I don't know as much about that as I know about education and police work, but they are unfunded mandates. That is why there have been sharply increased local taxes all over America.

Mr. Herbert also says there are steep annual increases in health care costs. We have talked about that. Not only are there 44 million people with no health insurance, but we have 44 million people who have not only no health care insurance but those health care costs are increasing. I think that is very significant. Health care costs are going up, as Mr. Herbert said.

There are soaring tuition costs at public and private universities. There was an article in one of the weekly magazines—I don't remember whether it was Time, Newsweek, or U.S. News and World Report this week—that reported the most expensive private school in America, just for tuition, is $41,000 a year. State universities, which you would think would be significantly cheaper—some are cheaper; they are almost half as much. The highest State tuition, according to this weekly magazine, is almost $20,000 a year—soaring tuition costs at public and private universities. Why? They have to do that because there is no money coming from State governments. It is as simple as that. They have to do that.

But I think the most telling thing Mr. Herbert wrote about is when he said Leona Helmsley is supposed to have said only little people pay taxes. The Bush crowd has turned it into a national fiat.

Are unemployment benefits important? Of course they are important. During the first thousand days under Bush, unemployment is up, the rate of impoverished is up, debt is up, and judicial vacancies are the lowest in some 15 years. So what are we going to spend 30 hours on? We are not going to spend 30 hours on unemployment. We are not going to spend 30 hours on the impoverished of America. We are not going to spend 30 hours on the deficit. When the President took office, the surplus over 10 years was about $7 trillion. That is gone. We are now spending in the hole.

Is that important to commerce? I think so. But we are not going to spend 30 hours talking about the debt. This year we will have the largest debt in the history of this country. But we are not going to spend 30 hours talking about that. We are going to spend 30 hours talking about judges.

Judicial vacancies—are they up? They are down. They are the lowest in some 15 years. We are going to take 30 hours talking about the lowest judicial vacancy rate in 15 years. We are going to take 30 hours not talking about the things that should be down—unemployment should be down, impoverishment should be down, deficits should be down, debt should be down. We are going to talk about the thing that is up. We have no vacancies to speak of—the lowest in well more than a decade.

I think this administration has things turned around. Doesn't common sense dictate we should be spending 30 hours talking about unemployment? Talking about impoverishment? Deficit? Debt? They were up during the first thousand days of this President's administration. But no, we are going to talk about judicial vacancies, which have been the lowest in many years.

Later today I will have a few things to say about judicial pay and about the Justice Department. We can talk about Clinton judges being denied hearings, let alone votes. We can talk about the names. We have a judicial scoreboard chart. We can compare the Bush record and the Clinton record. We have a lot to talk about here.

I want the American people to understand what we are doing. We have said we believe it would be better if the Senate spent its time—30 hours, going from 6 o'clock Wednesday night to midnight on Thursday—talking about issues we need to complete. I begged—well, that is a little strong. I certainly pleaded with the majority last week on at least five occasions to pass a military construction bill. I thought that was very important, that we pass the military construction conference report. It was important to do. I believe it was a partisan attempt to hold up the bill for reasons I don't understand because it should be nonpartisan, because it deals with supporting our forces on military missions all over the world.

For Nevada, it would have a devastating result. While we delay, there will be no vehicle maintenance facility for Nellis Air Force Base, the premium aviator training facility in this country; no water treatment facility in Hawthorne, where we have the Army depot to store ammunition, a depot supplying munitions for our war effort in Iraq and Afghanistan. There will be no telecommunications security force building for the Reno Air National Guard, a Guard unit fully deployed on many fronts in the war on terrorism; no new hydrant fuel system for our planes and pilots in Nellis. We could go on.

The military has critical needs across the country and every Senator here knows how crucial these facilities are. I haven't mentioned the barracks and additional security measures this bill includes for our military around the world. Certainly they need the funding more than anyone, but apparently there has been a decision on the other side of the aisle not to turn to this bill and not to turn to the Syria Accountability Act, both of which have a direct connection for our national security and the security of our forces.

This bill we are now debating, the conference report on Commerce-State-Justice, is extremely important, dealing with jobs, and we spent a lot of time talking about jobs and we need to talk about jobs.

We have people dying every day. There is a global war on terror. And we are going to waste 30 hours so one side can try to secure some political points. What has happened to the urgency?

This bill we are now taking up, Calendar No. 274, from the Committee on Appropriations chaired by Senator GREGG, is an important piece of legislation. It covers a lot of different areas that are so important to our country.

We have this bill, which is H.R. 2799. We would like to complete this, as we have a number of our other appropriations bills, and go to conference. But we have been unable to do that for reasons that are quite obvious to everyone here.

I cannot understand why we cannot spend 30 hours of the people's time working on things the people care about, and not on things we should not be spending time on, like four people who want to get better jobs—well, only three now, because Miguel Estrada has withdrawn his name—Owen, Pickering, and Pryor. They want jobs, so we are down to three now. We are going to spend 30 hours—I guess 10 hours per judge.

(Mr. COLEMAN assumed the chair.)

Mr. REID. Unemployment benefits—and certainly this legislation we deal with here is concerned about unemployment, as I indicated. We talked about this on previous occasions, about the people who have been unemployed, even within the confines of this legislation right here. People about whom I have talked, people on these charts, certainly are included within this bill. There are many people affected when this bill cuts back on a number of programs, people who have lost their jobs.

As I indicated here, we have unemployment that has gone up. Actually it was 3.89 percent. The number of impoverished has gone up, the number of uninsured has gone up, the budget deficit has gone up, the national debt has certainly gone up, and judicial vacancies have gone down. Rather than talk about these things in red—impoverishment, uninsured, budget deficit, national debt—we are going to spend 30 hours talking about the three who want a better job, not the over 3 million who are unemployed.

Last month I got a letter from a woman who lives in Las Vegas. She writes:

> DEAR SENATOR REID: On July 2, 2003, I became a displaced airline worker

—in fact, maybe I will read that letter a little bit later.

If I could have the people up front keep their voices down a little bit, please; sorry about that. It is a little distracting.

The report on the bill that is now before us goes through a number of issues. It talks about the purpose of the bill. It talks about the hearings that were held dealing with this legislation. Then it has a summary of the bill. The summary of the bill states:

> The budget estimates for the departments and agencies included in the accompanying bill are contained in the budget of the United States for fiscal year 2004 submitted on February 3, 2003. The total amount of new budget authority recommended by the committee for fiscal year 2004 is $37,637,536,000. This amount is a decrease of $362,290,000 below the appropriations for fiscal year 2003 for these departments and agencies. The committee's recommendation is $770,699,000 below the budget estimates.

The following paragraphs highlight major themes contained in this bill: terrorism, protecting America's children, information technology enhancement, reprogramming, reorganizations, and relocations.

This is an important bill. The two people who have operated the subcommittee for the last several Congresses are extremely good. I already earlier today complimented the senior Senator from New Hampshire about his stalwart public service. The senior Senator from South Carolina, Mr. HOLLINGS, will go down in history as one of America's truly great Senators. He is the longest serving junior Senator in the history of this country as a result of the longtime service of then-senior Senator Strom Thurmond. Senator HOLLINGS, to my disappointment, decided not to run for reelection. But he has not lost an ounce of his vigor, and he is a great Senator. He and Senator GREGG have done a wonderful job on this bill over the years. I look forward to completing this legislation when we have an opportune time to do that.

Some may ask, Why is the Senator taking so much time on the floor? I don't speak often on the floor. I speak often but not very long. The reason I am speaking today is because I think it is important people understand that the 100 Senators here have to get along. The majority has to be aware of the minority.

The Presiding Officer is a new Senator but he is someone who has been involved in government for a number of years. He will come to understand better than he does now that for the Senate to work well, we have to work together.

Just to repeat for those people within the sound of my voice, Senator DASCHLE and I have worked very hard. I have spent days of my life here on the Senate floor—not all of the time pleasing Democratic Senators. I have tried my best to make the trains run on time, as one Senator told me when he criticized me.

But I don't regret anything that I have done to help the Senate schedule. I think it is important the trains run on time in the Senate. That is why I have worked personally very hard with the Democratic Senators to move legislation. If a Senator has four amendments, can he get by with two? You ask for 45 minutes; can you squeeze your time down and take half an hour? As a result of that, we have been able to do some really good things. It is not because of me. It is because of the cooperation of the 48 others on this side of the aisle.

That is why Senator DASCHLE and I decided that it would be in the best interests of the Senate to go along with working on Monday starting early in the day, and work all day on a legal holiday, Veterans Day. I told the majority leader here on the floor publicly on more than one occasion that the veterans of America will understand that. They will understand why we have to work on Veterans Day because the work we do here is for them directly.

We are moving along well, even when we are, in effect, jabbed in the eye by being told, you can go ahead and have your Senators jam this time because what we have to do is allow 30 hours of time during supposedly the next to the last week we are in session to talk about four judges. For four failed judgeships, we are going to spend 30 hours beginning at 6 o'clock on Wednesday until midnight on Thursday.

I personally thought that wasn't the way to run the Senate. I think as history judges, history will agree with me. What is there that would create the desire to use our time to talk about judges? Senator LOTT has said that there are more important issues. When he was majority leader, he said when he went home no one ever asked him about judges.

Rather than have the majority run the Senate today, as they want, I want everyone to understand that we have a voice in what goes on around here. We are in the minority—51 to 49. We are not too far behind the show here. Had it not been for the untimely death of the Senator from Minnesota, Paul Wellstone, it probably would have been 50 to 50. But it isn't. Paul Wellstone was killed. His death was untimely, and I grieve for him often. But the fact is that we also have a say in how this place is run.

Mr. LEAHY. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. REID. I will yield for a question for up to 1 minute without losing my right to the floor.

Mr. LEAHY. Mr. President, I heard the Senator's question about delaying on this question of judges. Could it be that our friends on the other side, having blocked 61 of the President's nominees usually because of one Republican's objection, are concerned that Democrats have helped confirm a record number of President Bush's nominees, has stopped less than any President in recent history, and that maybe they want to obscure their own record and not be in the position to praise ours?

Mr. REID. Mr. President, on this floor, I have defended, advocated, and commended my friend, the senior Senator from Vermont, for his handling of the Judiciary Committee. It is a very difficult committee. But he has handled it masterfully. He has been fair.

As indicated by the record of accomplishments of President Bush, who is now in office, to look at the accomplishments of the Senator from Vermont, one need only look at what President Bush has accomplished with his judiciary. Mr. President, 168 of his judges are now serving lifetime appointments. Four were turned down. That is 168 to 4.

I would like you to put that chart back up.

I want my friend to understand what I just said. What I said is that the unemployment rate has gone way up; impoverished rate, way up; uninsured, way up; budget deficit, way up; national debt, way up; and, judicial vacancies, down.

Why are we going to spend 30 hours—not on the national debt, not on the budget deficit, not on unemployment, not on the impoverished, not on the uninsured—on 4 judges who have been turned down—4 of the 168? We are going to spend 30 hours of the Senate's time with the lowest judicial vacancy rate in about 15 years.

I say, through the Chair to my friend from Vermont, that I hope he holds his head high, as he knows he does, in working his way through these judges. Frankly, some of these judges I have not been wild about voting for, but I believe the President of the United States has a lot of latitude. But I also believe in the Constitution of the United States. This little document says Senators have the role of advising and consenting to the President's actions in certain cases, and judges is one of them. We have taken our constitutional prerogative and on four occasions said no, these are not people who should serve in the U.S. court at a level they are seeking.

I say to my friend, rather than spending our time on the unemployed, on impoverished people, on uninsured people, on the budget deficit, on the national debt, all of which are skyrocketing—this is not a close call. We had a surplus of $7 trillion. We now have debt of $5.6 trillion. Figure that out. Does this deserve a few minutes talk? What about the deficit? We will have the largest deficit in the history of our country this year. People are out there underinsured, uninsured, and poor. What is happening in America today, I am sad to report, is the rich are getting richer and the poor are getting poorer.

I spent time talking about the unemployed today. It would be nice to spend a little time talking about the unemployed. But no, we are going to take 30 hours, from 6 p.m. on Wednesday until midnight on Thursday, talking about how badly Miguel Estrada was treated; it was awful what we did to that man; We asked him to fill out a form; We asked him to give us his memo that he prepared at the Department in the Solicitor General's Office. No, he could not do that—no way. We picked on that man so badly. What a shame. It seems, if he wants the job, he should fill out the application. People are saying this guy is something, he is great. Well, if he is so great, let's see what he said in his memoranda in the Solicitor's Office. It is not as if he is out of work. He is a man with one of the best jobs in Washington. I don't know how much money he is making, but it's lots.

Then we had Priscilla Owen. The President's own lawyer, Judge Gonzales, who served on the Texas Supreme Court with Priscilla Owen, said she should not be there, basically. That was an opinion he wrote. Now they are trying to remedy that situation. She also has a job.

Then a man by the name of William Pryor wants to be a Federal judge. One problem: He has a record that is embarrassing. I don't know why they put him in. That was an easy vote because his record is so bad.

Then Judge Pickering. I wish we could have done something to help Judge Pickering because of my high regard for TRENT LOTT. I think the world of TRENT LOTT, and Judge Pickering is from Mississippi. Judge Pickering is from Mississippi. His son came to speak to me—a wonderful young man. But his father has a bad record. He is a Federal district judge. He should stay there and be happy. But he wants to be a Federal circuit court judge. Every civil rights group in America opposed that—every one—because of what he had done while he was a judge.

I say to my friend, through the Chair, the distinguished Senator from Vermont—my friend—I compliment him, I applaud the job the Senator has done in representing not only the State of Vermont but the State of Nevada and the rest of the country in a dignified way. The Senator knows he has an obligation, even when he gets the worst of the worst. We have been very careful.

We make sure there has to be a unanimous vote out of the Judiciary Committee. We follow that almost perfectly. We look for certain things to do, a unanimous vote by our people that serve on our committees. The Senator has done a wonderful job.

I ask my staff to put on the board the chart about judges. I am not on the Judiciary Committee, but I have learned a lot about the judicial committee. This bill, of course, deals with the Federal Judiciary. One section of this bill deals with that, and we will get to that in more detail.

I failed to mention something important earlier. According to Estrada's financial disclosure forms, he makes about half a million a year where he now works. So we are going to spend 30 hours dealing with how poorly this man, who makes half a million a year, is treated—not talk about Americans making $50,000 a year; and not, as I talked about earlier today, about the jobs.

There are a few jobs being created in certain areas. From the Challenger firm, job creation was heaviest in the sectors where the pay was lowest: Retail, temporary, bars and restaurants, making weekly earnings of $366. So they work 10 weeks and they make not much money. That is $3,066; about $15,000 a year. That is the highest paid—in retail. The bars and restaurants make $225 a week.

I don't think there should be a lot of tears shed on Miguel Estrada because he makes $500,000 a year. I don't know the salaries of Pryor, Pickering, and Owen, but it makes these jobs that are being created look pretty bleak.

Before I get off the subject, I will point out some Clinton circuit nominees who were "well qualified" by the American Bar Association, who were blocked from being confirmed or delayed by Republicans who voted against them. Allen Snyder, never given a vote; Elena Kagan, never given a vote; Merrick Garland waited 559 days; Sonia Sotomayer, Second Circuit, 494 days; Robert Cindrich, never given a vote. Stephen Oaslofsky, never given a vote; James Beatty, never given a vote; Andre Davis, never given a vote; Elizabeth Gibson, never given a vote; Alston Johnson, never given a vote; Enrique Moreno, never given a vote; Jorge Rangel, never given a vote; Kathleen McCree Lewis, never given a vote. We had cloture votes with Berzon and Paez; there were other filibusters previous to that.

As Senator DASCHLE said when we took over the Senate, it was not payback time; we would work to get judges approved. We have done that. It is the lowest vacancy rate in many years. We have turned down 4 and approved 168.

Some time ago, within the past hour or so, I said I got a letter from a woman who lives in Las Vegas. She wrote to me:

> Dear Senator REID: On July 2nd, 2003, I became a displaced airline worker after 38 years as a TWA, now American Airlines, flight attendant. I received no severance pay. My unemployment benefits will expire January 2nd, 2004. Congress has passed new legislation which made December 28, 2003, the cut off date for temporary extended unemployment compensation. After that day, there will be no more extended unemployment compensation extensions. I'll miss the deadline for extended unemployment benefits by five days. I'm a single woman and sole supporter. I have no skills applicable to this difficult job market, and my age makes an already bad job market even more limited. It will take time to learn skills to find a suitable job. Extended unemployment benefits will be needed for my very survival. I ask you to please support Senate bill 1708 which will extend temporary unemployment compensation benefits and provide additional unemployment benefits for those of us who can't find jobs.
>
> Thank you for your consideration in this matter.

It is important to be straight with the American people. The administration may be able to put out press releases declaring a dismal record a successful one, but the people know better. They know the administration's plan is not working. They know it from their own experience or from a friend, neighbor, or spouse who is unemployed and unable to work, from the overcrowded or rundown school their children attend, from the hours they spend in traffic every day.

Mr. President, $355 billion is a lot of money to invest in a plan—any plan—to create jobs, but it is a plan that has failed. Instead of trying to turn a failure into a success by press release, and nothing more, this administration owes the American people a new course, a new plan that will actually put them back to work.

I have spent time going over the job creation of other administrations and what has happened in this administration. It is not a pretty picture, and that is an understatement. It is not a pretty picture. In this administration, for the first time, there has been job loss going back to the Hoover years. That is not good. That certainly is not good.

This bill is something that is important. It is important. It is also important to recognize we have an obligation as a Senate to work to try to get things done. But there have been efforts made in recent days to show how little we can get done. Does the majority think they are dictators as to what happens around here? They can say: We are going to have votes. Come on in, we are going to have votes. They can have votes, but not when they want them, if that is what they want to do.

As the Presiding Officer has learned in his short tenure in the Senate, one Senator can really mess things up around here. We need cooperation. We need people to work together. We do not need to be told, "Come on in Monday, we will vote." "What time?" "We don't know." "What time can people go to their events, if at all?" "Well, we will find out later."

I hope the ensuing days will include us a little more in what is going on around here. It may not be something the majority wants to do, but I am saying it is something the majority has to do. The majority has to work with us or nothing gets done.

I can say from experience the majority, which was the minority, pretty well understands that because they were able to stop us from doing lots of things. As the Senator from Kentucky pointed out this morning, when they, the Republicans, were in the minority, they did a good job of stopping us from doing things. We had difficulty passing appropriations bills. We got three passed. We have cooperated, and there have been 10 completed. That is because we have cooperated.

Because of us, the minority worked with the majority, and we will continue to do that at a subsequent time. But we want to be involved in what is going on around here. As I said, it is easier to be a dictator, to be a tyrant, to just tell us what we are going to do. That is not how the Senate works. You need to work with us. That is what this is all about today. You need to work with us. Because if you think you can just march down any road you want to go, you are going to find roadblocks in that road.

We have worked to pass important legislation, and we will continue to do that. Bills have been done and the budget was done this year because we worked to help them get done.

I want, before we leave this judges thing, and talking about why I think it is important to talk about unemployment, about jobs, to mention Judge Pickering now makes about $155,000 a year as a district court judge. Supreme Court Justice Owen makes $113,000. William Pryor, as attorney general of Alabama, makes $125,000. That pales in comparison to Miguel Estrada.

These are the four, the "Big Four." We are going to spend 30 hours on the Big Four. The Big Four make a total of about a million dollars a year, and we are going to spend 30 hours lamenting how poorly these people have been treated, and we will not spend 30 seconds talking about the unemployed of this country, people who are out of work for an average of 5 months.

We have this administration, after years of job losses, coming forward and saying: Oh, we finally got it. Everything is in shape. We have had two huge tax decreases, and we were supposed to create millions and millions of jobs. We need 150,000 just to keep up with population growth. But we are not going to talk about that. We are not going to talk about the economy. We are going to spend 30 important hours of this body talking about judges—four judges—and how poorly they have been treated: Pickering, Estrada, Pryor, and, of course, Owen; 30 hours. It does not seem fair to me.

I repeat, more poor people, more unemployment, more deficit, more uninsured, and we are going to spend 30 hours telling how sad it is a man making $155,000 a year did not get a promotion, that a woman making $113,000 a year, whom the President's own lawyer does not think is very good, and an attorney general who makes $125,000 a year, plus the star of the lot, Estrada, who makes half a million dollars a year—we are going to spend 30 hours on them.

We do not have time to talk about the minimum wage because they make $5.15 an hour—$5.15 an hour. Why, if they work real hard, they will make over $40 a day. If they are lucky enough to work all week, they will get $200—$200—in a week.

Well, if that is not enough for them, let them find another part-time job; let them find another minimum-wage job. There are lots of them. Well, not as many as you would think. They are kind of hard to find, especially if you do not have a car or you can't pay the bus fare to get there. But we are going to spend 30 hours talking about 4 people who make a total of a million dollars a year, and we are not going to spend 5 minutes on the approximately 9 million people who are out of work in America today. Some people have been unemployed so long they do not even count them on the unemployment rolls anymore.

I wonder if it is important that we spend a little bit of time back here talking about education. We know how difficult it is for parents to send their kids to college. I have talked about that a little today. For one school, tuition is $41,000 a year.

Public education. I think the highest is about $18,000 a year. But it is very expensive. In Alabama, I think they are raising the tuition there by 30 or 40 percent to help pay for some of the shortages they have in the State budgets. I wonder if we should spend a little time talking about education. I think it would be a good idea.

I have a little school named after me in Nevada. It is a small school in Searchlight. I am proud to have that school named after me. It is a better school than the one I went to, at least physically. Where I went to school, it was a little different than now. But that little school needs a lot of additional things they do not have there. It is part of the very large Clark County School District. The Clark County School District, as I said, has about 270,000 students. They are fighting to build new schools, hire new teachers. Last year, they had to hire about 3,000 teachers just to keep up with growth.

Figure that out: Hire 3,000 new teachers. That is very hard to do. That is only 1 county out of the 17 counties in Nevada. Shouldn't we spend a little time talking about school, about education? Shouldn't we talk about what helps our public educational system instead of tearing down our public educational system?

I don't know about how other people feel. But for me personally, other than my immediate family, the most important people in my life have been my teachers. They have altered the way that I think. They have changed who I am. Why did I go to law school? There was no lawyer in Searchlight, of course; none in Henderson where I graduated high school. I went to law school because of Mrs. Robinson, a part-time counselor and part-time government teacher who pulled me out of class when I was in junior high school. She said: We have looked over all your grades and all your aptitude tests. You should go to law school.

That was it for me. Mrs. Robinson told me I should go to law school, and I was headed for law school. That was it. I was going to become a lawyer. I had never been to a courthouse, never met a lawyer. But she told me I should go to law school.

I feel very strongly about the positive nature of our public educational system. I think we belittle teachers far too much. Teachers are so important. We have to give them better tools with which to teach. We need to build smaller schools. I called Bill Gates about a month ago. Bill Gates gave a very large grant to New York's public school system. The reason I called him is because he is getting it right. His money is only going for the development of small schools.

The problem in America today is not large school districts; it is large schools. Clark County is an example. We have several high schools that are about 5,000 students large. Why do they build large schools? Because they are cheaper to build.

We know the learning environment in a very large school is extremely difficult. We need to come up with some way of having school districts build smaller schools. It has worked before. One of the leading advocates of small schools in America is a woman named Deborah Meyer. She did wonderful things in New York. Bill Gates, as I said, is a very generous man, and he is spending some of his great wealth in making kids' lives better. He will do that with the smaller schools he is helping to build, to develop. That is so important.

There are areas in this bill that deal with education in many different ways, grants to different educational institutions, things of that nature, that certainly help what we do with education in America today. As a result, it is important we talk about that.

This bill probably needs to be talked about a little more anyway. It has wonderful people on the committee, the subcommittee. There is tremendous work that is done. As I indicated, the bill covers many different areas. I talked about some of them.

When we talk about education, one of things this bill deals with is the National Childhood Vaccine Injury Act, which is so important. The whole section we have been dealing with in the Justice Department is extremely important in this bill. I haven't talked about it, but the Antitrust Division is so important.

I know my friends in the insurance industry won't like this, but talking about antitrust, I think one of the areas that needs to be changed and we need to deal with in legislation is to have the insurance industry subject to the Sherman Antitrust Act. Most people don't realize that the only area other than professional major league baseball that is not subject to the Sherman Antitrust Act is insurance. That came about during the Depression by Nevada Senator McCarran and a man from Alabama, Ferguson. They said that things were bad during the Depression and that insurance companies should be able to meet and—this is my word, not theirs—conspire, be able to fix prices and not be subject to the Sherman Antitrust Act.

That has been the law for almost 70 years. It is not a good law. Insurance should be no different than any other business. They should be subject to antitrust laws. They could live within the confines of that law just like other businesses do. There is no reason the insurance industry is not part of regular American commerce. They should be subject to the Sherman Antitrust Act. That is why in this bill, in the Antitrust Division, there is a huge amount of money spent there. This year it will be about $142 million. That is a ton of money. It is for a good cause. But I wish that the insurance industry was subject to the antitrust laws of the country.

This bill funds, for example, the national census. The census is critical to assuring taxpayer dollars are distributed fairly in Federal programs. This is so important to Nevada because, as I have already discussed, it is a rapidly growing State. Because we are a rapidly growing State, if you don't change the numbers that you base Federal program assistance on, you don't do it until 10 years has gone by, we suffer greatly. The State of Nevada is the fastest growing State in the Union. The census figures are important to us. But we wish they would be reviewed more often than what they are.

The condition of many public schools is dismal. We have a high dropout rate in Nevada, one of the highest in the country, one of the lowest graduation rates. This is nothing I am proud of, but it is a fact of life. We need to be working on this. And we don't do well in national reading, writing, and math tests. Per pupil, Nevada spends less money on students than all other programs. Why? Because we spend so much money building schools.

The former superintendent of schools, a wonderful man who was superintendent of schools for many years, said he was more of a construction superintendent than an education superintendent. That is the way the new superintendent is. Carlos Garcia, the new superintendent of schools, spends far more time in construction-related problems than he does in education because he has to build more than a new school every month.

So there is no easy way to fix the problems facing Nevada schools, except help us with school construction. We need it and other States do. Schools are primarily the responsibility of individual States. We know that. There is only so much the Federal Government can do to help, but the education of our children must remain one of our top priorities because they are the future of this country. We have to give them the tools they need to succeed. We have tried to do that with Leave No Child Behind.

I believe many of Nevada's problems stem from the fact its high growth rates prevent it from receiving its fair share of Federal education funding. Nevada, and Las Vegas in particular, has the fastest growing population in the entire Nation. As a result, we find ourselves in a never-ending race to fund the growing demands for education. That is why the legislation this bill deals with, the census, is so important to us. Our schools struggle each year to make room for new students. Despite all this, Nevada is last in Federal per-pupil funding. It is because of the cost of building new buildings.

A recent Las Vegas Review Journal article makes a comparison between Las Vegas and Buffalo, NY.

According to the article, Buffalo received about $716 in low-income title I funding per child, while Las Vegas received $454. Why? It was distributed, despite the fact that Buffalo loses about 2,000 students per year, while Las Vegas had to build more than a dozen new schools last year to make up for growth. Those schools are too big, as I have already indicated.

I want to reiterate that the high growth problem is unique to Nevada. But it is interesting, schools in other States also face budget restraints for high population rates. Despite the rapid growth, the Census Bureau does not use statistics to reflect that expansion. The formulas that allocate Federal education dollars usually don't factor high growth rates into the calculations. So schools in Nevada and elsewhere are challenged even under the best fiscal conditions.

One can imagine how difficult the situation is in a time of record Federal and State budget deficits like we have experienced. All States deserve their fair share of Federal education dollars. It is an issue of fundamental fairness. I hope we will address the problem of proportional funding in a comprehensive manner the next time we revisit the No Child Left Behind Act, and I hope that is soon.

In the meantime, I hope we can correct a similar flaw in the way we fund Head Start. Throughout its 38-year history, Head Start has helped put millions of at-risk children on a path to success, giving them the social and academic skills they need to succeed in elementary school. It is a text book example of a Federal program that has worked. Really, Mr. President, it is a holistic approach. This holistic approach addresses many of the underlying causes of poor academic performance by providing medical services and guidance for parents of at-risk children. But State budget crises have placed Head Start programs under siege, along with all other aspects of public education, and programs in high growth States are among the hardest hit.

That is why I introduced the High-Growth Head Start Assistance Act along with Senator ENSIGN. That bill would reward high-growth States, such as Nevada, for the commitment to

Head Start by ensuring that programs in their State receive their fair share of Federal funds. Congresswoman BERKLEY introduced a similar bill in the House. I applaud her for her leadership on this issue.

This bill would make a difference in the lives of thousands of at-risk children in Nevada and across the country, and it would address the problem of inadequate census data. Most important, it represents a small but significant step forward, fulfilling the promise we made 2 years ago to leave no child behind; and in those 2 years, we have left lots of them behind.

As we continue consideration of the Commerce-State-Justice bill, the bill which funds our census, it is critically important to keep in mind the impact this small program has on the fundamental fairness of other important programs like education.

Mr. President, one of the things that I want to talk about is what has not been done in this legislation as it represents tribal trust fund litigation. This bill provides $3.06 million for tribal trust fund litigation. But it also directs the Department of Justice to seek reimbursement of these funds from the Bureau of Indian Affairs.

As we consider this bill, it is important to remember how and why these litigation expenses have been incurred—and the injustice done to Native Americans.

Filed over 10 years ago was Cobell v. Norton, a class action lawsuit in the district court in Washington, DC, to require the Federal Government to account for billions of dollars that belong to approximately 300,000 American Indians that has been held in trust since 1887.

On September 25, 2003, the U.S. district court, Judge Royce Lambert, ruled that the Government breached its trust obligations and has directed the Secretary of the Interior to conduct a full accounting of the trust money.

The U.S. has spent nearly $1 billion on this case.

There is no argument that the U.S. Government failed the Indian people in managing this trust in a debacle that has spanned more than 100 years.

Nobody disagrees that at least $13 billion has been generated from Indian lands for the life of these trusts—without interest. That is a huge number. At least $13 billion has been generated from Indian lands for the life of these trusts—with no interest.

Yet none of this money has ever been accounted for by the Department of the Interior.

We don't know how much of this money has reached the beneficiaries. We don't know how much money shall be allocated to each beneficiary. But we do know that we have obtained this extraordinary resource from the Nation's American Indians, without an accounting.

Moreover, in the Department of the Interior appropriations bill, language has been attached that will stop the accounting of these funds.

As Senator DASCHLE stated on the floor during consideration of the Interior appropriations bill, the rider in place tells the court how it must construe existing law and denies account holders a full accounting of their trust fund moneys and other assets.

I don't understand how, in one appropriations bill, our Government can block all litigation of this matter and, in another appropriations bill, fund the litigation of this matter. They fund it not within the Justice Department, but out of the poor Bureau of Indian Affairs, which is broke to begin with.

Rather than enacting legislation that is not only unconstitutional, but also will serve to delay an accounting of these trust funds, we should address this in a fair manner. I do believe there are some who are doing this only to delay the accounting of these trust funds, and for that reason only.

Once tribes have a full accounting of their own trust funds, they should be permitted access to those funds. I have tried to do this for the Western Shoshone people of Nevada in the Western Shoshone distribution bill, which passed out of the Senate earlier last month. This will distribute almost $150 million to the Western Shoshone people.

Last year, the Senate unanimously passed this bill that will, at last, release the funds that the U.S. has held in trust for the Western Shoshone people for almost a quarter century. But the House was unable to complete its consideration of the bill before Congress adjourned.

Historically, the Western Shoshone people have resided on land within the central portion of Nevada and parts of California, Idaho, and Utah. For more than a hundred years, they have not received fair compensation for the loss to their tribal land and resources.

In 1946, the Indian Claims Commission was established to compensate Indians for lands and resources taken from them by the United States

In 1962, the Commission determined that the Western Shoshone land had been taken through "gradual encroachment."

In 1977, the Commission awarded the tribe in excess of $26 million. The United States Supreme Court has upheld the Commission's award. It was not until 1979 that the U.S. appropriated over $26 million to reimburse the descendants of these tribes for their loss.

Like the hundreds of thousands of American Indians who are entangled in this accounting mess, the Western Shoshone are not a wealthy people. That is an understatement. A third of the tribal members are unemployed—a third. For many of those who have jobs, it is a struggle from one paycheck to the next. Wood stoves often provide the only source of heat in their aging homes.

Like other American Indians, the Western Shoshone continue to be disproportionately affected by poverty and low educational attainment. The high school completion rate of Indian people between the ages of 20 and 24 is dismal.

The American Indians have a dropout rate of 12.5 percent higher than other Americans.

For the Western Shoshone, the money contained in the settlement funds could lead to drastic lifestyle improvements.

After 24 years, the judgment funds still remained in the U.S. Treasury. The Western Shoshone have not received a single penny of the money—their money. In those 24 years, the original trust fund has grown to well over $144 million.

It is long past time that this money should be delivered into the hands of its owners. The distribution bill will provide payments to eligible Western Shoshone tribal members and ensure that future generations of Western Shoshone will be able to enjoy the benefit of the distribution in perpetuity.

Through the establishment of a tribally controlled grant trust fund, individual members of the Western Shoshone will be able to apply for money for education and other needs within the limits set by a self-appointed committee of tribal members.

I will continue my ongoing work with the members of the Western Shoshone and the Department of the Interior to help resolve any current land issues.

The Western Shoshone have affirmed and reaffirmed their choice to have these funds from their claim distributed without further delay.

They have voted twice—and we have voted unanimously twice—they voted 94 percent twice to decisively distribute this money. Members of the Western Shoshone gathered in Fallon and Elko, NV, in May of 1998. They cast a vote overwhelmingly in favor of distributing the funds. Again, about 4 years later they cast a vote overwhelmingly in support of the distribution of the judgment funds at a rate of 100 percent per capita—again, only a handful.

The final distribution of this fund has been lingering for many years. I have been assured by the House Members from Nevada that they will do everything within their power to push this bill through the House. We need it out of the House.

The Western Shoshone distribution bill is an example of legislation that—unlike the Indian trust rider that was attached to the Interior appropriations bill—will actually benefit American Indians across the whole Nation.

Mr. President, the legislation that is before this body is important. Why is the Senator from Nevada spending now about 2½ hours, or thereabouts—what time was the bill laid down, by way of parliamentary inquiry?

The PRESIDING OFFICER. At 1:16 p.m.

Mr. REID. It has been 2 hours and 35 minutes or 36 minutes. Mr. President, in about 25 more minutes we will be past the so-called Pastore rule. After that, I don't have to talk about the bill. I can talk about the color of the ties. I can talk about the ties in this room. I can talk about the color of people's hair. I can tell how good these court reporters are. I can talk about anything I want. For the next 25 minutes or so, I have to stick with this bill. I am happy to do that.

One of the provisions in this bill is global warming. One of the agencies funded in this bill is the National Oceanic and Atmospheric Administration, or NOAA, as it is called. The bill funds critical research into climate change or global warming. As we consider this bill today, I would like to say a few words about global warming and this administration's stewardship of the environment over the past 2½ years.

This administration's environmental record has gone from bad to worse. The latest bad decision is the rollback of the Clean Air Act which was enacted under a Republican administration more than 30 years ago and has improved the air we all breathe. EPA announced several months ago it is relaxing Clean Air Act requirements to apply to some of our aging powerplants. This will result in more pollution and more greenhouse gases contributing to global warming.

Then when we thought it couldn't get any worse, just last week we learned that the Environmental Protection Agency is likely to drop a number of lawsuits in cases involving powerplants that are polluting our air and contributing to global warming. Global warming is real.

I so admire the senior Senator from Arizona, Mr. MCCAIN. Senator MCCAIN and I came to Washington together in 1982. We were freshmen Members of the House of Representatives. I go to the congressional prayer breakfast—not all the time; my schedule is as difficult as everyone's. I have been to the prayer breakfast in the House and the Senate on a number of occasions. I will never forget the prayer breakfast I went to in the House of Representatives which was led by JOHN MCCAIN. I will never forget the power of that morning.

JOHN MCCAIN talked about the first time they were able to get together and sing Christmas carols. This man spent—I don't know the exact time—about 7 years in a concentration camp. The vast majority of that time was in solitary confinement. This is a man who could have gotten out early. His father was the commander of the naval operations in the area of Vietnam, Admiral McCain.

JOHN MCCAIN could have gone early because of his father. They said to him: You can go. He wouldn't leave without the rest of them.

He was hurt when his airplane went down. His shoulders were broken and a lot of other damage. He was tortured unmercifully. When his shoulders healed, they broke them again.

I only lay this foundation to show that JOHN MCCAIN is a courageous man. As we know, he can be a pain in our side because he doesn't always do what we want him to do, Democrats or Republicans. It doesn't matter to me. It does not take away from my admiration of this American hero. He may do things that I think are wrong, but he does things that he thinks are right. He never does things that he doesn't believe in, as difficult as they are for the Members of the Senate to sometimes understand.

This is a man of great courage and, I have come to learn, of intellect. A demonstration to me of the strength of his convictions is what he has done on global warming. But for JOHN MCCAIN, we would not have debated for 2 days global warming. He forced us to do that. I, of course, would love to do it. I am on the environment committee. I have been chairman of that full committee twice.

Because of JOHN MCCAIN's leadership, the senior Senator from Arizona forced the leadership of this Senate—by the way, he is a Republican—he forced his own leadership to bring this bill to the floor. It wouldn't have come to the floor otherwise.

JOHN MCCAIN knew that the lobbyists, the big powers—the automobile manufacturers and oil companies—he knew he wouldn't win, but he wasn't afraid of a fight because he knows, as I know and the vast majority of Americans know, that global warming is upon us. We saw that with the graphs, charts, and pictures of the icecap shrinking before our eyes. We know. We talked about global warming.

I hope the issue is big enough that we should be talking about global warming. I would like to start this coming Wednesday, the day after tomorrow, at 6 o'clock and go until midnight on Thursday. The people of America would appreciate that more than talking about three judges who didn't get promotions, who are making about $1 million a year, one of whom is making half a million dollars a year. That would not be a bad thing to do with our time.

JOHN MCCAIN said a few weeks ago when he displayed the dramatic photographs of our planet that all we have to do is believe what we see with our own eyes. As the administration made a bad decision to weaken the Clean Air Act, it has made a disastrous decision to ignore the problems of global warming.

I spread all over the record of this Senate my appreciation for the work of Senator JOHN MCCAIN on this issue alone. He is one rung ahead of me on seniority. Why? We came at the same time. We had the same service in the House. Why? Because the State of Arizona has more people in it than Nevada. That is why he is one notch ahead of me.

I have already made very clear how much I admire JOHN MCCAIN and how much I appreciate his bringing global warming before our eyes. Ignoring global warming isn't merely a bad decision; it is also a broken promise to the other nations of the world and a broken campaign promise to the Americans.

The administration talks about the difficulty of reducing greenhouse gases, but it isn't even willing to take the easy step of requiring our vehicles to be more fuel efficient. We need leadership from the White House. Reducing fuel efficiency is important. Requiring greater fuel efficiency would not only reduce the gases that cause global warming but also help us break our dependence on foreign oil which threatens to undermine our national security.

When it comes to producing electricity, we need to encourage the development of renewable resources, such as geothermal power, solar power, and wind power.

After I finished law school and moved back to Nevada, my wife and I decided to take a vacation. It was a wonderful trip. We had our little Valiant station wagon. We put our two little children in the back seat. I am sorry to say in those days there may have been seatbelts there but people did not use them. The kids laid down in the back of the station wagon and played around. We would never do that now but we did it then.

It was a wonderful, pleasurable trip we took to Yellowstone. I can remember lots of it, but what was most impressive to me about Yellowstone National Park was Old Faithful. A magnificent national treasure is the geyser we call Old Faithful. It was only a few months ago that I had a chance to go back. It had been many decades—I should not say many decades but it had been decades since I had been there. I had a chance to return to Yellowstone.

I only had a part of a day. I was doing something in the Big Sky area for Senator MAX BAUCUS and we had a little downtime. We had a few hours. I was asked: Where do you want to go? I want to go see Old Faithful.

So we went to the geyser farm, as I call it, and it was tremendously interesting again. The geyser erupted a few times while I was there, spewing thousands of tons of boiling water, 18 stories into the air, as high as an 18-story building. It is power. It is awesome. But even more impressive than this power is its reliability. Since man first set eyes upon Old Faithful, it has erupted without fail every 90 minutes or so, give or take a few minutes but very close to that. It is a marvel of nature, but it is not an isolated phenomenon because it sits among the largest concentration of geysers in the world.

When we went there this last trip, we took a little stroll. They have a little wooden path people can walk around in the geyser farm, and it was interesting because the buffalo would come and lay right near one of the geysers. We asked the guide who was taking us around, why would a buffalo walk through these people and lay down by a geyser? The reason was it kept the bugs off of him. Whatever insects bother the buffalo, they do not do it around all of that steam and stuff. So it is a marvel of nature, and they are studying it all the time.

Out west, though, we are surrounded by sources of reliable power—mighty rivers, the brilliance of the Sun, the force of the wind and the heat within the Earth itself. These renewable resources can free us forever from energy shortages and unexpected price increases.

More importantly, they can produce reliable electricity without pumping more carbon into the atmosphere, carbon that contributes to global warming. As Nevada and other States begin to harness their power, we are forging a path that the Nation should follow.

The geysers that we saw at Yellowstone come from deep within the bowels of the Earth. In Nevada, we are fortunate to have not geysers but we have a lot of very hot water that is under the surface of the ground. During the times of the pioneers, these really became a problem until people understood what was going on. For example, on one of the immigrant trails that was traversed often, they would leave what is now Utah and come across an awfully difficult desert and they would get up around the place we now call Gerlach and they would see this beautiful water, big pools of water. The early travelers would rush to that little pond, that pool of water as big as this circle here that covers the members, the staff and the Presiding Officer, and they would die. It was boiling. It was hot. They were dying of thirst. They would rush in and they could not drink it. So they learned, as they had to, as Senator MCCONNELL said earlier today; they would have to drain the water from the big pool and let it cool before the animals could drink it and the people could drink it.

We have hot water that goes from Gerlach clear down below Reno to the Carson City area and beyond, and we have geothermal power that has already been developed. We are known in Nevada as the Saudi Arabia of geothermal, but the problem is that the tax incentives for geothermal and solar simply are not there. It is for wind. Wind is as cheap now to produce as using standard fossil fuels. We hope in this Energy bill that is being worked on that the tax section will allow geothermal and solar to have the tax credit that wind has. If we did that, it could change things dramatically.

The President is talking about hydrogen. Hydrogen means nothing if we cannot produce it by alternative energy. We have to produce our hydrogen fuel by either wind, the Sun, or geothermal. Otherwise, we are just burning huge amounts of fossil fuel to take care of a problem that will only create more problems. So in Nevada we are looking forward to the tax incentives so we can cheaply produce electricity.

Senator ENSIGN and I have worked hard to stop the dangerous nuclear waste coming to Nevada, Yucca Mountain. We want the State to be a proving ground for renewable energy. Renewable energy is good for Nevada because it will create jobs and help our consumers. It is good for America because it will slow global warming. The work that is being funded in this appropriations bill includes convincing evidence that global warming is real. What more is needed is hard for me to comprehend. We have studied too much.

We have all heard the story about the frog that is placed in a pot of water. So far, so good. When the water is brought to a boil, the frog does not know it, so the water keeps getting hot until it scalds him. I hope, unlike the frog, we take notice of global warming before it is too late.

Global warming is here. It is not only like the frog, it is like the ostrich that hides its head in the ground not seeing what is going on around it.

Before I start another section talking about this bill, I want to again remind everyone what is going on today.

The PRESIDING OFFICER (Mr. TALENT). If the Senator would suspend for a minute, the Senator asked before at what point the bill was laid down. The Chair can now inform the Senator the bill was laid down at 1:16 p.m.

Mr. REID. I appreciate that very much.

One of the things I have been concerned about for many years is the pay of judges in the Federal judiciary. I have had the good fortune of sending to Presidents the names of attorneys who are now Federal judges—very proud of every one of them. I have worked with Senator ENSIGN, during the time that President Bush has been President, in sending judges that Senator ENSIGN has had me take a look at.

We have a fine Federal judiciary in the State of Nevada, those who Senator ENSIGN and I have worked on and those who have come before. I think the thing that concerns me, though, about those judges, they should be paid for. To get the high quality of people we want to be Federal judges is not easy. Many people who I went to, Senator ENSIGN went to, who we thought would be good Federal judges, could not do it simply because they could not afford to do it.

This bill provided for the funding for the judiciary. I am pleased that the bill provides a 16½ percent pay increase for judges. That helps make up for the fact that judges have not received and do not receive annual cost-of-living adjustments. The 16.5 percent increase helps to right this wrong.

I would like to take a few minutes during our consideration of the bill to discuss the important issue of judicial pay. Before I came to work in the Congress, I practiced law. I am proud to be a lawyer. I have great respect and appreciation for the law and those involved in the judicial process. The very reason there has been such a great deal of debate on Federal judicial nominations is precisely that these positions are so important to the administration of a fair and effective legal system.

The individuals chosen to serve on our Federal bench make lifetime commitments to public service. Increasingly, however, that commitment comes at a fiscal price. In fact, the real pay for these jobs has declined drastically. The compensation for Federal judges has declined by 25 percent in the last three decades.

In testimony before the National Commission on the Public Service, Supreme Court Justice Stephen Breyer stated that while the real pay for Federal trial court and appellate court judges has declined by about 25 percent, there has been a 12.4 percent increase in real pay that the average American worker has enjoyed.

Justice Breyer also drew attention to the fact that since 1993, when Congress last comprehensively revised Federal salary statutes, real judicial pay has declined by approximately 10 percent.

How can we continue to attract the best of the best when low salaries are offered for lifetime tenures? The answer is simple. In order to continue to attract and retain the most talented men and women to the Federal bench, the salaries must be raised. The Founders recognized that Federal judicial compensation was integrally tied to judicial independence.

In 1989, Congress linked the salaries of its own Members to senior executives and to Federal judges. As a result, Federal judges did not receive cost-of-living increases for several years in the 1990s. Some of my colleagues may say there is no need to maintain "inter-branch pay parity." However, there are fundamental differences between our respective branches.

While a judge and Congressman may each make the same salary, they do not each face the same financial future. In fact, the Federal bench is threatened by some of the best and brightest choosing to take early retirement as they are wooed away by the private sector.

Even the Justices of our highest court, the U.S. Supreme Court, make far less than leaders of educational institutions and not-for-profit organizations. Salaries of Federal district court judges and deans of prestigious law schools used to be competitive with one another. Not today. Today, according to a survey conducted by U.S. News and World Report, the average salary for law school deans is $301,639, about twice as much as we pay our Federal district court judges.

I believe the deans of our schools are important but no school—Harvard, Yale, Stanford, none of the big name schools, none of the small schools—less prestigious schools, I should say—none of them has a dean who is more important than any Federal district court judge, none of them.

We pay our judges substantially less than either England or Canada. Our Constitution creates lifetime appointments to the Federal bench. Many men and women who accept these positions are giving up far more lucrative careers. Some suggest we may rely upon our judges' devotion to public service to keep them at their posts while we allow their purchasing power to dwindle. However, we should rely on their public-spiritedness only so far. Although they are aware the salaries are not of the level these individuals could demand in the private sector, it is only fair that they be adequately compensated.

Legislation to increase their salaries and sever them from yearly congressional authorization restores both fairness and the appeal of public service to the Federal judiciary by improving compensation. Better compensation means better quality judges, and quality judges instill greater public confidence in the Federal courts. Raising Federal judicial salaries by 16.5 percent and limiting the annual congressional authorization of cost-of-living adjustments for Federal judges helps to secure judicial independence.

Those who support the increase in compensation for Federal judges include the American College of Trial Lawyers, the United States Judicial Conference, the American Bar Association, the National Commission for Public Service, and many others.

In an editorial on May 5 of this year, the New York Times wrote:

> The increase is warranted to make up for the erosion in judicial pay caused by inflation and Congress's repeated withholding of cost-of-living adjustments that are supposed to be routine. A report in January by the National Commission on the Public Service, a study group led by Paul Volcker, the former chairman of the Federal Reserve, said that the purchasing power of federal judicial salaries had dropped 24 percent since 1969. It said the decline was "arguably inconsistent with the Constitutional provision that judicial salaries may not be reduced by Congress." A year ago, the Supreme Court declined to accept a case raising that issue. But it should not take a lawsuit to persuade members of Congress to treat the judiciary fairly. The government cannot match the salaries offered by big-time law firms. But to recruit and retain quality judges—and for the sake of fairness—Congress needs to provide salaries that bear a reasonable relationship to other professional opportunities. As part of the package, judges should be required to forgo privately financed junkets that cast an ethical cloud on the courts, as Senator Leahy has previously proposed. These are matters that transcend the ongoing partisan battle over President Bush's hard-right judicial nominees.

As we consider the funding bill for our Judiciary here today, I think it is important to highlight the issue of judicial pay.

This bill takes an important first step of providing a pay increase to make up for the many years that judges received no cost of living adjustment.

Going the extra step of delinking COLAs from congressional pay would benefit the administration of justice for the judges that serve our country.

Mr. President, the 3 hours are up. We are no longer bound by the Pastore rule. I can talk about anything I want to talk about now, but the first thing I want to talk about is the Senate schedule.

I participated in a press conference on Friday right upstairs. I thought we laid out our case pretty well—Senator DASCHLE and I and Senator STABENOW.

We were very concerned about what was going on in the Senate. I repeated, and I will continue to repeat, it seems so unfair that we would work so hard and cooperate so much to make sure that, at this stage, 10 of the 13 appropriations bills would pass. That couldn't have been done without us.

We were willing to work to complete the other three within the matter of the next few days, and suddenly we are struck with the 30-hour performance that will begin Wednesday at 6 o'clock where we will spend 30 hours on four people we have turned down; lamenting to you how bad things are in America today because Estrada, Owen, Pickering, and Pryor have been turned down. Isn't that just awful?

I was concerned about talking about unemployment, the impoverished, the uninsured, the budget deficit, the national debt, and so we, among other things, demanded we be given half of that 30 hours.

Since that press conference and the unanimous consent agreement that was entered while I was here in the Chamber, we get half of the 30 hours.

I think it is foolish that we are spending 30 hours, but we will take our half and talk about whatever we feel is appropriate.

During the press conference, I said I thought this was the most amateurish leadership I had seen in my years in Congress. I think name calling does not serve the Senate well. Perhaps this Senator could have used terms more descriptive. I didn't want anyone to think we have to resort to name calling. I spend a lot of time on this floor, and I don't want anyone to think less of me for name calling. If I offended the Republican leadership—that is, Senator FRIST and Senator MCCONNELL—by calling them the most amateurish leadership I have seen since I have been in Congress, I apologize for that. I apologize. They know and I know why I was upset. I try never to let my emotions override my mind, but perhaps it did that day. I have read the news articles from all over the country. The press loved "amateurish," the word I used. I apologize in front of the Senate and millions of people by saying I shouldn't have used that word. I don't want to have to resort to name calling.

As I have said, I think it is absolutely wrong that Senator FRIST allows this to go forward. He has his reasons for doing it. I have talked to him. I disagree with those reasons. But please strike from everyone's mind the fact that I used the words "the most amateurish leadership" since I have been in the Congress. I may have thought so for those few minutes I was up there, but it probably wasn't a very good thought.

Again, I apologize. I hope I didn't hurt anyone's feelings. I don't think I can say any more than that. I strike that, but everything else I said up there was just fine.

We have a lot of work to do here.

Why am I on the Senate floor today? I repeat I am here to show the Senate is a body where we have to work together. We have to work together. No one can demand that we be here to vote when no one tells us when the votes are going to take place or what the votes are going to be on. You can't do that. Everything done in the Senate, with rare exception, is done by unanimous consent. It means all 100 Senators have to say, That is OK, let us go ahead and do that. We spend a lot of time here dealing with individual Senators who do not like when we are going to vote, do not like when we begin debates, do not like the makeup of committees—all kinds of things. Everything has to be done by unanimous consent.

I hope when we finish here today people will better understand that Members over here want to work together. We want to be part of good things to happen in the Congress of the United States. But don't take us for granted. Don't think we are unimportant. Don't think we can be pushed around with no say in what goes on around here, because we have a say in what goes on around here. We can do things like I am doing today.

Some of my friends on the other side of the aisle said, Well, we have been told we will have a vote or two early and we can go back to our parade. People who serve in the western part of the United States can't do that. They can't go home today. Right now, if I left to go back to Nevada, if I were lucky enough to get a plane—there is one that leaves at 5:30—if everything left on time, I could get out there by 7:30 or 7:45 tonight. Remember, that is a 3-hour time difference. Coming back this way, it is almost impossible. Coming back this way, if you leave at noon, it is 3 o'clock back here, and you get back here at 8 o'clock at night.

We need to be a part of what is going to go on. If we are going to have votes on Monday, tell us what the votes are. Somebody can make a choice about whether they want to make that vote or not.

Tomorrow is a holiday. It is a legal holiday. We originally thought we were going to work from early in the morning to late at night and get our work done around here. But now we don't know. We don't know. We have to debate 30 hours—we have to rest up for that—starting day after tomorrow at 6 o'clock and spend many hours—30, to be exact—talking about the 4 judges who didn't get the job they wanted.

There are a few more things we need to talk about. One of the things which is important is that on Friday, August 29, as most Americans started a 3-day Labor Day weekend, President George Bush announced he was expanding the United States policy known as the global gag rule which denies United States family planning funds for foreign governmental organizations that use their own funds to counsel, perform, and advocate abortion. Apparently, the President didn't care the Senate voted just 2 months earlier to overturn this rule.

Remember that this wasn't to do abortions but just to educate about abortion. The President didn't realize or didn't care the Senate had voted just 2 months earlier to overturn this rule. Despite that vote, the President decided to expand a policy that violates free speech and endangers the lives of women around the world.

Just days after the President acted to expand this policy, the Senate Appropriations Committee reported my amendment to the Commerce-Justice-State bill and voted to block the expansion of the global gag rule. Prior to the President's action to expand this policy, the gag rule applied only to groups that received grants from the United States Agency for International Development; that is, their family planning program.

During consideration of the State Department's authorization bill in July, the Senate debated this policy and determined it is inconsistent with American values of free speech, and we adopted an amendment offered by Senator BOXER to rescind the rule. The President acted to expand this policy so it would apply to not just one program at the Department of State but to all population programs at the State Department. It is impossible to determine the impact of expansion of the global gag rule at this point in time, but the consequences of the original policy are well documented. Here are some examples.

No. 1, the Family Guidance Association of Ethiopia is the largest reproductive provider in Ethiopia. It operates 18 clinics, 24 youth service centers, 671 community-based reproductive care sites, and hundreds of other sites for health care services. The global gag rule has cost this group more than half a million dollars and has cut off the supply of condoms and other contraceptives even though abortion is illegal in Ethiopia. This group doesn't provide abortion services, but because the organization does not seek to educate policymakers in the country about the role unsafe abortion plays in Ethiopia's staggering mortality rate, it is unable to agree to the gag rule.

Mr. SCHUMER. Mr. President, could I ask my colleague from Nevada to yield for the purpose of a question?

Mr. REID. I will yield to my friend for a question as long as the question doesn't take more than 1 minute and without losing my right to the floor.

Mr. SCHUMER. I want to first tell my colleague I have been watching him in the other room, and he has been doing a masterful job on the CJS bill, and now on what has happened in the first 1,000 days of the Bush Presidency.

An area of particular concern to me, which I know my colleague has touched on, has been the judges. I simply ask my colleague if he says the judicial vacancies—it is on the chart. I can't read it, but I think it is down from 9 percent to 4.7 percent. He has been around here a lot longer time than I have. But does my colleague recall a time when we moved so many—knowing his knowledge of the history of the Senate—judges so quickly and when any President could have gotten such a high percentage of the judges which he has asked for? Does my colleague agree with this? He might want to talk about this at some point. He was talking about the gag rule, but I was so interested in what he said on judges I wanted to come to the floor.

It is ridiculous, when 168 of 172 judges have been approved, to call the minority "obstructionists" given the record they have. I am hearing from many people in New York that we are letting too many judges through.

Mr. REID. I am happy to respond to my friend. I will answer my friend, the distinguished Senator from New York, who is the ranking member of the subcommittee that has the burdensome job of weighing the merits and demerits of each of these judges. It is a difficult job.

The Senator has sifted pretty hard. There have been 168 judges come through your subcommittee of the full committee that have been approved. I say to my friend, the mystery as far as I am concerned is we are going to spend 30 hours starting Wednesday night and going until Thursday at midnight on 4 judges who have not been approved by the ranking member's subcommittee and the full committee.

I cannot imagine how we could do better. We have the lowest vacancy rate in some 15 years. We have approved, I repeat, 168 judges.

My friend is absolutely right. This side of the aisle is being criticized because too many bad judges are getting through. We have made a decision to only take the worst of the worst. That is why we stick together on these so well. We do not turn down everybody. We turned down less than 2 percent.

As I said earlier today, rather than turning down 2 percent, if we turn down 1.5 percent of the judges, would that cut the time down for taking away from valuable Senate time to maybe 25 hours? If we cut the rate down to 99 percent, maybe they would cut it down to 15 hours. Does this mean the Constitution of the United States says we should approve every judge they give to us? We are the minority. There are 49 of us. It does not take a mathematical scientist to tell you they vote en bloc. Once in a while we get a courageous Senator who joins in judges, but that is a rarity.

We have under the rules of this body something called cloture. It is used all the time. It has been used with judges before. We have used very discriminately, rarely, our ability to block judges. We have done it four times. That does not prevent them from getting a vote on the judge. They just have to get 60 votes. They have to get 60 votes. They have not been able to do that. That is why they are lamenting these four.

I don't know if the Senator from New York was here earlier today when I talked about the huge number of unemployed we have in America today, approaching 10 million. Wouldn't it be nice if we spent that 30 hours, or part of it, talking about the unemployed in America today instead of the 4 people who have good jobs? Miguel Estrada makes over half a million yearly, the others make about half a million a year. They are judges and have jobs. None of them are out of work. Rather than spend 30 hours on people who have jobs, shouldn't we spend time on people who do not have jobs? Would it not be better that we spend some time talking about minimum wage? I have talked about it a little bit today. I had to be careful what I talked about the first 3 hours; it had to be directly on the bill. As I told the staff earlier, later I may want to talk about the color of the ties and the color of her pretty shoes. We can talk about all kinds of things. Now the rules are that I can talk about anything.

One of the things that is not just anything is minimum wage. Wouldn't it be nice if people who went to work in interstate commerce in America, which covers it all, got at least $5.30 an hour, $5.50 an hour, or $6 an hour? The rate now is $5.15. They will not give us a vote on that. I would hope we could spend part of that 30 hours on minimum wage.

My friend from Michigan is here. The Senate is a much better place now that we have women in the Senate. I speak from experience. It is a much better place.

Minimum wage is not just employment for a kid flipping hamburgers at McDonald's. Sixty percent of the workers who draw minimum wage are women, and a majority of the women need that money for their families. Would it not be nice if we spent time doing some work for our hard-working people who are doing everything they can to make a living? Most of these minimum-wage jobs certainly have no benefits, no pension benefits, they have no medical benefits. They are bad jobs, but they are jobs. They are jobs the American people need.

It is important we do something that is worth the dignity of the Senate. I don't know how the history books will report this. Here we are, a country that is staggering in debt. We started off with a national surplus when Clinton left office of over $7 trillion. We have now a debt of $5 trillion. When President Clinton was President the last 3 or 4 years, we were actually spending less money than we were taking in. We were paying down the debt. Now we are building the debt. We will have the largest debt in the history of this country this year, the largest deficit.

The percentage of unemployed is going up; poor people, going up; uninsured, going up. Everything we should be working on is going up, and we should be trying to get these percentages down. But we will not talk about that. We are going to talk about judicial vacancies, which are going down. How in the world can people take the Senate seriously when we have a world that is overcome with pollution, crime, kids cannot go to school, public schools are beaten down, old, decrepit, teachers need help, we have a war going on in Iraq—I don't know how many were killed over the weekend—and we are going to spend 30 hours talking about 4 people the dastardly Democrats turned down. How could they vote against these people? We are going to spend 30 hours. How is history going to account for the time we spent on this?

Mr. SCHUMER. Will my colleague yield for the purpose of one additional question.

Mr. REID. I will yield for a question without losing the floor, and if the question exceeds more than 3 minutes I will retake the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Even on the issue of judges, and my colleague is exactly on point, with all these other problems we have, to talk about four judges sounds like a totally misplaced priority. No one puts it better than he.

I ask one other question about another point. To solve the problem of the judges, when we are not able to come together, it would seem to me, and I ask my good friend from Nevada to comment, it is not that we need more talking. The other side will spend 30 hours talking about this, or now maybe 15 because of my friend from Nevada and his astute parliamentary request. Do you think they will say anything new? We have heard the arguments over and over and over and over and over and over again. No one is going to be educated about this. We all know their viewpoint.

It seems to me, and I ask my colleague this question, what we need on judges is not more speeches telling us what our colleagues on the other side of the aisle think—Lord knows we know that. We do not agree, but we know—but, rather, the President and the leaders of the Senate and the Judiciary Committee, sitting down with our side, and asking, Could we come to some agreement on who the judges ought to be? There is the constitutional role of advice and consent which has existed in this country for a very long time, and I tell the Senator as the ranking Democrat, I am never consulted about judges in New York. By the way, in New York we are filling all the vacancies because we have come to an agreement. I do not get every judge I want or even judges who are philosophically exactly like me, but there is some comity and some agreement.

So my question to my colleague is, Doesn't it seem that if they really want to solve the problem on the judges, instead of spending 30 hours repeating, ad nauseam, the same arguments we have heard over and over and over again, that, rather, they would sit down with us and, in good faith, say: How can we come to some kind of agreement instead of what they do say: My way or the highway. If you don't give us all 172, we're mad. I ask my colleague that question and yield the floor back to him.

Mr. REID. I say to my friend, we take an oath right over here, each one of us. We raise our hand and swear to uphold the Constitution of the United States. I think one of the requirements I have is to advise and give consent to the President, as outlined in the Constitution of the United States. I think it would be better for him, but I do not understand this administration. They just want to jam us on everything.

Now, as I said to the ranking member of the committee the Senator from Vermont, earlier today, I do not like all the judges you guys have put out, quite frankly. I do not like some of them, I say through the Chair to my friend from New York. But I understand it is a winnowing process, and we have only been asked to respond to the worst of the worst.

Now, Miguel Estrada, I do not say he is a bad person. All I say is, if he wants a job, fill out the job application and give us the information so we know for whom we are voting. He could be the nicest guy in the world. I never met him. I have nothing against him personally. But he would have set a very bad standard for this country by just saying: I don't have to answer anything. I don't have to fill out this application. Those papers you wanted, no deal. President Bush said I don't have to answer them. I'm not going to answer them. He said: I don't have to give you that information—even though they have been given before, by Bork and others, Civiletti.

So I say to my friend, we, in turning down Estrada, Owen, Pryor, and Pickering, did our constitutional duty in and what we believed were bad people for good jobs. I cannot, for the life of me, understand why we should spend 30 hours talking about those people. As my friend from New York has said, I have heard the speeches—I have been here—about how they have been maltreated, they want an up-or-down vote—even though we had our own judges, and they did not give us up-or-down votes.

I read something from the majority leader today—he sends out to a lot of people e-mail that I get here, among others—that never has there been a filibuster of a Federal judge before. Absolutely false. Whoever gives the majority leader that information should be embarrassed because it is simply not true. I have been on the Senate floor when there have been filibusters. We had cloture motions filed, and we voted on them.

So we are going to go through this deal on Wednesday and into Thursday—a waste of valuable time that we could be spending on these things that are going up that should have been going down, such as the uninsured.

In my first elective job—I was first a city attorney, and that was an appointed job. Many years ago, my first elected job, in 1966, was to be on the board of trustees of the then-largest hospital district in Nevada, Southern Nevada Memorial Hospital. Now it is a teaching hospital. It was not then.

At that time I learned a lot about people who had no insurance. It was difficult. It is so much worse today. Forty-four million people have no health insurance, and we are not spending time talking about that. It is a serious problem.

Ms. STABENOW. Will my friend yield?

Mr. REID. I will yield in just 1 minute.

The poor: America should not be proud of the fact that, as we speak, the rich are getting richer and the poor are getting poorer. I have nothing against rich people. Before I came back here some would say I was rich. I have spent all my money. I don't have much anymore. But I have nothing against rich people. I think it is fine to be rich. But we also have an obligation, as a nation, to do something to take care of people who are poor through no reason of their own.

The homeless: I left my home today in downtown Washington, and I went out for my morning run. Every morning I go by there, and here are these men, and sometimes women. They are asleep—and they are not asleep, I am sure; they are just waiting for the day to go by as quickly as it can. They are poor people. They have no place to sleep. On occasion I see them roll up their sleeping bags and climb into a car and drive off.

Shouldn't we have some time spent on the Senate floor dealing with those people who are sleeping in the Nation's Capital? There are poor people who are unemployed.

I spent a lot of time here today talking about the unemployed. I talked about a program called Nevada Partners, where they work with people who have never had a job—never had a job. There are lots of people who are not kids who are in their thirties and their forties who have never had a job. They can be trained to work. This organization has had over an 80-percent success rate. They train them, they put them out on the Strip where they have good jobs. They have benefits.

But shouldn't we be spending some time dealing with the unemployed, how we can have more programs like Nevada Partners? It would never have started but for the largess of Kirk Kerkorian, a very wealthy man who wanted to start a program. Then the Government took it over.

Wouldn't it be nice if we spent some time on the budget deficit or the national debt and everything that is shown going up on this chart that we should be talking about? But we are going to talk about something that is going down, judicial vacancies.

So I would be happy to yield to my friend from Michigan for a question only, without losing my right to the floor.

Ms. STABENOW. Thank you very much, I say to my friend and colleague and our leader from Nevada.

Before asking a question, I first want to rise on behalf of the people of Michigan to thank you today for coming to this floor and speaking about what is most important to the people I represent.

As you have said so eloquently, this 30 hours we are going to be doing is about four people who already have jobs who want to be promoted.

Well, in Michigan, we, right now, have over 263,000 people without jobs. They are not up for promotions. They do not have work at all because of, primarily, the loss of manufacturing jobs. They are grateful, as I am, that you have come to the floor to speak about this.

I want to just share with you today a few headlines from the papers. I have been traveling around northern Michigan this last weekend, and everywhere I go—Baldwin, MI, Reed City, Lake City—all around the State I hear the same thing about the loss of furniture makers, the loss of tool and die makers, the loss of other auto suppliers.

Here we have a headline from the Grand Rapids Press: "2,700 Jobs in Danger as Electrolux Considers Closing Greenville Refrigerator Plant." The Holland Sentinel: "Ford Sets Timetable for Plant Closings." Also, GM is laying off one shift in Lansing, my hometown.

Here is another headline: "Straits Steel Closing Sad News for Plant's 180 Employees." From the Ann Arbor news: "Eaton Plant to Become Condos." From the Lansing State Journal: "Jobless Rate Could Rise in Winter."

I ask my friend, as we look at what is happening, and as they talk about the change in the growth and the positive indicators in the economy, isn't it true that we are not seeing new jobs created? In many States, such as mine, we are seeing the best paying jobs, manufacturing jobs, evaporating for many different reasons? And isn't that something we should be talking about on the floor of the Senate, the loss of manufacturing jobs?

They cannot just all be in the service industry. We need to make things in this country.

That is what I do. That is what people in my State do very well, and they want to continue. Wouldn't my friend say we should be talking about the loss of manufacturing jobs and the people and the families?

Mr. REID. The Senator is absolutely right. I talked about the State of Michigan earlier today. I talked about my having asked you a question last week, and you responded that 9 million people live in the great State of Michigan. A quarter of 1 million people are out of work that we know of. Those are the people who are still carried on the unemployment rolls. There are probably 150,000 more who have been on so long they are not even counted on the rolls. The Senator is absolutely right.

I finalize my answer to the Senator's question by referring to a letter I received from a woman today from Elko County, NV, a place called Spring Creek.

She wrote that she would work a part-time job or two part-time jobs. She would do anything she could. She has a desperate situation at home. She has a husband who is disabled. He can't move. For every job that opens, 50 people apply for the job. She ends her letter to the President and me by saying:

> Gentleman. This is the greatest country in the world. The middle class needs a break. I don't want a free ride. I just want a job or jobs that will supply the basic needs of our family.

That is all that people are asking. They want a job to take care of their families. I am at a loss. I am concerned. What are we doing here, spending 30 hours talking about four people who have jobs, when we have millions, we are approaching 10 million people who don't have jobs? We have millions of people who are not even counted on the rolls anymore because they have been out of work so long.

As I established earlier today, the average person is out of work in America today 5 months. If you lose a job, unless you are real lucky, you are not going to find another job until December, January, February, March, April—if you are lucky. That is the average. But you may have to wait until August or, if you get lucky, you might get one in February.

The point is, why can't we spend time on jobs for people who count, not the four, the big four, so to speak, we are going to spend 30 hours on?

The Senator from Michigan has read the press just as I have: This is something we have to do. We have to have the Senate be the Senate.

What does that mean? Does that mean we have to approve every judge who comes through? If we do that, if we are good boys and girls over here, they will let us go home at night or maybe let us spend a little bit of time talking about the environment. Do you ever think we might want to talk about the environment?

You know the Clean Water Act came to be not because somebody got a bright idea: Wouldn't it be great to have a Clean Water Act. It came to be because the Cayuga River in Ohio kept catching fire, a river kept burning. It was so polluted, it burned. President Nixon and others said: Well, you know—I don't know if he said this, but I am sure they thought it—I don't think that is a good idea to have rivers on fire. Maybe there is something wrong. And we passed the Clean Water Act. A Republican President, Democratic Congress, we passed the Clean Water Act. Why? Because rivers were on fire.

Wouldn't it be nice if we spent a little time on the environment? Pollution is causing kids all across America to have respiratory problems. Asthma is something that kids get. It is something that was rarely heard of in children. Now a lot of them have asthma and all kinds of respiratory problems. I would like to talk about the environment. Maybe not for 30 hours but a few hours would be nice if we had a debate here on that.

Of course unemployment, we need to talk about that. I appreciate very much the Senator from Michigan being as diligent as she is. I have talked a lot today about the minimum wage. Let me give you a few facts about that.

Three million more Americans are in poverty today than when President Bush took office. We are not talking about a few people; 3 million more people have gone into poverty than live in the State of Nevada in the last 3 years. The State of Nevada, if you stretch it, could get up to maybe 2.4 or 2.5 million people. More people than live in the State of Nevada have gone into poverty in the last 3 years. Is that something on which we should spend a few minutes?

Why is there so much poverty? What is going on? Why is the middle class shrinking? And the rich, that class is getting bigger and bigger and the poor are growing bigger and bigger. The middle class is going away. Today more than 34 million people live in poverty. Of that, 12 million are children, babies.

I remember, I wasn't raised with a lot of material things, but I was never hungry. I always had plenty to eat. I can remember in the little town of Searchlight, one of my friends—I don't know how old we were, maybe 11, I think that is about right—was hungry. I never had seen anything like this before. There was a refrigerator. He went into the refrigerator and there was nothing there except a bottle of syrup. And there was hardly anything in the bottle. So he went to the sink and shook that up and drank that. That kid was hungry. There was nothing in the refrigerator. He shook up that little bit of syrup and he drank it. And I am sure it gave him a little bit of energy.

But 34 million people live in poverty, 12 million children. Some of those kids are like my friend was, who had nothing to eat and drank a bottle of weakened syrup. It was not Vermont pure maple, I will tell you that.

Among full-time, year-round workers, poverty has doubled since the 1970s, from about 1.3 million, and now we have an unacceptably low minimum wage as part of the problem. The minimum-wage employees work 40 hours a week, 52 weeks a year, earn $10,700 a year—more than $4,500 below the poverty line for a family of three. And we can't get on this floor even to debate the minimum wage. They won't let us. They stop us.

No, we are not going to talk about the minimum wage. We are more worried about tax cuts for the elite of this country. We can spend a lot of time talking about tax cuts for the elite, what we can do to make things better for rich people.

But poor people, people who live on the minimum wage—if a person works 40 hours a week, 52 weeks a year of course, they are not getting any vacation time—they make less than $11,000 a year. It is below the poverty line, $4,500 below the poverty line. The current minimum wage fails to provide enough income to enable minimum-wage workers to afford adequate housing any place in the country. Every day the minimum wage is not increased, it continues to lose value and workers fall further and further and further behind.

Minimum-wage workers have already lost all the gains of the 1997 increase. When we raised it, we didn't raise it enough to keep up with past problems. I think it is interesting to note the real value of the minimum wage is more than $3 below what it was in 1968. So whatever the minimum wage was in 1968, we are $3 below that.

The minimum wage today should be $8.15 to have the purchasing power it had in 1968. It is $5.15. Nearly 7 million workers would directly benefit from our proposed minimum-wage increase. And listen to who these workers are: 35 percent are their family's sole earner; 62 percent are women; one-third of these women, that is the money they get for the kids and them, that is all they have; 16 percent are African Americans; 19 percent are Hispanic Americans. A $1.15 increase for a full-time, year-round worker would add $3,000 to their income.

A gain of $3,000 would have an enormous impact on minimum-wage workers and families, even though it still wouldn't give them the buying power they had in 1968. It would be enough money for a low-income family of three to buy 11 months of groceries, 7 months of rent, 14½ months of utilities, and maybe, maybe send one of the kids to school at a community college.

Ms. STABENOW. Will the Senator yield for a question?

Mr. REID. I will without my losing my right to the floor.

Ms. STABENOW. Just one more question for my friend. I thank the Senator again very much for laying out what we ought to be doing, our priorities, all of our debates about values and priorities. The Senator has certainly laid out what the values and priorities should be for our focus of time. As you were reading the list of items, I was thinking about that mom on minimum wage who is caring for her children. She probably has sleepless nights hoping they won't get sick because she is probably not covered for health insurance either.

As we look at the number of people in the country and in my State who have lost their jobs, and the number of people on minimum wage, they are not just losing a job; in most cases, they are losing their health care as well.

In Michigan now, one out of four people under the age of 65 has no health care. Many, as the Senator has talked about, are low-income people; but many of them are high-income manufacturing workers who have lost their jobs.

Would the Senator not agree that what we are seeing now, when people lose their jobs, is not just the loss of the income but a loss of the stability of the families and the ability to care for the health of the family because their health insurance is gone as well? Should we not be talking about what is happening in this country in terms of those who have no health insurance or the businesses that are trying to pay for the health insurance?

Mr. REID. Mr. President, I tell my friend that I read the list of hundreds of companies today that, in the last few months, have laid off people. With rare exception, every one of those jobs is a job where they had health insurance. They are thrown off the rolls because COBRA—that means you can buy the insurance, but they don't have the money to do that. So what happens is they go to an emergency room, which is the highest cost of care in America. That is where they are forced to go. It is a scandal and an embarrassment that we don't do more to help solve the health insurance crisis we have in America.

Wouldn't it be nice, I say to anybody within the sound of my voice, if we had a debate on the Senate floor about health insurance? Why do we have 44 million people with no health insurance? That number is going up. Every day, that number is going up. The first thousand days of the Bush administration should not be days he looks at proudly.

One of the very important issues we have to deal with—I have not talked about it at all today—is, What are we going to do about prescription drugs?

I am very fortunate. We in the Senate have a good health insurance plan. My wife asked me today, when I came to work, if I would call Grubbs Pharmacy—which is on the Hill, and they are very good to work with—if I would call her Las Vegas physician and have him call Grubbs for a couple of prescriptions she needs. We have the money to do that. There wasn't a question of whether we could afford it. I am in a position where we have health insurance.

Most people in America don't have that luxury. Prescription drugs for the elderly and for working-class Americans is very difficult. I want to say before my friend leaves, no one out of the 535 Members of Congress—I hope everybody in Michigan knows this—leadership or nonleadership, has worked as hard and been more devoted to trying to find a solution to the problem of prescription drugs than the junior Senator from Michigan, Ms. STABENOW. She understands the issue. She works hard on the issue. Wouldn't it be nice if, next Wednesday at 6 o'clock, we had a debate between the junior Senator from Michigan and anybody who wants on the other side? You would win the debate hands down. This is an issue we would be happy to debate. Let's take that time and start talking about prescription drugs. Why can we not do that—not only for seniors within the confines of Medicare but do something for everybody?

So we should be, as an institution, somewhat concerned—as busy as we are—with the issues about which we have talked. We have so many different things about which to talk. We have veterans. I have not spent time today talking about veterans. Tomorrow I will spend some time talking about veterans because they deserve some attention, too.

Are we going to talk about veterans on Wednesday at 6 o'clock? Not one word. In fact, Miguel Estrada—and it would not make any difference—is not a veteran. I don't see Pryor's service record, and the two women have not been in the military. So we are talking about four people, as far as I know, with no military experience. We are not going to spend any of the time talking about them from 6 o'clock on Wednesday until 12 o'clock Thursday.

Maybe we should talk about veterans a little bit or about emergency disaster assistance or about homeland security or education for at-risk children. We have not talked about pensions. We need to talk about the Equal Rights and Equal Dignity for Americans Act. That is important. It affects millions of people. There is plenty we need to talk about that will not be allowed to proceed, and we should not be bogged down by 30 hours, covering Wednesday night and all day Thursday into Thursday night, talking about Estrada, who was treated so badly—oh, out of the 30 hours, we will give him 25 percent of the time; we will spend 25 percent of the 30 hours on Owen from Texas; and then we will spend some time on Pickering because we should do that—he is entitled to 25 percent of the 30 hours—and then, of course, we can wrap it up by spending the rest of the time on the attorney general of Alabama, recognizing that every one of these people has a good job.

So we are going to talk for 30 hours about people who have jobs—four people. We are not spending 30 seconds on the 9 million-plus Americans who have no jobs. We are not spending 30 seconds on the 44 million Americans who have no health insurance. We are not talking about the millions who are going into poverty as we speak, about the people I read about on the charts who are losing jobs now, as we speak. As we speak, decisions are being made to lay people off in America. And then we have the budget deficit and the national debt. That is what we should be doing. But no, we are not going to do that.

Finally, Mr. President, completing my statement for minimum wage, I indicated that if we gave a $1.50 an hour increase, we could give a family of three 11 months of groceries, 7 months of rent, 14½ months of utilities, and they could even pay tuition for most community colleges.

History shows that raising the minimum wage has not had any negative impact on jobs, employment, or inflation. In the 4 years after the last minimum-wage increase was passed, the economy experienced the strongest growth in more than 30 years. Nearly 11 million new jobs were added at a pace of 218,000 a month. There were 6 million new service and industrial jobs and a half a million retail jobs.

A fair increase is long overdue. Congress should act quickly to pass a minimum-wage increase to reflect the losses suffered as a result of the shameful inaction of the past. No one who works for a living should have to live in poverty.

Mr. President, we, as Members of the Senate, are always concerned about the schedule.

(Mr. CORNYN assumed the Chair.)

Mr. REID. I am sure the Senator from Texas, in the few years he has been in the Senate, has asked his leadership a hundred times: When are we going to vote? What is the vote going to be on? People who have been here longer have asked thousands of times.

It is very important that Senators have some idea of what their schedule is going to be. It is very important that the minority be part of setting that schedule. There are certain rules of courtesy and fairness that need to be followed in the Senate. When we learn over here that out of nowhere—we read it in the paper, that is where we first read it, that they, the majority, were going to spend 30 hours—30 hours talking about four people who haven't gotten their jobs. It couldn't be anything else. They are the ones who didn't get their jobs. We approved everyone else. They say: We want to talk about other things. I don't know what else they can ask for. We have four people who didn't get their jobs—four people.

I assume tonight before we go out they will file cloture on a couple more judges. We can vote on a couple more on Wednesday. I assume that is possible also, if we want to spend more time on judges and not on appropriations bills. Maybe by the time Wednesday comes, instead of 4, it will be 5 out of 168, or 6 out of 168.

I really am at a loss to understand why things have to go the way they are. Why we are going to spend all this valuable time talking about people who are fully employed?

There are many important provisions in this Commerce-Justice-State legislation. It is an important bill. I know how important appropriations bills are. I have worked very hard on them in the past. One of the items in this bill is the National Endowment for Democracy. It is a great organization. We fund it and its affiliate institutions. It is about the promotion of democracy. I am glad it is funded in this bill. They have been growing very well, very strong for 20 years now, conducting important work to support fledgling democracies across the world.

As many people know—I refer to the National Endowment for Democracy as NED—NED has four affiliate institutions: the Free Trade Union Institute, the Center for International Private Enterprise, the National Republican Institute, and the National Democratic Institute. I am most familiar with the National Democratic Institute for International Affairs, or NDI. NDI's president, Ken Wollack, and board member, the former Secretary of State Madeleine Albright, have done a remarkable job in dozens of countries throughout the world. This doesn't take away from the other three institutes, but I just know more about this institute.

I have met with field representatives in Africa, Asia, and the former Soviet Union. These individuals are on the front line of a ditch of sorts. They are on the front line in the battle of ideas for freedom and justice. They generally arrive on scene in the midst of conflict or just following some internal revolution, without any kind of fanfare. They go about their important business of providing assistance to civic and political leaders helping build political and civic organizations, safeguarding elections, promoting citizen participation, openness and accountability in government.

There is no doubt the work they carry out on behalf of the American people is absolutely critical to ensuring peace, security, and democracy, and making sure they are sustainable in some of the toughest places in strategic hotspots in the world.

Democracy promotion, whether carried out by NDI, NRI, NED, Peace Corps, or any other American, is incredibly important to advancing our interests of freedom and justice across the globe. People deserve to live in freedom. It is an inherent right, but, unfortunately, it is not a right enjoyed by all. Much work still remains.

With this background, I was pleased to hear the President speak last week about the importance of promoting democracy in the Middle East. I am sorry, however, his comments came 3 years too late. I am sorry the words of the President are just that, words, because they have not been supported by actions.

Indeed, with regard to Iraq, for those of us who voted to support the President to use force in Iraq—I was one of them—I note I not only voted to support the President last fall, but I voted to support the President's father in 1990 and 1991. So I am certainly no dove, as you would see, when it comes to military action.

One thing we pleaded with the President to do was come up with a plan for postwar Iraq. How would we win this most difficult peace? I always said we could win the war, but can we win the peace? We were pushed aside. We were told we would be thrown bouquets as victors, but we have been thrown bombs as invaders.

We were told the Iraq oil revenues would pay for reconstruction. We were told occupation would be short and Iraqis would take over quickly. We were told costing dollars and U.S. lives would not be great. But the price Americans have paid in their national treasure—the sons and daughters—has been huge. Obviously, the financial cost is into the hundreds of billions of dollars. I suspect next year we will be asked to appropriate even more to rebuild this shattered country.

Why would the administration launch the attack without sufficient planning, without regard to development of a civil society, without regard to democracy promotion, without regard to our allies? Why do it, and then 3 years after the President takes office, 6 months after the war begins, talk about the importance of democracy promotion in the Middle East? If the cart was ever before the horse, this was it.

I suppose some would say it is consistent with the view of foreign policy adopted by this administration. In foreign policy, I think it is fair to say, you reap what you sow. I am sorry to say that for 3 years, this administration has sown some bad weather.

Let's talk about some specifics. Upon taking office, the administration pulled the plug on the Kyoto Treaty, pulled out of the ABM Treaty, disavowed the International Criminal Court, and cut off the engagement the Clinton administration had begun with the Iranians and North Koreans. Now, of course, we are back to talking with the North Koreans, and I am glad. I suspect we will even reverse course and soon be talking again to those young Iranians so interested in democracy. I hope so.

The President promised to get out of the conflict between the Israelis and the Palestinians, and he did just that. Predictably, spiraling violence ensued. It has been the worst that part of the world has ever seen, except when they were in actual war.

Something else happened, too, over these last 3 years. Our State Department, led by one of America's heroes—I really do mean that sincerely. Colin Powell is one of the great Americans of our time. But his Department took a back seat to Secretary Rumsfeld and Under Secretary Paul Wolfowitz.

Democracy, public diplomacy, and other so-called soft aspects of our foreign policy took a back seat to Pentagon planners. National security was unilaterally, singly, viewed in the prism of the five walls of the Pentagon. I am sorry Colin Powell, Aid for International Development, and nongovernmental organizations, such as the National Endowment for Democracy and others, were not factored into our national security equation.

Don't get me wrong, I am and have been one of the most vocal supporters of our troops fighting the ongoing war on terror. Sadly, we live in a world where we have to strike at the enemy before they strike us. This is not preemption as the administration calls it. This is our right and long-understood concepts of self-defense.

Nevadans understand this. They are leading the fight on terrorism in every corner of the globe. Our predator fleet, for example, which is based at Indian Springs Air Force Base, which is part of Nellis Air Force Base, is one of the most effective tools in the arsenal in the war on terror. Our fighter pilots who are trained at Nellis and Fallon are also on the front line of Iraq and Afghanistan. Our National Guard is fighting in every major theater of operation.

I am proud of what they have done for the freedom and defense of this country. I couldn't be more proud of our troops, but I have stated I also couldn't be more disappointed with our policymakers.

For me, fighting terrorism should have always been a two track approach. Track one, of course, is the military track. We need the most lethal, agile, sophisticated, well-trained military anyplace in the world, because of the threats we face each day. We have that military force in place. We cannot sit back and wait for the terrorists to hit us. When we know where they are and where they are training, we need to go after these terror groups with speed and force.

Track two, however, is a nonmilitary approach. It is a track focused on diplomacy, engagement, leadership, and democratic values. These two tracks must run parallel to each other. Concurrently, they must run.

Track one deals with the current threats. Track two ensures that new threats do not emerge. It focuses on education, a civil society, democratic institutions, the rule of law, health care, and other factors that make society strong, so they can reject the extremism of today; strong so ideals of freedom, equality, and justice becomes the fuel that drives the engines of their societies, not hate, not fear, and not violence.

In the well-reported leak of the Rumsfeld memo a couple of weeks ago, he asked just that question. Secretary Rumsfeld asked: What are we doing to address the input side of the terrorist equation? It is a question he should have asked. I am glad he asked it. Again, I am sorry he asked it a few years late. But the short answer, Secretary Rumsfeld, is that we are doing nothing to address the input side because there is no second track to our approach to national security.

Young, uneducated, poverty stricken youth continue to flock to the madrassas where they learn to hate and become attracted to violence. So when the President shows up at the National Endowment for Democracy and talks about the importance of democracy, about the importance of democracy promotion and democracy development, I say, Mr. President, where have you been? Why have you waited so long? Why has this not been a priority of your administration and why was the power of American ideas not projected as loudly as the power of our military during the course of this administration? Why has your administration been controlled by bureaucrats at the Pentagon?

Speaking of bureaucrats, we learned last week that Richard Perle, a Defense Department adviser, was out in the Middle East last year conducting negotiations on behalf of the United States. Under what authority, I do not know. But he was rejecting offers from Iraqi authorities to head off the war.

I do not know how serious these offers were but that really is not the issue. The incident reflects the enormous authority played by the Defense Department and not the State Department in conducting our foreign policy. I hope to be able to ask Secretary Rumsfeld for a full accounting of the Perle negotiations and under what authority he was acting.

Others have already asked that question. I am not sure how a so-called adviser to the Defense Department, who apparently holds a very lucrative consulting contract with defense companies, was negotiating major foreign policy decisions for the American people. It is mysterious and preposterous. At the same time, I hope the Secretary of Defense has an explanation.

Back to the issue at hand, I do hope the President's speech at the National Endowment of Democracy will be more than just words. He does have 1 year left to prove that there will be action to follow up on sweeping rhetoric. No. 1, will he renew the commitment to Afghanistan, a country teetering on the edge of failure? No. 2, will he become engaged at the highest level in the Israeli-Palestinian conflict? No. 3, will he give up some degree of political control in Iraq so NATO can take some of the burden off our troops who are already stretched so thin and so the U.N. can come back in and take over some of the reconstruction efforts? No. 4, will democracy promotion and civil society develop? Will it become a central plank of our foreign policy? Will we put in the necessary resources in order to make our effort successful? Will the President engage our allies again as President Reagan did, as President Bush, Sr., did?

This engagement and leadership substantially helped the efforts at democratization in Central and Eastern Europe in the 1990s. It should not be forgotten that the western Europeans, the European Union, NATO, and others played such a huge role in these democratization efforts, and we did not do it by ourselves. We should not do it by ourselves in Iraq, either. We cannot. It will not work.

So I wait anxiously to see whether there will be action by this administration, action to make democracy a reality, action to make peace and security a reality, action that will make Afghanistan, Iraq, and other nations teetering on the edge a reality, make them more secure. Talking about democracy will not be enough.

Although you have discovered the National Endowment of Democracy 3 years in your administration, Mr. President, I say, better late than never. Let's now see what your administration can do. On this front, you have my full support. I will do everything I can to make this President's initiative a success.

I mention just briefly again how important minimum wage is. People who seek a higher minimum wage, they do not have lobbyists bringing and dropping them off in limousines. They do not have the $1,500 suits like lobbyists trying to help them. Nobody is trying to help them. The people who seek minimum wage have no lobbyists. They are on their own. No one is paying the huge fees we read about in the newspaper. Some lobbyists, on one account, receive hundreds of thousands of dollars a month. Regardless of how much is being paid, the people on minimum wage are paid, who are lobbyists for people on minimum wage? Nobody is a lobbyist for them. We are their lobbyists. The 535 Members of Congress are their lobbyists. We have to try to help them. We have to try to help these desperate people who want to work, and we need to make work better than welfare.

I watched a very interesting piece the other evening on 60 Minutes, I think that is what it was—no, it was not. No, it was not. I take that back. It was in a movie. It was a movie "Bowling for Columbine." I watched that, and they had the story there about this woman who—a number of people who were on welfare and they got a job. They had to drive 50 miles one way, 100 miles every day, and how difficult it was for them. Of course, they are minimum-wage jobs. It would be nice if those people I saw depicted in that movie got a little bit of an increase.

I have indicated that in Nevada we have about 65,000 people who work for minimum wage. More would work for minimum wage if there were more jobs. If we increase the minimum wage to $6.65, that will raise it $1.50 an hour. This raise would help the economic security of thousands of Nevada's low-wage workers.

A worker earning the minimum wage must work 125 hours per week in order to afford a two-bedroom apartment in Nevada. Eight percent of Nevadans live in poverty. The last raise in the minimum wage did not have a negative effect on Nevada's economy. In fact, after the last raise of the minimum wage, Nevada experienced a great economic growth. Over 180,000 new jobs were created.

While retail is often cited as the industry hit hardest by an increase in the minimum wage, 39,700 new retail jobs were created in Nevada after we last passed an increase.

Additionally, unemployment dropped for 4 years, after we passed an increase, from 5.5 to 4.2. So it is time to set aside the old misconceptions about increasing the minimum wage. Congress should act now to give thousands of Nevadans the raise they deserve.

Some people will disagree. They will say, we cannot do that because if we do that people will have to be laid off. The facts do not bear that out, but that is what they say. What I say to that is those people who were talking about that have lobbyists. They have lobbyists who are pushing hard against minimum wage. They are paid large amounts of money every month to make sure nothing pops up on minimum wage.

On the other hand, these people who are seeking minimum-wage increases have nobody to help them, other than us, and we need to do something. We really need to do something to increase minimum wage.

Wouldn't it be nice if we had some time to talk about that, to talk about health care? I think it would be worth it to devote a little bit of our time to something that is certainly important.

We are going to spend our time for the next little bit talking about judges, starting, as I said, Wednesday, and then until Thursday night at midnight. I think it would be good if we talked a little bit about Afghanistan.

I read a book by James Michener. I read a lot of his books. He wrote a book called "Caravans," which was about Afghanistan. That was the name of the book, "Caravans." It was a very good book, written in the typical fashion of Michener, where he worked through the different generations until modern times in Afghanistan. I was struck by what a difficult time that country had always had. It is a country that doesn't have very much in the way of natural resources. Very unlike Iraq, they don't have oil; very limited amounts of water; it is extremely cold; their farm season is short. I would like to spend some time debating this, what more could we do to help?

We know the President has made a decision, basically, to protect just Kabul, the capital. We haven't done much to bring peace to the rest of that country. We should. It could be done. The rest of the country is being run by warlords. We can't leave Afghanistan again. We did it once and that brought about the Taliban. We need to do more than what we have done.

I want to talk about a problem that we have in Afghanistan, a serious problem. The CJS bill affects not only the Department of Justice but also the State Department. There is one problem that concerns me greatly that affects both of these Departments, the Department of Justice and the State Department. It is a problem that not only has serious implications for drug abuse and crime, but also on our relations with other nations in the world. That is the problem of cultivating poppies, which are used to produce heroin that finds it way into our cities and poisons our neighborhoods.

Heroin is an awful product. I mentioned before on occasion, and I will do it again, when I started practicing law in Nevada we did not have a public defender anyplace in the State—not a Federal public defender, nor any of the counties. As a young lawyer, I was appointed by the then-chief justice, David Zenoff, to represent a man by the name of Humbert Gregory Torus. He was known as Greg Torus.

When I went to see him in the old Clark County jail and looked through those bars, I was excited because it was my first criminal appointment. But as I looked through those bars, I saw a handsome young man, about 21, 22 years old—stunningly handsome. He was there on a couple of burglary charges. Why? He was addicted to heroin. He had been a heroin addict. He came from New York. He had been a heroin addict since he was 16 years old. His IQ was off the charts. It benefited him only in his ability to scheme deviously to get more heroin.

As my first criminal appointment, I spent many days of my life working with him. We were able to work out a deal. He got out of jail. He married a beautiful showgirl from Las Vegas, a girl from Ireland with beautiful red hair named Maurine. I haven't talked to her in a number of years, a beautiful woman. She didn't know what she was getting herself into. But she was forced to deal with a man she loved who was addicted to a poison, a substance called heroin. He would lie, he would cheat, he would steal his own family's money to satisfy his craving for this substance.

His wife had a baby while he was in prison. He got out of prison; he stole from his family again. I could go on for a long time about this tragedy of this man who could have been anything he wanted but for heroin as a 16-year-old boy. The last I heard from him, he was in prison someplace up in the Northwest. His wife had left, finally divorced him. She even traveled, lived in Carson

City so she could be near her husband at the prison up there.

Heroin is bad. It is a poison. Is poisons our neighborhoods, and there are thousands and thousands of Gregory Torus's in the world. I hope he is OK now. I hope he is leading a good life someplace and has been able to kick that habit. The problem with heroin is very few people can kick the habit. The recidivism for heroin is upwards of 90 percent. They cannot kick it. It is a craving they can't overcome. There aren't many old heroin addicts. They are either in prison or dead.

But heroin comes from a lot of places. One of the places it is coming from in large quantities now is Afghanistan. The Washington Post ran a story today headlined, "Afghan Poppies Sprout Again. Production Nears Record Levels, Worrying Anti-Drug Officials."

> Two years ago, Afghanistan was virtually poppy free. . . . But in recent months . . . opium poppies have made a spectacular comeback, nearly reaching the record-high production levels of the 1990s.
>
> According to a crime report released last month by the U.N. Office of Drugs and Crime, Afghan poppies—whose sap was the basis of three-fourths of the opium and heroin consumed illegally abroad—are being grown on 197,000 acres across 28 of the country's 32 provinces. This year the country is expected to produce [almost 4,000 tons] of opium worth about $2.3 billion, which is equal to half of Afghanistan's gross domestic product.

Afghanistan is not the only place where the cultivation of poppies is a problem for us. The same thing goes for our southern neighbor with whom we share a 2,000-mile border where economic conditions are particularly bad right now. Desperate people take desperate measures. Many people in Mexico are desperate.

A few years ago, Mexico seemed on the verge of an economic breakthrough. But today, Mexico's growth rate is half of what it was in the 1990s. More than half of all Mexicans, more than 50 million people, have an annual income of less than $1,400. Almost one-fourth of all Mexicans have an annual income of about $720, less than $2 a day.

There is little hope for these people in the Mexican countryside where coffee prices have plummeted, where homes and land values are falling because of the badly broken system of private property ownership. So these desperate people take desperate measures. Maybe they flee to Mexico City for a while, but there is not much hope there, either.

There is a debate going on in the world of which city is the most polluted, Cairo, Egypt, or Mexico City, Mexico. Our Foreign Service officers who serve there are given extra pay because the health conditions are so bad in those two cities. Most refugees from the countryside wind up in crowded shanty towns, breathing horrible air, living in filth. Or maybe they remain on the land, but instead of growing coffee, turn to illegal crop production, growing either poppies or marijuana, or perhaps they put their lives in the hands of unscrupulous coyotes who promise to lead them across the desert to the land of plenty. If they don't die trying, they reach the United States where they place an added burden on our security officials and social services.

I don't condone illegal immigration. I certainly don't condone farmers growing illegal crops. But I understand desperate people doing desperate things in desperate conditions in Mexico affecting the United States. That is why I sponsored an amendment recently to the State Department authorization bill that extends a helping hand to our neighbor Mexico. It provides $10 million for microcredit lending to small businesses and for entrepreneurial development aid to small farmers and persons who have been affected by the collapse of coffee prices. It calls for programs to support Mexico's private coffee ownership system which is in dire need of repair.

My friend, Senator ENSIGN, supports this. He says this is what the free enterprise system is all about. I am grateful to all of my colleagues who voted for this amendment. It won't solve these problems overnight, but we have to start somewhere. Our neighbor needs help. We can't turn a blind eye to our friends in Mexico. This is not a handout; it is a commitment to a free-market-based program that will support long-term development and growth in rural areas of Mexico.

By extending a hand to our neighbor, we are also keeping our own Nation strong and keeping it secure. That is what our State Department should be looking at. That is what we need to do.

I remind everyone why we are here today. We have been doing very well this year, in spite of the very close makeup of the Senate. We have 51 Republicans and 49 Democrats. Senator DASCHLE and I said this is not payback time. We want to work for the good of this country. These aren't just words. Look at our record. Our record was recited by the majority whip today, Senator McCONNELL. We have passed 10 appropriations bills this year. As the Presiding Officer knows, in his limited time here—and he is a person who is certainly versed in the way we govern. He had a very impressive record before coming here as a Senator. As the Senator knows, in the Senate nothing happens unless there is unanimous consent. We all have to agree. On an appropriations bill, it is even more than that; you have to have a will to pass these bills. People love to offer amendments. They have been stopped from offering amendments in which they believe.

We have had to work on this side with Senators saying: We need to move these appropriations bills. It is for the good of the country. Let us work to move these appropriations bills. What can we do to help move this along?

We have worked. There have been many things we could do and many things that we have done to move these appropriations bills along. As a result, we have a great record. We passed 10 appropriations bills. Senator DASCHLE decided—and even though people didn't like it over here—OK, we are going to work on these appropriations bills, and we are even going to agree to work today, November 10, and on a national legal holiday. We are going to work Veterans Day. He said and I said that the veterans will understand that. We have the business of the country to do. Veterans, above all, will understand that.

With a little bit of lamenting on our side from some Members saying, How can you do this, it is a national holiday, they followed the leadership of Senator DASCHLE: OK, we will work Monday and Tuesday. Then, talk about a sucker punch.

The great Houdini got himself out of a lot of binds. He was a small man but would let the biggest man in the world hit him right in the stomach. No matter how big that man was, Houdini would let him hit him. But Houdini one time stood up and was not prepared to be hit. He was hit and it killed him. That was a sucker punch. He didn't know it was coming. That is what happened to us—a sucker punch.

We didn't know there was a plan to take up the sad plight of four people who are making a half million dollars a year. We are going to spend 30 hours of the Senate's time dealing with that. Well, that is enough. As I said here on the Senate floor, we turned the other cheek and maybe we should have turned it another time, but you can only be slapped around so many times. We thought that was a little much after how we have cooperated in an effort to do the business of this country. We agreed to work on November 10, and we even agreed to work on a national holiday, and they are going to spend—the leadership—30 hours on Estrada, Owen, Pickering, and Pryor when we have, as I have talked about today, approaching 9 million people out of work.

Everybody else has heard it. I see my friend from Illinois in the Chamber. Everything is going up—unemployment, poverty, uninsured, deficit, national debt. Everything is going up. We don't talk about that. We are going to spend 30 hours talking about what is going down—the lowest vacancies in almost 15 years with Federal judges. And we are going to spend 30 hours talking about four people who have good jobs. One of them makes over half a million dollars. The rest make half a million dollars. And we are going to spend time on those judges? I don't think that is really fair.

Mr. DURBIN. Mr. President, will the Senator yield?

Mr. REID. I will yield to my friend from Illinois, without losing the floor, for a question.

Mr. DURBIN. I thank the Senator for bringing this to the attention of the Senate and those who are following this proceeding.

Can the Senator from Nevada tell us—apparently there is a belief on the Republican side of the aisle that there is a disproportionate number of judicial nominees suggested by President Bush who have not been approved—the number of judges approved for President Bush and how many have been held up here in the Senate as of this time?

Mr. REID. Mr. President, that is something that is easy to answer. We have approved 168 judges, and we have turned down 4. I gave you their names: Estrada, Pickering, Owen, and Pryor. We have turned them down. Maybe the magic number is not 98 percent. Whether it is his way or no way, maybe we should have approved all of them. Maybe we should have swallowed very hard and approved people who the American people I am sure, if they understood what this is all about, wouldn't like very much. But they want to spend 30 hours on four judges.

My friend from Illinois came here in 1982. He is someone for whom I have great affection. I say to him through the Chair, when we were told we would be in on Monday: What is going to happen? I do not know. Well, we will have some votes. When? We will decide later when those votes will be. Maybe somebody knew. We didn't know. And Tuesday? Well, we don't know. Maybe some people on the east coast can go back to the festivities and the parades on Veterans Day.

We aren't a part of what is going on here. What this is all about today is the Senate is a partnership between the majority and the minority, especially when you have a difference of one—49 to 51. That is why the Republican majority must understand that we have to be part of what is going on around here. We cannot be taken for granted. We cannot be thought of as nothing. We cannot be treated as if we were Members of the House of Representatives. I have been in the House. I understand how the majority works. I have been there. If you are in the minority in the House of Representatives, you can be pushed around pretty hard. But in the Senate, the Constitution of the United States protects the minority. The Constitution was written not to protect the majority. The majority can always take care of themselves.

Mr. DURBIN. Mr. President, will the Senator yield for another question?

Mr. REID. I will yield for a question without losing the floor.

Mr. DURBIN. I would like to go back to this point. Since President Bush was elected to be President, he has had 168 of his judicial nominees approved by this Senate, and 4 have not been approved—the 4 the Senator from Nevada mentioned earlier.

I would like to ask the Senator from Nevada, am I mistaken that in this Constitution which we are all sworn to uphold, article II, section 2, it says that the President shall have the power to make his appointments with the advice and consent of the Senate? I would like to ask the Senator what that phrase could possibly mean—advice and consent—if it is the position of the Republicans that every nominee has to be approved. If they believe that approving 98 percent is not adequate, that we have to approve 100 percent, I would like to ask the Senator from Nevada what the phrase "advice and consent" means. Shouldn't it just be "consent"?

Mr. REID. I respond to my friend from Illinois, who I know is not only a lawyer but my recollection is that he was a parliamentarian of the Illinois State Senate and certainly understands parliamentary procedure. He certainly understands parliamentary procedure. I believe the words "advice and consent" mean just what they say. It means we have the obligation as a Senate to work with the President, to give him advice as to what we think should be done on some appointments set forth in the Constitution, and others not so directly defined, to give advice, and once we work with him, give him consent to select whoever he wants.

I say to my friend, I am not overjoyed with all 168, but the minority of the Judiciary Committee has done an extremely good job in sifting out people who just do not meet basic standards. I appreciate the work done by the Judiciary Committee. I have not served on the Judiciary Committee either in the House or the Senate, but I served in the Judiciary Committee when I was in the State legislature in Nevada.

Why bring in the Judiciary Committee? There are so many things you can work on and many things we need to work on here that we are not spending time on because of the time we are spending on judges. We have done a good job of getting rid of the backlog. It is the lowest in approximately 13 years.

Mr. DURBIN. Will the Senator yield for another question without losing the floor?

Clearly, the Constitution gives the Senate the authority to say no to a judicial nominee. Is this a question of fairness? Are the Democrats in the Senate treating this Republican President unfairly by only giving him 98 percent of the people he has nominated? Is it fair to conclude when there was a Democratic President, the Republicans in control gave that President 100 percent of his judicial nominees? Does the Senator feel the Republicans are going through a display for 30 hours because we are fundamentally unfair in treating them in a fashion that they did not treat President Clinton?

Mr. REID. I say to my friend, when we talked about this early in the day, Senator DASCHLE made a decision there is no payback time. We are not trying in any way to get even with the Republicans for holding up judges. If we did that, if we were trying to get even, there would not be 168 judges agreed to.

Here is a partial list of some of the difficulties we had when President Clinton was President. People are saying there has been no need to file cloture. Berzon, Paez, Barkett, you can say whatever you want, these were not serious cloture votes—and I don't know the difference between a serious and nonserious cloture—the only way these people could become judges is by filing cloture. For people to say we are not treating the judges fairly is simply wrong. We are treating the judges fairly. We are treating President Bush fairly. He has gotten 168 judges and we have turned down 4.

We are going to spend the valuable time of this Senate, 30 hours, on 4 people who already have jobs, when we have almost 10 million unemployed people, and we have done nothing about the minimum wage. We are doing nothing about the environment. We are doing nothing on appropriations bills. We have conference reports we have not taken up. We have pending a conference report on the Armed Services Committee that could be acted on at any time, Military Construction. We have the Syria Accountability Act. The defense authorization was not completed. I did not ask unanimous consent on that. I did on Military Construction and the Syria Accountability Act. I agreed that instead of taking 90 minutes we would take 30 minutes each and debate it just for an hour. No, they are more interested in these 4 people who already have jobs than the approximately 10 million people who do not have jobs. People are being driven into poverty, the deficit is going up, the debt is increasing.

Mr. DURBIN. If the Senator will yield for another question without yielding the floor.

Mr. REID. I am happy to yield.

Mr. DURBIN. If I understand this correctly, there is no constitutional basis for the Republicans to argue that we cannot turn down a nominee from the President. In fact, the Constitution is explicit that we have the power of advice and consent. The facts show us that 98 percent of the nominees sent by the President have been approved; 168 have been approved, and only 4 have been held back.

The Republicans cannot argue they treated President Clinton any better.

In fact, the record reflects there were 60 nominees sent to the Senate by President Clinton who were never even given a hearing before the Republican-controlled Senate Judiciary Committee.

It leads me to a question of the Senator from Nevada, through the Chair, Why then are we going to take 30 hours to debate the obvious? If we have the constitutional right to say no to a nominee, if we have said yes to 98 percent of the President's nominees, if the Republicans, when they were in control, turned down an even greater percentage of President Clinton's nominees, why then wouldn't we get about the business of the people of this country, pass the important appropriations bills, try to do something to help the economy, instead of wasting 30 hours debating the obvious?

Mr. REID. I say to my friend, through the Chair, I don't know. I am at a loss. I am not at a loss that when the Senate is in action, it takes both sides. You cannot do both things as a dictator. The majority leader of this Senate is not the Speaker of House of Representatives. He is the majority leader and leads under very delicate rules. To think we were just going to say, OK, we have worked like dogs, we have gotten a great record here, passing 10 appropriations bills and 3 other bills we could do, and we will take 30 valuable hours of the Senate time. We could debate the many things I talked about here, beginning with the environment. We could talk about minimum wage. We could talk about people who have lost their jobs in America today. We could talk about the need for a transportation bill. We could talk about the need for infrastructure development in this country. We could talk about farm programs we need to look at. The Senator from Nebraska talked about droughts all over the Midwest. We need to spend some time on that. But we do not have time to do that. No, because we are going to spend 30 nonstop hours on an agenda dealing with four people.

Let me go over this again. This is over four people. We do not want to lose track of what we are doing. The fact of the matter is, we as Democrats determined that under our rules, our advise and consent obligations, there were four people we thought should not have the support of the Senate Democrats.

Why did we have some concern about Miguel Estrada? Miguel Estrada could be the nicest person in the world. I don't know. But the fact is he was either given bad advice or had made some very bad decisions. We thought it would be important that Miguel Estrada fill out all the questions we asked him in his application. He would not do that. He was vague. He appeared to think he was smarter than anyone else and he did not have to answer those questions. When we said, OK, we want you to do that and we also want you to give us the memos when you were at the Solicitor's Office, what did he say? Drop dead; I will not give that to you. Some say, that would violate the attorney-client privilege. Come on. I know about attorney-client privilege. I know it has been done in the past. Other people who wanted to get Senate approval gave us those memos. I don't know if he did not give us those memos because he did not want to or he was afraid of what we would find. There is more, but basically that is why we did not approve Miguel Estrada.

Why didn't we approve Charles Pickering? As I have said before, I think the world of THAD COCHRAN. I think the world of TRENT LOTT. I work with them on the Senate floor. Just because of having worked with them so many years, and their close feelings toward Pickering, it would have been nice if we could have done that; but we could not.

We could not because the man had created a record that was so in opposition to what fairness calls for in this country, that every human rights, civil rights group in America said: Please don't approve this guy.

Some of the most dynamic speeches I ever heard was when a group of civil rights people came to this Capitol and talked about why they did not want Charles Pickering. One of the fine speeches that day was given by Representative JOHN LEWIS, an American hero who has been beaten many times as a civil rights advocate at the left arm of Martin Luther King. He told us: You can't do that. He does not deserve it.

Then Priscilla Owen, we turned her down. She is a judge on the Texas Supreme Court. Her opinions are out of the mainstream of American jurisprudence. Even the President's own attorney said so.

Then we go to William Pryor, the attorney general of Alabama. His record is not very good, and that is an understatement.

So we turned them down. We turned all four of them down.

Now, I say to people who are watching this debate, that is 168 approved, 4 disapproved. Complain about it. Say we were wrong, we made bad decisions over here, but do not take 30 hours of the Senate's time and think you can just run over us and say: We're going to do that. If you don't like it, what can you do about it?

Well, we are showing you a little bit what we can do about it. The Senate only works if there is cooperation, if there is teamwork. So I say, Mr. President, this teamwork is going to have to be reenergized, reinvigorated, started over again.

The Senate is a body where one person can throw a monkey wrench into almost everything, and that monkey wrench has been thrown into it today by the Senator from Nevada simply because I thought it was fair to take care of people on this side of the aisle who did not know when votes were going to occur—we could not be told when they would occur—and just basically to show that there are 49 of us over here. You have to listen to us. You just cannot do things that we are not talked with, counseled with.

We know the powers the majority has. They can bring legislation to the floor. But as far as setting schedule, we have a lot to say about that. We are going to continue to have a lot to say about it. We cannot be treated the way we have been treated.

I know there are some who say we should be doing other things here today, and I would like to be doing other things today. I guess everybody is locked into the 30-hour debate, and it is too bad we are going to find ourselves in that position.

We could have finished last week—had this thing not occurred—we could have finished the Agriculture appropriations bill in 1 day instead of 2. This bill could have already been completed, and we would be going to the other appropriations bills. We could be doing Foreign Operations. We could be doing VA–HUD. I think that would just about complete all of our work. We could be doing that. But we are not doing that today.

We certainly could have completed, by Thursday, at midnight, all our appropriations bills—by Thursday, at midnight.

(Mr. ENSIGN assumed the Chair.)

Mr. REID. Mr. President, we hear a lot about the "special interests" and how the general public lacks the lobbyists to look out for the public interests here in Washington, DC.

In fact, I talked about the people who get minimum wage, how they have no lobbyists to help them. But I rise today to draw attention to the exception to what does often seem the rule. This week, the Environmental Working Group, called EWG, will celebrate its 10-year anniversary of shaping the public debate on issues ranging from farm policy to the many other issues dealing with the environment.

The EWG was founded by Ken Cook 10 years ago to fill a void in the public interest community. While there were groups out there doing research and making policy proposals in the environmental arena, very few had the mission to readily translate that research and policy to the national stage and to the media.

Using the Internet and other Web-based tools, the Environmental Working Group has effectively taken those debates to the people, arming them with the information necessary to communicate with their elected Representatives. As important, EWG's work has helped to transform those debates in the media.

I extend my appreciation for the work they have done. They are an outstanding organization that gets facts to people who have never gotten facts before, such as through the Internet. I applaud and commend them on their very good work.

There are a number of other issues we need to talk about. One of the issues I wish to talk about is the Energy bill that is in conference. Some say that could come back any day. I traveled with the ranking Democrat on that committee who is involved in the Energy bill and the Medicare bill. Over the weekend, I traveled with him, and he thought the Energy bill would be worked out today. But as we flew into Dulles Airport last night, we got a Blackberry that said, no, it was not going to happen. I hope something like that does happen soon.

I know the conference report is not going to look like the bill we passed out of the Senate in July. I wish it did. I have not seen it yet, but I understand one of the terrible provisions negotiators intend to slip into the conference report will let the oil companies off the hook for cleaning up the mess they made with the MTBE. I don't know if that is the case, but I hope that is not the case.

MTBE is a human carcinogen and when leaked into water, even in small amounts, it causes water to take on the taste and smell of turpentine, rendering it undrinkable. We have had this problem in the Lake Tahoe area.

MTBE leaking from underground storage tanks, recreational watercraft, and abandoned automobiles has led to growing detections of MTBE in drinking water. In fact, the U.S. Geological Survey has estimated the MTBE may contaminate roughly one-third of drinking water supplies nationwide.

MTBE poses a different threat to drinking water relative to the other harmful constituents of gasoline because MTBE is more soluble, more mobile, and degrades slower than those other constituents.

Oil companies began adding MTBE to gasoline at least as early as 1979, using 215,000 tons in that year alone. By 1986, oil companies were adding 54,000 barrels of MTBE to gasoline each day. By 1991, 1 year before the Clean Air Act oxygenate requirement went into effect, oil companies were using more than 100,000 barrels of MTBE each day. By 1997, the volume of MTBE production was the second highest of any chemical in the United States.

These basic facts underscore two extremely important points about the committee's consideration of solutions to the MTBE contamination problem.

First, proposals that simply remove the Clean Air Act oxygenate—I have been here a little too long today maybe. At any rate, first, proposals that simply remove the CAA oxygenate requirement from the law without affirmatively banning MTBE will simply not end MTBE use. As noted above, MTBE was used for octane enhancement long before the Clean Air Act amendments of 1990. There is no reason to believe it would not be continued to be used if the Clean Air Act oxygenate requirement were removed from the law but no ban put in place.

In another example, in May 1999, two oil companies in the San Francisco area were found to have been adding substantial volumes of MTBE to gasoline. At the time, that area complied with air standards and, therefore, the Clean Air Act did not require the addition of an oxygenate. Again, companies were adding MTBE to gasoline for reasons wholly independent of the Clean Air Act amendments.

Second, these facts belie the oil companies' arguments that Congress made oil companies use MTBE and, therefore, lawsuits against oil companies should be terminated by Congress and taxpayers should pay to clean up MTBE contamination. MTBE was in use well before the passage of the Clean Air Act amendments.

The CAA does not mandate the use of MTBE. And the fact that there was any oxygenate requirement in those amendments at all was due, in part, to oil industry lobbying.

For example, in 1989 testimony before the Senate Committee on Environment and Public Works, an ARCO official strongly recommended that the committee include a mandate for MTBE in the Clean Air Act Amendments of 1990, touting MTBE's benefits but not disclosing its devastating impact on drinking water. Hearings Before the Subcommittee on Environmental Protection of the Committee on Environment and Public Works on S. 1630, S. Hrg. 101-331 at 458, Sept. 28, 1989. Despite such lobbying, Congress did not adopt an MTBE mandate, but rather prescribed that reformulated gasoline contain an oxygenate without specifying a particular product.

At the time of such lobbying, oil companies knew they were recommending a product that would have a devastating impact on drinking water. Indeed, where courts have heard oil industry claims that they should not be held liable for MTBE contaminated drinking water supplies, they have not only rejected those claims but have found that companies acted with malice in not disclosing the risks of using MTBE.

In fact, over a dozen communities have sued oil companies for knowingly introducing a defective product into the marketplace. Several oil companies recently settled one such suit, South Tahoe Public Utility District v. Atlantic Richfield Company, et al., for $60 million. In South Tahoe, it was determined that oil companies were guilty of irresponsibly manufacturing and distributing MTBE because these companies knew it would contaminate drinking water.

It was also found by clear and convincing evidence that two companies had acted with "malice" by failing to warn of the environmental dangers of MTBE.

Together, documents and sworn testimony in South Tahoe demonstrated that several oil companies knew as early as 1980 that MTBE posed a significant threat to the Nation's drinking water, that they promoted MTBE to the State and Federal Governments without disclosing internal information demonstrating that threat, and that they attempted to discredit public scientific studies that began to demonstrate that threat.

Documents and sworn testimony in South Tahoe also revealed that oil company officials, showing a callous disregard for our environment, even gave MTBE telling nicknames such as "Most Things Biodegrade Easier," "Menace Threatening Our Environment" and "Major Threat to Better Earnings." Further the case also revealed that Shell and ARCO, the first refiners to add MTBE to gasoline, estimated that 20 percent of all underground storage tanks—tanks likely containing MTBE—were leaking. Several oil companies were shown to have both developed and promoted the concept of using reformulated gasoline to reduce air emissions.

For example, ARCO officials testified that "EPA did not initiate . . . reformulated gasoline" and that "[T]he oil industry brought [reformulated gasoline] forward as an alternative to what the EPA had initially proposed." Documents and sworn testimony also revealed that in 1987 an ARCO representative testified before the Colorado Air Quality Control Commission that MTBE would aid in reducing air emissions but did not warn of the drinking water contamination threat. This representative testified that he also assisted Arizona and Nevada develop oxygenate programs that relied upon MTBE without disclosing the danger.

In 1986, the Maine Department of Environmental Protection issued a scientific report describing the threat posed by MTBE. Documents and sworn testimony in South Tahoe revealed a concerted strategy by the oil industry to discredit the article at the same time that internal industry documents admitted the soundness of the Maine warning. When the Maine paper prompted EPA to issue a notice to oil companies for more information regarding MTBE, ARCO responded in 1987 that there was little information to suggest MTBE was a threat despite internal ARCO documents showing the contrary.

As South Tahoe demonstrates, terminating the right of communities to seek legal redress against oil companies for MTBE contamination would be a grave injustice. It has not been embraced by the committee, it should not be embraced by the Senate, and it should not become law.

The first hearing of this committee on MTBE was chaired by Senator BOXER in December 1997, after Santa Monica lost the majority of its drinking water to contamination caused by a then little known fuel additive. Since Senator BOXER's first call to ban MTBE now over 5 years ago, this committee has conducted scores of hearings, considered alternate legislative approaches and ultimately approved various versions of legislation similar to S. 791.

Such legislation approved by this committee has consistently called for MTBE's phaseout. It has also consistently rejected terminating the right of communities affected by MTBE to seek redress against oil companies in court. As consideration of S. 791 moves to the full Senate, these two principles that have guided committee consideration of the MTBE issue must remain intact if the MTBE problem is to be truly and equitably solved.

We have in this bill dealing with Commerce-State-Justice appropriations a provision that funds the Board of Immigration Appeals. I would like to take a few minutes to discuss the board, immigration policy, and the importance of the Dream Act. In the past year, the Bush administration has attempted to dismantle the only judicial review process we have for our Nation's immigrants. The board is responsible for applying the immigration nationality laws uniformly throughout the United States. Accordingly, the board has given nationwide jurisdiction to review the orders of immigration judges and other immigration-related decisions. Decisions of the board are subject to judicial review in the Federal courts.

In September 2002, the Bush administration consolidated the Bureau of Indian Affairs appellate procedures by turning its three-judge panel process to a single judge. Review by three judges is only required where the BIA must correct clear errors of fact, interpret the law, or provide guidance regarding the exercise of discretion. The 2002 rule permits a single-judge decision-only brief. No written opinion is necessary. The purpose of this legislation was to enable the board to resolve simple cases quickly. The effect, however, has been anything but efficient.

In a 12-month period, the number of immigration administrative agency appeals filed in Federal court has tripled. The American Immigration Lawyers Association, or AILA, which represents over 8,000 of our Nation's immigration lawyers and law professors who practice and teach immigration law, has been a long-time human rights advocacy organization and has stated that in a 1-year period, the rate of rejected appeals has skyrocketed from 59 percent to 86 percent. The independence and impartiality of our immigration court system must be safeguarded. The Supreme Court, in Plyer v. Doe, stated that:

> Whatever his status under immigration laws, an alien is surely a person. Aliens, even aliens whose presence in this country is unlawful, have long been recognized as persons guaranteed due process of law by the 5th and 14th amendments to our Constitution.

In October of 2003, the American Bar Association called upon the Board of Immigration Appeals to discard its new procedures and set forth suggested reforms to the backlog of cases. And we have the American Bar Association report, which we will get to at a later time. Streamlining the Board of Immigration Appeals process is just one example of an ongoing effort by this administration to shortchange our Nation's hard-working immigrants. While our Nation's immigration laws must be enforced to the fullest extent, I can't help but wonder why our Government is attacking the very people who help us build up our Nation. I think this is just an example of an ongoing effort by the administration to shortchange our Nation's hard-working immigrants.

I think our Nation's immigration laws must be enforced to the fullest extent. I cannot help but wonder why our Government is attacking the very people who help us build up our Nation. I think this is just an example of the ongoing efforts by the administration to shortchange our Nation's hard-working people. Our Nation's immigration laws must be enforced to the fullest extent. I cannot help but wonder why our Government is attacking the very people who help us build up our Nation rather than targeting those who tear it down.

For example, in October 2003, Federal agents detained about 300 suspected illegal immigrants in a nationwide investigation of cleaning crews at Wal-Mart stores. The authorities took the immigrants into custody as they finished the night shift in 61 stores in 21 States.

Certainly, they would not want to interfere with Wal-Mart and arrest them before their shift was completed. The store might be dirty. We need the immigration policy along the lines of the DREAM Act that was introduced by Senators HATCH and DURBIN, and I also cosponsored that. The DREAM Act gives States the discretion to grant State residency to certain youth and authorizes the Federal Government to grant undocumented students who are hoping to enter an institution of higher education conditional legal permanent resident status.

Currently, unauthorized immigrants are not eligible for Federal financial aid, are not legally allowed to work, and are vulnerable to removal from the country, regardless of the number of years they have lived there. The DREAM Act would allow college-bound, undocumented students to apply for Federal financial aid if they meet certain criteria, including continuous residency for the previous 5 years, a high school diploma or its equivalent, and good moral character.

This is the kind of immigration policy we should be enacting. I welcome the CGS committee report language for 2004, which states funds saved in this streamlined process are being spent three times over by the civil division, which must defend BIA's decisions in Federal court. Accordingly, the committee directed BIA to submit a report to the Committees on Appropriations no later than March 21, 2004, listing the single-judge decisions that have been appealed to the Federal courts and the civil division's cost to defend these decisions over the past 3 years.

I hope this body will enact the necessary immigration laws in this Congress.

Mr. President, I want to read a story that appeared in the newspaper on October 25:

> Every night for months, Victor Zavala, Jr., who was arrested on Thursday in a 21-State immigration raid, said he showed up at the Wal-Mart store in New Jersey to clean floors. As the store's regular employees left at 11 p.m., he said, they often asked him whether he ever got a night off. Zavala, identified by Federal agents as a cleaning immigrant from Mexico, told the Wal-Mart workers that he and 4 others employed by a cleaning contractor worked at the Wal-Mart in Old Bridge every night of the year, except Christmas and New Years.
>
> Now Mr. Zavala feels cheated, saying he worked as hard as he could pursuing the American dream, only to face an immigration hearing that could lead to deportation for himself, his wife, Eunice, and their 3 children, 10, 7, and 5 years old. He is one of 250 janitors employed by Wal-Mart contractors who were arrested at 60 Wal-Mart stores before dawn on Thursday.

Again, I think it is interesting that they waited until the stores were clean before they picked them up. They would not even consider offending Wal-Mart by having a dirty store for their workers. Maybe, you know, if these illegal immigrants were not hired and Wal-Mart gave these people workable wages, maybe they would hire other people—maybe people who were legal immigrants. But Wal-Mart can sell stuff pretty cheap because they don't pay them anything; they have no health care benefits, no retirement benefits. So they get by pretty cheaply.

I think it was nice of Immigration and Naturalization to wait until they cleaned the stores before they picked them up. That would give the contractor time to go find some other cheap labor. Maybe for a while, they will have to pay a little more than what they were paying. Wal-Mart is great for low prices but the low prices are also given to their employees.

Most Wal-Mart employees—we have seen things written about this recently—have no health benefits, no retirement benefits, and no vacation benefits. They work for very low wages and most of the time not for 40 hours. They make sure they don't because they might be allowed some kind of benefits.

"My family is not happy about this," Mr. Zavala said. He said he paid $2,000 to smuggle him into the U.S. 3 years ago. "My children don't want to leave and go back to Mexico."

I am sure that is true.

A Federal law enforcement official who spoke on condition of anonymity, said yesterday that several current and contract cleaning contractors for Wal-Mart, the Nation's biggest retailer, were cooperating with the Government in its investigation. On Thursday, Federal officials acknowledged that they had wiretaps and recordings of conversations in meetings among Wal-Mart executives and contractors. Federal officials said as part of the Thursday raid, they searched the office of midlevel management at Wal-Mart headquarters in Bentonville, AR. Officials said the Government believed that Wal-Mart executives knew the cleaning contractors were using illegal immigrants.

Of course they did.

Federal officials noted that 102 illegal immigrants working for Wal-Mart cleaning contractors had been arrested in 1998, 2001, and 13 Wal-Mart cleaning contractors had pleaded guilty after those arrests. Those pleas remain under court seal. Wal-Mart said yesterday it had begun an internal investigation and would dismiss anybody who did not have proper immigration papers. Wal-Mart also told its officials to preserve any documents that might be relevant to the Federal inquiry.

Isn't that nice?

Wal-Mart officials said the raid surprised them.

I'll bet.

They acknowledged yesterday that 10 immigrants arrested on Thursday in Arizona and Kentucky were employed directly by Wal-Mart. The company officials said they brought these workers in-house after certain stores phased out the use of contractors for whom the immigrants had worked. Wal-Mart officials also said the company required contractors to hire legal workers only.

Well, I say that Wal-Mart is involved in this, and I think it is an indication of why they can sell stuff so cheaply. They do it under the auspices of low prices.

I spent a lot of time here today. I thought I would do a little reading from my book. I wrote a book and not everybody has heard of it. I didn't sell too many, to be honest with you. I was hoping it would be a best seller. The only place it is a best seller is in Searchlight. Of course, Searchlight is not very big, so that doesn't mean too much. But I am going to skip the introduction and get right to the meat of the book.

Searchlight is like many Nevada towns and cities: it would never have come to be had gold not been discovered. Situated on rocky, windy, and arid terrain without artesian wells or surface water of any kind, the place we call Searchlight was not a gathering spot for Indian or animal.

Only fourteen miles to the east is the Colorado River. Ten miles to the west is a modest mountain range, with fragrant cedars, stately pines, and a few sheltered meadows, home to an ancient Indian camp referred to as Crescent.

Mr. President, I am doing this because I have been talking for 5½ hours, or so, on a lot of substance. I think at least during the time I am going to talk, I should at least teach a little bit about Searchlight. I know the Presiding Officer is an expert on Searchlight and need not hear this. I am sorry he got the luck of the draw. I hope he will bear with me.

To the northeast lies the canyon called Eldorado. In the eighteenth century the Spaniards explored and then mined this area. The same location was exploited by Brigham Young, who directed some of his Mormon followers to present-day Nevada in search of minerals for his Utah civilization. To the southwest, about fifteen miles distant, is the site of a U.S. military frontier outpost, Fort Piute or Piute Springs.

Also, reading here, I might drum up some sales for my book. I hadn't thought of that. That would be something—although I don't directly benefit from that. I have a separate foundation and the proceeds go to Searchlight.

Anyone who wants to buy this book can get it on the Internet: "Searchlight, The Camp the Didn't Fail." Proceeds go to the little town of Searchlight.

The mighty Colorado River was used for various routes along the navigable portion of its course. The main impediment to through passage from the north was the Grand Canyon, but the river was usable for about a hundred miles above Searchlight to as far south as the border of present-day Mexico.

During the Civil War the U.S. military tried to find better routes for moving men and supplies. Captain George Price, who had been commissioned by his superiors to find an easier route from the area of Salt Lake City to the southern part of the Utah Territory, led one such effort. He left Camp Douglas, near Salt Lake, on May 9, 1864, and worked his way south to Fort Mojave, near what is now Laughlin, Nevada. The trip was uneventful until he reached present-day Cedar City, Utah. The route over the desert from there to Las Vegas was extremely harsh and inhospitable. From Las Vegas to Eldorado was easier, but the journey from Eldorado to Fort Mojave was particularly brutal. The route then proceeded to Lewis Holes, an area west of Piute Springs named after Nat Lewis, and early Eldorado Canyon miner. After arriving at Fort Mojave, Captain Price declared that the route was unsafe and unsuitable for military use.

As an interesting note, during Price's journey his company came upon a stray cow at a watering spot near Lewis Holes and a place called Government Wells. Price's men killed and ate the cow, and the watering hole was formally named Stray Cow Wells in recognition of the event.

The accepted route that Captain Price and others traveled was called the Eldorado Canyon Road, which went from Eldorado Canyon to the Lanfair Valley and wound its way through the Castle Mountains, ending at Lewis Holes. Many prospectors traveled over the road, but written accounts have focused on the condition of travel rather than describing the trail itself.

This pioneer route came very close to present-day Searchlight. As Dennis Casebier points out in his Mojave Road Guide, "Eldorado Canyon is usually a dry side canyon coming in to the Colorado River from the west about 25 miles below Hoover Dam. The route to the mines in the Canyon from Los Angeles took the Mojave Road to this point. From here the road angled off to the northeast via Lewis Holes toward the present Searchlight, then turned northward to Eldorado Canyon. Connections were developed from the Eldorado Canyon to Las Vegas and the main Salt Lake Trail. This point was a major road junction of the day. Here travelers had to decide whether to go northeast toward Utah or continue directly east on the Mojave Road toward Arizona and New Mexico. This intersection fulfilled the same purpose as the present junction of I-15 and I-40 in Barstow, California."

Eldorado Canyon was the object of Anglo exploration long before Brigham Young's forays and the U.S. Army's expeditions, however. Clearly, the first white man to pass through or near Searchlight was Father Francisco Garcés in 1776. He left no physical sign of his passing, but his journals are sufficiently detailed to indicate that he came near the town.

Several of the mines in Eldorado Canyon have a long unwritten history that some believe goes back two centuries. Even though there is no written account of any Spanish or Mexican mining enterprise in the canyon, it is clear that such activity did take place. John Townley reports that mining likely went on there between 1750 and 1850. The mining operations never spilled over into Searchlight, but the explorations came very close.

From its earliest days, Searchlight had significant interaction with Eldorado Canyon. By the time Searchlight was founded, Eldorado had long been in operation. The contact was closest before the railroad came to Searchlight, when the mines and the people depended more on the river. The landing at the mouth of Eldorado Canyon was more important to the mines, however, than the river at Cottonwood was to Searchlight.

Reports like the following from a conversation with John Riggs contrast the operations in Eldorado and Searchlight: "John Powers, who is still living and who at one time owned the Wall Street Mine, told me one evening about 1882 that an outfit of Mexicans of the better class rode up to his camp at the Wall Street, and asked him if he owned he mine. He replied that he did. They then said that they had a very old map of this country and that the Wall Street was marked on the map. The map was evidently correct as they had come straight to the mine. They stated that the map had been made very long ago, probably by early Spaniards." The Wall Street was one of the big producers of gold in Eldorado Canyon for many years. Conversely, no mine in Searchlight, with perhaps the exception of the Quartet, was worked successfully for more than ten years.

Though we do not know when the activity in Eldorado Canyon actually began, we do know that the mining district had a hectic and eventful history in the latter part of the nineteenth century. One account puts as many as 1,500 people there during the Civil War.

The first documented records of contemporary mining in the Searchlight area were provided by a mining company called Piute, which was formed in 1870. This company owned 130 mines in California and in southeastern Nevada. The most prominent of the Nevada mines was the Crescent, located about ten miles west of Searchlight. The company's promotional documents described a road that passed near present-day Searchlight and went to Cottonwood Island, below Searchlight on the Colorado River. The road was said to be favorable, with a broad, smooth path, much of it along a dry ravine.

In the early 1870s, a promoter named Johnny Moss attempted to develop a city just off Cottonwood Island. The town, which would be called Piute, was to be the freight head for the mines headquartered at Ivanpah, some forty miles to the west. The project never went beyond an artist's rendering, however. The proposed mines were later developed, but San Bernardino rather than Ivanpah emerged as the shipping terminus.

Indians traveled from the mountains above Searchlight to the river, creating relatively extensive foot traffic near the town's present location, and miners passed through the area in their never-ending quest for the gold and silver of their dreams.

When Searchlight was established at the end of the nineteenth century, the mining camp with the unusual name had a very primitive infrastructure, but it swiftly became modern. Within a few years Searchlight was as fashionable as any western town of its day. Its amenities were noticeably contemporary. A modern water system was quickly created, incorporating pumping facilities, a new storage tank, piping, fire hydrants, and meters. The town even had a telephone system, which for the time was very advanced, and a telegraph system. An outdated railroad was soon replaced by a more modern line that included passenger travel. Surprisingly, early Searchlight had a modern system of electricity and its own power plant.

The places of business in town were many and varied, including a barbershop, several saloons and hotels, a lumberyard, clothing stores, sundry shops, cafes, union halls, boardinghouses, schools, garages, and stables. The town even boasted a hospital with doctors and, of course, a newspaper or two.

When the mines' production waned after 1908, the businesses slowly began to cut back and in many instances simply failed. The decline, though sporadic, was technologically regressive. By the late 1940s and 1950s there was very little left of the modern Searchlight. Fires and a lack of prosperity had ravaged the once thriving community, and now there were no barbershops, no hotel, no lumberyard, no clothing store, no sundry shops, no union hall, and not even the trace of a union. Of course, the need for a hospital had long since ceased. There was no doctor, not even on a part-time basis.

In the town's early days, especially with the coming of the railroad, the grocery stores carried a full line of food and merchandise. Fresh produce came from the farms around the area, including the river and Lanfair Valley, and beef came by rail, stage, and truck, as well as from the nearby ranches. Near its beginning, Searchlight had its own dairy, but the dairy and the farms didn't survive for long. A handful of ranches operated until the early 1990s, when arrangements were made to ban all cattle grazing from the area in order to comply with the federal Endangered Species Act.

Searchlight may have not been favored by nature, but in the years after gold was discovered, this desert place developed into a microcosm of a frontier settlement worthy of historical study.

Chapter 2, "Money from Massachusetts"—what was the title of my first chapter? "The Beginning."

Chapter 2, "Money from Massachusetts."

The first accounts of the area around present-day Searchlight came from nearby Summit Springs, which, except for the workings at Eldorado Canyon twenty miles north, was the main center of habitation. The site was believed to be about three miles east of Searchlight, probably at what is now known as Red Well, which is just off the blacktop road to Cottonwood Cove, part of the new Lake Mohave formed after the construction of Davis Dam.

More than a century before the discovery of gold at Searchlight, prospectors combed the entire desert west of the Colorado River for numerous minerals and hard metals, including gold, virtually without success. They found float (loose rocks that when panned showed some value) in some of the washes, but no outcroppings of ore surfaced.

The discovery in Searchlight did not result from this initial investigation. The area had been closely prospected for many years; in Eldorado Canyon mineral exploration had been routinely conducted since the days of Spanish rule. The Colorado River, relatively close to Searchlight, had been freely navigated during the nineteenth century. The intercontinental railroad (the Atchison, Topeka, and Santa Fe) was built only twenty-eight miles to the south, and the U.S. Army and the U.S. mail were moved over the pass near Piute Springs even before the Civil War. So the geography of searchlight was not unexplored territory.

Some dispute exists as to whether the mining camp that would become Searchlight was discovered in 1896 or 1897. The latter date has been commonly used for almost a hundred years, principally because all federal government publications used it. The pioneers who settled Searchlight and their descendants later disputed that claim and have advocated the earlier date.

It seems clear that Fred Dunn, of Needles; California, about fifty miles south of Searchlight, had for many years corresponded with various eastern capitalists to secure investments in his mining properties. One of those with whom he communicated was a Boston investor named Colonel C.A. Hopkins. In one of Dunn's letters, Hopkins read a description of the Sheep Trail Mine, near Needles. The colonel replied to Dunn, expressing interest in the claim, but by the time the mail was delivered to Dunn, the Sheep Trail Mine was no longer available for purchase.

Dunn again wrote to Hopkins in Boston and told him that although he had been unable to secure an option on the property Hopkins originally desired, other mining claims were available. When he wrote the letter, however, Dunn actually had no properties to offer, so he hired John C. Swickard to locate claims for the consideration of $1 per claim. Swickard began work immediately, concentrating his efforts in the Crescent and present-day Searchlight areas. At that time the Crescent Mountains, ten miles west of Searchlight, were the site of vigorous mining activity because of significant recent discoveries of turquoise. So the general Searchlight area was being investigated with some success before 1896.

When Dunn believed he had enough claims to interest Hopkins, he invited him to come for a visit to inspect the property. Hopkins came to the prospected area but purchased nothing, though he did retain Dunn to look for other properties.

Hopkins exhibited interest in the area around Searchlight because of the preponderance of low-grade ore, which was more than enough to intrigue him. Unfortunately for Hopkins, although Dunn had retained Swickard, the latter owned almost all the property that would eventually make up the claims that became the famous Quartette Mine. The only claims that Swickard did not own were two small fractions of 49.5 feet at either end of the vein that he first saw when he began his work for Dunn. These fractions were claimed by Fred Colton and Gus Moore in 1897. In order to obtain sole ownership of the entire outcropping of the vein, Swickard traded the soon-to-be-duplex mining claim to Colton and Moore in exchange for the fractional claims he wanted.

It seems clear that prospecting in the Searchlight area was inspired not only by Hopkins's investment interest but also the long-standing interest on the part of Dunn, Swickard, and others in the triangle area where Nevada, Arizona, and California met, near the Colorado River. By 1897 successful mineral exploration activities had already been undertaken in the Eldorado Canyon, Goodsprings, and Crescent areas.

Swickard was proud of his Quartette, and the meticulous work he performed for Dunn was evident many years later. His location monuments were unique. A Searchlight Bulletin more than ten years after the association carries a description of the monuments, which resembled a pawnbroker's sign consisting of two stones and a pebble. To locate a claim, a prospector would usually put in place a small post and attach a tobacco can to it with the claim notice inside. Because he was being paid $1 for each claim he located, Swickard moved forward in a rapid and wide-ranging fashion, claiming outcropping after outcropping.

Swickard decorated the Quartette property with large signs that carried this message: "Any sheepherding sons of bitches that I catch digging in these here claims I will work buttonholes in their pock-marked skins." Since Swickard was always heavily armed, his threats were heeded.

Even though Swickard was extremely protective of his claims, he shortly sold them to the trio of Benjamin Macready, a Mr. Hubbard, and C. C. Fisher for a team of mules, camping equipment, and $1,100. Though proud of his effort in locating the Quartette claim, he sold because he had no faith in the property; he believed the outcroppings were a blowout of the vein and would have no depth. By today's standards the consideration he received for his claim seems paltry, but by the standards of 1898 and 1899 the payoff was significant. It had been known since 1896 that low-grade ore existed in the area that became Searchlight, yet no exploration of more than a hundred feet in depth had taken place, not even by 1899, when Macready sold the Quartette to Hopkins. There is some evidence that Macready obtained the interests of Hubbard and then combined his holdings with Dunn's before selling to Hopkins and Associates. The selling price this time was $150. Before Hopkins could accept the deal, the price was raised to $200. Highly insulted, Hopkins felt he should not consider the new price. His mining engineer, Leo Wilson, intervened and for an additional $50 Hopkins increased his fortune.

Dunn and Macready were forced to sell the Quartette property because they had been unable to raise the capital for an ongoing mining operation. After the sale, however, they remained involved in the new operation. Dunn served as the resident agent of the corporation, and Macready acted as Hopkins's superintendent. Each maintained a minor ownership, but the real financial force was the Bostonian, Colonel Hopkins.

Money from Massachusetts had a similar impact on another mining venture, in 1904, in the Robinson mining district of White Pine County, Nevada. James Phillips Jr., a New York financier, and Mark Requa, one of the owners of claims in the Comstock Lode, persuaded the Loring brothers of Boston to capitalize the Nevada Consolidated Copper company, which later led to Kennecott's massive copper mine and processing facilities near Ely. Some say that without Massachusetts money, that important Nevada operation could never have been developed. In fact, a look back through history shows that nearly all of Nevada's mining enterprises were funded from outside the state, except for a few operations developed later in the century by Nevadans like George Wingfield.

Mr. DURBIN. Will the Senator from Nevada yield for a question?

Mr. REID. I will yield to the Senator, without losing my right to retain the floor.

Mr. DURBIN. I hate to interrupt the Senator's history of Searchlight, NV, because it is something I would like to know a little bit more about. I think the Senator from Searchlight is going to fill me in about the history of his hometown, but I would like to ask the Senator, for those who may have just joined in this debate, if he could bring me up to speed as to where we are in terms of the business of the Senate with pending appropriation bills.

I ask, through the Chair, are there still appropriations bills that need to be worked on and resolved before this Senate will have finished its work? If so, could the Senator tell me if the schedule announced by the Republican majority leader this week is conducive to finishing that schedule?

Mr. REID. I say to my friend, through the Chair, we have worked very hard to complete a schedule the country could be proud of. The distinguished majority whip came to the floor today and talked about the accomplishments of this Senate. He talked about the 10 appropriations bills we have passed. Well, what he did not mention—and I am sure it was an oversight—is that that could not have been done without the absolute, total cooperation of the Senate Democrats. Those bills passed because we worked to help them be passed.

I say to my friend, we called our floor leader, who does a wonderful job, and he worked with me to make sure we worked with the majority to pass the appropriations bills. The Senator from Illinois is a distinguished member of the Appropriations Committee. We worked hard to get that done.

In fact, I repeat—and repetition is part of the answer—we had agreed, the minority agreed, with what the majority leader wanted: Let us work November 10, let us even work November 11, so we can complete these appropriations bills. We said, okay. We went back to our Senators. They were not happy about that, but they understand Senator DASCHLE is our leader and we follow the leader, with rare exception.

The decision was made almost 2 weeks ago to work on November 10 and 11, and we worked so hard. We wanted to get out of this place. We have people at home to take care of. Our responsibilities are more than in Washington, DC. We have hearings we need to conduct at home. We have events we need to go to, constituents to take care of, offices to oversee. So, I say to my friend, we worked so hard.

All of a sudden, we turn around and there is a hot poker that sticks me right in the eye. What is this hot poker? There is a decision made, in spite of all our hard work, we are going to spend 30 hours, starting Wednesday at 6 o'clock until 12 o'clock Thursday night, to talk about how poorly the majority has been treated about judges, even though the judicial vacancies in our Federal courts are at a decade-and-a-half low, although we have approved 168 judges for this President. We have turned down four judges—well, not judges. We have turned down two judges who want to become different kinds of judges. We turned down another man who works downtown and makes a lot of money, and we turned down the attorney general of Alabama—4 out of 168.

The Senator from Illinois works on the Appropriations Committee. OK, so we learned that is going to happen. Some questions come up:

> What are we going to do Monday?
> I don't know.
> Are there going to be votes?
> I think so.
> When?
> I don't know.
> What are we going to do Tuesday?
> Well, we'll decide later.

Tuesday is a legal holiday, by the way.

What is going on here today is an effort to show the world that the Senate is unlike any other institution in the world. In the U.S. Senate, one person has a lot of things he can do to be involved in what is going on here. I am here today representing my Democratic Senators. There may be one or two who disagree with me, but not more than that. They know that I am here speaking for them. They know they are not Members of the House of Representatives, which works like the British Parliament. If you are in the minority, tough; you are going to get run over. Not the Senate.

So the majority leader, who is new at his job—I like him a lot. He is a fine man, dedicating his life to public service. I appreciate it very much. He is a distinguished surgeon. He is a man who devotes whatever little off time he has to helping those in countries far away less privileged than he. I have a great deal of respect and admiration for the majority leader.

But he has to learn, as I am sure he is, that the Senate is a partnership, a partnership between the majority and the minority. We want to be treated fairly in this partnership. To have 30 hours spent on an issue that involves four people, who have jobs—they are working, they have jobs—30 hours for four people is not fair.

Mr. DURBIN. Will the Senator yield for a question?

Mr. REID. I will yield to my friend from Illinois without my losing the floor.

Mr. DURBIN. I ask the Senator from Nevada, is he representing that the Democrats in the Senate are prepared to work with the Republicans in the Senate to pass the remaining appropriations bills so we meet our obligation under the Constitution in a timely fashion? Is this a filibuster to stop taking up the appropriations bills?

Mr. REID. I say to my friend, we not only can say what we will do, but we can talk about what we have done. We have a record of accomplishment of working with the majority. We worked very hard, not only on appropriations bills but other important pieces of legislation. The Fair Credit Reporting Act, that was difficult to get up from our side. We got it up. We had a very fine debate. That bill is now on its way, we hear, to becoming law.

The Healthy Forests initiative—that was a hard piece of legislation to get passed out of this Senate, but we did it. We did it because we cooperated. Either one of those two bills I mentioned, Fair Credit Reporting and the Healthy Forests initiatives—it would have been easy to spend a week on each one of those. We didn't do that.

We have a record of accomplishment. We share the accomplishments that were laid out by the Senator from Kentucky today. And I say also, respectfully, the only reason we did not pass more appropriations bills last year is we didn't get the same cooperation that the majority has gotten from us. But that has happened in the past, and we are now here where we are today.

We are part of the process. When the history books are written—and they will be written—I think they will look back on this decision made to address, out of the very important things focused in the eye on the American people—a war in Iraq, a war in Afghanistan, a war on terrorism globally. It is difficult to comprehend why that alone, together with the economy which is in such desperate shape, and problems dealing with health care, those who are medically uninsured, people who are desperately poor and need to be helped, our educational system—we could talk about any one of those and historians would think that is something we should do.

No, we are going to take 30 hours. When is the last time this Congress has spent 30 straight hours doing anything?

Anything? What are we going to spend 30 hours doing? Thirty straight hours we are going to spend talking about four judges who, combined, make $1 million a year, one of whom makes a half a million dollars a year, all of whom have jobs. I think our priorities are a little out of kilter here—as I go back to my book.

Mr. President, Chapter 3:

One of the real difficulties facing early prospectors in southern Nevada was that to file a claim, they had to travel more than 200 miles to Pioche, a trip that took at least ten days. This presented great hardship, especially in the winter months, when the weather conditions around Pioche could be severely inclement.

As early as 1898, articles appeared in periodicals touting the discoveries made in the Searchlight area. The references were actually to Summit Springs, with directions to the specific site, for Searchlight had not yet been named. The most definitive citation observed the following: "At this point, fifty miles north of Needles, California and some ten miles west of the Colorado River, there is some excitement caused by a promising gold strike made by a Mr. Colton. His first shipment of the selected ore yielded at the rate of 72 ounces per ton. He is now shipping a carload that is expected to produce some 200 dollars per ton. Conservative miners who have recently visited the locality are pleased with the outlook in this vicinity."

On July 20, 1898, the mining district of Searchlight was formed. The place chosen for the undertaking was the only frame or wooden building in the whole camp, a little shack located near the present-day Cyrus Noble Mine, not far from where the Santa Fe Railroad depot would later be situated. The founders were described nine years later as a "small bunch of adventuresome spirits who had undertaken the task of unbuckling the girdling of the gold that encompasses this immediate mineralized section, and [took] advantage of the privileges allowed them under the United States mining laws."

The group of miners and prospectors involved in forming the district drew up a set of bylaws and regulations. Rather than drafting a list of crude, misspelled rules, they put into effect a concise, systematic, and businesslike set of standards covering every point necessary for the filing of a mine claim.

The formation of the mining district did not obviate the need for the ultimate filing with the county recorder in Pioche, the seat of Lincoln County. Because Pioche was so far away and winter weather often made travel impossible, principals were allowed to establish the priority of the claim by filing it initially with the district recorder, then transfer the documentation to Pioche at a convenient time. This arrangement prevented many claim disputes. The original papers of formation were written on ordinary notebook paper in handwriting and then pasted in a rusty book, which as of July 19, 1907, was still preserved in the recorder's office.

Those who signed the formative papers were E.J. Coleman, who acted as chairman; G.F. Colton, who acted as recorder; Samuel Foreman; S. Baker; F.C. Perew; F.W. Dunn; H.P. Livingston; C.C. Fisher; T.B. Bassett; J.F. Dellitt; W.O. Camp; W.G. Lewis; G.B. Smith; and E.R. Bowman. It is interesting that the two accounts of the formation of the district agree on everything except one of the signatories of the handwritten document establishing the mining district. The Searchlight Bulletin of July 14, 1911, lists a woman by the name of Mrs. Hattie Cook as one of the signers, but an earlier account in the same paper on July 19, 1907, does not mention her name. It may have been merely an oversight that the name of the only woman who signed was left out, or it might have been a subtle denial of a woman's role in the founding of the town. Hattie Cook did, however, subsequently locate her own mining claim, the Flat Iron.

Many claims had been recorded in Pioche before the formation of the Searchlight district, including Fred Colton's initial discovery, which started the rush to the Searchlight area. But the first claim actually recorded as "Searchlight," called the Happy Jack, was located on May 3, 1898, just a few days before the formation of the new Searchlight district. This initial claim was located by J.F. Dellitt, one of the people who formed the district. The discovery of the big claim by G.F. (Fred) Colton on May 6, 1897, was not actually recorded in Pioche until the next January. From this example alone it is clear why it was necessary to form the district.

By October the mining camp had its own post office. That same winter many more claims were filed, with the accompanying speculation that all of them would yield riches. These reports sparked an increase in the flow of people to the new camp.

The development of Searchlight came at an opportune time in the history of Nevada, since the Comstrock Lode was all but exhausted by the time Colton struck gold in 1897. The shipment of ore from the Searchlight district followed a twenty-year slump in Nevada mining and gave the state increased visibility nationwide.

It later became apparent that any ore of significant value in Searchlight would be found at depths of more than 200 feet. Extracting ore at that depth was usually prohibitively expensive for individual prospectors; consequently, many operations followed the example of the Quartette and consolidated their efforts.

The Engineering and Mining Journal often reported on such consolidations. Among the transactions recorded there was the New Era Mining Company, which incorporated in 1900 with $300,000 in capital, a significantly large amount of money at the time. The Duplex claim was developed with financing out of Riverside, California, allowing the construction of a mill and extensive underground development. The Searchlight Mining and Milling Company, known thereafter as the M&M, was capitalized in 1899 with sufficient financial resources for continuous work until ore was finally found in 1904.

But the Quartette was the mine that propelled Searchlight out of the ranks of insignificant Nevada mining towns. The Quartette was a great mine by any standard, and its dramatic success allowed Searchlight to become a mining camp of world-class proportions.

The finest mine in Searchlight almost never came into existence, however. The original capitalization by the Hopkins group was soon expended, but more money was sunk into developing the mine. Suddenly, Fred Dunn, the company's resident agent, acting on instructions from the owners in Massachusetts, ordered the foreman, Jack Russell, to stop work. Russell politely but firmly informed Dunn that he took orders only from superintendent Macready, who was in Los Angeles. Dunn then contacted Macready in Los Angeles by telegraph, ordering him to close down the mine. Macready could not return to Searchlight for four days, since the train from Goffs to Manvel ran only three days a week. He did not receive the message from Dunn until Thursday, so he had to wait for the Monday train. Instead of biding his time until the train ran, Macready wired two words to his foreman: "Crosscut south," instructing the men to continue work but to extend the work at an angle rather than straight down.

When Hopkins originally purchased the Quartette, the shaft was 100 feet deep. At the time of the apparent depletion of funding, the shaft had reached the 300-foot level, and the findings were not encouraging. In fact, the ore was averaging only $3.84 in gold per ton. Since all of the ore in other Searchlight mines was being found at depths of less than 100 feet, Benjamin Macready was actually charting unknown territory when he ignored the instructions from his owners and ordered the miners to continue. When he arrived in the camp four days later, they had struck a bonanza—and they had reached the ore after only two more shifts. By the time the mining boom ended, the Quartette accounted for more than 50 percent of all the gold taken out of the Searchlight mining district.

Twenty-three miles southwest of Searchlight was a railroad connection, originally called Barnwell after the first telegraph operator at the station. The Quartette and other Searchlight operations had to haul ore over this twenty-three miles of incredibly rough terrain in freight wagons to the small railroad line, originally called the Nevada Southern and then the California Eastern. From here, the ore was shipped to the central complex of smelters and mills in Needles, California. It was a time-consuming and expensive operation. To curry favor with the Atchinson, Topeka, and Santa Fe, to which this thirty-mile line connected, in 1893 the small railroad changed the name of Barnwell to Manvel, for the Santa Fe president. The small railroad was taken over by the Atchinson, Topeka, and Santa Fe in 1901. Shortly after Searchlight was discovered, the president died, and the name of the site was changed back to Barnwell. Ultimately, the railroad built a line to Searchlight.

With the significant gold production at the Quartette, and the long, hard haul to Barnwell, management agreed to finance the construction of a mill at the Colorado River, about fourteen miles east of Searchlight. The haul to the river made sense because the load would be heavy going downhill and the freight cars would be empty on the arduous trek back up the hill. The construction of the mill at the river also solved the problem of the lack of water in the immediate Searchlight area. In fact, even at the 300-foot level, where the big strike had occurred, there was no sign of water, at the Quartette or at any other place in the camp.

Building the mill was not a difficult engineering task, but constructing a railroad to the river was more complex and expensive. It was, however, necessary in order to save costs in the production and processing of the ore, and so the decision was made to proceed. The construction of the mill and narrow-gauge railroad took nearly a full year, until May 1902. The mill ran continuously until June of the following year.

A significant water supply was finally reached at the Quartette about the 500-foot level, at just about the time when the mill and railroad construction was completed. The discovery of water in the mine reduced the need for the riverside mill.

I am up to chapter 4. We are marching along with my book. As I said, it was quite a job to write it. I am sure it has been a harder task for some people to read it, but it is something I am proud of. As I said, it sold well at Searchlight. But, of course, that is not much in the way of large sales. I have about 25 more chapters to go. The chapters are not long. That is the good news.

I will take a little sip of water. That is pretty good today. That is all the water I have drunk. I have been pretty careful in my water intake.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. REID. Thank you very much, Mr. President. I remember the first time I talked for an expended period of time beginning my first year. Senator BYRD was the leader. He has never taken credit for this, but I think he probably was behind this. He kept bringing me water, and I didn't realize that was something I shouldn't have been doing. So I have learned my lesson since then. It is fairly easy to do. Not drinking a lot of water is more comfortable.

Theories about how the town of Searchlight was named have provided ongoing controversy among the area's residents almost since the founding of the town. One of the first mentions of the name Searchlight occurred in a mining journal of February 11, 1899: "Miners flocking to the Searchlight camp located about 100 miles north of Needles. Highgrade gold quartz veins have been discovered." Note that the specification of Searchlight's location is off by almost fifty miles—Searchlight is only fifty miles from Needles, not a hundred miles.

After Colton's initial discovery, the exploration and mining activity began in earnest. It is noteworthy that even though Colton and his family lived in Searchlight throughout most of the next fifteen years, with brief visits to California, neither he nor the family commented on the initial prospected discovery. No interviews with George Frederick Colton, the founder of Searchlight, can be located in which he explains the details of his location of the Duplex, or even how the name Searchlight was assigned. Several competing versions of the town's naming have been proffered, and Colton neither confirmed nor objected to those differing versions. For example, descriptions of how the camp got its name appeared in early Searchlight newspapers at a time when Colton was a prominent citizen of the town. In the decades following the decline of Searchlight, he came in and out of the town, and members of his family lived in nearby Las Vegas, but he left no traceable interview in which he discusses the naming of the camp.

Mr. DURBIN. Will the Senator from Nevada yield for a question?

Mr. REID. I have to finish a sentence. This is a significant point of the story.

During this time, however, other theories emerged about the naming of Searchlight.

We are getting to a point—I want your attention, Mr. President. We are getting to a point now in this book where we are going to find out how Searchlight got its name. I hope the Chair will give me your full attention because it is one of the most asked questions there is: How did Searchlight get its name? That is what this chapter is all about. I hope you will give me your full attention.

I am happy to yield to my friend from Illinois for a question without my losing the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, the Senator from Nevada anticipated my question. I was going to ask him how Searchlight got its name. I understand he will reach that point in the book.

The PRESIDING OFFICER. That is the case.

Mr. DURBIN. I ask a question of the Senator from Nevada. There are a number of colleagues asking, in terms of the presentation of the Senator from Nevada, if he has a goal in mind in terms of what he would like to present to the Senate before we reach a point where we might take a vote; has the Senator thought of that point?

Mr. REID. I am happy to respond to that. I have not heard anything about votes in the last 6½ or 7 hours. That is a reason I am here.

I will put this exciting book down for a minute and respond to my friend. I know the Chair wants to hear that before the 8 p.m. hour arrives so he does not have to come back and ask me tomorrow. That is one of the reasons we are here. We were not told, other than there will be a vote sometime today. I personally thought—and I think my distinguished Democratic leader, Senator DASCHLE, agreed—that really was not fair. We tried to probe and find out what there would be. We know there are 30 hours starting Wednesday. We read about that first in the newspapers. As far as votes, I want to make sure those people with planes coming from the West will not be jammed with an early vote. I heard there would be votes at 2 or 3 and people would leave so they could go to their events on Veterans Day. We did not know.

As I said earlier, I say to my friend from Illinois, around here we have to work together. No one knows that better than the Presiding Officer, with whom I worked on a close basis on the Ethics Committee. I cannot say enough about the Senator from Kansas and his leadership. It was significant, strong. It was for the good of the institution.

I say to my friend from Illinois, around here we have to get along. To get along, we have to work together. As I said, speaking for my Senators, including the Senator from Illinois, who is not only a fellow Senator but a close personal friend, someone I care about a great deal—we have been together here for 21 years. I say to him, I don't know. Somebody can let me know, and I guess someone from the majority can ask me to yield and ask me a question, Did I know they were scheduling a vote at such-and-such a time? I don't know if they want more votes tonight. I don't know.

In the meantime, I am a soldier with a mission. That mission is to tell people around the world, C-SPAN and people within the breadth and width of my voice, about Searchlight and how it got its name.

The PRESIDING OFFICER. Forward march.

Mr. REID. Mr. President, I hope someday we can do maybe like a Democratic retreat, maybe a Senate retreat, in Searchlight. We only have one motel, but we are working on others. We have a McDonald's now, one of the highlights of the economic life of the last 25 years of Searchlight. You can get a McFlurry there, a Big Mac, really good fries. I am not a big fry fan. Good fries. I am kind of a McFlurry fan, myself. I am very happy; some of my friends built that place. They have a concession, the Herbst family. They have a flag that flies over McDonald's, and I am not exaggerating, it must be 50 feet high, and I don't know how long it is. You can see it for miles around.

Anyway, Searchlight is coming along, and before too long maybe we can have a Senate retreat there. Colorado is not far. Below Searchlight we have the beautiful Lake Mohave, part of Lake Mead Recreation Area. Searchlight is a good place, and we need to find out how it got its name.

One version insists that it was named for an early miner in the area, Lloyd Searchlight. There is, however, no record of anyone by that name who ever lived nearby. The confusion developed when a man known only as Mr. Lloyd started the Lloyd-Searchlight Mining Company, a company that didn't begin operations until the Searchlight mining district had long been formed and named.

A Bulletin headline in 1906 read, Santa Barbarans pay $40,000 for Bonanza Prospect. Lucky owners retain large interest—will be known as Lloyd-Searchlight. The article goes on to state that the development work would be under the direction of Mr. Lloyd. "Although the local management is preserving clam-like silence, it is learned on the best of authority that the Lloyd-Searchlight has struck it rich. In point of discovery and development Lloyd-Searchlight is the foremost property at Camp Thurman, fifteen miles south. Its owners all reside in Santa Barbara, California."

I only have two paragraphs for Mr. Lloyd but, frankly, that is about a paragraph more than he deserved. It was hard to fill all these pages. I gave him an extra paragraph.

I say to these pages, some of whom I am sure will be historians, I hope they will remember as they study history, this history lesson tonight. It may not be the best, but it is history and it is certainly better than some of the speeches we have heard.

A second version is more humorous. Prospectors congregating at Summit Springs before the formation of the Searchlight district used to joke about the miners John Swickard and Joe Boland, who patiently ground their very low-grade ore in a mule-drive crusher, saying, "There is ore there alright, but it would take a searchlight to find it." It was recalled that they all laughed

> afterward, but when Fred Colton turned up some high-grade ore three miles west of Summit Springs, he remembered this joke and called the location Searchlight.
>
> A Searchlight newspaper article lends credence to this version because Colton and various members of his family were living in Searchlight when it was written. Logically, if the story were inaccurate Colton would have denied it. Conversely, it could also be argued that if the story were not true, Colton would not want to contradict it, since the tale gave him greater standing in the town.
>
> The newspaper stated in 1906: "It might be interesting here to relate how the camp originally got its name. A number of prospectors had discovered some float in the valleys to the east and west of town and had a camp established in a gulch near where the *Cyrus Noble* is now located. Coming into camp one evening tired, sore and disgruntled, Fred Colton, the first discoverer of the camp, threw his canteen on the ground and exclaimed, 'there is something here boys, but it would take a searchlight to find it.' Two or three days later he found the ledge of the present Duplex and named it Searchlight. And this was the christening of the camp."
>
> Another recently unearthed version of the town's naming was buried in a 1911 Bulletin article. In naming the mine and the town, Fred Colton was impressed with the wonderful view from the Duplex Mine, which was situated on a large hill overlooking the town. He is reported to have said, "This would be a nice place to mount a searchlight."
>
> Yet another version of the unusual name Searchlight originated with a box of wooden matches, . . .

Maybe these young pages don't know what a box of wooden matches is, but when I grew up they were about all we had. You had a box and pulled out these wooden matches to light your fires. But there was a name—well, anyway, let me read my book:

> Yet another version of the unusual name Searchlight originated with a box of wooden matches, which were essential for lighting cigarettes, cigars, stoves, and for general survival in the early part of this century. One of the most popular brands was named Searchlight. The story is told that a handy box of Searchlight matches was seen at the camp and inspired miners to give the name of Searchlight to the desert mining district.
>
> George Colton's grandson, Gordon, has perpetuated the matchbox version of the tale, spreading word that this is how the town got its name. Gordon was very loquacious, but he did not base his story on conversations with his grandfather. He never lived in Searchlight until late in his life, and the box-of-matches version of the story didn't appear until many years after the camp was founded. (As an interesting side note, Gordon was alleged to have played five years of high school football at Las Vegas High School before embarking on a professional football career with the Los Angeles Rams. His classmates even assert that he was All-State at two different positions. This is confirmed by his son, Stanton, a former Nevada state treasurer. In his old age, Gordon became the constable and deputy coronor of Searchlight.)
>
> Most longtime residents of Searchlight agree that the name came from Colton's being told—or saying—that one would need a searchlight to find gold, but there is no surviving interview at any time with the original developers of the mining district that would shed light on the authenticity of this version. The Searchlight newspaper opined, however, that this version had "the widest credence."
>
> The most credible version of how Searchlight got its name is Colton's story of the need for a searchlight to find the ore. A few have felt more support for Gordon Colton's box-of-matches theory. But before a jury both his story and the other versions would fail. Historian John M. Townley agrees, conceding that the most logical version of the name's origin is the one that centers around needing a searchlight to find the gold, even though Colton never commented on the naming. Townley does confirm, however, that even five years after the discovery of gold in Searchlight, no one was certain as to the origination of the name.
>
> George F. Colton, the town's founder, was rarely interviewed on any subject having to do with the beginnings of the town. In 1906 he returned after about a year's absence from Searchlight and said, "I came here in 1897 and pitched my tent near the present site of the Searchlight Hotel. . . . This is not only a camp without a failure, but a camp with a future. Jane Overy, resident historian of Searchlight and the curator of its museum, insists that the place where Colton pitched his tent is the present location of the post office parking lot.
>
> Possibly another reason that Colton did not make a big deal out of his discovering the town and naming it is that perhaps in his mind he didn't do either. It is clear that there was significant prospecting in the area of Searchlight long before 1897. This is confirmed by many sources, not the least of which is a news article describing Colton as "the father of Searchlight, because of the fact that he discovered the first interesting claims in the camp and built the first house in town." The article recognizes him not as the discoverer of gold in Searchlight but as the discoverer of the first interesting claim. George Colton died in California in 1916.
>
> The same newspaper rightfully calls John Swickard the father of Searchlight. In the early nineties, Swickard prospected through this territory. His locations were the first in the district. As early as 1896 he enlisted the backing of Colonel Fred Dunn and, in 1897, he established the first permanent camp, at Hall's Well.
>
> In short, Searchlight is a camp with more than one father.

Mr. President, we are moving right along. We are headed into chapter 5, which is, just to give a little preview of chapter 5, called "The Big Strike." It talks about the only really big mine in Searchlight. There are lots of mines, hundreds of them. I was there Saturday from about 10 o'clock at night to about 9:15 Sunday morning. As you drive through there, you can still see all these old abandoned mining claims. Most of them have been ordered by law to be fenced because some of them are very dangerous.

I see my friend from Idaho on the floor today.

One of things I hope we can do—I know he and I have worked very hard to do this over many years—is to do something about the mining law that is so old and so antiquated in many ways. We have been willing to reform that, the Senator from Idaho and the Senator from Nevada, but the problem has been those people who want to change the law want to change it so they get everything and the people who create the thousands and thousands of jobs—the highest-paid blue-collar jobs in America are in the mining industry.

I would hope the Senator from Idaho will work with us, as he has in the past, to try to figure out a breakthrough next year on how we can do that. There are some real injustices out there now. I was glad to see this administration overturn the mill site opinion that was written by one of Secretary Babbitt's assistants, which was one of the most illogical legal opinions I had ever seen on mill sites. This administration reversed that. I told Secretary Norton, when they did that, I would applaud publicly what they did, and I did do that. That helped quite a bit, having done that.

But one of the things I think is so bad is we are doing so many things to damage the ability of mining companies to not only continue their operations but develop new operations. I hope before too long we can change that law. There is a way we can compromise this and give the environmental community some of the things they want but also certainly give the mining industry what I believe is a very powerful tool, which is one of the few businesses in America today that is a net exporter. We produce gold, and we export gold. It is wonderful we do that. We need more businesses in America where we produce more than we can use.

So I hope the Senator from Idaho—and I know he will—will work with us next year to figure out some way to make a breakthrough through this morass we find ourselves in. I have been working on this for many years to try to come up with some kind of compromise.

The mining companies bent over backwards for a compromise. We had a compromise in the Interior appropriations bill a number of years ago. We took it to conference, and the people in the House said: No, it is not good enough for us. We want everything. They got nothing. That has been now 7, 8 years ago, and that is too bad, really too bad.

Mr. President, chapter 5 is called "The Big Strike."

> The purchase of the Quartette by the Hopkins group was important to the success of Searchlight. Without the large initial infusion of capital into the Quartette operation, the mine would not have been sunk deeper than any other mine in the history of Searchlight. Without the deep shaft and the subsequent huge ore strike, mining in this area would never have developed. The extensive mining and exploration that later occurred was all based on the early success of the Quartette.
>
> The Searchlight, the newspaper of early Searchlight, promoted the town as the "camp without a failure." Until 1907, when the newspaper changed its name, this phrase

was on the masthead, proudly broadcasting the area's prosperity to the state and nation. The newspaper hoped to attract new capital and people to the southern part of Nevada.

Shortly after the fateful telegram was sent by Macready, the Quartette seemed destined to become a real bonanza. by 1903 Searchlight was the talk not only of Nevada but, according to the local newspaper, of the whole mining world. At what seemed to be the height of Searchlight's success, however, labor problems erupted.

Union activity in Searchlight was the result of organizational efforts of the Western Federation of Miners (WFM), founded at Butte, Montana, in 1893, shortly before the discovery of gold in Searchlight.

Mr. President, this strike about which I refer was a union strike, about miners who struck.

Some have written that the creation of this union was the "birth sign of the coming militant industrialism of the Industrial Workers of the World. In the first decade of the twentieth century this union enjoyed success in its activities in goldfield and to a lesser extent in tonopah."

A costly labor strike almost brought the mining boom in Searchlight to a standstill in 1903. Even though the union focused on the Quartette, other operations panicked, and most closed down until the strike was resolved.

The union strike, called on June 1, 1903, was precipitated by a number of disputes, primarily a law passed on February 23, 1093, by the Nevada Legislature that limited the workday to eight hours for most mining-related jobs, particularly underground positions.

On June 1, the mine owners posted a notice ordering all workers not affected by the new law to work nine hours. This gave the union an issue. It is interesting to note, however, that the only workers affected by the Quartette order were three men who did not work in the mine or the smelter but were hoistmen and trammers who were not covered by the new law. The law stipulated an eight-hour workday not only for underground miners but also for those who worked in smelters and all other positions involving the reduction of refining ores and metals. The strike was ostensibly called because of these three men, but it also provided an opportunity for this new labor organization to flex its muscles.

Initially the union had the support of most people in town, who thought that the workers deserved better pay and improvements in working conditions. Even the newspapers that covered Searchlight, the Searchlight and the DeLamar Lode, appeared to favor the goals of the striking workers. It also was clear that the real issue was not the basic economic one but whether labor or management was to control the Searchlight workforce.

After the company's notice was posted, the union committee asked the mine superintendent what would happen if the union called the workers off the job. Management replied that the mine would be closed. In fact, the mine was closed on June 1, without the union's ordering work stoppage.

Anticipating union action, the owners of the Good Hope Mine and the Duplex also terminated operations the day after the shutdown by the Quartette owners. The provocative nature of the mine owners' actions is clear when one realizes that in all three of these mines, only three men were working nine-hour shifts, and that was at the Quartette.

At first, public comment about the way the union was conducting the strike was very positive. The press and Searchlight residents were favorably impressed that there was no violence. In fact, the union helped foster positive public relations by allowing four of its union men to be engaged in working the pumps at the lower levels in the Quartette, where water would have accumulated, damaging equipment and the workings in the shaft and drifts, if the pumps had not been kept operating.

The union movement in the western United States was in its infancy at this time, especially in the mining industry. Strategies for resolving impasses between labor and management were not well developed, and the two parties were experimenting with ways to end disputes like this. The union wanted to appear tough and strong, even resilient, and the mine owners wanted to put an end to the union before it gathered strength.

In the early days of the strike there was considerable talk of arbitration; but that was very short-lived. In the DeLamar Lode of June 23, the prospects for settlement were more vague than ever. In fact, the mine owners and managers had left for Los Angeles almost as soon as the strike started. The owners indicated they would receive union representatives only in Los Angeles, stipulating that all negotiations would have to be conducted somewhere other than in Searchlight. This action only made relations between the warring parties worse, since during the early days of the strike various union representatives from the national office often visited Searchlight with the intent of negotiating with the owners. They soon learned there was no management to meet with unless they went to Los Angeles. The papers reported: "J.H. Vaughan, representative of the miners union, was in the city Monday to see if the mine owners had anything to say, or to see if they were desirous of a conference." The same newspaper article observed: "John C. Williams, Vice President of the Western Federation of Miners, is expected to be in camp tonight to take hold of the union and end the strike."

The local newspaper strongly condemned the owners' and managers' retreat to California at the strike's inception. Precisely, the Searchlight also reported in its June 26 edition that it was the employers' intention to create an issue to discredit the union. Again, the paper and the townspeople clearly were on the side of the miners and not the owners.

Because unionism was new in Nevada, and this type of labor unrest was fresh in the western states, the union representatives were continually trying to justify their ability to sustain a long strike. When the owners, in effect, refused to negotiate, the union announced that it had ample funds to support the union miners for an indefinite period of time. The company responded by announcing a policy inviting nonunion men to apply for jobs.

As the contention continued, so did the competition for the most marketable story describing the strike. Since the Searchlight was published in Searchlight and was the paper closet to the controversy, it seemed always to paint a picture of peace and serenity during this time, wanting only to project the image of a boomtown. The DeLamar Lode was the newspaper in the town of Delamar, located in what was then the upper part of Lincoln County, about 30 miles from Caliente and 150 miles from Searchlight. On August 4, only two months after the beginning of the dispute, the Lode opined that only the bad people in the county were left in Searchlight. The Lyon County Times, published in Yerington, about 350 miles north of Searchlight, reported that the miners at the Quartette struck to have their workday reduced from twelve hours to eight. Such a report was ridiculous; at no time in Searchlight's brief history had the miners been required to work more than nine hours. The Searchlight wrote a rare scathing editorial, attacking those who engaged in perpetuating false rumors and emphasizing that the strike was being conducted in a peaceful, orderly manner, on issues that were strictly a matter of principle.

On July 3, 1903, Judge M.A. Murphy of the state district court struck down the law establishing the eight-hour day in mining-related work, ruling it unconstitutional. The court declared that the legislation, being class in nature, was invalid because it separated mining and milling from other types of employment, violating the state constitution by taking property without due process. In effect, the court ruled that the Nevada Legislature had no right to dictate hours to miners and mill workers when it did not set the same standards for other types of work. Because of this, the owners were being forced to work their property under conditions that unfairly paralyzed them by having their employees work fewer hours than other workers.

Immediately thereafter, the union, through John Williams, a vice president, approved the strike despite the court's interpretation of the recently passed law. The union again declared its ability to withstand a long strike, since the WFM had supplied the funding necessary for the duration of the union activities.

Even though the owners and managers were not often in the vicinity of Searchlight, they had obviously been plotting to ruin the union and end the strike. Their first move was to form the Desert Mine Operators Association. Although the association's bylaws prohibited discrimination against union members, everyone knew that the purpose of the organization was to stamp out the union. The association even included mines in California, as well as Searchlight's Quartette, Duplex, Good Hope, New Era, Cyrus Noble, Southern Nevada, and Ranioler. The formation of this association was the beginning of the end of the effectiveness of the labor movement in Searchlight. The owners began to investigate ways to reopen the mines with or without the union miners.

The commercial interests in town formed a citizens' committee to arrange a conference with the owners and the union and to act as a liaison, carrying messages of hope between the two warring parties. The Quartette officials, representing all the other companies, refused to talk to the union but professed a willingness to resume operations and to take back all former employees—with the same wages and hours that were in effect before the strike. Company officials also indicated that when the mines began making a profit again they would entertain a different wage scale. This decision by the owners meant that underground workers, as well as blacksmiths and engineers (who were traditionally treated like miners), would work eight hours and aboveground men would work nine hours. All others, such as laborers and those on temporary jobs, would work nine-hour shifts. The union rejected that offer, holding out for a fifty-cent raise and an eight-hour day for all mine-related work.

It didn't take long for businesses to start feeling the effects of the mines' closure.

Though there was significant independent prospecting being conducted during the labor unrest, it generated very little commercial trade.

The first strikebreakers, two miners from Los Angeles, arrived in September. They didn't stay long, since they were persuaded by the union not to go to work. Several days later, two stagecoaches arrived with men who were to begin work at the Quartette. The Searchlight of September 25 reported that the Quartette had gone back into operation with thirty-five men on its payroll, including miners and guards. Even though this is a small number of employees, the company's action demonstrated its determination to get the valuable property back into production. Conversely, the union was doing everything it could to prevent the mine from adding employees, even stationing pickets at various locations, like Manvel, Ibex, Needles, Goffs, and San Bernardino, to deter the further importation of strikebreakers and other anti-union activities. The union also appealed to other labor organizations in Los Angeles and San Francisco, urging them to make every effort to keep workers from coming to Searchlight until the strike was settled, and it advertised in the Joplin, Missouri, area—the home base of the union—to warn hirelings of the situation in Searchlight.

By early October, however, the Quartette had started a stamp mill, located next to the mine. It was obvious to all that for the mill to operate the mine had to be producing ore. Nevertheless, the union still talked as if it was winning the dispute, even though it was apparent that the mine was operating with nonunion workers.

One incident that added to the excitement during these tense times was when the union learned that thirty strikebreakers were en route by train to Manvel, on their way to the Searchlight mines. The union organized a march along the twenty-three miles from Searchlight to Manvel to intercept them. After the long, grueling walk, however, they learned that not a single strikebreaker was on the train.

The editorial position of the Searchlight took its first turn against the union on October 2, noting that the union was hurting its own cause by not working harder to resolve the dispute. Recognizing that nonunion men were already being shipped in to work, the editor further elaborated that the new law, on the basis of which the strike had been called, had since been declared illegal. The article made the case that the two sides were crushing the life out of the new town of Searchlight and stated that the business of the town was being ruined and the storekeepers forced to operate at a loss. This was the first editorial calling for an end to the strike.

Just a week after this editorial appeared, the Quartette, the Good Hope, and the Southern Nevada mines were back to full operation. Simultaneously, the union suffered several other setbacks, including the arrival of twenty-one workers from Joplin, Missouri, and several more from the mines of Colorado. The strikebreakers went to work under the conditions that had existed before the strike began.

About this time, the Quartette opened its own general store and even built bunkhouses for its workers, which provoked extremely negative reactions from both the merchants and the general population. The Quartette, located about a mile and a half from the center of the city, was becoming its own town.

The Searchlight condemned the actions of the mine owners. They were particularly galling to the paper because it had recently run editorials supporting these companies. In desperation the paper called on the union to end the strike, but the union remained defiant. The newspaper finally declared that the union had lost the goodwill and sympathy of the community.

Even at its most intense, however, the strike in Searchlight was orderly and nonviolent. The sheriff from the county seat of Pioche periodically visited Searchlight to monitor the situation, always returning with reports of nothing more than rumors of disturbances. The entire period of the strike was unusually calm.

The peaceful nature of the Searchlight strike was similar to the minimal labor strife that the Comstock has experienced a generation earlier. The Western Federation of Miners formed its first union in southern Nevada in Tonopah in the summer of 1901, and Tonopah escaped any real labor problems until after World War I.

At nearby Goldfield, however, there were significant labor disputes, marked by numerous episodes of violence. The unions had obviously learned from the losses of the WFM in Searchlight, for they became powerful in Tonopah and Goldfield. In 1907 Goldfield was an armed camp. Several shootings occurred, with one reported death. Eventually President Theodore Roosevelt, at Governor John Spark's request, sent federal troops to quell the quarreling factions. In comparison, Searchlight had been very calm.

In January 1904 the courts again surprised the entire Nevada mining community with a long overdue decision. The Nevada Supreme Court overruled the district court and declared the wages-and-hours law constitutional. The reason for the strike had come full circle. But like its predecessor, this final decision did not change the fact that the union had been broken. The union continued operating in a strike mode for the next year, even though almost all of the union men had gone back to work. Those who returned to the mines were required to sign a card agreeing not to participate in union activities, pursuant to the Desert Mine Operators Association rules.

In 1907 the same card system was put into a place in Goldfield just before Roosevelt ordered federal troops to Esmeralda County. The right of the companies to have employees sign such a card was affirmed by the Nevada state legislature in 1907.

The strike had a tremendous impact on the new town. The merchants suffered in not being able to develop commercial enterprises as quickly as they otherwise could have. Many people experienced economic hardship as a result of the strike, and workers with known union sympathies were laid off. For example, James Lappin, foreman of the Quartette Mine, was laid off as a result of his union leanings. His wife, Lula, opened an ice cream parlor to provide income for the family, but the store failed and the Lappins migrated to Southern California where, at age fifty, James began a second career as a farmer. He died in Anaheim, in 1908, at age fifty-five, just about five years after being run out of Searchlight. James Lappin's story was repeated numerous times in the lives of the early inhabitants of this boomtown.

The labor-management problem in early Searchlight had a very limited effect, however, setting the progress of the town back for only about three months. Though the union and townspeople kept referring to the "strike," in reality it didn't exist—the strike was actually broken early in the dispute.

As mentioned above, much of the friction was caused by the competing newspapers, the DeLamar Lode and the Searchlight. The Lode, for example, had the strike settled by September 20 when it reported: "The backbone of the strike is broken. The Quartette landed a number of men on its property yesterday to begin work and to date things were moving as of old." The Searchlight was more cautious. In its October 2 issue, it reported: "The strike situation that past week has shown little change."

The strike did have other, unintended consequences, however. It was because of the pro-union stance taken by the Searchlight and some of its advertisers that the Quartette Company decided to start its own general store and other competing businesses at the mine site. The action was clearly an attempt to punish those businesses that went along with the union leaders.

The dispute also caused the company to focus on labor relations instead of on ways to improve the mine. One of the Quartette's managers said in December 1903 that if the strike had not occurred the company would have built a railroad from Ibex to the camp.

In just three short months, the union was vanquished. Though the exact date of the defeat is debatable, the conclusion is not. Union activity disappeared and to this day has never reappeared in Searchlight.

Mr. President, that is the end of chapter 5.

I got a call. The cloakroom called. I have a note that one woman from Frederick, MD, called. She likes the book. She called Barnes & Noble who said it would take 2 weeks to get a copy. She said it would be good if I would speak more slowly so she can hear and understand the book.

I don't think I can do that. I don't speak very fast to begin with. I appreciate her being interested, though. You can get it at Barnes & Noble. If she came to Searchlight, she could buy one right there.

As I said, Searchlight was part of the busiest two-lane road in all of Nevada. But we have been able to get four lanes there now, half the way. That helped a lot. They opened it a couple of weeks ago. It is not hard to go to Searchlight. Lots of people go there. As I indicated earlier, we have a great new McDonald's there. We had a store there that was opened by a woman who was a fantastic artist. That young woman died at an early age, about a month ago. That closed that operation. But there is kind of a curio shop there. They would call it an antique shop here. They have old mining equipment and things of that nature. We have a nice restaurant and casino there. A long-time friend of mine added to inflation a lot about a year ago. For many years she advertised a nickel cup of coffee. She raised that to a dime. So now in Searchlight, you can drive through there and get a cup of coffee for a dime. You don't have to get anything else. I don't know how many people it draws, but she has a dime cup of coffee.

She hired a new chef. She had one many years ago named Bill. He loved to fish. The lake is only 14 miles away.

He would get huge amounts of fish, save them up, and then Bill the cook would have a fish fry for the whole town. Great fish. But after he died, I have to tell you the food was not very good there. They no long refer to him as a cook. Now there is a chef in town. We have a chef in Searchlight. Every day, you see the special—things like stuffed pork chops, spareribs; he even had goulash one night. This guy knows what he is doing.

My wife and I look forward to going into Searchlight. My home is about a mile and a half, 2 miles out; we are still in the metropolitan area, I guess you would call it.

The town has grown since I grew up there. There must be 1,000, 1,200 people in the area. We love to go there now for one of the specials. So Searchlight is moving along.

We have a sewer system on one side of Searchlight. If you live on the east side of the highway, you have sewer. If you live on the west side, no luck: septic tanks.

I, was born there. I really left when I became a freshman in high school. I went back, of course, to visit with my parents. I fell in love with Searchlight. It is a place where I was born, where I grew up, and really developed a lot of the things I thought were right and wrong.

For many years in my congressional service, I didn't even have a real house. I had a mobile home I bought from my uncle, but I never felt good in it. So 2 years ago this next month, my wife and I, after we had gotten our five children through school and college, built ourselves a modest home in Searchlight. I love that place. It is such a nice retreat, going from the metropolitan Washington area out there 55 miles from Las Vegas.

We made a few mistakes in building that house. My wife actually did it. One of the mistakes she made was she put in a little sprinkler system and planted some stuff around the house. Well, the stuff was eaten by rabbits in about a week. They hadn't had a feast like that ever, probably. So we went to the extension service and said: We would like you to tell us what we can put in there that the rabbits won't eat—rabbitproof. They loved that. They came back in a week or so. We spent some more money planting again.

This was even better. The rabbits learned there was something there, and they finished this off in 3 days—3 nights. They won't eat in the daytime. Here we were. What were we going to do?

Looking around the desert, I noticed they didn't eat cactus, or I thought they didn't eat cactus. They didn't eat desert cactus. They ate my cactus. We planted a bunch of cactus. I can't imagine how they can do it, but they eat some cactus—not all of them. I don't know the names of the cactus they don't eat. Some of the names I know. They don't eat the cholla. They don't eat the beaver tails. They don't eat a plant that is not native to Searchlight, Ocotilla from Arizona, a long stringy plant with stems that go up very high. They don't eat those.

So I have replanted my house several times. They are good, these rabbits. What I did was, some of our big cactus, I told the cactus guy—Cactus Joe is his name—in Las Vegas. He brings his truck. "Come and see what they ate, and bring something they don't eat." Oh, sure, they are happy to bring Tommy Lee and his crew out. They planted—oh, man, some of these things were big, beautiful green cactus. I got up the next morning, and they had ravaged my cactus.

They looked like these big things with big holes in them. They chomped them through. I called one of my friends in Las Vegas and said I needed some help—my friend Gary Bates. He responded and came out with some wire, pliers, and all that kind of stuff. We picked some of these cactus these rabbits wouldn't eat. Do you know, they figured a way to get through that wire. I don't know how they did that. I don't know how they got those big ears through there, but they did. They didn't ravage them; they just kind of chomped on them a little bit. I might be able to save some of them.

So that is my story of my cactus.

I was out there, as I said, Saturday night. I had dinner with a couple of my Senator friends in Searchlight. The first thing I did was look at my cactus crop. It was dark, and I couldn't see. I was pleased it wasn't worse than it was. We planted some more Ocotilla, which is rabbitproof, proven from prior plantings of my Ocotilla.

These rabbits are interesting animals. I used to always like those cottontails. In Searchlight, we have cottontails, cute little rabbits about so big. Then we have the big jackrabbits. I developed a strong dislike for cottontails because they are worse on my cactus than the jackrabbits.

Anyway, I will take a sip of water and go to chapter 6. I guess there is no word about votes around here, so I will just keep reading.

Let's see, at 8:16 it will be 7 hours. My only regret is I should have started earlier on my book. I was a little bit repetitive.

Before I start chapter 6, let me just say this. I understand the rules of the Senate pretty well, and I know today there could have been a vote offered by somebody if I hadn't gotten the floor. There could have been a vote on a motion to table somebody's amendment. I know the Senator from Arizona was going to offer an amendment because he told me so. Maybe it was an amendment the other side didn't like. I don't know. And tomorrow, or whenever we come in again, another amendment can be offered.

Under the rules of the Senate normally followed, when someone offers an amendment, the person who offers the amendment speaks on its behalf; those opposed to the amendment speak against that amendment. The person who offers it can speak for as long as they want, and the person who opposes it can speak for as long as they want. I wanted to make sure today that because of what we were told would happen, I was going to do what I could to see if it wouldn't happen.

I don't miss many votes. The only votes I have missed in recent years have been for my friend, the junior Senator from Nevada. I have paired with him on a number of occasions because of family issues; he has a young family, and I have been happy to do that. I don't mind missing a few votes. I was not missing them. I was here. But I am happy to pair. We used to do it a lot in the Senate. It was the thing to do. If somebody had something important, we would vote yes or no.

We have become so interested in voting records. We vote on things here that don't mean anything of importance. Most everything we vote on here passes overwhelmingly, but we have to have votes: I can't miss that judge's vote; oh, I can't do that. I say: It is going to pass; everybody is going to vote for him or her. Why worry about it? I can't miss a vote.

But anyway, I have paired with my friend from Nevada on occasion. The last time I paired with him, he had not been able to watch any of his son's football games the whole year because they don't play on Friday or Sunday.

He said: I sure would like to watch Trevor's game. I said: Go watch Trevor's game. It is more important than what we do on this occasion because a year from now, 2 years from now, your son's football game is going to be more important than the votes that happen here. I am glad he watched his son's football game.

My friend, Senator ENSIGN, is glad he watched his son's football game. The only point I am making is we have votes all the time. We can have a vote tonight. I do not care. I am going to be here. It does not matter what time we have it. I am here all the time. We can have votes tomorrow, but I understand the rules of the Senate, and we have to work together.

I want the record to be spread, as it has been, that this 30-hour judges thing is not the way to run this place. It is simply not right. If we tried something like this I hope I would have the integrity to speak out against it. I believe I would. I hope I do.

When we have so many important things to do in this Congress, we do not have the time to spend 30 hours on our turndown of 4 judges that President

Bush has put forward: We have approved 168 judges, turned down 4. That is not the way to operate things.

I am very cooperative most of the time. I apologize if I have caused any inconvenience to any of my friends today, but I want to make sure that the inconvenience caused to some today is something that will help us in the future have a more organized, friendly, cooperative partnership in the Senate. It is going to be hard for the next few days doing that when we are going to spend 30 hours, starting Wednesday at 6 going until midnight on Thursday, talking about how badly—that is wrong—we have treated Miguel Estrada, Justice Owen, Judge Pickering, and General Pryor, people who, I repeat, have well-paying jobs.

Is it important that we devote our time to that? I mean, have a vigil for 3 hours, not 30 hours. There is not going to be anything new said in 30 hours that could not be said in 3 hours. I am interested to see if anything new will be said in the whole 30 hours that has not been said already.

Mr. DURBIN. Will the Senator yield for a question without yielding the floor?

Mr. REID. I yield to my friend from Illinois without losing the floor.

Mr. DURBIN. I would like to ask the Senator from Nevada, through the Chair, as a member of the Senate Judiciary Committee, each of these nominees who has been contested, four nominees who have been contested—it is my understanding 168 of the President's nominees have been approved and four have been held, and as a member of this committee I can say to the Senator from Nevada, in preparation for my question, Miguel Estrada, I might mention there was a lengthy hearing. It may have been two hearings, if I am not mistaken, and a lot of questions asked by individual Senators and then several lengthy debates on the floor of the Senate leading to the cloture votes.

In the case of the nominee, Priscilla Owen, who is a Texas Supreme Court Justice, she was not only given a hearing and considered previously and rejected, she was brought again for another consideration by the committee and more debate on the floor.

When it comes to Attorney General Pryor of Arkansas, I can recall it was a very lengthy hearing in the large hearing room over at the Hart Building, the Senate Judiciary Committee, and then with Judge Pickering, another district court judge from Mississippi, who received two separate hearings, and then after those hearings was rejected, then brought back again, more lengthy debate. So I ask the Senator from Nevada, through the Chair, is it his belief that any of these four nominees have been treated rudely by the committee or denied an opportunity for a hearing or given a chance in the Senate to have had their qualifications considered before the votes were taken?

Mr. REID. I say to my friend from Illinois, through the distinguished Chair, there has never been any suggestion that these nominees were treated like President Clinton's nominees and not given hearings. The answer is, no.

I also say to my friend, assuming for purposes of this debate only, that every one of the decisions we made—that is the Senate Democrats made—with these four nominees, that we were wrong, we should not have done it, is that any reason to take the time of this Senate to spend 30 hours on four nominees? I am only stating this for purposes of this debate, that even if we made four wrong decisions, should we spend 30 hours of our time talking about what is going on? Thirty hours? I just cannot believe that.

Mr. DURBIN. Will the Senator yield for another question, through the Chair, without yielding the time?

Mr. REID. I would do that. Any time I hear someone shuffling around the room, I am always hoping it is people coming to hear more about my book. I am on chapter 6 and I can tell everybody it gets better. This is kind of the buildup. I thought the naming of the town was pretty good. I thought the strike was pretty good.

Mr. DURBIN. If the Senator would yield?

Mr. REID. I would say I thought my dissertation on the rabbits and cactus was okay. In fact, I wish I had known at the time how bad those rabbits were, and I may have talked about them in my book. I am becoming more of a coyote fan all the time, hoping that they win more battles with the rabbits.

Anyway, I would be happy to yield to the Senator from Illinois for a question only, without losing my right to the floor.

Mr. DURBIN. Well, being from Illinois, I cannot get into the rabbit and cactus debate as some of my colleagues, perhaps my colleague from Arizona might be able to, but I ask my colleague from the State of Nevada, through the Chair, the following question: Is it his hope this evening we will lead to a point where there is a vote so that Members will have a chance to vote before the end of the day? Is that the Senator's goal in taking the floor as he has?

Mr. REID. I say to my friend, I personally do not care whether we vote or not. I think it is late. I am not sure we need a vote. I am not sure people are here to vote, but I really do not care. I simply want everyone to know, as I have said on several occasions, that someone who can be maybe not the most cooperative—but I think I am in the top 20 or so of being cooperative around here—I am happy to be cooperative in the future. But I repeat, on more than one occasion I have said today that we cannot be treated this way. We are part of the program here.

We cannot tell people who live in California there is going to be a vote. They ask, well, what time is that vote going to be on Monday?

Well, we don't know.

What is it going to be on?

We don't know, maybe something dealing with the Commerce-State-Justice.

Well, what if an amendment is going to be brought up, is it not going to be debated?

I don't know.

I had a call from somebody who had a schedule in the eastern part of the United States today. He said: Should I come?

I said: I don't know. I am going to try to protect you, but I don't know if I can.

Here we are. To compound things, tomorrow is a national holiday that Senator DASCHLE originally agreed to work and have votes on so we could get out of here.

So I don't know if there is going to be a vote. I don't know. I don't know if there is going to be a vote. I really don't know, but maybe when I finish there will be a decision made on that. Maybe tomorrow we will have a better idea of what the schedule is. I hope that in the scheduling for tomorrow we will have some definition tonight what that scheduling is going to be.

Those people in the West have lost their day. They cannot go West to enter into functions sponsored by veterans on Veterans Day. They cannot do that now. They have been brought back here for various and sundry reasons, none of which they understand. If people had some idea tonight, there are still things on the East Coast that people could still do tomorrow. I am sure maybe the Senator from Illinois, if he knew what the schedule was tomorrow he could return to the Chicago area or other parts of Illinois and do things. But those of us in the West cannot do that. So that is where we are.

Chapter 6, "The Big Mine," M-I-N-E.

> If one travels to Searchlight today and drives or walks around the area, he or she will see scores of mines, mine dumps, tailing remnants, gallows frames, and even collapsed mill sites. The names of the mines are entertaining and curious: Empire, Good Hope, Good Enough, New Era, Blossom, Key, Tiger, Barney Riley, Rajah, Yucca, Shoshone, Ironclad, Parallel, Searchlight Mining and Milling (M&M), Western, Berdie, Pan American, Elvira, Mesa, Pompeii, Southern Nevada, Telluride, Empire, Red Bird, Blue Bird, Saturn, Santa Fe, Philadelphia, Eddie, Ora Flame, Carrie Nation, Magnolia, Hyacinth, Poppy, Parrot, Spokane, Cushman, Dubuque, Golden Garter, Silk Stocking, Eclipse, June Bug, Little Bug, Cushman, Duplex, Water Spout, Cyrus Noble, Golden Rod, Water Wagon, Bellevue, Chief of the Hills, Crown King, Quaker Girl, Iditarod, Greyhound, New York, Stratford, Quintette, Columbia, Gold Legion, Calivada, Annette, Gold Coin, Gold Dyke—these are but a sampling of the myriad claims that make up the Searchlight mining district. A few of the mines were sporadically good producers, especially the Duplex, Blossom, Good Hope, and Good Enough.

Mr. ROBERTS. Will the distinguished Senator yield for a question?

Mr. REID. I will yield for a question not to exceed 1 minute, Mr. President, without my losing my right to the floor.

Mr. ROBERTS. I thank the distinguished Senator. While sitting in my capacity as the acting Presiding Officer, going back to chapter four of your book, I got a little confused as to how the city of Searchlight actually was named Searchlight. I got mixed up between Lloyd Searchlight and the kitchen matches. I was wondering if you, with your intimate knowledge of who is a chef and who is a cook and poor Bill who has died—obviously you don't have any fish fries anymore, but I am interested in the goulash—but with your intimate knowledge of Searchlight, do you have a theory, a pet theory as to how Searchlight actually got its name, of the three hypotheses that you mentioned?

Mr. REID. I actually know how Searchlight got its name, I say to my friend through the distinguished Presiding Officer. Searchlight got its name because someone said, "I found gold," and someone said he would "need a searchlight to find it." I feel fairly certain that was it.

I think, as I said in my book, if I took the naming of Searchlight to a jury I would win, but not every time. We know the Lloyd Searchlight thing is history that, as I said, only deserved one paragraph. I gave it two. But it is not much of a theory.

But the one dealing with the matches is pretty good. I think that is something that a jury once in a while—if we did it 10 times, maybe 2 out of the 10 would find that.

Mr. ROBERTS. If the distinguished Senator would yield one more time—

Mr. REID. Under the same conditions.

Mr. ROBERTS. Those were kitchen matches, not the modern?

Mr. REID. Oh, yes, I say to my friend who remembers those little wooden matches.

Mr. ROBERTS. Yes.

Mr. REID. He remembers those wooden matches. They still have them now but usually they are hard to find and usually they have the real long ones they use for lighting fireplaces.

Yes, the Senator from Kansas, I know, remembers those wood matches. I compliment the Senator from Kansas for being so attentive. You did pick up a lot. You were here for quite a few chapters.

Mr. ROBERTS. Mr. President, if I could just ask one more additional question of the Senator?

Mr. REID. Under the same conditions.

Mr. ROBERTS. Did you ever solve the problem with the rabbits with regard to the cactus they would eat or wouldn't eat? And I was wondering if you thought about just basically desert rocks? They have some beautiful rocks out there and I doubt seriously if the rabbits would have eaten the rocks.

Mr. REID. Mr. President, the cactus is an ongoing saga. The cactus, I am working on that. I am not going to say in front of everybody how much money I have spent on cactus. My wife knows and is not very happy about it. I hope she is not watching because I just spent a few more dollars.

Mr. ROBERTS. Rubber tires, perhaps?

Mr. REID. Oh, no, my home is much nicer than rubber tires. In fact, we do have a magnificent rock. I am glad you mentioned that.

In front of a great Joshua tree, we have a rock that was hauled to my home that is as big as, oh, probably, four of these Senate desks put together. The reason it is so meaningful to me is, in the days as I was a boy growing up, my father and uncles—and people in Searchlight—would engage in single-jacking contests. Single-jacking contests are contests where a man with a piece of hardened steel that has been sharpened very sharp, with a big hammer that you handled with one hand but which had a great big head on it, not like a carpenter's hammer—they would have contests during a 10-minute period of time to see how deep you could dig into that rock.

Now I have that rock, where a number of contests were held, driving these pieces of steel with a single-jack into these rocks. My dad participated in some of these events. As I drive into my home, there is this great big rock and I take people out and show them these holes. I don't know specifically which ones my dad was involved in, but he was a single-jacker in his earlier days.

I am glad you mentioned the rock.

My cousin, who has a master's degree—never used it—started mining from the time he was a few years younger than me. He started mining up at Crescent. I talked about him in the first part of my book because his dad was very into that.

His son, never having worked in mines, decided that was what he was going to do. He spent the last 25 years or so working up there, making very little money until the last few years. He didn't make any money from gold. But a Searchlight contractor came to him and saw this beautiful rock that he dug out. It had no gold in it but it was red and all variations in color. He said: How about selling me some of this? So he entered into a contract.

We build thousands of homes every year in Las Vegas. With water being as scarce as it is, there is a lot of desert landscaping going on in Las Vegas. My cousin has made a lot of money in recent years selling rock.

Mr. ROBERTS. Mr. President, if I could just ask one more question and I will desist.

Mr. REID. Under the same conditions, Mr. President.

Mr. ROBERTS. I thought perhaps with your cousin, again, you could replace those cactus with rocks and I know the rabbits wouldn't eat the rocks. But in any case I think the operative thought would be to simply "rock on."

Mr. REID. Mr. President, my friend from Kansas is absolutely right. We probably should rock on.

I know this is not drawing a lot of people and certainly is not going to take away from Monday night football, but I did get a call from my friend who is a Congressman from Nevada by the name of JIM GIBBONS. JIM is somebody who has a distinguished military record. On the first flights that went to Iraq the first time, he was in the first formation of airplanes that went into Iraq through all that flak and other stuff.

He is an American war hero. He is a lawyer and a geologist. He served in the Nevada State Legislature. He is now a long-time Congressman. When he was in the State legislature, he initiated an action that led to the amending of the Nevada State Constitution to require a two-thirds vote on all tax issues.

JIM said: I am from Sparks; say something nice about Sparks. So I will do that.

My first remembrance of Sparks, I say to my friend, Congressman JIM GIBBONS, was when I was a little boy. My hair was not as red as that of one of the pages. She is not here tonight. But she has really red hair. People thought I had red hair, strawberry blonde, or red. It has turned gray.

The first thing I say to Congressman GIBBONS about Sparks is, when I was a little boy, the bus used to stop in Searchlight. A woman got off the bus. I didn't know she had come from Sparks. Sparks is where the mental institution is. I was just standing there, this poor little kid. I must have been about 8 years old. She got off the bus and said: You little SOB, you have been following me. I am tired of it.

I was scared to death. That is my first memory of Sparks. I learned later she had just gotten out of the insane asylum. This woman haunted me for weeks. My parents explained to me that she had come from an insane asylum and she had not gotten it all together.

I say to Congressman GIBBONS from Sparks, we still have the State mental institution. Sparks is a workingman's town. Sparks is connected to Reno. There is no space between the two towns. Sparks was a railroad town. They are working on a better version of a railroad museum that needs to be developed there. The railroad still goes through Sparks. It is still an important part of Sparks. It is a resort area. It is a very nice resort with a hotel and casino. It is a very nice place.

So, Congressman GIBBONS, Sparks is a great place. It is part of what makes Nevada. One of the things that makes Nevada as good as it is is the people who come from Nevada, not the least of whom is Congressman GIBBONS.

I probably should say something about Senator ENSIGN. I will have to say a few things, I guess, about everybody. I don't want to hurt anyone's feelings. Senator ENSIGN and I have comparable backgrounds in many respects. Senator ENSIGN is a long-time Nevadan. He spent most of his time in Nevada as he was growing up in the Lake Tahoe area. I don't remember exactly, but I think about 6th through the 10th grades. He was an athlete there. He still calls Lake Tahoe one of his favorite places in Nevada. Senator ENSIGN, as we all know, served in the House of Representatives. Prior to doing that, he was a veterinarian in Las Vegas. Senator ENSIGN and I hold the distinction of being alternates to the military academy. And we say for those people who want to go to the academy, if they can't make it to one of the academies, maybe they can wind up being a Senator. That is what happened to Senator ENSIGN, and that is what happened to me.

JOHN has a wonderful family. His father and I have been friends for many years. Our congressional delegation is really growing. For many years—from the time we became a State in 1864 until 1982—we only had one Member of Congress. Now we have three House Members and two Senators. My old House seat is now held by Congresswoman SHELLEY BERKLEY.

I see the distinguished senior Senator from Michigan in the Chamber. He knows SHELLEY BERKLEY, a wonderful woman. She is so good at what she does. She has been a member of the State legislature in Nevada. She has been a member of the Board of Regents in Nevada. Now she is in her fourth term as a Member of the U.S. House of Representatives. She is a wonderful woman. She is married to a fine physician who is tremendously supportive of her. She has had some very difficult elections, but not anymore. That is her congressional district which she represents extremely well.

We have a new seat. The seat Congressman GIBBONS holds is a heavily Republican district. The seat Congresswoman BERKLEY holds is a heavily Democratic district. The seat Congressman JON PORTER holds is one of the seats divided between Democrats and Republicans. He served previously as mayor of Boulder City, then as a member of the Nevada State Senate, and was elected in the first term as a Member of the House of Representatives.

I appreciate Congressman GIBBONS. If he or his staff, or both, are watching what we are doing here today, as I said, I talked about Searchlight and Congressman GIBBONS wanted to make sure I said something about Sparks. I am happy to do that. It is a pleasure to work with the people who serve in the Nevada Congressional Delegation. They are wonderful people. I am proud of each one of them.

Mr. LEVIN. Mr. President, I wonder if the Senator will yield for a question without losing his right to the floor.

Mr. REID. I would be happy to. I know that by yielding for a question I don't give up the floor, but I always say "without giving up my right to the floor" just to make sure. Because the Chair changes all the time, I want to make sure the Chair understands I don't have to say "without losing my right to the floor."

I will be happy to yield for a question of my friend from Michigan as long as the question doesn't exceed 2½ or 3 minutes.

Mr. LEVIN. Mr. President, I tried to catch as much as I possibly could about the Senator's exposition of Searchlight on the monitor in our offices. It is an absolutely fascinating history which he has shared with the Senate.

I point out that the Senator who is doing this tonight is surely one of the most patient, determined, and beloved Members of the Senate. I ask this question of him as somebody who I think in the Senate on both sides of the aisle is admired, as somebody who tries to keep this institution working, and who has accommodated every Member of this Senate over the years, be it Republicans or Democrats.

My question relates to Searchlight. I want to just see if the place I actually went through with my wife on our way to Death Valley, CA, might have been Searchlight. We went through it at night. It was a town in Nevada—a very long town. It was in a valley. It was probably 10 times longer than it was wide. It was one of those nights where all the lights of the town sparkled. I am sure Nevada probably has some of the clearest air in the world. I wonder whether or not that is the shape of Searchlight. Is it a very long, rectangular town?

Mr. REID. Mr. President, if I could say to my friend, my friend went through Pahrump, not Searchlight. That was Pahrump. Searchlight is very short. You are through Searchlight in less than a mile on the highway.

Pahrump is a town that is, by the way, now more than 40,000 people, unincorporated. It is a town that was blessed with large amounts of water. Pahrump is some Indian term dealing with water. It has lots of water. They actually grew cotton in large quantities in Pahrump for many decades. It is very water intense.

With the growth of Las Vegas, Pahrump has become almost a bedroom community for Las Vegas. It is one of gateways to Death Valley. It is a place just as the distinguished Senator described, a long, narrow town that goes on for miles. As I said, it is growing significantly and is part of Nye County, which is the second largest county in America, second only to San Bernardino County.

Let me say to my friend, I want the distinguished Senator from Michigan to know what a solace it is to me the Senator from Michigan is the leading Democrat, the number one Democrat, the ranking member on the Armed Services Committee. There are a lot of different personalities and character traits we all have in the Senate. The Senator from Michigan has a couple, all positive. One is, nothing gets by the Senator from Michigan. There is not a sentence in the bill the Senator is involved in that he does not understand. There is not any agreement they enter into that the Senator is a part of that he does not understand. When we deal with the defense and security of this Nation, it does my heart good to know the Senator from Michigan is involved in helping make our country safe and secure.

I appreciate his kind comments. In an effort to indicate to the Senate my fondness for the Senator from Michigan, the first time I met the senior Senator from Michigan, I was a member of the House of Representatives. We met. I proudly said to the Senator from Michigan, I came to Washington with your brother, Sandy Levin. I said how much I cared about him. The Senator from Michigan said it very quickly: My brother Sandy is not only my brother; he is my friend.

Having three brothers, that meant so much to me. I have always looked at the Senator from Michigan in the context of what he told me about his brother Sandy.

I also say to my friend from Michigan, I had other things to do today than be here and do what I am doing today. We are talking about Searchlight now. But for 3 hours I had to be aware of the Pastore rule and talk about the bill. I talked about that for approximately 3 more hours, about substantive issues. I tried to lay the groundwork in this body to show that we, as the Senate, should be concerned about a number of things.

We should be concerned, as in this chart, about the things that are going up. Uninsured medical, going up. This is during the Bush term of office, almost 3 years now. The number of poor is going up. The unemployed numbers are going way up. The budget deficit, the largest ever in this country; the national debt, going way up. I thought it would be better that we as the Senate talk about the issues that are going up rather than spending 30 hours on something going down, the lowest rate of Federal vacancies in the Judiciary in almost 15 years.

The Senator understands procedures of this body as well as I do. The Senator understands the Senate was developed by our Founding Fathers not to protect the majority; it was developed to protect the minority. The minority has trouble protecting itself and the majority never does. It was developed for more than protecting the Senate minority, but it was set up to protect the minority so that in pieces of legislation where people had no advocacy and only the moneyed interests were pushing through, the minority could do something about it.

One area of responsibility we have as Senators is to protect what goes on in the Senate. The distinguished majority whip came to the floor the first thing this morning and said, I think it is unfair we have been criticized for poor leadership—we, the Republicans. We have done great things. We passed 10 appropriations bills; you only passed three. We have done lots of good things.

What he failed to say—and anyone who knows anything about the Senate knows you cannot do things on a one-party basis here. They passed 10 appropriations bills because we let them, because we thought it was good for this country.

When we were in the majority, they would not let us pass them, as we all remember. But this, as I said before, is not payback time. This is time to be responsible.

We were on the path to pass all 13 appropriations bills. I talked to Senator STEVENS on several occasions about ways to help him. The Presiding Officer knows we could have passed the Agriculture bill in less than 1 day. Why didn't we? Because as we are working hard, agreeing to work today, November 10th and on a holiday, November 11th, there is a program being conducted to keep us in session from Wednesday at 6 until Thursday at midnight. To do what? To talk about unemployment? To talk about unemployment benefits? To talk about minimum wage? To talk about health care? To talk about the environment? To talk about all the important issues we have to deal with? No, we are going to talk about Federal judges for 30 hours. Can you imagine that? Thirty hours to talk about Federal judges.

What have we done that is such a bad job with judges? As I said to the Senator from Illinois a little while ago, I say to my friend, assume the four judges we turned down—Estrada, Owen, Pickering, and Prior—assume we were wrong. Just for purposes of argument, we were wrong, we made a bad decision on every one of them. Is that any reason to hold up the Senate, and the country, for 30 hours? But the fact is, we were not wrong. The fact is, we did the right thing for this country to keep out a man by the name of Pickering, who every civil rights group in America opposed. Every one. Every one. I am saying we did the right thing by keeping Miguel Estrada from going onto the bench. Why? Because he thought he was somebody who did not have to answer questions like everyone else. He thought because he was so smart and graduated first in his class that his intellectual abilities before the dumb Democrats on the Judiciary Committee—he didn't have to deal with those people. He could just waltz through. He didn't have to tell people how he felt. He showed more of his arrogance when he said, I don't have to give you the memorandum I wrote while I was in the Solicitor's Office. We did the country a favor by turning him down.

We have done the country a favor by turning down Justice Owen, a Texas Supreme Court Justice who even the President's lawyer doesn't want to be on the court. That is what he said in some of his opinions—he dissented, she didn't—in Texas.

William Pryor—give me a break. We did the country another favor.

So we are going to spend 30 hours of this Senate's valuable time talking about 4 judges who were turned down. How many have we approved? One hundred sixty-eight. How many more on the calendar will we approve? I don't know, but we just have to arrange votes for them. I said to Members of the Judiciary Committee who came here today, I don't like a lot of the 168 we voted on and approved, but I believe the President should have wide latitude in picking these judges. We have given him wide latitude. We have only sifted out the very worst.

Mr. LEVIN. Will the Senator yield for a question without losing your right to the floor.

Mr. REID. I would be happy to do that for my friend from Michigan.

Mr. LEVIN. Are there not two other factors involved here: One, that in all four cases there has been significant debate on each of those four judges before the votes that were cast, the cloture votes which were cast? As a matter of fact, there is a suggestion there may be additional cloture votes for which debates would be totally appropriate. If the majority is going to bring up additional cloture votes on any of those judges, there would be debate before cloture on those judges. But what the 30-hour proposal is, is something which does not lead to votes.

Is the Senator from Michigan correct, there are no votes at the end of the 30-hour use of the Senate's time?

(Mr. BENNETT assumed the Chair.)

Mr. REID. The Senator from Michigan is absolutely correct. I say to the Senator from Michigan, until Friday, all the time was going to be taken by the majority. After public statements crying for fairness, in the unanimous consent agreement here Friday they said we can take half the time.

Mr. President, I say to my friend from Michigan, of course they have had hearings. Some of these people we voted on numerous times, and every time we vote on them it is the same argument. I can give the arguments. I have listened to them so many times on the other side. We are going to spend 30 hours. Is there going to be a single new thing brought up other than to berate us for destroying the system?

I repeat, Mr. President, on my Blackberry here today I got something from the majority leader. Let me see if I can pull down to it here. I have been getting a lot of messages I have not returned today. Let's see what I can find. It is here on my Blackberry. Here it is. Here is what it says: "What we are doing to move our judicial nominations forward." That is the title of the deal here: Judges.

> This year the Senate has suffered an unprecedented obstruction of a President's judicial nominees by filibuster. In the history of our Nation this has never been done before.

Of course it has been done before. It has been done while I have been here. I have not been here that long. It has been done just the last few years. I do not have it here—yes, I do. Lisa has it up here. We know that right here we have many judges who never even got a hearing, but for Barkett, Paez, Berzon, we had to file a petition to invoke cloture, and cloture was invoked before we got to vote on these.

Now, on these, remember, you need 41 votes to stop a cloture. They almost got it with Paez. For Berzon they got 34 votes; Barkett, 37 votes.

Mr. LEVIN. Will the Senator yield?

Mr. REID. So I say to my friend, what makes it even worse than these people is what happened to my friend from Michigan. For my friend from Michigan, they would not even give his people hearings. They ignored him. They are gone.

So I say to my friend from Michigan, we have been fair. We have been fair in the treatment of judges. We have done what we feel is fair, 168. One hundred sixty eight, let's understand that. This is not anything that is too hard to understand. I know I am being somewhat facetious here: 168 to 4—168 to 4—168 judges approved during the less than 3 years this man has been President. We have turned down 4—1, 2, 3, 4. That is how many we have turned down.

Now, does that deserve something? Does that deserve 30 hours in the last few days, the waning hours of this Congress? I do not think so. I do not think so.

Now, we have said many times this is not payback time. And that is established by this 168 to 4. Look at what happened—look at what happened—during the Clinton years. Nominees blocked: 63. Percent blocked: 20 percent. Bush: 2 percent.

Now, as I said here earlier today, if we only blocked 2, and it dropped to 1 percent, do you think 15 hours is what they deserve for talking about judges—15 hours, I say to my friend?

Well, I think we have treated them fairly. I do not know how many of these 63 people who were treated poorly were from the State of Michigan, but I know of a couple because I have had conversations with my friend from Michigan. I so appreciate the Senator bringing this to the attention of the Senate through the questions that he has asked.

That is why we are here. As I said earlier, I have other things to do. We all do. But I am here today not as HARRY REID, a Senator from Nevada. I am here today as HARRY REID, the person representing the Democrats who feel it is unfair that we are going to spend 30 hours, beginning at 6 o'clock on Wednesday, going until midnight on Thursday, when we have such important things to do, and when we have bent over backward to make this new majority leader's life a pleasant life. We have been so easy on him because we believe that is our function.

Mr. LEVIN. Will the Senator yield for an additional question?

Mr. REID. I will yield for a question without losing the floor.

Mr. LEVIN. Without losing your right to the floor.

I wonder if your staff could put that other chart on with the judges because I just want to expand on one or two points. Some of the judges which the good Senator from Nevada pointed out were judges where cloture votes were required by the opponents of the judges; is that not correct, during the Clinton years, and it was required there be 60 votes in order to get those cloture motions adopted?

Mr. REID. Yes. We have here Rosemary Barkett, Eleventh Circuit, where a cloture motion had to be filed.

Mr. LEVIN. Now, does that not mean, for people who might be watching this, that it was required that the supporters of that judge produce 60 votes?

Mr. REID. I say to my friend, that is absolutely right. Barkett, Paez, and Berzon all required 60 votes—60 votes. Without 60 votes, these people could not serve. And so for someone to have the audacity to say: By filibuster, the first time it has been done in the history of our Nation; it has never been done before—it has been done not only here but other times. Other times it has happened.

Now, I say to my friend, there have been other occasions where the filibuster was conducted, and it was obvious to the nominee that person was not going to be able to break the impasse, so to speak, and they quit. We know that Abe Fortas, who wanted to become the Chief Justice of the Supreme Court, he withdrew when he saw he could not get enough votes to break the filibuster. So that is simply the fact. That is a fact of life.

So, please, I say to my friend, the majority leader, or anyone else, do not say it has never happened before. We have done it four times this year to protect our role. As the Senator from Illinois, Mr. DURBIN, pointed out earlier today, our role, which article II, section 2 of the Constitution of the United States states, is that we advise and consent to the President of the United States. We believe that is our role as it relates to those Federal judges.

These are lifetime appointments. These are very important positions. They are prestigious. They are important. These judges have the ability of life and death through the stroke of a pen—life and death of an individual, of a company, a course of action, a labor union, a business.

So I think what we have done is appropriate. Would it be better for us to not have the advise and consent role—just say: President Bush, send them all up. We will take them all. In fact, we will vote on 20 at a time. Just bring them up. We will vote on them 20 at a time. We have nothing to say about it, so just put them on through.

Now the majority is going to come and say: Well, yes, but let's give them up-or-down votes. What they are saying is: We do not want to play by our rules. We want to play by somebody else's rules.

They demanded filibusters, and we were able to break those. Thank goodness there were some people on the other side who recognized this was not right. But do not say we have never had filibusters. We have had them.

I heard my friend, the distinguished Senator from Utah, the senior Senator, say: Yes, but those were friendly filibusters. Come on. What is a "friendly filibuster"? I do not understand what that means. Even if that were not the case, there have been filibusters in the past.

So I say to the Senator from Michigan, I appreciate him being here tonight and talking about some of these issues with us. It is important that we understand that the reason the majority has been able to do as well as they have with the legislation this year is because we have worked with them.

I have no regrets about that. I think what we have done has been good. But I also say to the very experienced senior Senator from Michigan, the Senate is not a place where you can just run over people. The majority leader has a title, but it is not dictator. It is not: You do whatever I say.

The only way he is going to continue to be successful is if we work with him. And we will continue to do that. But we are not going to be stampeded.

When is the vote?

Oh, I don't know. Sometime on Monday.

Early or late?

Well, no, I haven't decided yet.

We have people living on the west coast who went home this weekend for various reasons. They have to live by a rule like that when tomorrow is a national legal holiday?

Mr. LEVIN. I wonder if the Senator will yield for an additional question without losing his right to the floor.

Mr. REID. I will do that.

Mr. LEVIN. The Senator from Nevada, probably more than anybody, has made it possible for this Senate to run as smoothly as it does, even though there are huge numbers of bumps in the road. There would be 100 times as many bumps in the road but for the willingness of the Senator from Nevada to work with Members on both sides of the aisle to get legislation passed. He is constantly here in the well of the Senate asking people if they could cut the time down on their amendments, could they drop amendments, could they work cooperatively with somebody to work jointly on a bill. It is a constant effort to keep the wheels greased so we can accomplish as much as we do.

I ask the Senator from Nevada this question: As somebody who is known to every Member of this Senate as someone who makes it possible for us to get a whole lot of things done, which we could not get done but for that effort, is part of the cooperation which makes it possible for us to act cooperatively, to act with a sense of comity, which we do most of the time, is it not true that part of that is that there be a willingness to share scheduling information with the minority so the minority can schedule airplanes, come back when there are going to be votes, and that that is an essential part of a spirit of cooperation which is so essential to be President of the Senate, and whether that is something which the Senator is referring to when he talks about an unwillingness to give information about whether there would be votes and on what subjects today and tomorrow?

Mr. REID. I say to my friend, Senator DASCHLE agreed that we would work today and tomorrow, when all of a sudden we learned toward the middle of last week that the schedule this week was going to be interrupted by 30 hours talking about four judges. We were dumbfounded. We thought the report we first got had been mistaken, that they had made it up. But we came to the realization that it is true. The majority leader made a deal with somebody that they could spend 30 hours talking about these four judges. So then we agreed to go to Agriculture, which we figured we would do that. We could have finished that more quickly than we did, but some of the Members were pretty upset. They were going to have to work Monday and Tuesday, when they had lots of things to do at home.

Then when it came time for the schedule today and tomorrow, it is so vague. It is obvious they are doing things to protect people over here and not telling us who they are protecting and why.

This isn't some big cabal to take over the Senate, but it is a cabal of one to make sure people understand around here that if the Senate is going to be productive, it takes both Democrats and Republicans to be productive.

We have set an exemplary record, as the history books will recount, of being very productive this year. We have allowed the production to go forward because we thought it was in the best interest of the country.

Mr. LEVIN. If the Senator will yield for one additional question.

Mr. REID. I yield without losing the floor.

Mr. LEVIN. Is the likelihood that we will be able to finish all the appropriations bills reduced when we spend 30 hours on some other subject which, again, does not lead to a vote on those judges, but nonetheless is it less likely that we will be able to finish all the appropriations bills as a result of allocating that time to that debate and, as a result, if we do not finish the appropriations bills individually, does this mean it is more likely that we are going to end up with some kind of an omnibus appropriations bill which bollixes together three or four appropriations bills which should be and usually are treated separately, amended separately, debated separately in the light of day?

Mr. REID. I say to my friend, it is obvious. Think of that schedule, 30 hours beginning at 6 o'clock Wednesday going all night, all night until midnight the next night. Is that going to bring about a fatigue factor here? Of course, it will. People have to be here. All the staff has to be here working hard. Of course, it is going to slow things down. But not only slow down appropriations bills and conference reports, we have things here we should be doing.

I asked last week on several occasions, why can't we pass The Military Construction appropriations bill by voice vote? Well, it is obvious why not. They want to arrange it so that it is brought up here and a time for debate on it, just for lack of a better way to describe it, just to jerk us around. Why aren't we doing the Syria Accountability Act? I don't know. There is an hour and a half time set on that.

I am confident the reason they didn't do it is because they have some people who weren't here today. We don't know that, but that is why they didn't vote on it today. We know that. They are protecting certain people. None of us were protected because we weren't part of the schedule.

I would hope that we would do a better job of working together on a schedule. The Senator is right. We have worked together on trying to work out amendments so there wouldn't be as many amendments and we would have shorter time on the amendments. That is the only reason these bills got passed, not only the appropriations bills but a long string of bills that my friend from Kentucky this morning talked about, things that they have accomplished.

They haven't accomplished them. We have accomplished them. No one, no Republican or Democrat in the Senate can do it alone. This is a body where it takes, virtually for everything, unanimous consent. We all have to work on it.

I would certainly hope that we would do a better job working together in the future and not try to do all this freelancing. I thank the Senator for his participation.

Mr. President, I began a long chapter here. I am going to proceed with the town that my friend from Michigan almost came to but not quite. I spotted it in a second. He described it perfectly. We all know what Pahrump is like. It is just as it was described by the Senator from Michigan. There are wonderful people in Pahrump. I worked with him on a lot of different projects, not the least of which is a nice two-lane road which was killing so many people. The two-lane road is now a four-lane road.

One of my good friends, who was a prominent person in Pahrump, he and I served in the legislature together. He is a Republican. I am a Democrat. Tim Hafen is a fine man who has worked so hard to develop that town. He owns a lot of property. It has developed a lot. My brother lives in Nye County, Amargosa Valley.

There are a number of things going on there, not the least of which is a huge dairy farm, 15,000 cows, something like that. There are lots of them.

On we go with the big mine, chapter 6. I know there has been a lot of disappointment in that we weren't dealing with chapter 6 earlier. I got off the script dealing with rabbits.

I would just say this: I had always wanted so hard to find a picture of a coyote. They are such wiley animals, not seen very often.

So I was in Winnemucca. Someone was a sculptor there and they had this Western display in Winnemucca, NV. I said: Have you ever known anybody to sculpt a coyote? He said: No. I said: Would you do one for me? He said: Yes.

I have it in my office upstairs. He did a wonderful job. At the time I did that, I didn't realize I was pulling so hard for the coyotes and against the rabbits. Since I built my place in Searchlight, I have become even a bigger fan of coyotes than I was before.

It was, however, with anticipation and great hope that the early Searchlighters approached the future. In May 1904 the headline in the local newspaper blared that the area was the premier desert mining district. The first years of the boom created much speculation and investment. By 1904 there were seven mills within a mile of one another: Cyrus Noble, Quartette, Duplex, Southern Nevada, Good Hope, M&M, and Santa Fe. Unfortunately, soon after construction, several of the mills were left without any ore to process.

The Cyrus Noble earned its name because the claim was sold for a bottle of Cyrus Noble whiskey. Ten days before the assessment work on the claim was due, the owner walked into a Searchlight bar and shouted, "What am I offered for my claim?" "I'll give a cigar," one patron said. The offer was accepted. Immediately afterward, the new owner crowed, "What am I offered for my claim? Another miner responded, "I'll give you this bottle of Cyrus Noble." "Sold," replied the new owner. The third owner made a good bargain because, unlike many others, this claim did produce some gold. Adjacent to the Cyrus Noble were other claims with names that related to the bottle, such as the Little Brown Jug.

I might say, Mr. President, that the Cyrus Noble, a whiskey company, produced a collection; they are collector's items now—the bottles of whiskey called Cyrus Noble. They are beautiful. I have most of them in my house in Searchlight. They are of a prospector, a man playing a piano, an assayer, and lots of different things. I think I have 11 of them. There may be more than that. Cyrus Noble is a famous little mine, by Searchlight standards.

The Duplex was the second-best mine in Searchlight, but it was a very distant second place. Another good mine was the Blossom, which was staked by George Butts. It produced a small amount of high-grade ore, but Butts didn't have the money to work it. While trying to sell the mine, he lived on the property in abject poverty in a hut built of Joshua trees. For more than a year he lived in these harsh conditions, holding out for his price. George Butts was given many offers for the claim, but he held out for $25,000, a huge price in that day. After almost two years had gone by, he got his $25,000. He died three days after the sale.

Speculation was not limited to minerals. In December 1907 news reached Searchlight that oil had been struck midway between the town and Needles. According to the story, the Wayne Oil Company was confident that a large oil deposit lay beneath the surface. Like many other strike rumors, this one also went bust. The story was never mentioned again, but the anticipation must have been intense.

The only real world-class mine in the history of Searchlight was the Quartette. From 1899, when Macready disobeyed the order to stop further work in the Quartette, this mine became Searchlight's biggest and best. For the first decade of Searchlight's existence, the Quartette was the premier mine. Anyone writing or talking about the camp lifted up the mighty Quartette as a beacon of Searchlight's progress. Even after mining had all but disappeared in the area, it was still a fine mine, continuing to produce small amounts of gold up until the 1960s. it was the best in Searchlight.

During the decade of mining dominance, from 1899 to 1908, not only was the Quartette the biggest producer in the whole of southern Nevada, but several times it was also the largest producer in Nevada and one of the biggest in the entire United States.

From its inauspicious beginning, the Quartette developed into a mine with multiple shafts. The main shaft, or the glory hole, was sunk to a depth of 1,350 feet. As with many mines of the day, an air shaft was usually sunk to help with the circulation of air in the main shaft, its drifts, crosscuts, and other diggings. The Quartette was no different; it used an air shaft that initially started at the 600-foot level and then was raised to the surface. Eventually the shaft was extended down to the 900-foot level when bad air necessitated that fresh air be circulated to the lower levels. Other shafts sunk over the years were distinguished by the names the Carlton, the Crocker, and Shaft #3. These were not cut to great depths, and most were used for ore exploration purposes.

W.J. Sinclair, one of the first dozen men to enter Tonopah and one of the wealthiest men of Nevada, stated in 1904: "I doff my hat to Searchlight, for you certainly have in the Quartette, the biggest gold mine in the country. I have seen many wonderful showings, but never the equal of the Quartette."

Mr. President, I have an illustration in my book that shows the hundreds and hundreds of mining claims in Searchlight history. It was a very big dig for a decade or more.

The Searchlight newspaper opined shortly thereafter: "Searchlight is justly proud of the Quartette mine for it is, as it stands today, the biggest and best mine in the Southwest. As a free milling proposition it is unequalled by any mine in the United States, and considering the amount of development done it is one of the largest in the world."

There was a strong basis for this optimism. In November 1903 the mine was working three full shifts, and the mill would begin working three shifts by early 1905. Modern equipment was installed that allowed electric arc lights to shine in the night desert sky, pointing out the location of the famous hole in the ground. The electric lights on the surface were duplicated in the underground workings as well. In 1904 the Quartette milling operations were electrified. There were telephones on the surface and in certain stations underground. At no time, however, did the Quartette Company share its electrical power generation capabilities with the town. Searchlight would later have to develop its own system of electricity.

After the cessation of mining activities in the mine, there was still much talk of the width and depth of the Quartette ore vein; it was indeed the stuff of which legends are made. At the 700-foot level the ore body was described as being more than 14 feet high and averaging $100 per ton, a figure representing more than four ounces per ton. By today's standard this gold would be worth more than $1,500 per ton. Currently, gold ore in Nevada is mined at significantly less than four ounces per ton; many times are worked when the ore grade has only one tenth of an ounce per ton and sometimes even less. At just one station at the 700-foot level, the stope (a steplike excavation underground for the removal of ore that is formed as the ore is mined in successive layers) was described as being 18 feet by 40 feet and needing 18,000 square feet of timbers for just that one station. By 1906, when the mine had reached the 900-foot level, the vein was measured to be 60 feet wide. In addition to these huge bodies of moderately good ore, another strike occurred on the 700-foot level, which assayed an astounding forty-four ounces per ton; by today's standard, the ore would be worth more than $17,750 per ton. The huge stopes dug out to retrieve the ore were basically underground caverns supported by timbers or by pillars of dirt not removed during excavation, even though valuable, but left to provide support to keep the ground from collapsing.

The early mining in the Quartette, and in all of the mines in Searchlight, was performed by hand. Two methods of drilling were used. The first was single jacking: one man with a large hammer simultaneously hit and turned a sharpened piece of steel. The other method was double jacking: one man held a large, long-handled hammer or mallet with both hands, striking a piece of steel that was held and turned by another man. After the holes were drilled, dynamite was packed into the cavities; a cap attached to a fuse was lit, causing the cap to explode and ignite the dynamite charge. This same method was used in shafts and for tunneling work.

Occupational safety was almost an afterthought. Miners didn't wear hard hats in Searchlight until World War II. They wore cloth hats with a mount on the front upon which to hook their carbide lanterns. Carbide is a binary compound that produces an ignitable gas when combined with water, thus allowing miners to see underground.

After Hopkins purchased the Quartette, the work gradually became mechanized. Gasoline combustion engines were used to power hoists for removing muck and ore from the shafts. Hand power was used to tram the material to the shaft from the various tunnels—drifts, crosscuts, winces, and raises. This waste and ore was placed in cars and trams that ran on iron tracks laid like a miniature railroad. At the shaft, the bucket or tram was put on skids and hoisted to the top.

In the smaller mines, the ore and waste products were brought to the surface by various means, the cheapest being a windlass. A windlass was normally a rounded wooden shaft with a crank on one side end, which had the rope or cable wound around it. When the crank was turned, the rope or cable wound around the shaft, bringing the materials to the surface. Other more elaborate hoisting methods used horses or mules to turn the crank and bring the earth up to the surface.

Even the quarters for the mine bosses at the Quartette were impressive. In 1905 new quarters constructed for the superintendent and other supervisory personnel included lounging and reading rooms. Colonel Hopkins had a complete private suite, even though he spent most of his time outside the district, in either Los Angeles or Boston.

It was reported in 1905 that even more modern provisions would come to the depths of the mine, in the form of new drilling equipment. A new compressor on the surface would supply a new drilling apparatus for drilling uppers, making it easier to place drill holes on the upper reaches of the adit. This method replaced the single and double jacking for much of the work in the Quartette. About the same time, a small timber mill was installed, including a tip saw, swing, cut-off, and wedge saw for the preparation of the mine timbers.

When the main shaft reached the 800-foot level, the modern hoisting equipment allowed the skip, which held three thousand pounds of ore or waste, to go to the bottom and back to the top in three minutes. The hoist was operated by a 60-horsepower Fairbanks-Morse engine, at the time the largest made in the world. Despite all the expenditures for supplies and equipment, it was determined in the summer of 1905 that it cost only $5 per ton to mine and process the Quartette's ore.

Throughout its entire period of operation, the Quartette required timbers in large quantities for square-set timbering. The square-set process was invented by Philip Deidesheimer, who was brought to Virginia City during the Comstock era to solve the extremely dangerous problem of cave-ins, which frequently caused injury and death. He developed the system in just two weeks. His plan was to frame timbers together in rectangular sets, each set being composed of a square based, placed horizontally, formed of four timbers, sills, and crosspieces from four to six feet long, surmounted at the corners by four posts from six to seven feet high, and capped by a framework similar to the base. The cap pieces forming the tip of any set simultaneously functioned as the sills or base of the next set above. These sets could readily be extended to any required height and could be spread over any given area, forming a series of horizontal floors, built up from the bottom sets like the successive stories of a house. The spaces between the timbers were filled with waste rock, forming a solid cube, whenever the maximum degree of firmness was desired.

Not only did this method of timbering provide strength, but it also allowed the timbers to move with shifts in the ground. The slight shifting of the ground would twist normal braces of timbers loose, but with Deidesheimer's square-set method, the bracing remained firm. In Searchlight much of the ground required the square-set method, and experienced timberers were always at a premium.

The Quartette constantly had trouble finding a sufficient supply of wood for its timbering. In September 1905 it was reported that it became so difficult to get the timber from Southern California suppliers that the company ordered 500,000 feet of the product from the Northwest. It was a time when huge amounts of timbers were needed because the shaft was reaching the 1,000-foot level.

In addition to the timbering method of shoring up the loose and dangerous ground, many of the stopes were buttressed by leaving pillars of ore to hold the ground from caving in. In the later leasing years, even though the procedure was dangerous, the pillars of ore would be taken, leaving the ground without support.

The Quartette used timbering only as a last resort. This is clear from early statements made by Colonel Hopkins, who, when asked in 1906 if the company could take more ore than it was currently processing, replied, "It is not because we have not the desire to take out as much metal as possible in a given time, but simply because we are compelled to protect our mine from the possibility of collapse owing to the character of the walls. With an increased output it would be for us necessary to do much costly timbering to keep the mine from caving in that it would not be worthwhile, whereas at present we are safe from disaster and are doing very well indeed with our investment. In the course of time we will reach a stage we can work upward and then will be asked to mine on a larger scale."

By June 1905 the Quartette had already produced more than $800,000.

(Ms. MURKOWSKI assumed the chair.)

Mr. REID. Madam President, that was a huge amount of money in 1905.

Before the end of the same year, the mine would have produced more than $1 million, a huge sum of money for just after the turn of the century. In August 1905, 325 men were employed in the mines in Searchlight, this figure did not include the many supporting workers such as teamsters, millers, and the businesses that supported the town and the mine workers. Seventy-five of these men were employed in assessment work and by contract—that is, they were not employed for wages as other miners were. By far the largest employer in the county was the Quartette Company.

As late as 1908 there were those who wrote that because gold was still present at depths of nearly 1,000 feet, the mine would have a virtually inexhaustible supply of good ore.

About the same time that the Quartette's river mill began operating with ore supplied by the company's own railroad, water was hit at the mine. In fact, one of the interesting phenomena in the Searchlight area was that some of the mines hit water at relatively shallow depths. The Santa Fe, located about a mile and a half from the Quartette, found water at less than a hundred feet. The Quartette didn't hit water until about the 500-foot level. The local newspaper reported: "It is supposed to be the scarcest article in the desert, but mine after mine here is developing water in unheard of quantities." Even though the water came at relatively deeper levels in Searchlight, when water was reached, it appeared in large quantities. At the beginning of 1908, the Quartette was pumping 200,000 gallons a day out of the mine.

The dewatering of the mine allowed the company to build a mill closer to the mine site. By October 1906 the twenty-stamp mill was crushing 2,000 tons monthly. Like the rest of its operation, the mills of the Quartette were state-of-the art facilities. By the end of the year the company had added another full twenty-stamp mills and was then milling more than 4,000 tons each month. These mill were used well into the 1920s before they were replaced by ball mills, which were much more efficient and less costly, requiring significantly less maintenance.

By the summer of 1909 the 1,200-foot level had been reached in the main shaft. In August ore of a very high value was found in one of the drifts at the 1,100-foot level. At the same time a new ore body was announced at sites between 400 feet and 500 feet down in the workings.

The bowels of this magnificent mine were extraordinary. Even as early as 1906, the description of the mine was inspirational: "It would take several hours to make even a hurried trip through the several miles of underground workings. The mystical maze of drifts, slopes, upraises, crosscuts and winces confuses one . . . and the visitor simply loses what mental balance he has left and becomes simply a human exclamation point and ejaculates an endless strings of Oh's and Ah's."

From the main shaft extended various drifts, nearly horizontal mine passageways driven on or parallel to the course of the vein. On the 200-foot level the drift west was driven more than 1,000 feet.

Madam President, I have a couple pages more, and then I understand we will have the closing script, and I will take a look at it.

It is difficult to imagine the danger and hardship of working in these huge caverns. The only preserved account of the adversity came in 1934, from someone who had been in the Quartette in 1912: "The temperature was at 105 degrees, at the 1,200 and 1,300 foot levels, with the ground being very soft. The working conditions on the east face of the 1,200 and 1,300 foot levels were almost impossible even though the ore was still good. The work at almost all levels was most difficult because the stoping had been done improperly."

This letter was written many years later, when Charles Jonas, formerly the superintendent for Hopkins and a subsequent lessee, was attempting to get financing for the mine. He had firsthand knowledge of the operation because he had been involved in the mine since at least 1912. Jonas observed that ore was removed in such a manner that no others would later be able to work the mine in the area where the stoping had occurred. Not only was the ground bad and the underground working hot, but miners were also constantly fighting the never-ending encroachment of water. As late as the 1940s, residents of Searchlight could still feel and hear the Quartette's big stopes caving.

In 1909 the Great Quartette Mine was still producing $500,000 a year, but even as early as 1908, there were rumors that the mine was beginning to fail, and the owners were reported to be negotiating a sale to an English syndicate for $4 million.

The demise of the Quartette began when Colonel Hopkins decided he wanted to turn the management over to others. In January 1910 Hopkins's son, Walter, became the assistant mine manager. Immediately afterward came the first mention of leasing out operations, even though the reports showed that the mine was doing well. But in June, thirty-five of the forty stamps in the mill were silenced.

By the end of 1911 the Quartette was being leased to many different individuals, much like sharecropping in the South. Different areas of the old mine would be mined by lessees, and the Quartette Company would receive a royalty or percentage of the ore taken out by the lessees.

From a review of the mining statistics for the year ending December 1909, the figure for Clark County, almost 12,000 tons, basically referred to mining in Searchlight—no significant mining activity had gone on elsewhere in the county during the preceding decade. For the same period in 1910, the tonnage dropped to 2,400 tons. The main obstacle to further success was the extremely high cost of taking ore from such deep areas of the mine. It is clear that the leasing emerged for primarily economic reasons.

By July nine lessees were operating above the 100-foot level in the Quartette. It was said that the mine was a leaser's mecca because the lessees had some good luck reworking the tailings. Most of the work was at the upper levels of the mine, with some miners sinking new shallow shafts. By the end of 1922 a significant amount of work was being conducted near the surface of the old glory hole, the shaft Macready had opened to start the Quartette. In January and February lessees hit ore at 20 feet, 40 feet, and 1,350 feet.

Most of the mining camps in Nevada experienced much the same evolution as Searchlight, with leasing following the initial production. Tonopah, however, was unusual in that the leasing came first. Within a year of the initial discovery of gold in Tonopah, Jim Butler, the discoverer, had granted more than a hundred leases on his property. He received a 25 percent royalty on the production of the ore. In Searchlight the formation of the large mining companies came shortly after the discovery of the valuable minerals. In Tonopah the large companies came after the leasing era.

Some believed that the labor unrest of 1903 encouraged miners to secrete certain valuable ore deposits during and shortly after the strike. This information was a good basis for the mystic mind of the miner who envisioned hidden treasures of gold deposits. In the report to investors in 1934, Jonas would write, "The prior leasing operations success depended upon the secret knowledge held by certain people who had secured this information from the unscrupulous group who operated the mine prior to 1905."

Leasing of any consequence at this great mine was basically concluded by 1917. The success of the lessees is not fully known. Though some miners did quite well, most made insignificant profits. Montgomery-Jones earned $40,000; Post, $20,000; Holmes-Jones, $80,000; Hockbee, $15,000; Pemberton, $5,000; Hudgens, $40,000; and McCormick, $40,000. The discovery of new ore deposits was negligible, with most of the value coming from the recovery of ore left by the Quartette Company for safety reasons. The lessees would simply remove the dirt pillars, causing further degradation of the mine. Several had good luck near the surface, such as John Hudgens, who worked the surface east of the air shaft. He removed $40,000 of ore from the Quartette by going after some ore left behind by the Hopkins group. But years later, in 1931, his son and grandson obtained another lease on the Quartette. They took out about 60 tons that assayed at $50 per ton. This was a good find considering it came from an area no larger than twenty feet by fifteen feet. McCormick removed his value on the 600-foot level at a point of a drift 400 feet from the main shaft. This block of ore was deliberately hidden by the crooked management of the 1903 era and ran more than $200 per ton.

The mine that made Searchlight would continue to be excavated for many years to come, but the glory hole was rendered unusable, as were most all of the areas in the Quartette that had been worked before 1917. The mine, with its large caverns, was too dangerous even for the most courageous and, at times, foolhardy miners. Most of the work in the future would be promotional at best; never again would the magnificent mine produce ore of any consequence. But neither did any of the other mines in the district.

Mr. President, that is the end of chapter 6. I see here a closing script. Let us see what is going to happen tomorrow, if I may just glance over this. I understand the leader is on his way.

I think this is an excellent schedule for tomorrow.

Mr. LEAHY. Will the Senator yield for a question?

Mr. REID. I would be happy to yield to my friend from Vermont for a question only, without losing my right to the floor.

Mr. LEAHY. Madam President, as always, I am impressed with my dear friend, the senior Senator from Nevada, one of the finest people out of the several hundred Senators with whom I have served in 29 years. I know the senior Senator from Nevada to be one who cares deeply about this institution and the way it works. He has been speaking at great length and on matters of great interest to all of us today.

I ask my distinguished friend from Nevada, is it not true the senior Senator from Nevada, like the senior Senator from Vermont and the senior Senator from Michigan who is on the floor, would have been very pleased if we had been doing the appropriations bills that by law we should have finished on September 30 rather than having to try to figure out the schedule the other side has put us in, a schedule that accomplishes, in this Senator's mind, absolutely nothing?

Mr. REID. I say to my friend from Vermont, in answering his question, through the Chair, I have experienced on this floor many times my admiration and respect for the senior Senator from Vermont. As I said earlier today, I am proud of the record of the minority with the Judiciary Committee during the time we have been in the minority. I am proud of what we did when we were in the majority. I say to the former chairman, now the ranking member, we have done some outstanding things for this President, not the least of which is approving 168 judges. I hope the American people understand this, that what we have going on this coming Wednesday does not deal with anything important in this country. There is not a thing that will be said that will be different. We have heard the speeches ad nauseam.

The first time I ever heard this—I am not sure it was original with him—but my friend Mo Udall from Arizona, when he was in the House, when there was a big battle dealing with franking, he was chairman of the franking committee and there was some kind of a dispute, and he said, everything has been said but not everyone has said it.

As I say, I do not know if that is original with him, but that is the first time I heard it. And with Estrada, with Pickering, with Owen, and with Pryor, everything has been said more than once. What in the world do we accomplish as a country, as a Senate, by spending this inordinate amount of time on these judges? These two judges and two other people who want to be judges.

I have a chart here that is right next to my friend. We have 20 percent of President Clinton's nominees who were blocked. They were blocked by filibusters or simply not holding hearings. There are different ways of blocking judges.

What we have done is, we have held hearings. I commend my friend, the senior Senator from Vermont. You have held hearings in this process, during the 3 years he has been President—and there will be a lot more. I bet by year's end that will be maybe 175, something like that, maybe even more than that. But it will be a larger number than 168. We have turned down 4.

So 20 percent of President Clinton's nominees blocked, 2 percent of President Bush's nominees blocked. Did we hold a vigil? We complained. But as then-Majority Leader TRENT LOTT said: When he goes home, he doesn't ever have anybody come up to him saying, Why aren't you doing something about the judges? He said it is a nonissue in Mississippi. It is a nonissue all over the country, except in the minds of these people who, for some reason, think we have no obligation under the Constitution to give advice and consent to the President of the United States. I think it is in the Constitution, and we are doing that. We don't do it very often. We don't advise very much because we are not asked very much, but we should advise more. We are advising the President without having been asked. Four of these nominees, we don't think they should be judges. To protect the American people, we have failed to invoke cloture.

I will be happy to yield to my friend for a question without losing my right to the floor.

Mr. LEAHY. If I could ask him a question without his losing his right to the floor, I am sure the distinguished senior Senator from Nevada is aware of this, but he has talked about the record. Does he believe that people, including the press, might be surprised to know that in the 17 months the Democrats controlled the Senate during President Bush's current term, we confirmed 100 of President Bush's nominees and during the 17 months the Republicans were in charge of the Senate, they confirmed 68?

My point is not to say what a poor record they have; 68 would be a fine record, and they confirmed those 68 with the support of most of the Democratic Senators.

But my question to the senior Senator from Nevada is, does it seem like a little bit of crocodile tears when we hear from our friends on the other side, What is this terrible slow-up, when actually during the 17 months the Democrats were in charge, we confirmed more of President Bush's nominees, considerably more, than the Republicans had during the 17 months they have been in charge?

Mr. REID. Madam President, reclaiming my time, let me also remind the country—I don't need to remind the senior Senator from Vermont—during that period of time we had some difficult times. The Senator from Vermont received an anthrax threat; Senator DASCHLE, an anthrax threat that made people sick. We don't know where they came from. People died as a result of that anthrax. It closed down the Hart Office Building. But in spite of that, we held hearings.

I can remember going to a hearing in the basement of this Capitol—jampacked. It would have been easy for the Senator from Vermont to say we don't have room. We had the hearing.

One of the people the long hearing was held on was Judge Pickering. We held a hearing on Pickering. That was one when I was there. I know that.

There were lots of problems. In spite of all the many problems, we could have had lots of excuses, but we didn't say the Judiciary Committee room was blocked, that Senators on the Judiciary Committee couldn't go to their own offices. We didn't do that. We went ahead and processed these judges.

I extend my appreciation to the Senator from Vermont for an exemplary job as a committee chair.

I hope that, in the months to come, we will have a few more questions asked by the administration: What do you think about this person? Do you think he would be good? Let's talk about it.

We haven't had that. This is a White House where it is their way or no way.

It is amazing to me that we as a Senate, when we have a war going on as we speak—I have been here in the Chamber. I don't know what the news is. It is daytime now in Iraq. I don't know if there have been any more deaths today. There were three yesterday. I don't know what is going on in Afghanistan. But maybe we should spend some time talking about Afghanistan, Iraq, and the general war on terrorism rather than on four people who have jobs. I think that would be a pretty good use of the Senate's time.

I think we have a schedule that looks pretty good for tomorrow. I hope we can work this out pretty soon, have the leader come and do whatever closing business there is.

I have had a time today where I have been able to express what I think are the sentiments of the Senate on what we should be doing this coming Wednesday and how we could have, if you had used the time today and tomorrow to move toward the completion of this body's business. We could have had a more productive day on Wednesday and Thursday and Friday, except for this reasoning which is lost on me, where we are going to spend 30 hours on four people who have good jobs. Miguel Estrada, I understand, makes half a million dollars a year. The rest of the judges make about a half a million dollars between them.

We have staggering unemployment in this country—over 9 million people for sure. Many people are not on the rolls because they have been out of work so long.

I spent a lot of time today talking about the minimum wage and how desperate people are who work 40 hours a week at minimum wage, earning $10,700 a year—a year.

I read into the RECORD letters I got from people in Nevada where they are desperate for a job. One woman said for every opening, 50 people apply.

One woman wrote and said: I worked for the airlines for 38 years. They laid me off. I don't know what I'm going to do. She must be at least 58 years old. I assume she went to work for TWA when she was 20. She was laid off by American Airlines.

One of the women who wrote to me said she worked two minimum-wage jobs just to get money for her family. Her husband is disabled. She would move, but she can't afford to move. She is stuck.

We don't talk at all about these programs. As I said on several occasions, everything is going up; that is, the uninsured, the poor, the unemployed. Many such things that are going up should be going down. We aren't going to talk about those. No, we are going to talk about something that is going down—judicial vacancies. This is the lowest rate in almost 15 years.

So we have a lot of important work to do in the Senate, and a tremendous kink has been thrown into the apparatus. But I hope today, and I hope in a dignified way, we have shown the majority and the American people that the Senate is a partnership, a partnership between Republicans and Democrats. We can't get anything done here unless we work together. Secret schedules don't work—trying to let your Members know that on Monday we will have a couple of votes but we haven't ordered them.

What are we going to vote on? They haven't told us.

What time should our people come back? Well, votes during the day. On what? Well, State-Commerce-Justice.

As we all know, one Senator can offer an amendment and speak on it for 2 minutes or 2 hours. Another Senator has a right to offer an amendment. But what happens if suddenly the majority offers an amendment and moves to table that amendment immediately? They can do that.

They can do that. They have the majority. They can get a second on that.

It wasn't fair to our folks over here. We have been so fair to the majority. As the Senator from Michigan indicated, we work hard together. That is why it is disappointing when the majority whip came on the floor today and talked about all of their accomplishments and how little we accomplished when we were in the majority. The difference is that we worked with them to get things done. Now we stop things from happening. We can stop things from happening. We showed that today. I hope we don't have to do this on a regular basis. I think there is work that needs to be done, but it will only come to be if we work as partners and go back to the way we were a couple of weeks ago when we were working hard to pass amendments to get appropriations bills passed; where again we developed meaningful conferences where we saw people debating as has been the history of this body.

Fair credit reporting: Because of the tremendous relationship that the chairman of the committee has with our ranking member, Senator SARBANES, we were happy to go to conference on that which would be fair. I know Senator SHELBY votes with both the majority and minority.

We have a lot to do in the Senate with so little time to complete it.

We live in a troubled world where people are so evil that they place explosive devices in cars and drive these cars and blow themselves up as well as many people as they can.

In Saudi Arabia over the weekend, with this war on terrorism, they drove into an area where there were no Americans but there were Arab workers. I don't know how many have died or who are going to die as a result of that but more than a score. Because of these senseless acts of violence, we need to work to bring about a higher standard of living—something these terrorists won't be able to appeal to the people who face very difficult economic conditions.

That is why I hope in Iraq we can have more involvement from the international community in the way of helping us pay for that situation, helping us bring in peacekeepers so they can help bring about peace in Iraq and work for a stable government run by Iraqis. Iraqis are so much more fortunate than the people of Afghanistan because of their great natural resources.

Senators DASCHLE, FRIST, MCCONNELL, and I met a short time ago with the Iraqi Governing Council. They said: People say we have the second largest oil reserves in the world. We don't have the second largest oil reserves in the world. They have the largest oil reserves in the world. They said in less than 2 years they will be producing 6 million barrels of oil a day.

In addition to the oil which they have, which is immense, they also have water. The Tigris and Euphrates Valley was spoken about. In early history, it was the garden basket of the world. They are very fortunate to live in a country with such economic potential.

Afghanistan doesn't have that same ability to develop. They need our help. They haven't been getting help as indicated by the supplemental appropriations bill. Virtually all of that went to Iraq. Hardly any went to Afghanistan. If there were ever a place for a grant, it would be Afghanistan. If there were ever a place for a loan, it is Iraq. Loan them the money and collateralize it with oil which will be produced in the future. I think it would be better for the Iraqis knowing they aren't getting handouts. That doesn't seem to be the way things are going. We need to continue to work our way through all of this.

I hope when we come back the two leaders will decide that the Commerce-State-Justice bill is something we should pass. I hope we can do it quickly. It is something that needs to be done. It is an important bill. I have gone over it in some detail.

One thing I wanted to do is talk a little bit about Veterans Day. I have talked about the veterans on several occasions today, but I hope leaders will do a good job of taking care of veterans in the future.

Like many soldiers who die on the battlefield, when Marine LCpl Donald Sparks died on the battlefield, the U.S. Government extended a helping hand to Tina, his widow, paying her a small death benefit of $6,000. With the other hand, however, Uncle Sam is reaching into her pocketbook to tax the same benefits.

As outrageous as it may be, taxing death benefits is just a symptom of a larger problem because of our failure to provide adequate benefits and incentives for the veterans and current troops of the All-Volunteer Army.

Fifty-nine years ago, we passed the GI bill for the 16 million veterans who served in World War II. Most of them went for a couple of years as the United States mobilized on a scale we hoped to never see again. The GI bill helped these veterans return to civilian life by providing opportunities for education and housing that they would not have otherwise enjoyed.

Today, our military is different. We rely on volunteers, and our security depends on our ability to maintain a steady force by recruiting and training good troops. It is in our national interest to keep turnover at a minimum.

How are we trying to accomplish this? Certainly not with a fat paycheck.

I let the majority leader know that whenever he is ready to come forward, I will be happy to yield the floor to him.

I heard from a constituent who was shocked that the Army had included applications for food stamps in the orientation material for his son-in-law, a sergeant with a young family. The fact is that soldiers' pay is barely enough for subsistence. Of course, nobody joins the military to get rich. Volunteers want to serve their country, and they appreciate the experience of military life. But in return for keeping our Nation secure, they deserve some security of their own. To provide that security, we need the GI bill which offers tax breaks, better health care, and expanded education benefits for veterans and their military families.

The Senate and House both passed military tax reform last week. President Bush should sign it into law as quickly as possible. These bills would double the death benefit to survivors to $12,000 and make it tax free. They also would allow military personnel to sell their homes without paying capital gains taxes regardless of whether they live in their houses long enough to claim a standard exemption.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. REID. As I was just reading this, I think the tax law in this country is that if you sell a home you don't pay taxes on it.

I will be happy to yield to my friend from Michigan without losing my right to the floor.

Mr. LEVIN. Mr. President, one of the areas which the Senator from Nevada has led us to is the question of concurrent receipts. We are going to make some progress on that this year. I say that 90 percent of the credit for the progress we are going to make in that area belongs to the Senator from Nevada. He was modest in mentioning it here in terms of what is before the Senate. The success we have had in overcoming a veto threat from the administration—that if we finally allow people who are disabled to receive both the disability benefit as well as a retirement benefit and not take away one benefit when they receive the other—we were finally able to accomplish that because of the leadership of the senior Senator from Nevada.

I want to ask him whether it is not accurate that one of the bills which awaits our consideration would be the conference report that accompanies the Defense authorization bill which contains the provision I just mentioned which would finally allow for at least the people who have 50-percent disability or more the concurrent receipt of both their disability benefit and their retirement benefit, and end the unfairness that you cannot get a retirement benefit.

Mr. REID. My friend is absolutely right. That is such an important bill and important element of the bill. I know that some veterans groups are dissatisfied. We have done so well to get as much as we have. We will work for more in the future. I compliment the Senator from Michigan and Senator WARNER for the good work they have done. I admire and respect them for the work they have done.

I see the majority leader on the floor. I indicate that what I have talked about, this new bill, is not all encompassing. We also need to extend the child tax credit for working families; we need to renew the commitment we made in the original GI bill and restate that taking care of Veterans Day and military families should be as high a priority for our Nation as rebuilding Iraq. It is a key to maintaining a well-trained voluntary fighting force.

I say to the majority leader, if he is here ready to close, that is good. If he is not, I will have to go back to my book.

I say to my friend, I have done pretty well. If I could have the leader's attention, I hope the leader has been advised as to the apology that I made on the Senate floor. I tell the Senator that I indicated the remarks I made at the press conference last Friday were ill-chosen and showed my frustration. I apologize. I have already done that. But the leader is here and I am happy to do that. Although I did not mention his name specifically, I don't think it would be hard to figure out I was referring to the majority leader. I apologize for the choice of words. The Senator from Tennessee may be a lot of things but certainly he is not amateur. Previously today I talked about the deep respect I have for the Senator from Tennessee, for his commitment to public service, having been a very dedicated and now famous surgeon who uses his skills all over the world when we are not in session.

I apologize, and I have done it publicly on two occasions, for using that choice of words. It showed my frustration as to what had gone on here. There is no need to talk about it now other than to say that hopefully Wednesday we can move on to bigger and better things.

Madam President, I appreciate everyone's patience and courtesy to me today. I especially apologize to the staff for keeping them as long as I have. I hope that I have been of some benefit to my friends on this side of the aisle. I hope I have not been too offensive to those on this side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, with the concurrence of the distinguished majority leader, let me say that the majority leader, of course, is a dear friend, but the senior Senator from Nevada has been a very dear friend for many, many years. We campaigned the same year, I for reelection, he for the Senate. I have always been very proud of him.

When historians look back, they will see he did a great service for the Senate today in trying to put a lot of things in perspective. I will speak longer at a another time. I am doing this at the concurrence of the leader showing his usual courtesy. I will not exceed that. I will speak at a later time.

I appreciate my friend and also appreciate my friend from Tennessee.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I know Members have been wondering about the schedule. There will be no rollcall votes tonight. We were prepared to have votes throughout today and this evening, procedural or otherwise, but I think that will not serve any useful purpose at this late hour. The best course is probably to step back for the evening and begin fresh tomorrow, which we will do.

Today we were to begin considering a very important appropriations bill, Commerce-Justice-State appropriations bill. As a matter of fact, that bill has been pending since shortly after 1 o'clock today. Unfortunately, we were able to make no progress on that bill today. That was successfully obstructed.

I indeed respect every Senator's right to do just that, and the distinguished minority whip was within his rights to hold the floor throughout the entire afternoon and this evening.

We were prepared to offer and vote in relation to amendments to the Commerce-Justice-State bill, but that was not possible. We were told last week the other side of the aisle would not be offering their amendments today, on Monday. The two managers were working together to move forward on amendments that would be offered by Members on this side of the aisle today. Indeed, Republican Members were present today to offer and debate those amendments. I take it the other side of the aisle did not show up to do the Nation's business as it pertained to this Commerce-Justice-State bill.

I have stated repeatedly in the Senate that there is much, much work to do and that there is little time remaining to do it. Later this week, indeed, we will focus on judges as part of the unfinished business that remains before this body. I will continue to bring to the floor to the best of my ability each and every appropriations bill. If the other side of the aisle does not want to debate and discuss those bills as they are brought to the floor, that is their right.

Today our focus was on continuing the appropriations process. It is obvious that delay will occur on every front. Then, indeed, I think that is unfortunate given the amount of business we have to do.

I am sure that at some point in the future we will hear speeches about work that we did or did not get done or we were late in doing, and there will be Senators bemoaning the fact that the Senate has been unable to finish our business. Today was a missed opportunity to make progress on these important appropriations bills.

MORNING BUSINESS

Mr. FRIST. I ask that there now be a period of morning business with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe one such crime that occurred in Greensburg, PA.

Ian Bishop, 16, allegedly hated his 18-year old brother, Adam, because he thought he was gay. After beating his brother in the head at least 18 times with a claw hammer and wooden club, Ian dumped Adam's body in the bathtub, then went to a nearby shopping mall where he described the attack and laughed about his brother's death.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

INTERNET TAX NON-DISCRIMINATION ACT

Mr. VOINOVICH. Mr. President, I rise to speak to an amendment S. 150, the Internet Tax Non-Discrimination Act of 2003.

Over the past few weeks some have mischaracterized my position concerning the Internet tax moratorium and suggested that I supported taxing the Internet or, even more inaccurately, that I supported taxing e-mail.

Nothing could be further from the truth, and I welcome the opportunity to set the record straight on the floor of the U.S. Senate. I have never and will never support taxing e-mail. That's patently ridiculous.

On October 31, 2003, the Cincinnati Enquirer correctly reported my opposition on this very important issue:

> Senator George Voinovich of Ohio has been boiled in a witches' cauldron this week by critics angered that he helped block an expanded ban of taxes on Internet services. The current Internet Tax Moratorium, which he supports, expires Saturday. Anti-tax groups making Voinovich out to be the devil incarnate are roasting the wrong guy. Voinovich favors keeping the tax moratorium on Internet access. He helped negotiate the Internet Tax Freedom Act of 1998, supported its renewal in 2001 and opposes new taxes on telecommunications services. And yes, he strongly opposes a tax on e-mail.

This newspaper and others like it in Ohio have captured the essence of my argument. The debate on S. 150 is not about taxing e-mail. This debate is about federalism, unfunded mandates, and protecting the States' rights to govern their own affairs.

To clarify my position, I will offer an amendment that expresses the sense of the Senate that e-mail should not now, nor in the future, be taxed by Federal, State, or local governments.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPECTER, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1156. A bill to amend title 38, United States Code, to improve and enhance the provision of long-term health care for veterans by the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs, and for other purposes (Rept. No. 108–193).

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

H.R. 3159. A bill to require Federal agencies to develop and implement plans to protect the security and privacy of government computer systems from the risks posed by peer-to-peer file sharing.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. CLINTON:

S. 1841. A bill to amend title 10, United States code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era; to the Committee on Armed Services.

By Mr. LUGAR:

S. 1842. A bill to provide certain exceptions from requirements for bilateral agreements with Australia and the United Kingdom for exemptions from the International Traffic in Arms Regulations; to the Committee on Foreign Relations.

By Ms. SNOWE (for herself and Mr. KENNEDY):

S. 1843. A bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes; to the Committee on Finance.

By Mr. INHOFE:

S. 1844. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. COLEMAN (for himself and Mr. BAYH):

S. Con. Res. 80. A concurrent resolution urging Japan to honor its commitments under the 1986 Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, and for other purposes; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 420

At the request of Mrs. DOLE, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Utah (Mr. BENNETT), the Senator from Colorado (Mr. CAMPBELL), the Senator from Idaho (Mr. CRAIG), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), the Senator from Hawaii (Mr. INOUYE), the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Maryland (Ms. MIKULSKI), the Senator from Arkansas (Mr. PRYOR), the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 420, a bill to provide for the acknowledgement of the Lumbee Tribe of North Carolina, and for other purposes.

S. 1172

At the request of Mr. FRIST, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1172, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

S. 1567

At the request of Mr. FITZGERALD, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1567, a bill to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, and for other purposes.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Maine (Ms. SNOWE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H-2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1685

At the request of Mr. GRASSLEY, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1685, a bill to extend and expand the basic pilot program for employment eligiblity verification, and for other purposes.

S. 1706

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1706, a bill to improve the National Instant Criminal Background Check System, and for other purposes.

S. 1813

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1813, a bill to prohibit profiteering and fraud relating to military action, relief, and reconstruction efforts in Iraq, and for other purposes.

S. 1833

At the request of Mr. DASCHLE, the name of the Senator from Louisiana

(Ms. LANDRIEU) was added as a cosponsor of S. 1833, a bill to improve the health of minority individuals.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

AMENDMENT NO. 2080

At the request of Mr. SPECTER, the names of the Senator from New York (Mrs. CLINTON), the Senator from Vermont (Mr. LEAHY), the Senator from New York (Mr. SCHUMER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of amendment No. 2080 proposed to H.R. 2673, a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself and Mr. KENNEDY):

S. 1843. A bill to amend titles XIX and XXI of the Social Security Act to provide for FamilyCare coverage for parents of enrolled children, and for other purposes; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to join my colleague, Senator EDWARD KENNEDY of Massachusetts, in reintroducing the FamilyCare Act of 2003, which has strong bipartisan support. First developed in 2001, FamilyCare extends health insurance coverage to more Americans by expanding eligibility for the Medicaid and State-Children's Health Insurance Program.

Increasing access to the health insurance for the uninsured is as vexing an issue as Congress will consider, and no issue is as compelling. The diagnosis is clear—over 44 million Americans aren't getting the health care they need because they lack the money to pay for it. And as the most recent Census data shows, the number of Americans without health insurance is increasing—by 2 million in 2002 alone.

And yet, the number of uninsured Americans could be even higher. If it were not for Medicaid and S-CHIP, over a million more people would not have had health coverage in 2002. The percentage of children with private coverage fell from 66.7 percent in 2001 to 63.9 percent in 2002; for adults, it slipped from 73.7 percent to 72.3 percent. Fortunately, at the same time, the number and percentage of children and non-elderly adults covered by public health insurance—primarily Medicaid or the State Children's Health Insurance Program (SCHIP)—increased.

The number of children who lost private health insurance coverage was offset from increased enrollment in public programs, which rose from 23.6 percent in 2001 to 27.1 percent in 2002; and the percentage of non-elderly adults covered rose from 9.4 percent to 10.3 percent. Taken together, this means that about 2.5 million more children and 1.6 million more non-elderly adults had health insurance coverage in 2002 because Medicaid and SCHIP expanded during the economic downturn.

We all know about the problem. The question now is, what is the best possible cure? And while we know that there is no one answer, I think we can all agree that the solutions are long overdue. I find it astonishing that here we are in the 21st century, in one of the wealthiest countries in the world, and still our citizens are going without basic coverage and care. We're talking about working families—close to three-quarters of the nearly seven million lower-income, uninsured parents in America have jobs. They just don't have access to affordable coverage.

Year after year Congress has debated this issue. Last Congress we invested $28 billion in a reserve fund to help increase the rolls of the insured in America. Then the President, in his fiscal year 2003 budget, allocated $89 billion to help the uninsured. And finally, this Congress in its fiscal year 2004 budget established a $50 billion reserve fund. Yet, no action has been taken that actually extends coverage to the uninsured.

Now is the time to act. The news that an additional 2 million Americans joined the ranks of the uninsured in 2002 should be a wake-up call. We must work together to find common ground so that we finally can take the steps necessary to help the millions of working Americans and their families who cannot afford health insurance coverage.

And while my colleagues and I are not claiming that the FamilyCare bill is the entire answer, we do believe it is a workable, uncomplicated proposal based on a proven approach that has the potential of reaching in the neighborhood of 13 million American children and their families. With so much at stake, we ought to be building on what works, and the S-CHIP program fits the bill. In just the six short years since this program passed under the leadership of Senators KENNEDY, HATCH, ROCKEFELLER and the late John Chafee, this federal-state partnership has extended coverage to over 5 million low-income children.

In my own home State of Maine under the "Cub Care" program, the number of children without health insurance has dropped dramatically. In 2003 alone, Maine extended health insurance coverage to more than 12,800 low-income children. Unfortunately, roughly 16,600 or one in seventeen children are still without health insurance in Maine. We can and must do more.

We should applaud states for taking the lead and helping to show us the answer to this crisis. But a massive national problem requires a national solution—and a good place to start is with the over four million children nationwide who are eligible for SCHIP benefits but remain unenrolled mostly because parents simply don't know the program exists.

Our FamilyCare measure narrows that "coverage gap" while at the same time adding to the roles of the insured in America by covering the parents of low income children. Low-income Americans—those with incomes below 200 percent of the poverty level, or about $36,000 for a family of four—comprise 65 percent of the uninsured. We take this approach because the facts tell us it works. We know that states that covered parents through S-CHIP saw a 16 percent increase in the number of children enrolled in their program versus only 3 percent for states that enrolled only children.

We also know from the Commonwealth Fund's May 2001 report that almost 90 percent of low-income children who have insured parents themselves are insured as compared to just 348 percent of children with an uninsured parent. And we know that low-income children with insured parents are more than twice as likely to have health insurance as children with uninsured parents.

That's because states can insure parents at the same time they insure the children—offering "one-stop-shopping" that also helps ensure that services hit their intended target and provides for family-based continuity of care. The FamilyCare bill adopts this proven approach and with so many pieces already in place we should be able to get moving on this because, frankly, if not now, when? And if not now, why? In these times of trouble, how could we face the American people and tell them we are unwilling to help address one of our nation's highest priorities? How could we explain that we reneged on our obligation to right this national wrong?

That's why we want to work with our Committee leadership to see that FamilyCare is included to the greatest extent possible in any proposal that the Finance Committee considers when it develops its proposal to extend coverage to the uninsured. Because, like a letter mailed without an address, benefits that aren't delivered to our children are benefits that might as well not exist. The bottom line is, parental coverage ensures that children will be more likely to be enrolled in S-CHIP, and the FamilyCare Act of 2003 will help us provide insurance to as many as 13 million parents and children.

I look forward to working with my colleagues to see that this bill gets passed and I urge you all to support this bill.

Mr. KENNEDY. Mr. President, it's a privilege to join Senator SNOWE in introducing the Family Care Act to expand health coverage to millions of families. The Family Care Act builds on the success of the Child Health Insurance Program, by expanding it to cover the parents of low income children, so that the whole family is eligible for affordable coverage. This expansion is the next logical step toward the day when the basic right to health care will be a reality for every American.

Parents across America get up every day, go to work, and play by the rules. But all their hard work does not buy them the health insurance they need to keep themselves and their loved ones healthy or to protect their family when serious illness strikes. They can't afford the coverage on their own, and their employers don't provide it. Family Care is a practical solution for millions of hardworking families, and it deserves to be a national priority.

Six years ago, Congress passed bipartisan legislation to cover uninsured children in families whose income is too high for Medicaid but not high enough to afford private coverage. Today, the Children's Health Insurance Program brings quality health care to over 5 million children. But there are still millions of children who are uninsured, even though they are eligible for coverage, and even those who are insured cannot truly enjoy a healthy life when their parents are sick and can't afford the care they need.

Our bill is an important step to build on the Children's Health Insurance Program. Over 80 percent of children who are uninsured or enrolled in Medicaid or CHIP have uninsured parents. Expanding CHIP to cover parents as well as children will make a huge difference to millions of working families.

The legislation will also help sign up the large number of children who are already eligible for health coverage through CHIP or Medicaid, but who have never enrolled. The numbers are dramatic. Ninety-five percent of low-income uninsured children are eligible for Medicaid or CHIP. If we can enroll all of these children, we will be taking a giant step toward the day when every child has the opportunity for a healthy start in life.

Our legislation makes it easier for families to register and stay covered. We also know that many families lose coverage because complicated applications and burdensome requirements make it hard to stay insured. Under our bill families will have a simple application and they won't have to enroll over and over again. When parents enroll, they will enroll their children, too.

These are long-overdue steps to give many more Americans the health coverage they deserve. Family Care is a health care bill of rights for millions of hardworking parents and their children, and I urge its prompt consideration and adoption by the Congress.

By Mr. INHOFE:

S. 1844. A bill to amend the Clean Air Act to reduce air pollution through expansion of cap and trade programs, to provide an alternative regulatory classification for units subject to the cap and trade program, and for other purposes; to the Committee on Environment and Public Works.

Mr. INHOFE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Clear Skies Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Emission reduction programs.

TITLE IV—EMISSION REDUCTION PROGRAMS

PART A—GENERAL PROVISIONS

Sec. 401. (reserved)
Sec. 402. Definitions.
Sec. 403. Allowance system.
Sec. 404. Permits and compliance plans.
Sec. 405. Monitoring, reporting, and recordkeeping requirements.
Sec. 406. Excess emissions penalty; general compliance with other provisions; enforcement.
Sec. 407. Election for additional units.
Sec. 408. Clean coal technology regulatory incentives.
Sec. 409. Electricity reliability

PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

Sec. 411. Definitions.
Sec. 412. Allowance allocation.
Sec. 413. Phase I sulfur dioxide requirements.
Sec. 414. Phase II sulfur dioxide requirements.
Sec. 415. Allowances for States with emissions rates at or below 0.80 lbs/mmbtu.
Sec. 416. Election for additional sources.
Sec. 417. Auctions, reserve.
Sec. 418. Industrial sulfur dioxide emissions.
Sec. 419. Termination.
Sec. 421. Definitions.
Sec. 422. Applicability.
Sec. 423. Limitations on total emissions.
Sec. 424. EGU allocations.
Sec. 425 Sulfur dioxide early action reduction credits.
Sec. 426. Disposition of sulfur dioxide allowances allocated under subpart 1.
Sec. 427. Incentives for sulfur dioxide emission control technology.
Sec. 431. Definitions.
Sec. 432. Applicability.
Sec. 433. Limitations on total emissions.
Sec. 434. EGU allocations.
Sec. 435. Wrap early action reduction credits.

PART C—NITROGEN OXIDES CLEAR SKIES EMISSION REDUCTIONS

Sec. 441. Nitrogen oxides emission reduction program.
Sec. 442. Termination.
Sec. 451. Definitions.
Sec. 452. Applicability.
Sec. 453. Limitations on total emissions.
Sec. 454. EGU allocations.
Sec. 455. Nitrogen oxides early action reduction credits.
Sec. 461. Definitions.
Sec. 462. General provisions.
Sec. 463. Applicable implementation plan.
Sec. 464. Termination of Federal administration of nox trading program for EGUs.
Sec. 465. Carryforward of pre-2008 nitrogen oxides allowances.
Sec. 466. Non-ozone season voluntary action credits.

PART D—MERCURY EMISSIONS REDUCTIONS

Sec. 471. Definitions.
Sec. 472. Applicability.
Sec. 473. Limitations on total emissions.
Sec. 474. EGU allocations.
Sec. 475. Mercury early action reduction credits.

PART E—NATIONAL EMISSION STANDARDS; RESEARCH; ENVIRONMENTAL ACCOUNTABILITY; MAJOR SOURCE PRECONSTRUCTION REVIEW AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS

Sec. 481. National emission standards for affected units.
Sec. 482. Research, environmental monitoring, and assessment.
Sec. 483. Major source preconstruction review requirements and best available retrofit control technology requirements; applicability to affected units.
Sec. 3. Other amendments.

SEC. 2. EMISSION REDUCTION PROGRAMS.

Title IV of the Clean Air Act (relating to acid deposition control) (42 U.S.C. 7651, et seq.) is amended to read as follows:

TITLE IV—EMISSION REDUCTION PROGRAMS

PART A—GENERAL PROVISIONS

SEC. 401. (Reserved)

SEC. 402. DEFINITIONS.

As used in this title—

(1) The term "affected EGU" shall have the meaning set forth in section 421, 431, 451, or 471, as appropriate.

(2) The term "affected facility" or "affected source" means a facility or source that includes one or more affected units.

(3) The term "affected unit" means—

(A) under this part, a unit that is subject to emission reduction requirements or limitations under part B, C, or D or, if applicable, under a specified part or subpart; or

(B) under subpart 1 of part B or subpart 1 of part C, a unit that is subject to emission reduction requirements or limitations under that subpart.

(4) The term "allowance" means—

(A) an authorization, by the Administrator under this title, to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury; or

(B) under subpart 1 of part B, an authorization by the Administrator under this title, to emit one ton of sulfur dioxide.

(5)(A) The term "baseline heat input" means, except under subpart 1 of part B and section 407, the average annual heat input used by a unit during the 3 years in which the unit had the highest heat input for the period 1998 through 2002.

(B) Notwithstanding subparagraph (A), if a unit commenced or commences operation after January 1, 2001, then "baseline heat input" means the manufacturer's design heat input capacity for the unit multiplied by 80 percent for coal-fired units, 50 percent for boilers that are not coal-fired, 80 percent for combustion turbine cogeneration units elected under section 407, 50 percent for combustion turbines other than simple cycle turbines, and 5 percent for simple cycle combustion turbines.

(C) A unit's heat input for a year shall be the heat input—

(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

(ii) reported to the Energy Information Administration for the unit, if the unit was not required to report heat input under section 405;

(iii) based on data for the unit reported to the State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the State.

(D) Not later than 3 months after the enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations, without notice and opportunity for comment, specifying the format in which the information under subparagraphs (B)(ii) and (C)(ii), (iii), or (iv) shall be submitted. Not later than 9 months after the enactment of the Clear Skies Act of 2003, the owner or operator of any unit under subparagraph (B)(ii) or (C)(ii), (iii), or (iv) to which allowances may be allocated under section 424, 434, 454, or 474 shall submit to the Administrator such information. The Administrator is not required to allocate allowances under such sections to a unit for which the owner or operator fails to submit information in accordance with the regulations promulgated under this subparagraph.

(6) The term "coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite.

(7) The term "coal-derived fuel" means any fuel (whether in a solid, liquid, or gaseous state) produced by the mechanical, thermal, or chemical processing of coal.

(8) The term "coal-fired" with regard to a unit means, except under subpart 1 of part B, subpart 1 of part C, and sections 424 and 434, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year.

(9) The term "cogeneration unit" means, except under subpart 1 of part B and subpart 1 of part C, a unit that produces through the sequential use of energy:

(A) electricity; and

(B) useful thermal energy (such as heat or steam) for industrial, commercial, heating, or cooling purposes.

(10) The term "combustion turbine" means any combustion turbine that is not self-propelled. The term includes, but is not limited to, a simple cycle combustion turbine, a combined cycle combustion turbine and any duct burner or heat recovery device used to extract heat from the combustion turbine exhaust, and a regenerative combustion turbine. The term does not include a combined-turbine in an integrated gasification combined cycle plant.

(11) The term "commence commercial operation" with regard to a unit means the start up of the unit's combustion chamber and the commencement of the generation of electricity for sale.

(12) The term "compliance plan" means either—

(A) a statement that the facility will comply with all applicable requirements under this title, or

(B) under subpart 1 of part B or subpart 1 of part C, where applicable, a schedule and description of the method or methods for compliance and certification by the owner or operator that the facility is in compliance with the requirements of that subpart.

(13) The term "continuous emission monitoring system" (CEMS) means the equipment as required by section 405, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 405.

(14) The term "designated representative" means a responsible person or official authorized by the owner or operator of a unit and the facility that includes the unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances, and the submission of and compliance with permits, permit applications, and compliance plans.

(15) The term "duct burner" means a combustion device that uses the exhaust from a combustion turbine to burn fuel for heat recovery.

(16) The term "fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

(17) The term "fossil fuel-fired" with regard to a unit means combusting fossil fuel, alone or in combination with no more than ten percent of other fuel.

(18) The term "fuel oil" means a petroleum-based fuel, including diesel fuel or petroleum derivatives.

(20) The term "gas-fired" with regard to a unit means, except under subpart 1 of part B and subpart 1 of part C, combusting only natural gas or fuel oil, with natural gas comprising at least 90 percent, and fuel oil comprising no more than 10 percent, of the unit's total heat input in any year.

(21) The term "gasify" means to convert carbon-containing material into a gas consisting primarily of carbon monoxide and hydrogen.

(22) The term "generator" means a device that produces electricity and, under subpart 1 of part B and subpart 1 of part C, that is reported as a generating unit pursuant to Department of Energy Form 860.

(23) The term "heat input" with regard to a specific period of time means the product (in mmBtu/time) of the gross calorific value of the fuel (in mmBtu/lb) and the fuel feed rate into a unit (in lb of fuel/time) and does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust.

(24) The term "integrated gasification combined cycle plant" means any combination of equipment used to gasify fossil fuels (with or without other material) and then burn the gas in a combined cycle combustion turbine.

(25) The term "oil-fired" with regard to a unit means, except under sections 424 and 434, combusting fuel oil for 10 percent or more of the unit's total heat input, and combusting no coal or coal-derived fuel, in any year.

(26) The term "owner or operator" with regard to a unit or facility means, except for subpart 1 of part B and subpart 1 of part C, any person who owns, leases, operates, controls, or supervises the unit or the facility.

(27) The term "permitting authority" means the Administrator, or the State or local air pollution control agency, with an approved permitting program under title V of the Act.

(28) The term "potential electrical output" with regard to a generator means the nameplate capacity of the generator multiplied by 8,760 hours.

(29) The term "simple cycle combustion turbine" means a combustion turbine that does not extract heat from the combustion turbine exhaust gases.

(30) The term "stationary source" means any building, structure, facility, or installation located on one or more contiguous or adjacent properties under common control or ownership of the same person or persons which emits or may emit any air pollutant subject to regulations under the Clear Skies Act of 2003.

(31) The term "State" means—

(A) one of the 48 contiguous States, Alaska, Hawaii, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands; or

(B) under subpart 1 of part B and subpart 1 of part C, one of the 48 contiguous States or the District of Columbia.

(32) The term "unit" means—

(A) a fossil fuel-fired boiler, combustion turbine, or integrated gasification combined cycle plant; or

(B) under subpart 1 of part B and subpart 1 of part C, a fossil fuel-fired combustion device.

(33) The term "utility unit" shall have the meaning set forth in section 411.

(34) The term "year" means calendar year.

SEC. 403. ALLOWANCE SYSTEM.

(a) ALLOCATIONS IN GENERAL.—

(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for an affected unit, to be held or distributed by the designated representative of the owner or operator in accordance with this title as follows—

(A) sulfur dioxide allowances in an amount equal to the annual tonnage emission limitation calculated under section 413, 414, 415, or 416, except as otherwise specifically provided elsewhere in subpart 1 of part B, or in an amount calculated under section 424 or 434,

(B) nitrogen oxides allowances in an amount calculated under section 454, and

(C) mercury allowances in an amount calculated under section 474.

(2) Notwithstanding any other provision of law to the contrary, the allocation of any allowances for any unit or facility under sections 424, 434, 454, and 474 shall not be enjoined.

(3) Allowances shall be allocated by the Administrator without cost to the recipient, in accordance with this title.

(b) ALLOWANCE TRANSFER SYSTEM.—Allowances allocated or sold by the Administrator under this title may be transferred among designated representatives of the owners or operators of affected facilities under this title and any other person, as provided by the allowance system regulations promulgated by the Administrator. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 C.F.R. Part 73 (2002), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than 24 months after the date of enactment of the Clear Skies Act of 2003. The regulations under this subsection shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was allocated and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, except as otherwise provided in section 425. Such regulations shall provide, or shall be amended to provide, that transfers of allowances shall not be effective until certification of the transfer, signed by a responsible official of the transferor, is received and recorded by the Administrator.

(c) ALLOWANCE TRACKING SYSTEM.—The Administrator shall promulgate regulations establishing a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. Such system shall provide, by twenty-four months prior to the compliance year, for one or more facility-wide accounts for holding sulfur dioxide allowances, nitrogen oxides allowances, and, if applicable, mercury allowances for all affected units at an affected facility. With regard to sulfur dioxide allowances, the Administrator shall implement this subsection under 40 C.F.R. Part 73 (2002), amended as appropriate by the Administrator. With regard to nitrogen oxides allowances and mercury allowances, the Administrator shall implement this subsection by promulgating regulations not later than 24 months after the date of enactment of the Clear Skies Act of 2003. All allowance allocations and transfers shall, upon recording by the Administrator, be deemed a part of each unit's or facility's permit requirements pursuant to section 404, without any further permit review and revision.

(d) NATURE OF ALLOWANCES.—A sulfur dioxide allowance, nitrogen oxides allowance, or mercury allowance allocated or sold by the Administrator under this title is a limited authorization to emit one ton of sulfur dioxide, one ton of nitrogen oxides, or one ounce of mercury, as the case may be, in accordance with the provisions of this title. Such allowance does not constitute a property right. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. Nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or facility, including the provisions related to applicable National Ambient Air Quality Standards and State implementation plans. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once allocated or sold to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title V of the Clean Air Act or section 404 of the Clear Skies Act of 2003 with respect to the unit for which such allowance was originally allocated and recorded.

(e) PROHIBITION.—

(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated or sold by the Administrator under this title, except in accordance with regulations promulgated by the Administrator.

(2) It shall be unlawful for any affected unit or for the affected units at a facility to emit sulfur dioxide, nitrogen oxides, and mercury, as the case may be, during a year in excess of the number of allowances held for that unit or facility for that year by the designated representative as provided in sections 412(c), 422, 432, 452, and 472.

(3) The owner or operator of a facility may purchase allowances directly from the Administrator to be used only to meet the requirements of sections 422, 432, 452, and 472, as the case may be, for the year in which the purchase is made or the prior year. Not later than 36 months after the date of enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations providing for direct sales of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances to an owner or operator of a facility. The regulations shall provide that—

(A) such allowances may be used only to meet the requirements of section 422, 432, 452, and 472, as the case may be, for such facility and for the year in which the purchase is made or the prior year,

(B) each such sulfur dioxide allowance shall be sold for $2,000, each such nitrogen oxides allowance shall be sold for $4,000, and each such mercury allowance shall be sold for $2,187.50, with such prices adjusted for inflation based on the Consumer Price Index on the date of enactment of the Clear Skies Act of 2003 and annually thereafter,

(C) the proceeds from any sales of allowances under subparagraph (B) shall be, in accordance with paragraph (j), deposited in the Compliance Assistance Account,

(D) except for allowances subject to (E), the allowances directly purchased for use for the year specified in subparagraph (A) shall be, on a pro rata basis, taken from, and reduce, the amount of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that would otherwise be allocated under section 423, 453, or 473 starting for the second year after the specified year and continuing for each subsequent year as necessary,

(E) if the designated representative does not use any such allowance in accordance with paragraph (A) the designated representative shall hold the allowance for deduction by the Administrator. The Administrator shall deduct the allowance without refund or other form of recompense.

(4) Allowances may not be used prior to the calendar year for which they are allocated but may be used in succeeding years. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected facilities of their requirements and liabilities under the Act.

(f) COMPETITIVE BIDDING FOR POWER SUPPLY.—Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

(g) APPLICABILITY OF THE ANTITRUST LAWS.—(1) Nothing in this section affects—

(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

(2) As used in this section, "antitrust laws" means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

(h) PUBLIC UTILITY HOLDING COMPANY ACT.—The acquisition or disposition of allowances pursuant to this title including the issuance of securities or the undertaking of any other financing transaction in connection with such allowances shall not be subject to the provisions of the Public Utility Holding Company Act of 1935.

(i) INTERPOLLUTANT TRADING.—Not later than July 1, 2009, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances for nitrogen oxides allowances and nitrogen oxides allowances for sulfur dioxide allowances.

(j) COMPLIANCE ASSISTANCE ACCOUNT.—An account shall be established by the Secretary of Energy in consultation with the Administrator:

(1) Payments or monies deposited in this account in accordance with this title shall be used for the purpose of developing emission control technologies through direct grants to affected units that demonstrate new control technologies regulated under this title.

(2) The Secretary of Energy in consultation with the Administrator shall promulgate regulations with notice and opportunity for comment to establish criteria for affected units to quality for this subsection.

SEC. 404. PERMITS AND COMPLIANCE PLANS.

(a) PERMIT PROGRAM.—The provisions of this title shall be implemented, subject to section 405, by permits issued to units and facilities subject to this title and enforced in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

(1) annual emissions of sulfur dioxide, nitrogen oxides, and mercury in excess of the number of allowances required to be held in accordance with sections 412(c), 422, 432, 452, and 472,

(2) exceeding applicable emissions rates under section 441,

(3) the use of any allowance prior to the year for which it was allocated and

(4) contravention of any other provision of the permit.

No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the facility to comply with its requirements under this title. Where an affected facility consists of more than one affected unit, such plan shall cover all such units, and such facility shall be considered a "facility" under section 502(c). Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances.

(1) Submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a unit subject to the emissions limitation requirements of sections 412(c), 413, 414, and 441, that the unit will meet the applicable emissions limitation requirements of such sections in a timely manner or that, in the case of the emissions limitation requirements of sections 412(c), 413, and 414, the owners and operators will hold sulfur dioxide allowances in the amount required by section 412(c), shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V, except that, for any unit that will meet the requirements of this title by means of an alternative method of compliance authorized under section 413 (b), (c), (d), or (f), section 416, and section 441 (d) or (e), the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulations promulgated by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on one or more alternative methods of compliance in the manner and time authorized under subpart 1 of part B or subpart 1 of part C.

(2) Submission of a statement by the owner or operator, or the designated representative, of a facility that includes a unit subject to the emissions limitation requirements of sections 422, 432, 452, and 472 that the owner or operator will hold sulfur dioxide allowances, nitrogen oxide allowances, and mercury allowances, as the case may be, in the amount required by such sections shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V with regard to subparts A through D.

(3) Recording by the Administrator of transfers of allowances shall amend automatically, and will not reopen or require reopening of, any or all applicable proposed or approved permit applications, compliance plans and permits.

(c) PERMITS.—The owner or operator of each facility under this title that includes an affected unit subject to title V shall submit a permit application and compliance plan with regard to the applicable requirements under sections 412(c), 422, 432, 441, 452, and 472 for sulfur dioxide emissions, nitrogen oxide emissions, and mercury emissions from such unit to the permitting authority in accordance with the deadline for submission of permit applications and compliance plans under title V. The permitting authority shall issue a permit to such owner or operator, or the designated representative of such owner or operator, that satisfies the requirements of title V and this title.

(d) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section.

(e) PROHIBITION.—

(1) It shall be unlawful for any person to operate any facility subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for facilities subject to this title shall be deemed compliance with this subsection as well as section 502(a).

(2) In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operations of a unit serving a generator for failure to have an approved permit or compliance plan under this section.

(f) CERTIFICATE OF REPRESENTATION.—No permit shall be issued under this section to an affected unit or facility until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances.

(g) MULTIPLE OWNERS.—No permit shall be issued under this section to an affected unit until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such a unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate shall state:

(1) that allowances and the proceeds or transactions involving allowance will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or

(2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract.

A passive lessor, of a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purposes of holding or distributing allowances as provided in this subsection, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person.

SEC. 405. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

(a) APPLICABILITY.—

(1)(A) The owner and operator of any facility subject to this title shall be required to install and operate CEMS on each affected unit subject to subpart 1 of part B or subpart 1 of part C at the facility, and to quality assure the data, for sulfur dioxide, nitrogen oxides, opacity, and volumetric flow at each such unit.

(B) The Administrator shall, by regulations, specify the requirements for CEMS under subparagraph (A), for any alternative monitoring or compliance system that is demonstrated as providing information which is reasonably of the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure to a reasonable extent the emissions reductions contemplated by this title. Where two or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

(2)(A) The owner and operator of any facility subject to this title shall be required to install and operate CEMS to monitor the emissions from each affected unit at the facility, and to quality assure the data for—

(i) sulfur dioxide, opacity, and volumetric flow for all affected units subject to subpart 2 of part B at the facility,

(ii) nitrogen oxides for all affected units subject to subpart 2 of part C at the facility, and

(iii) mercury for all affected units subject to part D at the facility.

(B)(i) The Administrator may specify an alternative monitoring or compliance system for determining mercury emissions. In specifying such alternative monitoring or compliance systems, the lack of commercially available appropriate and reasonable vendor guarantees shall constitute a reasonable and permissible basis for specifying alternative monitoring or compliance systems for mercury.

(ii) The regulations under clause (i) may include limitations on the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure to a reasonable extent the emissions reductions contemplated by this title.

(iii) The regulations under clause (i) shall not require a separate CEMS or other monitoring system for each unit where two or more units utilize a single stack and shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for such units.

(b) DEADLINES.—

(1) NEW UTILITY UNITS.—Upon commencement of commercial operation of each new utility unit under subpart I of part B, the unit shall comply with the requirements of subsection (a)(1).

(2) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 2 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date 12 months before the commencement date of the sulfur dioxide allowance requirement of section 422, or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part B shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide, opacity, and volumetric flow.

(3) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 3 OF PART B FOR INSTALLATION AND OPERATION OF CEMS.—By the first covered year or the date on which the unit commences commercial operation, the owner or operator of each affected unit under subpart 3 of part B shall install and operate CEMS,

quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to sulfur dioxide and volumetric flow.

(4) DEADLINE FOR AFFECTED UNITS UNDER SUBPART 2 OF PART C FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date the nitrogen oxides allowance requirement under section 452, or the date on which the unit commences operation, the owner or operator of each affected unit under subpart 2 of part C shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to nitrogen oxides.

(5) DEADLINE FOR AFFECTED UNITS UNDER PART D FOR INSTALLATION AND OPERATION OF CEMS.—By the later of the date 12 months before the commencement date of the mercury allowance requirement of section 472 applies to such unit and commences commercial operation, or the date on which the unit commences operation, the owner or operator of each affected unit under part D shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under paragraph (a)(2) with regard to mercury.

(c) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Administrator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, reasonably satisfactory to the Administrator, on emissions during that period, the Administrator in coordination with the owner shall calculate emissions for that period pursuant to regulations promulgated for such purpose. The owner or operator shall be liable for excess emissions fees and offsets under section 406 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

(d) IMPLEMENTATION.—With regard to sulfur dioxide, nitrogen oxides, opacity, and volumetric flow, the Administrator shall implement subsections (a) and (c) under 40 C.F.R. Part 75 (2002), amended as appropriate by the Administrator. With regard to mercury, the Administrator shall implement subsections (a) and (c) by issuing proposed regulations not later than 36 months before the commencement date of the mercury allowance requirement under section 472 and final regulations not later than 24 months before that commencement date.

(e) PROHIBITION.—It shall be unlawful for the owner or operator of any facility subject to this title to operate a facility without complying with the requirements of this section, and any regulations implementing this section.

SEC. 406. EXCESS EMISSIONS PENALTY; GENERAL COMPLIANCE WITH OTHER PROVISIONS; ENFORCEMENT.

(a) EXCESS EMISSIONS PENALTY.—

(1) AMOUNT FOR OXIDES OF NITROGEN.—The owner or operator of any unit subject to the requirements of section 441 that emits nitrogen oxides for any calendar year in excess of the allowances the operator holds for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emission were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the number of allowances held by the operator for the unit for that calendar year multiplied by $2,000.

(2) AMOUNT FOR SULFUR DIOXIDE BEFORE 2008.—The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide for any calendar year before 2008 in excess of the sulfur dioxide allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f) or (g). That penalty shall be calculated as follows:

(A) the product of the unit's excess emissions (in tons) multiplied by $2,000, if within thirty days after the date on which the owner or operator was required to hold sulfur dioxide allowances—

(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(1); and

(ii) the Administrator receives the penalty payment required under this subparagraph.

(B) if the requirements of clause (A)(i) or (A)(ii) are not met, the product of the unit's excess emissions (in tons) multiplied by $4,000.

(3) AMOUNT FOR SULFUR DIOXIDE AFTER 2007.—If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for any calendar year after 2007 in excess of the sulfur dioxide allowances that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated under paragraph (4)(A) or (4)(B).

(4) UNITS SUBJECT TO SECTIONS 422, 432, 452, OR 472.—If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility or units for that calendar year, the owner or operator shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated as follows:

(A) the product of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the annual average price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold between allowance holders and recorded in the Allowance Tracking System, if within sixty days after the date on which the owner or operator was required to hold sulfur dioxide, nitrogen oxides allowance, or mercury allowances as the case may be—

(i) the owner or operator offsets the excess emissions in accordance with paragraph (b)(2) or (b)(3), as applicable; and

(ii) the Administrator receives the penalty required under this subparagraph.

(B) if the requirements of clause (A)(i) or (A)(ii) are not met, the amount of the units' excess emissions (in tons or, for mercury emissions, in ounces) multiplied by the average annual price of sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, sold between allowance holders and recorded in the Allowance Tracking System.

(5) PAYMENT.—Any penalty under paragraph 1, 2, 3, or 4 shall be due and payable without demand to the Administrator as provided in regulations issued by the Administrator. With regard to the penalty under paragraph 1, the Administrator shall implement this paragraph under 40 CFR Part 77 (2002), amended as appropriate by the Administrator. With regard to the penalty under paragraphs 2, 3, and 4, the Administrator shall implement this paragraph by issuing regulations no later than 24 months after the date of enactment of the Clear Skies Act of 2003. Any such payment shall be deposited in the Compliance Assistance Account.

(b) EXCESS EMISSIONS OFFSET.—

(1) The owner or operator of any unit subject to the requirements of section 412(c) that emits sulfur dioxide during any calendar year before 2008 in excess of the sulfur dioxide allowances held for the unit for the calendar year shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess tonnage from those held for the facility for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(2) If the units at a facility that are subject to the requirements of section 412(c) emit sulfur dioxide for a year after 2007 in excess of the sulfur dioxide allowances that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances equal to the excess emissions in tons from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(3) If the units at a facility that are subject to the requirements of section 422, 432, 452, or 472 emit sulfur dioxide, nitrogen oxides, or mercury for any calendar year in excess of the sulfur dioxide allowances, nitrogen oxides allowances, or mercury allowances, as the case may be, that the owner or operator of the facility holds for use for the facility for that calendar year, the owner or operator shall be liable to offset the excess emissions by an equal amount of tons or, for mercury, ounces in the following calendar year, or such longer period as the Administrator may prescribe. The Administrator shall deduct sulfur dioxide allowances, nitrogen oxide allowances, or mercury allowances, as the case may be, equal to the excess emissions in tons or, for mercury, ounces from those held for the facility for the year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a)(1) and (a)(2) for inflation, based on the Consumer Price Index, on November 15, 1990, and annually thereafter.

(d) PROHIBITION.—It shall be unlawful for the owner or operator of any unit or facility liable for a penalty and offset under this section to fail—

(1) to pay the penalty under subsection (a); or

(2) to offset excess emissions as required by subsection (b).

(e) SAVINGS PROVISION.—Nothing in this title shall limit or otherwise affect the application of section 113, 114, 120, or 304 except as otherwise explicitly provided in this title.

(f) OTHER REQUIREMENTS.—Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any facility subject to this title from compliance with any other applicable requirements of this Act. Notwithstanding any other provision of this Act, no State or political subdivision thereof shall restrict or interfere with the transfer, sale, or purchase of allowances under this title.

(g) VIOLATIONS.—Violation by any person subject to this title of any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit or the affected units at a facility to emit sulfur dioxide, nitrogen oxides, or mercury in violation of section 412(c), 422, 432, 452, and 472, as the case may be, shall be deemed a violation, with each ton or, in the case of mercury, each ounce emitted in excess of allowances held constituting a separate violation.

SEC. 407. ELECTION FOR ADDITIONAL UNITS.

(a) APPLICABILITY.—The owner or operator of any unit that is not an affected EGU under subpart 2 of part B and subpart 2 of part C and whose emissions of sulfur dioxide and nitrogen oxides are vented only through a stack or duct may elect to designate such unit as an affected unit under subpart 2 of part B and subpart 2 of part C. If the owner or operator elects to designate a unit that is solid fuel-fired and emits mercury vented only through a stack or duct, the owner or operator shall also designate the unit as an affected unit under part D. If elected unit fires only gaseous fuels, designation may be made under subpart 2 of part C only.

(b) APPLICATION.—The owner or operator making an election under subsection (a) shall submit an application for the election to the Administrator for approval.

(c) APPROVAL.—If an application for an election under subsection (b) meets the requirements of subsection (a), the Administrator shall approve the designation as an affected unit under subpart 2 of part B and subpart 2 of part C and, if applicable, under part D, subject to the requirements in subsections (d) through (m).

(d) ESTABLISHMENT OF BASELINE.—

(1) After approval of the designation under subsection (c), the owner or operator shall install and operate GEMS on the unit, and shall quality assure the data, in accordance with the requirements of paragraph (a)(2) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each unit unless all units utilizing the single stack are designated as affected units.

(2) The baselines for heat input and sulfur dioxide and nitrogen oxides emission rates, as the case may be, for the unit shall be the unit's heat input and the emission rates of sulfur dioxide and nitrogen oxides for a year starting after approval of the designation under subsection (c). The Administrator shall issue regulations requiring the unit's baselines for heat input and sulfur dioxide and nitrogen oxides emission rates to be based on the same year and specifying minimum requirements concerning the percentage of the unit's operating hours for which quality assured CEMS data must be available during such year. The baseline heat input and emissions baselines in this subparagraph shall be calculated, at the election of the owner or operator of the relevant unit, under (i) or (ii):

(i) for heat input, the average of the unit's highest heat input for three years of the five years before the year for which the Administrator is determining the allocations and for emissions baselines, the average of the relevant emissions for the same years used to determine heat input.

(ii) for heat input, the average of any period of twenty-four consecutive months during a ten-year period immediately prior to submission of an application under subsection (b), and for emissions baselines, the average of the relevant emissions for the same twenty-four month period used to calculate heat input.

(3) The regulations implementing subparagraphs (2) shall authorize the use of any reliable data on emissions of sulfur dioxide and nitrogen oxides in addition to, and other than, data collected pursuant to paragraph (1), including, but not limited to, alternative data that has been used to determine compliance with a regulatory or monitoring requirement under this Act or a comparable State law if the data establishes a reliable measure of heat input and sulfur dioxide and nitrogen oxides emissions over a simultaneous period of time; or if such data is not available, the Administrator may prescribe a baseline based on alternative reliable data. In determining the reliability of data, the Administrator may consider the cost of generating more reliable data compared to the quantitative importance of the resulting gain in quantifying emissions.

(e) EMISSION LIMITATIONS.—After approval of the designation of the unit under paragraph (c), the unit shall become:

(1) an affected unit under subpart 2 of part B, and shall be allocated sulfur dioxide allowances under paragraph (f), starting the later of January 1, 2010, or January 1 of the year after approval of the designation;

(2) an affected unit under subpart 2 of part C, and shall be allocated nitrogen oxides allowances under paragraph (f), starting the later of January 1, 2010, or January 1 of the year after approval of the designation; and

(3) if applicable, an affected unit under part D, and shall be allocated mercury allowances, starting the later of January 1, 2010, or January 1 of the year after approval of designation.

(f) ALLOCATIONS.—

(1) SULFUR DIOXIDE AND NITROGEN OXIDES.—The Administrator shall promulgate regulations determining the allocations of sulfur dioxide allowances and nitrogen oxides allowances for each year during which a unit is an affected unit under subsection (e). The regulations shall provide for allocations equal to 70 percent of the following amounts beginning January 1, 2010, and 50 percent of the following amounts beginning January 1, 2018 the unit's baseline heat input under subsection (d) multiplied by the lesser of—

(A) the unit's baseline sulfur dioxide emission rate or nitrogen oxides emission rate as the case may be; or

(B) the unit's most stringent State or Federal emission limitation for sulfur dioxide or nitrogen oxides applicable to the year on which the unit's baseline heat input is based under subsection (d).

(2) MERCURY.—The Administrator shall promulgate regulations providing for the allocation of mercury allowances to solid fuel-fired units designated under this section for each year after January 1, 2010 during which a unit is a designated unit under this section. The regulations shall provide for allocations equal to the lesser of the following amounts—

(A) the unit's annual allowable emissions rate for mercury under the national emissions standards for hazardous air pollutants for boilers and process heaters multiplied by the unit's baseline heat input; or

(B) the unit's most stringent State or Federal emission limitation for mercury emissions rate multiplied by the unit's baseline heat input.

(3) LIMITATION.—Allowances allocated to electing units under subparagraphs (1) and (2) shall comprise a separate limitation on emissions from sections 423, 433, 453, 473, or other section of this Act. These allowances for sulfur dioxide, nitrogen oxides, or mercury, as the case may be, shall be tradeable with allowances allocated under sections 414, 424, 454, 474, as applicable, provided that

(A) electing units may only trade nitrogen oxides within the respective zones established under section 452 within which the electing unit is located, and

(B) affected units within the WRAP States may only purchase sulfur dioxide allowances allocated or otherwise distributed by the Administrator to electing units within the WRAP States, and will not be counted for purposes the affected unit's emissions within the meaning of the WRAP Annex.

(4) INCENTIVES FOR EARLY REDUCTIONS.—The Administrator shall promulgate regulations within 18 months authorizing the allocation of sulfur dioxide, nitrogen oxides and mercury allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010. No allowances shall be allocated under this paragraph for emissions reductions attributable to: pollution control equipment or combustion technology improvements that were operational or under construction at any time prior to the date of enactment of this section; fuel switching; or compliance with any Federal regulation. The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under paragraphs (1) and (2) and sections 414, 424, 434, 454 and 474 and shall be allocated in an amount equal to one allowance of sulfur dioxide and nitrogen oxides for each 1.05 tons of reduction in emissions of sulfur dioxide and nitrogen oxides, respectively, and 1.05 ounces of reduction in the emissions of mercury achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented.

(g) WITHDRAWAL.—The Administrator shall promulgate regulations withdrawing from the approved designation under subsection (c) any unit that qualifies as an affected EGU under subpart 2 of part B or subpart 2 of part C, or part D after the approval of the designation of the unit under subsection (c).

(h) REGULATIONS.—The Administrator shall promulgate regulations implementing this section within 18 months of the date of enactment of the Clear Skies Act of 2003.

(i) APPLICATION PERIOD.—Applications for designation of units under this section shall be accepted by the Administrator beginning not later than 180 days after the date of enactment of this section and the Administrator shall approve or disapprove of each application within 90 days of receipt.

(j) NESHAP APPLICABILITY.—

(1) A unit that is designated as an affected unit under this section shall not be subject to any national emissions standards for hazardous air pollutants (NESHAP) promulgated pursuant to section 112(d) after November 10, 2003, except that units that are

boilers or process heaters shall be subject on and after January 1, 2010 to the emissions limitation for mercury, and associated monitoring and compliance requirements, that would be applicable to such units under the NESHAP for boilers and process heaters promulgated pursuant to section 112(d).

(2) Not later than 18 months after the date of enactment of this section, the Administrator shall publish and make available for public comment, a peer reviewed preliminary report characterizing the emissions and public health effects that may reasonably be anticipated to occur from the implementation of paragraph (1) and subsection (f). No NESHAP for boilers and process heaters shall be promulgated under section 112(d) until the conclusion of, and considering, this report. Under section 112(n)(1)(A), the Administrator shall publish a final report, including responses to the comments received, not later than 30 months after such date. The requirements of section 112(n)(1)(A), for purposes of this paragraph, shall be amended as follows. The report shall include:

(A) an estimate of the numbers and types of sources that are expected to be designated under this section;

(B) an estimate of any increase or decrease in the annual emissions of criteria pollutants and of those hazardous air pollutants subject to emission limitations under the NESHAPs identified in paragraph (1) from such sources that may reasonably be expected to occur for each year through 2018;

(C) an estimate of any increase or decrease in the annual emissions of criteria pollutants and of those hazardous air pollutants subject to emission limitations under the NESHAPs identified in paragraph (1) from such sources that might reasonably be expected to occur for each year through 2018, if such sources estimated in subparagraph (A) are not designated under this section; and

(D) a description of the public health and environmental impacts associated with the emissions increases and decreases described in subparagraphs (B) and (C).

Notwithstanding paragraph (1), the Administrator shall have the authority to regulate emissions of hazardous air pollutants listed under section 112(b), other than mercury compounds, from sources designated under this section in accordance with the regime set forth in section 112(f)(2). The Administrator shall make a determination based on the study and other information satisfying the criteria of the Data Quality Act whether to establish emissions limitations under section 112(f) for sources designated under this section, not later than 24 months after the final report is published. The determination shall be a final agency action subject to judicial review under section 307 and the Administrative Procedures Act.

(k) OTHER COMBUSTION SOURCES.—The owner or operator of an affected unit designated under this section may elect to designate other combustion sources, such as kilns and furnaces (including sources that are not operated to generate electricity) that are located on the same property as affected units under this section provided that the emissions from such sources are vented through a stack or duct. A source that is designated as an affected unit under this section shall not be subject to any national emissions standards for hazardous air pollutants promulgated pursuant to section 112(d) after August 2003. The Administrator shall have the authority to regulate emissions of hazardous air pollutants listed under section 112(b), other than mercury compounds, by units designated as affected units under this section in accordance with the regime set forth in sections 112(n)(1)(A) and 112(f)(2) through (4). Any such regulation shall not require compliance with emissions limitations for such pollutants before January 1, 2018.

(l) EXEMPTION FROM MAJOR SOURCE PRECONSTRUCTION REVIEW REQUIREMENTS AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS.—

(1) MAJOR SOURCE EXEMPTION.—A unit designated as an affected unit under this section shall not be considered a major source, or a part of a major emitting facility or major stationary source for purposes of compliance with the requirements of parts C and D of title I. This exemption only applies if, beginning 8 years after the date of enactment of this section, or designation as an affected unit—

(A) the designated unit either achieves in fact, or is subject to a regulatory requirement to achieve, a limit on the emissions of particulate matter from the affected unit to the level not greater than the level applicable to the unit either pursuant to subpart Db of 40 CFR Part 60 or the national emissions standards for hazardous air pollutants for industrial boilers and process heaters issued pursuant to section 112; or the owner or operator of the affected unit properly operates, maintains and repairs pollution control equipment to limit emissions of particulate matter and

(B) the owner or operator of the designated unit uses good combustion practices to minimize emissions of carbon monoxide.

(2) CLASS I AREA PROTECTIONS.—Notwithstanding the exemption in paragraph (1), an affected unit located within 50 km of a Class I area on which construction commences after the date of enactment of this section is subject to those provisions under part C of title I to the review of a new or modified major stationary source's impact on a Class I area.

(m) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

SEC. 408. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES.

(a) DEFINITION.—For purposes of this section, "clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of November 15, 1990.

(b) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—

(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project using funds appropriated under the heading "Department of Energy—Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for qualifying project shall be at least twenty percent of the total cost of the demonstration project.

(2) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

(3) PERMANENT PROJECTS.—For permanent clean coal technology demonstration projects that constitute repowering as defined in section 411, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

(4) EPA REGULATIONS.—Not later than twelve months after November 15, 1990, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

(c) EXEMPTION FOR REACTIVATION OF VERY CLEAN UNITS.—Physical changes or changes in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation shall not subject the unit to the requirements of section 111 or part C of the Act where the unit—

(1) has not been in operation for the two-year period prior to November 15, 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory on November 15, 1990,

(2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent,

(3) is equipped with low-NO_X burners prior to the time of commencement, and

(4) is otherwise in compliance with the requirements of this Act.

SEC. 409. ELECTRICITY RELIABILITY.

(a) RELIABILITY.—

(1) APPLICABILITY.—At any time prior the applicability of this Act under sections 422, 432, 454, and 474, in order to ensure the reliability of an electric utility company or system, including a system cooperatively or municipally owned, for a specified geographic area or service territory, as determined by the Department of Energy in consultation with the Administrator, during the installation of sulfur dioxide pollution control technology or scrubbers, nitrogen oxides, mercury or particulate matter control technology, or any combination thereof, the owner or operator of an affected unit may

meet the requirements of sections 422, 434, 454, 474 by means of the compliance procedures of this subsection (a).

(2) PETITION.—The owner or operator of an affected unit that believes it may experience an adverse impact on the reliability of the company or system as a result, in substantial part, of the need to construct sulfur dioxide pollution control equipment or scrubbers, nitrogen oxides, mercury or particulate matter control technology, or any combination thereof, may petition the Secretary of Energy, in consultation with the Administrator, for a determination that, to a reasonable degree of certainty, reliability will likely be threatened. Upon such a determination, the owner or operator may elect to adopt a compliance method meeting the requirements of this subsection.

A. Within 12 months of enactment the Secretary of Energy shall promulgate regulations describing the requirements for a petition and the petition process, which will include notice and public comment. The Secretary of Energy, in consultation with the Administrator, shall make a final determination on a petition within 180 days of the submittal of a reasonably complete petition. Failure to act within the 180-day period will extend the applicability by 12 months for all units subject to the petition.

B. The petition must contain,

(i) a description of each affected unit, the estimated outage time and a construction schedule;

(ii) an estimate of demand from date of applicability until 2018;

(iii) the impacts on reliability associated with constructing all of the pollution control projects, including those for sulfur dioxide, nitrogen oxides, mercury, or particulate matter, by the respective deadlines; and

(iv) how the proposed compliance schedule would alleviate detrimental impacts.

C. If the Secretary of Energy fails to promulgate final regulations or such regulations are not effective for any reason, within the prescribed time, petitions containing reasonably sufficient information for a final determination may be submitted to the Secretary of Energy and will be deemed complete.

(3) FINAL DETERMINATION.—In making a final determination the Secretary of Energy, in consultation with the Administrator, shall consider the following factors, provided that not all factors need be present to make a determination that, to a reasonable degree, reliability will be threatened:

(A) The ability of vendors to supply scrubbers; scrubber system equipment, materials and scrubber affected balance of plant equipment including, but not limited to, fans, pumps, electric motors, motor drives, dampers, electrical power supply equipment; at fair prices with meaningful guarantees or warranties as to availability, delivery dates and meeting contracted pollution control reduction requirements or emissions limitations; with similar considerations for nitrogen oxides, mercury or particulate matter control technology, or any combination thereof;

(B) The availability and limitations of key sulfur dioxide, nitrogen oxides or mercury controls design resources and North American construction resources. The design resources shall include but not be limited to Architect Engineering companies experienced in the design of sulfur dioxide, nitrogen oxides, mercury or particulate matter control technology. The construction resources shall include but not be limited to construction companies with experience in the construction of sulfur dioxide, nitrogen oxides, mercury, or particulate matter control technology and trained and experienced labor resources including but not limited to boilermakers, iron workers, electricians, mechanics;

(C) The feasibility to complete the construction of all pollution control technology projects by the relevant applicability compliance deadline;

(D) The impact in terms of unit outages and construction schedules on a company or systems reliability and whether such impact is unreasonable;

(i) Unreasonable shall be presumed to be an increase in the price of purchase power of (10) percent over the estimated cost in cents per kilowatt for the company, system or state, utilized in the latest submissions to a relevant state or federal agency; or

(ii) A projected reduction in available generating capacity such that adequate reserve margins for a company, system or state do not exist, as determined by the Secretary of Energy in ooordination with the relevant federal or state utility agency or reliability council; or

(iii) A supply shortage of coal needed to meet emissions control expectations for any proposed emissions control device.

(E) An company or system which submits a petition to install sulfur dioxide, nitrogen oxides, mercury, or particulate matter control technology, or any combination thereof, on affected units equaling twenty-five percent or more of its coal-fired capacity shall be presumed to meet the requirements of a positive determination from the Secretary of Energy.

(4) COMPLIANCE.—Upon a positive determination by the Secretary of Energy in accordance with the paragraph (3), such affected units will be granted a one year extension from the relevant applicability date under this title.

(b) During any year covered by this title, an affected unit may submit a petition in accordance with paragraph (a)(2) to allow use of sulfur dioxide allowances, nitrogen oxides allowances, and mercury allowances, as the case may be, allocated for the immediate next year to meet the applicable requirement to hold such allowances equal to the petitioned year's emissions.

(c) PRESIDENTIAL WAIVER.—Notwithstanding subsection (a) or any other provision of this Act, The President of the United States shall have authority to temporarily grant waivers from emission limitations under sections 412, 422, 432, 452, and 472, as the case may be, if the President determines that the reliability of any portion of national electricity supply or national security is imperiled.

PART B—SULFUR DIOXIDE EMISSION REDUCTIONS

Subpart 1—Acid Rain Program

SEC. 411. DEFINITIONS.

For purposes of this subpart and subpart 1 of part B:

(1) The term "actual 1985 emission rate", for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF). For nonutility units, the term "actual 1985 emission rate" means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

(2) The term "allowable 1985 emissions rate" means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions limitation.

(3) The term "alternative method of compliance" means a method of compliance in accordance with one or more of the following authorities—

(A) a substitution plan submitted and approved in accordance with subsections 413(b) and (c); or

(B) a Phase I extension plan approved by the Administrator under section 413(d), using qualifying phase I technology as determined by the Administrator in accordance with that section.

(4) The term "baseline" means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ("mmBtu's"), calculated as follows:

(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 (NAPAP) Emissions Inventory, Version 2, (NURF) or in a corrected data base as established by the Administrator pursuant to paragraph (3). For nonutility units, the baseline in the NAPAP Emissions Inventory, Version 2. The Administrator, in the Administrator's sole discretion, may exclude periods during which a unit is shutdown for a continuous period of 4 calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents, strikes, disruptions of fuel supplies, failure of equipment, other causes beyond the reasonable control of the owner or operator of the unit that caused prolonged outages.

(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the Administrator shall prescribe by regulation to be promulgated not later than 18 months after November 15, 1990.

(C) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this subpart and correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under this subpart. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

(5) The term "basic Phase II allowance allocations" means:

(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i) and (j) of section 414.

(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 412 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4) and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i) and (j) of section 414.

(6) The term "capacity factor" means the ratio between the actual electric output from a unit and the potential electric output from that unit.

(7) The term "commenced" as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

(8) The term "commenced commercial operation" with regard to a unit means the start up of the unit's combustion chamber and commencement of the generation of electricity for sale.

(9) The term "construction" means fabrication, erection, or installation of an affected unit.

(10) The term "existing unit" means a unit (including units subject to section 111) that commenced commercial operation before November 15, 1990. Any unit that commenced commercial operation before November 15, 1990 which is modified, reconstructed, or repowered after November 15, 1990 shall continue to be an existing unit for the purposes of this subpart. For the purposes of this subpart, existing units shall not include simple combustion turbines, or units which serve a generator with a nameplate capacity of 25 MWe or less.

(11) The term "independent power producer" means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

(12) The term "new independent power production facility" means a facility that—

(A) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

(B) in nonrecourse project-financed (as such term is defined by the Secretary of Energy within 3 months of the date of the enactment of the Clean Air Act Amendments of 1990); and

(C) is a new unit required to hold allowances under this subpart.

(13) The term "industrial source" means a unit that does not serve a generator that produces electricity, a "nonutility unit" as defined in this section, or a process source.

(14) The term "life-of-the-unit, firm power contractual arrangement" means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit (or units) and pays its proportional amount of such unit's total costs, pursuant to a contract either—

(A) for the life of the unit;

(B) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or release some portion of the capacity and associated energy generated by the unit (or units) at the end of the period.

(15) The term "new unit" means a unit that commences commercial operation on or after November 15, 1990.

(16) The term "nonutility unit" means a unit other than a utility unit.

(17) The term "Phase II bonus allowance allocations" means, for calendar year 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 412, subsections (a)(2), (b)(2), (c)(4), (d)(3) (except as otherwise provided therein), and (h)(2) of section 414, and section 415.

(18) The term "qualifying phase I technology" means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

(19) The term "repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magneto-hydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(20) The term "reserve" means any bank of allowances established by the Administrator under this subpart.

(21)(A) The term "utility unit" means—

(i) a unit that serves a generator located in any State and that produces electricity for sale, or

(ii) a unit that, during 1985, served a generator located in any State and that produced electricity for sale.

(B) Notwithstanding subparagraph (A), a unit described in subparagraph (A) that—

(i) was in commercial operation during 1985, but

(ii) did not during 1985, serve a generator in any State that produced electricity for sale shall not be a utility unit for purposes of this subpart.

(C) A unit that cogenerates steam and electricity is not a "utility unit" for purposes of this subpart unless the unit is constructed for the purpose of supplying, or commences construction after November 15, 1990 and supplies more than one-third of its potential electric output capacity of more than 25 megawatts electrical output to any utility power distribution system for sale.

SEC. 412. ALLOWANCE ALLOCATION.

(a) Except as provided in sections 414(a)(2), 415(a)(3), and 416, beginning January 1, 2000, the Administrator shall not allocate annual emission allowances for sulfur dioxide from utility units in excess of 8.90 million tons except that the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the basic Phase II allowance allocations for each unit subject to the requirements of section 414. Subject to the provisions of section 417, the Administrator shall allocate allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 404. Except as provided in sections 416, the removal of an existing affected unit or source from commercial operation at any time after November 15, 1990 (whether before or after January 1, 1995, or January 1, 2000), shall not terminate or otherwise affect the allocation of allowances pursuant to section 413 or 414 to which the unit is entitled. Prior to June 1, 1998, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 414(a)(2).

(b) NEW UTILITY UNITS.—

(1) After January 1, 2000 and through December 31, 2007, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator.

(2) Starting January 1, 2008, a new utility unit shall be subject to the prohibition in subsection (c)(3).

(3) New utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g)(2) or (3) of section 414. New utility units may obtain allowances from any person, in accordance with this title. The owner or operator of any new utility unit in violation of subsection (b)(1) or subsection(c)(3) shall be liable for fulfilling the obligations specified in section 406.

(c) PROHIBITIONS.—

(1) It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this subpart, except in accordance with regulations promulgated by the Administrator.

(2) For any year 1995 through 2007, it shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for that unit for that year by the owner or operator of the unit.

(3) Starting January 1, 2008, it shall be unlawful for the affected units at a source to emit a total amount of sulfur dioxide during the year in excess of the number of allowances held for the source for that year by the owner or operator of the source.

(4) Upon the allocation of allowances under this subpart, the prohibition in paragraphs (2) and (3) shall supersede any other emission limitation applicable under this subpart to the units for which such allowances are allocated.

(d) In order to ensure electricity reliability, regulations establishing a system for issuing, recording, and tracking allowances under section 403(b) and this subpart shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements, that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recording. The owners or operators of such units shall act through a designated representative. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from all units in such a utility system, power pool, or allowance pool agreements shall not exceed the total allowances for such units for the calendar year concerned, including for calendar years after 2007, allowances held for such units by the owner or operator of the sources where the units are located.

(e) Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, an affected unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate of representation required under section 404(f) shall state—

(1) that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or

(2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances under this subpart and the proceeds of transactions involving such allowances will be deemed to be held or distributed in accordance with the contract.

A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances under this subpart received by the unit are deemed to be held for that person.

SEC. 413. PHASE I SULFUR DIOXIDE REQUIREMENTS.

(a) Emission Limitations.—

(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 413(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase 1, unless—

(A) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or

(B) the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, except that, after January 1, 2000, the emissions limitations established in this section shall be superseded by those established in section 414. The owner or operator of any unit in violation of this section be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 406.

(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between—

(A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and

(B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000, and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this subpart that the Administrator finds would have occurred in the absence of the imposition of such requirements. Pursuant to subsection (d), the Administrator shall allocate allowances from the reserve established hereunder until the earlier of such time as all such allowances in the reserve are allocated or December 31, 1999.

(3) In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, inclusive, the Administrator shall allocate for each unit on Table A that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances in an amount equal to 200,000 multiplied by the unit's pro rata share of the total number of allowances allocated for all units on Table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of the reserve under paragraph (2).

(b) Substitutions.—The owner or operator of an affected unit under subsection (a) may include in its section 404 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, emitted by the substitute unit or units, based on the baseline for each unit, as defined in section 411(4), multiplied by the lesser of the unit's actual or allowable 1985 emissions rate;

(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

(6) such other information as the Administrator may require.

(c) Administrator's Action on Substitution Proposals.—

(1) The Administrator shall take final action on such substitution proposal in accordance with section 404(c) if the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as maybe consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 404. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 412. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds allowances to emit not less than the unit's total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 406. If a substitution proposal is disapproved, the Administrator shall allocate allowances to the original affected unit or units in accordance with subsection (a).

(d) Eligible Phase I Extension Units.—

(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 404 for an extension of 2 years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds allowances to emit not less than the unit's total annual emissions for each of the 2 years of the period of extension. To qualify for such an extension, the affected unit must either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 404, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

(2) Such extension proposal shall—

(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

(C) specify the unit's or units' baselines, actual 1985 emissions rates, allowable 1985 emissions rates, and projected utilizations for calendar years 1995 through 1999;

(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

(3) The Administrator shall review and take final action on each extension proposal in Page order of receipt, consistent with section 404, and for an approved proposal shall

designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the subpart.

(4) In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of the allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraph (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50lbs/mmBtu, divided by 2,000; and

(C) the amount by which (i) the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

(5) Each eligible Phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, for calendar year 1995, the Administrator shall allocate to each eligible Phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emission tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds allowances to emit not less than the unit's total annual emissions.

(6) In addition to allowances specified in paragraph (4), the Administrator shall allocate for each eligible Phase I extension unit employing qualifying Phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000 exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection.

(7) After January 1, 1997, in addition to any liability under this Act, including under section 406, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (2) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

(e) EARLY REDUCTIONS.—

(1) In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements—

(A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and

(B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this paragraph for the unit pursuant to this subsection. The Administrator shall allocate allowances for a unit that is an affected unit pursuant to section 414 (but is not also an affected unit under this section) and part of a utility system that includes 1 or more affected units under section 414 for reductions in the emissions of sulfur dioxide made during the period 1995-1999 if the unit meets the requirements of this subsection and the requirements of the preceding sentence, except that for the purposes of applying this subsection to any such unit, the prior year concerned as specified below, shall be any year after January 1, 1995 but prior to January 1, 2000.

(2) In the case of an affected unit under this section described in subparagraph (A), the allowances allocated under this subsection for early reductions in any prior year may not exceed the amount which (A) the product of the unit's baseline multiplied by the unit's 1985 actual sulfur dioxide emission rate (in lbs. per mmBtu), divided by 2,000 exceeds (B) the allowances specified for such unit in Table A. In the case of an affected unit under section 414, the allowances awarded under this subsection for early reductions in any prior year may not exceed the amount by which

(A) the product of

(i) the quantity of fossil fuel consumed by the unit (in mmBtu) in the prior year multiplied by—

(ii) the lesser of

(I) 2.50 or

(II) the most stringent emission rate (in lbs. per mmBtu) applicable to the unit under the applicable implementation plan, divided by 2,000 exceeds

(B) the unit's actual tonnage of sulfur dioxide emission for the prior year concerned.

Allowances allocated under this subsection for units may be allocated only for emission reductions achieved as a result of physical changes or changes in the method of operation made after November 15, 1990, including changes in the type or quantity of fossil fuel consumed.

(3) In no event shall the provisions of this paragraph be interpreted as an event of force majeure or a commercial impracticability or in any other way as a basis for excused nonperformance by a utility system under a coal sales contract in effect before November 15, 1990.

TABLE A—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)

State	Plant name	Generator	Phase I allowances
Alabama	Colbert	1	13,570
		2	15,310
		3	15,400
		4	15,410
		5	37,180
	E.C. Gaston	1	18,100
		2	18,540
		3	18,310
		4	19,280
		5	59,840
Florida	Big Bend	1	28,410
		2	27,100
		3	26,740
	Crist	6	19,200
		7	31,680
Georgia	Bowen	1	56,320

TABLE A—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
		2	54,770
		3	71,750
		4	71,740
	Hammond	1	8,780
		2	9,220
		3	8,910
		4	37,640
	J. McDonough	1	19,910
		2	20,600
	Wansley	1	70,770
		2	65,430
	Yates	1	7,210
		2	7,040
		3	6,950
		4	8,910
		5	9,410
		6	24,760
		7	21,480
Illinois	Baldwin	1	42,010
		2	44,420
		3	42,550
	Coffeen	1	11,790
		2	35,670
	Grand Tower	4	5,910
	Hennepin	2	18,410
	Joppa Steam	1	12,590
		2	10,770
		3	12,270
		4	11,360
		5	11,420
		6	10,620
	Kincaid	1	31,530
		2	33,810
	Meredosia	3	13,890
	Vermilion	2	8,880
Indiana	Bailly	7	11,180
		8	15,630
	Breed	1	18,500
	Cayuga	1	33,370
		2	34,130
	Clifty Creek	1	20,150
		2	19,810
		3	20,410
		4	20,080
		5	19,360
		6	20,380
	E.W. Stout	5	3,880
		6	4,770
		7	23,610
	F.B. Culley	2	4,290
		3	16,970
	F.E. Ratts	1	8,330
		2	8,480
	Gibson	1	40,400
		2	41,010
		3	41,080
		4	40,320
	H.T. Pritchard	6	5,770
	Michigan City	12	23,310
	Petersburg	1	16,430
		2	32,380
	R. Gallagher	1	6,490
		2	7,280
		3	6,530
		4	7,650
	Tanners Creek	4	24,820
	Wabash River	1	4,000
		2	2,860
		3	3,750
		5	3,670
		6	12,280
	Warrick	4	26,980
Iowa	Burlington	1	10,710
	Des Moines	7	2,320
	George Neal	1	1,290
	M.L. Kapp	2	13,800
	Prairie Creek	4	8,180
	Riverside	5	3,990
Kansas	Quindaro	2	4,220
Kentucky	Coleman	1	11,250
		2	12,840
		3	12,340
	Cooper	1	7,450
		2	15,320
	E.W. Brown	1	7,110
		2	10,910
		3	26,100
	Elmer Smith	1	6,520
		2	14,410
	Ghent	1	28,410
	Green River	4	7,820
	H.L. Spurlock	1	22,780
	Henderson II	1	13,340
		2	12,310
	Paradise	3	59,170
	Shawnee	10	10,170
Maryland	Chalk Point	1	21,910
		2	24,330
	C.P. Crane	1	10,330
		2	9,230
	Morgantown	1	35,260
		2	38,480
Michigan	J.H. Campbell	1	19,280
		2	23,060
Minnesota	High Bridge	6	4,270
Mississippi	Jack Watson	4	17,910

TABLE A—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
		5	36,700
Missouri	Asbury	1	16,190
	James River	5	4,850
	Labadie	1	40,110
		2	37,710
		3	40,310
		4	35,940
	Montrose	1	7,390
		2	8,200
		3	10,090
	New Madrid	1	28,240
		2	32,480
	Sibley	3	15,580
	Sioux	1	22,570
		2	23,690
	Thomas Hill	1	10,250
		2	19,390
New Hampshire	Merrimack	1	10,190
		2	22,000
New Jersey	B.L. England	1	9,060
		2	11,720
New York	Dunkirk	3	12,600
		4	14,060
	Greenidge	4	7,540
	Milliken	1	11,170
		2	12,410
	Northport	1	19,810
		2	24,110
		3	26,480
	Port Jefferson	3	10,470
		4	12,330
Ohio	Ashtabula	5	16,740
	Avon Lake	8	11,650
		9	30,480
	Cardinal	1	34,270
		2	38,320
	Conesville	1	4,210
		2	4,890
		3	5,500
		4	48,770
	Eastlake	1	7,800
		2	8,640
		3	10,020
		4	14,510
		5	34,070
	Edgewater	4	5,050
	Gen. J.M. Gavin	1	79,080
		2	80,560
	Kyger Creek	1	19,280
		2	18,560
		3	17,910
		4	18,710
		5	18,740
	Miami Fort	5	760
		6	11,380
		7	38,510
	Muskingum River	1	14,880
		2	14,170
		3	13,950
		4	11,780
		5	40,470
	Niles	1	6,940
		2	9,100
	Picway	5	4,930
	R.E. Burger	3	6,150
		4	10,780
		5	12,430
	W.H. Sammis	5	24,170
		6	39,930
		7	43,220
	W.C. Beckjord	5	8,950
		6	23,020
Pennsylvania	Armstrong	1	14,410
		2	15,430
	Brunner Island	1	27,760
		2	31,100
		3	53,820
	Cheswick	1	39,170
	Conemaugh	1	59,790
		2	66,450
	Hatfield's Ferry	1	37,830
		2	37,320
		3	40,270
	Martins Creek	1	12,660
		2	12,820
	Portland	1	5,940
		2	10,230
	Shawville	1	10,320
		2	10,320
		3	14,220
		4	14,070
	Sunbury	3	8,760
		4	11,450
Tennessee	Allen	1	15,320

TABLE A.—AFFECTED SOURCES AND UNITS IN PHASE I AND THEIR SULFUR DIOXIDE ALLOWANCES (TONS)—Continued

State	Plant name	Generator	Phase I allowances
		2	16,770
		3	15,670
	Cumberland	1	86,700
		2	94,840
	Gallatin	1	17,870
		2	17,310
		3	20,020
		4	21,260
	Johnsonville	1	7,790
		2	8,040
		3	8,410
		4	7,990
		5	8,240
		6	7,890
		7	8,980
		8	8,700
		9	7,080
		10	7,550
West Virginia	Albright	3	12,000
	Fort Martin	1	41,590
		2	41,200
	Harrison	1	48,620
		2	46,150
		3	41,500
	Kammer	1	18,740
		2	19,460
		3	17,390
	Mitchell	1	43,980
		2	45,510
	Mount Storm	1	43,720
		2	35,580
		3	42,430
Wisconsin	Edgewater	4	24,750
	La Crosse/Genoa	3	22,700
	Nelson Dewey	1	6,010
		2	6,680
	N. Oak Creek	1	5,220
		2	5,140
		3	5,370
		4	6,320
	Pulliam	8	7,510
	S. Oak Creek	5	9,670
		6	12,040
		7	16,180
		8	15,790

(f) ENERGY CONSERVATION AND RENEWABLE ENERGY.—

(1) DEFINITIONS.—As used in this subsection:

(A) QUALIFIED ENERGY CONSERVATION MEASURE.—The term "qualified energy conservation measure" means a cost effective measure, as identified by the Administrator in consultation with the Secretary of Energy, that increases the efficiency of the use of electricity provided by an electric utility to its customers.

(B) QUALIFIED RENEWABLE ENERGY.—The term "qualified renewable energy" means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

(C) ELECTRIC UTILITY.—The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.

(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:

(i) Such electric utility is paying for or participating in the qualified energy conservation measures or qualified renewable energy.

(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

(III) In the case of electric utilities subject to the jurisdiction of a State regulatory authority such plan shall have been approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall have been approved by the Administrator.

(iv) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy has certified that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (B) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

(C) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992, and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this subpart (including those sources that elect to become affected by this title, pursuant to section 417).

(D) Determination of avoided emissions.—

(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions;

(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

(III) demonstrates that the requirements of subparagraph (B) have been met.

(ii) APPROVAL.—Such application for allowances by a State regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

(E) Avoided Emissions from Qualified Energy Conservation Measures.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

(ii) 0.004, and dividing the product so derived by 2,000.

(F) Avoided emissions from the use of qualified renewable energy.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—

(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by

(ii) 0.004, and dividing the product so derived by 2,000.

(G) Prohibitions.—

(i) No allowances shall be allocated under this subsection for the implementation of programs that are exclusively informational or educational in nature.

(ii) No allowances shall be allocated for energy conservation measures or renewable energy that were operational before January 1, 1992.

(3) Savings Provision.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

(4) Regulations.—The Administrator shall implement this subsection under 40 C.F.R. Part 73 (2002), amended as appropriate by the Administrator. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility and from State-to-State in accordance with the Administrator's rules. The Administrator shall publish and make available to the public the findings of this review no less than annually.

(g) Conservation and Renewable Energy Reserve.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate from the Conservation and Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 411. In order to provide 300,000 allowances for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit's basic Phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. Notwithstanding the prior sentence, if allowances remain in the reserve on January 1, 2010, the Administrator shall allocate such allowances for affected units under section 414 on a pro rata basis. For purposes of this subsection, for any unit subject to the emissions limitation requirements of section 414, the term "pro rata basis" refers to the ratio which the reductions made in such unit's allowances in order to establish the reserve under this subsection bears to the total of such reductions for all such units.

(h) Alternative Allowance Allocation for Units in Certain Utility Systems With Optional Baseline.—

(1) Optional Baseline for Units in Certain Systems.—In the case of a unit subject to the emissions limitation requirements of this section which (as of November 15, 1990)—

(A) has an emission rate below 1.0 lbs/mmBtu,

(B) has decreased its sulfur dioxide emissions rate by 60 percent or greater since 1980, and

(C) is part of a utility system which has a weighted average sulfur dioxide emissions rate for all fossil fueled-fired units below 1.0 lbs/mmBtu, at the election to the owner or operator of such unit, the unit's baseline may be calculated

(i) as provided under section 411, or

(ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

(2) Allowance Allocation.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances for the unit pursuant to section 412(a), this section, and section 414 (as Basic Phase II allowance allocations) in an amount equal to the baseline selected multiplied by the lower of the average annual emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this section and section 414.

SEC. 414. PHASE II. SULFUR DIOXIDE REQUIREMENTS.

(a) Applicability.—

(1) After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this subpart. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate.

(2) In addition to basic Phase II allowance allocations, in each year beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall allocate up to 530,000 Phase II bonus allowances pursuant to subsections (b)(2),(c)(4), (d)(3)(A) and (B), and (h)(2) of this section and section 415.

(3) In addition to basic Phase II allowances allocations and Phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate for each unit listed on Table A in section 413 (other than units at Kyger Creek, Clifty Creek, and Joppa Stream) and located in the States of Illinois, Indiana, Ohio, Georgia, Alabama, Missouri, Pennsylvania, West Virginia, Kentucky, or Tennessee allowances in an amount equal to 50,000 multiplied by the unit's pro rata share of the total number of basic allowances allocated for all units listed on Table A (other than units at Kyger Creek, Clifty Creek, and Joppa Stream). Allowances allocated pursuant to this paragraph shall not be subject to the 8,900,000 ton limitation in section 412(a).

(b) Units Equal to, or Above, 75 MWe and 1.20 lbs/mmBtu.—

(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated nonattainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(4) After January 1, 2000, the Administrator shall allocate annually for each unit, subject to the emissions limitation requirements of paragraph (1), which is located in a State with an installed electrical generating capacity of more than 30,000,000 kw in 1988 and for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of Page-69- allowances allocated for the unit pursuant to paragraph (1): *Provided*, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated for each unit under this paragraph.

(c) Coal or Oil-Fired Units Below 75 MWe and Above 1.20 lbs/mmBTU.—

(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, less than 250 MWe, to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(3) After January 1, 2000 it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity greater than 250 MWe, and less than 450 MWe which serves fewer than 78,000 electrical customers as of November 15, 1990, to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds allowances to emit not less than the units total annual emissions or, for a year after 2007, unless the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(4) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, inclusive, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

(5) After January 1, 2000, it shall be unlawful for any existing unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which is part of an electric utility system which, as of November 15, 1990—

(A) has at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices,

(B) has more than 10 percent of its fossil-fuel capacity consisting of coal-fired unites of less than 75 MWe, and

(C) has large units (greater than 400 MWe) all of which have difficult or very difficult FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986) to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 2.5 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions, for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source. After January 1, 2010; it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the project of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—

(1) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by—

(A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, and

(B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(3)(A) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which—

(i) the product of the lesser of 0.60 lbs.mmBtu or the unit's allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds

(ii) the number of allowances allocated for the unit pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations.

(B) In addition to allowances allocated pursuant to paragraph (2) and section 412(a) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which—

(i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds

(ii) the number of allowances allocated for the unit pursuant to paragraph (2) and section 412(a) as basic Phase 11 allowance allocations.

(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect the allocation of allowances as provided under subparagraphs (A) and (B). Such election shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall allocate allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

(5) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, beginning January 1, 2002, the Administrator shall allocate for the unit allowances in an amount equal to the unit's baseline multiplied by 1.201bs/mmBtu, divided by 2,000.

(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any existing oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by (A) the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and (B) a numerical factor of 120 percent divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(f) OIL AND GAS-FIRED UNITS LESS THAN 0.601BS/MMBTU.—

(1) After January 1, 2000, it shall be unlawful for any oil and gas-fired existing utility unit the lesser of whose actual or allowance 1985 emission rate is less than 0.60 lbs/mmBtu and whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis was 90 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by—

(A) the lesser of 0.60 lbs/mmBtu or the unit's allowance 1985 emissions, and

(B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) as basic Phase II allowance allocations and section 412(a), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

(g) UNITS THAT COMMENCE COMMERCIAL OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—

"(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1986, but not later than September 30, 1990 to exceed an annual tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowance 1985 sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) After January 1, 2000, the Administrator shall allocate allowances pursuant to section 411 to each unit which is listed in table B of this paragraph in an annual amount equal to the amount specified in table B.

TABLE B

Unit	Allowances
Brandon Shores	8,907
Miller 4	9,197
TNP One 2	4,000
Zimmer 1	18,458
Spruce 1	7,647
Clover 1	2,796
Clover 2	2,796
Twin Oak 2	1,760
Twin Oak 1	9,158
Cross 1	6,401
Malakoff 1	1,759

Notwithstanding any other paragraph of this subsection, for units subject to this paragraph, the Administrator shall not allocate allowances pursuant to any other paragraph of this subsection; provided that the owner or operator of a unit listed on Table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.

(3) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31; 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(4) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

(5) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired existing operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq, repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(6) Unless the Administrator has approved a designation of such facility under section 417, the provisions of this subpart shall not apply to a "qualifying small power production facility" or "qualifying cogeneration facility" (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a 'new independent power production facility' if, as of November 15, 1990—

(A) an applicable power sales agreement has been executed;

(B) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement with, purchase capacity from, or (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility;

(C) an electric utility has issued a letter of intent or similar instrument committing to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

(D) the facility has been selected as a winning bidder in a utility competitive bid solicitation.

(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—

(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions for a year after 2007, or the owner or operator of the source that includes such unit holds allowances to emit not less than the total annual emissions of all affected units at the source.

(2) In addition to allowances allocated pursuant to paragraph (1) and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

(3) In addition to allowances allocated pursuant to paragraph (1) and section 412(a), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

(i) UNITS IN HIGH GROWTH STATES.—

(1) In addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, beginning January 1, 2000, the Administrator shall allocate annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

(A) has experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981–1988 allocated by the United States Department of Commerce, and

(B) had an installed electrical generating capacity of more than 30,000,000 kw in 1988, in an amount equal to the difference between

(i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and

(ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section:

Provided, That the number of allowances allocated pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

(2) Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1)—

(A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 percent or more as of November 15, 1990,

(B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000,

(C) which commenced operation after January 1, 1970,

(D) which is owned by a utility company whose combined commercial and industrial kilowatt-hour sales have increased by more than 20 percent between calendar year 1980 and November 15, 1990, and

(E) whose company-wide fossil-fuel sulfur dioxide emissions rate has declined 40 percent or more from 1980 to 1988, allowances in an amount equal to the difference between—

(i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or operator, and

(ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1)

Provided, That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000 allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated to each unit pursuant to this paragraph.

(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 412(a) as basic Phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

SEC. 415. ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU.

(a) ELECTION OF GOVERNOR.—In addition to basic Phase II allowance allocations, upon the election of the Governor of any State, with a 1985 statewide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate, in lieu of other Phase 11 bonus allowance allocations, allowances from the reserve created pursuant to section 414(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

(b) NOTIFICATION OF ADMINISTRATOR.—Pursuant to section 412(a), each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate allowances pursuant to section 414.

(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 414.

SEC. 416. ELECTION FOR ADDITIONAL SOURCES.

(a) APPLICABILITY.—The owner or operator of any unit that is not, nor will become, an affected unit under section 412(b), 413, or 414, that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this subpart. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 404. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit shall be allocated allowances, and be an affected unit for purposes of this subpart.

(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data.

(c) EMISSION LIMITATIONS.—

(1) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) on or after January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

(2) For a unit for which an election, along with a permit application and compliance plan, is submitted to the Administrator under paragraph (a) on or after January 1, 2002, annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 4,000.

(d) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c), in accordance with section 412. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 412. Affected sources under this section shall be subject to the requirements of sections 404, 405, 406, and 412.

(e) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this subpart, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

(f) IMPLEMENTATION.—The Administrator shall implement this section under 40 CFR Part 74 (2002), amended as appropriate by the Administrator.

SEC. 417. AUCTIONS, RESERVE.

(a) SPECIAL RESERVE OF ALLOWANCES.—For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold—

(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

(2) 2.8 percent of the basic Phase 11 allowance allocation of allowances for each year beginning in the year 2000

which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section.

(b) AUCTION SALES.—

(1) SUBACCOUNT FOR AUCTIONS.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall contain allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive and 250,000 tons per year for each year from 2000 through 2009, inclusive.

(2) ANNUAL AUCTIONS.—Commencing in 1993 and in each year thereafter until 2010, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator. The allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table C. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used for any purpose and at any time after

the auction, subject to the provisions of this subpart and subpart 2.

TABLE C—NUMBER OF ALLOWANCES AVAILABLE FOR AUCTION

Year of sale	Spot auction (same year)	Advance auction
1993	50,000	100,000
1994	50,000	100,000
1995	50,000	100,000
1996	150,000	100,000
1997	150,000	100,000
1998	150,000	100,000
1999	150,000	100,000
2000	125,000	125,000
2001	125,000	125,000
2002	125,000	125,000
2003	125,000	0
2004–2009	125,000	0

(3) PROCEEDS.—

(A) TRANSFER.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, within 90 days of receipt, the Administrator shall transfer the proceeds from the auction under this section, on a pro rata basis, to the owners or operators of the affected units at an affected source from whom allowances were withheld under subsection (b). No funds transferred from a purchaser to a seller of allowances under this paragraph shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or the Administrator.

(B) RETURN.—At the end of each year, any allowances offered for sale but not sold at the auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld. With 170 days after the date of enactment of the Clear Skies Act of 2003, any allowance withheld under paragraph (a)(2) but not offered for sale at an auction shall be returned without charge, on a pro rata basis, to the owner or operator of the affected units from whose allocation the allowances were withheld.

(4) RECORDING BY EPA.—The Administrator shall record and publicly report the nature, prices and results of each auction under this subsection, including the prices of successful bids, and shall record the transfers of allowances as a result of each auction in accordance with the requirements of this section. The transfer of allowances at such auction shall be recorded in accordance with the regulations promulgated by the Administrator under this subpart.

(c) CHANGES IN AUCTIONS AND WITHHOLDING.—Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 1998 (in the case of advance auctions) and 2005 (in the case of spot auctions) decrease the number of allowances withheld and sold under this section.

(d) TERMINATION OF AUCTIONS.—Not later than the commencement date of the sulfur dioxide allowance requirement under section 422, the Administrator shall terminate the withholding of allowances and the auction sales under this section. Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.

(e) The Administrator shall implement this section under 40 CFR Part 73 (2002), amended as appropriate by the Administrator.

SEC. 418. INDUSTRIAL SULFUR DIOXIDE EMISSIONS.

(a) REPORT.—Not later than January 1, 1995 and every 5 years thereafter, the Administrator shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources (as defined in section 411(11)), including units subject to section 414(g)(2), for all years for which data are available, as well as the likely trend in such emission over the following twenty-year period. The reports shall also contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

(b) 5.60 MILLION TON CAP.—Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 414(g)(2), and may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator shall take such actions under the Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 414(g)(2), under section 111(b), as well as promulgation of standards of performance for existing sources, including units subject to section 414(g)(2), under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) ELECTION.—Regulations promulgated under section 414(b) shall not prohibit a source from electing to become an affected unit under section 417.

SEC. 419. TERMINATION.

Starting January 1, 2010, the owners or operators of affected units and affected facilities under sections 412(b) and (c) and 416 and shall no longer be subject to the requirements of sections 412 through 417.

Subpart 2—Clear Skies Sulfur Dioxide Allowance Program

SEC. 421. DEFINITIONS.

For purposes of this subpart—

(1) The term "affected EGU" means—

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit that meets the criteria for qualifying cogeneration facilities codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002 during 2002 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that meets the criteria for qualifying cogeneration facilities codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002, during each year starting with the year the unit commences services of a generator.

Notwithstanding paragraphs (A) and (B), the term "affected EGU" does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

(2) The term "coal-fired" with regard to a unit means, for purposes of section 424, combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during 1998 through 2002 or, for a unit that commenced operation on or after January 1, 2003, a unit designed to combust coal or any coal-derived fuel alone or in combination with any other fuel.

(3) The term "Eastern bituminous" means bituminous that is from a mine located in a State east of the Mississippi River.

(4) The term "general account" means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any person under 40 C.F.R. Part 73.31(c) (2002), amended as appropriate by the Administrator.

(5) The term "oil-fired" with regard to a unit means, for purposes of section 424, combusting fuel oil for more than 10 percent of the unit's total heat input, and combusting no coal or coal-derived fuel, in any year during 1998 through 2002 or, for a unit that commenced operation on or after January 1, 2003, a unit designed to combust oil for more than 10 percent of the unit's total heat input and not to combust any coal or coal-derived fuel.

(6) The term "unit account" means an account in the Allowance Tracking System under section 403(c) established by the Administrator for any unit under 40 CFR Sec. 73.31(a) and (b) (2002), amended as appropriate by the Administrator.

SEC. 422. APPLICABILITY.

(a) PROHIBITION.—Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

(b) ALLOWANCES HELD.—Only sulfur dioxide allowances under section 423 shall be held in order to meet the requirements of subsection (a), except as provided under section 425.

SEC. 423. LIMITATIONS ON TOTAL EMISSIONS.

(a) For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate sulfur dioxide allowances under section 424.

TABLE A—TOTAL SO_2 ALLOWANCES ALLOCATED FOR EGUs

Year	SO_2 allowances allocated
2010	4,416,666
2011–2012	4,416,667
2013–2017	4,500,000
2018 and thereafter	3,000,000

SEC. 424. EGU ALLOCATIONS.

(a) IN GENERAL.—Not later than 36 months before the commencement date of the sulfur dioxide allowance requirement of section 422, the Administrator shall promulgate regulations determining allocations of sulfur dioxide allowances for affected EGUs for each year during 2010 and thereafter. The regulations shall provide that:

(1) 93 percent of the total amount of sulfur dioxide allowances allocated each year to fossil-fuel-fired affected EGUs under section

424 shall be allocated by the Administrator to individual EGUs in the proportion to which the number of allowances to emit sulfur dioxide allocated to such EGUs under sections 413, 415, and 416 or their predecessors in effect prior to enactment of the Clear Skies Act of 2003 based on the aggregated number of allowances to emit sulfur dioxide issue to all sources under subpart 1 of part B of this title or its predecessor in effect prior to enactment of the Clear Skies Act of 2003.

(A) The Administrator shall allocate sulfur dioxide allowances to each facility's account and each general account in the Allowance Tracking System under section 403(c) as follows:

(i) For each unit account and each general account in the Allowance Tracking System, the Administrator shall determine the total amount of sulfur dioxide allowances allocated under subpart 1 for 2010 and thereafter that are recorded, as of 12:00 noon, Eastern Standard time, on the date 180 days after enactment of the Clear Skies Act of 2003. The Administrator shall determine this amount in accordance with 40 CFR Part 73 (2002), amended as appropriate by the Administrator, except that the Administrator shall apply a discount rate of 7 percent for each year after 2010 to the amounts of sulfur dioxide allowances allocated for 2011 or later.

(ii) For each unit account and each general account in the Allowance Tracking System, the Administrator shall determine an amount of sulfur dioxide allowances equal to the allocation amount under subparagraph (A) multiplied by the ratio of the amount of sulfur dioxide allowances determined to be recorded in that account under clause (i) to the total amount of sulfur dioxide allowances determined to be recorded in all unit accounts and general accounts in the Allowance Tracking System under clause (i).

(iii) The Administrator shall allocate to each facility's account in the Allowance Tracking System an amount of sulfur dioxide allowances equal to the total amount of sulfur dioxide allowances determined under clause (ii) for the unit accounts of the units at the facility and shall allocate to each general account in the Allowance Tracking System the amount of sulfur dioxide allowances determined under clause (ii) for that general account.

(2)(A) 7 percent of the total amount of sulfur dioxide allowances allocated each year under section 423 shall be allocated for units at a facility that are affected EGUs, but did not receive sulfur dioxide allocations under subpart 1 of this title.

(B) The Administrator shall allocate each year for the units under subparagraph (A) that commenced operation before January 1, 2001, an amount of sulfur dioxide allowances determined by:

(i) For such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(ii) For such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iii) For all such other units at the facility that are not covered by clause (i) or (ii), multiplying 0.05 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iv) If the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i), (ii), and (iii) to the total of the amounts for all facilities under clause (i), (ii), and (iii).

(v) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i), (ii), and (iii) or, if the total of the amounts for all facilities under clauses (i), (ii), and (iii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv).

(C) The Administrator shall allocate each year for units under subparagraph (A) that commence commercial operation on or after January 1, 2001 and before January 1, 2005, an amount of sulfur dioxide allowances determined by:

(i) For such units at the facility that are coal-fired or oil-fired, multiplying 0.19 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(ii) For all such other units at the facility that are not covered by clause (i), multiplying .005 lb/mmBtu by the total baseline heat input of such units and converting to tons.

(iii) If the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), multiplying the allocation amount under subparagraph (A) by the ratio of the total of the amounts for the facility under clauses (i) and (ii) to the total of the amounts for all facilities under clauses (i) and (ii).

(iv) Allocating to each facility the lesser of the total of the amounts for the facility under clauses (i) and (ii) or, if the total of the amounts for all facilities under clauses (i) and (ii) exceeds the allocation amount under subparagraph (A), the amount under clause (iv). The Administrator shall allocate to the facilities under paragraphs (1) and (2) on a pro rata basis (based on the allocations under those paragraphs) any unallocated allowances under this paragraph.

(D) The Administrator shall allocate each year for units under subparagraph (A) that commence commercial operation on or after January 1, 2005, an amount of sulfur dioxide allowances determined for each such unit at the facility by multiplying the applicable National Emissions Standard under section 481 by the applicable "baseline heat input," considering fuel and combustion type, as defined in section 402(5)(B) and converting to tons.

(E) In the event that allocation demand exceeds supply, the Administrator shall allocate allowances under subparagraph (A) giving first priority to units qualifying under subparagraph (B), second priority to units qualifying under subparagraph (C), and third priority to units qualifying under subparagraph (D). Allowances allocated under subparagraph (D) shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences operation. As such, allocations to units under paragraph (D) will not be reduced as a result of new units commencing commercial operation.

(b)(1) FAILURE TO PROMULGATE.—For each year 2010 and thereafter, if the Administrator has not promulgated regulations, determining allocations under subsection (a), each affected EGU shall comply with section 422 by providing annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected EGU believes it has for the relevant year and the amount of sulfur dioxide emissions for such year. The amount of sulfur dioxide emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements.

(b)(2) Upon promulgation of regulations under subsection (a) determining the allocations for 2010 and thereafter, and promulgating regulations under section 403(b) providing for the transfer of sulfur dioxides and section 403(c) establishing an Allowance Transfer System for sulfur dioxide allowances, each unit's emissions shall be compared to and reconciled to its actual allocations under the promulgated regulations. Each unit will have nine (9) months to purchase any allowance shortfall through allowances purchased from other allowance holders or through direct sale. Any unit with an allowance excess shall be credited allowances in accordance with section 425.

SEC. 425. SULFUR DIOXIDE EARLY ACTION REDUCTION CREDITS.

(a) The Administrator shall promulgate regulations within 18 months authorizing the allocation of sulfur dioxide allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(b) No allowances shall be allocated under this paragraph for emissions reductions: attributable to pollution control equipment or combustion technology improvements that were operational or under construction at any time prior to the date of enactment of this section; attributable to fuel switching; or required under any federal regulation.

(c) The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under section 424 and shall be allocated in an amount equal to one allowance of sulfur dioxide for each 1.05 tons of reduction in emissions of sulfur dioxide achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented. The early compliance reduction allowances available under this section shall be used and tradeable in the same manner as allowances under section 424.

(d) The Administrator shall promulgate regulations as necessary to ensure affected units receive early compliance allowance credit. Early compliance allowances shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the earliest possible time after allocation regulations are promulgated.

SEC. 426. DISPOSITION OF SULFUR DIOXIDE ALLOWANCES ALLOCATED UNDER SUBPART 1.

(a) REMOVAL FROM ACCOUNTS.—After allocating allowances under section 424(a)(1), the Administrator shall remove from the unit accounts and general accounts in the Allowance Tracking System under section 403(c) and from the Special Allowances Reserve under section 418 all sulfur dioxide allowances allocated or deposited under subpart 1 for 2010 or later.

(b) REGULATIONS.—The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 422 may be met using sulfur dioxide allowances allocated under subpart 1 for 1995 through 2009. No part of this Act shall be construed to prevent use of unused pre-2010 allowances to meet the requirements of section 422.

SEC. 427. INCENTIVES FOR SULFUR DIOXIDE EMISSION CONTROL TECHNOLOGY.

(a) RESERVE.—The Administrator shall establish a reserve of 250,000 sulfur dioxide allowances comprising 83,334 sulfur dioxide allowances for 2010, 83,333 sulfur dioxide allowances for 2011, and 83,333 sulfur dioxide allowances for 2012.

(b) APPLICATION.—Not later than 18 months after the enactment of the Clear Skies Act of 2003, an owner or operator of an affected EGU that commenced operation before 2001 and that during 2001 combusted Eastern bituminous may submit an application to the Administrator for sulfur dioxide allowances from the reserve under subsection (a). The application shall include each of the following:

(1) A statement that the owner or operator will install and commence commercial operation of specified sulfur dioxide control technology at the unit within 24 months after approval of the application under subsection (c) if the unit is allocated the sulfur dioxide allowances requested under paragraph (4). The owner or operator shall provide description of the control technology.

(2) A statement that, during the period starting with the commencement of operation of sulfur dioxide technology under paragraph (1) through 2009, the unit will combust Eastern bituminous at a percentage of the unit's total heat input equal to or exceeding the percentage of total heat input combusted by the unit in 2001 if the unit is allocated the sulfur dioxide allowances requested under paragraph (4).

(3) A demonstration that the unit will achieve, while combusting fuel in accordance with paragraph (2) and operating the sulfur dioxide control technology specified in paragraph (1), a specified tonnage of sulfur dioxide emission reductions during the period starting with the commencement of operation of sulfur dioxide control technology under subparagraph (1) through 2009. The tonnage of emission reductions shall be the difference between emissions monitored at a location at the unit upstream of the control technology described in paragraph (1) and emissions monitored at a location at the unit downstream of such control technology, while the unit is combusting fuel in accordance with paragraph (2).

(4) A request that the Administrator allocate for the unit a specified number of sulfur dioxide allowances from the reserve under subsection (a) for the period starting with the commencement of operation of the sulfur dioxide technology under paragraph (1) through 2009.

(5) A statement of the ratio of the number of sulfur dioxide allowances requested under paragraph (4) to the tonnage of sulfur dioxide emissions reductions under paragraph (3).

(c) APPROVAL OR DISAPPROVAL.—By order subject to notice and opportunity for comment, the Administrator shall—

(1) determine whether each application meets the requirements of subsection (b);

(2) list the applications meeting the requirements of subsection (b) and their respective allowance-to-emission-reduction ratios under paragraph (b)(5) in order, from lowest to highest, of such ratios;

(3) for each application listed under paragraph (2), multiply the amount of sulfur dioxide emission reductions requested by each allowance-to-emission-reduction ratio on the list that equals or is less than the ratio for the application;

(4) sum, for each allowance-to-emission-reduction ratio in the list under paragraph (2), the amounts of sulfur dioxide allowances determined under paragraph (3);

(5) based on the calculations in paragraph (4), determine which allowance-to-emission-reduction ratio on the list under paragraph (2) results in the highest total amount of allowances that does not exceed 250,000 allowances; and

(6) approve each application listed under paragraph (2) with a ratio equal to or less than the allowance-to-emission-reduction ratio determined under paragraph (5) and disapprove all the other applications.

(d) MONITORING.—An owner or operator whose application is approved under subsection (c) shall install and operate a CEMS for monitoring sulfur dioxide and to quality assure the data. The installation of the CEMS and the quality assurance of data shall be in accordance with subparagraph (a)(2)(B) and subsections (c) through (e) of section 405, except that, where two or more units utilize a single stack, and one or more units are not subject to such standards, separate monitoring shall be required for each unit.

(e) ALLOCATIONS.—Not later than 6 months after the commencement date of the sulfur dioxide allowance requirement of section 422, for the units for which applications are approved under subsection (c), the Administrator shall allocate sulfur dioxide allowances as follows:

(1) For each unit, the Administrator shall multiply the allowance-to-emission-reduction ratio of the last application that the Administrator approved under subsection (c) by the lesser of—

(A) the total tonnage of sulfur dioxide emissions reductions achieved by the unit, during the period starting with the commencement of operation of the sulfur dioxide control technology under subparagraph (b)(1) through 2009, through use of such control technology; or

(B) the tonnage of sulfur dioxide emission reductions under paragraph (b)(3).

(2) If the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, the Administrator shall multiply 250,000 sulfur dioxide allowances by the ratio of the amount of sulfur dioxide allowances determined for each unit under paragraph (1) to the total amount of sulfur dioxide allowances determined for all units under paragraph (1).

(3) The Administrator shall allocate to each unit the lesser of the amount determined for that unit under paragraph (1) or, if the total amount of sulfur dioxide allowances determined for all units under paragraph (1) exceeds 250,000 sulfur dioxide allowances, under paragraph (2). The Administrator shall allocate to the facilities under section 424 paragraphs (1) and (2) on a pro rata basis (based on the allocations under those paragraphs) any unallocated allowances under this paragraph.

Subpart 3—Western Regional Air Partnership

SEC. 431. DEFINITIONS.

For purposes of this subpart—

(1) The term "adjusted baseline heat input" means the average annual heat input used by a unit during the three years in which the unit had the highest heat input for the period from the eighth through the fourth year before the first covered year.

(A) Notwithstanding paragraph (1), if a unit commences operation during such period and—

(i) on or after January 1 of the fifth year before the first covered year, then "adjusted baseline heat input" shall mean the average annual heat input used by the unit during the fifth and fourth years before the first covered year; and

(ii) on or after January 1 of the fourth year before the first covered year, then "adjusted baseline heat input" shall mean the annual heat input used by the unit during the fourth year before the first covered year.

(B) A unit's heat input for a year shall be the heat input—

(i) required to be reported under section 405 for the unit, if the unit was required to report heat input during the year under that section;

(ii) reported to the Energy Information Administrator for the unit, if the unit was not required to report heat input under section 405;

(iii) based on data for the unit reported to the WRAP State where the unit is located as required by State law, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration; or

(iv) based on fuel use and fuel heat content data for the unit from fuel purchase or use records, if the unit was not required to report heat input during the year under section 405 and did not report to the Energy Information Administration and the WRAP State.

(2) The term "affected EGU" means an affected EGU under subpart 2 that is in a WRAP State and that—

(A) in 2000, emitted 100 tons or more of sulfur dioxide and was used to produce electricity for sale; or

(B) in any year after 2000, emits 100 tons or more of sulfur dioxide and is used to produce electricity for sale.

(3) The term "coal-fired" with regard to a unit means, for purposes of section 434, a unit combusting coal or any coal-derived fuel alone or in combination with any amount of any other fuel in any year during the period from the eighth through the fourth year before the first covered year.

(4) The term "covered year" means—

(A)(i) the third year after the year 2018 or later when the total annual sulfur dioxide emissions of all affected EGUs in the WRAP States first exceed 271,000 tons; or

(ii) the third year after the year 2013 or later when the Administrator determines by regulation that the total annual sulfur dioxide emissions of all affected EGUs in the WRAP States are reasonably projected to exceed 271,000 tons in 2018 or any year thereafter. The Administrator may make such determination only if all the WRAP States submit to the Administrator a petition requesting that the Administrator issue such determination and make all affected EGUs in the WRAP States subject to the requirements of sections 432 through 434; and

(B) each year after the "covered year" under subparagraph (A).

(5) The term "oil-fired" with regard to a unit means, for purposes of section 434, a unit combusting fuel oil for more than 10 percent of the unit's total heat input, and combusting no coal or coal-derived fuel, and any year during the period from the eighth through the fourth year before the first covered year.

(6) The term "WRAP State" means Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming.

SEC. 432. APPLICABILITY.

(a) PROHIBITION.—Starting January 1 of the first covered year, it shall be unlawful for the affected EGUs at a facility to emit a total amount of sulfur dioxide during the year in excess of the number of sulfur dioxide allowances held for such facility for that year by the owner or operator of the facility.

(b) Allowances Held.—Only sulfur dioxide allowances under section 433 shall be held in order to meet the requirements of subsection (a).

SEC. 433. LIMITATIONS ON TOTAL EMISSIONS.

For affected EGUs, the total amount of sulfur dioxide allowances that the Administrator shall allocate for each covered year under section 434 shall equal 271,000 tons.

SEC. 434. EGU ALLOCATIONS.

(a) In General.—By January 1 of the year before the first covered year, the Administrator shall promulgate regulations determining, for each covered year, the allocations of sulfur dioxide allowances for the units at a facility that are affected EGUs as of December 31 of the fourth year before the covered year by—

(1) for such units at the facility that are coal-fired, multiplying 0.40 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

(2) for such units at the facility that are oil-fired, multiplying 0.20 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons;

(3) for all such other units at the facility that are not covered by paragraph (1) or (2) multiplying 0.05 lb/mmBtu by the total adjusted baseline heat input of such units and converting to tons; and

(4) multiplying by 0.95 the allocation amount under section 433 by the ratio of the total of the amounts for the facility under paragraphs (1), (2), and (3) to the total of the amounts for all facilities under paragraphs (1), (2), and (3); and

(5)(A) 5 percent of the total amount of sulfur dioxide allowances allocated each year under section 433 shall be allocated for units at a facility that are affected EGUs, but did not receive sulfur dioxide allocations under paragraph (4). These units shall be allocated allowances in accordance with paragraphs (1), (2), and (3).

(B) Allowances allocated under subparagraph (A) shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences operation. As such, allocations to units under paragraph (A) will not be reduced as a result of new units commencing commercial operation.

(C) Allowances not allocated under subparagraph (B) shall be allocated to units in paragraphs (A) and (B) on a pro rata basis.

(b)(1) Failure To Promulgate.—For each year 2010 and thereafter, if the Administrator has not promulgated regulations, determining allocations under paragraph (a), each affected EGU shall comply with section 422 by provided annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected EGU believes it has for the relevant year and the amount of sulfur dioxide emissions for such year. The amount of sulfur dioxide emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements.

(2) Upon promulgation of regulations under subsection (a) determining the allocations for 2010 and thereafter, and promulgating regulations under section 403(b) providing for the transfer of sulfur dioxides and section 403(c) establishing an Allowance Transfer System for sulfur dioxide allowances, each unit's emissions shall be compared to and reconciled to its actual allocations under the promulgated regulations. Each unit will have nine (9) months to purchase any allowance shortfall through allowances purchased from other allowance holders or through direct sale. Any unit with an allowance excess shall be credited allowances in accordance with section 435.

SEC. 435. WRAP EARLY ACTION REDUCTION CREDITS

(a) The Administrator shall promulgate regulations within 18 months authorizing the allocation of sulfur dioxide allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(b) No allowances shall be allocated under this paragraph for emissions reductions: attributable to pollution control equipment or combustion technology improvements that were operational or under construction at any time prior to the date of enactment of this section; attributable to fuel switching; or required under any federal regulation.

(c) The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under section 434 and shall be allocated in an amount equal to one allowance of sulfur dioxide for each 1.05 tons of reduction in emissions of sulfur dioxide achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented. The early compliance reduction allowances available under this section shall be used and tradeable in the same manner as allowances under section 434.

(d) The Administrator shall promulgate regulations as necessary to ensure affected units receive early compliance allowance credit. Early compliance allowances shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the earliest possible time after allocation regulations are promulgated.

Part C—Nitrogen Oxides Clear Skies Emission Reductions

Subpart 1—Acid Rain Program

SEC. 441. NITROGEN OXIDES EMISSION REDUCTION PROGRAM.

(a) Applicability.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 413 or 414, or on the date a unit subject to the provisions of section 413(d), must meet the NO_X reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

(b) Emission Limitations.—(1) The Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided*, That the Administrator may set a rate higher than that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_X burner technology. The Administrator shall implement this paragraph under 40 CFR Part 76.5 (2002). The maximum allowable emission rates are as follows:

(A) for tangentially fired boilers, 0.45 lb/mmBtu; and

(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu. After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

(2) The Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

(A) wet bottom wall-fired boilers;

(B) cyclones;

(C) units applying cell burner technology; and

(D) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). The Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NO_X burned technology is available: *Provided*, That, no unit that is an affected unit pursuant to section 413 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any. The Administrator shall implement that paragraph under 40 C.F.R. Parts 76.6 and 76.7 (2002).

(c) Alternative Emission Limitations.—(1) The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

(A) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_X burner technology; or

(B) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

(2) The permitting authority shall base such determination upon a reasonable showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator, that the owner or operator—

(A) has properly installed appropriate control equipment designed to meet the applicable emission rate;

(B) has properly operated such equipment for a period of 15 months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

(C) has specified an emission rate that such unit can meet on an annual average basis. The permitting authority shall issue an operating permit for the unit in question, in accordance with section 404 and title V—

(i) that permits the unit during the demonstration period referred to in subparagraph (B), to emit at a rate in excess of the applicable emission rate;

(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in subparagraphs (B) and (C).

(3) Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_X burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_X

control technology capable of achieving the applicable emission limitation. The Administrator shall implement this subsection under 40 C.F.R. Part 76 (2002), amended as appropriate by the Administrator.

(d) Emissions Averaging.—

(1) In lieu of complying with the applicable emission limitations under subsection (b)(1), (2), or (c), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that—

(A) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than, or equal to,

(B) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b)(1) and (2).

(2) If the permitting authority determines, in accordance with regulations issued by the Administrator that the conditions in paragraph (1) can be met, the permitting authority shall issue operating permits for such units, in accordance with section 404 and title V, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits. The Administrator shall implement this subsection under 40 C.F.R. Part 76 (2002), amended as appropriate by the Administrator.

SEC. 442. TERMINATION.

Starting January 1, 2008, the owner or operator of affected units and affected facilities under section 441 shall no longer be subject to the requirements of that section.

Subpart 2—Clear Skies Nitrogen Oxides Allowance Program

SEC. 451. DEFINITIONS.

For purposes of this subpart:

(1) The term "affected EGU" means—

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit that meets the criteria for qualifying for a cogeneration facility codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002 during 2002 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a gas-fired unit serving one or more generators with total nameplate capacity of 25 megawatts or less, or a cogeneration unit that meets the criteria for qualifying for a cogeneration facility codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002, during each year starting when the unit commences service of a generator.

(C) Notwithstanding paragraphs (A) and (B), the term "affected EGU" does not include a solid waste incineration unit subject to section 129 or a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act.

(2) The term "adjusted baseline heat input" with regard to a unit means, for purposes of allocating nitrogen oxides allowances in a particular year under this subpart, the units baseline multiplied by—

(A) 1.0 for affected coal-fired units for 2008 and each year thereafter;

(B) 0.55 for affected oil- and gas-fired units located in a Zone 1 State for years 2008 through 2017 inclusive;

(C) 0.8 for affected oil- and gas-fired units located in a Zone 1 State for 2018 and each year thereafter; and

(D) 0.4 for affected oil- and gas-fired units located in a Zone 2 State for 2008 and each year thereafter.

(3) The term "allowable nitrogen oxides emissions rate" means the most stringent federally enforceable emissions limitation for nitrogen oxides that applies to the unit as of date of enactment of this subpart. If the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions limitation to establish the allowable rate. Such limitation shall not include any requirement to hold nitrogen oxides allowances under the federal NO_X Budget Trading Program as codified at 40 C.F.R. Part 97 (2002), or any State program adopted to meet the requirements of the NO_X SIP Call as codified at 40 C.F.R. 51.121 (2002).

(4) The term "Zone 1 State" means Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, the fine grid portion of Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas east of Interstate 35, Vermont, Virginia, West Virginia, and Wisconsin.

(5) The term "Zone 2 State" means Alaska, American Samoa, Arizona, California, Colorado, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, Hawaii, Idaho, Kansas, Minnesota, the coarse grid portion of Missouri, Montana, Nebraska, North Dakota, New Mexico, Nevada, Oklahoma, Oregon, South Dakota, Texas west of Interstate 35, Utah, the Virgin Islands, Washington, and Wyoming.

SEC. 452. APPLICABILITY.

(a) Zone 1 Prohibition.—(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 1 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

(2) Only nitrogen oxides allowances under section 453(a) shall be held in order to meet the requirements of paragraph (1), except as provided under section 465.

(b) Zone 2 Prohibition.—(1) Starting January 1, 2008, it shall be unlawful for the affected EGUs at a facility in a Zone 2 State to emit a total amount of nitrogen oxides during a year in excess of the number of nitrogen oxides allowances held for such facility for that year by the owner or operator of the facility.

(2) Only nitrogen oxides allowances under section 453(b) shall be held in order to meet the requirements of paragraph (1).

SEC. 453. LIMITATIONS ON TOTAL EMISSIONS.

(a) Zone 1 Allocations.—For affected EGUs in the Zone 1 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(a) as specified in Table A.

TABLE A.—TOTAL NO_X ALLOWANCES ALLOCATED FOR EGUs IN ZONE 1

Year	NO_X allowances allocated
2008–2017	1,473,603
2018 and thereafter	1,073,603

(b) Zone 2 Allocations.—For affected EGUs in the Zone 2 States for 2008 and each year thereafter, the Administrator shall allocate nitrogen oxides allowances under section 454(b) as specified in Table B.

TABLE B.—TOTAL NO_X ALLOWANCES ALLOCATED FOR EGUs IN ZONE 2

Year	NO_X allowance allocated
2008 and thereafter	714,794

SEC. 454. EGU ALLOCATIONS.

(a) EGU Allocations in the Zone 1 States.—

(1) EPA regulations.—Not later than 18 months before commencement date of the nitrogen oxides allowance requirement of section 452, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for 2008 and each subsequent year for units at a facility in a Zone 1 State that are affected EGUs as of the date of enactment of this section.

(A) The regulations shall determine the allocation for such units for each year and future year by multiplying by 0.95 the allocation amount under section 453(a) by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input to all affected EGUs in the Zone 1 States. However, the regulations shall not allocate allowances to any affected unit in excess of the product of the unit's baseline heat input multiplied by the unit's allowable nitrogen oxides emissions rate, divided by 2000.

(B) 5 percent of the total amount of nitrogen oxides allowances allocated each year under section 453 shall be allocated for units at a facility that are affected EGUs, but did not receive nitrogen oxides allocations under paragraph (A). These units shall be allocated allowances for each year by multiplying the allocation amount under section 453(a) by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input to all affected EGUs in the Zone 1 States, including those covered in (A). However, the regulations shall not allocate allowances to any affected unit in excess of the product of the unit's baseline heat input multiplied by the unit's allowable nitrogen oxides emissions rate, divided by 2000.

(C) Allowances allocated under subparagraph (B) shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences operation. As such, allocations to units under paragraph (B) will not be reduced as a result of new units commencing commercial operation.

(D) Allowances not allocated under subparagraph (B) shall be allocated to units in paragraphs (A) and (B) on a pro rata basis.

(E) For each year 2008 and thereafter, if the Administrator has not promulgated the regulations determining allocation under subsection (a):

(i) each affected unit shall comply with section 452 by providing annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected unit believes it has for the relevant year and the amount of nitrogen oxide emissions for such year. The amount of nitrogen oxide emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

(ii) Upon promulgation of regulations under subsection (a) for Zone 1 determining the allocations for 2008 and thereafter, and promulgating regulations under section 403(b) providing for the transfer of nitrogen oxides and section 403(c) establishing an Allowance Transfer System for nitrogen oxide allowances, each unit's emissions shall be compared to and reconcile its actual allocations under the promulgated regulations. Each unit will have nine (9) months to submit allowances to the Administrator, without recompense, for any allowances shortfall. The submitted allowances may have been obtained and held by any mechanism consistent with this Act including, but not limited to, direct sale. Any unit with an allowance excess shall be credited allowances in accordance with section 455.

(b) EGU ALLOCATIONS IN THE ZONE 2 STATES.—

(1) EPA REGULATIONS.—Not later than 18 months before the commencement date of the nitrogen oxides allowance requirement of section 452, the Administrator shall promulgate regulations determining the allocation of nitrogen oxides allowances for 2008 and each subsequent year for units at a facility in a Zone 2 State that are affected EGUs as of the date of enactment of this section.

(A) The regulations shall determine the allocation for such units for each year by multiplying by 0.95 the allocation amount under section 453(b) by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of the adjusted baseline heat input to all affected EGUs in the Zone 2 States. However, the regulations shall not allocate allowances to any affected unit in excess of the product of the unit's baseline heat input multiplied by the unit's allowable nitrogen oxides emissions rate, divided by 2000.

(B) 5 percent of the total amount of nitrogen oxides allowances allocated each year under section 453 shall be allocated for units at a facility that are affected EGUs, but did not receive nitrogen oxides allocations under paragraph (A). These units shall be allocated allowances for each year by multiplying the allocation amount under section 453(a) by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input to all affected EGUs in the Zone 2 States, including those covered in (A). However, the regulations shall not allocate allowances to any affected unit in excess of the product of the unit's baseline heat input multiplied by the unit's allowable nitrogen oxides emissions rate, divided by 2000.

(C) Allowances allocated under subparagraph (B) shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences operation. As such, allocations to units under subparagraph (B) will not be reduced as a result of new units commencing commercial operation.

(D) Allowances not allocated under subparagraph (B) shall be allocated to units in paragraphs (A) and (B) on a pro rata basis.

(E) For each year 2008 and thereafter, if the Administrator has not promulgated the regulations determining allocation under subsection (a):

(i) each affected unit shall comply with section 452 by providing annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected unit believes it has for the relevant year and the amount of nitrogen oxide emissions for such year. The amount of nitrogen oxide emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

(ii) Upon promulgation of regulations under subsection (b) for Zone 2 determining the allocations for 2008 and thereafter, and promulgating regulations under section 403(b) providing for the transfer of nitrogen oxides and section 403(c) establishing an Allowance Transfer System for nitrogen oxide allowances, each unit's emissions shall be compared to and reconcile with its actual allocations under the promulgated regulations. Each unit will have nine (9) months to submit allowances to the Administrator, without recompense, for any allowance shortfall. The submitted allowances may have been obtained and held by any mechanism consistent with this Act including, but not limited to, direct sale. Any unit with an allowance excess shall be credited allowances in accordance with section 455.

SEC. 455 NITROGEN OXIDES EARLY ACTION REDUCTION CREDITS.

(a) The Administrator shall promulgate regulations within 18 months authorizing the allocation of nitrogen oxides allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(b) No allowances shall be allocated under this paragraph for emissions reductions: attributable to pollution control equipment or combustion technology improvements that were operational or under construction at any time prior to the date of enactment of this section; attributable to fuel switching; or required under any federal regulation.

(c) The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under section 454 and shall be allocated in an amount equal to one allowance of nitrogen oxides for each 1.05 tons of reduction in emissions of nitrogen oxides achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented. The early compliance reduction allowances available under this section shall be used and tradeable in the same manner as allowances under section 454.

(d) The Administrator shall promulgate regulations as necessary to ensure affected units receive early compliance allowance credit. Early compliance allowances shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the earliest possible time after allocation regulations are promulgated.

Subpart 3—Ozone Season NO_X BUDGET PROGRAM

SEC. 461. DEFINITIONS.

For purposes of this subpart:

(1) The term "ozone season" means—

(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, the period May 1 through September 30 for each year starting in 2003; and

(B) with regard to all other States, the period May 1 through September 30, for each year starting in 2004 and thereafter.

(2) The term "non-ozone season" means

(A) with regard to Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, the period October 1 through April 30 and

(B) with regard to all other States, the period October 1, 2003, through May 29, 2004 and the period October 1 through April 30 beginning in the year 2004 and for each year thereafter.

(3) The term "NO_X SIP Call State" means Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia and the fine grid portions of Alabama, Georgia, Michigan, and Missouri.

(4) The term "fine grid portions of Alabama, Georgia, Michigan, and Missouri" means the areas in Alabama, Georgia, Michigan, and Missouri subject to 40 C.F.R. Part 51.121 (2001).

SEC. 462. GENERAL PROVISIONS.

The provisions of sections 402 through 406 shall not apply to this subpart.

SEC. 463. APPLICABLE IMPLEMENTATION PLAN.

(a) SIPS.—Except as provided in subsection (b), the applicable implementation plan for each NO_X SIP Call State shall be consistent with the requirements, including the NO_X SIP Call State's nitrogen oxides budget and compliance supplement pool, in 40 C.F.R. Part 51.121 and 51.122 (2001)

(b) REQUIREMENTS.—Notwithstanding any provision to the contrary in 40 C.F.R. Part 51.121 and 51.122 (2001),

(1) the applicable implementation plan for each NO_X SIP Call State shall require full implementation of the required emission control measures starting no later than the first ozone season; and

(2) starting January 1, 2008—

(A) the owners and operators of a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D shall not longer be subject to the requirements in a NO_X SIP Call State's applicable implementation plan that meet the requirements of subsection (a) and paragraph (1); and

(B) notwithstanding subparagraph (A), if the Administrator determines, by December 31, 2007, that a NO_X SIP Call State's applicable implementation plan meets the requirements of subsection (a) and paragraph (1), such applicable implementation plan shall be deemed to continue to meet such requirements; and

(3)(A) The owner or operator or designated representative of a boiler, combustion turbine, or combined cycle system may submit to the Administrator a petition to allow use of nitrogen oxides allowances allocated for 2005 to meet the applicable requirement to hold nitrogen oxides allowances at least equal to 2004 ozone season emissions of such boiler, combustion turbine, or combined cycle system.

(B) A petition under this paragraph shall be submitted to the Administrator by February 1, 2004.

(C) The petition shall demonstrate that the owner or operator made reasonable efforts to install, at the boiler, combustion turbine, or combined cycle system, nitrogen oxides control technology designed to allow the owner or operator to meet such requirement to hold nitrogen oxides allowances.

(D) The petition shall demonstrate that there is an undue risk for the reliability of electricity supply (taking into account the feasibility of purchasing electricity or nitrogen oxides allowances) because—

(i) the owner or operator is not likely to be able to install and operate the technology under subparagraph (C) on a timely basis; or

(ii) the technology under subparagraph (C) is not likely to be able to achieve its design control level on a timely basis.

(E) The petition shall include a statement by the NO_X SIP Call State where the boiler, combustion turbine, or combined cycle system is located that the NO_X SIP Call State does not object to the petition.

(F) By May 30, 2004, by order, the Administrator shall approve the petition if it meets the requirements of subparagraphs (B) through (E).

(c) SAVINGS PROVISION.—Nothing in this section or section 464 shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation, or standard, relating to a boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

SEC. 464. TERMINATION OF FEDERAL ADMINISTRATION OF NO_X TRADING PROGRAM FOR EGUS.

Starting January 1, 2008, with regard to any boiler, combustion turbine, or integrated gasification combined cycle plant subject to emission reduction requirements or limitations under part B, C, or D, the Administrator shall not administer any nitrogen oxides trading program included in any NO_X SIP Call State's applicable implementation plan and meeting the requirements of section 463(a) and (b)(1).

SEC. 465. CARRYFORWARD OF PRE-2008 NITROGEN OXIDES ALLOWANCES.

The Administrator shall promulgate regulations as necessary to assure that the requirement to hold allowances under section 452(a)(1) may be met using nitrogen oxides allowances allocated for an ozone season before 2008 under a nitrogen oxides trading program that the Administrator administers, is included in a NO_X SIP Call State's applicable implementation plan, and meets the requirements of section 463(a) and (b)(1).

SEC. 466. NON-OZONE SEASON VOLUNTARY ACTION CREDITS

An affected facility that voluntarily elects to operate selective catalytic reduction (SCR) units, installed prior to enactment of this title, during the non-ozone season under section 461(2) shall be credited 0.5 allowances per ton of NO_X emissions avoided as a result of operating these controls. The amount avoided will equal every ton of nitrogen oxides reduction below the allowable emission rate. The Administrator shall determine if any other existing NO_X emission control devices are generally uneconomic to operate unless EGUs are provided incentives to control NO_X emissions during the non-ozone season. If the Administrator finds that incentives using different control equipment are necessary to make the operation of these devices economic, the Administrator shall specify these types of control devices and, for an affected facility with these specified devices, installed prior to enactment of this title, that voluntarily elects to operate these devices during the nonozone season under section 461(2) shall be credited 0.5 allowances per ton of emissions avoided as a result of operating these controls. The Administrator shall promulgate regulations as necessary to establish this NO_X allowance credit program. Failure of the Administrator to promulgate implementing regulations prior to voluntary reductions being undertaken by affected facilities shall not in any manner reduce the number of allowances an otherwise qualifying facility shall be credited upon promulgation of the regulations.

PART D—MERCURY EMISSIONS REDUCTIONS

SEC. 471. DEFINITIONS.

For purposes of this part:

(1) The term "adjusted baseline heat input" with regard to a unit means the unit's baseline heat input multiplied by—

(A) 1.0, for the portion of the baseline heat input that is the unit's average annual combustion of bituminous during the years on which the unit's baseline heat input is based;

(B) 3.0, for the portion of the baseline heat input that is the unit's average annual combustion of lignite during the years on which the unit's baseline heat input is based;

(C) 1.25, for the portion of the baseline heat input that is the unit's average annual combustion of subbituminous during the years on which the unit's baseline heat input is based; and

(D) 1.0, for the portion of the baseline heat input that is not covered by subparagraph (A), (B), or (C) or for the entire baseline heat input if such baseline heat input is not based on the unit's heat input in specified years.

(2) The term "affected EGU" means—

(A) for a unit serving a generator before the date of enactment of the Clear Skies Act, of 2003, a coal-fired unit in a State serving a generator with a nameplate capacity of greater than 25 megawatts that produced or produces electricity for sale during 2002 or any year thereafter, except for a cogeneration unit meets the criteria for qualifying for a cogeneration facilities codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002 during 2002 and each year thereafter; and

(B) for a unit commencing service of a generator on or after the date of enactment of the Clear Skies Act of 2003, a coal-fired unit in a State serving a generator that produces electricity for sale during any year starting with the year the unit commences service of a generator, except for a cogeneration unit that meets the criteria for qualifying for a cogeneration facilities codified in Section 292.205 of Title 18 of the Code of Federal Regulations as issued on April 1, 2002, during each year starting with the year the unit commences service of a generator.

(C) Notwithstanding paragraphs (A) and (B), the term "affected EGU" does not include a solid waste incineration unit subject to section 129, a unit for the treatment, storage, or disposal of hazardous waste subject to section 3005 of the Solid Waste Disposal Act, or a unit with de minimus emissions equal to or less than 50 pounds on an annual basis.

SEC. 472. APPLICABILITY.

Starting January 1, 2010, it shall be unlawful for the affected EGUs at a facility in a State to emit a total amount of mercury during the year in excess of the number of mercury allowances held for such facility for that year by the owner or operator of the facility.

SEC. 473. LIMITATIONS ON TOTAL EMISSIONS.

For affected EGUs for 2010 and each year thereafter, the Administrator shall allocate mercury allowances pursuant to section 474.

TABLE A.—TOTAL MERCURY ALLOWANCES ALLOCATED FOR EGUS

Year	Mercury allowances allocated
2010–2017	1,088,000
2018 and thereafter	480,000

SEC. 474. EGU ALLOCATIONS.

(a)(1) IN GENERAL.—Not later than 24 months before the commencement date of the mercury allowance requirement of section 472, the Administrator shall promulgate regulations determining allocations of mercury allowances for 2010 and thereafter for units at a facility that commence commercial operation by and are affected EGUs as of date of enactment. The regulations shall provide that the Administrator shall allocate each year for such units an amount determined by multiplying by 0.95 the allocation amount in section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input of all affected EGUs.

(2) 5 percent of the total amount of nitrogen oxides allowances allocated each year under section 473 shall be allocated for units at a facility that commence commercial operation and are affected EGUs after the date of enactment. These units shall be allocated allowances for each year by multiplying the allocation amount under section 473 by the ratio of the total amount of the adjusted baseline heat input of such units at the facility to the total amount of adjusted baseline heat input to all affected EGUs, including those covered in paragraph (1). However, the regulations shall not allocate allowances to any affected unit in excess of the product of the unit's baseline heat input multiplied by the unit's allowable mercury emissions rate, divided by 2000.

(3) Allowances allocated under paragraph (2) shall be allocated to units on a first come basis determined by date of unit commencement of construction, provided that such unit actually commences commercial operation. As such, allocations to units under paragraph (2) will not be reduced as a result of new units commencing commercial operation.

(4) Allowances not allocated under paragraph (2) shall be allocated to units in paragraphs (1) and (2) on a pro rata basis.

(5) For each year 2010 and thereafter, if the Administrator has not promulgated the regulations determining allocation under subsection (a):

(i) each affected unit shall comply with section 472 by providing annual notice to the permitting authority. Such notice shall indicate the amount of allowances the affected unit believes it has for the relevant year and the amount of mercury emissions for such year. The amount of mercury emissions shall be determined using reasonable industry accepted methods unless the Administrator has promulgated applicable monitoring and alternative monitoring requirements; and

(ii) upon promulgation of regulations under subsection (a) determining the allocations for 2010 and thereafter, and promulgating regulations under section 403(b) providing for the transfer of mercury allowances and section 403(c) establishing an Allowance Transfer System for mercury allowances, each unit's emissions shall be compared to and reconcile with its actual allocations under the promulgated regulation. Each unit will have nine (9) months to submit allowances to the Administrator, without recompense, for any allowances shortfall. The submitted allowances may have been obtained and held by any mechanism consistent with the Act including, but not limited to, direct sale. Any unit with an allowance excess shall be credited allowances in accordance with section 475.

SEC. 475. MERCURY EARLY ACTION REDUCTION CREDITS.

(a) The Administrator shall promulgate regulations within 18 months authorizing the allocation of nitrogen oxides allowances to units designated under this section that install or modify pollution control equipment or combustion technology improvements identified in such regulations after the date of enactment of this section and prior to January 1, 2010.

(b) No allowances shall be allocated under this paragraph for emissions reductions: attributable to pollution control equipment or combustion technology improvements that were operational or under construction at any time prior to the date of enactment of this section; attributable to fuel switching; or required under any federal regulation.

(c) The allowances allocated to any unit under this paragraph shall be in addition to the allowances allocated under section 474 and shall be allocated in an amount equal to one allowance of mercury for each 1.05 tons of reduction in emissions of mercury achieved by the pollution control equipment or combustion technology improvements starting with the year in which the equipment or improvement is implemented. The early compliance reduction allowances available under this section shall be used and tradeable in the same manner as allowances under section 474.

(d) The Administrator shall promulgate regulations as necessary to ensure affected units receive early compliance allowance credit. Early compliance allowances shall be allocated at the end of an early compliance year. Should the Administrator fail to promulgate allocation regulations by the end of a given year, early compliance allowances for each year shall be allocated at the earliest possible time after allocation regulations are promulgated.

Part E—National Emission Standards; Research, Environmental Accountability; Major Source Preconstruction Review and Best Available Retrofit Control Technology Requirements

SEC. 481. NATIONAL EMISSION STANDARDS FOR AFFECTED UNITS.

(a) Definitions.—For purposes of this section:

(1) The term "commenced", with regard to construction, means that an owner or operator has either undertaken a continuous program of construction or has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction. For boilers and integrated gasification combined cycle plants, this term does not include undertaking such a program or entering into such an obligation more than 36 months prior to the date on which the unit begins operation. For combustion turbines, this term does not include undertaking such a program or entering into such an obligation more than 18 months prior to the date on which the unit begins operation.

(2) The term "construction" means fabrication, erection, or installation of an affected unit.

(3) The term "affected unit" means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

(4) The term "existing affected unit" means any affected unit that is not a new affected unit.

(5) The term "new affected unit;" means any affected unit, the construction or reconstruction of which is commenced after the date of enactment of the Clear Skies Act of 2003, except that for the purpose of any revision of a standard pursuant to subsection (e), "new affected unit" means any affected unit, the construction or reconstruction of which is commenced after the publication of regulations (or, if earlier, proposed regulations) prescribing a standard under this section that will apply to such unit.

(6) The term "reconstruction" means the replacement of components of a unit to such an extent that—

(A) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new unit; and

(B) it is technologically and economically feasible to meet the applicable standards set forth in this section.

(b) Emission Standards.—

(1) In general.—No later than 12 months after the date of enactment of the Clear Skies Act of 2003, the Administrator shall promulgate regulations prescribing the standards in subsections (c) through (d) for the specified affected units and establishing requirements to ensure compliance with these standards, including monitoring, recordkeeping, and reporting requirements.

(2) Monitoring.—(A) The owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section shall meet the requirements of section 405, except that, where two or more units utilize a single stack, separate monitoring shall be required for each affected unit for the pollutants for which the unit is subject to such standards.

(B) The Administrator shall, by regulation, require—

(i) the owner or operator of any affected unit subject to the standards for sulfur dioxide, nitrogen oxides, or mercury under this section to—

(I) install and operate GEMS for monitoring output, including electricity and useful thermal energy, on the affected unit and to quality assure the data; and

(II) comply with recordkeeping and reporting requirements, including provisions for reporting output data in megawatt hours.

(ii) the owner or operator of any affected unit subject to the standards for particulate matter under this section to—

(I) install and operate CEMS for monitoring particulate matter on the affected unit and to quality assure the data;

(II) comply with recordkeeping and reporting requirements; and

(III) comply with alternative monitoring, quality assurance, recordkeeping, and reporting requirements for any period of time for which the Administrator determines that CEMS with appropriate vendor guarantees are not commercially available for particulate matter.

(3) Compliance.—For boilers. integrated gasification combined cycle plants, and coal fired or gas-fired combustion turbines the Administrator shall require that the owner or operator demonstrate compliance with the standards daily, using a 30-day rolling average, except that in the case of mercury, the compliance period shall be the calendar year. For combustion turbines that are oil-fired the Administrator shall require that the owner or operator demonstrate compliance with the standards hourly, using a 4-hour rolling average.

(c) Boilers and Integrated Gasification Combined Cycle Plants.—

(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any boiler or integrated gasification combined cycle plant that is a new affected unit to discharge into the atmosphere any gases which contain—

(A) sulfur dioxide in excess of 2.0 lb/MWh;

(B) nitrogen oxides in excess of 1.0 lb/MWh;

(C) particulate matter in excess of 0.20 lb/MWh; or

(D) if the unit is coal-fired, mercury in excess of 0.015 lb/GWh, unless—

(i) mercury emissions from the unit, determined assuming no use of on-site or off-site pre-combustion treatment of coal and no use of technology that captures mercury, are reduced by 80 percent;

(ii) flue gas desulfurization (FGD) and selective catalytic reduction (SCR) are applied to the unit; or

(iii) a technology is applied to the unit and the permitting authority determines that the technology is equivalent in terms of mercury capture to the application of FGD and SCR.

(2) Notwithstanding subparagraph (1)(D), integrated gasification combined cycle plants with a combined capacity of less than 5 GW are exempt from the mercury requirement under subparagraph (1)(D) if they are constructed as part of a demonstration project under the Secretary of Energy that will include a demonstration of removal of significant amounts of mercury as determined by the Secretary of Energy in conjunction with the Administrator as part of the solicitation process.

(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any oil-fired boiler that is an existing affected unit to discharge into the atmosphere any gases which contain particulate matter in excess of 0.30 lb/MWh.

(d) Combustion Turbines.—

(1) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any gas-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain nitrogen oxides in excess of—

(A) 0.56 lb/MWh (15 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine;

(B) 0.084 lb/MWh (3.5 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine and either uses add-on controls or is located within 50 km of a class I area; or

(C) 0.21 lb/MWh (9 ppm at 15 percent oxygen), if the unit is not a simple cycle turbine and neither uses add-on controls nor is located within 50 km of a class I area.

(2) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any coal-fired combustion turbine that is a new affected unit to discharge into the atmosphere any gases which contain sulfur dioxide, nitrogen oxides, particulate matter, or mercury in excess of the emission limits under subparagraphs (c)(1) (A) through (D).

(3) After the effective date of standards promulgated under subsection (b), no owner or operator shall cause any combustion turbine that is not gas-fired or coal-fired and that is a new affected unit to discharge into the atmosphere any gases which contain—

(A) sulfur dioxide in excess of 2.0 lb/MWh;

(B) nitrogen oxides in excess of—

(i) 0.2891b/MWh (12 ppm at 15 percent oxygen), if the unit is not a simple cycle combustion turbine, is dual-fuel capable, and uses add-on controls; or is not a simple cycle combustion turbine and is located within 50 km of a class I area;

(ii) 1.01 lb/MWh (42 ppm at 15 percent oxygen), if the unit is a simple cycle combustion turbine; is not a simple cycle combustion turbine and is not dual-fuel capable; or is not a simple cycle combustion turbine, is dual-fuel capable, and does not use add-on controls.

(C) particulate matter in excess of 0.20 lb/MWh.

(e) PERIODIC REVIEW AND REVISION.—

(1) The Administrator shall, at least every 8 years following the promulgation of standards under subsection (b), review and, if appropriate, revise such standards to reflect the degree of emission limitation demonstrated by substantial evidence to be achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impacts and energy requirements). When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.

(2) Notwithstanding the requirements of paragraph (1) the Administrator need not review any standard promulgated under subsection (b) if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.

(f) EFFECTIVE DATE.—The standard promulgated pursuant to this section shall become effective upon promulgation.

(g) DELEGATION.—

(1) Each State may develop and submit to the Administration a procedure for implementing and enforcing standards promulgated under this section for affected units located in such State. If the Administrator finds the State procedure is adequate, the Administrator shall delegate to such State any authority the Administrator has under this Act to implement and enforce such standards.

(2) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable standard under this section.

(h) VIOLATIONS.—After the effective date of standards promulgated under this section, it shall be unlawful for any owner or operator of any affected unit to operate such unit in violation of any standard, established by this section applicable to such unit.

(i) COORDINATION WITH OTHER AUTHORITIES.—For purposes of sections III(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each standard established pursuant to this section shall be treated in the same manner as a standard of performance under section 111, and each affected unit subject to standards under this section shall be treated in the same manner as a stationary source under section 111.

(j) STATE AUTHORITY.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation, or standard relating to affected units, or other EGUs, that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

(k) OTHER AUTHORITY UNDER THIS ACT.—Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements applicable to affected units under any other authority of law, including the authority to establish for any air pollutant a national ambient air quality standard, except that no new affected unit subject to standards under this section shall be subject to standards under section 111 of this Act.

SEC. 482. RESEARCH, ENVIRONMENTAL MONITORING, AND ASSESSMENT.

(a) PURPOSES.—The Administrator, in collaboration with the Secretary of Energy and the Secretary of the Interior, shall conduct a comprehensive program of research, environmental monitoring, and assessment to enhance scientific understanding of the human health and environmental effects of particulate matter and mercury and to demonstrate the efficacy of emission reductions under this title for purposes of reporting to Congress under (e)(2). The purposes of such a program are to—

(1) expand current research and knowledge of the contribution of emissions from electricity generation to exposure and health effects associated with particulate matter and mercury;

(2) enhance current research and development of promising multi-pollutant control strategies and CEMS for mercury;

(3) produce peer-reviewed scientific and technology information;

(4) improve environmental monitoring and assessment of sulfur dioxide, nitrogen oxides and mercury, and their transformation products, to track changes in human health and the environment attributable to emission reductions under this title; and

(5) periodically provide peer-reviewed reports on the costs, benefits, and effectiveness of emission reductions achieved under this title.

(b) RESEARCH.—The Administrator shall enhance planned and ongoing laboratory and field research and modeling analyses, and conduct new research and analyses to produce peer-reviewed information concerning the human health and environmental effects of mercury and particulate matter and the contribution of United States electrical generating units to those effects. Such information shall be included in the report under subsection (d). In addition, such research and analyses shall—

(1) improve understanding of the rates and processes governing chemical and physical transformations of mercury in the atmosphere, including speciation of emissions from electricity generation and the transport of these species;

(2) improve understanding of the contribution of mercury emissions from electricity generation to mercury in fish and other biota, including—

(A) the response of and contribution to mercury in the biota owing to atmospheric deposition of mercury from U.S. electricity generation on both local and regional scales;

(B) long-term contributions of mercury from U.S. electricity generation on mercury accumulations in ecosystems, and the effects of mercury reductions in that sector on the environment and public health;

(C) the role and contribution of mercury, from U.S. electricity generating facilities and anthropogenic and natural sources to fish contamination and to human exposure, particularly with respect to sensitive populations;

(D) the contribution of U.S. electricity generation to population exposure to mercury in freshwater fish and seafood and quantification of linkages between U.S. mercury emissions and domestic mercury exposure and its health effects; and

(E) the contribution of mercury from U.S. electricity generation in the context of other domestic and international sources of mercury, including transport of global anthropogenic and natural background levels;

(3) improve understanding of the health effects of fine particulate matter components related to electricity generation emissions (as distinct from other fine particle fractions and indoor air exposures) and the contribution of U.S. electrical generating units to those effects including—

(A) the chronic effects of fine particulate matter from electricity generation in sensitive population groups; and

(B) personal exposure to fine particulate matter from electricity generation; and

(4) improve understanding, by way of a review of the literature, of methods for valuing human health and environmental benefits associated with fine particulate matter and mercury.

(c) INNOVATIVE CONTROL TECHNOLOGIES.—The Administrator shall collaborate with the Secretary of Energy to enhance research and development, and conduct new research that facilitates research into and development of innovative technologies to control sulfur dioxide, nitrogen oxides, mercury, and particulate matter at a lower cost than existing technologies. Such research and development shall provide updated information on the cost and feasibility of technologies. Such information shall be included in the report under subsection (d). In addition, the research and development shall—

(1) upgrade cost and performance models to include results from ongoing and future electricity generation and pollution control demonstrations by the Administrator and the Secretary of Energy;

(2) evaluate the overall environmental implications of the various technologies tested including the impact on the characteristics of coal combustion residues;

(3) evaluate the impact of the use of selective catalytic reduction on mercury emissions from the combustion of all coal types;

(4) evaluate the potential of integrated gasification combined cycle to adequately control mercury;

(5) expand current programs by the Administrator to conduct research and promote, lower cost CEMS capable of providing real-time measurements of both speciated and total mercury and integrated compact CEMS that provide cost-effective real-time measurements of sulfur dioxide, nitrogen oxides, and mercury;

(6) expand lab- and pilot-scale mercury and multi-pollutant control programs by the Secretary of Energy and the Administrator, including development of enhanced sorbents and scrubbers for use on all coal types;

(7) characterize mercury emissions from low-rank coals, for a range of traditional control technologies, like scrubbers and selective catalytic reduction; and

(8) improve low cost combustion modifications and controls for dry-bottom boilers.

(d) ENVIRONMENTAL ACCOUNTABILITY.—

(1) MONITORING AND ASSESSMENT.—The Administrator shall conduct a program of environmental monitoring and assessment to track on a continuing basis, changes in

human health and the environment attributable to the emission reductions required under this title. Such a program shall—

(A) develop and employ methods to routinely monitor, collect, and compile data on the status and trends of mercury and its transformation products in emissions from affected facilities, atmospheric deposition, surface water quality, and biological systems. Emphasis shall be placed on those methods that—

(i) improve the ability to routinely measure mercury in dry deposition processes;

(ii) improve understanding of the spatial and temporal distribution of mercury deposition in order to determine source-receptor relationships and patterns of long-range, regional, and local deposition;

(iii) improve understanding of aggregate exposures and additive effects of methylmercury and other pollutants; and

(iv) improve understanding of the effectiveness and cost of mercury emissions controls;

(B) modernize and enhance the national air quality and atmospheric deposition monitoring networks in order to cost-effectively expand and integrate, where appropriate, monitoring capabilities for sulfur, nitrogen, and mercury to meet the assessment and reporting requirements of this section;

(C) perform and enhance long-term monitoring of sulfur, nitrogen, and mercury, and parameters related to acidification, nutrient enrichment, and mercury bioaccumulation in freshwater and marine biota;

(D) maintain and upgrade models that describe the interactions of emissions with the atmosphere and resulting air quality implications and models that describe the response of ecosystems to atmospheric deposition; and

(E) assess indicators of ecosystems health related to sulfur, nitrogen, and mercury, including characterization of the causes and effects of episodic exposure to air pollutants and evaluation of recovery.

(2) REPORTING REQUIREMENTS.—Not later than January 1, 2008, and not later than every 4 years thereafter, the Administrator shall provide a peer reviewed report to the Congress on the costs, benefits, and effectiveness of emission reduction programs under this title.

(A) The report under this subparagraph shall address the relative contribution of emission reductions from U.S. electricity generation under this title compared to the emission reductions achieved under other titles of the Clean Air Act with respect to—

(i) actual and projected emissions of sulfur dioxide, nitrogen oxides, and mercury;

(ii) average ambient concentrations of sulfur dioxide and nitrogen oxides transformation products, related air quality parameters, and indicators of reductions in human exposure;

(iii) status and trends in total atmospheric deposition of sulfur, nitrogen, and mercury, including regional estimates of total atmospheric deposition;

(iv) status and trends in visibility;

(v) status of terrestrial and aquatic ecosystems (including forests and forested watersheds, streams, lakes, rivers, estuaries, and nearcoastal waters);

(vi) status of mercury and its transformation products in fish;

(vii) causes and effects of atmospheric deposition, including changes in surface water quality, forest and soil conditions;

(viii) occurrence and effects of coastal eutrophication and episodic acidification, particularly with respect to high elevation watersheds; and

(ix) reduction in atmospheric deposition rates that should be achieved to prevent or reduce adverse ecological effects.

(B) The report under this subparagraph shall address the relative contribution of the United States to world-wide emissions as well as a comparison of the stringency of fossil fuel-fired requirements under the Act to other countries.

SEC. 483. MAJOR SOURCE PRECONSTRUCTION REVIEW REQUIREMENTS AND BEST AVAILABLE RETROFIT CONTROL TECHNOLOGY REQUIREMENTS; APPLICABILITY TO AFFECTED UNITS.

(a) MAJOR SOURCE EXEMPTION.—An affected unit shall not be considered a major emitting facility or major stationary source, or a part of a major emitting facility or major stationary source for purposes of compliance with the requirements of parts C and part D of title I nor shall it otherwise be subject to the requirements of section 169A or 169B. This applicability provision only applies to affected units that are either subject to the performance standards of section 481 or meet the following requirements within 3 years after the date of enactment of the Clear Skies Act of 2003:

(1) The owner or operator of the affected unit properly operates, maintains and repairs pollution control equipment to limit emissions of particulate matter, or the owner or operator of the affected unit is subject to an enforceable permit issued pursuant to title V or a permit program approved or promulgated as part of an applicable implementation plan to limit the emissions of particulate matter from the affected unit to 0.03 lb/mmBtu within 8 years after the date of enactment of the Clear Skies Act of 2003, and

(2) The owner or operator of the affected unit uses good combustion practices to minimize emissions of carbon moNO$_{X}$ide. Good combustion practices may be accomplished through control technology, combustion technology improvements, or workplace practices.

(b) CLASS I AREA PROTECTIONS.—Notwithstanding the provisions of subsection (a), an affected unit located within 50 km of a Class I area on which construction commences after the date of enactment of the Clear Skies Act of 2003 is subject to those provisions under part C of title I pertaining to the review of a new or reconstructed major stationary source's impact on a Class I area.

(c) PRECONSTRUCTION REQUIREMENTS.—Each State shall include in its plan under section 110, as program to provide for the regulation of the construction of an affected unit that ensures that the following requirements are met prior to the commencement of construction of an affected unit—

(1) in an area designated as attainment or unclassifiable under section 107(d), the owner or operator of the affected unit must demonstrate to the State that the emissions increase from the construction or operation of such unit will not cause, or contribute to, air pollution in excess of any national ambient air quality standard;

(2) in an area designated as nonattainment under section 107(d), the State must determine that the emissions increase from the construction or operation of such unit will not interfere with any program to assure that the national ambient air quality standards are achieved provided that interference with any program will be deemed not to occur, with respect to each nonattainment area located wholly or partially within the State, if on the date of submission of a complete permit application and throughout a continuous period of three years immediately preceding such date, the nonattainment area was in full compliance with all requirements of this Act, including but not limited to requirements for State Implementation Plans;

(3) for a reconstructed unit, prior to beginning operation, the unit must comply with either the performance standards of section 481 or best available control technology as defined in part C of title I for the pollutants whose hourly emissions will increase at the unit's maximum capacity; and

(4) the State must provide for an opportunity for interested persons to comment on the Class I area protections and preconstruction requirements as set forth in this section.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "affected unit" means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D.

(2) The term "construction" includes the construction of a new affected unit and the modification of any affected unit.

(3) The term "modification" means any physical change in, or change in the method of operation of, an affected unit that increases the maximum hourly emissions of any pollutant regulated under this Act above the maximum hourly emissions achievable at that unit during the 5 years prior to the change or that results in the emission of any pollutant regulated under this Act and not previously emitted.

(e) SAVINGS CLAUSE.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt to enforce any regulation, requirements, limitation, or standard relating to affected units that is more stringent than a regulation, requirement, limitation, or standard in effect under this section or under any other provision of this Act.

SEC. 3. OTHER AMENDMENTS.

(a) Title I of the Clean Air Act is amended as follows:

(1) In section 103 by repealing subparagraphs (E) and (F).

(2) In section 107—

(A) By amending subparagraph (A) of subsection (d)(1) as follows:

(i) strike 'or' at the end of clause (ii);

(ii) strike the period at the end of clause (iii) and insert, "or";

(iii) add the following clause (iv) after clause (iii): (iv) notwithstanding clauses (i) through (iii), an area may be designated transitional for the PM 2.5 national primary or secondary ambient air quality standards or the 8-hour ozone national primary or secondary ambient air quality standard if the Administrator has performed air quality modeling and, in the case of an area that needs additional local control measures, the State has performed supplemental air quality modeling, demonstrating that the area will attain the applicable standard or standards no later than December 31, 2015, and such modeling demonstration and all necessary local controls have been approved into the State implementation plan no later than December 31, 2004.

(iv) add at the end a sentence to read as follows: 'For purposes of the PM 2.5 national primary or secondary ambient air quality standards, the time period for the State to submit the designations shall be extended to no later than December 31, 2003.

(B) By amending clause (i) of subsection (d)(1)(B) by adding at the end a sentence to read as follows: 'The Administrator shall not be required to designate areas for the revised PM 2.5 national primary or secondary ambient air quality standards prior to 6 months after the States are required to submit recommendations under section 107(d)(1)(A), but in no event shall the period for designating such areas be extended beyond December 31, 2004.

(3) In section 110 as follows:

(A) By amending clause (i) of subsection (a)(2)(D) by inserting "except as provided in subsection (q)," before the word "prohibiting".

(B) By adding the following new subsections at the end thereof:

"(q) REVIEW OF CERTAIN PLANS.—(1) The Administrator shall, in reviewing, under clause (i) of subsection (a)(2)(D), any plan with respect to affected units, within the meaning of section 126(d)(1)—

(A) consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant nonattainment areas in the other State or States;

"(B) not require submission of plan provisions mandating emissions reductions from such affected units, unless the Administrator determines that—

"(i) emissions from such units may be reduced at least as cost-effectively as emissions from each other principal category of sources of the relevant pollutant, pollutants, or pre-cursors thereof, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify, and

"(ii) reductions in such emissions will improve air quality in the other State's or States' nonattainment areas at least as cost-effectively as reductions in emissions from each other principal category of sources of the relevant pollutant, pollutants, or precursors thereof, to the maximum extent that a methodology is reasonably available to make such a determination;

"(C) develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006; and

"(D) not require submission of plan provisions subjecting affected units, within the meaning of section 126(d)(1), to requirements with an effective date prior to December 31, 2014.

"(2) In making the determination under clause (ii) of subparagraph (B) of paragraph (1), the Administrator will use the best available peer-reviewed models and methodology that consider the proximity of the source or sources to the other State or States and incorporate other source characteristics.

"(3) Nothing in paragraph (1) shall be interpreted to require revisions to the provisions of 40 C.F.R. Parts 51.121 and 51.122 (2001).

"(r) TRANSITIONAL AREAS.—

"(1) MAINTENANCE.—(A) By December 31, 2011, each area designated as transitional pursuant to section 107(d)(1) shall submit an updated emission inventory and an analysis of whether growth in emissions, including growth in vehicle miles traveled, will interfere with attainment by December 31, 2014.

"(B) No later than December 31, 2011, the Administrator shall review each transitional area's maintenance analysis, and, if the Administrator determines that growth in emissions will interfere with attainment by December 31, 2014, the Administrator shall consult with the State and determine what action, if any, is necessary to assure that attainment will be achieved by December 31, 2014.

"(2) PREVENTION OF SIGNIFICANT DETERIORATION.—Each area designated as transitional pursuant to section 107(d)(1) shall be treated as an attainment or unclassifiable area for purposes of the prevention of significant deterioration provisions of part C of this title.

"(3) CONSEQUENCES OF FAILURE TO ATTAIN BY 2015.—No later than June 30, 2016, the Administrator shall determine whether each area designated as transitional for the 8–hour ozone standard or for the PM 2.5 standard has attained that standard. If the Administrator determines that a transitional area has not attained the standard, the area shall be redesignated as nonattainment within 1 year of the determination and the State shall be required to submit a State implementation plan revision satisfying the provisions of section 172 within 3 years of redesignation as nonattainment.

"(4) In section 111(b)(1) by adding the following new subparagraph (C) after subparagraph (B):

"(C) No standards of performance promulgated under this section shall apply to units subject to regulations promulgated pursuant to section 481.

"(5) In section 112:

"(A) by amending paragraph (1) of subsection (c) to read as follows:

"(1) IN GENERAL.—Not later than 12 months after November 15, 1990, the Administrator shall publish, and shall from time to time, but not less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). Electric utility steam generating units not subject to section 3005 of the Solid Waste Disposal Act shall not be included in any category or subcategory listed under this subsection. The Administrator shall have the authority to regulate the emission of hazardous air pollutants listed under section 112(b), other than mercury compounds, by electric utility steam generating units, provided that any determination shall be based on public health concerns and, on an individual source basis shall: consider the effects of emissions controls installed or anticipated to be installed in order to meet other emission reduction requirements under this Act by 2018; and, be based on a peer reviewed study with notice and opportunity to comment, to be completed not before January 2015. Any such regulations shall be promulgated within, and shall not take effect before, the date 8 years after the commencement date of the requirements set forth in section 472. To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.

"(B) By amending subparagraph (A) of subsection (n)(1) is amended to read as follows:

"(A) The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after November 15, 1990.

"(6) Section 126 is amended as follows:

"(A) By replacing 'section 110(a)(2)(D)(ii) or this section' in subsection (b) with 'section 110(a)(2)(D)(i)'.

"(B) By replacing 'this section and the prohibition of section 110(a)(2)(D)(ii)' in subsection (e)(1) with 'the prohibition of section 110(a)(2)(D)(i)'.

"(C) In the language at end of subsection (c) by striking 'section 110(a)(2)(D)(ii)' and inserting 'section 110(a)(2)(D)(i)' and deleting the last sentence.

"(D) By amending subsection (d) to read as follows:

"(d)(1) For purposes of this subsection, the term 'affected unit' means any unit that is subject to emission limitations under subpart 2 of part B, subpart 2 of part C, or part D, or is a designated unit under section 407.

"(2) To the extent that any petition submitted under subsection (b) after the date of enactment of the Clear Skies Act of 2003 seeks a finding for any affected unit, then, notwithstanding any provision in subsections (a) through (c) to the contrary—

"(A) in determining whether to make a finding under subsection (b) for any affected unit, the Administrator shall consider, among other relevant factors, emissions reductions required to occur by the attainment date or dates of any relevant nonattainment areas in the petitioning State or political subdivision;

"(B) the Administrator may not determine that affected units emit, or would emit, any air pollutant in violation of the prohibition of section 110(a)(2)(D)(i) unless that Administrator determines that—

"(i) such emissions may be reduced at least as cost-effectively as emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides, including industrial boilers, on-road mobile sources, and off-road mobile sources, and any other category of sources that the Administrator may identify; and

"(ii) reductions in such emissions will improve air quality in the petitioning State's nonattainment area or areas at least as cost-effectively as reductions in emissions from each other principal category of sources of sulfur dioxide or nitrogen oxides to the maximum extent that a methodology is reasonably available to make such a determination.

In making the determination under clause (ii), the Administrator shall use the best available peer-reviewed models and methodology that consider the proximity of the source or sources to the petitioning State or political subdivision and incorporate other sources characteristics.

"(C) The Administrator shall develop an appropriate peer reviewed methodology for making determinations under subparagraph (B) by December 31, 2006.

"(D) The Administrator shall not make any findings with respect to an affected unit under this section prior to December 1, 2011. For any petition submitted prior to January 1, 2010, the Administrator shall make a finding or deny the petition by the December 31, 2011.

"(E) The Administrator, by rulemaking, shall extend the compliance and implementation deadlines in subsection (c) to the extent necessary to assure that no affected unit shall be subject to any such deadline prior to January 1, 2014."

(b) TITLE III.—Section 307(d)(1)(G) of title III of the Clean Air Act is amended to read as follows:

"(G) the promulgation or revision of any regulation under title IV,".

(c) NOISE POLLUTION.—Title N of the Clean Air Act (relating to noise pollution) (42 U.S.C. 7641 et seq.) is redesignated as title VII and amended by renumbering sections 401 through 403 as sections 701 through 703, respectively and conforming all cross-references thereto accordingly.

(d) SECTION 406.—Title IV of the Clean Air Act Amendments of 1990 (relating to acid deposition control) is amended by repealing section 406 (industrial Sulfur dioxide emissions).

(e) MONITORING.—Section 821 (a) of title VIII of the Clean Air Act Amendments of 1990 (miscellaneous provisions) is amended to read as follows:

"(a) MONITORING.—The Administrator shall promulgate regulations within 18 months after November 15, 1990, to require that all affected sources subject to subpart 1 of part B of title IV of the Clean Air Act as of December 31, 2009, shall also monitor carbon dioxide emissions according to the same timetable as in section 405(b). The required monitoring may be no more stringent than that required by any two of the four most populous countries for units comparable to the affected units in the United States. The regulations shall require that such data be reported to the Administrator. The provisions of section 405(e) of title IV of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 405. The Administrator shall implement this subsection under 40 CFR Part 75 (2002), amended as appropriate by the Administrator."

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 80—URGING JAPAN TO HONOR ITS COMMITMENTS UNDER THE 1986 MARKET-ORIENTED SECTOR-SELECTIVE (MOSS) AGREEMENT ON MEDICAL EQUIPMENT AND PHARMACEUTICALS, AND FOR OTHER PURPOSES

Mr. COLEMAN (for himself and Mr. BAYH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 80

Whereas the revolution in medical technology has improved our ability to respond to emerging threats and prevent, identify, treat, and cure a broad range of diseases and disabilities, and has the proven potential to bring even more valuable advances in the future;

Whereas medical technology has driven dramatic productivity gains for the benefit of patients, providers, employers, and our economy;

Whereas investment from the United States medical technology industry produces the majority of the $175,000,000,000 global business in development of medical devices, diagnostic products, and medical information systems, allowing patients to lead longer, healthier, and more productive lives;

Whereas the United States medical technology industry supports almost 1,000,000 Americans in high-value jobs located in every State, and the industry is a net contributor to the United States balance of trade, with a trade surplus of $3,300,000,000;

Whereas Japan is one of the most important trading partners of the United States;

Whereas United States products account for roughly ½ of the global market, but garner only a ⅓ share of Japan's market;

Whereas Japan has made little progress in implementing its commitments to cut product review times, improve their reimbursement system, and consult bilaterally on policy changes under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan;

Whereas, although regulatory reviews in Japan remain among the lengthiest in the world and Japan needs to accelerate patient access to safe and beneficial medical technologies, proposals currently under consideration in Japan would, in many cases, actually increase regulatory burdens on manufacturers and delay access without enhancing patient safety;

Whereas the general cost of doing business in Japan is among the highest in the world and is driven significantly higher by certain factors in the medical technology sector, and inefficiencies in Japanese distribution networks and hospital payment systems and unique regulatory burdens drive up the cost of bringing innovations to Japanese consumers and impede patient access to life-saving and life-enhancing medical technologies;

Whereas artificial government price caps such as the foreign average price policy adopted by the Government of Japan in 2002 restrict patient access and fail to recognize the value of innovation;

Whereas less than ⅒ of 1 percent of the tens of thousands of medical technologies introduced in Japan in the last 10 years received new product pricing;

Whereas the Government of Japan has adopted artificial price caps that are targeted toward technologies predominately marketed by United States companies and is considering altering pricing rules to enable further cuts to these products; and

Whereas these discriminatory pricing policies will allow the Japanese government to take advantage of United States research and development: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) urges Japan to honor its commitments under the Market-Oriented Sector-Selective (MOSS) Agreement on Medical Equipment and Pharmaceuticals, signed on January 9, 1986, between the United States and Japan (hereafter in this resolution referred to as the "MOSS Agreement"), by—

(A) reducing regulatory barriers to the approval and adoption of new medical technologies; and

(B) establishing reasonable agency performance goals for premarket approvals and an appropriate, risk-based postmarket system consistent with globally accepted practices;

(2) urges Japan to honor its commitments under the MOSS Agreement to improve the reimbursement environment for medical technologies by actively promoting pricing policies that encourage innovation for the benefit of Japanese patients and the Japanese economy; and

(3) urges Japan to honor its commitments under the MOSS Agreement by—

(A) implementing fair and open processes and rules that do not disproportionately harm United States medical technology products; and

(B) providing opportunities for consultation with trading partners.

AMENDMENTS SUBMITTED & PROPOSED

SA 2143. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table.

SA 2144. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table.

SA 2145. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

SA 2146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

SA 2147. Mr. CRAIG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2799, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2143. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 150, to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. SENSE OF SENATE ON NONTAXATION OF E-MAIL.

(a) FINDINGS.—The Senate finds that—

(1) the Internet is an indispensable part of global electronic connectivity and will only become more useful and indispensable as new technologies continue to be developed;

(2) Internet usage continues to grow exponentially in the United States and around the world;

(3) the Internet is used by every age group in our population and its use continues to increase regardless of income, education, age, race, ethnicity, or gender;

(4) our citizens rely on the Internet for real-time information, news, communication and commerce;

(5) the Internet and e-mail have succeeded in linking people across the country and around the world for personal, commercial, cultural, educational, governmental and a variety of other types of interactions;

(6) millions of e-mails are sent across the United States on a daily basis;

(7) the use of e-mail has allowed Americans to communicate to one another more information more conveniently, frequently, and inexpensively;

(8) taxing of e-mail would be a detriment to the continued growth of the Internet; and

(9) taxing of e-mail would have a negative financial impact on our citizens who use email to communicate with their family, friends, and coworkers.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that e-mail should not now, or in the future, be taxed by Federal, state, or local governments.

SA 2144. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 20 and 21, insert the following:

SEC. 413. A Mexican national described in section 212.1(c)(1)(i) of title 8 of the Code of Federal Regulations, as in effect on the date of enactment of this Act, shall be admitted as a nonimmigrant visitor for a period of 6 months.

SA 2145. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

On page 30, line 10, strike "$36,994,000" and insert "$41,994,000".

SA 2146. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

Insert at the appropriate place:

SECTION 1. TREATMENT AS AGENT OF A FOREIGN POWER UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978 OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.

(a) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) engages in international terrorism or activities in preparation therefor; or."

(b) SUNSET.—The amendment made by subsection (a) shall be subject to the sunset provision in section 224 of the USA PATRIOT Act of 2001 (Public Law 107-56; 115 Stat. 295), including the exception provided in subsection (b) of such section 224.

SEC. 2. ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating—

(A) title VI as title VII; and

(B) section 601 as section 701; and

(2) by inserting after title V the following new title VI:

"TITLE VI—REPORTING REQUIREMENT

"ANNUAL REPORT OF THE ATTORNEY GENERAL

"SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

"(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

"(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

"(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

"(c) In this section, the term 'appropriate committees of Congress' means—

"(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

"(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.".

(b) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

"TITLE VI—REPORTING REQUIREMENT

"Sec. 601. Annual report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date."

SA 2147. Mr. CRAIG (for himself and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill H.R. 2799, making appropriations for the Departments of Commerce, Justice, and State, the Judicary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DISTRICT JUDGESHIP FOR THE NORTHERN DISTRICT OF ALABAMA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the northern district of Alabama.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Alabama and inserting the following:

"Alabama:

Northern	8
Middle	3
Southern	3.".

SEC. ___. DISTRICT JUDGESHIPS FOR THE DISTRICT OF ARIZONA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the district of Arizona.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Arizona and inserting the following:

"Arizona .... 14.".

SEC. ___. DISTRICT JUDGESHIPS FOR THE EASTERN AND SOUTHERN DISTRICTS OF CALIFORNIA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 3 additional district judges for the eastern district of California; and

(2) 1 additional district judge for the southern district of California.

(b) CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP.—The existing judgeship for the eastern district of California authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section 133 of title 28, United States Code (as amended by this Act).

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to California and inserting the following:

"California:

Northern	14
Eastern	10
Central	27
Southern	14.".

(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—

(A) the date of enactment of this Act; or

(B) July 16, 2003.

SEC. ___. DISTRICT JUDGESHIP FOR THE DISTRICT OF IDAHO.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Idaho.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Idaho and inserting the following:

"Idaho .... 3.".

SEC. ___. TEMPORARY JUDGESHIP FOR THE NORTHERN DISTRICT OF IOWA.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional judge for the northern district of Iowa.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the northern district of Iowa occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

SEC. ___. CONVERSION OF TEMPORARY JUDGESHIP TO PERMANENT JUDGESHIP FOR THE DISTRICT OF NEBRASKA.

(a) IN GENERAL.—The existing judgeship for the district of Nebraska authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbent in that office shall hold the office under section

133 of title 28, United States Code (as amended by this Act).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Nebraska and inserting the following:

"Nebraska .... 4.".

SEC. ___. DISTRICT JUDGESHIPS FOR THE EASTERN DISTRICT OF NEW YORK.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional district judges for the eastern district of New York.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

(1) IN GENERAL.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to New York and inserting the following:

"New York:

Northern	5
Southern	28
Eastern	17
Western	4.".

(2) EFFECTIVE DATE.—This subsection shall take effect on the later of—

(A) the date of enactment of this Act; or

(B) July 16, 2003.

SEC. ___. TEMPORARY JUDGESHIP FOR THE EASTERN DISTRICT OF NEW YORK.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate 1 additional judge for the eastern district of New York.

(b) VACANCY NOT FILLED.—The first vacancy in the office of district judge in the eastern district of New York occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created by this subsection, shall not be filled.

SEC. ___. DISTRICT JUDGESHIP FOR THE DISTRICT OF SOUTH CAROLINA.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of South Carolina.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to South Carolina and inserting the following:

"South Carolina .... 11.".

SEC. ___. DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP FOR THE DISTRICT OF UTAH.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the district of Utah.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table under section 133(a) of title 28, United States Code, is amended by striking the item relating to Utah and inserting the following:

"Utah .... 6.".

NOTICES OF HEARINGS/MEETINGS

PERMANENT SUBCOMMITTEES ON INVESTIGATIONS

Mr. COLEMAN. Mr. President, I announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold two days of hearings entitled "U.S. Tax Shelter Industry: The Role of Accountants, Lawyers and Financial Professionals." The Subcommittee's hearings will examine the role of professional organizations like accounting firms, law firms, and financial institutions in developing, marketing and implementing tax shelters.

The hearings will take place on Tuesday, November 18 and Thursday, November 20, at 9:30 a.m. each day in Room 216 of the Hart Senate Office Building. For further information, please contact Elise Bean, Staff Director and Chief Counsel to the Minority of the Permanent Subcommittee on Investigations, at 224-9505.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

On Thursday, November 6, 2003, the Senate passed H.R. 2673, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2673) entitled "An Act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.", do pass with the following amendment: Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 2004, and for other purposes, namely:

TITLE I

AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, $10,046,000: Provided, That not to exceed $11,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

EXECUTIVE OPERATIONS

CHIEF ECONOMIST

For necessary expenses of the Chief Economist, including economic analysis, risk assessment, cost-benefit analysis, energy and new uses, and the functions of the World Agricultural Outlook Board, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $8,707,000.

NATIONAL APPEALS DIVISION

For necessary expenses of the National Appeals Division, $13,997,000.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, $7,544,000.

HOMELAND SECURITY STAFF

For necessary expenses of the Homeland Security Staff, $910,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, $15,710,000.

COMMON COMPUTING ENVIRONMENT

For necessary expenses to acquire a Common Computing Environment for the Natural Resources Conservation Service, the Farm and Foreign Agricultural Service and Rural Development mission areas for information technology, systems, and services, $118,789,000, to remain available until expended, for the capital asset acquisition of shared information technology systems, including services as authorized by 7 U.S.C. 6915–16 and 40 U.S.C. 1421–28: Provided, That obligation of these funds shall be consistent with the Department of Agriculture Service Center Modernization Plan of the county-based agencies, and shall be with the concurrence of the Department's Chief Information Officer.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, $5,496,000: Provided, That the Chief Financial Officer shall actively market and expand cross-servicing activities of the National Finance Center.

OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

For necessary salaries and expenses of the Office of the Assistant Secretary for Civil Rights, $794,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $15,445,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Administration, $673,000.

AGRICULTURE BUILDINGS AND FACILITIES AND RENTAL PAYMENTS

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-[illegible], including authorities pursuant to the 1984 delegation of authority from the Administrator of General Services to the Department of Agriculture under 40 U.S.C. 486, for programs and activities of the Department which are included in this Act, and for alterations and other actions needed for the Department and its agencies to consolidate unneeded space into configurations suitable for release to the Administrator of General Services, and for the operation, maintenance, improvement, and repair of Agriculture buildings and facilities, and for related costs, $187,022,000, to remain available until expended: Provided, That the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation to cover the costs of new or replacement space for such agency, but such transfers shall not exceed 5 percent of the funds made available for space rental and related costs to or from this account.

HAZARDOUS MATERIALS MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.) and the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), $15,611,000, to remain available until expended: Provided, That appropriations and funds available herein to the Department for Hazardous Materials Management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Departmental Administration, $23,031,000, to provide for necessary expenses for management support services to offices of the Department and for general administration security, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided *for and necessary for the practical and efficient work of the Department: Provided, That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558: Provided further, That of such amount, sufficient funds shall be available for the Secretary of Agriculture, not later than 60 days after the last day of the fiscal year, to submit to Congress a report on the amount of acquisitions made by the Department of Agriculture during such fiscal year of articles, materials, or supplies that were manufactured outside the United States. Such report shall separately indicate the dollar value of any articles, materials, or supplies purchased by the Department of Agriculture that were manufactured outside the United States, an itemized list of all waivers under the Buy American Act (41 U.S.C. 10a et seq.) that were granted with respect to such articles, materials, or supplies, and a summary of total procurement funds spent on goods manufactured in the United States versus funds spent on goods manufactured outside of the United States. The Secretary of Agriculture shall make the report publicly available by posting the report on an Internet website.*

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

(INCLUDING TRANSFERS OF FUNDS)

For necessary salaries and expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded by this Act, including programs involving intergovernmental affairs and liaison within the executive branch, $3,825,000: Provided, That these funds may be transferred to agencies of the Department of Agriculture funded by this Act to maintain personnel at the agency level: Provided further, That no other funds appropriated to the Department by this Act shall be available to the Department for support of activities of congressional relations.

OFFICE OF COMMUNICATIONS

For necessary expenses to carry out services relating to the coordination of programs involving public affairs, for the dissemination of agricultural information, and the coordination of information, work, and programs authorized by Congress in the Department, $9,228,000: Provided, That not to exceed $2,000,000 may be used for farmers' bulletins.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the Inspector General Act of 1978, $75,781,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(9) of the Inspector General Act of 1978, and including not to exceed $125,000 for certain confidential operational expenses, including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $35,343,000.

OFFICE OF THE UNDER SECRETARY FOR RESEARCH, EDUCATION AND ECONOMICS

For necessary salaries and expenses of the Office of the Under Secretary for Research, Education and Economics to administer the laws enacted by the Congress for the Economic Research Service, the National Agricultural Statistics Service, the Agricultural Research Service, and the Cooperative State Research, Education, and Extension Service, $596,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and analysis, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $69,902,000.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, marketing surveys, and the Census of Agriculture, as authorized by 7 U.S.C. 1621–1627 and 2204g, and other laws, $128,922,000, of which up to $25,279,000 shall be available until expended for the Census of Agriculture.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for); home economics or nutrition and consumer use including the acquisition, preservation, and dissemination of agricultural information; and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, and for land exchanges where the lands exchanged shall be of equal value or shall be equalized by a payment of money to the grantor which shall not exceed 25 percent of the total value of the land or interests transferred out of Federal ownership, $1,045,533,000: Provided, That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: Provided further, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided, the cost of constructing any one building shall not exceed $375,000, except for headhouses or greenhouses which shall each be limited to $1,200,000, and except for 10 buildings to be constructed or improved at a cost not to exceed $750,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building or $375,000, whichever is greater: Provided further, That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: Provided further, That appropriations hereunder shall be available for granting easements at the Beltsville Agricultural Research Center: Provided further, That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): Provided further, That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law: Provided further, That all rights and title of the United States in the 1.0664-acre parcel of land including improvements, as recorded at Book 1320, Page 253, records of Larimer County, State of Colorado, shall be conveyed to the Board of Governors of the Colorado State University for the benefit of Colorado State University.

None of the funds appropriated under this heading shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $46,000,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

RESEARCH AND EDUCATION ACTIVITIES

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, $617,575,000, as follows: to carry out the provisions of the Hatch Act of 1887 (7 U.S.C. 361a–i), $178,977,000; for grants for cooperative forestry research (16 U.S.C. 582a through a–7), $21,742,000; for payments to the 1890 land-grant colleges, including Tuskegee University and West Virginia State College (7 U.S.C. 3222), $35,411,000, of which $1,507,496 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for special grants for agricultural research (7 U.S.C. 450i(c)), $101,637,000; for special grants for agricultural research on improved pest control (7 U.S.C. 450i(c)), $14,976,000; for competitive research grants (7 U.S.C. 450i(b)), $180,000,000; for the support of animal health and disease programs (7 U.S.C. 3195), $5,065,000; for supplemental and alternative crops and products (7 U.S.C. 3319d), $840,000; for grants for research pursuant to the Critical Agricultural Materials Act (7 U.S.C. 178 et seq.), $1,242,000, to remain available until expended; for research grants for 1994 institutions pursuant to section 536 of Public Law 103–382 (7 U.S.C. 301 note), $1,093,000, to remain available until expended; for higher education graduate fellowship grants (7 U.S.C. 3152(b)(6)), $3,222,000, to remain available until expended (7 U.S.C. 2209b); for higher education challenge grants (7 U.S.C. 3152(b)(1)), $4,888,000; for a higher education multicultural scholars program (7 U.S.C. 3152(b)(5)), $992,000, to remain available until expended (7 U.S.C. 2209b); for an education grants program for Hispanic-serving Institutions (7 U.S.C. 3241), $4,073,000; for noncompetitive grants for the purpose of carrying out all provisions of 7 U.S.C. 3242 (section 759 of Public Law 106–78) to individual eligible institutions or consortia of eligible institutions in Alaska and in Hawaii, with funds awarded equally to each of the States of Alaska and Hawaii, $3,500,000; for a secondary agriculture education program and 2-year post-secondary education (7 U.S.C. 3152(j)), $994,000; for aquaculture grants (7 U.S.C. 3322), $4,471,000; for sustainable agriculture research and education (7 U.S.C. 5811), $13,661,000; for a program of capacity building grants (7 U.S.C. 3152(b)(4)) to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University and West Virginia State College, $11,404,000, to remain available until expended (7 U.S.C. 2209b); for payments to the 1994 Institutions pursuant to section 534(a)(1) of Public Law 103–382, $1,689,000; and for necessary expenses of Research and Education Activities, $26,698,000.

None of the funds in the foregoing paragraph shall be available to carry out research related to the production, processing or marketing of tobacco or tobacco products: Provided, That this paragraph shall not apply to research on the medical, biotechnological, food, and industrial uses of tobacco.

NATIVE AMERICAN INSTITUTIONS ENDOWMENT FUND

For the Native American Institutions Endowment Fund authorized by Public Law 103–382 (7 U.S.C. 301 note), $9,000,000.

EXTENSION ACTIVITIES

For payments to States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa, $450,084,000, as follows: payments for cooperative extension work under the Smith-Lever Act, to be distributed under sections 3(b) and 3(c) of said Act, and under section 208(c) of

Public Law 93–471, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $279,390,000; payments for extension work at the 1994 Institutions under the Smith-Lever Act (7 U.S.C. 343(b)(3)), $3,273,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,185,000; payments for the pest management program under section 3(d) of the Act, $10,689,000; payments for the farm safety program under section 3(d) of the Act, $5,489,000; payments to upgrade research, extension, and teaching facilities at the 1890 land-grant colleges, including Tuskegee University and West Virginia State College, as authorized by section 1447 of Public Law 95–113 (7 U.S.C. 3222b), $14,903,000, to remain available until expended; payments for youth-at-risk programs under section 3(d) of the Smith-Lever Act, $8,426,000; for youth farm safety education and certification extension grants, to be awarded competitively under section 3(d) of the Act, $496,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.), $4,516,000; payments for Indian reservation agents under section 3(d) of the Smith-Lever Act, $1,983,000; payments for sustainable agriculture programs under section 3(d) of the Act, $4,843,000; payments for rural health and safety education as authorized by section 502(i) of Public Law 92–419 (7 U.S.C. 2662(i)), $2,605,000; payments for cooperative extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326 and 328) and Tuskegee University and West Virginia State College, $31,908,000, of which $1,724,884 shall be made available only for the purpose of ensuring that each institution shall receive no less than $1,000,000; for grants to youth organizations pursuant to section 7630 of title 7, United States Code, $2,981,000; and for necessary expenses of extension activities, $20,397,000.

INTEGRATED ACTIVITIES

For the integrated research, education, and extension competitive grants programs, including necessary administrative expenses, as authorized under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626), $46,711,000, as follows: payments for the water quality program, $12,887,000; payments for the food safety program, $14,870,000; payments for the regional pest management centers program, $4,502,000; payments for the Food Quality Protection Act risk mitigation program for major food crop systems, $4,857,000; payments for the crops affected by Food Quality Protection Act implementation, $1,487,000; payments for the methyl bromide transition program, $3,500,000; payments for the organic transition program, $2,111,000; payments for the international science and education grants program under 7 U.S.C. 3291, to remain available until expended, $497,000; payments for the critical issues program under 7 U.S.C. 450i(c): Provided, That of the funds made available under this heading, $497,000 shall be for payments for the critical issues program under 7 U.S.C. 450i(c) and $1,503,000 shall be for payments for the regional rural development centers program under 7 U.S.C. 450i(c).

OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS

For grants and contracts pursuant to section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279), $3,470,000, to remain available until expended.

OFFICE OF THE UNDER SECRETARY FOR MARKETING AND REGULATORY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for Marketing and Regulatory Programs to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service; the Agricultural Marketing Service; and the Grain Inspection, Packers and Stockyards Administration; $736,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $705,552,000, of which $4,112,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions; of which $51,720,000 shall be used for the boll weevil eradication program for cost share purposes or for debt retirement for active eradication zones; and of which not less than $1,500,000 (in addition to any other funds made available for eradication or containment) shall be used by the Emerald Ash Borer Task Force for the removal of trees that have been adversely affected by the emerald ash borer, with a priority for the removal of trees on public property or that threaten public safety; and of which up to $275,000 may be used to control or alleviate the cormorant problem in the State of Michigan: Provided, That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 percent: Provided further, That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: Provided further, That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as may be deemed necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with sections 10411 and 10417 of the Animal Health Protection Act (7 U.S.C. 8310 and 8316) and sections 431 and 442 of the Plant Protection Act (7 U.S.C. 7751 and 7772), and any unexpended balances of funds transferred for such emergency purposes in the preceding fiscal year shall be merged with such transferred amounts: Provided further, That appropriations hereunder shall be available pursuant to law (7 U.S.C. 2250) for the repair and alteration of leased buildings and improvements, but unless otherwise provided the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

In fiscal year 2004, the agency is authorized to collect fees to cover the total costs of providing technical assistance, goods, or services requested by States, other political subdivisions, domestic and international organizations, foreign governments, or individuals, provided that such fees are structured such that any entity's liability for such fees is reasonably based on the technical assistance, goods, or services provided to the entity by the agency, and such fees shall be credited to this account, to remain available until expended, without further appropriation, for providing such assistance, goods, or services.

BUILDINGS AND FACILITIES

For plans, construction, repair, preventive maintenance, environmental support, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $4,996,000, to remain available until expended.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry out services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs, as authorized by law, and for administration and coordination of payments to States, $75,263,000, including funds for the wholesale market development program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building: Provided further, That, in the case of the term of protection for the variety for which certificate number 8200179 was issued, on the date of enactment of this Act, the Secretary of Agriculture shall issue a new certificate for a term of protection of 10 years for the variety, except that the Secretary may terminate the certificate (at the end of any calendar year that is more than 5 years after the date of issuance of the certificate) if the Secretary determines that a new variety of seed (that is substantially based on the genetics of the variety for which the certificate was issued) is commercially viable and available in sufficient quantities to meet market demands.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $62,577,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $15,392,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $3,338,000, of which not less than $2,000,000 shall be used to make noncompetitive grants under this heading.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, for the administration of the Packers and Stockyards Act, for certifying procedures used to protect purchasers of farm products, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, $35,638,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,463,000 (from fees collected) shall be obligated during the current fiscal year for inspection and weighing services: Provided, That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

OFFICE OF THE UNDER SECRETARY FOR FOOD SAFETY

For necessary salaries and expenses of the Office of the Under Secretary for Food Safety to administer the laws enacted by the Congress for the Food Safety and Inspection Service, $611,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry out services authorized by the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, including not to exceed $50,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $783,761,000, of which no less than $701,103,000 shall be available for Federal food safety inspection; and in addition, $1,000,000 may be credited to this account from fees collected for the cost of laboratory accreditation as authorized by section 1327 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 138f): Provided, That no fewer than 50 full time equivalent positions above the fiscal year 2002 level shall be employed during fiscal year 2004 for purposes dedicated solely to inspections and enforcement related to the Humane Methods of Slaughter Act: Provided further, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 percent of the current replacement value of the building.

OFFICE OF THE UNDER SECRETARY FOR FARM AND FOREIGN AGRICULTURAL SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Farm and Foreign Agricultural Services to administer the laws enacted by Congress for the Farm Service Agency, the Foreign Agricultural Service, the Risk Management Agency, and the Commodity Credit Corporation, $635,000.

FARM SERVICE AGENCY

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs administered by the Farm Service Agency, $988,768,000: Provided, That the Secretary is authorized to use the services, facilities, and authorities (but not the funds) of the Commodity Credit Corporation to make program payments for all programs administered by the Agency: Provided further, That other funds made available to the Agency for authorized activities may be advanced to and merged with this account.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,974,000.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers and manufacturers of dairy products under a dairy indemnity program, $100,000, to remain available until expended: Provided, That such program is carried out by the Secretary in the same manner as the dairy indemnity program described in Public Law 106–387 (114 Stat. 1549A–12).

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed farm ownership (7 U.S.C. 1922 et seq.) and operating (7 U.S.C. 1941 et seq.) loans, Indian tribe land acquisition loans (25 U.S.C. 488), and boll weevil loans (7 U.S.C. 1989), to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $1,079,158,000, of which $950,000,000 shall be for guaranteed loans and $129,158,000 shall be for direct loans; operating loans, $2,067,317,000, of which $1,200,000,000 shall be for unsubsidized guaranteed loans, $266,249,000 shall be for subsidized guaranteed loans and $601,068,000 shall be for direct loans; Indian tribe land acquisition loans, $2,000,000; and for boll weevil eradication program loans, $100,000,000: Provided, That the Secretary shall deem the pink bollworm to be a boll weevil for the purpose of boll weevil eradication program loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $33,648,000, of which $5,130,000 shall be for guaranteed loans, and $28,518,000 shall be for direct loans; operating loans, $160,634,000, of which $39,960,000 shall be for unsubsidized guaranteed loans, $34,000,000 shall be for subsidized guaranteed loans, and $86,674,000 shall be for direct loans.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $290,968,000, of which $283,020,000 shall be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

Funds appropriated by this Act to the Agricultural Credit Insurance Program Account for farm ownership and operating direct loans and guaranteed loans may be transferred among these programs: Provided, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any transfer.

RISK MANAGEMENT AGENCY

For administrative and operating expenses, as authorized by section 226A of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933), $71,422,000: Provided, That not to exceed $1,000 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided.

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516), such sums as may be necessary, to remain available until expended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For the current fiscal year, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, pursuant to section 2 of the Act of August 17, 1961 (15 U.S.C. 713a–11).

HAZARDOUS WASTE MANAGEMENT

(LIMITATION ON EXPENSES)

For the current fiscal year, the Commodity Credit Corporation shall not expend more than $5,000,000 for site investigation and cleanup expenses, and operations and maintenance expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9607(g)), and section 6001 of the Resource Conservation and Recovery Act (42 U.S.C. 6961).

TITLE II

CONSERVATION PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Under Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Natural Resources Conservation Service, $761,000.

NATURAL RESOURCES CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands, water, and interests therein for use in the plant materials program by donation, exchange, or purchase at a nominal cost not to exceed $100 pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $826,635,000, to remain available until expended, of which not less than $9,500,000 is for snow survey and water forecasting, and not less than $11,269,000 is for operation and establishment of the plant materials centers, and of which not less than $23,500,000 shall be for the grazing lands conservation initiative: Provided, That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for construction and improvement of buildings and public improvements at plant materials centers, except that the cost of alterations and improvements to other buildings and other public improvements shall not exceed $250,000: Provided further, That when buildings or other structures are erected on non-Federal land, that the right to use such land is obtained as provided in 7 U.S.C. 2250a: Provided further, That this appropriation shall be available for technical assistance and related expenses to carry out programs authorized by section 202(c) of title II of the Colorado River Basin Salinity Control Act of 1974 (43 U.S.C. 1592(c)): Provided further, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: Provided further, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED SURVEYS AND PLANNING

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, and for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1009), $10,000,000: Provided, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: Provided further, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001–1005 and 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $55,000,000, to remain available until expended (of which up to $5,000,000 may be available for the watersheds authorized under the Flood Control Act (33 U.S.C. 701 and 16 U.S.C. 1006a)): Provided, That not to exceed $20,000,000 of this appropriation shall be available for technical assistance: Provided further, That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction: Provided further, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: Provided further, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

WATERSHED REHABILITATION PROGRAM

For necessary expenses to carry out rehabilitation of structural measures, in accordance with section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012), and in accordance with the provisions of laws relating to the activities of the Department, $29,805,000, to remain available until expended: Provided, That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service: Provided further, That none of the funds made available under this paragraph by this or any other appropriations Act may be used to provide technical assistance with respect to programs listed in section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)).

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of sections 31 and 32 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1011; 76 Stat. 607); the Act of April 27, 1935 (16 U.S.C. 590a–f); and subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $51,000,000, to remain available until expended.

TITLE III

RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Rural Development to administer programs under the laws enacted by the Congress for the Rural Housing Service, the Rural Business-Cooperative Service, and the Rural Utilities Service of the Department of Agriculture, $651,000.

RURAL COMMUNITY ADVANCEMENT PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For the cost of direct loans, loan guarantees, and grants, as authorized by 7 U.S.C. 1926, 1926a, 1926c, 1926d, and 1932, except for sections 381E–H and 381N of the Consolidated Farm and Rural Development Act, $767,479,000, to remain available until expended, of which $79,838,000 shall be for rural community programs described in section 381E(d)(1) of such Act; of which $610,641,000 shall be for the rural utilities programs described in sections 381E(d)(2), 306C(a)(2), and 306D of such Act; and of which $79,000,000 shall be for the rural business and cooperative development programs described in sections 381E(d)(3) and 310B(f) of such Act: Provided, That of the amount appropriated for rural business and cooperative development programs, $100,000 shall be for a pilot program in the State of Alaska to assist communities with community planning: Provided further, That of the total amount appropriated in this account, $24,000,000 shall be for loans and grants to benefit Federally Recognized Native American Tribes, including grants for drinking water and waste disposal systems pursuant to section 306C of such Act, of which $4,000,000 shall be available for community facilities grants to tribal colleges, as authorized by section 306(a)(19) of the Consolidated Farm and Rural Development Act, and of which $250,000 shall be available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development: Provided further, That of the amount appropriated for rural community programs, $6,000,000 shall be available for a Rural Community Development Initiative: Provided further, That such funds shall be used solely to develop the capacity and ability of private, nonprofit community-based housing and community development organizations, low-income rural communities, and Federally Recognized Native American Tribes to undertake projects to improve housing, community facilities, community and economic development projects in rural areas: Provided further, That such funds shall be made available to qualified private, nonprofit and public intermediary organizations proposing to carry out a program of financial and technical assistance: Provided further, That such intermediary organizations shall provide matching funds from other sources, including Federal funds for related activities, in an amount not less than funds provided: Provided further, That of the amount appropriated for the rural business and cooperative development programs, not to exceed $500,000 shall be made available for a grant to a qualified national organization to provide technical assistance for rural transportation in order to promote economic development; $2,000,000 shall be for grants to the Delta Regional Authority (7 U.S.C. 1921 et seq.); and not less than $5,000,000 shall be available for grants in accordance with section 310B(f) of the Consolidated Farm and Rural Development Act: Provided further, That of the amount appropriated for rural utilities programs, not to exceed $25,000,000 shall be for water and waste disposal systems to benefit the Colonias along the United States/Mexico border, including grants pursuant to section 306C of such Act; not to exceed $30,000,000 shall be for water and waste disposal systems for rural and native villages in Alaska pursuant to section 306D of such Act, with up to 1 percent available to administer the program and up to 1 percent available to improve interagency coordination may be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses", of which 25 percent shall be provided for water and sewer projects in regional hubs and $100,000 shall be provided to develop a regional system for centralized billing, operation, and management of rural water and sewer utilities through regional cooperatives, and the State of Alaska shall provide a 25 percent cost share: not to exceed $18,000,000 shall be for technical assistance grants for rural water and waste systems pursuant to section 306(a)(14) of such Act, of which $5,513,000 shall be for Rural Community Assistance Programs; and not to exceed $13,000,000 shall be for contracting with qualified national organizations for a circuit rider program to provide technical assistance for rural water systems: Provided further, That of the amount appropriated for the circuit rider program, Alaska shall receive no less than five percent and not less than $750,000 shall be for contracting with qualified national organizations to establish a Native American circuit rider program to provide technical assistance for rural water systems: Provided further, That not less than $2,000,000 shall be available to carry out Section 6012 of Public Law 107–171: Provided further, That of the total amount appropriated, not to exceed $22,132,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones; of which $1,000,000 shall be for the rural community programs described in section 381E(d)(1) of such Act, of which $12,582,000 shall be for the rural utilities programs described in section 381E(d)(2) of such Act, and of which $8,550,000 shall be for the rural business and cooperative development programs described in section 381E(d)(3) of such Act: Provided further, That of the amount appropriated for rural community programs, not to exceed $23,000,000 shall be to provide grants for facilities in rural communities with extreme unemployment and severe economic depression (Public Law 106–387), with 5 percent for administration and capacity building in the State rural development offices: Provided further, That of the amount appropriated, $30,000,000 shall be transferred to and merged with the "Rural Utilities Service, High Energy Cost Grants Account" to provide grants authorized under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a): Provided further, That of the amount made available for high energy cost grants, up to $3,000,000 shall be available to a not-for-profit consumer-owned cooperative utility provider serving an island community in a non-contiguous State for the purpose of defraying transaction, transition, organizational, and other fair and reasonable costs, as determined by the Secretary, incurred during the period July 1, 1999 through December 31, 2002, and directly related to the successful acquisition by such provider of the investor-owned electric utility facilities (including generation, transmission, distribution, and other related assets) formerly serving ratepayers on the island: Provided further, That any prior year balances for high cost energy grants authorized by section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 901(19)) shall be transferred to and merged with the "Rural Utilities Service, High Energy Costs Grants" account.

RURAL DEVELOPMENT SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses for carrying out the administration and implementation of programs *in the Rural Development mission area, including activities with institutions concerning the development and operation of agricultural cooperatives; and for cooperative agreements; $140,922,000: Provided, That notwithstanding any other provision of law, funds appropriated under this section may be used for advertising and promotional campaigns, including souvenirs, that support activities conducted by agencies of the Rural Development mission area: Provided further, That not more than $10,000 may be expended to provide modest nonmonetary awards to non-USDA employees: Provided further, That any balances available from prior years for the Rural Utilities Service, Rural Housing Service, and the Rural Business-Cooperative Service salaries and expenses accounts shall be transferred to and merged with this appropriation.*

RURAL HOUSING SERVICE

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, to be available from funds in the rural housing insurance fund, as follows: $4,084,589,000 for loans to section 502 borrowers, as determined by the Secretary, of which $1,359,417,000 shall be for direct loans, and of which $2,725,172,000 shall be for unsubsidized guaranteed loans; $35,004,000 for section 504 housing repair loans; $115,052,000 for section 515 rental housing; $100,000,000 for section 538 guaranteed multi-family housing loans; $5,045,000 for section 524 site loans; $11,500,000 for credit sales of acquired property, of which up to $1,500,000 may be for multi-family credit sales; and $1,623,000 for section 523 self-help housing land development loans.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: section 502 loans, $165,921,000, of which $126,018,000 shall be for direct loans, and of which $39,903,000, to remain available until expended, shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $9,612,000; section 515 rental housing, $49,484,000; section 538 multi-family housing guaranteed loans, $5,950,000; multi-family credit sales of acquired property, $663,000; and section 523 self-help housing land development loans, $50,000: Provided, That of the total amount appropriated in this paragraph, $7,100,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $439,453,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) or agreements entered into in lieu of debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Housing Act of 1949, $721,281,000; and, in addition, such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1992 to carry out the rental assistance program under section 521(a)(2) of the Act: Provided, That of this amount, not more than $5,900,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $20,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: Provided further, That agreements entered into or renewed during the current fiscal year shall be funded for a 5-year period, although the life of any such agreement may be extended to fully utilize amounts obligated.

MUTUAL AND SELF-HELP HOUSING GRANTS

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $34,000,000, to remain available until expended: Provided, That of the total amount appropriated, $1,000,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

RURAL HOUSING ASSISTANCE GRANTS

For grants and contracts for very low-income housing repair, supervisory and technical assistance, compensation for construction defects, and rural housing preservation made by the Rural Housing Service, as authorized by 42 U.S.C. 1474, 1479(c), 1490e, and 1490m, $46,222,000, to remain available until expended, of which $5,000,000 shall be available for a processing and/or fishery workers housing demonstration project in Alaska, Mississippi, Utah, and Wisconsin: Provided, That of the total amount appropriated, $1,800,000 shall be available through June 30, 2004, for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

FARM LABOR PROGRAM ACCOUNT

For the cost of direct loans, grants, and contracts, as authorized by 42 U.S.C. 1484 and 1486, $33,015,000, to remain available until expended, for direct farm labor housing loans and domestic farm labor housing grants and contracts.

HISTORIC BARN PRESERVATION PROGRAM

For the historic barn preservation program established under section 379A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008o), $2,000,000.

RURAL BUSINESS—COOPERATIVE SERVICE

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the principal amount of direct loans, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), $40,000,000.

For the cost of direct loans, $17,308,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)), of which $1,724,000 shall be available through June 30, 2004, for Federally Recognized Native American Tribes and of which $3,449,000 shall be available through June 30, 2004, for Delta Regional Authority (7 U.S.C. 1921 et seq.): Provided, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: Provided further, That of the total amount appropriated, $2,447,000 shall be available through June 30, 2004, for the cost of direct loans for authorized empowerment zones and enterprise communities and communities designated by the Secretary of Agriculture as Rural Economic Area Partnership Zones.

In addition, for administrative expenses to carry out the direct loan programs, $4,283,000 shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

(INCLUDING RESCISSION OF FUNDS)

For the principal amount of direct loans, as authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $15,002,000.

For the cost of direct loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, $2,792,000.

Of the funds derived from interest on the cushion of credit payments in the current fiscal year, as authorized by section 313 of the Rural Electrification Act of 1936, $3,000,000 shall not be obligated and $3,000,000 are rescinded.

RURAL COOPERATIVE DEVELOPMENT GRANTS

For rural cooperative development grants authorized under section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932), $8,967,000, of which $2,500,000 shall be for cooperative agreements for the appropriate technology transfer for rural areas program: Provided, That not to exceed $1,500,000 of the total amount appropriated shall be made available to cooperatives or associations of cooperatives whose primary focus is to provide assistance to small, minority producers and whose governing board and/or membership is comprised of at least 75 percent minority.

RURAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES GRANTS

For grants in connection with second and third rounds of empowerment zones and enterprise communities, $14,370,000, to remain available until expended, for designated rural empowerment zones and rural enterprise communities, as authorized by the Taxpayer Relief Act of 1997 and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105–277): Provided, That of the funds appropriated, $1,000,000 shall be made available to third round empowerment zones, as authorized by the Community Renewal Tax Relief Act (Public Law 106–554).

RENEWABLE ENERGY PROGRAM

For the cost of a program of direct loans and grants, under the same terms and conditions as authorized by section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106), $23,000,000 for direct renewable energy loans and grants: Provided, That the cost of direct loans and loan guarantees, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

RURAL UTILITIES SERVICE

RURAL ELECTRIFICATION AND TELECOMMUNICATIONS LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) shall be made as follows: 5 percent rural electrification loans, $240,000,000; municipal rate rural electric loans, $1,000,000,000; loans made pursuant to section 306 of that Act, rural electric, $2,000,000,000; Treasury rate direct electric loans, $750,000,000; 5 percent rural telecommunications loans, $145,000,000; cost of money rural telecommunications loans, $250,000,000; loans made pursuant to section 306 of that Act, rural telecommunications loans, $120,000,000; and for guaranteed underwriting loans pursuant to section 313A, $1,000,000,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by sections 305 and 306 of the Rural Electrification Act of 1936 (7 U.S.C. 935 and 936), as follows: cost of rural electric loans, $60,000, and the cost of telecommunication loans, $125,000: Provided, That notwithstanding section 305(d)(2) of the Rural Electrification Act of 1936, borrower interest rates may exceed 7 percent per year.

In addition, for administrative expenses necessary to carry out the direct and guaranteed *loan programs, $37,920,000 which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".*

RURAL TELEPHONE BANK PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out its authorized programs. During fiscal year 2004 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be $173,503,000.

In addition, for administrative expenses, including audits, necessary to carry out the loan programs, $3,182,000, which shall be transferred to and merged with the appropriation for "Rural Development, Salaries and Expenses".

DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM

For the principal amount of direct distance learning and telemedicine loans, $300,000,000; and for the principal amount of broadband telecommunications loans, $647,000,000.

For grants for telemedicine and distance learning services in rural areas, as authorized by 7 U.S.C. 950aaa et seq., $40,000,000, to remain available until expended: Provided, That $15,000,000 shall be made available to convert analog to digital operation those noncommercial educational television broadcast stations that serve rural areas and are qualified for Community Service Grants by the Corporation for Public Broadcasting under section 396(k) of the Communications Act of 1934, including associated translators, repeaters, and studio-to-transmitter links.

For the cost of direct and guaranteed broadband loans, as authorized by 7 U.S.C. 901, et seq., $15,116,000: Provided, That the cost of direct loans shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, $10,000,000, to remain available until expended, for a grant program to finance broadband transmission in rural areas eligible for Distance Learning and Telemedicne Program benefits authorized by 7 U.S.C. 950aaa.

TITLE IV

DOMESTIC FOOD PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR FOOD, NUTRITION AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Under Secretary for Food, Nutrition and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service, $611,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; $11,418,441,000, to remain available through September 30, 2005, of which $6,718,780,000 is hereby appropriated and $4,699,661,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That up to $5,235,000 shall be available for independent verification of school food service claims.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental nutrition program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $4,639,232,000, to remain available through September 30, 2005, of which $10,000,000 shall be for a breastfeeding support initiative in addition to the activities specified in section 17(h)(3)(A) and $30,000,000 shall be for a management information system initiative: Provided, That of the total amount available, the Secretary shall obligate $25,000,000 for the farmers' market nutrition program: Provided further, That notwithstanding section 17(h)(10)(A) of such Act, $14,000,000 shall be available for the purposes specified in section 17(h)(10)(B): Provided further, That notwithstanding section 17(g)(5) of such Act, $5,000,000 shall be available for pilot projects to prevent childhood obesity: Provided further, That none of the funds in this Act shall be available to pay administrative expenses of WIC clinics except those that have an announced policy of prohibiting smoking within the space used to carry out the program: Provided further, That none of the funds provided in this account shall be available for the purchase of infant formula except in accordance with the cost containment and competitive bidding requirements specified in section 17 of such Act: Provided further, That none of the funds provided shall be available for activities that are not fully reimbursed by other Federal Government departments or agencies unless authorized by section 17 of such Act.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011 et seq.), $29,945,981,000, of which $2,000,000,000 shall be placed in reserve for use only in such amounts and at such times as may become necessary to carry out program operations: Provided, That none of the funds made available under this heading shall be used for studies and evaluations: Provided further, That of the funds made available under this heading and not already appropriated to the Food Distribution Program on Indian Reservations (FDPIR) established under section 4(b) of the Food Stamp Act of 1977 (7 U.S.C. 2013(b)), not to exceed $4,000,000 shall be used to purchase bison meat for the FDPIR from Native American bison producers as well as from producer-owned cooperatives of bison ranchers: Provided further, That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: Provided further, That this appropriation shall be subject to any work registration or workfare requirements as may be required by law: Provided further, That funds made available for Employment and Training under this heading shall remain available until expended, as authorized by section 16(h)(1) of the Food Stamp Act.

COMMODITY ASSISTANCE PROGRAM

For necessary expenses to carry out disaster assistance and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); the Emergency Food Assistance Act of 1983; and special assistance (in a form determined by the Secretary of Agriculture) for the nuclear affected islands, as authorized by section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1903(h)(2)) (or a successor law), $145,740,000, to remain available through September 30, 2005: Provided, That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

NUTRITION PROGRAMS ADMINISTRATION

For necessary administrative expenses of the domestic nutrition assistance programs funded under this Act, $138,304,000, of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp benefit delivery, and assisting in the prevention, identification, and prosecution of fraud and other violations of law; and of which not less than $4,000,000 shall be available to improve integrity in the Food Stamp and Child Nutrition programs.

TITLE V

FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S:C. 1761–1769), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $158,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $131,648,000: Provided, That the Service may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1737) and the foreign assistance programs of the United States Agency for International Development.

PUBLIC LAW 480 TITLE I PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of agreements under the Agricultural Trade Development and Assistance Act of 1954, and the Food for Progress Act of 1985, including the cost of modifying credit arrangements under said Acts, $103,887,000, to remain available until expended.

In addition, for administrative expenses to carry out the credit program of title I, Public Law 83–480, and the Food for Progress Act of 1985, to the extent funds appropriated for Public Law 83–480 are utilized, $2,134,000, of which $1,075,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $1,059,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

PUBLIC LAW 480 TITLE I OCEAN FREIGHT DIFFERENTIAL GRANTS

(INCLUDING TRANSFER OF FUNDS)

For ocean freight differential costs for the shipment of agricultural commodities under title I of the Agricultural Trade Development and Assistance Act of 1954 and under the Food for Progress Act of 1985, $28,000,000, to remain available until expended: Provided, That funds made available for the cost of agreements under title I of the Agricultural Trade Development and Assistance Act of 1954 and for title I ocean freight differential may be used interchangeably between the two accounts with prior notice to the Committees on Appropriations of both Houses of Congress.

PUBLIC LAW 480 TITLE II GRANTS

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $1,192,000,000, to remain available until expended.

MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM GRANTS

For necessary expenses to carry out the provisions of section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1), $25,000,000, to remain available until expended:

Provided, That the Commodity Credit Corporation is authorized to provide the services, facilities, and authorities for the purpose of implementing such section, subject to reimbursement from amounts provided herein.

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the Commodity Credit Corporation's export guarantee program, GSM 102 and GSM 103, $4,152,000; to cover common overhead expenses as permitted by section 11 of the Commodity Credit Corporation Charter Act and in conformity with the Federal Credit Reform Act of 1990, of which $3,306,000 may be transferred to and merged with the appropriation for "Foreign Agricultural Service, Salaries and Expenses", and of which $846,000 may be transferred to and merged with the appropriation for "Farm Service Agency, Salaries and Expenses".

TITLE VI

RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire and purchase of passenger motor vehicles; for payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Food and Drug Administration which are included in this Act; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $1,663,228,000, of which not to exceed $249,825,000 to be derived from prescription drug user fees authorized by 21 U.S.C. 379h, including any such fees assessed prior to the current fiscal year but credited during the current year, in accordance with section 736(g)(4), shall be credited to this appropriation and remain available until expended; and of which not to exceed $29,190,000 to be derived from medical device user fees authorized by 21 U.S.C. 379j shall be credited to this appropriation, to remain available until expended: Provided, That fees derived from applications received during fiscal year 2004 shall be subject to the fiscal year 2004 limitation: Provided further, That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: Provided further, That of the total amount appropriated: (1) $412,020,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $475,655,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs, of which no less than $13,270,000 shall be available for grants and contracts awarded under section 5 of the Orphan Drug Act (21 U.S.C. 360ee) and of which no less than $52,845,000 shall be available for the generic drugs program; (3) $168,836,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $84,646,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $207,686,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $39,887,000 shall be for the National Center for Toxicological Research; (7) $40,851,000 shall be for Rent and Related activities, other than the amounts paid to the General Services Administration for rent; (8) $119,152,000 shall be for payments to the General Services Administration for rent; and (9) $114,495,000 shall be for other activities, including the Office of the Commissioner; the Office of Management and Systems; the Office of External Relations; the Office of Policy, Legislation, and Planning; and central services for these offices: Provided further, That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

In addition, mammography user fees authorized by 42 U.S.C. 263b may be credited to this account, to remain available until expended.

In addition, export certification user fees authorized by 21 U.S.C. 381 may be credited to this account, to remain available until expended.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $7,948,000, to remain available until expended.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles, and the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, $88,435,000, including not to exceed $3,000 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,900,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: Provided, That this limitation shall not apply to expenses associated with receiverships.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 398 passenger motor vehicles, of which 396 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

SEC. 703. Funds appropriated by this Act shall be available for employment pursuant to the second sentence of section 706(a) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2225) and 5 U.S.C. 3109.

SEC. 704. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: Provided, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: Provided further, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 705. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, information technology infrastructure, fruit fly program, emerging plant pests, boll weevil program, and up to 25 percent of the screwworm program; Food Safety and Inspection Service, field automation and information management project; Cooperative State Research, Education, and Extension Service, funds for competitive research grants (7 U.S.C. 450i(b)), funds for the Research, Education and Economics Information System (REEIS), and funds for the Native American Institutions Endowment Fund; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program and up to $2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

SEC. 706. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 707. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to section 606C of the Act of August 28, 1954 (7 U.S.C. 1766b).

SEC. 708. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 709. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 710. None of the funds in this Act shall be available to pay indirect costs charged against competitive agricultural research, education, or extension grant awards issued by the Cooperative State Research, Education, and Extension Service that exceed 19 percent of total Federal funds provided under each award: Provided, That notwithstanding section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310), funds provided by this Act for grants awarded competitively by the Cooperative State Research, Education, and Extension Service shall be available to pay full allowable indirect costs for each grant awarded under section 9 of the Small Business Act (15 U.S.C. 638).

SEC. 711. Notwithstanding any other provision of this Act, all loan levels provided in this Act shall be considered estimates, not limitations.

SEC. 712. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to cover obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Telephone Bank program account, the Rural Electrification and Telecommunications Loans program account, the Rural Housing Insurance

Fund program account, and the Rural Economic Development Loans program account.

SEC. 713. None of the funds in this Act may be used to retire more than 5 percent of the Class A stock of the Rural Telephone Bank or to maintain any account or subaccount within the accounting records of the Rural Telephone Bank the creation of which has not specifically been authorized by statute: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available in this Act may be used to transfer to the Treasury or to the Federal Financing Bank any unobligated balance of the Rural Telephone Bank telephone liquidating account which is in excess of current requirements and such balance shall receive interest as set forth for financial accounts in section 505(c) of the Federal Credit Reform Act of 1990.

SEC. 714. Of the funds made available by this Act, not more than $1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with negotiated rule makings and panels used to evaluate competitively awarded grants.

SEC. 715. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

SEC. 716. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

SEC. 717. None of the funds appropriated or otherwise made available to the Department of Agriculture shall be used to transmit or otherwise make available to any non-Department of Agriculture employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

SEC. 718. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 719. (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

SEC. 720. With the exception of funds needed to administer and conduct oversight of grants awarded and obligations incurred in prior fiscal years, none of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to carry out the provisions of section 401 of Public Law 105–185, the Initiative for Future Agriculture and Food Systems (7 U.S.C. 7621).

SEC. 721. None of the funds made available to the Food and Drug Administration by this Act shall be used to reduce the Detroit, Michigan, Food and Drug Administration District Office below the operating and full-time equivalent staffing level of July 31, 1999; or to change the Detroit District Office to a station, residence post or similarly modified office; or to reassign residence posts assigned to the Detroit District Office: Provided, That this section shall not apply to Food and Drug Administration field laboratory facilities or operations currently located in Detroit, Michigan, except that field laboratory personnel shall be assigned to locations in the general vicinity of Detroit, Michigan, pursuant to cooperative agreements between the Food and Drug Administration and other laboratory facilities associated with the State of Michigan.

SEC. 722. None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2005 appropriations Act.

SEC. 723. None of the funds made available by this Act or any other Act may be used to close or relocate a State Rural Development office unless or until cost effectiveness and enhancement of program delivery have been determined.

SEC. 724. Of any shipments of commodities made pursuant to section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), the Secretary of Agriculture shall, to the extent practicable, direct that tonnage equal in value to not more than $25,000,000 shall be made available to foreign countries to assist in mitigating the effects of the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome on communities, including the provision of—

(1) agricultural commodities to—

(A) individuals with Human Immunodeficiency Virus or Acquired Immune Deficiency Syndrome in the communities; and

(B) households in the communities, particularly individuals caring for orphaned children; and

(2) agricultural commodities monetized to provide other assistance (including assistance under microcredit and microenterprise programs) to create or restore sustainable livelihoods among individuals in the communities, particularly individuals caring for orphaned children.

SEC. 725. In addition to amounts otherwise appropriated or made available by this Act, $2,981,000 is appropriated for the purpose of providing Bill Emerson and Mickey Leland Hunger Fellowships through the Congressional Hunger Center.

SEC. 726. Notwithstanding section 412 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f), any balances available to carry out title III of such Act as of the date of enactment of this Act, and any recoveries and reimbursements that become available to carry out title III of such Act, may be used to carry out title II of such Act.

SEC. 727. Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) is amended by striking "$26,499,000" and inserting "$26,998,000".

SEC. 728. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 729. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

SEC. 730. Notwithstanding any other provision of law, of the funds made available in this Act for competttive research grants (7 U.S.C. 450i(b)), the Secretary may use up to 20 percent of the amount provided to carry out a competitive grants program under the same terms and conditions as those provided in section 401 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621), including requests for proposals for grants for critical emerging issues described in section 401(c)(1) of that Act for which the Secretary has not issued requests for proposals for grants in fiscal year 2002 or 2003.

SEC. 731. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out the Upper Tygart Valley Watershed project, West Virginia: Provided, That the Natural Resources Conservation Service is authorized to provide 100 percent of the engineering assistance and 75 percent cost share for installation of the water supply component of this project.

SEC. 732. Agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies *and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees on Appropriations of both Houses of Congress.*

SEC. 733. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

SEC. 734. None of the funds appropriated or made available by this Act, or any other Act, may be used to pay the salaries and expenses of personnel to carry out subtitle I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009dd through dd–7).

SEC. 735. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out Section 6405 of Public Law 107–171 (7 U.S.C. 2655).

SEC. 736. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide financial and technical assistance through the Watershed and Flood Prevention Operations program for the Kuhn Bayou and Ditch 26 Improvement projects in Arkansas, the Matanuska River erosion control project in Alaska, the DuPage County Sawmill Creek Watershed project in Illinois, and the Coal Creek project in Utah, and four flood control structures in Marmaton, Kansas.

SEC. 737. None of the funds made available in fiscal year 2004 or preceding fiscal years for programs authorized under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) in excess of $20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f–1): Provided, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

SEC. 738. Notwithstanding any other provision of law, the Natural Resources Conservation Service may provide from appropriated funds financial and technical assistance to the Dry Creek project, Utah.

SEC. 739. The Secretary of Agriculture is authorized to permit employees of the United States Department of Agriculture to carry and use firearms for personal protection while conducting field work in remote locations in the performance of their official duties.

SEC. 740. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries and expenses of personnel to carry out the provisions of sections 7404(a)(1) and 7404(c)(1) of Public Law 107–171.

SEC. 741. Of the funds made available under section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use up to $10,000,000 for costs associated with the distribution of commodities.

SEC. 742. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to enroll in excess of 189,144 acres in the calendar year 2004 wetlands reserve program as authorized by 16 U.S.C. 3837.

SEC. 743. (a) Notwithstanding subsections (c) and (e)(2) of section 313A of the Rural Electrification Act (7 U.S.C. 940c(c) and (e)(2)) in implementing section 313A of that Act, the Secretary shall, with the consent of the lender, structure the schedule for payment of the annual fee, not to exceed an average of 30 basis points per year for the term of the loan, to ensure that sufficient funds are available to pay the subsidy costs for note guarantees under that section; and

(b) The Secretary shall publish a proposed rule to carry out section 313A of the Rural Electrification Act of 1936 within 60 days of enactment of this Act.

SEC. 744. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out a ground and surface water conservation program authorized by section 2301 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $51,000,000.

SEC. 745. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2502 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $42,000,000.

SEC. 746. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 2503 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002, in excess of $112,044,000.

SEC. 747. There is hereby appropriated $3,000,000 to carry out section 6028 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: Provided, That notwithstanding section 383B(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb–1(g)(1)), the Federal share of the administrative expenses of the Northern Great Plains Regional Authority for fiscal year 2004 shall be 100 percent.

SEC. 748. None of the funds appropriated or made available by this Act or any other Act may be used to pay the salaries and expenses of personnel to carry out section 6029 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002: Provided, That this section shall not apply to activities related to the promulgation of regulations or the receipt and review of applications for the Rural Business Investment Program.

SEC. 749. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to expend the $20,000,000 made available by section 601(j)(1)(A) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(j)(1)(A)) for fiscal year 2004.

SEC. 750. None of the funds appropriated or otherwise made available by this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out section 9006 of Public Law 107–171, the Farm Security and Rural Investment Act of 2002.

SEC. 751. Agencies and offices of the Department of Agriculture may utilize any available discretionary funds to cover the costs of preparing, or contracting for the preparation of, final agency decisions regarding complaints of discrimination in employment or program activities arising within such agencies and offices.

SEC. 752. Notwithstanding any other provision of law, for any fiscal year, in the case of a high cost isolated rural area that is not connected to a road system in Alaska, the maximum level for the single family housing assistance shall be 150 percent of the average income level in the metropolitan areas of the State and 115 percent of all other eligible areas of the State.

SEC. 753. Any unobligated balances in the Alternative Agricultural Research and Commercialization Revolving Fund are hereby rescinded.

SEC. 754. There is hereby appropriated $2,000,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

SEC. 755. Notwithstanding any other provision of law, the Secretary shall consider the City of Vicksburg, Mississippi; the City of Aberdeen, South Dakota; and the City of Starkville, Mississippi as meeting the requirements of a rural area contained in section 520 of the Housing Act of 1949 (42 U.S.C. 1490) until receipt of the decennial Census for the year 2010.

SEC. 756. Notwithstanding any other provision of law, the Secretary shall consider the City of Berlin, New Hampshire; the City of Guymon, Oklahoma; the City of Shawnee, Oklahoma; and the City of Altus, Oklahoma, to be eligible for loans and grants provided through the Rural Community Advancement Program until receipt of the decennial Census in the year 2010.

SEC. 757. None of the funds made available in this Act or any other Act may be used to study or enter into a contract with a private party to carry out, without specific authorization in a subsequent Act of Congress, a competitive sourcing activity of the Secretary of Agriculture, including support personnel of the Department of Agriculture, relating to rural development or farm loan programs, animal disease research, or grant review or management activities.

SEC. 758. Section 501(b)(5)(B) of the Housing Act of 1949 (42 U.S.C. 1471(b)(5)(B) is amended by striking "for fiscal years 2002 and 2003,".

SEC. 759. AGRICULTURAL MANAGEMENT ASSISTANCE. Section 524(b)(4)(B) of the Federal Crop Insurance Act (7 U.S.C. 1542(b)(4)(B)) is amended—

(1) in clause (i), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(2) by adding at the end the following:

"(iii) CERTAIN USES.—Of the amounts made available to carry out this subsection for each fiscal year, the Commodity Credit Corporation shall use not less than—

"(I) $15,000,000 to carry out subparagraphs (A), (B), and (C) of paragraph (2) through the Natural Resources Conservation Service; and

"(II) $2,000,000 to provide organic certification cost share assistance through the Agricultural Marketing Service.".

SEC. 760. TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS. Section 910(a) of the Trade Sanctions Reform And Export Enhancement Act of 2000 (22 U.S.C. 7209(a)) is amended to read as follows:

"(a) AUTHORIZATION OF TRAVEL RELATING TO COMMERCIAL SALES OF AGRICULTURAL AND MEDICAL GOODS.—The Secretary of the Treasury shall promulgate regulations under which the travel-related transactions listed in paragraph (c) of section 515.560 of title 31, Code of Federal Regulations, are authorized by general license for travel to, from, or within Cuba for the purpose of conferring, exhibiting, marketing, planning, sales negotiation, delivery, expediting, facilitating, or servicing commercial export sale of agricultural and medical goods pursuant to the provisions of this title.".

SEC. 761. PROTECTION OF DOWNED ANIMALS. None of the funds appropriated or otherwise made available by this Act to pay the salaries or expenses of employees or agents of the Department of Agriculture may be used to approve for human consumption under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) any cattle, sheep, swine, goats, horses, mules, or other equines that are unable to stand or walk unassisted at an establishment subject to inspection at the point of examination and inspection, as required by section 3(a) of that Act (21 U.S.C. 603(a)).

SEC. 762. PROHIBITION OF ENERGY MARKET MANIPULATION. (a) PROHIBITION.—Part II of the

Federal Power Act (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

"SEC. 215. PROHIBITION OF MARKET MANIPULATION.

"It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance in contravention of such regulations as the Commission may promulgate as appropriate in the public interest or for the protection of electric ratepayers.".

(b) RATES RESULTING FROM MARKET MANIPULATION.—Section 205(a) of the Federal Power Act (16 U.S.C. 824d(a)) is amended by inserting after "not just and reasonable" the following: "or that result from a manipulative or deceptive device or contrivance".

SEC. 763. Hereafter, no funds provided in this or any other Act shall be available to the Secretary of Agriculture acting through the Foreign Agricultural Service to promote the sale or export of tobacco or tobacco products.

SEC. 764. IN GENERAL.—Section 3(o)(4) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2012(o)(4), is amended by inserting before the period at the end the following: ", and except that on October 1, 2003, in the case of households residing in Alaska and Hawaii the Secretary may not reduce the cost of such diet in effect on September 30, 2002".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 2003.

SEC. 765. MODIFICATION OF BOUNDARIES OF AROOSTOOK COUNTY AND GRIGGS-STEELE EMPOWERMENT ZONES. (a) AROOSTOOK COUNTY EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Aroostook County empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of the county not included in such designation.

(b) GRIGGS-STEELE EMPOWERMENT ZONE.—Notwithstanding any other provision of law, the Griggs-Steele empowerment zone shall include for the period such empowerment zone remains designated, in addition to the area designated as of the date of the enactment of this Act, the remaining area of Griggs County not included in such designation.

SEC. 766. COST-SHARING FOR ANIMAL AND PLANT HEALTH EMERGENCY PROGRAMS. None of the funds made available by this Act may be used to issue a final rule in furtherance of, or otherwise implement, the proposed rule on cost-sharing for animal and plant health emergency programs of the Animal and Plant Health Inspection Service published on July 8, 2003 (Docket No. 02–062–1; 68 Fed. Reg. 40541).

SEC. 767. Section 601(b)(2) of the Rural Electrification Act of 1936 (7 U.S.C. 950bb(b)(2)) is amended to read as follows:

"(2) ELIGIBLE RURAL COMMUNITY.—The term 'eligible rural community' means any area of the United States that is not contained in an incorporated city or town with a population in excess of 20,000 inhabitants.".

SEC. 768. Notwithstanding any other provision of law, for all activities under programs of the Rural Development Mission Area within the County of Honolulu, Hawaii, the Secretary may designate any portion of the county as a rural area or eligible rural community that the Secretary determines is not urban in character.

SEC. 769. The first sentence of section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) is amended—

(1) by striking "or title V of the Housing Act of 1949"; and

(2) by inserting after "1944" the following: ", title V of the Housing Act of 1949.".

SEC. 770. Notwithstanding the provisions of the Consolidated Farm and Rural Development Act (including the associated regulations) governing the Community Facilities Program, the Secretary shall allow all Community Facility Program facility borrowers and grantees to enter into contracts with not-for-profit third parties for services consistent with the requirements of the Program, grant, and/or loan: Provided, That the contracts protect the interests of the Government regarding cost, liability, maintenance, and administrative fees.

SEC. 771. EQIP PAYMENT LIMIT. None of the funds made available under this Act or any other Act shall be used to pay the salaries and expenses of personnel to carry out chapter 4 of subtitle D of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) to make payments to an individual, entity, or agricultural operation, directly or indirectly, in excess of an aggregate of $300,000 for all contracts entered into by the individual, entity, or agricultural operation during the period of fiscal years 2002 through 2007.

SEC. 772. Notwithstanding any other provision of law, the Secretary of Agriculture may use appropriations available to the Secretary for activities authorized under sections 426–426c of title 7, United States Code, under this or any other Act, to enter into cooperative agreements, with a State, political subdivision, or agency thereof, a public or private agency, organization, or any other person, to lease aircraft if the Secretary determines that the objectives of the agreement will: (1) serve a mutual interest of the parties to the agreement in carrying out the programs administered by the Animal Plant Health Inspection Service, Wildlife Service; and (2) all parties will contribute resources to the accomplishment of these objectives; award of a cooperative agreement authorized by the Secretary may be made for an initial term not to exceed 5 years.

SEC. 773. CITRUS CANKER ASSISTANCE. Section 211 of the Agricultural Assistance Act of 2003 (117 Stat. 545) is amended—

*(1) in the section heading, by inserting "**TREE REPLACEMENT AND**" after "**FOR**"; and*

(2) in subsection (a), by inserting "tree replacement and" after "Florida for".

SEC. 774. RURAL ELECTRIFICATION. For fiscal year 2004, the Secretary of Agriculture may use any unobligated carryover funds made available for any program administered by the Rural Utilities Service (not including funds made available under the heading "RURAL COMMUNITY ADVANCEMENT PROGRAM" in any Act of appropriation) to carry out section 315 of the Rural Electrification Act of 1936 (7 U.S.C. 940e).

SEC. 775. The Commissioner of the Food and Drug Administration shall provide no less than $250,000, from within funds appropriated or otherwise made available in this Act for the Food and Drug Administration, to process comments submitted in response to Docket No. 95N–0304 published in the Federal Register on March 5, 2003 (68FR 10417): Provided further, That the Commissioner should expedite and complete review of available scientific evidence of ephedra's pharmacology and mechanism of action.

SEC. 776. WORKLOAD ANALYSIS OF FARM SERVICE AGENCY. None of the funds made available by this Act may be used to pay more than ½ of the salary of the Under Secretary for Farm and Foreign Agricultural Services after January 31, 2004, unless and until the Secretary of Agriculture provides to the Committee on Agriculture of House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a workload analysis of employees of the Farm Service Agency for each of fiscal years 2001, 2002, and 2003 (including an analysis of the number of workload items and required man-years, by State).

SEC. 777. SUN GRANT RESEARCH INITIATIVE. (a) SHORT TITLE.—This section may be cited as the "Sun Grant Research Initiative Act of 2003".

(b) RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.—Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding at the end the following:

"SEC. 9011. RESEARCH, EXTENSION, AND EDUCATIONAL PROGRAMS ON BIOBASED ENERGY TECHNOLOGIES AND PRODUCTS.

"(a) PURPOSES.—The purposes of the programs established under this section are—

"(1) to enhance national energy security through the development, distribution, and implementation of biobased energy technologies;

"(2) to promote diversification in, and the environmental sustainability of, agricultural production in the United States through biobased energy and product technologies;

"(3) to promote economic diversification in rural areas of the United States through biobased energy and product technologies; and

"(4) to enhance the efficiency of bioenergy and biomass research and development programs through improved coordination and collaboration between the Department of Agriculture, the Department of Energy, and the land-grant colleges and universities.

"(b) DEFINITIONS.—In this section:

"(1) LAND-GRANT COLLEGES AND UNIVERSITIES.—The term 'land-grant colleges and universities' means—

"(A) 1862 Institutions (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601));

"(B) 1890 Institutions (as defined in section 2 of that Act) and West Virginia State College; and

"(C) 1994 Institutions (as defined in section 2 of that Act).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(c) ESTABLISHMENT.—To carry out the purposes described in subsection (a), the Secretary shall establish programs under which—

"(1) the Secretary shall provide grants to sun grant centers specified in subsection (d); and

"(2) the sun grant centers shall use the grants in accordance with this section.

"(d) GRANTS TO CENTERS.—The Secretary shall use amounts made available for a fiscal year under subsection (j) to provide a grants in equal amounts to each of the following sun grant centers:

"(1) NORTH-CENTRAL CENTER.—A north-central sun grant center at South Dakota State University for the region composed of the States of Illinois, Indiana, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming.

"(2) SOUTHEASTERN CENTER.—A southeastern sun grant center at the University of Tennessee at Knoxville for the region composed of—

"(A) the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia;

"(B) the Commonwealth of Puerto Rico; and

"(C) the United States Virgin Islands.

"(3) SOUTH-CENTRAL CENTER.—A south-central sun grant center at Oklahoma State University for the region composed of the States of Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas.

"(4) WESTERN CENTER.—A western sun grant center at Oregon State University for the region composed of—

"(A) the States of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington; and

"(B) territories and possessions of the United States (other than the territories referred to in subparagraphs (B) and (C) of paragraph (2)).

''(5) Northeastern Center.—A northeastern sun grant center at Cornell University for the region composed of the States of Connecticut, Delaware, Massachusetts, Maryland, Maine, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia.

''(e) Use of Funds.—

''(1) Centers of excellence.—Of the amount of funds that are made available for a fiscal year to a sun grant center under subsection (d), the center shall use not more than 25 percent of the amount for administration to support excellence in science, engineering, and economics at the center to promote the purposes described in subsection (a) through the State agricultural experiment station, cooperative extension services, and relevant educational programs of the university.

''(2) Grants to land-grant colleges and universities.—

''(A) In general.—The sun grant center established for a region shall use the funds that remain available for a fiscal year after expenditures made under paragraph (1) to provide competitive grants to land-grant colleges and universities in the region of the sun grant center to conduct, consistent with the purposes described in subsection (a), multiinstitutional and multisiate—

''(i) research, extension, and educational programs on technology development; and

''(ii) integrated research, extension, and educational programs on technology implementation.

''(B) Programs.—Of the amount of funds that are used to provide grants for a fiscal year under subparagraph (A), the center shall use—

''(i) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(i); and

''(ii) not less than 30 percent of the funds to carry out programs described in subparagraph (A)(ii).

''(3) Indirect costs.—A sun grant center may not recover the indirect costs of making grants under paragraph (2) to other land-grant colleges and universities.

''(f) Plan.—

''(1) In general.—Subject to the availability of funds under subsection (j), in cooperation with other land-grant colleges and universities and private industry in accordance with paragraph (2), the sun grant centers shall jointly develop and submit to the Secretary, for approval, a plan for addressing at the State and regional levels the bioenergy, biomass, and gasification research priorities of the Department of Agriculture and the Department of Energy for the making of grants under paragraphs (1) and (2) of subsection (e).

''(2) Gasification coordination.—

''(A) In general.—In developing the plan under paragraph (1) with respect to gasification research, the sun grant centers identified in paragraphs (1) and (2) of subsection (d) shall coordinate with land grant colleges and universities in their respective regions that have ongoing research activities with respect to the research.

''(B) Funding.—Funds made available under subsection (d) to the sun grant center identified in subsection (e)(2) shall be available to carry out planning coordination under paragraph (1) of this subsection.

''(g) Grants to Other Land-Grant Colleges and Universities.—

''(1) Priority for grants.—In making grants under subsection (e)(2), a sun grant center shall give a higher priority to programs that are consistent with the plan approved by the Secretary under subsection (f).

''(2) Term of grants.—The term of a grant provided by a sun grant center under subsection (e)(2) shall not exceed 5 years.

''(h) Grant Information Analysis Center.—The sun grant centers shall maintain a Sun Grant Information Analysis Center at the sun grant center specified in subsection (d)(1) to provide sun grant centers analysis and data management support.

''(i) Annual Reports.—Not later than 90 days after the end of a year for which a sun grant center receives a grant under subsection (d), the sun grant center shall submit to the Secretary a report that describes the policies, priorities, and operations of the program carried out by the center during the year, including a description of progress made in facilitating the priorities described in subsection (f).

''(j) Authorization of Appropriations.—

''(1) In general.—There are authorized to be appropriated to carry out this section—

''(A) $25,000,000 for fiscal year 2005;

''(B) $50,000,000 for fiscal year 2006; and

''(C) $75,000,000 for each of fiscal years 2007 through 2010.

''(2) Grant information analysis center.—Of amounts made available under paragraph (1), not more than $4,000,000 for each fiscal year shall be made available to carry out subsection (h).''.

Sec. 778. Dietary Supplements. The Commissioner of Food and Drugs shall provide not less than $11,400,000 from within funds appropriated or otherwise made available by this Act for regulation by the Food and Drug Administration of dietary supplements.

Sec. 779. Sense of Senate on Importation of Cattle With Bovine Spongiform Encephalopathy. (a) Findings.—The Senate finds that—

(1) the United States beef industry is the single largest segment of United States agriculture;

(2) the United States has never allowed the importation of live cattle from a country that has been found to have bovine spongiform encephalopathy (referred to in this section as ''BSE'');

(3) the importation of live cattle known to have BSE could put the entire United States cattle industry at unnecessary risk;

(4) food safety is a top priority for the people of the United States; and

(5) the importation of beef and beef products from a country known to have BSE could undermine consumer confidence in the integrity of the food supply and present a possible danger to human health.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of Agriculture—

(1) should not allow the importation of live cattle from any country known to have BSE unless the country complies with the animal health guidelines established by the World Organization for Animal Health; and

(2) should abide by international standards for the continued health and safety of the United States livestock industry.

Sec. 780. Reduction in Travel Amounts. (a) In General.—Notwithstanding any other provision of this Act, each amount provided by this Act for travel expenses is reduced by the pro rata percentage required to reduce the total amount provided by this Act for such expenses by $6,000,000.

(b) Report.—Not later than 30 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to subsection (a).

Sec. 781. Limitation on Allocation of Purchase Prices for Butter and Nonfat Dry Milk. None of the funds made available by this Act may be used to pay the salaries or expenses of employees of the Department of Agriculture to allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner does not support the price of milk in accordance with section 1501(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7981(b)).

Sec. 782. Sense of Senate Regarding Country of Origin Labeling Requirements. It is the sense of the Senate that the conferees on the part of the Senate on this bill shall insist that no limits on the use of funds to enforce country of origin labeling requirements for meat or meat products be included in the conference report accompanying the bill.

Sec. 783. Emergency Watershed Protection Program. Notwithstanding any other provision of law, the Secretary of Agriculture is authorized hereafter to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and to waive cost sharing requirements for the funding and assistance.

Sec. 784. The Secretary may waive the requirements regarding small and emerging rural business as authorized under the Rural Business Enterprise Grant program for the purpose of a lease for the Oakridge Oregon Industrial Park.

Sec. 785. Water and Waste Disposal Grant to the Alaska Department of Community and Economic Development. Notwithstanding any other provision of law—

(1) the Alaska Department of Community and Economic Development may be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is up to 75 percent of the total cost of providing water and sewer service to the proposed hospital in the Matanuska-Susitna Borough, Alaska; and

(2) the Alaska Department of Community and Economic Development may be allowed to pass the grant funds through to the local government entity that will provide water and sewer service to the hospital.

Sec. 786. Conservation Reserve Program. Land shall be considered eligible land under section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) for purposes of enrollment into the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) if the land—

(1) is planted to hardwood trees as of the date of enactment of this Act; and

(2) was enrolled in the conservation reserve program under a contract that expired before the date of enactment of this Act.

Sec. 787. Prohibition of Use of Funds To Purchase Chicken Treated With Fluoroquinolone. After December 31, 2003, none of the funds made available by this Act may be used to purchase chickens or the products of chickens for use in any program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) or the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), unless the supplier provides certification that the supplier does not feed or administer fluoroquinolone to chickens produced by the supplier.

Sec. 788. Renewable Energy System Loan Guarantees. Title IX of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8101 et seq.) is amended by adding the following new section:

''SEC. 9011. RENEWABLE ENERGY SYSTEM LOAN GUARANTEES.

''(a) Definition of Subsidy Costs.—In this section, the term 'subsidy costs' has the meaning given the term 'cost' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(b) PROJECTS.—Section 9006(c)(1) shall not apply to a loan guarantee made under this subsection to carry out a project if—

"(1) the loan will be used—

"(A) to purchase a renewable energy system that has, as one of its principal purposes, the commercial production of an agricultural commodity; and

"(B) to promote a solution to an environmental problem in a rural area of the State in which the project will be carried out;

"(2) the lender of the loan exercises due diligence with respect to the borrower of the loan;

"(3) the borrower of the loan pays in full, before the guarantee is issued, a guarantee fee in the amount of the estimated subsidy cost of the guarantee, as determined by the Director of the Office of Management and Budget;

"(4) except as provided in paragraph (5), the principal amount of the loan is not more than $25,000,000;

"(5) the principal amount of the loan is more than $25,000,000, but is not more than $75,000,000, if the Secretary—

"(A) approves the loan application; and

"(B) does not delegate the authority described in subparagraph (A);

"(6) the project requires no Federal or State financial assistance, other than the loan guarantee provided under this subsection; and

"(7) the project complies with all necessary permits, licenses, and approvals required under the laws of the State.

"(c) COST SHARING.—

"(1) IN GENERAL.—The amount of a loan guarantee under this section for a project described in subsection (b) shall not exceed 80 percent of the total project cost.

"(2) SUBORDINATION.—Any financing for the non-Federal share of the total project cost shall be subordinated to the federally guaranteed portion of the total project cost.

"(d) LOAN GUARANTEE LIMITS.—The loan guarantee limitations applicable to the business and industry guarantee loan program authorized under section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) shall apply to loan guarantees made under this section.

"(e) MAXIMUM AMOUNT.—

"(1) INDIVIDUAL LOANS.—The amount of principal for a loan under this section for a project described in subsection (b) shall not exceed $75,000,000.

"(2) ALL LOANS.—The total outstanding amount of principal for loans under this section for all projects described in subsection (b) shall not exceed $500,000,000.

"(f) PROPOSED RULE.—The Secretary shall publish a proposed rule to carry out this section within 120 days of enactment of this Act.".

SEC. 789. WATER AND WASTE DISPOSAL GRANT TO THE CITY OF POSTVILLE, IOWA. Notwithstanding any other provision of law, the city of Postville, Iowa, shall be eligible to receive a water and waste disposal grant under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) in an amount that is equal to not more than 75 percent of the total cost of providing water and sewer service in the city.

SEC. 790. TEXAS RICE SAFEGUARD INITIATIVE. (a) IN GENERAL.—In order to provide a safeguard against the further decline of the rice industry and wildlife habitat in Texas, and to provide information to the Congress in anticipation of and preparation for the 2007 farm bill, the Secretary of Agriculture shall conduct the initiative required under this section.

(b) ADMINISTRATIVE IMPROVEMENTS.—As an integral part of the safeguard initiative the Secretary of Agriculture shall review the administration and enhance the enforcement of section 1105(a)(1)(E) of Public Law 107–171 as it relates to and is applied to the control of noxious weeds and the proper application and implementation of the conserving use requirements on rice base acreage in Texas.

(c) REPORTS TO CONGRESS.—The Secretary shall review and evaluate the costs, benefits and effects of the safeguard initiative on rice producers, including tenant rice producers, the rice milling and processing industry, wildlife habitat, and the economies of rice farming areas in Texas, detailed by each of these affected interests and by the program variables involved in the safeguard initiative under subsection (b), including whether or not producers on a farm have qualified plantings. The Secretary shall provide to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives an annual report detailing the progress and findings of the initiative not later than February 1 of each of the years 2005 through 2007.

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004".

ARMING OF CARGO PILOTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 293, S. 1657.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1657) to amend section 44921 of title 49, United States Code, to provide for the arming of cargo pilots against terrorism.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Madam President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1657) was read the third time and passed, as follows:

S. 1657

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(b) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking "passenger" each place that it appears;

(2) in subsection (k)(2) by striking "flight or," and all that follows through "command" and inserting "flight or any other flight deck crew member"; and

(3) by adding at the end of subsection (k) the following:

"(3) ALL-CARGO AIR TRANSPORTATION.—In this section, the term 'air transportation' includes all-cargo air transportation.".

(c) TIME FOR IMPLEMENTATION.—In carrying out the amendments made by subsection (b), the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall ensure that pilots of both passenger and cargo aircraft are treated equitably in receiving access to training as Federal flight deck officers.

(d) EFFECT ON OTHER LAWS.—The requirements of subsection (c) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

ORDERS FOR TUESDAY, NOVEMBER 11, 2003

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10:45 a.m. Tuesday, November 11; I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 12 p.m., with the time equally divided between Senator HUTCHISON or her designee and the minority leader or his designee.

I further ask consent that at 11 a.m. tomorrow on Veterans Day, the Senate will conduct a moment of silence as a tribute to the war dead of the United States. I further ask consent that the Senate recess tomorrow from 12:30 p.m. until 2:15 p.m. for the weekly party lunches; provided further that the Senate recess during the same period on Wednesday.

Mr. REID. Reserving the right to object, and I do appreciate the Senator setting aside Wednesday when we are going to do our caucus, not tomorrow, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. For the information of all Senators, tomorrow the Senate will begin a period of morning business until 12 p.m. The morning business time will be devoted to Senators who wish to make tribute statements to our veterans. We are also attempting to clear a resolution related to our veterans during tomorrow's session.

Following morning business, the Senate will return to legislative session. There are many crucial legislative items that the Senate should complete action on over the next couple of days, including the Syria accountability bill, Department of Defense authorization conference report, Military Construction appropriations conference report, the VA/HUD appropriations bill. Senators, therefore, should anticipate rollcall votes throughout the day.

ADJOURNMENT UNTIL 10:45 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:01 p.m., adjourned until Tuesday, November 11, 2003, at 10:45 a.m.

EXTENSIONS OF REMARKS

PERSONAL EXPLANATION

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 10, 2003

Ms. KILPATRICK. Mr. Speaker, due to personal business, I was unable to record my vote on four votes ordered for Nov. 7. Had I been present I would have voted "aye" on the motion offered by Representative MARSHALL to recommit the bill H.R. 1588, the Defense Authorization Act for Fiscal Year 2004, rollcall No. 616; "no" on final passage of the conference report on H.R. 1588, rollcall No. 617; "aye" on the motion to instruct conferees to H.R. 6 offered by Representative FILNER, rollcall No. 618; and "aye" on the motion to instruct conferees to H.R. 1 offered by Representative CARDOZA, rollcall No. 619.

VETERANS DAY

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 10, 2003

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, during this season we pause to celebrate Veterans Day.

We pay tribute to the veterans who have honored us with their service, and their sacrifice. Some have even paid the ultimate price for freedom. In dying they renewed and sustained the freedom and the promise to our Nation.

In the last paragraph of his second inaugural address, Abraham Lincoln uttered the words that would ultimately comfort untold numbers of veterans and their families for generations to come. Lincoln challenged the divided nation to "Bind up the Nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan."

This is the test and the measure of our Nation. Is it any wonder that architects emblazoned these words on the walls of the Lincoln Memorial? They are also engraved on a plaque on the headquarters building of the Veterans Affairs Administration in Washington.

As a Nation, we are united in honoring our war dead, we need to be as united in honoring our living veterans.

Because our Armed Forces have borne the battles of freedom, the United States enjoys an unprecedented position of international leadership.

Yet, the promise of lifelong health care that this country made to our men and women in uniform is being threatened, not by the aggression of a foreign power, but by inadequate funding.

Mr. Speaker, as our veterans grow older, they require increased dependence on health care services.

Before I served as the chief psychiatric nurse at the Veterans Administration Hospital in Dallas during the 70's. I was privileged to serve in the day care and rehabilitation center of the facility for 15 years. I know firsthand that caring for America's veterans is the ongoing cost of war.

The Republican budget cuts will adversely affect over 70,000 Texas veterans. This number includes more than 18,000 veterans in the Dallas-Fort Worth area.

Proposed cuts to the budget for the Department of Veterans Affairs will halt enrollment in the VA Health Care System. Texas veterans will be driven from the system. It is estimated that 5,200 active patients in the Dallas-Fort Worth area will drop out of the VA Health Care System.

Thousands of other veterans in my home State face the grim prospect of increasing health care costs in the VA system. The budget will also increase fees for veterans who utilize the VA Health Care System; forcing thousands in and around the Dallas metroplex to drop out.

An estimated 60,000 Texas veterans, including over 20,000 veterans receiving active VA care, are unlikely to be able to afford this increase.

Mr. Speaker, how can Congress and this administration even consider slashing benefits at a time when our young men and women are still in harm's way in Iraq, Afghanistan and Southwest Asia.

Veterans should not be expected to wait in longer lines, and travel farther for health care services at a diminished level. If we fail our obligation to veterans, how can we justify sending more and more young service members into harm's way?

As we celebrate Veterans Day, it is fitting and proper that we honor an African-American sailor who paid the ultimate price for our freedom.

I am planning to introduce legislation soon that calls for awarding the Congressional Medal of Honor to Dorie Miller posthumously for his heroic actions during World War II. This recognition is long overdue for a man who served his country with distinction and valor during the attack on Pearl Harbor.

Dorie Miller is just one example of African-American war heroes and veterans who have gone beyond and above the call of duty to preserve freedom's full measure, although they themselves were denied it in many quarters at home.

As Americans, we owe a debt of gratitude to our veterans. It is our duty to ensure that they receive the support they need from the country they so diligently served.

As we daily witness the courageous and professional efforts of our Armed Forces engaged in Iraq, Afghanistan and in Southeast Asia, we are all reminded of the tremendous sacrifices our veterans have made on our behalf.

As we celebrate another Veterans Day this November, we must back up our promises with our meaningful action.

HONORING SCHOOL PSYCHOLOGISTS WEEK

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 10, 2003

Mr. ISRAEL. Mr. Speaker, I rise to recognize the work of school psychologists in Suffolk County, New York during the week of November 10, 2003.

The children of Suffolk County have a natural desire and propensity to learn and the inalienable right to an education. It is imperative that our society supports the needs of children and youth and invest in education as our top priority.

Children's mental health is closely linked to their successful learning and development. Schools must apply sound psychological principles to instruction, learning and oversight, cultivate children's intellectual, social and emotional development, meet the educational and developmental needs of culturally diverse student populations and promote prevention and early intervention to ensure students' achievement.

Suffolk County schools must ensure a safe, healthy learning environment for all children and be able to recognize and respond to their emotional and psychological difficulties.

Suffolk County school psychologists and other trained school-based professionals have the opportunity and ability to help parents identify and access needed community resources to help their children.

Suffolk County school psychologists are leaders in delivering mental health services to children. It is appropriate that Americans recognize the important and vital role that school psychologists play in the personal and academic development of our Nation's children.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily

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Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 11, 2003 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 12

Time to be announced
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
S-216, Capitol

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine state use of tobacco settlement funds.
SR-253

Environment and Public Works
Business meeting to consider S. 1072, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and the nomination of Rixio Enrique Medina, of Oklahoma, to be a Member of the Chemical Safety and Hazard Investigation Board.
SD-406

10 a.m.
Judiciary
To hold hearings to examine judicial and executive nominations.
SD-226

Armed Services
Strategic Forces Subcommittee
To hold hearings to examine space acquisition policies and processes.
SR-222

2 p.m.
Governmental Affairs
To hold hearings to examine the nomination of Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel; to be immediately followed by a hearing on S. 1358, to amend chapter 23 of title 5, United States Code, to clarify the disclosure of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel.
SD-342

Banking, Housing, and Urban Affairs
Securities and Investment Subcommittee
To hold hearings to examine the Financial Accounting Standards Board and small business growth.
SD-538

4 p.m.
Armed Services
To hold closed hearings to examine ongoing military operations and areas of key concern around the world.
SR-222

NOVEMBER 13

9:30 a.m.
Armed Services
To hold hearings to examine current Army issues.
SH-216

Commerce, Science, and Transportation
To hold hearings to examine GAO's report on cable rate increases.
SR-253

Governmental Affairs
To hold hearings to examine sources of past and present support for terrorist forces in Afghanistan relating to terrorism financing.
SD-342

Judiciary
Business meeting to consider pending calendar business.
SD-226

10 a.m.
Banking, Housing, and Urban Affairs
To resume hearings to examine proposals for improving the regulation of the Housing Government Sponsored Enterprises.
SD-538

Indian Affairs
Business meeting to consider pending calendar business.
SR-485

10:30 a.m.
Commission on Security and Cooperation in Europe
To hold hearings to examine Azerbaijan's flawed presidential election.
1300 LHOB

2 p.m.
Judiciary
Immigration, Border Security and Citizenship Subcommittee
To hold hearings to examine state and local authority to enforce immigration law relating to terrorism.
SD-226

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings to examine S. 1085, to provide for a Bureau of Reclamation program to assist states and local communities in evaluating and developing rural and small community water supply systems, S. 1732, to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, S. 1211, to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the "Reclamation Wastewater and Groundwater Study and Facilities Act", by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, S. 1727, to authorize additional appropriations for the Reclamation Safety of Dams Act of 1978, and S. 1791, to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund.
SD-366

NOVEMBER 14

10 a.m.
Energy and Natural Resources
To hold oversight hearings to examine the implementation of the Energy Employees Occupational Illness Compensation Program.
SD-366

NOVEMBER 18

9:30 a.m.
Judiciary
To hold hearings to examine America after the 9/11 terrorist attacks.
SD-226

Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the role of accountants, lawyers and financial professionals relating to the U.S. tax shelter industry.
SH-216

2:30 p.m.
Governmental Affairs
To hold hearings to examine the nomination of James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security.
SD-342

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 1467, to establish the Rio Grande Outstanding Natural Area in the State of Colorado, S. 1209, to provide for the acquisition of property in Washington County, Utah, for implementation of a desert tortoise habitat conservation plan, and H.R. 708, to require the conveyance of certain National Forest System lands in Mendocino National Forest, California, to provide for the use of the proceeds from such conveyance for National Forest purposes.
SD-366

NOVEMBER 19

9:30 a.m.
Governmental Affairs
To hold hearings to examine the threat of agroterrorism.
SD-342

NOVEMBER 20

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine the role of accountants, lawyers and financial professionals relating to the U.S. tax shelter industry.
SH-216

CANCELLATIONS

NOVEMBER 12

2 p.m.
Judiciary
Administrative Oversight and the Courts Subcommittee
To hold oversight hearings to examine activities of the United States Sentencing Commission.
SD-226

SENATE—*Tuesday, November 11, 2003*

The Senate met at 10:46 a.m. and was called to order by the Honorable JOHN WARNER, a Senator from the State of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of spacious skies and amber waves of grain, we pause on this special day to thank You for America's veterans. Thank You for these heroes and heroines who loved country more than self and liberty more than life. Thank You for their courage on the seas, in the air, on the land, and even under the sea. Lord, they gave their blood on foreign shores to preserve our heritage of freedom.

Make us worthy of their service and sacrifices. Give us wisdom as we work to perpetuate peace through goodwill and mutual understanding between nations. May we remember those who carry the physical and emotional scars of battle so that the spirit of this day will be felt throughout the year. Help us to show our gratitude to their families, who persevered in spite of anxiety, fear, and grief. May we so labor to promote peace on Earth that the efforts of America's veterans shall not have been in vain. We pray this in the name of the God of peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN WARNER led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 11, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN WARNER, a Senator from the State of Virginia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. WARNER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will acknowledge and pay tribute to our veterans with a moment of silence beginning at 11 a.m. Following the moment of silence, we have a number of Members who would like to make statements regarding Veterans Day. Those tributes will continue until 12 p.m., and I invite Senators to come to the floor during this period. Also, we have a resolution honoring this country's veterans and we will consider that resolution during today's session.

At noon, it is my expectation to begin consideration of the Syria accountability bill. That bill will be considered under the 90-minute debate limitation and, therefore, Members can expect a vote on passage following today's policy luncheon.

The Senate will recess today from 12:30 until 2:15 to accommodate the Republican Party luncheon. The Senate will recess tomorrow for that same period for the Democratic Party luncheon to meet.

Today, I would also hope to consider the Defense authorization conference report. Chairman WARNER will be here for his statement, and it is my hope we could reach a short time agreement to finish that legislation on this day. The Military Construction appropriations conference report is available and should be addressed as well.

Having said that, we will have rollcall votes today.

HONORING OUR VETERANS

Mr. FRIST. Mr. President, today, our forces for freedom encircle the globe. Our military men and women will observe Veterans Day in almost all of the world's time zones. In the skies, on the ground, and under the water, they will pause to remember.

In a few moments, we, too, will pause to remember.

As Senators, we have had the opportunity to work alongside so many who served our Nation so ably, and so nobly, during our country's struggles on behalf of freedom—heroes such as Strom Thurmond and Bob Dole, heroes such as JOHN MCCAIN and Bob Kerrey, heroes such as Max Cleland and CHUCK HAGEL, heroes such as DAN INOUYE. We have seen how they and others have sacrificed and suffered for a cause greater than themselves. Their nobility and grace, in war and in peace, stand as examples to all in our new century and in the new conflict we fight today.

We work in an institution that values unlimited speech—sometimes speech over everything else. But in my years of working alongside these heroes, I have discovered a lesson that runs true for all of them. To me it has been in these silences, the times they have not joined in with the majority of their colleagues, that they have demonstrated their strength.

Our Nation is a cacophony of noise, a symphony of sound, from that factory floor to the market floor, from Main Street to Wall Street. It is the so-called roar of democracy that makes us unique as a nation and as a country. But this morning we are called to silence. Why?

In our Nation's battles throughout her last two centuries, many have paid the ultimate sacrifice for freedom and liberty. This moment of silence we will shortly observe is the silence of those voices stilled forever, of sons and daughters no longer returning home, of husbands and wives no longer there for each other, of mothers and fathers no longer there for their children day and night.

In the pain of these sacrifices, our warriors have built our country and saved our world. They have stood as freedom's sentinel and as liberty's shield. They have fought the fights to which history has called us and won the victories that faith has dared us.

Our Nation is the beacon of liberty for so many people around the world, and it is the valor and dedication of the many heroes, sung and unsung, throughout the Nation's past 200 years—those who sleep forevermore—who have made it so. We honor them today not with noise but with silence.

As the hour of 11 a.m. approaches, I ask that we do observe this moment of silence.

I come from the great State of Tennessee. We have our share of hallowed war dead. We have our share of heroes, including perhaps one of the most famous Medal of Honor winners, Sergeant York. In a chain of events still astonishing today, he led a small squad of just 7 men in charging a machine gun nest mercilessly attacking his position, ultimately capturing 132 prisoners. An observer termed what he did "a call to courage."

I encourage every American today to also take a moment of silence and look for those who have answered that call to courage. All throughout our country, every day our veterans merit our

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support, our respect, our thanks for advancing the cause of liberty here at home and indeed around the world. They took what was granted to them by their fathers and, with their service and with their labors, they passed it on to their children, bringing America still free into a new century.

We pass legislation on their behalf to express the thanks—our thanks—of this grateful Nation. Today's silence is for them as well.

Now our country fights a new enemy, faceless and hateful. It fights in new ways, bringing new terrors and threats and intimidations to our fellow Americans. That is the final lesson our moment of silence teaches us this morning.

Together let's remember the strength of silence and, as we resume our labors here today, just as our Armed Forces work today around the world, let us move ahead with a little less noise and a little more fortitude.

The ACTING PRESIDENT pro tempore. The distinguished minority leader.

Mr. DASCHLE. Mr. President, each year, America honors its veterans on this day with solemn pride.

But this year, Veterans Day arrives with uncommon poignancy. As we show our gratitude to our veterans here at home, a new generation of soldiers is thousands of miles from their loved ones, facing danger on our behalf.

There is an immediacy to this year's Veterans Day. The risks our soldiers are facing today have not yet been softened by memory. Without the filter of history, we see clearly the dangers they face every day when we learn of yet another attack on American soldiers, yet another death, yet another family that must go on without a loved one. At the same time, we see clearly the good that American service men and women can perform when we witness the hopeful faces of Iraqis eager for a better, more peaceful life.

Within the service of today's soldiers, we may see a clear reflection of the service of our veterans. Just as our soldiers today, our veterans, too, left families behind. They, too, woke up to uncertain dangers. They, too, saw friends and comrades injured or killed. Yet, knowing both their risks and their obligations, they, too, performed their duty each day.

Forty years ago, President Kennedy noted that no nation "in the history of the world has buried its soldiers farther from its native soil than we Americans—or closer to the towns in which they grew up."

At our proudest moments, the American people have sent our sons and daughters across the globe to fight for freedom. And once the fight was done, we have welcomed them home with honor and gratitude.

Today, too, the honor of defending those who cannot defend themselves is carried forward by young American soldiers. And their families and friends wait anxiously for their safe return.

South Dakota is proud of the role its sons and daughters have played in Operation Iraqi Freedom. At the start of the war, it was a B–1 bomber crew from Ellsworth Air Force Base's 28th Bomb Wing that hit that bunker in Baghdad where it was thought the Iraqi leadership might have been hiding. All four members of the crew were awarded the Distinguished Flying Cross.

Staff Sergeant Randy Meyer, a Marine from Big Stone City, was part of a unit that discovered 22 American prisoners of war along a highway near Baghdad.

Sergeant Meyer noticed that Specialist Shoshanna Johnson was too hurt to walk—she had been shot in both ankles—so he picked her up and carried her to safety.

And South Dakota's National Guard and Reserve units have been on the front lines, both during the active fighting and today as we work to stabilize Iraq and rebuild the nation of Iraq.

Their service on this day is doubled. Because in addition to advancing democracy and security, their brave acts make us still more aware of, and still more grateful for, the brave acts of our veterans.

But alongside our pride, Veterans Day comes with a challenge. Each year we should ask ourselves, have we done enough to honor the sacrifices of our soldiers and veterans?

This year, if we are honest with ourselves, the answer must be no.

Mr. President, in keeping with our agreement to stop for a moment of silence at 11 o'clock, I will do so and return to my remarks as soon as the moment of silence has been completed.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will observe a moment of silence.

(Moment of Silence.)

Mr. DASCHLE. Mr. President, I am hard pressed to recall a time when the gap between the demands we place on our soldiers and the thanks we offer them once they return home has been wider. It is bitterly ironic that on this Veterans Day, while soldiers are facing danger far from home, the gap is still growing.

Today, more than 500,000 American soldiers are stationed in 137 different countries around the world. More than 300,000 are engaged in active combat or peacekeeping missions in seven different countries, including more than 140,000 in Iraq and Afghanistan.

More than 400 American soldiers have been killed in Iraq and Afghanistan. More than 2,400 have been wounded.

Meanwhile, our military is stretched so thin we cannot tell many of our soldiers or their families when they might be coming home. And despite the added strain and the ever more complicated mission, we are failing to provide for our soldiers, our veterans, and their families.

Veterans of Operation Iraqi Freedom will join 250,000 veterans who must wait 6 months just to see a V.A. hospital doctor.

This wait will be lengthened by the administration's closing of seven Veterans Hospitals and a budget that under-funds veterans health by $1.8 billion.

In addition, the administration has opposed expanding health care benefits to Guard Members and Reservists and their families. It proposed cutting the pay to troops facing imminent danger. Schools for the children of military families are being threatened with cuts. And the Defense Department is closing 19 commissaries and considering whether to close 19 more.

In a recent article in "The Army Times," a representative from the National Military Family Association was quoted asking a question familiar to many of us today. "How can leadership be talking about cutting back on quality-of-life benefits right now when the force and everyone supporting the force is at such a high stress level?"

One colonel quoted in the article expressed it more simply: "Betrayal," he said to the reporter. "Write that down and put it in your report."

In signing the GI Bill of Rights in 1944, President Roosevelt noted that "the members of the Armed Forces have been compelled to make greater . . . sacrifice than the rest of us, and they are entitled to definite action to help take care of their special problems."

Each year, we are in danger of falling further behind in our obligation to our veterans. Recently, "definite action" has given way to little more than indefinite praise.

Veterans deserve better.

Some within this administration seem to believe that our responsibility to our soldiers ends when they come home. We disagree. These men and women risked their lives to defend our own. They stood up for us; now we must stand up for them, not with words but with deeds.

Mr. President, not long ago, a teacher from a small town in the Black Hills of South Dakota gave her students an assignment. She asked them to tell the stories of each of the 2,200 South Dakotans who gave their lives in the fight for democracy during World War II.

As word spread of the children's work, the teacher was asked to bring the program to the entire State.

In doing their research, South Dakota's children discovered some amazing things. They found that Native American—treated within their own country as second-class citizens—rushed to enlist in record numbers. They found young men who had failed their physicals, but used a cousin's or a sibling's results to sneak into the service. They found youngest sons—and only sons—who could easily have gotten deferments, but instead demanded to serve.

They also found official military records that listed the wrong home county for an extraordinary number of the South Dakotans killed in the war. At first, the students were puzzled. After a while, though, they discovered the reason: So many counties had overfilled their enrollment caps, that young men would claim to be from another county, just to be allowed to serve their Nation.

All told, 68,000 South Dakotans enrolled in the Armed Services in WWII. My father was one of them. Two thousand two hundred of them never came home—a greater percentage of World War II deaths than any other State.

Those who did make it home passed that same sense of loyalty and duty onto their sons and daughters. During the Vietnam war, 78 percent of South Dakota's eligible young men chose to serve.

That was, by far, the highest percentage in the Nation. I was one of them. I was lucky. Two hundred South Dakotans who went to Vietnam didn't make it back.

This year, too, South Dakotans have proven eager to serve. South Dakota has one of the highest proportions of our citizens serving in active duty in Iraq of any State in the country.

South Dakota knows the true meaning of patriotism. We have sent out sons and daughters off to war, welcomed those who returned, and buried those that did not.

We volunteer without boast or complaint. The rewards of citizenship are great, therefore, the demands are great.

Having sent so many young people off to war, South Dakotans feel the tight bond that develops between soldiers and the communities they defend. And we know that the debt we owe to veterans cannot be repaid on this day alone.

We enjoy our freedoms every day, and every day we must remember those by whose courage they were purchased.

We must express our gratitude in both word and deed and commit ourselves to their care, as they committed themselves to our protection.

Today, we witness the courage of our soldiers serving throughout the world and remember the courage of veterans throughout our history. Never once did they fall short of our expectations of them. Today, we must recommit ourselves to making sure we do not fall short of their expectations of us.

Mr. President, I ask unanimous consent that my remarks be taken from my leader time, not from the morning business time allocated for this tribute this morning.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of morning business until the hour of 12 p.m., with the time equally divided between the Senator from Texas or her designee, and the Democratic leader or his designee.

The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I yield 7 minutes to the senior Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

VETERANS DAY

Mr. STEVENS. Mr. President, it has been over 50 years since my good friends, Senator INOUYE, Senator HOLLINGS, Senator WARNER, Senator LAUTENBERG, Senator AKAKA, and I returned home from World War II. When I joined the Senate in 1968, approximately half of the Members of the Senate were World War II veterans. While there are several Senators here who have served in Korea, Vietnam, and in later engagements, there are a few of us still around who lived through World War II. We are proud of a tradition of over 48 million Americans who have served in our Armed Forces since 1776.

Whenever our Nation has needed warriors to defend our Nation, young men and women in uniform have stepped forward, willing to bear that burden. This day, Veterans Day, is a reminder to us of their courage, bravery, and sacrifice.

These days, our thoughts are never far from a battlefield. New generations have answered the call to service, and as we meet today, they are defending us in some of the most dangerous places in the world, where they face determined enemies and terrorists. I join all here today in thanking each of them for their service and thank their families for their sacrifice.

I had the honor to serve in the Army Air Corps with a squadron in China in World War II. Our squadron motto was: We do the impossible immediately, miracles take slightly longer.

The history of our Nation's Armed Forces is one of impossible challenges and formidable enemies. But our men and women in uniform have met and overcome them on battlefields, and in the air, and on the sea and, as our Chaplain reminded us, under the sea, across the globe.

Secretary of State Colin Powell recently spoke of the tradition of service and said:

> We have gone forth from our shores repeatedly over the last hundred years . . . and put wonderful young men and women at risk, many of whom have lost their lives, and we have asked for nothing except enough ground to bury them in.

It is right and proper for the Senate to remember the young men and women who have served our great Nation in uniform and those who did not return because they made the ultimate sacrifice.

Veterans share a common bond. We are truly comrades in the deepest sense of the word, and I salute each one of them.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, as the country marks the Veterans Day holiday, I wish to take a moment to express my thanks to the people of Wisconsin and to our Nation's veterans and their families.

I urge my colleagues and all Americans to take a moment today to reflect upon the meaning of this day and to remember those who have served and sacrificed to protect our country and the freedoms we enjoy as Americans.

Webster's Dictionary defines a veteran as "one with a long record of service in a particular activity or capacity" or "one who has been in the armed forces." But we can also define a veteran as a grandfather or a grandmother, a father or a mother, a brother or a sister, a son or a daughter, or a friend. Veterans live in all of our communities, and their contributions have touched all of our lives.

November 11 is a date with special significance in our history. On that day in 1918, at the 11th hour of the 11th day of the 11th month, World War I ended. In 1926, a joint resolution of Congress called on the President to issue a proclamation to encourage all Americans to mark this day by displaying the U.S. flag and by observing the day with appropriate ceremonies.

In 1938, Armistice Day was designated as a legal holiday "to be dedicated to the cause of world peace" by an act of Congress. This annual recognition of the contributions and sacrifices of our Nation's veterans of World War I was renamed Veterans Day in 1954 so that we might also recognize the service and sacrifice of those who had fought in World War II and the veterans of all of America's other wars.

Our Nation's veterans and their families have given selflessly to the cause of protecting our freedom. Too many have given the ultimate sacrifice for their country on the battlefields of the Revolutionary War that gave birth to the United States, to the Civil War which sought to secure for all Americans the freedoms envisioned by the Founding Fathers, to the global fight against nazism and fascism in World War II.

In the last century, Americans fought and died in two World Wars and in conflicts in Korea, Vietnam, and the Persian Gulf. They also participated in peacekeeping missions around the globe, some of which are still ongoing. Today our men and women in uniform are waging a fight against terrorism and, at the same time, are participating in ongoing military operations in Iraq.

As we commemorate Veterans Day, 2003, we should reflect on the sacrifices—past, present, and future—that are made by our men and women in uniform and their families. We should also resolve to do more for our veterans to ensure they have a decent standard of living and adequate health care.

This is especially important as we welcome home a new generation of veterans who are serving in Iraq and in the fight against terrorism. Today's soldiers, sailors, airmen, and marines are tomorrow's veterans. These men and women selflessly put their lives on the line as the countless military personnel before them whom we honor today. We must ensure that their service and sacrifice, which is much lauded during times of conflict, is not forgotten once the battles have ended and our troops come home.

For that reason, I am committed to ensuring that the Department of Veterans Affairs makes every effort to educate our veterans about benefits for which they may be eligible through the VA.

Our veterans and their families have made great personal sacrifices to protect our freedoms. Making sure our veterans know about the benefits they have earned is an important first step in starting to repay this debt. That is why I am fighting to overturn a VA policy that prevents the agency from reaching out to veterans who may be eligible for health care benefits, and that is why I have introduced legislation to improve the VA's outreach to veterans.

In addition, I continue to hear from many Wisconsin veterans about the need to improve claims processing at the VA. These veterans are justifiably angry and frustrated about the amount of time it takes for the Veterans' Administration to process their claims. In some instances, veterans are waiting well over a year. Telling the men and women who served our country in the Armed Forces that they "just have to wait" is wrong and unacceptable.

Last month, the VA issued a press release declaring "partial victory" in its efforts to reduce the number of pending claims. The release noted that the VA has reduced its claims backlog from 432,000 to 253,000 over the last 2 years. I am pleased the VA has made claims processing a priority, but there is much more work to be done. I urge the Secretary to continue this effort to reduce the claims backlog. The more than a quarter of a million veterans who are still waiting to have their claims processed, coupled with the thousands of new veterans returning from the battlefield of Iraq and Afghanistan, deserve the concerted effort of the VA and the Pentagon to process claims quickly and to educate new veterans about their benefits in an effective and clear manner that may help to prevent the filing of additional claims in the future.

I am looking forward to continuing to meet with veterans and their families around Wisconsin to hear directly from them what services they need and what gaps remain in the VA system.

So on Veterans Day, and throughout the year, let us continue to honor America's brave veterans and their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 7 minutes to the Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I rise to join my colleagues on this magnificent day which we set aside for the veterans of all of our wars.

As I was presiding at the time we took a moment of silence, I reflected back to 1918 when the guns fell silent at 11 o'clock across the trenches in Europe. There was a young doctor there who had been wounded, who had been decorated, but he was still at his post in the trenches when that hour arrived. That was my father.

I read a poem in his honor and in honor of all veterans which reflects my understanding and my deep belief and gratitude to veterans. It is called "In Flanders Fields":

> In Flanders fields the poppies blow
> Between the crosses, row on row,
> That mark our place; and in the sky
> The larks, still bravely singing, fly
> Scarce heard amid the guns below.
>
> We are the Dead. Short days ago
> We lived, felt dawn, saw sunset glow,
> Loved and were loved, and now we lie
> In Flanders fields.
>
> Take up our quarrel with the foe:
> To you from failing hands we throw
> The torch; be yours to hold it high.
> If ye break faith with us who die
> We shall not sleep, though poppies grow
> In Flanders fields.

I wear one of those poppies on this Veterans Day. It is issued by the veterans organizations all across America in reverence to those who have gone before us to make it possible today to exercise free speech.

My distinguished colleague, Senator STEVENS, my friend of these 25 years in the Senate, just mentioned that there are five of us who are here who served in World War II. My record pales against his record, Senator HOLLINGS, Senator INOUYE, and others. But I was privileged as a very young 17-year-old to volunteer and take up my responsibilities, as did all in my generation in those days. Yet the heavy lifting, the heavy work, the heavy losses had been done that went before us, and in 1945, when I was simply in a training command, the war ended.

I say that only because had it not been for what the U.S. military has done for me in these 58 years that I have been privileged to be associated, I would not be here in the Senate. That is why I labor with others, primarily those on the Armed Services Committee, to do what we can for today's veterans and, most importantly, for those who are still in uniform and those who will follow in uniform in the generations to come, together with their families.

I speak in gratitude from my heart to all the veterans and, indeed, for what the military did for this humble soul to make it possible through the GI bill twice. I received it once for World War II and once for brief service again in Korea. Again, my heart is filled with gratitude, and it is such a magnificent day to rise and reflect.

Back in World War II, I remember on our block, when our neighbors were lost in battle, a gold star went on their door to remind all of the sacrifices of that family. And on the other doors were a little decal which said: We proudly have our son in the Army, the Navy, the Air Corps, the Marines, the Coast Guard.

Those were days when there was absolute sacrifice all across the Nation. Today, this Nation again is united. We stand strong behind our men and women of the Armed Forces, as it should be. So by the grace of God, by the sacrifices of all who have gone before us, we stand humbly today and express our gratitude to them and their families.

I ask unanimous consent that a list of United States service personnel casualties be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SERVICE PERSONNEL CASUALTIES

Contingency	Total casualties (KIA/WIA)	Killed in action (KIA)	Wounded in action (WIA)
World War I	321,000	115,000	206,000
World War II	1,077,245	405,399	671,846
Korea	139,852	36,568	103,284
Vietnam	211,506	58,203	153,303
Afghanistan	252	31	221
Iraq	2,336	398	1,938

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield up to 4 minutes to the Senator from Wyoming, Mr. THOMAS.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, we all rise to recognize this day. As we think about it, I suspect there is no other day of recognition that has as much bearing on the freedoms we enjoy as this day of recognizing veterans. It is so important that we take time to recognize and honor those men and women who have worn this country's uniform.

Certainly, as we think about it today, our thoughts are primarily focused on those men and women now serving overseas in Iraq, Afghanistan, and other places. Of course, historically we have many things to think about: Those who have given so much so we can continue to live in freedom.

I suppose if we have a weakness in terms of our recognition, it is identifying what others have done for us to be able to have the freedoms we enjoy and have done for so many years. I think it is appropriate we set this day aside not only to recognize those who have done so much but, frankly, to ensure young people understand the sacrifices that have been made. We want people who were not around at all in World War II, Korea, or even Vietnam to understand what has happened.

Dwight Eisenhower once said that:

> War demands real toughness of fiber, not only in the soldiers who must endure, but in the homes that must sacrifice their best.

That is true. All families sacrifice as well. This morning, we visited a VA hospital in DC. We visited with a number of veterans who were being treated in that hospital, some from World War II who had done so much.

Today we honor those who made these sacrifices, in many cases the ultimate sacrifice in defense of liberty, justice, and democracy. We are engaged today in the struggle which will test our national resolve, and I hope today helps us to understand the importance of that resolve. A new generation of Americans has answered the call and is defending our country.

Today, as we commemorate and honor those who have gone before, we must remember the brave souls currently serving in harm's way. We must renew our commitment to the ideals for which so many have fought and died. We must never forget freedom has a very high price indeed. That price has been paid by our Nation's veterans and their families.

I was impressed when I think it was the commandant of the Marine Corps who said there is a direct connection between the land of the free and the home of the brave. That is true.

Today we say thank you on behalf of a very grateful Nation. We are extremely proud of all the veterans have done.

I ask unanimous consent the poem "A Cowboy Defends Us" be printed in the RECORD.

There being no objections, the material was ordered to be printed in the RECORD, as follows:

A COWBOY DEFENDS US

(By Tina Willis, Apr. 9, 2003)

I wonder what it means to you
When you see the flutter of red, white, and blue
I think of American history and days that are gone
I think of our troops in Iraq and Iran

I think of the folks that settled this west
Who've raised sons and daughters and offered their best
These children traded a tractor for a humvee's rough ride
And their parents now wait with no sleep but much pride

I think of the cowboy called to duty today
Throwing his pony a last flake of hay
Before boarding a bus in this dawn's early light
As he joins the forces to fight the good fight

I think of the bunkhouse with one empty bed
There's a tent in the sand where he'll now lay his head
As I savor my freedom and pray for our troops

I think of the cowboys that now wear infantry boots
Their instincts and courage were learned on the range
They're taking care of the homestead—with a scenery change
Our nation is safer and stronger today
Because some cowboy defends us—time zones away

And I wonder what it means to you
When you see the flutter of red, white, and blue. . . .

Mr. THOMAS. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 4 minutes to the senior Senator from Missouri, Mr. BOND.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my colleague from Texas and the others who have spoken.

It is a great honor and privilege to be on the Senate floor on this Veterans Day to acknowledge the sacrifices of America's veterans and the priceless service our veterans have rendered to a grateful Nation.

Earlier this morning Senator THOMAS, Senator INHOFE, and I visited the Washington VA hospital to say thank you. Previously, I had been to Walter Reed and Bethesda National Naval Medical Center, as I know many Members have, to say thanks also to those returning from the current war. In all of these visits and in everything we do, we should express our thankful appreciation to America's veterans, particularly while we find ourselves embroiled in a war against those seeking to destroy all America stands for, what we hold most dear, our freedom.

It is the soldier, sailor, airman, and the marine to whom we have turned for protection from terrorists and the failed nation states that support them. Our troops are performing in an exemplary manner, taking the fight to those who would harm us on enemy territory and on our terms. The events of September 11 and the military operations that have ensued since then have brought a renewed understanding and respect for our Nation's military and our veterans.

In response to the horrendous acts carried out on 9/11, our men and women in uniform have taken action, as our veterans have done countless times throughout history.

We are fighting the war on terrorism on many fronts, using all the tools at our disposal. We will win this conflict through the patient accumulation of successes, by meeting a series of challenges with determination, with will and with purpose. This campaign is a marathon, not a sprint. We must be mindful to think not only in the near term but to look ahead 5, 10, 15 years and to take this opportunity to shape our future world. We must find a way to help contribute to the peace and stability of what is clearly still a dangerous and unpredictable world.

After 9/11, President Bush said:

> In the months ahead, our patience will be one of our strengths . . . patience and understanding that it will take time to achieve our goals; patience in all the sacrifices that may come.

Today, sacrifices are being made by our troops who defend us far from home, and by their proud yet worried families. The sacrifices they make are the same sacrifices made by those who served before them. We ask an awful lot of those who wear the uniform. We ask them to leave their loved ones, to travel great distances, to risk injury, even risk death. They are dedicated, they are honorable, and they represent the very best of our country. We are indeed grateful for these countless sacrifices. We can never repay our debt to those who serve our Nation, but we can ensure they know they will never be forgotten. Today, we have some very real reminders of the cost of freedom. It is an absolute that we would not enjoy the freedoms we have today were it not for the willingness of our men and women to serve each of us and our country by committing to fight on our behalf in the armed services.

We are fighting every day on the many fronts around the world and those of us in this body work to provide not only the resources we need to ensure that our men and women in the field are the best trained, best equipped, best prepared, and the best protected, but we also work to ensure we meet the commitments made to our veterans who have served in the past.

As former Secretary of Defense William Cohen once said, we are "unwilling to live in a world in which evil triumphs. And as a result, the flag of freedom flies not only over America, but over those countries whose people had to yield to the terror of tyranny and under the heel of boots of dictators." Our veterans have kept the flame of freedom alive, and they are a true reflection of the American spirit.

There are many accolades for veterans, but the one I like best is from Father Dennis Edward O'Brien's "What Is A Vet?"

> He is an ordinary yet extraordinary human being, a person who offered some of his life's most vital years in the service of his country and who sacrificed his ambitions so others would not have to sacrifice theirs . . .
>
> He is a soldier and savior and a sword against the darkness, and his is nothing more than the finest, greatest testimony on behalf of the finest, greatest nation ever known.
>
> So remember, each time you see someone who served our country, just lean over and say thank you. That is all most people need, and in most cases will mean more than any medals they could have been awarded or were awarded.

President Bush said it best when he described the will of our Nation by saying:

> We will not waiver; we will not tire; we will not falter; and we will not fail. Peace and freedom will prevail.

That peace and freedom will prevail because of the commitment of those who serve in uniform. America's veterans are the rock on which we have defended America's shores and are the reason our President can make such promises.

May God bless our veterans for their service, and may He continue to bless America.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 3 minutes to the Senator from Idaho, Mr. CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me thank the Senator from Texas for taking out this special order this morning.

I join with all Idahoans and all Americans to pause during Veterans Day to honor the service of all our American soldiers. It is a day set apart to celebrate peace and freedom through ceremonies of thanksgiving and prayer. It is a day dedicated to the men and women whose great sacrifices made it possible that we might pause to recognize them, to pray and to give thanks. Sadly, however, as battles fade, so do the memories of our soldiers, and what was once a fervent memory becomes but a passing one of only photographs and pictures of men and women who served their country.

But this is beginning to change.

As our Nation reaches out to free oppressed people around the world, a new generation of American soldiers is joining the honored body of U.S. veterans. Men and women who fought and continue to fight in Iraq are bringing fresh faces and new experiences to the legacy of those who have gone before. Troops stationed in Afghanistan work to maintain the standard of freedom others obtained for us in the past. These soldiers are expanding the image of American veterans as they stand for liberty and redefine the world.

Like the soldiers before them, today's members of the armed services are risking everything to ensure the freedom and happiness of their fellow Americans. On a daily basis, they lay their lives on the line to face an unsure and dangerous future. Some of them pay the ultimate cost and remind us all that freedom is not free.

Exactly who are the new veterans? They are just like you. They are fathers and mothers whose children anxiously await their return. They are sons and daughters whose parents proudly boast to their neighbors. They are students, graduates, neighbors, and friends. They are people in our State, our hearts, and our homes.

For many people, this newest fight for liberty is bringing home the reality of war. A veteran is no longer an unfamiliar face in an old black and white photograph. The price of freedom is no longer a thing of the past—it is our present and our future. With a new generation of young soldiers fighting for our Nation, we are forcefully reminded of the sacrifices previous veterans have paid for our happiness.

In the nearly 80 years since Congress first marked November 11th as a day to recognize and honor veterans, the image of the American veteran has been changing. Time has gradually brought a seasoned maturity of age to the once youthful faces of American soldiers. Sons have turned into fathers and fathers into grandfathers as each generation replaced the last.

Following the terrible attacks on our homeland two years ago, President George W. Bush declared:

> Americans should always honor our veterans. At this moment, we especially need the example of their character. And we need a new generation to set examples of its own, examples in service and sacrifice and courage.

Today we see the fulfillment of this challenge. We see a rising generation of new veterans fighting for the American people.

To the veterans of our past and present, we thank you. We honor your service, commend your example, and remember your sacrifice. While some of us may never fully understand the significance of your labor, we all feel your impact on our Nation and our lives.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 4 minutes to the Senator from New Mexico, Mr. DOMENICI.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, first, I thank the distinguished Senator from Texas for yielding me a few moments. Obviously, this is a time when it is very easy to talk about our veterans. But I thought I might just take about half of my time to tell the Senate a little story about my father.

My father came to the United States in 1908 as a 12-year-old immigrant from Italy. I don't think many of you know that in the First World War, immigrants, noncitizens, were drafted. My father was in little Albuquerque in business, 27 years old, couldn't write English, couldn't speak English too well, and he got a draft notice. Sure enough, 3 months later he went off to war, the First World War.

Another thing that is most interesting is that Armistice Day was this day, November 11; but it was also my dad's birthday. So he was a young American soldier, unable to speak very much English. He was sufficiently uncertain of his language that when he was up for promotion he didn't want to be promoted because he was afraid he couldn't drill the soldiers; he would sound funny because he had a big accent. Nonetheless, he did move up and whatever he was entitled to he got.

He remembered vividly November 11, Armistice Day—and one man in particular. I think all our veterans have a memory of some leader. His memory was of his captain, the captain of his Corps of Engineers which was building pontoon bridges and the like. The reason he remembered him was because this man told his men: Armistice is in the air. We are going to have peace. I don't want any of you dying while we are about to have peace. So he shepherded all of them and put them under bridges in the Argonne Forest, saying: Hide for 24 hours because I sense that there will be no war in 24 hours and I don't want you dying.

Sure enough, within 24 hours the war was over. My father used to write to this captain, who lived in Illinois, and thank him for taking good care of him in the midst of that war, in the Argonne Forest, as a non-American who had become an American citizen by getting drafted and serving. Just as all our other veterans, he was very proud.

Today we have so many millions of American men and women who, one way or another, were like my father. They went off to serve their country. They have had times of great fear. They have had times of great concern. They have had times when there was heroism all around them.

I close today by saying something to all of them. In all of our wars—I know a little about the First World War because of my father, as I told you—but from all of the wars, I thank them all on behalf of the people of my State for what they have done to preserve the greatness of this country and the concept of freedom and liberty.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I yield up to 1 minute to the Senator from Mississippi, Mr. LOTT.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the Senator from Texas for coordinating the opportunity today for us to honor our veterans.

"Greater love hath no man than this, that he lay down his life for his friends," or in this case his country.

This quotation embodies my sentiment on this Veteran's Day, as we honor those men and women who have laid down their lives for our great country, and those who stand ready in her defense.

I stand today to render my sharpest salute to the selfless, brave professionals who epitomize the most noble of citizens.

How can we express our gratitude and overflowing pride for our service men and women who have paid the ultimate price for their country, and those friends and family members who have endured the loss of their loved ones?

How can we ever truly appreciate the comfort and safety that the soldier, airman, or seaman affords us through his or her daily dedication to duty?

Perhaps there are lessons to be learned from the strong, silent, tall soldier whose steely eyes well up with tears at the sounding of our National Anthem.

Perhaps we could stand to learn some things from the weathered, silver haired, proud veteran who stands taller and breathes deeply as he hears another painful round of Taps.

Today we all stand in solemn remembrance of those Americans who gave their lives so that others may be free. Today I would like to remind everyone that those lives lost were not in vain. Because of these individual sacrifices we are able today to remain the greatest free nation in the world.

I would like to mention my personal pride for the men and women from Mississippi who so bravely currently serve and have served their nation in defense.

During the Vietnam War, 637 Mississippians gave their lives. In the Korean Conflict, from 1950 to 1957, 412 of our statesmen made the ultimate sacrifice.

Since the horrific day that will forever be remembered, September 11, 2001, Mississippi has lost nine soldiers during Operations Enduring Freedom and Iraqi Freedom.

More than 3000 of Mississippi's sons and daughters have responded to this Nations latest call for arms in the global war on terrorism, and operations in Afghanistan in Iraq.

Unlike previous wars, the veterans of these latest operations will probably not have battle names to remember like Leyte Gulf or Vicksburg.

As the President has said, the global war on terror is a different kind of war, where some operations would be visible and others would not be.

In this global war, our troops are supporting freedom and democracy around the globe, and fighting terrorism in the homelands of the terrorists and those who support them.

The war on terrorism will be a long war, and it will call for the endurance and perseverance of every American. In the end, there probably won't be a truce or surrender document signed aboard a great battleship. What there will be is stability, peace, and representative government in places where terrorism used to breed—where dictators no longer use poison gas on their own people, or have mass executions.

And on this Veterans Day we should remember all veterans, including those who continue to serve in this different kind of war.

And it is most appropriate to honor and salute those Mississippians who have lost their lives in Iraq and Afghanistan. They are: Kenneth Bradley, Army Staff Sergeant of Jackson, MS; Henry L. Brown, Army Corporal, of Natchez, MS; Larry K. Brown, Army Specialist, of Jackson, MS; James Anderson Chance III, Army Specialist, of Kokomo, MS; Therrel S. Childers, Marine Corps 2nd Lieutenant, of Harrison, MS; John K. Klinesmith, Jr., Army Specialist, of Carriere, MS; Jonathan W. Lambert, Marine Corps Sergeant, of Newsite, MS; Vincent Parker, Navy Engineman First Class, of Preston, MS; Joe N. Wilson, Army Staff Sergeant, of Crystal Springs, MS.

In the words of Boyd Lewis:

> The tranquility we enjoy was purchased dearly. May we never forget.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. The Senator has 2 minutes 45 seconds.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that I be allowed to take up to 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Mr. President, I rise today to pay tribute to the remarkable men and women who have, over the years, placed their lives in danger to preserve ours. On this Veterans Day, we remember those who made the ultimate sacrifice. We express sincere gratitude for those who continue to serve and protect our freedom, and we honor those families who also contribute every day in service of our country.

On the heels of Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, this Veterans Day is particularly significant. As we speak, American and allied soldiers continue to fight and die in defense of our liberty. Many are face to face with danger at this very moment.

It is these remarkable men and women, past and present, who embody the democratic ideals that are the foundation of our great Nation. I would like to share with you the story of one soldier who recently lost his life in Iraq. The following commentary was written by LTC John Kem, a former Army legislative fellow who worked on the Subcommittee on Military Construction during his year here. He wrote:

> There are very few events more poignant than a memorial service for a fallen Soldier. The service finishes with a final roll call by the company first sergeant of the Soldier's squad members. Each Soldier in turn responds: "Here, first sergeant." Then, three times in a row, the first sergeant calls out the dead Soldier's name. Finally, after the third silent pause, waiting for a response that will never come, a lone bugler sounds Taps.
>
> This evening [he said] I went to a memorial service for Private Second Class Jonathan Falaniko. Jonathan was killed on Oct. 27 in Baghdad by a rocket-propelled grenade. As you would expect, the memorial service was sad, but it was also a profound lesson on faith, selfless service and a family's love.
>
> Jonathan's unit, the 70th Engineer Battalion, is part of the Army's 1st Armored Division Engineer Brigade. The senior enlisted soldier in the brigade happened to be Jonathan's father, Command Sergeant Major Ioakimo Falaniko.
>
> After the company commander and a few of Jonathan's friends spoke at the memorial service, the command sergeant major stepped forward and spoke. He spoke about Jonathan as both a soldier and a son.
>
> Sergeant Major Falaniko read from a few of Jonathan's recent letters.

For a point of reference, Jonathan was a new soldier who had been in the Army less than 6 months. He attended basic training beginning in May 2003 and deployed to Iraq in August of this year. The following quotes are from some of his letters in the last few months of his life:

> Dad, I love being in the Army and I love serving my country.
>
> Dad, this is where I belong, and this is where I need to be with you and the other iron soldiers.
>
> Dad, I push myself hard because I know the drill sergeants expect a lot out of me.
>
> Dad, Iraq is a mess and I am glad we are here to fix it.

Sergeant Major Falaniko finished by sharing from his heart talking about the kind of kid his was; the kind that loved his sisters and sent them money on every payday just to let them know he was thinking about them.

He concluded by saying to the hundreds of soldiers there at their memorial service, from the three-star general to the private:

> What our country brings to Iraq is a chance for freedom and democracy . . . making a difference every day. My son died for a good cause . . . he answered the Nation's call like a typical American soldier. Jonathan was accomplishing his mission, doing what he was supposed to be doing. He had a big heart and he was proud to be a soldier.

Then, First Sergeant Allen called:

> Private Falaniko.

And there was silence.

Again, he called:

> Private Jonathan Falaniko.

And finally:

> Private Jonathan Ioakimo Falaniko.

Silence prevailed.

Jonathan Falaniko was a hero who made the ultimate sacrifice. Both he and his father are examples of what makes our Army and our country great.

The Army and our Nation mourn his death. That young man—a soldier for not even a full year—was buried at Arlington National Cemetery on Friday.

On this Veterans Day, I think we should reflect on the wonderful young men and wonderful fathers who would put service to country above all else, for they are the ones who are protecting the freedom that we enjoy today.

Thank you, Mr. President. I yield the floor.

Mr. ALEXANDER. Mr. President, today is Veterans Day. It is a time to pay tribute to those who have fought for our freedom and made us the Nation we are today.

On November 11, 1919, Veterans Day began as Armistice Day. It marked the first anniversary of the cease-fire agreement among the Allied powers and Germany to end World War I. It was also to honor the men and women who sacrificed during that conflict.

In 1926, a congressional resolution officially named Armistice Day in the United States. It became a national holiday 12 years later. In 1954, Congress passed a law to change the name from Armistice Day to Veterans Day to honor veterans of all U.S. wars.

As I think about our veterans and all they have sacrificed, I am reminded of a day 6 months ago when I visited Madisonville, TN, to see and participate in the raising of the largest American flag in our State—1,800 square feet.

It was really an awful day. The rain was coming down, there was lightning and thunder, but hundreds of people stood there to participate in that ceremony because we knew we were enduring much less in that rain and in that lightning than men and women from Tennessee who are serving in Afghanistan or Iraq, or had served on the beaches of Normandy, or in the rice fields of Vietnam.

Tennessee is the Volunteer State. From the battle of King's Mountain in the Revolutionary War, through the Mexican War, the Civil War, and our World Wars, Tennesseans have volunteered. We have honored those volunteers, and we have honored them as veterans.

As this Nation devotes a day to our veterans, we honor both Tennessee veterans and Tennessee soldiers because so many Tennesseans—thousands—are serving in the battle against terrorism—men and women in active duty, as well as men and women in the National Guard and those in the Reserves.

The best thing we all can do on this Veterans Day is to show as much respect and honor to our veterans as our veterans have always shown to our country.

Mr. LEVIN. Mr. President, this year, as we again remember our veterans and the sacrifices they have made for our country on this 11th day of the 11th month, the men and women serving in our Armed Forces deserve special recognition. This year's remembrance is a unique time as we honor new veterans coming home from the battlefields of Afghanistan and Iraq who have made the sacrifice and have answered the call. Our appreciation and gratitude extends to all of them and their families for the sacrifices that they have made.

As of last week, 395 American service members have been killed and 1,889 American service members have been wounded during Operation Iraqi Freedom. Our thoughts and prayers are with them and their families. We pray for the safety of those still in harm's way and hope they return home soon. I visited some of our servicemen and women at Walter Reed Army Medical Center here in Washington, DC recuperating from wounds they received in Iraq. Some of them had lost limbs, and face significant physical challenges in building a new life. As I expressed my appreciation to them for their sacrifices, I was humbled and inspired by their high spirits, their determination and their abiding faith in our country.

November 11th—the day World War I ended in 1917—has been a distinguished day of recognition for America's veterans since 1954 when President Dwight Eisenhower signed into law the day that would honor the men and women who have served in our Nation's Armed Forces. Since the founding of our country, almost 50 million men and women have served in the United States military, and nearly half of them are still alive. So today, there are appropriate ceremonies at Arlington National Cemetery, throughout Michigan and the rest of the country to honor our veterans and what their service has meant to our country.

I would also like to recognize the African-American men and women who in years past served our Nation's Armed Forces in primarily segregated units. While segregation in our Armed Forces is a shameful chapter in our Nation's past, these veterans should be uniquely recognized for their honorable service in the face of the burden of segregation. African-American soldiers overcame a patten of prejudice that questioned their ability and prevented them from training and working with their white counterparts. Segregated African-American units have played an important and powerful role in America's military, from the Civil War's 54th Regiment of the Massachusetts Volunteer Infantry, to the Indian War's Buffalo Soldiers of the 9th and 10th Cavalry to World War II's Tuskegee Airmen. Four hundred thousand African-American troops served the United States in World War I and a million African Americans served in World War II's segregated services. We should acknowledge their commitment which went beyond normal service and the call to duty. I am pleased that this past weekend, a special celebration of our African-American veterans took place in my home State of Michigan at the Color of Liberty Celebration at the Wayne County Armory.

I would also like to take a moment to stress the importance of the Federal Government meeting its obligations to all veterans to provide appropriate and adequate health care. There is a commitment by the appropriate committees to add an additional $1.3 billion for veterans health care before Congress adjourns this year. Right now, 60,000 veterans are waiting 6 months or longer for an appointment at VA hospitals. I am hopeful that Congress will fulfill our commitments to our veterans so that they have a strong VA health care system that is well-funded and suitably staffed.

The terrorist attacks of September 11th and the courageous actions of our armed forces in Afghanistan and Iraq remind us that friends of tyranny and enemies of freedom still exist. Whether they are soldiers, sailors, airmen and marines who fought in the World Wars, Korea, Vietnam or the Gulf wars, we thank them for their service, their commitment and their sacrifice in the cause of America's freedom.

Ms. STABENOW. Mr. President, on this Veterans Day, I rise to recognize a group of truly deserving American veterans—the Tuskegee Airmen of World War II.

This heroic group of African American flyers fought in two types of battles—the battle of World War II and the battle against racism at home.

The Tuskegee airmen were dedicated, determined young men who enlisted to become America's first black military airmen, at a time when rampant racism led many people to falsely assume that black men lacked intelligence, skill, and patriotism. And boy, were they proved wrong.

The military feats of this group can be described as nothing less than phenomenal.

In Order to enter the training program, the young men were held to the same demanding physical and mental standards as all other military pilots and soldiers of supporting fields. And between 1942 and 1946, 992 black American pilots graduated from the rigorous program offered at Tuskegee Army Air Field, not to mention the black navigators, bombardiers, and gunnery crews that were trained at selected military bases elsewhere due to a lack of facilities at Tuskegee.

Four-hundred and fifty of the Tuskegee trained pilots headed to the Selfridge Air Base in Michigan for combat preparation, before bravely heading overseas as proud members of either the 99th Fighter Squadron or the 332nd Fighter Group, later to be conjoined. As the only four-squadron fighter group performing bomber escort missions in the 15th Air Force, the 332nd Fighter Group had extraordinary and unprecedented success. They flew all of their bomber escort missions—over 200—without the loss of a single bomber to enemy aircraft.

The bomber escort missions of the famed 332nd "Red Tail" fighters were so daunting to the enemy that they served as an immensely strong deterrent to challenges. The bomber crews that the group escorted offered abundant expressions of appreciation since they faced far fewer challenges than other crews in the 15th Air Force.

Sadly, while these men were defending liberty for the people half a world away, they were also fighting for their own liberation right here in the United States. Despite their valiant deeds abroad, racism and bigotry impeded their success at home. Due to strict segregationist policies, their assignments were restricted to only two fighter groups, and one fighter wing. Their morale suffered more damage due to the lack of opportunities for advancement than their air fleet did by enemy fire.

Despite this setback, these soldiers still performed splendidly. In 1949, Tuskegee pilots took first place in the Air Force National Fighter Gunnery Meet, surpassing the performances of all the white units.

The bigotry against these men only served to hurt America. During the war, many white units badly needed additional qualified soldiers, but could not draw upon the superb skills of the Tuskegee airmen due to the military's segregationist policies.

But this cloud had its silver lining. The willpower and skill that brought success for the Tuskegee airmen abroad also helped in the war against racism at home. President Harry Truman, recognizing the need for an integrated air force, enacted an executive order demanding equality of treatment and opportunity in all of the armed forces.

The Tuskegee airmen were instrumental in the passing of this executive order, which paved the way for broader victories later on, including the end of racial segregation in all military forces, and eventually in the United States as a whole.

These soldiers are a vibrant part of America's history and a part of Michigan's. Not only did many of the soldiers train at Selfridge Air Base, but the cadet classes drew heavily from the Detroit citizenry. One such citizen made Michigan understand the value of the Tuskegee program to its own history.

Lieutenant Coleman Young, later to become a long-time mayor of Detroit, was a product of the Tuskegee experience. Assigned to the 477th bombardier, he and his colleagues were never sent into combat due to racism from senior officers. Determined to preserve the memory of the Tuskegee airmen, with the help of other Detroit members, he fostered what has become the National Tuskegee Airmen Historical Museum, housed at historic Fort Wayne. This small but dignified museum, occupying an old officer's quarters, perpetuates the great story the Tuskegee have to tell.

A story I believe we should all listen to. All in all, these soldiers gave over 150 lives in the name of their country and in the name of freedom. I now call on that country, the United States, to provide them the recognition they deserve on this Veterans Day.

According to existing records, 155 Tuskegee soldiers originated from Michigan, I wish to recognize each one of them:

TUSKEGEE AIRMEN

Kermit Bailer; Clarence Banton; James Barksdale of Detroit; Hugh Barrington of Farmington Hills; Naomi Bell; Thomas Billingslea; Lee Blackmon; Charles Blakely of Detroit, Robert Bowers of Detroit; James Brown of Ypsilanti; Willor Brown of Ypsilanti; Ernest Browne of Detroit; Archibald Browning; Otis Bryant; Joseph Bryant, Jr. of Dowagiac; Charles Byous; Ernest Cabule of Detroit; Waldo Cain; Clinton Canady of Lansing; Carl Carey of Detroit; Gilbert Cargil; Nathaniel Carr of Detroit; Donald Carter of Detroit; Clifton Casey; David Cason, Jr; Peter Cassey of Detroit; Robert Chandler of Allegan; Pembleton Cochran of Detroit; Alfred Cole of Southfield; James Coleman of Detroit; William Coleman of Detroit; Eugene Coleman; Matthew Corbin of Detroit; Charles Craig of Detroit; Herbert Crushshon; John Cunningham of Romulus; and John Curtis of Detroit.

Donald Davis of Detroit; Cornelius Davis of Detroit; Eugene Derricotte of Detroit; Taremund Dickerson of Detroit; Walter Downs of Southfield; John Egan; Leavie Farro, Jr.; Howard Ferguson; Thomas Flake of Detroit; Harry Ford, Jr. of Detroit; Luther Friday; Alfonso Fuller of Detroit; William Fuller of West Bloomfield; Frank Gardner; Robert Garrison of Muskegon; Thomas Gay of Detroit; Charles Goldsby of Detroit; Ollie Goodall, Jr. of Detroit; Quintus Green, Sr.; Mitchell Greene; James Greer of Detroit; Alphonso Harper of Detroit; Bernard Harris of Detroit; Denzal Harvey; James Hayes of Detroit; Ernest Haywood of Detroit; Minus Heath; Milton Henry of Bloomfield Hills; Mary Hill; Charles Hill, Jr. of Detroit; Lorenzo Holloway of Detroit; Lynn Hooe of Farmington Hills; Heber Houston of Detroit; Ted Hunt; and Hansen Hunter, Jr.

Leonard Isabelle Sr., Leonard Jackson; Lawrence Jefferson of Grand Rapids; Alexander Jefferson of Detroit; Silas Jenkins of Lansing; Richard Jennings of Detroit; Louie Johnson of Farmington; Ralph Jones; William Keene of Detroit; Laurel Keith of Cassopolis; Hezekiah Lacy of River Rouge; Richard Macon of Detroit; Albert Mallory; Thomas Malone; Ralph Mason of Detroit; J. Caulton Mays of Detroit; William McClenic; Arthur Middlebrooks; Oliver Miller of Battle Creek; Vincent Mitchell of Mt. Clemens; Wilbur Moffett of Detroit; Dempsey Morgan of Detroit; Russell Nalle, Jr. of Detroit; Robert O'Neil of Detroit; Frederick Parker; Robert Pitts of Detroit; Wardell Polk of Detroit; Walter Poole; Calvin Porter of Detroit; Calvin Porter; Leonard Proctor; Della Rainey; Sandy Reid of Southfield; Edward Rembert; Harry Riggs of Bloomfield Hills; Walter Robinson of Detroit; Major Ross of Oak Park; Washington Ross of Detroit; John Roundtree of Westland; Calude Rowe of Detroit; William Ruben; William Rucker; Jesse Rutledge of Detroit; and Issac Rutledge.

Calvin Sharp; Albert Simeon, Jr. of Detroit; Paul Simmons, Jr. of Detroit; Leon Smith; Chauncey Spencer; William Stevenson; Chester Stewart of Detroit; Harry Stewart of Bloomfield Hills; Roosevelt Stiger of Jackson; Howard Storey; Willie Sykes of Detroit; Willis Tabor; Kenneth Taitt of Detroit; William Taylor, Jr. of Inkster; Lucius Theus of Bloomfield Hills; Donald Thomas of Detroit; Austin Thomas; Wm. Horton Thompson of Detroit; Jordan Tiller; Paul Tucker of Detroit; Edward Tunstall of Detroit; Allen Turner of Ann Arbor; Cleophus Valentine of Detroit; Charles Walker of Jackson; Robert Walker; Roderick Warren of Detroit; Theodore Washington of Detroit; Richard Weatherford of Albion; Jimmie Wheeler of Detroit; William Wheeler of Detroit; Cohen White of Detroit; Harold White of Detroit; Paul White; Peter Whittaker of Detroit; Leonard Wiggins of Detroit; David Williams of Bloomfield Hills; Willie Williamson of Detroit; Robert Wolfe; William Womack; and Coleman Young.

Mrs. FEINSTEIN. Mr. President, today, on Veterans Day, we commemorate and pay special honor to all the veterans who have made such great sacrifices in the name of country and democracy.

This day is particularly poignant as our Nation is at war. There are more than 150,000 military service members in harm's way, fighting overseas in Iraq and Afghanistan.

They fight for freedom of the Iraqi people, who have faced decades of extreme oppression and brutality under Saddam Hussein, and against the Taliban forces, who continue to pose a challenge in Afghanistan.

Sadly, nearly 500 have paid the ultimate sacrifice and many more have sustained life altering injuries.

And as we prepare to send thousands more in harm's way, I believe that it's our obligation to ensure that our military service members and veterans receive full support from Congress, and that our efforts are tailored to benefit those who proudly serve this Nation.

We have recently granted the Administration an additional $87 billion dollars in supplemental funding for Iraq and Afghanistan.

While I would have preferred that some of those funds be in the form of a loan to Iraq, and that there be more safeguards to ensure the funds are well-used, I believe that it was necessary to provide these funds.

It is clear to me that we must stay the course, and we must rebuild the infrastructure, prevent civil war, and see to it that Iraq does not become a base for terror and instability throughout the region.

We must see to it that a stable governmental structure and viable economy apart from Saddam's tyrannical dictatorship can be put in place.

And most importantly, we must see to it that our troops are given all the tools necessary to accomplish these objectives.

Approving the additional funding was the only way to truly support our military service members and aid their ultimate success.

As we seek to ensure that the current war efforts are well funded, we also need to realize that very soon, the young men and women of our armed forces will be returning home.

Some will require extraordinary care for a long period of time. It is incumbent upon us to ensure that they have adequate facilities to aid them in their recovery and recuperation.

There must not be any doubt by any of our injured veterans that they did the right thing in sacrificing health to defend our nation's interest.

The best way to prove to them that they have our full support is to ensure that they receive good health care and adequate benefits once they return home.

It is our responsibility to make sure that our veterans are not waiting six months or longer for appointments at VA hospitals, nor should they have to wait for 15 months for disability claims to be finalized, as is now often the case.

And prescriptions costs must be affordable.

We need to make room available in VA hospitals to ensure that all of our veterans whether active duty or reserves are adequately served.

In order to accomplish this task we must be cautious as we close hospitals under the Capital Assets Realignment for Enhanced Services—CARES—program to ensure that we don't leave our veterans stranded without accessible services.

As our veterans return home, some with great and debilitating injuries, we must also ensure that their compensation is just, full, and reflective of the American spirit.

Finally, we need to remember the families of the great men and women who are separated from their loved ones.

We must make sure that their concerns are the Nation's concerns. While their loved ones are overseas fighting for America's interest, Congress must ensure that their medical needs are covered.

As I reflect on the origin of Veterans Day, it brings me great hope that our service members will be home and peace will reign again.

On June 4, 1934, Congress enacted a concurrent resolution, recognizing November 11, 1918. The resolution states: "Whereas the 11 of November 1918, marked the cessation of the most destructive, sanguinary, and far reaching war in human annals and the resumption by the people of the United States of peaceful relation with other nations, which we hope may never again be severed, and Whereas it is fitting that the recurring anniversary of this date should be commemorated with thanksgiving and prayer and exercises designed to perpetuate peace through good will and mutual understanding between nations; . . ."

On May 13, 1938, the 11 of November was approved as a legal holiday dedicated to world peace, known as Armistice Day. Finally, on June 1, 1954, Congress renamed Armistice Day to Veterans Day, thereby commending all veterans.

Veterans Day is often associated with war, but its true significance lies in peace and humanity.

Since September 11 this country has undergone tremendous struggle and uncertainty.

We have shown that our resiliency is greater than our fears and our convictions of freedom and right can not be compromised.

This country is great because its citizens are great. This country was born from the sacrifice of its citizens and the vision they saw.

Today we honor the citizens who served and continue to serve our great country. They are the protectors of our democracy and our way of life; they are our veterans.

Mr. CONRAD. Mr. President, in the past few days, the tragic headlines from Iraq have reminded us of the selfless sacrifices our soldiers, sailors, marines and airmen make every day to keep this country strong and safe. The conflict in Iraq brings home again the debt we owe to America's veterans for their service and their sacrifices.

In North Dakota, we are extremely proud to have the highest per capita participation in the Guard of any State and to be among the leaders in per capita participation in the Reserves. More than 1,000 North Dakota National Guardsmen and reservists in Iraq, Kuwait and Afghanistan are serving with distinction. Behind these statistics, though, are individual soldiers who have left behind families. With the wonders of modern technology, I can hear directly from soldiers who are on the frontlines in Iraq. I hear of their accomplishments, when they've helped make life just a little better for an Iraqi family or even a whole community. I hear of their pride in doing a job well for their country. But I also hear of their frustration with searing heat, swirling dust, and irregular access to showers and the other comforts we take for granted. I hear of their worries about family at home, how their loved ones are coping with their absence and their concern that the news of deaths and injuries among their fellow soldiers are adding to the stress on their families. I hear their longing to get back to home and family. In short, I hear of the sacrifices they are making on our behalf.

And every day I hear from the family members of our activated servicemen and servicewomen. I hear how proud they are that their beloved ones are serving the country they love. But I also hear of the added burden that those left behind must bear. I hear the frustration of not knowing when a loved one will come home and of learning that the deployment has been extended. I hear of the hit on the family finances for Guardsmen or reservists who have left higher paying jobs to serve their country—and of the spouses who are left to keep the family business running on their own. I hear of the added work as one parent takes on the work normally done by two—the caregiving, the helping with homework, the coaching, the meal preparation—all the little chores that add up and are starting to become a source of stress for some families. I hear the added anxiety of knowing that a loved one is serving in a dangerous role far from home. Each time the phone rings, they hope that it will be a rare opportunity to hear that everything is going well and to say "I love you," but they fear that it could be news of a casualty. In short, I hear of the sacrifices that they are making on our behalf.

And I hear of the tremendous impact on small communities throughout North Dakota. The current call-up has meant the loss of valued employees in small businesses on main streets across the state. It has meant the loss of teachers, volunteer firefighters, policemen, and medical personnel. And it has meant the absence of church leaders, PTA leaders, Little League coaches. In short, it has meant sacrifices great and small.

So this Veterans Day, we are reminded of the tremendous sacrifices of our veterans and their families. Today is a Federal holiday. But it is more than that. It is an opportunity to stop and thank veterans for their service and their sacrifice. It is an opportunity to tell them how proud they make you. And it is an opportunity to remember those who made the ultimate sacrifice and the debt of gratitude and honor this country owes to their heroism.

I deeply regret that the business of the Senate is keeping me here in Washington so that I am not able to deliver that message personally to the tens of thousands of North Dakota veterans who served in past conflicts and wars. More than 50,000 veterans currently live in my State. Their service is rich in history. I remember reviewing historical accounts of one of the most significant engagements involving North Dakotans in 1942, when members of the 164th Infantry Regiment of the ND Army National Guard were the first Army unit to engage in combat action in the Pacific Theater on Guadalcanal.

I was honored to have introduced a resolution that passed the Senate in 1992 paying tribute to the heroic actions of the 164th Infantry unit.

Today, as I noted earlier, military personnel from our State continue to protect our homeland and to serve in hostile environments around the world. Active duty personnel from the Minot and Grand Forks AFB, Air National Guard from Fargo, and the more than 1,000 Army National Guardsmen and reservists continue to play a vital role in homeland security and in the fight against terrorism. We owe these active duty personnel and their families a deep debt of gratitude for responding to the extraordinary challenges posed by international terrorism.

As we observe Veterans Day, let us remember that the respect and appreciation that we show our veterans and active duty personnel on this day is an act that we should demonstrate every day of the year. It is especially important that we honor veterans and their families by making certain that our active duty personnel and veterans receive the benefits that we have promised and that they are entitled to receive. We can do no less for the sacrifices that they have made.

That is why I am working hard in the remaining days of the 1st Session of the 108th Congress to make certain that our veterans receive significant increases in funding for VA health care, funding that should come as close as possible to the recommendations of our national veterans service organizations in the annual Independent Budget. I am hopeful that Congress will increase the VA health care budget by $1.3 billion, bringing the level close to $27.2 billion. I strongly support that increase. Additionally, I am very concerned by the uncertainty of annual appropriations for VA health care every year, and believe that we need to make VA health care funding mandatory to guarantee that veterans get the health care they need and deserve. I am pleased to be a cosponsor of legislation, S. 50, that would guarantee full funding for VA health care.

I also believe that it is time to end the penalty against our disabled veterans, and am pleased that we are making progress on providing full concurrent receipt of veterans disability compensation and military retirement pay for more veterans. While final action has not been completed on the concurrent receipt, I am hopeful that an agreement to expand significantly the number of veterans eligible for concurrent receipt and military retirement pay, without an offset, will be enacted by Congress in the very near future. We must, however, continue our efforts to provide full concurrent receipt for all veterans entitled to this benefit.

Let me close by saying thank you. Thank you to our veterans. Thank you to our military personnel now on active duty around the world. Your service and your sacrifice make me, and you make America, very, very proud.

Ms. CANTWELL. Mr. President, today marks the 50th anniversary of Veterans Day. This historic occasion is an important opportunity for all Americans to express our gratitude to our Nation's veterans for the sacrifices they have made serving our country and defending our freedom.

My first sense of the sacrifice made by our veterans came from my family. My father volunteered to serve in the Air Force during World War II, and flew missions over Europe. I will never forget his stories of the war, of the men with whom he served, and of the dangers they faced together. Yet he knew full well the risks he would face when he joined up.

In fact, my father enlisted after learning that his brother was missing in action. Like the hundreds of thousands who fell at places like Normandy, Guadalcanal, Anzio, and Attu, and places so desolate they remain unnamed, my uncle never came home. He and his brothers in arms gave their lives to defend freedom at home and around the world.

In perhaps the most eloquent testament to the sacrifice of our Nation's veterans, President Abraham Lincoln said:

> But in a larger sense, we cannot dedicate—we cannot consecrate—we cannot hallow—this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note, nor long remember what we say here, but it can never forget what they did here.

President Lincoln's stirring words are as true today as they were at Gettysburg 140 years ago this month. The ongoing deployments in the Middle East are a reminder of these sacrifices. Earlier this year, I had the opportunity to visit American troops stationed in Afghanistan and Iraq. I was impressed by their grit and their resolve to carry out a dangerous mission under extremely difficult circumstances.

I was also proud to join the families and neighbors who welcomed home the thousands of Washington sailors, aviators, and Marines who served in the U.S.S. *Abraham Lincoln* carrier battle group. It was uplifting to see such a tremendous outpouring of support for our troops.

Sadly, not all of them will make it home. To the families and loved ones of those men and women who have given their lives, I offer my heartfelt sympathy. You have the everlasting gratitude of the State of Washington and the Nation.

I am profoundly grateful for the service of America's military personnel and for the sacrifices they have made in protecting our country and our freedoms. Although we commemorate their service on this special day each year, it is important to remember that the men and women in uniform make sacrifices to safeguard America every day.

Their service, both in peacetime and in war, protects us all. Our responsibility to them is to ensure that they and their families are provided the recognition that they have earned and so greatly deserve. It is also our charge, as Lincoln described it, to renew our dedication to the "great task remaining before us"—to renew our dedication to freedom and democracy. I am confident that as we a nation will continue to live up to this challenge. I hope that we can meet our obligations as citizens with the same sense of duty and honor with which America's veterans served.

Mr. BENNETT. Mr. President, on Veterans Day, it is fitting to pause, remember and recognize the contributions of those who have defended America throughout our history. Today, I would also like to recognize a man who risked his life to save his fellow marines in the horrific World War II battle for Iwo Jima.

Historian David Kennedy, in his book "Freedom from Fear," describes the battle of Iwo Jima:

> The twenty-one-thousand-man Japanese garrison had honeycombed Iwo's basaltic ridges and Suribachi's ashen flanks with reinforced concrete-and-steel bunkers and stuffed them with artillery, antiaircraft guns, mortars, and machine guns. They were so well and deeply entrenched that seventy-two days of aerial bombing and three days of naval shelling barely scratched them. At first light on February 19 two divisions of marines, each man carrying up to a hundred pounds of gear, stepped from their amphtracs onto Iwo's beaches and sank to their boot-tops in the powdery mixture of sand and volcanic ash. Vehicles, including tanks and half-tracks, soon bogged down in the quicksand-like topping of pumice and cinder that blanketed the island. From the Japanese bunkers and pillboxes a hellish rain of shells and bullets pelted the beaches, where the marines seemed to be moving in slow motion through the sucking sand . . .
>
> The battle ground on . . . with unmatched barbarity. Japanese soldiers stubbornly refused to surrender. When the fighting ended at last in late March, only a few hundred Japanese, mostly wounded, had allowed themselves to be taken prisoner.

From February 19 to March 25, 1945, 6,140 Marine and Navy soldiers were killed on Iwo Jima and 17,372 were wounded. Nearly two of three soldiers who fought on Iwo Jima were killed or wounded. Twenty-two Marines and four corpsmen received medals of honor.

During those terrible days of February and March of 1945, George E. Wahlen was a medical corpsman. James Bradley, in the book, Flags of our Fathers said this:

> . . . In the European theater, my dad (a navy corpsman) would have worn a red cross on his helmet and expected the Germans to spare him as a noncombatant. And he would have been unarmed, according to the Geneva Convention. but the Pacific theater was different. . . . The Japanese on Iwo Jima had been trained to look for corpsmen by identifying their telltale medical pouch—and shoot them on the spot. Without a corpsman

> to save the wounded, the Japanese knew, their kill ratio would be much higher . . .

Though seriously wounded three times in 26 days, corpsman George Whalen refused evacuation and repeatedly defied heavy mortar and rifle fire from the enemy to find and treat his wounded comrades. Disregarding his own safety, he continued to cross open terrain under fire to aid his friends, until he was so badly wounded, he could no longer walk. Even then, he carried on, crawling across the ground through the raging battle to administer aid to yet another fallen comrade. For his unselfish and steadfast courage, and for "conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty." George Wahlen was awarded the Medal of Honor, and is Utah's only living recipient of that rare recognition.

We are all familiar with the language of military honors, but, in these challenging times, where American soldiers and sailors, airmen and marines, once again are serving in foreign lands and showing the same gallant spirit of sacrifice and courage in the face of battle, we need to hear it again. I would like to quote from Mr. Wahlen's citation:

> Painfully wounded . . . he remained on the battlefield, advancing well forward of the front lines to aid a wounded marine and carrying him back to safety despite a terrific concentration of fire. Tireless in his ministrations, he consistently disregarded all danger to attend his fighting comrades as they fell under the devastating rain of shrapnel and bullets. . . . When an adjacent platoon suffered heavy casualties, he defied the continuous pounding of heavy mortars and deadly fire of enemy rifles to care for the wounded, working rapidly in an area swept by constant fire and treating 14 casualties before returning to his own platoon. Wounded again . . . he gallantly refused evacuation, moving out with his company the following day in a furious assault across 600 yards of open terrain and repeatedly rendering medical aid while exposed to the blasting fury of powerful Japanese guns. Stouthearted and indomitable, he persevered in his determined efforts as his unit waged fierce battle and, unable to walk after sustaining a third agonizing wound, resolutely crawled 50 yards to administer first aid to still another fallen fighter. By his dauntless fortitude and valor, Wahlen served as a constant inspiration and contributed vitally to the high morale of his company during critical phases of this strategically important engagement. His heroic spirit of self-sacrifice in the face of overwhelming enemy fire upheld the highest traditions of the U.S. Naval Service.

James Bradley, in an article in the Wall Street Journal on November 10, 2002, considered the phrase "Uncommon Valor was a Common Virtue" in his search to learn the story of his dad, and others at Iwo Jima. Mr. Bradley wrote:

> Corpsman George Wahlen was injured in the eye and shoulder, but patched himself up secretly so he would not be evacuated. When an exploding shell shattered his ankle, leaving his foot dangling and all but disconnected from the leg, he shot himself with morphine, taped up his ankle, and crawled back to the fight with one good eye, one good arm, and one good leg. Corpsman Wahlen had to be dragged off the field of battle. "Why?" I asked. He answered, "I just did what anyone else would have done in the situation."
>
> . . . I thought to myself, "If uncommon valor was so common on Iwo Jima, why can't I find the Rambos of my imagination?" All I could find were humble guys who insisted they hadn't done much . . . But I realized then that what my dad's life and words, and the words and lives of these other heroes, were trying to tell me, was that it was all about common virtue.
>
> My dad and his comrades were men of common virtue before Iwo Jima, on Iwo Jima, and after Iwo Jima. Their actions and lives were consistent . . . I realized that the key to my dad's life was the attitude of common virtue he practiced throughout his days. . . . My dad, running through bullets on Iwo Jima, doing his duty in the Pacific. My dad having the patience to teach me, a young son, how to tie his shoes. My dad, just lending a hand in his community. . . . And I am confident that if my dad were here to read these words about common virtue being the root of heroism, he would shake his head in agreement and say: "It's as simple as that."

Mr. Wahlen has demonstrated common virtue throughout his life and continues to do so. He did not end his service on Iwo Jima. Following World War II, true to the code of what Tom Brokaw called "the greatest generation," he went on to serve his country in two more wars and to dedicate countless volunteer hours in following years to the service of his fellow veterans.

It is to honor this fine and humble man, who would be the last to claim such an honor for himself, that I am proposing to change the name of the Department of Veterans Affairs' Medical Center in Salt Lake City, UT to the "George E. Wahlen Department of Veterans Affairs Medical Center." Senator HATCH and I introduced this legislation, S. 1815, last week.

This is a proper and fitting thing to do, not only because of Mr. Wahlen's accomplishments and service, but also because he is beloved by his fellow veterans. This is made clear by the unanimous support I received in support of this change from all of the State commanders and directors of Utah's veterans' organizations and State and Federal agencies: the American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the VA Regional Office, the Utah Division of Veterans Affairs, and the VA Medical Center itself.

When carrying the 2002 Olympic Torch George Wahlen said, "It's an honor, but I feel like I'm representing all the veterans in the State of Utah." He has represented veterans so often over the last 30 years. In this circumstance, we honor George Wahlen, as a veteran, a Medal of Honor recipient, a man of both valor and virtue, and as a representative of all of the veterans who have served their country.

Many veterans who returned as heroes are often uncomfortable with the designation of heroes. James Bradley, in Flags of our Fathers, recounted a story where his third grade teacher referred to James's father as a hero and wanted him to come and speak to his class. He recounts the exchange with his father:

> "Jim, your teacher said something about heroes . . ."
>
> I shifted expectantly in my chair, waiting to hear some stories of valor. Instead he looked me directly in my nine-year-old eyes, signaling that he'd like to embed an idea in my brain for the rest of my life. He said "I want you to always remember something. The heroes of Iwo Jima are the guys who didn't come back."

Today, we remember those who came back and those who didn't—those who didn't come back from Iwo Jima, from Guadalcanal, from Normandy, from Vietnam, from Korea, from Afghanistan, from Iraq.

While words fail to make an adequate tribute to those who lost their lives and paid a price in sacrifice for what we enjoy today, I will borrow from what has already been written. In 1940, Winston Churchill spoke to the House of Commons in relation to the Battle of Britain. He said, "Never in the field of human conflict was so much owed by so many to so few."

There are heroes that never came back. There are heroes that did. Let us not forget.

Mr. BREAUX. Mr. President, I rise today to honor the veterans of the U.S. Armed Services and to thank those who continue to serve bravely and protect the United States around the world.

My home State of Louisiana has made a significant contribution to the war on terrorism. Since September 11, 2001, more than 15,000 Louisiana men and women have fought to protect Americans from those that threaten our safety. Every military installation in Louisiana has contributed to this effort. There are 4,000 men and women from Fort Polk currently serving in Iraq, more than 6,000 members from Barksdale Air Force Base deployed since September 11, and thousands of reservists and Guardsmen continue to be activated and deployed throughout our country and the world. In the coming months, over one hundred more Marine Reservists from Belle Chasse Joint Reserve Base in Louisiana will be called into action in Iraq. I would like to take this opportunity to express my deep gratitude for their sacrifice.

I also want to let the roughly 379,000 veterans living in Louisiana and those around the country know we do not forget your service to our country. We will be eternally grateful for your service to the United States in our past and present wars against communism, fascism, and terrorism. Our Nation stays strong because of your efforts, and the world is a better place for the things you have done.

On this anniversary of the historic World War I armistice in Europe, I honor the great achievements and sacrifices of the acting and retired members of the United States Armed Services and thank them for their bravery.

Mr. AKAKA. Mr. President, I pay tribute to the 26.4 million military veterans and their families living in the United States who have served in defense of our great Nation. In 1918, on the 11th hour of the 11th day in the 11th month, the world rejoiced and celebrated. After four years of bitter war, an armistice was signed. The "war to end all wars" was over. How unprophetic were these sincere but hopeful words.

The turn of events has since made us realize more than ever that "Eternal vigilance is the price of liberty," and Armistice Day has turned into Veterans Day to honor all our brave men and women who served since that hope-filled day in many countries to defend liberty and freedom.

America today, and this imperfect world, is a better place because of the sacrifices made by our veterans and their families, many of whom paid the ultimate price, for "The only thing necessary for the triumph of evil is for good men to do nothing." When duty called, our veterans responded magnificently.

As we engage in Operation Iraqi Freedom, Operation Enduring Freedom, Operation Noble Eagle, and countless other missions around the world, it is important that we support our men and women in the military by providing them with the training, equipment, and resources necessary for them to accomplish their mission so that they can return to their families in a timely manner. We must also honor their families who also sacrifice precious time with them so that they can defend our freedom.

At the same time, we must never forget the contributions and sacrifices made by those veterans who served in past conflicts, and their families. We must work to ensure that our veterans are provided with appropriate services and benefits, such as adequate health care, in a timely fashion. We currently face a $1.8 billion shortfall in funding needed to provide healthcare for our veterans. I remain committed to ensuring that our veterans are provided with the services and benefits that they have earned.

I am honored to pay tribute to these fine individuals on behalf of a grateful Nation.

Mr. CHAMBLISS. Mr. President, from the Meuse-Argonne campaign of World War I to the action in Operation Iraqi Freedom, American soldiers, sailors, airmen, and marines have fought on front lines around the globe to defend our freedom at home. Whether fighting on the battlefield or manning the ramparts against the threat of Communist aggression, it is courage, commitment and endurance of the American fighting forces that have made possible the unprecedented prosperity and political freedom that we enjoy today. As a result of the constant struggle to defend freedom, we now have 26 million American veterans, about 768,000 of which are from my home state of Georgia.

With each year that passes, these veterans are growing older. At last count, 37 percent of these heroes are over 65 years old and many of them need medical care. Caring for these brave men and women is an obligation that we must take seriously. In my first year as a Congressman, in 1995, spending on veterans healthcare was $16 billion. Just 9 years later, President Bush's fiscal year budget request was $27 billion, an increase of $11 billion. We can always do better, and we will, but I think that this dramatic rise in funding is remarkable.

We have taken other significant steps to help our Nation's veterans, including concurrent receipt legislation in the fiscal year 2004 Defense Authorization Act, which we will consider today on the floor of the Senate. This provision helps disabled veterans wounded in combat to receive both their disability compensation as well as the pension which they earned in service to our Nation. In addition, the concurrent receipt provision will extend full disability and Veterans Affairs retirement pay for all disabled veterans rated 50 percent and higher. When enacted, this provision does more to honor our Nation's disabled veterans than Congress has done in years.

On this day, my thoughts and prayers are with the families of the fallen soldiers who were deployed from my home State and throughout the Nation, who served with honor and bravery in the Middle East and Afghanistan. My thought and prayers are also with the family of GEN Ray Davis, who passed away earlier this year and whose legacy of service, honor, and heroism will be remembered for years to come.

Mr. SARBANES. Mr. President, I join with my colleagues on this Veterans Day in paying tribute to those men and women who have so ably served in our Nation's Armed Forces and honoring the tremendous sacrifices they have made for this great country.

I firmly believe that those citizens who have been called upon to defend our Nation, to risk and in many cases sacrifice their lives, deserve our utmost respect and gratitude, for these noble men and women are responsible for the peace and freedom which we, as Americans, cherish.

As we use this time to reflect upon the heroic deeds of the past, we should also recognize the significance of these deeds for the present and the future. Due to the unselfish efforts of those of who have served, those who serve now, and the efforts of all of those who are no longer here with us, the world continues to be a safer place and the principles of democracy survive.

I have often said we ought not be sunshine patriots, that our dedication to the men and women who have served should not solely be reserved for days such as this. Rather, we should be cognizant of their contributions every day of the year.

Throughout my time in Congress, I am pleased to have fought hard on behalf of the issues of importance to our Nation's veterans: improving veterans health care and making it more accessible, protecting our veterans' benefits, including the authorization of concurrent receipt, and ensuring that each veteran has a proper burial.

This week, the Senate may take up the Department of Veterans Affairs Appropriations bill—which will fund VA and its programs during the current fiscal year. I am pleased to have joined with many of my colleagues in working to increase the VA budget by $1.3 billion—to ensure that all veterans receive the benefits to which they are entitled. I am hopeful that this increase will ultimately be included in the bill when it is sent to the President for signature.

In my view, we have a responsibility to adequately fund these programs—programs critical to the continued health and welfare of our Nation's veterans. It is simply a matter of fairness and is, indeed, the very least we can do to honor their commitment and service to this Nation.

Mr. CORZINE. Mr. President, I rise to call attention to the importance of the Veterans Day commemoration ceremonies and private remembrances, both formal and informal, being observed today by Americans around the Nation and across the world.

Given the many demands on this body and the hectic pace of modern life, it is all too easy for the Senate, as well as for all Americans, to fail to give this day—Veterans Day the attention it demands. It is all too easy to let the date on the calendar pass without stopping and reflecting.

But, as citizens, as well as public servants, we must never fail to commemorate, honor, and remember in our hearts our veterans and their sacrifices and what those sacrifices have meant to our country.

A mere once a year we are called to publicly applaud and honor the many Americans, living and deceased, men and women of every ethnic group and walk of life, who have given of themselves, their time, their youth, their sweat, and, all too frequently, their blood, and their lives. Their sacrifices have kept us free and enabled us to remain the last best hope of the world.

About this nation's revolution, Thomas Paine wrote:

> These are the times that try men's souls. The summer soldier and the sunshine patriot

will shrink from the service of their country; but he that stands it now, deserves the love and thanks of man and woman.

In observing Veterans Day today, we offer our love and thanks to those Americans, over the course of our history, who did not shrink from the service of their country.

Most came to military service willingly, even eagerly, many with good humor and high hopes, some more reluctantly, and more than a few who, frankly, would rather have been elsewhere.

I can remember myself some years ago, as a young marine humping an 81-millimeter mortar tube across the California desert, wishing very sincerely to be elsewhere at that moment.

What they all have in common, and what we all honor today, is that they did not shrink from the service to their country, and still don't.

As they did not shrink from service during World War II in the Pacific and in Europe, in long and bitter wars in Korea and Vietnam, in Lebanon and Grenada, in Saudi Arabia and Kuwait, and, today, in Iraq and in Afghanistan, on hundreds of ships in every ocean of the world; in Minot, ND; and in Fort Dix, NJ; on Diego Garcia and in Misawa, Japan; at Ft. Benning, GA; on Paris Island, SC; and at Walter Reed Army Hospital and Bethesda Naval Hospital here in Washington.

They responded to a sense of duty, obligation, and a desire to belong to or strive for something separate and apart from personal ambition.

They may not even see or clearly understand at the time their own motivations, but they do not shrink from service all the same, and our country is the better for it.

A simple choice on the face of it—the willingness to serve—but one that, given the unparalleled abundance of choices that Americans today enjoy—we must recognize, honor and support.

As we stop to honor our veterans, we must go beyond rhetorical support.

We must provide for those who have served the rest of us so well, and we need to do so in practical and concrete terms, for our debt to our veterans' demands that we respond to their needs and their concerns, and demands that we deliver the benefits they have earned through their service and sacrifice.

First, full accountability for all MIA/POW's, without exception. There is no higher obligation for a country than to keep faith with those of its fighting men and women who may still be in enemy hands. We must not turn away.

In this regard, I urge the administration and the Defense Department to continue their search for CAPT Michael Scott Speicher, United States Navy, whose family is from New Jersey and whose aircraft was shot down over Iraq in 1991.

Then-Commander Speicher was reported as the first American service member killed in action in Desert Storm. His status, however, was changed by the Department of Defense from killed in action to MIA and then, in 2002, to POW. More indications suggesting Captain Speicher may have survived his 1991 shoot-down came to light after our liberation of Iraq.

The Defense Department's search for him, with the urging of my Senate colleagues and me, must continue until Captain Speicher's fate is fully accounted for.

Turning to the VA health care system, tens of thousands of veterans now must wait six months and more for appointments. Some find they have to wait as long as one to two years to be seen.

This kind of delay and lack of access to healthcare is unacceptable and yet is all too common. It is also completely unnecessary. The difficulties faced by our veterans are caused by chronic underfunding of the VA health system.

The VA system relies on the annual appropriations process, a process which is contentious and unpredictable and which makes it all too tempting to slash current year funding regardless of how this affects our veterans.

This year, for example, veterans organizations estimate that the VA health system needs $1.8 billion more than the President requested.

As a result, veterans advocates have once again found themselves playing catch-up.

The solution is mandatory funding of VA health needs so that veteran's benefits are no longer subject to the politics of the annual appropriations process.

Without such a mechanism, the VA system will remain chronically underfunded, and veterans needing care will continue to have to wait disgracefully long periods of time.

I also wish to note that today I am introducing the Comprehensive Hepatitis C Health Care Act, to provide increased testing and care for veterans at risk of or infection with hepatitis C.

Most veterans who have hepatitis C don't even know it, and often don't get treatment until it's too late.

Yet despite recent advances in care, the VA still lacks a comprehensive approach to testing and treating veterans for the virus.

The legislation I am introducing would improve access to hepatitis C testing and treatment for all veterans, ensure that the VA spends all allocated hepatitis C funds on testing and treatment, and set new, national policies for hepatitis C care.

I have also introduced and will continue to push for a measure to lower the retirement age for reservists to 55.

This measure is a way to ensure fairer treatment for reservists in their career planning and to make a reserve career more attractive to military members who might otherwise opt out of further service.

We need to think about equity for reservists, and about the attractiveness of Reserve careers as our global strategy comes to rely ever more heavily on reservist citizen-soldiers.

We also owe our veterans full concurrent receipts.

There should be no conflict between a veteran's right to receive his or her retirement benefits and a disabled veteran's right to disability income. And yet, incredibly enough, disabled veterans continue to pay what is, in effect, a tax on their disability payments. It is time—once and for all—to eliminate this tax.

Ensuring that all veterans have access to quality healthcare is a small repayment for the contributions veterans have made in service to this Nation. Unfortunately, the current Veterans Administration healthcare funding formula—VERA—puts veterans in high-cost areas, such as New Jersey, at a severe disadvantage in getting adequate medical care.

Vets shouldn't be forced to wait months for an appointment at a veterans medical clinic or to shoulder excessive fees because of a quirk in the formula that funds VA health care.

That is why I introduced legislation to make VA healthcare funding fairer by accounting for the distinct financial challenges confronting veterans and healthcare providers in different parts of the country.

This legislation, S. 1014, would replace the national income threshold for classification as a low-income veteran—currently $24,000 for all parts of the country—with regional thresholds defined by the Department of Housing and Urban Development.

This adjustment would help low-income veterans across the country afford quality health care and help ensure that Veterans Integrated Service Networks, VISN's, receive adequate funding to care for their distinct veteran populations.

In thinking about our veterans, we must also consider the brave men and women fighting for us now in Iraq and in Afghanistan and elsewhere.

As we honor their service, we must never forget what we owe them—now and when they return.

With so many Guard men and women and Reservists serving, it is critical that we extend to them the benefits they deserve.

One benefit for which we have had to fight is the extension of TRICARE coverage to all reservists. We have succeeded in getting this critical benefit for a year. We will, therefore, be revisiting this issue next year. I and like-minded colleagues remain advocates of extending such coverage to reservists.

As we asked our young citizens in the past, we are again today asking them to do extraordinary things, and we need to see that they have the proper care and assistance when they come home. There is no excuse for failing them.

We all remember that Veterans Day began as a commemoration of the Armistice which ended World War I, a catastrophic event which this body described as "the most destructive, sanguinary and far reaching war in human annals" to that point.

We pause and remember, and we again commit ourselves to honor and to stand by the veterans of the Great War and of all America's wars, past and present.

Mr. NELSON of Florida. Mr. President, I am proud to come to the floor of the Senate and join in solemn tribute to the millions of American men and women who have protected our freedom over the long history of our Republic.

Every American knows it is part of our national character to pay tribute to the service of those who have worn the uniform of our Armed Forces to defend our way of life.

As a nation, we have dedicated this day to reflect upon the service and sacrifice of the many generations of Americans who have delivered and preserved for us a nation free and strong.

This Veterans Day is even more solemn and thoughtful for all Americans for we are a nation at war. Americans are fully aware that hundreds of thousands of their neighbors, son and daughters, husbands and wives, fathers and mothers are in harms way around the globe. Americans are fully aware that over four hundred service members have lost and continue to risk their lives in Iraq and Afghanistan while over 2,400 more have been wounded or injured. All Americans share the pain and sense of loss for those killed and those suffering from wounds. And Americans recognize and are ready for the many sacrifices that lie ahead. We are a resolute people determined to defend our liberty and bring peace and justice to a dangerous world. This determination is evident throughout our Army, Navy, Air Force, Marines, and Coast Guard.

I saw it myself when I visited soldiers of the Florida National Guard's 124th Infantry in Baghdad last summer. They are tough, well-trained, devoted citizen soldiers demonstrating their professionalism every day on the dangerous streets of a city that still quakes with war. These great soldiers are worthy of their legacy; they are worthy of our admiration and gratitude.

We must be worthy of them and keep the Nation's promises to them-our promise to attend to their welfare and the welfare of their families.

As Abraham Lincoln instructed us, ours is an obligation to, "to care for him who shall have borne the battle, and for his widow, and for his orphan." Too often we fall short on this care. We must meet this obligation with the same sense of determination and honor as our veterans' service is always rendered.

We have underfunded our veterans health care system and the backlog of claims remains unacceptably high. This is not right.

We have partially eliminated the disabled veterans tax, or Concurrent Receipt, but only for one-third of those entitled to both their retired pay and disability compensation. We have created among our retired veterans the "haves" and "have-nots" and this is simply not right. They are all worthy and deserve to have what they have been promised now without delay.

We have done nothing to improve our systems for caring for the survivors of veterans or retirees, especially those that were 100 percent disabled. The Department of Defense Survivor Benefits Plan remains uncorrected for offsets based on benefits from Social Security and Dependency and Indemnity Compensation—reductions in income in amounts and at times that widows often can least afford.

We, the Congress, must keep trying to do the right thing by these our greatest Americans.

The Nation continues to be truly blessed that our youth, our future generations, take inspiration from the devotion and sacrifice of those who have answered the Nation's call to arms in the past and those who defend us around a very dangerous world today.

Today we are reminded of where we have been as a nation, and upon whose sacrifice we have become what we are.

Let us rededicate ourselves to freedom and justice and peace—and the sacrifice of those men and women whose service will deliver and preserve them for America and our friends around the world. For this we are a stronger people, a stronger nation, and a stronger community.

Let us pray for the safety of our men and women in uniform past and present, and let us pray for the comfort of their loved ones.

Ms. COLLINS. Mr. President, once again we find our young men and women in harm's way in a foreign land. As they have so many times in our history, Americans in uniform carry the torch of freedom in their hands and the promise of peace in their hearts as they face those who would rule by tyranny and violence. On this Veterans Day, I rise not only to commend our veterans but also to recognize the men. and women of the State of Maine engaged on the front lines in the Global War on Terrorism.

Maine is well represented by young men and women serving on active duty in our Army, Navy, Air Force, Marines, and Coast Guard. Since September 11, 2001, citizen-soldiers from across the State of Maine from all Reserve and Guard components have closed ranks with those on active duty to protect our shores and secure our future.

The men and women from Maine have left homes, jobs, and loved ones to answer the call to duty. Senior Master Sergeant Stephen Valley is among them. Steve, who hails from Millinocket, ME, left the active Air Force in 1994 after nearly eighteen years of service. In 1998, he joined the Air Force Reserve, and despite family challenges, including a father sick with Parkinson's disease, stepped forward and mobilized in November of 2001. Steve served nearly continously in the Middle East since then, including duty in Iraq and Afghanistan, until he retired from active service on November 1. He is a man of courage and character. He represents the best we offer to a world longing for freedom and peace.

Mainers are deployed around the globe. Nearly twenty-five percent of the Maine Army National Guard is on alert, mobilized, or deployed. Maine National Guard soldiers are guarding prisoners at Guantanamo Naval Station in Cuba. Soldiers of Company E, 120th Aviation of Bangor are controlling air traffic in Afghanistan. Members of the 112th Air Ambulance Unit from Bangor are performing medivac missions in Iraq. Soldiers of the 11-36 Transportation Company from Bangor and Sanford are moving supplies across Iraq and Kuwait. Soldiers from the 94th Military Police Company of Maine and New Hampshire are performing police missions across Iraq and are helping to train Iraqi forces to assume security responsibilities.

This past summer, I went to Iraq. I met hundreds of American and British troops. I saw people from Maine performing key roles in rebuilding the country after the fall of Saddam Hussein's brutal regime. In the city of Kirkuk, I ate lunch with five service members from Maine—Specialist Gregory Norster of Phillips, Chief Warrant Officer Brian Mucci of Shapleigh, Specialist Wayne Goodrich from Oakland, Specialist Erin Maynard from Washburn, and Senior Airman Bill Spreng from Ellsworth. The contributions of Mainers to bring freedom to the people of Iraq make me very proud.

The courage and commitment of the American and other coalition troops were strikingly clear during my visit. By night, many of the soldiers conduct raids on pockets of resistance; by day, they renovate schools, rebuild roads and utilities, and help Iraqis take their first steps toward democracy. Despite the continuing danger, the harsh living conditions, and the oppressive heat, morale among the soldiers and Marines I met was high. Army Sergeant Michael Levesque of Winslow put it best when he told me how proud he was to have "helped to give the Iraqi people a precious gift: their freedom." In Kirkuk, where I met Michael, morale was particularly high because the Iraqis there are so grateful. Everywhere we went in this city south of the

Kurdish section, local citizens waved and called out "thank you, America!"

By contrast, conditions—both in July and today—remain hostile in and around Baghdad. Our troops face near daily ambushes and sniper attacks. The fighting goes on for many of our troops who must contend with the threat of rocket-propelled grenades, improvised explosive devices, and rogue gunmen.

Of all the places I have visited as a member of the Senate Armed Services Committee, including Afghanistan, Bosnia, Kosovo, and Korea, nowhere have I found the challenges more difficult and the dangers more present than in Iraq. In the end, the commitment of the Iraqi people will determine whether Iraq will prosper in peace and freedom, or succumb to a violent minority bent on division, destruction, and domination. The dedicated young men and women serving in uniform, from Maine and from all over America, are giving the Iraqi people the opportunity to seize what all humanity desires and deserves.

On this day set aside to honor sacrifice, we must also honor the sacrifices made by the spouses, parents, children and other loved ones of our troops. The families left behind must face the challenges of daily living as they suffer from the separation and from the relentless worry. The news of any casualty strikes a chilling chord in their hearts. Every death, every injury, is a blow to them as they wait, and hope, and pray.

In September, I met with family members of the deployed soldiers of the 94th Military Police company. These families have had to endure two extended deployments in three years: the 94th conducted a peacekeeping rotation to Bosnia that ended in 2001; in 2002, the 94th was called to arms again and is performing admirably in Iraq. The soldiers of the 94th are proud and professional and committed to getting the job done. Their families bear the burden of absence and uncertainty. Among them was Penny Mills, wife of Sergeant Curtis Mills of Shapleigh, ME.

Just one week later, soldiers of the 94th were ambushed in Iraq. Two were severely wounded: Specialist Christopher Kotch of Brunswick and Sergeant Curtis Mills. Soon after, I visited them at Walter Reed Army Medical Center. There was Penny, standing by her husband. We had no idea we would meet again—not so soon, not under those circumstances. Sergeant Mills, with the support of his wife and family, is recovering well. After reconstructive surgery and extensive physical therapy, he will one day return to work as a letter carrier. Specialist Kotch, after his recovery, will likely return to college and a life of possibility and promise.

In times of peace and in times of trial, we rely on our young men and women to step forward for our defense. The citizens of Maine have answered the call. America's first casualty in the War on Terrorism was Master SGT Evander Earl Andrews of Solon, ME, who lost his life in Qatar on October 10, 2001. Today, in Litchfield, ME, a father grieves for his daughter, Army Warrant Officer Sharon Swartworth, who miraculously survived the attack on the Pentagon two years ago but who did not survive an attack on a Black Hawk helicopter in Iraq last Friday. These are but two of the soldiers who died not just in the service of their country, but also in the service of mankind. They did so on behalf of millions of people they did not know—innocent Iraqis, Afghans, and Americans who died on 9–11, and all peace-loving people everywhere.

Our service members and veterans—whether they served in World War I or II, Korea, Vietnam, Haiti, Kosovo, Bosnia, Kuwait, or now in Afghanistan or Iraq—share a common bond: their uniform is not that of a conqueror, but of a liberator. We can never fully pay the debt we owe those who put their lives on the line to advance the cause of freedom.

Nor can we repay the debt we owe those families and loved ones they leave behind. The enormity of that debt was best summed up one-hundred thirty-nine years ago in a President's letter to a mother who lost five sons in the war to preserve this Nation. I will close with the words of Abraham Lincoln:

> I feel how weak and fruitless must be any words of mine which should attempt to beguile you from the grief of a loss so overwhelming. But I cannot refrain from tendering you the consolation that may be found in the thanks of the Republic they died to save.
>
> I pray that our Heavenly Father may assuage the anguish of your bereavement, and leave you only the cherished memory of the loved and lost, and the solemn pride that must be yours to have laid so costly a sacrifice upon the altar of freedom.

Mr. ROCKEFELLER. Mr. President, today, I had hoped to be in Sutton, WV to fully celebrate Veterans Day with West Virginia veterans and their families. Since the Senate is in session, I must be in Washington, but I do want to recognize some of our Nation's finest men and women who have served to protect that which we hold most dear, our very freedom.

Last weekend, I was in West Virginia and I had the chance to talk with Army Sergeant Jared Welker of Putnam County. Sergeant Welker is a tank gunner who saw considerable action in Iraq, and who has just recently returned home. I had the privilege to spend a few hours with this young soldier. Hearing about the war in Iraq from his point of view, a young man serving in a tank division entering Baghdad, made me very proud of the men and women serving in the military—where ever they are stationed. Sergeant Welker's description of his days in Iraq will stay with me. His courage and his commitment to duty are truly inspiring.

And it is also a sobering reminder of the obligations that we in Congress have to fully support our troops in the field, and at home, and as veterans later in their lives.

On Veterans Day, we should take time to pay our respect to those who put their lives on the line and sacrificed in our defense. We have a duty to honor all veterans in both word and deed.

We honor them by remembering their courage, their loyalty, and their love of country. My State has one of the strongest traditions of military service, and I could not be more proud of that. When the call has come to defend this Nation, West Virginians have answered in great numbers. In a State as patriotic as our Mountain State, reminders of our veterans, heroes and heroines, are everywhere. They stand as a reminder of the battles fought defending the principles of democracy.

Understanding the sense of patriotism of the people of West Virginia is what caused me to seek a seat on the Senate Committee on Veterans' Affairs the day I arrived in the Senate 19 years ago. Joining the committee was one of the best decisions I ever made.

These last few weeks in Congress have been extremely important ones for our Nation's veterans. One of the most important issues of concern today is the President's budget request for the Department of Veterans Affairs for fiscal year 2004. Everything provided by VA will be a direct result of the proposed budget now before Congress. Regrettably, the President's budget request for VA health care for fiscal year 2004 will barely cover the cost of inflation at our VA Medical Centers, but there is still time to fix those misplaced priorities.

Full funding is needed for a health care system that is besieged with responsibilities. I am fighting, along with a number of my Senate colleagues, to get an additional $1.8 billion appropriated for VA health care before Congress recesses this year.

In addition to our veterans who depend upon VA for their health care and prescription drugs today, current law allows members of the military, who serve during an armed conflict, to use VA upon their return. This includes currently deployed Reservists and National Guardsmen, who are such a big part of West Virginia's contribution to our war effort. The system must be adequately funded for all these veterans.

Another critical issue of concern continues to be long-term care for veterans. As our veteran population grows older, VA must make sure that it can meet the need for long-term care. A bill I introduced earlier this year extending, for five years, the congressional mandate requiring VA to provide long-term care for veterans through both nursing homes and community-based options still has potential to be enacted this year. This is extremely important legislation, and I will continue to push until this become law. If I cannot convince my colleagues to act this year, I will be right back next year fighting for it until it is done.

I was thrilled to be in Clarksburg last month for the ground breaking of our new State veterans' home, which will be built adjacent to the Clarksburg VA Medical Center. I have worked closely with both State and Federal officials on this project over the last several years, and I am very proud of everyone who has been involved in making this much needed nursing home a reality. It is time that West Virginia had a State veterans' nursing home.

In closing, I would like to read a paragraph from a letter found in the gear of a 20-year-old boy from Beckley serving during World War II. I think it is appropriate on this Veterans Day.

Private First Class Walter Walker was killed in battle in 1944 and he had written a letter to be delivered to his parents in case of his death.

He wrote:

> Frankly I think I will come back, but you never can tell what little accident will happen. I am doing this for my country and people I love. So that little children may grow up to be free and not have to take orders from devils like Hitler and Tojo. I will gladly give my life to keep you and dad free as long as you may live.

Private Walker was a hero of WWII.

Sergeant Welker, and the more than 100,000 brave men and women serving today, are the heroes of Iraq.

Today, we honor all our young men and women who have paid the ultimate sacrifice for freedom, and all those who have served in our military. We need to remember to stand proud when we see the American flag waving high in the air, and nod our heads in respect when we pass by a veterans' cemetery. We need to remember that behind each of these symbols of America are the people who have made them so remarkable—our Nation's veterans.

Mr. GRASSLEY. Mr. President, I rise to honor this day and the men and women for whom it was established. On the eleventh hour of the eleventh day of the eleventh month of 1918, the armistice was signed ending the first modern global conflict.

World War I was an exceptionally bloody conflict that required tremendous sacrifices. It was therefore appropriate for President Wilson to establish Armistice Day as a time to recognize those who served in that war.

Unfortunately, the hope for a new, more peaceful world after the Great War was shattered as we found ourselves embroiled in a life or death struggle against tyranny. Americans again rose to the challenge. Over 405,000 American soldiers lost their lives and over 671,000 were wounded. That's over three times the casualties of World War I. Still, the bravery and sacrifice of our men and women in uniform showed the world the extent to which the United States of America was prepared to go to preserve liberty.

Then, after our soldiers and sailors were called upon again to fight aggression in Korea, it became evident that it was necessary to set aside a day to recognize all American veterans. To encourage Americans to pay respects to all those who have served in America's Armed Forces, President Eisenhower signed into law a proclamation in 1954 changing the name of the November 11 holiday to Veterans Day.

Today, we thank all those who have risked life and limb in service to their country, including those who served in Vietnam and the Persian Gulf war, as well as Somalia, Bosnia, Kosovo, and other smaller conflicts. It is particularly appropriate today to pay tribute to the new generation of veterans who are serving their country so bravely in the global war on terrorism.

Americans have never hesitated to answer the call of duty and this generation is no exception. America continues to owe an immeasurable debt of gratitude to the brave men and women who respond to the call of duty. Following in the footsteps of those who served in the 20th century, our men and women in uniform are living up to a heritage of service, loyalty, honor, sacrifice, and patriotism passed down for generations.

Members of the active duty military, National Guard, and Reserves selflessly put their country first. They serve to protect the American people, defend national security, preserve freedom and safeguard our way of life.

This Veterans Day, let's remember the patriots who are putting their lives on hold while they put their lives on the line. Their sacrifices guarantee America's promise for generations to come. Hundreds of thousands of Americans have paid the ultimate sacrifice while serving in the Armed Forces. Their irreplaceable loss of life reminds us that freedom isn't free.

It is important for younger generations to appreciate the service and sacrifice made by those serving their country. Awareness and appreciation for veterans has decreased in recent times as fewer individuals and families in America have a personal connection with the Armed Forces.

Now that family members, friends, neighbors, and other fellow citizens are again putting themselves in harm's way in service to their country, I hope all Americans will take the opportunity this Veterans Day to remember and honor all veterans, to whom we owe our freedom.

Today I salute the patriotism, courage, and sacrifice of all American veterans who have answered their country's call in times of need.

Mr. LEAHY. Mr. President, as I was watching the sunrise this morning, I thought of the men and women currently serving in Iraq and Afghanistan, and our Nation's veterans of past wars.

Today, we must remember those who have sacrificed to defend the freedoms and ideals all Americans enjoy. In our thoughts are not just the proud Americans who are fighting in Iraq and Afghanistan today, nor just the members of the "Greatest Generation" who fought in World War II. We think about those who lost their lives or served in the extended Cold War, the Korean War, Vietnam or who gave their lives in some of the less-known engagements across the globe aimed at preserving our country and preserving basic human rights throughout the world.

Of course, most in our minds right now are 130,000 men and women serving in Iraq. Over 30,000 of these troops are reservists who left their civilian jobs and families to serve in Iraq with pride and determination. Whether Active-Duty soldiers or Reserves, every single person in the military is there because they want to be there, and we owe them a special kind of gratitude for their service.

Today we should not just think about our veterans, but also address policies that will directly address their needs, whether they are still in the service or after they have returned. We must come together as a Senate to ensure that we honor that unspoken social contract with our active troops, guaranteeing superb quality-of-life programs exist for our active service members and their families and that they will never become forgotten soldiers of history.

Let's come behind our citizen soldiers of the Guard and Reserve to ensure they and their families are as healthy as possible. And, above all, let's make sure our veterans have a flourishing medical program to ensure they receive the high-quality care they deserve.

On this time-honored day, we express our gratitude to our veterans, we remember their courage and dedication, and we act to make up a small part of the large debt we owe them.

Mr. McCAIN. Mr. President, today I wish to pay my respects to my fellow veterans. It is only through the leadership, dedication and sacrifice of our men and women in uniform, that we are able to enjoy the freedoms that being an American entails.

No matter what your views on the war on terror or the war in Iraq, all Americans can unite behind our brave men and women in uniform. These fine Americans have truly answered our Nation's highest calling and we are better off for it. Today is a day to give thanks to these heroes.

On Veterans Day, I like to share the story of one of my heroes during my service, Mike Christian. I have shared his story before and it has become familiar to many, yet it bears repeating. This year, as Americans serve across the globe in important battles against error and tyranny, Mike Christian's story takes on even more meaning. In the same manner as service in Vietnam, a new generation of heroes is emerging in Iraq.

In the early years of our imprisonment in Hanoi, the North Vietnamese kept us in solitary confinement, or if we were fortunate, two or three to a cell. In 1971, the North Vietnamese moved us from these conditions of isolation into large cells with as many as 30 to 40 men to a room. This was, as you can imagine, a wonderful chance. And was a direct result of the efforts of millions of Americans, led by people like Nancy and Ronald Reagan, on behalf of a few hundreds POWs, 20,000 miles from home.

One of the men who moved into my cell was Mike Christian. Mike came from a small town near Selma, AL. He didn't wear a pair of shoes until he was 13 years old. At 17, he enlisted in the U.S. Navy. He later earned a commission. He became a naval aviator, was shot down and captured in 1967. Mike had a keen and deep appreciation for the opportunities this county—and our military—provide for people who want to work and want to succeed.

The uniforms we wore in prison consisted of a blue short-sleeved shirt, trousers that looked like pajama trousers and rubber sandals that were made out of automobile tires. I recommend them highly; one pair lasted my entire stay.

As part of the change in treatment, the Vietnamese allowed some prisoners to receive packages from home. In some of these packages were handkerchiefs, scarves, and other items of clothing. Mike got himself a piece of white cloth and a piece of red cloth and fashioned himself a bamboo needle. Over a period of a couple, of months, he sewed the American flag on the inside of his shirt.

Every afternoon, before we had a bowl of soup, we would hang Mike's shirt on the wall or our cell, and say the Pledge of Allegiance. I know that saying the Pledge of Allegiance may not seem the most important or meaningful part of our day now, but I can assure you that—for those men in the stark prison cell—it was indeed the most important and meaningful event of our day.

Our day, the Vietnamese searched our cell and discovered Mike's shirt with the flag sewn inside, and removed it. That evening they returned, opened the door of the cell, called for Mike Christian to come out, closed the door of the cell, and for the benefit of all of us, beat Mike Christian severely for the next couple of hours.

Then they opened the door of the cell and threw him back inside. He was not in good shape. We tried to comfort and take care of him as well as we could. The cell in which we lived had a concrete slab in the middle on which we slept. Four naked light bulbs in each corner of the room.

After things quieted down, I went to lie down to go to sleep. As I did, I happened to look in the corner of the room. Sitting there beneath that dim light bulb, with a piece of white cloth, a piece of red cloth, another shirt and his bamboo needle, was my friend, Mike Christian. Sitting there, with his eyes almost shut from his beating, making another American Flag. He was not making the flag because it made Mike Christian feel better. He was making the flag because he knew how important it was for us to be able to pledge our allegiance to our flag and country.

Duty, Honor, Country. We must never forget the millions of Americans who, with their courage, with their sacrifice, and with their lives, made those words live for all of us.

This year, as we pause to remember those men and women currently serving their country, as well as our family and friends who serve before us, we need to remember the sacrifices of people like Mike Christian who made this Nation what it is today.

Mr. KENNEDY. Mr. President, America today has the most powerful, most capable and best-equipped military in the history of the world. But none of this would be possible without the brave men and women who volunteer to serve in the Armed Forces, who accept any challenge and face any danger to protect their country on battlefields around the world. Each of them is a volunteer—no conscription, no draft. They have a genuine desire to serve, and they do so with great sacrifice with great honor, great courage, great commitment, and often with great sacrifice.

Time and again, our Nation has called its sons and daughters to put themselves in harm's way, and many bear the scars of battle forever. Despite the rhetoric of praise that we hear again and again, too often when their service ends, these veterans are forgotten, except on Veterans Day. We have consistently underfunded the veterans' health care system. The Veterans' Administration is now preparing plans to close veterans' hospitals in New England and across the Nation. They oppose allowing disabled veterans to receive disability benefits if they also receive military retirement compensation.

As troops continue to serve in Iraq, we need to make sure we can take care of them and their families, especially when they return home. We have a solemn responsibility to those who are willing to sacrifice so much. We do them a grave injustice when they return home to be cast aside. Today, tens of thousands of newly discharged veterans are unemployed. National Guard and Reserve soldiers face lower wages and possible job loss while they are deployed. The Uniformed Services Employment and Reemployment Rights Act, USERRA, protects soldiers from employment discrimination, but service members can have difficulty enforcing their rights.

We can't have any more situations like the one at Fort Stewart, where Guard and Reserve troops were housed in deplorable accommodations, with unacceptable access to health care and needed services to heal their injuries. Such neglect is no way for a grateful Nation to honor its armed services. We can and we must do better.

For generations, we have honored our fallen veterans on November 11 each year. The Armistice Agreement that ended the First World War was signed on this historic day in 1918—the eleventh hour of the eleventh day of the eleventh month that year. Many of those we honor today have fallen in battle in Iraq.

Last week, I attended the funeral service of a Massachusetts soldier who gave his life in combat there and was laid to rest in Arlington National Cemetery. It was a beautiful fall day and the military ceremony was conducted with solemn dignity and utmost reverence. It was a very moving moment to be there with his family and friends and veterans of his unit. His parents have lost a son, and the Nation has lost a hero. As the bugler played taps, and the sounds of the rifle volleys from a final salute faded across the Arlington hills, it was moving to see that the veterans there had also lost a brother, although none of them knew the fallen soldier personally. The brave paratrooper who had tried to carry his dying comrade to safety during the attack was also there. His silent presence spoke volumes about the valor and dedication that our service members give to our Nation every day, and have given us throughout our history ever since that day at Concord Bridge, when the embattled farmers stood and fired the shot heard 'round the world.

On Veterans Day 2003, we thank our veterans. We remember those who have given the last full measure of devotion to our country, and we affirm our support for all who now wear the uniforms of our armed forces. We give thanks to all who have served America so well in years gone by, and to all the brave men and women serving now in the ongoing war against terrorism. And we pledge, in words that too often pass and are soon forgotten, to do a better job of meeting our responsibility to them every day, not just on each November 11. May God give us the strength to make each day a Veterans Day.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add five additional minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, on this Veterans Day, I want to share a few ideas about the meaning this day holds for my family and for thousands of families throughout Washington State.

Today is a day to honor the sacrifices that generations of Americans have made to defend our country and to support freedom throughout the world. It is a day to reflect on the courage and bravery of our soldiers. And it is made even more special as we think of all our military personnel who are deployed in Iraq, Afghanistan and other hostile environments. But it is much more than that.

It is a day to make sure that we are living up to the promise we make to all veterans—a promise that President Lincoln described as:

> . . . to care for him who shall have borne the battle, and for his widow and his orphan.

Today throughout Washington State, people are coming together to honor our veterans at places such as the Tahoma National Cemetery, the Washington Veterans Home, and in communities large and small. Washington State is home to almost 700,000 veterans, and every day I am honored to represent them in the United States Senate.

Growing up, I saw firsthand the many ways that military service can affect both veterans and their families.

My father served in World War II. He was among the first soldiers to land on Okinawa. He came home as a disabled veteran and was awarded the Purple Heart. I should note that, like many soldiers of his generation, my father did not talk about his experiences during the war. In fact, we only really learned about them by reading his journals after he passed away.

And I think that experience offers a larger lesson about veterans in general. They are reluctant to call attention to their service, and they are reluctant to ask for help. That's why we have to publicly recognize their sacrifices and contributions. It is up to use to make sure that they get the recognition they have earned—and not just on Veterans Day. It is one of the reasons why a few years ago I worked to ensure that all veterans could get the military funeral honors. My father had them, and they meant a great deal to our family.

I was proud to introduce legislation and to work with the VA and veterans service organizations to ensure that any family that requests military funeral honors can get them.

In addition to my own family experiences, when I was a senior in college at Washington State University, I spent a semester interning at the Seattle Veterans Hospital, helping to treat young soldiers returning from Vietnam. They were my age at the time. I will never forget the sound of the door locking behind me after walking on to the hospital's psychiatric ward to spend the day with these heroes. While these combat veterans were my age, they had endured experiences most of us could never imagine.

Today, as I see an administration that is considering closing veterans hospitals in Washington State—even as today's veterans have to wait 6 months just to see a doctor, and as the war in Iraq adds to the number of veterans who will need medical care—I get upset, and I fight with everything I have. Our veterans have already fought for our country, they should not have to fight to get the healthcare or benefits they were promised, so we've got to fight on their behalf.

Today we must ask, Are we keeping our promise to America's veterans? Here are some facts to help us answer that question.

Fact: Right now, 80,000 veterans are waiting 6 months or longer for an appointment at VA hospitals.

Fact: For the past 2 years, an average of 14,000 veterans have been waiting more than 15 months for their "expedited" disability claims to be finalized.

Fact: Veterans could face new fees and higher co-payments—just to get the healthcare they are already entitled to.

Fact: Each year in Congress there is a debate over how much money we should spend on veterans' healthcare. Too often, our veterans lose out to other budget priorities.

Fact: Disabled veterans pay a high penalty through what is called the "Disabled Veterans Tax." They must give up a dollar of their pension for every dollar of disability pay they receive.

Fact: The VA is looking to "reconfigure" veterans' health care and is now studying the closure of two VA facilities in Washington State.

And finally, the war in Iraq—and the tremendous toll it is taking on our soliders—is increasing the number of veterans who will need medical care for years down the road.

Those are all facts. To me, they show that we are coming up short in keeping our promise to America's veterans. So what can we do about it?

Simply put, we need to make veterans services a priority once again. No. 1, to cut down on the long waits that veterans endure; to help expedite claims; and to avoid higher fees and copayments. We need to increase funding for veterans services.

To end the annual appropriations game, we should make VA healthcare funding mandatory. That is why I support the Veterans' Health Care Funding Guarantee Act. It would make veterans' healthcare an automatic priority for our Nation.

The VFW, AMVETS, the Disabled American Veterans and many other veterans groups strongly support this bill.

We must also make sure that the Department of Veterans Affairs does not close critical medical facilities at a time when more are seeking VA healthcare.

In addition, we must end the disabled veterans tax and ensure that veterans are not penalized just because they receive disability pay.

I am proud to be a cosponsor of a plan that would authorize full payment of both retirement pay and disability compensation to half a million disabled military retirees. And unlike other proposals, our plan would take effect immediately, instead of over 10 years.

And finally, we have to do right by today's veterans and by tomorrow's veterans. The brave men and women who are serving in Iraq and Afghanistan today will need our help when they return home. How we treat them will send a signal to a generation of young people who may be considering military service.

We have to keep our promise today and tomorrow.

So while we are currently coming up short, I am going to keep pushing for the solutions that will truly serve our veterans. America's veterans have earned our respect, and they have earned the benefits they were promised when they signed up. They should not have to fight for the care and support they were promised.

On this day—and every day that I am given the honor of representing them—I will stand up and fight for Washington's veterans and the freedom and security they have given us through their sacrifices in war and peace.

I hope we keep our promise.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, how much time remains on the Democratic side?

The PRESIDING OFFICER. Sixteen minutes 30 seconds.

Mr. PRYOR. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I rise today in honor of Veterans Day, our national day of remembrance established to solemnly honor the sacrifices of American men and women who have served in military actions in behalf of our country.

We recognize these men and women for preserving our liberty, freedoms and democratic way of life. For me, as a first-year Senator representing the men and women of Arkansas, this is an especially noteworthy Veterans Day. Since September 11th, numerous Arkansans have engaged in our battle against terrorism, serving in Afghanistan and other points abroad. This fall, over 3,000 men and women of Arkansas, members of our 39th Infantry Brigade of the Arkansas National Guard, are preparing to travel to Iraq in support of Operation Iraqi Freedom.

Every day my prayers include the brave men and women of Arkansas who serve, and have served, in our armed forces. I pray that every single one of our brave Americans in uniform will return safely home to the loving arms of their families.

Sadly, many of our veterans have not returned safely home. Many of our veterans have paid the ultimate price, sacrificing their lives on the altar of freedom. We must never forget their sacrifices. We must never forget the cost of freedom paid by our veterans.

As he gazed on the battlefield at Gettysburg in 1863, Abraham Lincoln uttered, "The brave men, living and dead, who struggled here, have consecrated it, above our poor power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here."

I am in a similar situation today, unable to articulate anything which even comes close to capturing the debt of gratitude each and every one of us owes our veterans. No words can capture my gratitude, or the gratitude of Arkansas, towards our veterans.

Yet, as I mentioned, Veterans Day is a day of remembrance. This is a day to honor and remember those who have served in our armed service. Last week, I had the distinct pleasure and unique opportunity to talk with Johnie "Chick" Matthews. Chick, at 102 years old, is Arkansas's oldest living veteran.

Mr. Johnie "Chick" Matthews, a resident of Greenbrier, Arkansas, first answered the call to duty to serve this country in 1917. That was 86 years ago.

He was given the nickname Chick because he enlisted into the United States Army when he was only 16 years old. He was the youngest at his training facility at Camp Pike, AR.

His mother was a widow with mouths to feed and he realized that he needed to help shoulder the financial responsibilities of caring for his mother and brothers.

He went to Little Rock to enlist in the Army. He lied about his age. The recruiter said: We are not sure we believe you, so go home and get your mother to sign this document. When he went back home, he was scared to take it to his mother because he was afraid she would not sign the age waiver so he went to a neighbor woman and said: Mother hurt her hand and she cannot sign this. Can you sign this on her behalf? She did, and he was enlisted in the U.S. Army.

At the age of 16, he was the youngest soldier in his unit, probably one of the youngest in the Army. But when it was all said and done, as he ended his military career, Chick had completed 46 years of military service spanning World War I through Vietnam. That is truly remarkable. In addition, he served in four branches—the Army, Navy, Coast Guard, and the Merchant Marine.

When I talked to Chick, I was entertained and captivated by his stories, but most of all I was impressed by his sense of duty. In fact, when I asked him if he would recommend military service to others, he said: If they would let me in, I would be there tomorrow morning to sign up.

In addition to Chick Matthews, I recognize another veteran who is a bit younger, but no less committed, to his country and to the State of Arkansas. Randy Massanelli is a native Arkansan who dutifully served in the U.S. Army for 15 years. While in the Army, he rose to the rank of major and served in Desert Storm where he was awarded the Bronze Star. Now he serves as my State director in Little Rock. I am grateful for the knowledge, experience, and perspective he brings to the office as I work to do what is best, not just for veterans and the troops around the country and around the world, but also for the people of Arkansas.

I have known Randy since we were both at the University of Arkansas as undergraduates. I thank him today. He has shown me time and time again what true devotion to his country really is. I am lucky to have him on my team and I am proud to call him a friend. I honor him today as a great veteran.

Last, I want to recognize another veteran on my staff, Wayne Palmer, who also served in Desert Storm. Wayne is a tremendous asset to my office. I thank him for his service to our country.

Arkansans throughout the years have followed Chick's, Wayne's, and Randy's lead. I am proud to boast about my State's tradition of military service. As veterans continue to risk life and limb for us, I will work as hard as I can to make sure they are taken care of before, during, and after their mission is completed.

In the coming days, we will vote on the Defense authorization conference report. As a conferee, I was proud to work on this legislation, which includes a 3.7 percent across-the-board military pay increase, expands TRICARE coverage for the Guard and Reserve personnel and their families, and provides benefits and programs to improve the overall quality of the pay for our service men and women.

This legislation also authorizes disabled military retirees to collect their retirement pay and disability compensation, otherwise known as concurrent receipt. This measure would benefit millions of Americans who have served our country for years but have been prohibited from receiving both retirement compensation and VA disability benefits.

Correcting this inequity for our veterans is long overdue—in fact, 110 years overdue. I made a promise to take care of our service men and women who put their lives on the line for our country. This provision indicates Congress's intention to finally honor its word.

I am also looking forward to debating the VA/HUD appropriations bill where I have an understanding we will be looking to add $1.3 billion to veterans health care. We cannot discount the importance of this funding, especially as more veterans come home from Afghanistan and Iraq and the global world on terrorism. We must ensure that the Veterans' Administration has the resources it needs to look after those men and women who look after us.

Mostly, this Veterans Day fills me with a sense of security and pride because of my faith in the ability and skills of our men and women in uniform. This faith nourishes my hope for a peaceful future for my children and the children of Arkansas.

I know our men and women in uniform are the most capable fighting force on Earth. I know these individuals will willingly endure personal sacrifice and danger to defend our democratic values, just as our veterans of yesteryear endured personal sacrifice and danger to provide us the freedom and democracy we enjoy today. I know our Armed Forces will be victorious in their mission.

On this Veterans Day, I extend my gratitude and the gratitude of every Arkansan to our veterans and their families.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I ask what the allocation of time is.

The PRESIDING OFFICER. There are 7 minutes 54 seconds on the Democratic side and 5 minutes on the Republican side.

Mrs. HUTCHISON. Mr. President, let me ask the Democratic Senator in the Chamber if that is enough time for them to finish. We need to be through at 12:15.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Texas for making the inquiry. The fact is I need about 10 minutes and the Senator from North Dakota needs 5 minutes. If that could be accommodated on an equal exchange basis, I suggest we ask unanimous consent to do so.

Mrs. HUTCHISON. How much more would that extend the time on the other side? How much more time would that give us if we equally divided that, our 5 minutes plus the extra?

The PRESIDING OFFICER. That would be an extra 8 minutes on the

Democratic side and a total of 28 minutes.

Mr. SPECTER. Mr. President, if this is a unanimous consent request for more time, I would like to accommodate my colleagues. I have come to the floor with the expectation to speak at noon, which it is now, on the Syria Accountability Act, and actually I had some time on veterans as well. I have other commitments, such as, to go to the White House for the bill signing ceremony with the President.

So I am glad to accommodate my colleagues, but if it is going to run for 28 more minutes, that is going to preclude my speaking on the Syria Accountability Act.

Mrs. HUTCHISON. Mr. President, I do not think we need 28 minutes. I was going to ask for 5 minutes for the Senator from Alabama, which we have left on our side. I think if you wanted——

Mr. LAUTENBERG. Fifteen.

Mrs. HUTCHISON. Fifteen?

Mr. LAUTENBERG. Right. I appreciate the fact the Senator from Pennsylvania has other obligations, but this is Veterans Day. I want to talk about veterans. I think we have that particular obligation since we are here today and we are not in our home States, able to visit veterans, visit cemeteries, and talk to people about veterans.

The PRESIDING OFFICER. Is there objection to the request?

Mr. SPECTER. Mr. President, reserving——

Mrs. HUTCHISON. Mr. President, if I could ask a unanimous consent request and see if this is what people want: that there be 15 minutes divided on the Democratic side as they wish and 5 minutes to the Senator from Alabama, for a total of 20 minutes from now. Is that an acceptable unanimous consent request to all on the floor?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Texas.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask that I be reminded at the 9-minute mark, if I have gotten that far, please, that I have 1 minute remaining.

I was in Newark yesterday, at our cathedral there, attending the funeral of SGT Joel Perez. Sergeant Perez had been deployed to Iraq as part of the Army's 2nd Battalion, 5th Field Artillery Regiment. He died on November 2 when the Chinook helicopter he was in was shot down. An article appeared in the New York Times on Sunday, and it listed the 16 soldiers, including Sergeant Perez, the 16 young people who perished on behalf of our country, our interests, our liberty.

The names of those who died along with Joel Perez when that Chinook helicopter was shot down are: Daniel A. Bader, Ernest G. Bucklew, Steven D. Conover, Anthony D. D'Agostino, Paul F. Fisher, Darius T. Jennings, Karina S. Lau, Keelan L. Moss, Brian H. Penisten, Ross A. Pennanen, Brian D. Slavenas, Bruce A. Smith, Frances M. Vega, Paul Anthony Velazquez, and Joe N. Wilson.

We salute their bravery and their courage and their sacrifice.

Sergeant Perez was on that helicopter because he had been granted leave to come home to celebrate his third wedding anniversary. And now he has come home, in a flag-draped casket. Yesterday was his third anniversary and his funeral. He was 25 years old. He leaves behind his wife Milagros, an infant daughter Jaileen, his mother Luisa and father Edwin, and three brothers, Elvin, Michael, and Leo.

As I said at the funeral yesterday, it is a sobering moment when you see the reality of a life that has passed so quickly. All you have to do is look at the date of his birth—1978—and the date of his death—2003—they are much too close together.

Sergeant Perez is the ninth New Jersey resident killed in Iraq. The other eight are: Army SP Simeon Hunte, who was 23 years old, of Newark; Army 2LT Richard Torres, who was 25 years old, of Passaic; Army SFC Gladimir Philippe, who was 37 years old, of Roselle; Army SP Kyle A. Griffin, who was 20, of Emerson; Army SP Narson B. Sullivan, who was 21, of North Brunswick; Army SP Gil Mercado, who was 25, of Paterson, my home town; Army SSG Terry W. Hemingway, who was 39, of Willingboro; and Army SP Michael Edward Curtin, who was 23, of Howell.

I feel a special kinship to these young people because they were from my State. I also feel a special kinship because I am a veteran. I enlisted when I was 18 years old, right out of high school. I served in Europe during World War II.

Today is Veterans Day. It has been nearly 50 years since President Eisenhower signed a bill into law making November 11 Veterans Day.

The history of Veterans Day goes back even further, to 1918, when an armistice between the Allied and Central Powers brought World War I to an end at the 11th hour of the 11th day of the 11th month.

On November 11, 1920, the British interred an unidentified British soldier in Westminster Abbey to commemorate the Armistice. The French interred an unidentified French soldier under the Arc de Triomphe in Paris.

In 1921, an American soldier's remains were disinterred in France and sent on the transatlantic voyage to Washington, D.C., where they lay in state in the Capitol Rotunda for three days. Then, at 11:00 a.m. on November 11, the remains of this Unknown Soldier were buried at Arlington National Cemetery beneath a marble block which reads, "Here rests in honored glory an American soldier known but to God."

Since the founding of our country, nearly 50 million men and women have answered the call of duty. There are about 25 million veterans alive today.

Right now, we have 130,000 troops in Iraq, another 10,000 in Kuwait, and 10,000 in Afghanistan. Other Americans are serving in South Korea, in Bosnia and Kosovo, and in every other corner of the globe.

We owe our veterans and the brave young men and women who currently serve in our military more than we can calculate. It is very tough duty. I know that from personal experience. That is why I deeply regret that the Senate is in session today. I do not ever recall the Senate being in session on Veterans Day before. Frankly, I think it is disrespectful to veterans across America and to the veterans in this body for the Senate to be in session today.

Why are we doing it? Why are we here? Well, we are told that we have a full agenda and that we have very few days left to get our work done—work that was supposed to be done six weeks ago. But how are we going to spend the precious few days before we hope to adjourn? We are going to take 30 hours of that time to debate a handful of highly controversial judges whose nominations Democrats object to.

I feel compelled to put this chart up on the floor for everyone to see because it is kind of a scorecard that shows the Clinton years and how many nominees were confirmed in those years and the dozens of nominees who were blocked by the Republicans. Then we can see how many of President Bush's nominees have been confirmed and how many have been blocked by Democrats.

Democrats are objecting to a total of four nominees who have neither the experience nor the temperament to be confirmed to lifetime positions in the federal judiciary. Four nominees have been blocked, 2 percent of the total. And we are being told that we cannot afford the time today to be at home with our veterans or go to the cemeteries or go to the veterans hospitals so that we can pay our respects to those who have served or are serving this country. We cannot be with our veterans today because we have to spend 30 hours starting tomorrow to talk about four nominees.

So, in all candor, I have to say that I am upset by our being here. It is not the question of another day's work—we can do the work—but that the majority could not find time to permit Senators to be in their States with their constituents, especially veterans, with the families who have lost loved ones in Iraq or Afghanistan or Beirut or Vietnam or Korea or so many other places.

When I look at the reason why we are here today, it rings hollow, as far as I am concerned. I regret that we are here. This is the day we should meet with veterans groups. This is the day when we remember the sacrifice that so many have made on our behalf. This is the day we ought to be thinking about how we respond to our need for additional troops in Iraq. This is the day we ought to think about what it is our brave young service men and women should come home to when they have fulfilled their duty: adequate health care and jobs and opportunity.

What kind of a message do we send to our veterans and to those who currently serve in our military? What kind of message do we send to the young men and women we are trying to recruit? Today is a solemn day deliberately set aside to pay tribute to our veterans, and the Senate is in session because we have to spend a day and a half starting tomorrow talking about four judges.

I want the veterans across the country and the young men and women currently in harm's way to know they are appreciated, to know that some of the misery they are going through now is understood. How do you do that? Ideally, you do that by taking the time necessary to go and greet them personally. You do it by making sure veterans' benefits are adequate. You do it by making sure the medical care will be there, and the educational opportunities. That is the appropriate way to show our veterans that we appreciate them. We are not going to show it by working here today when, in fact, the veterans back home would like to see us back home.

Be that as it may, we are stuck here today. So I want to take this opportunity to say in the most heartfelt way possible that I appreciate our veterans. And I salute the brave young men and women who currently serve, especially those who serve in the Reserves and the National Guard. I appreciate the enormous, enormous sacrifice that many of them are making now that we are asking them to serve a year or more at a time, taking them away from their families, their communities, and their jobs. Today reminds us of just how much we have to be thankful for.

Mr. President, I yield the remainder of the time we have to our friend from North Dakota.

Mr. DORGAN. The Senator from Texas just inquired whether the Senator from Alabama might go next. I understand I have 5 minutes remaining; is that correct?

The PRESIDING OFFICER. Six and a half minutes.

Mr. DORGAN. I would be happy to have the Senator from Alabama finish his remarks which are 5 minutes. I will take 5 minutes, and then we will finish.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I thank the Senator from North Dakota and appreciate his courtesy. I don't think veterans are going to be unhappy we are here working today. They might have been happy to see the scene yesterday when we should have been able to make progress on a number of things, and we had the assistant Democratic leader speaking 8 hours plus and reading from a book about cactus and rabbits. They might be unhappy about that.

We have soldiers in the field this very day at risk, carrying out the policy of this Senate, this Congress, that we passed by over a three-fourths vote. We ought to be here talking about our country and doing some of the country's business.

In fact, I was in Walter Reed Hospital this morning. I had the honor to meet with the service men and women who have been injured, some fairly seriously, in the service of their country.

I met with Sergeant Larry Gill who grew up in Mobile, AL, went to Murphy High School where my daughter went. I knew his father, Lieutenant James Gill, in the Mobile police department, a great officer. Larry Gill had a severe injury to his lower leg. He has been there over a month now. It is getting better. He was so optimistic. It was so wonderful to see his wife Leah who is a school teacher at Murphy High School, and his two children, Sean and Ryan, and be able to talk with them and see the positive attitude he had, the commitment to serving his country. It was so inspiring. Larry Gill in 1983 was a young Marine serving in Beirut, Lebanon when that embassy was attacked, guarding the embassy as a marine, as he was often called upon to do. He was knocked unconscious and had to be dug out from the rubble of the attack. He was a victim of terrorism in 1983. Now he comes back as part of our war on terrorism and is injured again.

As he said, he thought he ought to start collecting baseball cards rather than Purple Hearts. That just is an example of his spirit.

At the time he was injured, he was part of a National Guard unit from Alabama, the 1165th MP company. SPC Chris Harris and SGT Richard Barns and SPC4 Jose Garcia were injured.

I see Senator LAUTENBERG here.

SPC4 Garcia, from New Jersey, was assigned to the unit. He was injured, and he refused to go home; said, no, he wanted to stay with his unit, as did Specialist Harris. Both had flesh wounds that could have caused them to be removed from the theater. They said, no, they wanted to stay with their troops. That is the kind of character and courage we have out there today. It is a pleasure to see them.

I also visited PFC Chris Busby from Valley Head, AL, a town of 600. He was injured in Baghdad. He was in an uparmored Humvee. That is important because we have been trying to make sure every uparmored Humvee possible is there because it is much more resistant to attack than regular Humvees. His foot was out the door as he was speaking and a mortar round hit. He said had he not been in an uparmored Humvee, he may well have been far more seriously injured, if not killed. His arm and leg which were outside the door were both severely injured.

Asking how he happened to join, he said: Well, it was after September 11. I thought I ought to serve my country.

He is 20 years old. His father was there. His father served 7 years as an MP. His brother is in Germany. He is also an MP. That is the kind of great, rock-solid Americans who preserve, protect, and defend our country on a daily basis. I am so proud of them. They serve us so well.

Just a little over a week ago I had the burden of calling Mrs. Roxy Bell. Her son, Aubrey Bell, 33, a sergeant with the 214th MP Company, National Guard Company from the Alabama National Guard, was killed in a firefight through an improvised explosive device in Baghdad at the Al Bayra police station where he was working. Sergeant Bell was part of the 214th MP company from Baldwin County, AL. I had the pleasure to visit with them when I was in Iraq in August. I had supper with them. I talked to them. They talked about patrolling the streets of Baghdad with the Iraqi police who had been brought on, which is exactly what we need to do to stabilize that country, bring on more Iraqi police. They were so positive, had such extraordinarily good morale. I was exceedingly proud of them. It was most painful to have to call and talk to his mother at the loss of her fine son who lost his life serving his country.

All of us need to remember that. We have sent those young men and women out. They are serving at our direction. They are placing their lives on the line for us on a daily basis.

We ask God's blessing and protection be with each one of them and that we are given the wisdom to help guide them in the application of their abilities and their lives in an effective way.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. Six and a half minutes.

Mr. DORGAN. Mr. President, in April of this year I was in Italy. I had stopped at an American military cemetery about 15, 20 minutes outside of Florence. On a beautiful morning, the sun was shining on the graves of 5,000 American soldiers who left their homes, left their families, and answered the call to serve their country and gave their lives during the Second World War. Their final resting place is now a cemetery, a beautifully kept military cemetery maintained by the Battlefield Monuments Commission of our country south of Florence.

I was thinking of that prose that says: When the night is full of knives and the lightning is seen and the drums are heard, the patriots are always there, ready to fight and ready to die, if necessary, to defend their country. Those patriots have given the ultimate sacrifice all across the world in defense of freedom here.

I was thinking this morning of a telephone call last week. I called a German hospital in which Brandon Olson was resting. He had just been wounded in Iraq. I called him in the hospital and I called his mother. Brandon Olson's mother called him on Thursday. On Friday he had his foot amputated. She called him prior to surgery. When I talked to her, she told me her son was under heavy medication. She could tell when she called him that he was in pain and his voice was weak.

This mother told her son, lying in the German hospital: You don't have to talk. I just want to hear you breathe.

It is a mother, concerned about her son, who left this small town of Hazen, ND to answer the call of his country. That is Brandon Olson. But it was also Brandon Ericson and Jason Frey, young men and women, in this case three North Dakotans, who lost their lives fighting in Iraq.

Finally, I believe, after some long period, this country is reaching out to its veterans and finally understanding its requirement, its obligation to say thank you—thank you for your sacrifice and thank you for honoring our country.

This morning in the newspaper in our largest city, Fargo, ND, they pointed out that:

The planeload of civilian passengers in a metropolitan airport terminal a couple of weeks back who stood and cheered in unison when asked by United Airlines to give up their seats on an overbooked flight and take a later flight so that soldiers headed home on 14-day leaves from Iraq could get there a few hours earlier. Every soldier got a seat on that airplane.

They all got on that flight because other passengers gave up their seats. That is what is happening in this country today as we face danger, difficulty, and challenges as a nation in Iraq and Afghanistan, and danger from terrorists around the world. Our country is saying to those who wear our uniform: Thank you. We owe you a great debt, one which we may never be able to repay, but we recognize your sacrifice and commitment to our country.

As I looked at those gravesites south of Florence, Italy, in that beautiful cemetery on that April morning, I thought of John McCrae's wonderful poem "In Flanders Fields." He wrote:

In Flanders fields the poppies blow
Between the crosses, row on row,
That mark our place; and in the sky
The larks, still bravely singing, fly
Scarce heard amid the guns below.
We are the Dead. Short day ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie,
In Flanders fields.

Take up our quarrel with the foe:
To you from failing hands we throw
The torch; be yours to hold it high.
If ye break faith with us who die
We shall not sleep, though poppies grow
In Flanders fields.

It reminds us again—especially today, on Veterans Day—all across America that the liberty we enjoy, the freedom we take for granted was paid for by the blood of patriots, and every American family has been touched by those patriots who have given the ultimate sacrifice. Every American community can and should recognize today those who live up the block or down the block or on the farm, who went all across this world and have fought valiantly for America's freedom, and have come home to live quietly among neighbors, never talking much about their service to our country.

But that service is what has made this the wonderful country it is. There is no place like it on Earth. There is no place quite as free as the United States of America, and that freedom has not been achieved without great sacrifice by young men and women. When America sends its sons and daughters to war, when America asks its sons and daughters to fight, then we must resolve to do everything we can to make that a successful fight on behalf of America's freedom.

Today, we honor wonderful veterans who have served this country for many decades.

I yield the floor.

Mr. SPECTER. Mr. President, today, Veterans Day, we honor America's veterans. It is to serve as 85 years of recognition after armistice was declared on November 11, at 11 a.m., in 1918. We pay tribute to our veterans today, but I suggest to my colleagues and fellow Americans we ought to pay more tribute to veterans every day.

The first veteran I knew was my father, Harry Specter, who was a veteran of World War I. My father had come to the United States as an immigrant, at the age of 18, in 1911. The Czar in control of Russia at the time wanted to send my father, among many others, to Siberia. My father chose instead to come to America. He literally walked across Europe, barely a ruble in his pocket, and traveled at the bottom of the boat to the United States to make a new life for himself. He did not know at that time that he had a round-trip ticket to France, not to Paris and the Folies Bergeres with the dancing girls, but to the Argonne Forest where he was wounded in action.

My father carried shrapnel in his legs until the day he died. The U.S. Government promised the veterans of World War I a $500 bonus and, as has been the case so frequently with the U.S. Government, the promise was broken. The veterans then mounted a march on Washington in 1932 to seek redress, exercising their constitutional right to petition their Government, and also in petitioning their Government, to have the Government fulfill the promise the Government had made to pay the veterans a $500 bonus.

Today, when there is a demonstration in Washington, the red carpet is rolled out. On that day, in 1932, the cavalry was rolled out with drawn sabers, led by MAJ George C. Patton. In command was the Chief of Staff of the Army, Douglas MacArthur. There is a famous picture of General MacArthur, with his aide de camp, MAJ Dwight Eisenhower. On that day, veterans were killed. It is one of the blackest days in American history.

That was the way the U.S. Government responded to the pleas of the World War I veterans who were asking only for what they had been promised—their $500 bonus. In a sense, in a metaphor, I have been on my way to Washington ever since to get my father's bonus. I have not gotten it yet, so I am still here and running for reelection.

When we honor the veterans today, we ought to make note of the fact that the medical services that are available to veterans are, realistically viewed, insufficient. We are about to take up, in the course of the next several days, the appropriations bill for veterans. We are endeavoring to get an additional $1.3 billion to help on veterans medical benefits.

I have the honor to chair the Veterans Affairs Committee in the Senate. Later today, I will join President Bush at the White House for a bill-signing ceremony, where we are creating additional veteran cemeteries across America, so that the families of veterans can be near their departed loved ones and can pay tribute without traveling long distances.

At the present time, families of veterans who live in southeastern Pennsylvania have to travel about 100 miles to Indiantown Gap, to Annville, to pay respects, where veterans are now interred, buried, from the southeastern part of the State. After a great deal of effort, going back about 6 years, I am paying tribute to former Congressman John Fox, who worked with me initially to introduce the legislation that was finally passed by both Houses of Congress. JIM GERLACH is the current sponsor in the House of Representatives—Congressman GERLACH—and there will be a bill-signing ceremony today where President Bush will affix a signature and we will at least have done that for veterans.

There are many issues pending to take care of America's veterans. We are currently in the Veterans Affairs Committee reviewing a proposal by the Department of Veterans Affairs to alter the hospital accommodations across America. We are determined to see to it that any changes which are made benefit rather than hurt veterans.

Mr. President, on the subject of the proposals which are now pending, I am very much concerned, as chairman of the committee, for the entire Nation about what will happen to many of the facilities which are under review—facilities in New York, facilities in California, facilities across the country, and one very hotly contested facility in Waco, TX. I am concerned about what will happen in Pittsburgh where there are proposals to close Highland Drive. If that is done, there has to be an adequate accommodation so that the facilities are at least equal to, if not better than what is currently available. There are concerns about Butler, PA, Erie, PA, and across my State. A new facility is due in Lebanon.

So on this day when we are concerned about veterans, when we pay honor to them, we ought to remember that the veterans have created the climate of freedom. When we pause and remember the veterans on Armistice Day of 1918, remember that it is a continuum of veterans who have served America since the Revolutionary War. My brother served in World War II, as did my brother-in-law in the South Pacific. I was in the service during the Korean war and served stateside.

We now have many aging veterans from World War II and the Korean war who need more accommodations. We have veterans from Vietnam and the gulf war and from Iraq. As we pay tribute to the veterans for what they have done for America, America should reciprocate and see to it that the needs of veterans are adequately responded to.

VETERANS DAY

Mr. GRAHAM of Florida. Mr. President, I rise to recognize the significance of Veterans Day and to honor the Americans it celebrates. On Veterans Day we pay tribute to the men and women who have fought for our freedom and those who continue to do so right now—they are far from their homes and families, striving to keep us safe from terrorism. These service-members exemplify what it means to be an American—courage, selflessness, and a deep love of and commitment to his or her fellow countrymen.

First proclaimed by President Wilson in 1919, Veterans Day was initially known as Armistice Day and was intended to commemorate the armistice between the Allies and Central Powers that ended the fighting of World War I. In 1953, a Kansas citizen named Alvin King lobbied to change the holiday's name to honor all veterans, not just those from World War I. On June 1, 1954, President Eisenhower signed into law an act proclaiming November 11 to be Veterans Day. Yesterday, we celebrated the 50th anniversary of that celebration.

There are currently 25 million American veterans. Every day more and more service-members return home from Iraq and Afghanistan becoming new members of that elite group of citizens. These heroic Americans freely offer their lives to protect those they leave behind, and those they've never even met. For this sacrifice, we owe them our continued support and care.

Unfortunately, the Bush administration has established a disturbing pattern of behavior that seriously undercuts this long-held ideal. In the past 2 years, the President has been full of patriotic words and speeches—rhetoric that has proven hollow. At a time when 133,000 service-members celebrated their Veterans Day in the deserts of Iraq, the Administration continues to undermine our veterans' ability to receive the quality health care they have earned. With the recent Iraq supplemental spending bill, the administration took an opportunity to demonstrate its commitment to our troops and twisted it into another way to short-change our veterans.

In that appropriations bill, my Senate colleagues and I worked hard to secure an additional $1.3 billion for VA healthcare. These desperately needed funds were subsequently removed at the insistence of the Bush Administration. Nationwide, 80,000 veterans—including more than 10,000 in my home State of Florida alone—are forced to wait longer than 6 months to see a VA doctor. When the service-members currently serving in Iraq return home and become veterans, they will be entitled to 2 years of priority VA health care after they have separated from military service. This added influx of patients, when coupled with the administration's refusal to give VA the money it needs to care for them, will only strain the system further.

During debates on that same supplemental spending bill, my fellow Democrats and I joined together to offer an amendment that would have helped rectify a longstanding inequity in the retirement pay our veterans receive—or, should I say, don't receive. Currently, the earned retirement pay of veterans who are both disabled and eligible for military pensions is reduced simply because they receive disability benefits as well. This practice of denying concurrent receipt does not apply to other Federal workers, only to the courageous men and women like the ones currently serving overseas, who made the armed services their careers.

I spent Veterans Day working alongside employees at the Miami VA Healthcare System and saw first-hand the number of veterans turning to VA for health care. As part of my duties there, I assisted the nursing staff on a patient floor and enrolled veterans for health care in the admissions area. This workday gave me an opportunity to see the numerous challenges facing VA. I stand in awe of both the VA staff and the heroic men and women they serve.

As we honor our veterans this week, we must not follow the administration's lead of making empty promises. We must fight to ensure quality health care for all of veterans, just as they have fought to ensure our quality of life. We must pay this nation's service-members, past and present, the highest tribute we can and finally give them what they have so bravely earned.

Mrs. BOXER. Mr. President, I wish to say a few words about Veterans Day, the day we honor millions who have served in our Armed Forces. We give thanks to those who risk their lives and, frankly, who are risking their lives as we speak. They have done it and they are doing it now out of love of country.

We also mourn those who made the ultimate sacrifice for our Nation. As American casualties mount in Iraq, Veterans Day takes on a very special meaning. Many in our country have lost loved ones in Iraq, and every day we all pray for the safe return of our men and women in uniform.

In my home State of California, we have lost 73 from California or based in California. The burden is heavy for their relatives—mothers, dads, children, friends. Yet we know they went over there, in many cases, following their families in a rich military tradition and, in some cases, because they wanted to stand up and be counted for their country.

They have courage and dignity. It is our responsibility to only send them into harm's way when we know what we are doing; to only send them into harm's way when we have a plan; to only send them into harm's way when we have an exit strategy, and these are issues we will continue to work on because some of us, I am afraid, do not see that plan and do not see that exit strategy.

I wish to say on a personal note that November 11 is also my birthday. I say that because as a child, I was so proud I was born on what was called Armistice Day because Armistice Day reflected a day of peace, the end of a war, the end of the war to end all wars, which World War I was known as. Unfortunately, it wasn't to be. There were more wars. In 1954, Congress changed the name of Armistice Day to Veterans Day to pay homage to all of our veterans.

I regret I am not able to spend today with veterans in my State. I really had wanted to do that, but I do appreciate this opportunity to pay tribute to them on the floor of the Senate.

One more point on veterans. Earlier today I introduced legislation to help our future veterans by reimbursing States and localities that continue to pay their government employees who are Guard and reservists—such as policeman and firefighters—when they are called to active duty. This legislation will go a long way to help the families of these Guard men and women and reservists make ends meet.

In many cases, the local and State governments are paying their salaries and are falling behind. It seems to me that is the least we can do, is reimburse for those funds. I hope others will join me in this legislation. By the way, many of our States and counties and cities are already doing this, and their budgets are hurting.

This is a war that was, in fact, voted on here and executed by the President. Therefore, it seems to me the least we can do is reimburse local agencies who are putting out the funding.

Mr. BYRD. Mr. President, November 11, Veterans Day, is the day of reverence for American veterans. It is the day of the year set aside to honor the people who have defended our country, our way of life, and our freedom. It is the day that allows us to pause to recognize their patriotism, their love of country, their willingness to serve, and their willingness to sacrifice.

Just last year, President Bush called Veterans Day the day that we "show our gratitude to the veterans of the United States Armed Forces"—a day when "we honor veterans and we honor their families, and we offer the thanks of a grateful Nation."

The very origins of this day are both historic and symbolic. It began at the 11th hour on the 11th day of the 11th month—that is, 11/11/11—of 1918 when the allied powers signed a cease-fire agreement with the central powers, thus bringing to an end the 4-year bloody nightmare known as World War I.

The next year, the United States set aside November 11 as Armistice Day to remember and honor the sacrifices that men and women made during World War I.

In 1926, a congressional resolution officially named November 11 Armistice Day. Twelve years later, in 1938, Congress made Armistice Day a national holiday.

In 1954, following World War II and the Korean war, Congress made November 11 a day to honor veterans of all wars, and therefore changed the name of this most important day to Veterans Day. President Dwight D. Eisenhower, the President of the United States at the time, asked Americans to use this day to "remember the sacrifices of all those who fought so valiantly on the seas, in the air, and on foreign shores, to preserve our heritage of freedom." In the first Presidential "Veterans Day Proclamation," President Eisenhower proclaimed:

> It is my earnest hope that all veterans, their organizations, and the entire citizenry will join hands to insure proper and widespread observance of this day.

Just how important and symbolic this day had become to the American people and, especially, our veterans, was demonstrated in the reaction to the Uniform Holiday bill of 1968. This legislation was part of an overall plan to make holidays part of a 3-day weekend, which would, in turn, encourage travel, recreational and cultural activities, and stimulate greater industrial and commercial activity. In so doing, this legislation changed the observance of Veterans Day from November 11 to the fourth Monday in October.

Seldom in all of my 51 years in Congress has Congress so misjudged the feelings of the American people. American veterans in particular, and Americans in general, demanded that the observance of Veterans Day be restored as November 11. It was all right to monkey around with Columbus Day, we learned, and even the birthday of the father of our country. But we should have never touched November 11.

According to the Veterans of Foreign Wars, November 11 has a special meaning to veterans of all wars and is a part of American history. Of all the days in the year, the one day which has the most significance to those citizens who made an extra sacrifice in the national interest by their service in the Armed Forces is November 11.

Many States simply continued to celebrate November 11 as Veterans Day.

Immediately, Members of Congress introduced legislation to redesignate November 11 as Veterans Day. My former colleague in this Chamber, Senator Robert Dole, who himself was a World War II veteran and was destined to become a majority leader of the Senate and a nominee of the Republican Party for Vice President and President, proposed such legislation. He called November 11 a "legal holiday that provides a unique and fitting day of recognition for our American veterans." It is the day, Senator Dole declared, when the Nation pays "tribute and homage to the men and women who have given so much in their quest for world peace and freedom."

By 1975, 42 States, including my own State of West Virginia, had returned to the practice of celebrating Veterans Day on November 11. In that year, Congress approved legislation to return the annual observance of Veterans Day to November 11. President Gerald R. Ford signed the bill, stating:

> It has become apparent that the commemoration of this day on November 11 is a matter of historic and patriotic significance to a great many of our citizens. It is a practice deeply and firmly rooted in our customs and traditions.

More recently, when legislative ideas were circulating through Congress to bolster voter participation in Federal elections, at least one proposal centered on designating Veterans Day as the national election day. In response to that proposal, my office was flooded with phone calls from veterans, saying: "Please don't take away our special day."

Mr. President, November 11 is their special day. It is for this reason that during the years in which it was my privilege to serve as the majority leader of the U.S. Senate, I was always determined that this legislative body would not be in session on this most important and symbolic date. I always wanted to make sure that my colleagues and I had the opportunity to take part in the many ceremonies that take place on this day in honor of the courage and the sacrifice of America's veterans. I always wanted to make sure that this Chamber paid proper homage to the men and women to whom we owe so much.

Writing about the thousands of soldiers who lost their lives during the bloody battle at Antietam, Civil War historian, Bruce Catton, pointed out that these men did not die for a few feet of a cornfield or a rocky hill; they died that this country might be permitted to go on, and that it might be permitted to fulfill the great hope of our Founding Fathers.

So may it be said of most every person who has worn our Nation's uniform. These people served and they sacrificed to permit this country to go on to fulfill the great hope of our Founding Fathers. And it is proper and it is right that we take one day a year to pay our most profound respect to the men and the women who have worn our Nation's uniform, and to thank them.

I thank them and we here in the Senate thank them on this day for what they have given, for what they have sacrificed, and for their love of country.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

The Senator from Pennsylvania is recognized.

SYRIA ACCOUNTABILITY ACT

Mr. SPECTER. Mr. President, on behalf of the majority leader, I call up the Syria Accountability Act.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 1828) to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil and illegal shipments of weapons and other military items to Iraq, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes.

The PRESIDING OFFICER. The time for debate is limited to 90 minutes, with 30 minutes under the control of the Senator from Indiana, Mr. LUGAR, or his designee, 30 minutes under the control of the Senator from Delaware, Mr. BIDEN, or his designee, and 30 minutes under the control of the Senator from Pennsylvania, Mr. SPECTER.

Mr. SPECTER. Mr. President, there is before the Senate the so-called Syrian Accountability Act, which imposes sanctions on Syria. It recites a long list of circumstances where the Syrians have not taken sufficient action to fight terrorism, and then it calls for Syria to take corrective action, and in the absence of that corrective action, authorizes the imposition of economic sanctions, and it leaves with the President of the United States the authority to waive those sanctions if it is in the national interest.

Sanctions are imposed by Congress with some frequency. At first blush, this appears to be a straightforward affirmative vote, but I believe the matter is more complicated than that, and I have come to that view after having traveled to Syria almost every year since 1984, and after having had considerable contact with the Syrian Government. After considering the matter at some length, I have decided that I will vote in favor of the Syrian Accountability Act because the problems of terrorism are so serious and because I believe that Syria needs to do more.

The bill itself has a long recitation of background circumstances, but the events today in Iraq, where our fighting men and women are being subjected to terrorist attacks, casualties and fatalities, and where the people of Iraq are being subjected as victims of terrorism, I believe it is a fair demand that more be done. That would include more by Syria.

There are, according to reliable reports, official statements of the U.S. Government that terrorists are infiltrating into Syria, coming from Syria into Iraq. More has to be done on that subject.

It has to be noted that Syria has responded with a number of affirmative actions to be of assistance to the United States in our war on terrorists. The officials of the State Department have acknowledged that after September 11, 2001, that information was provided by Syria on al-Qaeda, which saved U.S. lives.

It is also to be acknowledged there has been some improvement on the Syrian-Iraqi border, but clearly not enough. There were reports just this morning from the State Department about the porous Syrian border and terrorists coming into Iraq, again exposing U.S. personnel and the Iraqis themselves to terrorist attack.

It ought to be noted that Syria did join in the unanimous resolution, U.N. Resolution 1511, and that when Secretary of State Powell traveled to Syria in April of 2002, there was some helpful action taken by the Syrian Government on the southern border of Lebanon. But when Secretary of State Powell went to Syria in May of 2003 and urged the Syrian Government to oust the terrorists from Damascus, that request was not acted upon. Recently, Israel moved against terrorist training camps within a few miles of Damascus.

While all of these matters are subjected to controversy, and there are disputes by the Syrian Government, I believe the balance of the evidence supports the conclusion that those were training camps.

I believe it is important that the U.S. Government continues in its efforts to negotiate with Syria to try to improve the situation, and that we ought to be mindful that there are opportunities to have frank discussions with the Syrian officials which have led to some beneficial results and which ought to be pursued.

I urge my colleagues in the U.S. Congress, pursuant to our duties, for example, on the Foreign Operations Subcommittee on which I serve, or on the Foreign Relations Committee, to travel to Syria to engage the Syrian leaders because I think it can be productive. I make reference to my own experience in that regard.

I made my first trip to Syria in 1984. As I have said, I have been to Syria almost every year since. I first met President Bashar al-Assad in January of 1988 and found him to be willing to listen and willing to have a dialog. My conversation at that time with President Assad lasted for some 4 hours and 35 minutes, talking about a wide range of issues—the Israeli-Syrian relations, the Iran-Iraq war, which was still in progress at that time, U.S.-Syrian relations, the situations with the Jews in Syria. At that time, working with then Congressman Solarz, I urged President Assad to allow the Jews to have free immigration out of Syria. There were many Jewish women in Syria who could not find husbands of the Jewish faith. President Assad said to me, in one of our meetings, he would release any Jewish woman where somebody came from the United States—there were large Syrian-Jewish groupings in the United States—to come to claim a bride, and anyone who wanted to marry a woman in Syria who was Jewish, if a suitor came, the woman would be released.

I reported back to a number of Jewish-Syrian enclaves in the United States. Nothing much happened about that. Finally, a few years later, President Assad granted free rights for the Jews to leave Syria at their choice, something he had resisted, but something which he finally was persuaded to do.

During the course of the discussions I had with President Assad, I urged him to participate in discussions with Israel. At first, he took the position he would not be a party to any discussions which were sponsored just by the United States but only if they were sponsored by all five of the permanent members of the Security Council.

Finally, President Assad made a change and sent representatives to Madrid in 1991 to participate in those discussions. When Prime Minister Netanyahu was elected in 1996, Prime Minister Netanyahu initially made some statements that he was going to hold Syria accountable for Hezbollah on the southern Lebanon border. That resulted in a very tense situation with Syria realigning their troops along the Syrian border.

Prime Minister Netanyahu knew I was about to travel to Syria and asked me to carry a message to President Assad and Foreign Minister Shara, that Prime Minister Netanyahu wanted peace and was prepared to personally engage in discussions and would urge President Assad to engage personally, but that was not a condition.

I relayed that message to President Assad. While he was not willing to engage in negotiations with Prime Minister Netanyahu, it was later reported there was an easing of those tensions.

On many occasions, I would urge President Assad to have discussions with the Israeli Prime Minister. I soon developed a relationship where I was able to take it in a somewhat lighter vein and said to him when our pictures—he met with me in his office, with the large traditional chairs and a small stand in between to hold the tea or coffee—I said tomorrow there would be a picture in the Damascus newspaper of our discussion, but that if he would meet with Prime Minister Shamir, which I urged in the early 1990s, the picture would appear on the front pages of the New York Times and the London Times and across the world.

When the Nobel Peace awards were given to Prime Minister Rabin and Foreign Minister Perez and Chairman Arafat, I urged President Assad to engage in negotiations with Prime Minister Rabin. I said he would be honored at Oslo, and he responded in a light vein that he might be honored at Oslo but he would not be allowed back in Damascus. I told him I did not think that was true, and he commented notwithstanding what some might think, the public opinion in Syria was a matter of some substantial concern to him.

I attended the funeral of President Assad in the year 2000, accompanying Secretary of State Madeleine Albright. On that occasion, I had a chance to meet his successor, President Bashar Assad. I visited Syria on two occasions, in 2002 and last year in 2003, and have had lengthy conversations with President Bashar Assad. They are conversations which are candid and sometimes critical.

For example, at the Arab summit, when President Bashar Assad made a comment that Zionism was the same as nazism, I said I thought there ought to be a change in his attitude on that because there was no comparison between the brutality of nazism, their destruction, their attacking neighboring countries, their Holocaust, murdering 6 million Jews, and the aspirations of the Zionists to have a homeland in Israel. He listened and talked. To what extent there is an imprint, who knows. It is better to have it said than to have him thinking he can simply equate nazism and Zionism without an objection.

President Bashar Assad also made a comment at the Arab summit that it was fair to target civilians in the Golan Heights, and I disagreed with him. He said, well, the civilians are armed. I said, they have to be armed because there are attacks on the borders. I urged him that the right response was to engage in diplomatic talks with the United States.

The essential conclusions which I have reached are there is some substantial opportunity to deal with Syria. In Bashar Assad there is a new leader, a man in his late 30s, English educated, willing to meet with the House of Representatives or the Senate, willing to listen. Notwithstanding my many exhortations of President Hafez al-Assad and President Bashar Assad, they continue to harbor terrorists in Damascus. Both the father and the son respond that the people live there have been exiled from what was formerly Palestine, they cannot be in Israel so they live in Damascus. I responded I thought that was an insufficient answer.

Although some progress has been made, I do believe Syria needs to do much more. Syria is the de facto controller of Lebanon, and Syria needs to do more to stop Hezbollah and their rocket attacks on Israel, with the tremendous armaments which Syria has. There are reliable reports about Syria developing bacteriological warfare, a lot of chemical warfare, and extending the range of their missiles, and some incipient efforts at nuclear weapons, so they would have to submit to international arms control regimes.

Most of all, I believe Syria has to do much more in the fight against terrorism. President Bush has said, and I think accurately, he who harbors a terrorist is a terrorist himself; he who harbors a terrorist in the eyes of the law is an accessory before the fact.

Today, the problem of terrorism is so acute there cannot be any halfway measures. Syria needs to do a great deal more on the border to stop terrorists from coming into Iraq.

There are reports about al-Qaida being in Iraq. I am not vouching for any of those reports. I think we have to be very careful what we say about terrorism and who the terrorists are and where they come from, but there is no doubt Iraq has been a magnet for young men and young women who do not like the United States, who do not like U.S. support of Israel, who do not like what we have done in Iraq, and they are coming into Iraq. There are daily attacks on our men and women. There are daily attacks on the Iraqis themselves.

There is a state of tremendous violence. Every day, when we look to the news media, we wonder if there is going to be another report about a helicopter being shot down or about United States soldiers being attacked or about Iraqi civilians being attacked. That means the effort against that kind of terrorism has to be absolute. That is why I believe the Syria Accountability Act is one which ought to be passed by the Senate.

When the Syria Accountability Act was gaining in cosponsors, I wrote to President Bashar al Assad on September 17 of this year. I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. President Assad then asked his representative in the United States, in Washington, his charge d'affaires—they didn't have an ambassador—to come and talk to me, and we had a discussion as to what was going on. It seems to me, after considering the matter and the gravity of the risks which our fighting men and women are undertaking in Iraq, and the risks to the Iraqi people themselves, that it is an appropriate time to make a formal demand on the Government of Syria to do more.

If they do more and if they join in the fight against terrorism, there is ample opportunity for the President of the United States to take the appropriate action pursuant to this resolution and to lift the sanctions.

I thank my colleague from Alabama for sitting overtime into the lunch period. I yield the floor and note we will now go into a noontime recess, to reconvene at 2:15.

EXHIBIT 1

U.S. SENATE,
Washington, DC, September 17, 2003.

His Excellency BASHAR AL-ASSAD,
President, Syrian Arab Republic,
Damascus, Syria.

DEAR PRESIDENT ASSAD: I write to inform you of growing concern in the United States Senate about Syria and the fact that the Syrian Accountability Act now has 76 cosponsors. I had discussed this proposed legislation some time ago with your Ambassador to the United States. I had refrained from co-sponsoring the Syrian Accountability Act on the premise that we should try to work out the problems without resorting to legislation calling for sanctions.

Yesterday, Undersecretary of State John R. Bolton submitted testimony to the House of Representatives' International Relations Committee that Syria is permitting "volunteers" to pass over your border into Iraq where those so-called volunteers are intent on killing U.S. troops. This follows Administrator L. Paul Bremer's statement on August 20th that Syria is allowing "foreign terrorists" to cross Syria's borders into Iraq.

When you met with Secretary of State Powell last May, there was an understanding that Syria would shut Damascus offices of Hamas, Islamic Jihad and other terrorist groups. In June, Secretary Powell stated that Syria's efforts to shut these offices were "totally inadequate".

The Bush Administration which had opposed the Syrian Accountability Act now is neutral, taking no position.

After extensive dealings with your father, President Hafez al-Assad, since the 1980s and with you on our meetings in the past several years, I have tried to assist in finding answers to these difficult problems. With the Syrian Accountability Act gaining so much support, it is my hope that your Government will respond to the concerns outlined in this letter before the U.S. Government resorts to sanctions.

I call these matters to your personal attention with the hope that prompt action can be taken by Syria to resolve these problems. The United States greatly appreciated the help that Syria provided to our intelligence services after September 11, 2001 in our flight against el-Qaeda.

Sincerely,

ARLEN SPECTER.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 and additional time having expired, we will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:53 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

SYRIA ACCOUNTABILITY ACT—Continued

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I am pleased that the Senate soon will be taking action on the Syria Accountability Act. Much work has been devoted to this legislation, and I believe that we are ready to pass the bill. I would like to thank the majority leader for his support of this bill and the process that led to it. I also would like to thank Senators SANTORUM and BOXER for their commitment to this bill and their bipartisan cooperation in reaching agreement of an important amendment. A critical component of this amendment provides the President with the ability to calibrate U.S. sanctions against Syria in response to positive Syrian behavior when such adjustment is in the national security interests of the United States.

On October 30, the Senate Foreign Relations Committee held an excellent hearing on U.S. relations with Syria. Among other witnesses, we heard from William Burns, Assistant Secretary of State for Near Eastern Affairs, and

Ambassador Cofer Black, the Counter-Terrorism Coordinator.

These hearings underscored the difficulties presented by recent Syrian behavior. Hopes that reform could take root in Syria after the fall of Saddam Hussein have dimmed considerably. Instead, tensions have increased between the United States and Syria, and a cycle of retaliation and revenge has derailed possible progress in the "Road Map" to peace for Israelis and Palestinians. The Israeli retaliatory attack on an Islamic Jihad terrorist camp in Syria has underscored that the "no war and no peace" status quo in the region cannot be taken for granted.

Many experts thought that when President Bashar al-Assad replaced his father 3 years ago, he would adopt a more pragmatic approach to negotiations with Israel and to internal political and economic reforms. Syrian cooperation with the United States in relation to al-Qaida terrorists held promise for cooperation in other areas. Assistant Secretary Burns noted last June in Congressional testimony that "the cooperation the Syrians have provided in their own self-interest on al-Qaida has saved American lives."

But Syria's subsequent failure to stop terrorist groups, including Hezbollah, Hamas and Palestinian Islamic Jihad, from using Syria as a base for training and planning suicide bombings in Israel has continued. Syria also has failed to withdraw its forces from Lebanon or take concrete steps in support of the Road Map peace plan. It reportedly has continued to maintain stockpiles of chemical weapons and to pursue development of lethal biological agents.

Moreover, Syria is working against the U.S. and Coalition forces in Iraq by refusing to release assets in Syrian accounts that Saddam Hussein's regime stole from the Iraqi people.

These and other Syrian transgressions have led both Houses of the U.S. Congress to support the bill before us today, which stiffens the economic and diplomatic sanctions already imposed on Damascus for being a state sponsor of terrorism. I support this bill, which is based on the presumption that modifying Syria's behavior requires a tough response. But as we give the administration additional sticks to use against Syria, we should be careful about restricting our government's flexibility in responding to new diplomatic opportunities. Syria has shown the ability to make better choices—for example, supporting U.N. Security Council Resolution 1441 in November 2002, which held Iraq in "material breach" of its disarmament obligations and voting for the more recent Resolution 1511, which calls upon all nations to support the U.S.-led effort in Iraq. I believe the amendment to this bill provides the President with the necessary flexibility.

Even as we tighten restrictions on Syria, we should be emphasizing to the Syrians why it is in their interest to recalculate their approach towards the United States. Syria shares a 400-mile border with Iraq. With more than 135,00 U.S. troops deployed in Iraq, Syria needs to reconsider where its future security interests lie. This is not a threat of U.S. military action but a statement of the new reality on Syria's borders. Moreover, Syrian forces that continue to occupy Lebanon are draining the Syrian economy while providing few positive returns. Continued Syrian occupation of Lebanon invites further possible military action from Israel.

The Syrian leadership also must adjust to the end of its "under the counter" oil deals with Saddam Hussein. Syria must negotiate new and transparent arrangements to meet its energy needs. Syria's economy will not thrive without opening up to investment and trade, particularly with Iraq. Significant benefits could accrue to Syria from an economically vibrant Iraqi trading partner, increased trade with Europe and the United States, and even possible membership in a Middle East Free Trade Agreement down the road.

In this context, Syria may find motivation to return to the negotiating table. An agreement on the Golan Heights that would provide security guarantees for Israel while respecting Syria's sovereignty could be the key to resolving a host of other problems, including Syria's occupation of Lebanon, its support of Palestinian terror groups, and its economic and political isolation. Although success of such an agreement would depend ultimately on the parties themselves, the United States must seek to leverage obvious Syrian interests in pursuit of a viable settlement.

The Syrian regime has some difficult choices to make. It can continue to harbor and support groups devoted to terror, or it can act in ways that will help restore stability and peace in the region and thereby create a better economic future for its people. It cannot do both. This bill, as amended, adds to the tools available to the President to move Syria toward a more responsible course. I commend the bill to the Senate and hope that we will pass it by a strong vote.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I wanted to come to the floor to express my strong support for the Syria Accountability Act. I commend the distinguished chairman of the Senate Foreign Relations Committee for his leadership and the efforts he has made on this legislation to bring us to this point. Let me also thank my colleague from California, Senator BOXER, for her tireless and effective advocacy of this legislation. I am very pleased this legislation is now pending. I congratulate my colleagues as well as others who have made the effort to bring us to a point where I believe on a strong bipartisan basis this legislation will pass this afternoon.

This day has been a long time coming. We have heard administration officials argue that this straightforward response to the behavior of the Syrian Government reduces the President's flexibility to deal with the "bigger picture." We believe that it is not only morally right, but will actually strengthen the President's hand in explaining the "big picture" to the Syrians.

Had our years of entreaties to the Syrians not fallen on deaf ears, and had promises from Syria over the last several years not turned out to be little more than empty rhetoric, this bill might not have been necessary.

However, it appears to many of us that the point where we can continue to sit back and hope for Syria to change course has passed. The time has come to show Syria that continued inaction will no longer be tolerated and will come at a price.

The behavior we seek from Syria is not different than what we expect of every other country in the world community—an end to its support for terrorism, and enforcement of its own international agreements and United Nations Security Council resolutions.

Syria simply has failed one too many times to live up to these obligations, and this legislation backs up our hopes for Syrian compliance along with the very real threat of sanctions.

The Syria Accountability Act holds Syria accountable for its behavior by imposing sanctions unless the Syrian Government certifies that: It is no longer providing support for terrorists and terrorism; it has withdrawn all of its military and intelligence personnel from Lebanon; it has ceased its attempts to produce, acquire, or transfer weapons of mass destruction; and it has ended its support for terrorists in Iraq.

I am pleased with the bipartisan process that produced this landmark legislation, and I especially want to commend Senator LEVIN for his leadership in ensuring that the President maintains the maximum flexibility to wisely wield the tools created by H.R. 1828. The national security waiver, which allows the President to waive certain sanctions if they are deemed counterproductive to U.S. security interests, will allow our government to effectively press for reform in Syria without endangering our efforts in the global war against terrorism.

There are three reasons we need to pass this unambiguous statement of U.S. intent.

First, as remarkable as it is to imagine, the Government of Syria still provides safe haven and material support for some of the most objectionable terrorist organizations in the world.

Hamas, the Palestinian Islamic Jihad, PIJ, the Popular Front for the Liberation of Palestine General Command, the Popular Front for the Liberation of Palestine, the Democratic Front for the Liberation of Palestine, the Abu Musa Organization, and the Popular Struggle Front all maintain offices in Damascus. Members of the Syrian Government have, on occasion, condoned suicide bombings against civilians within Israel, calling them legitimate military operations.

Syria alternates between defending these offices in Damascus as solely for press purposes, uninvolved in the conduct of terrorist attacks, and promising they will shut the offices down. To date, its promises have amounted to nothing. Meanwhile, its defense of these offices is as unfortunate as it is inaccurate. It is simply not acceptable to provide support for an office whose sole purpose is to call attention to, and encourage support for, attacks on innocent civilians.

Moreover, reports indicate that planning for the recent and horrendous attack at a restaurant frequented by Israeli Jews and Israeli Arabs in Haifa is connected to offices in Damascus.

We are also beginning to learn from the intelligence community that Syria may have allowed military equipment and personnel to flow into Iraq on the eve of and during the war, both of which were used against our troops in that country.

Although the administration reports that the situation on the Syria-Iraq border is "improving," the international community should expect nothing but full cooperation from Syria on something so basic as stopping the flow of terrorists through its territory.

Second, in signing the 1994 Taif Accords, Syria pledged itself to the "security and independence of Lebanon." To date, it has helped with neither. Instead, it continues to support the Lebanese Hezbollah and undermine the democratic aspirations of the people of Lebanon by occupying that country.

In 1999, Israel withdrew its forces from southern Lebanon after being told by the international community that doing so would increase its security. Cynically, Syria exploited the resulting security vacuum and permitted attacks on Israel from that region, all in contravention of Security Council Resolution 425. It is especially disappointing that we have to come to the floor of the U.S. Senate to call on a member of the United Nations Security Council to enforce its own resolutions.

Third, the Syria Accountability Act—a clear statement of America's resolve—should help put an end to the series of mixed signals coming from the Bush administration. Over the course of the last 3 years, we have heard various policies from the different spokespeople for different agencies of the U.S. Government. In fact, we have even heard competing policies and concerns from offices within the same State Department.

As I said at the beginning, I wish this bill were not necessary. Unfortunately, we all recognize that it has become necessary. This bill will make clear to Syria what we expect of it. If it is not willing to end its support for terrorism or uphold its agreements, it should not be accepted as a full partner in the international community.

I urge adoption of the legislation and again congratulate the distinguished chairman of the Foreign Relations Committee for his leadership in bringing this bill to the floor this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Democratic leader for his speech and for his thoughtful comments.

Mr. President, I am prepared to yield to the distinguished Senator from Pennsylvania as much time as he should require, with the time allotted to our side on this amendment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I, too, thank the Senator from Indiana for working very closely with Senator BOXER and me on this very important piece of legislation, which is a very timely piece of legislation.

The House passed this legislation a few months ago and sent it over here. We have been working diligently with both Senator LUGAR and Senator BIDEN, and they have been most cooperative in working with the administration to craft a bill that I think meets some of the concerns the administration has, some of the concerns the committee has experienced in dealing with sanctions bills, and particularly the issue of the waiver authority of the President.

The House-passed bill did not allow the President to waive sanctions on military or dual-use items—"dual use" meaning they could be used for civilian or military purposes. I think the chairman of the committee rightly expressed concern about that, that the precedent generally is that the President have waiver authority in the case of vital national security interests or national security interests.

We negotiated as to what that standard should be. We obviously wanted the highest level of scrutiny before the President could waive that which would be vital national security interests. The lowest level would just be sort of a national interest test. And we compromised on a national security interest waiver. It is sort of a midlevel, if you will, waiver authority or waiver standard. We think that is appropriate here for all of the items, all of the potential sanctions that may be imposed by the President under this act.

So the President, under the revised bill we have before us, does impose sanctions, but it gives the President the flexibility to waive. But he has a threshold he must meet and make the case that that threshold is made in order to waive these sanctions. So we give the President the hammer that I think is necessary and that so many have talked about here.

Syria is a bad actor in the region. It is part of the "axis of evil," in my opinion. It is a country that sponsors terrorism, that supports terrorism, that encourages terrorism, not only against American interests, not only against Israel, but it is occupying, through setting up these terrorist organizations, as well as their own military force, what was a very moderate and progressive Arab country, Lebanon.

That is a heinous act, and I find it somewhat remarkable that the rest of the Arab world does not continue to condemn it and do what we do: try to ratchet up the pressure on Syria to get out of Lebanon, to allow the people in Lebanon to determine their own government and to freely elect people who could serve the best interests of the Lebanese people, not the dictator in Damascus.

So we have, really, a purpose beyond our national security interest, although I would argue that a free and prosperous Lebanon—and given the history of that country, and being a bridge between the Middle East and West—that would be a very stabilizing presence in the Middle East, to have a country with a democratically elected government, and not being the threat Lebanon now poses, not because of the people themselves but because of the terrorists who reside in southern Lebanon, because of the other heinous acts that are conducted by the terrorist groups based in Lebanon that they project throughout the world.

This is a very important issue for national security. It is a very important issue for the peace in the Middle East.

I am very gratified that the Senate could come to a conclusion on this bill and bring it to the floor of the Senate and have it pass on a day when we honor our veterans, as we should. We had people fight and lose their lives in Lebanon, and they did so bravely and courageously. But I have to say, it was not one of the proudest moments for me as an American to see our troops withdraw from Lebanon and not stay there to fight another day, with the oppression Syria was imposing upon that country.

This is a chance for us to begin the process of reengaging in Lebanon, reengaging the Syrians who have been nothing but trouble and fomenting trouble throughout the Middle East and being disruptive of the peace process in the Middle East.

I say to the Senator from Indiana, thank you for the time. Thank you for your willingness to bring this bill to the floor and to move this bill forward.

I will enter into a colloquy with Senator BOXER to discuss our desire and our hope that the President not immediately think about waiving these provisions; that he think carefully about any kind of waiver; that we try to impose some sanctions and send a message. Given the activities of the Syrians in the Middle East and the activities of Syria in Iraq, it is such an important and relevant discussion, that the President use these sanctions that are available to him for him to do so.

Mr. President, I wish to enter into a colloquy with my colleague, Senator BOXER of California, concerning the waiver authority extended to the President for the sanctions contained in the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003.

Mr. President, as the original cosponsor of the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, I want to clarify the bill's intent with the original sponsors, Senator BOXER. Is it the Senator's understanding that—given the seriousness of the charges against the Syrian regime and the fact that the highest levels of the U.S. Government have already made it clear that there will be consequences to the Syrians if there is no change in their behavior—the national security waiver contained in the bill is meant to address only those circumstances where United States national security interests are indeed severely threatened?

Mrs. BOXER. Yes, that is my clear understanding and the clear intent of the legislation. The bill lays out in great detail the serious threat Syrian actions pose to United States interests. Our expectation is that, unless the President can make the certification described in section 5, subsection (d) of the bill, he must impose sanctions on the Syrian Government. The national security waiver was only included to address currently unforeseen instances where U.S. national security interests would truly be threatened should such sanctions go forward. We expect the President to use the waiver only for such exceptional circumstances, and not on a routine basis as a way to circumvent congressional intent as so clearly expressed in the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003.

AMENDMENT NO. 2148

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], for himself, Mrs. BOXER, and Mr. SANTORUM, proposes an amendment numbered 2148.

Mr. LUGAR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make technical and other corrections)

On page 2, strike lines 8 through 15.

On page 9, strike lines 21 through 24.

On page 15, line 1, strike "will be held responsible" and insert "should bear responsibility".

On page 15, beginning on line 6, strike "shall impede Syria's ability" and insert "will work to deny Syria the ability".

On page 15, strike lines 18 through 20.

On page 16, line 17, insert after "citizen in Iraq" the following: "if the Government of Syria is found to be responsible".

On page 18, strike lines 15 through 20 and insert the following:

(b) WAIVER.—The President may waive the application of subsection (a)(1), (a)(2), or both if the President determines that it is in the national security interest of the United States to do so and submits to the appropriate congressional committees a report containing the reasons for the determination:

On page 20, beginning on line 6, strike "withdrawn all Syrian military, intelligence, and other security personnel from Lebanon" and insert "ended its occupation of Lebanon described in section 2(7) of this Act".

On page 21, beginning on line 15, strike "the attacks against the United States that occurred on September 11, 2001, and other".

On page 21, beginning on line 20, strike "given the recognition that Hizbullah is equally or more capable than al Qaeda" and insert "and other terrorist organizations supported by Syria".

Mr. LUGAR. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2148) was agreed to.

Mr. LUGAR. I thank the Chair. I now yield time to the Senator from Kansas, Mr. BROWNBACK.

Mr. BROWNBACK. Mr. President, I thank the chairman of the Foreign Relations Committee, Senator LUGAR, who does such an outstanding job on so many issues and really is a national treasure for us on international affairs and international issues, for allowing me recognition to speak on this bill. I thank the cosponsors, Senators SANTORUM and BOXER, for their work in bringing this issue in front of the body. I urge its passage.

I urge usage of the Syria Accountability Act by the President. Several of these issues have already been covered. I wish to address them with some specificity by saying 43 and counting—43 and counting. That is the number of dictatorships that are left in the world. There were 45 at the start of this year. Two have changed over. Dramatic changes are taking place in some other countries. But there are 43 dictatorships.

One of the harshest is Syria. It is a state sponsor of terrorism, one of five countries in the world that we recognize is a state sponsor of terrorism. We are facing terrorists coming from Syria on a daily basis in Iraq. You can hardly visit with any of our leadership working on the issue of Iraq and bringing democracy to that country without hearing them talking about foreign terrorists coming into Iraq. The largest percentage of those is coming through Syria. Another percentage is coming from Iran, which is another country that needs to go through a democratic metamorphosis and become a democracy. Iran is not a democracy today. We need to confront that.

We need to confront, for the safety of our troops, these foreign terrorists coming in from Syria who are being sponsored by the Syrian Government.

We know for some period of time Syria has sponsored Hezbollah, one of the leading terrorist organizations in the world, certainly very active in the Middle East, active in Lebanon, active in Israel, active, it appears, in support of going into Iraq. We know the historical legacy of Syria associated with Iraq and the Baathist Party regime that controlled both countries. It did control Iraq; it doesn't now. It is a ruthless, dictatorial, Stalinesque type of organization. They use political prisoners, torture, all sorts of means to maintain control by the Baathist leadership. The Syria Baathist leadership is the same sort of leadership we saw in Iraq. They are a bad lot. It is time we put pressure on Syria to change.

President Bush last week made a beautiful speech to the National Endowment for Democracy calling for democracy throughout the world and saying that is the natural state of mankind, to be free and at liberty. Yet we see a dearth of liberty and freedom throughout much of the Middle East, particularly in countries such as Syria.

I hope the President will use the Syria Accountability Act to bring greater pressure on the dictators in Damascus, on bringing them a clear point that we will not tolerate this use of terrorism; we will not tolerate their attacks on our troops; that we will not tolerate a regime that is a dictatorship; that the people of Syria deserve better. The people of Lebanon deserve better than to be minding the dictator paymasters that exist in Damascus. The President really needs to use this power that is being given by the Congress to the administration for these sanctions in Syria.

I urge that we pass this act. I urge the President to use these sanctions. And I urge us to use all the means at our disposal to tighten the noose around the leadership of the dictators in Damascus. What they are doing in Syria, what they are allowing to flow out of their country, that would stop. This is one of the few countries left in the world that continues to be state sponsors of terrorism on a very aggressive basis. It must stop. We must show resolve in that.

I state my support for the bill and yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Kansas for his important argument.

How much time remains on our side?

The PRESIDING OFFICER. Eight minutes 20 seconds.

Mr. LUGAR. I thank the Chair.

I suggest the absence of a quorum, with the time to be counted against the side of the opposition to the bill as opposed to our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, there have been consecutive Republican speeches on this amendment. We will be prepared to recognize the distinguished Senator from California. She will ask for her own recognition, but we hope she will have an opportunity to speak at this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, under the order, I have how much time remaining on my side?

The PRESIDING OFFICER. There are 18 minutes 24 seconds left for Senator BIDEN's designee.

Mrs. BOXER. Does the Senator from Illinois wish to make a few comments? How much time does he need?

I yield 5 minutes to my friend from Illinois, and then I will use the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from California.

Mr. President, I rise as a cosponsor in strong support of the Syria Accountability Act.

Syria plays a key role in the Mideast region and it could play a constructive role, but all too often, it has not.

After September 11, Syria offered to share information that could help in the U.S. fight against terrorists. It joined us in the first Gulf War to oust Saddam Hussein from Kuwait in 1991, and it joined in peace negotiations with Israel in the 1990s. But Syria has taken steps and pursued policies that have undermined regional peace and damaged U.S. interests.

Syria was opposed to the US invasion of Iraq and it certainly has a right to that opinion but Syria has not taken robust action to keep foreign fighters from crossing its borders to fight Americans.

Syria objects to the U.S. occupation of Iraq, but has itself occupied Lebanon since 1976. More than 20,000 Syrian troops and police occupy much of Lebanon, dominating its politics and government and undermining its independence.

Syria harbors terrorists that promote and organize violence, undermining hope and progress for a comprehensive Arab-Israeli peace settlement.

Hizballah, Hamas, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-General Command have offices, maintain training camps, and other facilities on Syrian territory and operate in areas of Lebanon occupied by the Syrian army, such as the Beqaa Valley. Some of these groups, Hizballah in particular, receive supplies from Iran through Syria.

The people of Syria are repressed, ruled by a small ethnic minority in a police state. There is no freedom of speech, no political freedom, and no freedom to dissent. The Syrian regime is also run by the Ba'ath Party, but split from Saddam Hussein's branch of this party.

The President has recently spoken about how badly the Middle East needs an infusion of democracy. He has argued that, despite the fact that the United States has found no weapons of mass destruction in Iraq, this country's war was justified because of the repressive nature of that regime.

I agree wholeheartedly with the President that one of the most important things that this country can do to fight terrorism is to promote democracy in the Middle East.

The lack of democracy in many Middle Eastern countries has led directly to Islamic extremism. There are almost no outlets for political expression in a region filled with kings, emirs, and rubberstamp parliaments—except at the mosque.

It is no accident that most of the terrorists were originally from countries that do not allow dissent or meaningful political participation.

I, for one, do not believe this nation can remove every dictator and repressive regime. We cannot impose democracy from the other end of an M–16.

Mideast countries will not become models of democracy and openness overnight. But we must look to a longer term future where we call on them to embark on a "soft-landing" towards a more democratic future.

The bill we consider today, the Syria Accountability Act, will send a strong message of disapproval to Syria regarding its actions supporting terrorism, undermining regional peace, repressing its people, and undermining the independence of Lebanon. It will send those messages short of going to war.

The bill will broaden U.S. sanctions against Syria unless the President certifies that Syria does not support terrorism; that it has withdrawn its military, intelligence, and security personnel from Lebanon; stopped developing ballistic missiles and chemical and biological weapons; and that it is no longer in violation of UN Security Council resolutions. The bill allows the President to waive sanctions if he believes waiving them would be in the interests of U.S. national security.

I believe that Syria could play a constructive role in bringing peace to the region, ending the scourge of terrorism, and take its place as a regional leader. Syria and the United States could enjoy strong and growing relations. The bill we pass today will hold Syria accountable for its actions and send a strong message that Syria must change.

Syria has a great opportunity to decide whether it will be part of the family of civilized nations dedicated to self-government, dedicated to the principles of equality, and dedicated to peace in the region, or Syria can turn a different course. There has been ample evidence of I guess the experience we have had in Syria to suggest they have decided to chart a course that is not consistent with those values.

After September 11, Syria was one of the first to come to our side and say they would help us fight terrorism in the world. I had a chance to visit that nation and its leader shortly thereafter. He expressed condolences for our losses in the United States and pledged support in our effort to end terrorism.

Sadly, the accumulated evidence since that date does not suggest Syria has made the real commitment we need, not only for the sake of ending terrorism in our country but for the sake of ending terrorism in the world. In fact, too many times Syria has been on the wrong side of history in the past and the current day.

This Syria Accountability Act basically says to Syria they will be held accountable for their conduct. Frankly, we understand that today Damascus, Syria, is the international headquarters for a variety of terrorist groups. That is totally unacceptable.

The President was right when he said we are opposed to not only terrorists, but those who harbor and support them. Syria has to take those words to heart, and this act is a measure that needs to be passed by Congress and signed into law by the President so Syria understands the importance of the role it plays in the Middle East and how closely it will be watched.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I am very pleased we are going to vote on the Syria Accountability bill, a bill I first introduced with Senator SANTORUM in April of 2002. It has had a very bumpy ride. I am glad the ride will soon end smoothly; at least that is my sense.

On April 18, 2002, with a list of 45 cosponsors, I introduced this bill with Senator SANTORUM.

On that day, I said:

> We cannot afford to rest for one second in pursuing those who believe that purposely killing innocent civilians is a legitimate means to political ends. We cannot give concessions to terrorists nor can we reward them by giving into their demands. This will only lead to more terror.

With that, Senator SANTORUM and I introduced the Syria Accountability Act because we knew at that time—and we know today—that by a variety of means the Government of Syria is supporting terrorist groups. It needs to end.

In the 108th Congress, May 1, 2003, now with a total of 81 cosponsors, we introduced our bill again and at that time we said:

> If we are serious about peace in the Middle East and a cessation of terrorism here at home, then we must confront the Government of Syria in a way that will not lead to war but to a diffusing of tensions and a more peaceful world.

The administration opposed our bill very strongly. In fact, Secretary Powell came before the Foreign Relations Committee and when Senator LUGAR and Senator BIDEN said to him, do you support or oppose the Syria Accountability Act, Secretary Powell said it would not be helpful to pass it.

I did not agree with him then and I do not agree with him now. When Secretary Powell went to see the head of Syria, what was one of the first things he said to him? He said, you ought to shape up because there is a bill in the Senate, the Syria Accountability Act, and those folks over there are serious.

It proved my point that, in fact, for us to be tough on terrorism gives the State Department the backup they need. I think, frankly, it will be very helpful for us to pass this bill today.

Now, the administration has moved off their opposition and they are neutral on this bill. They are neither for it nor against it. The good news is, the leaders of the Foreign Relations Committee, finally I think, have decided that maybe BOXER and SANTORUM have been on the right track. So this is a very big day for us because we have gone through a pretty tough legislative ride. We did not get hearings in the committee. We could not move it.

In addition to Senator SANTORUM, my original cosponsor of this, I do want to thank Senator BYRD, who made suggestions to perfect our bill, Senator LUGAR who worked with Senator BYRD and others, Senator BIDEN, who agreed to let this come up in an expedited fashion, and over on the House side Representatives ELIOT ENGEL and ILEANA ROS-LEHTINEN helped us quite a bit in moving this bill.

So it is, in fact, a day that is important. What we are basically saying in our bill is that if Syria does not shape up they are going to face sanctions from this Government. If Syria does not stop supporting terrorism, if Syria does not stop the development of weapons of mass destruction, if Syria does not end its occupation of Lebanon and cease support for the terrorists operating in Iraq, they are going to face a series of escalating sanctions.

The fact is that we have 81 cosponsors—and I see Senator SANTORUM on the floor now. He worked his side of the aisle, I have worked mine, and we were able to really get these cosponsorships up. On October 15, the House passed its version of the bill 398 to 4. So I have to say we are on to something.

Let me say from the bottom of my heart what I think we are on to. We are on to the premise that the truth shall set you free. We cannot have relationships with Syria and close our eyes to the truth, and the truth is that Syria is, in fact, supporting terrorism in ways that are very clear. They are a major supporter of Hezbollah, an international terrorist organization that has carried out numerous attacks against Americans and Israeli civilian targets. They have operated freely in the Syrian-controlled Beqaa Valley in Lebanon over the past 20 years. Other terrorist groups such as Hamas, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-General Command all maintain offices, training camps, and other facilities inside Syria or in areas of Lebanon under Syrian control.

Anyone who has traveled to the region knows that one of the saddest stories in the world is the story of Lebanon and how its people have lost any control over their own destiny. As we fight for democracy in the world, we have to remember that. This was a country at one point that was absolutely considered the Paris in the Middle East, and it has really been lost because it has been taken over in a hostile takeover, I might say, by the power of Syria.

So all of these issues, getting Syria to turn its back on terrorism and not allow these organizations to operate within their borders, Syria allowing the Lebanese people to have a life of freedom and democracy or at least self-determination, however they determine it, these are issues that are crucial. As long as they keep up the status quo, the goal of Middle East peace is quite elusive.

Twenty thousand Syrian troops and security personnel continue to occupy Lebanon and again, as I said, undermine its political independence. It is a direct violation of U.N. Security Council Resolution 520. What does that say? That resolution calls for strict respect of the sovereignty, territorial integrity, unity, and political independence of Lebanon.

We also know that Syria is developing weapons that are very dangerous, and that they are not doing enough to prevent terrorists from entering into Iraq. In fact, the terrorist who was attempting to blow up an Iraqi police station was found to be carrying a Syrian passport.

This has to stop. Nations must be held accountable for the proliferation of terrorism and they must be held accountable if they are not doing all they can to pursue Middle East peace or at least allow that peace to take place.

So this legislation has taken a bumpy road. When Senator SANTORUM and I got together to work on it, people said that is quite a combination. They said if those two can get together on anything, eventually we know we are going to win.

It has taken us almost 2 years but we could not be happier. We want to thank the 80 other Senators who are cosponsors of this bill. We, again, thank Senators LUGAR and BIDEN for allowing this bill to come directly to the floor today. We think it is a historic day.

Our goal is to prevent war and to lay out markers for Syria. We do not want to go to war with Syria. We just want to say, in a truthful way, these are the things that you have been doing wrong. Please meet these markers. Help us. Help us in the world. If you don't, we are going to have some sanctions and they are spelled out. I think others have spelled them out. The idea behind this bill is to avoid a confrontation and instead have a relationship that is respectful between our two nations. I think today we will go a long way to that end.

I believe all my time is used up at this point so I will yield the floor and I hope we will be voting shortly on this.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I will take this occasion to tell the Senate that today we celebrate the birthday of the distinguished Senator from California. Senator BOXER is a year younger. This is an excellent day for her to offer this legislation, and we commend and thank the Senator.

I yield such time as he may consume to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I join the chairman of the Foreign Relations

Committee in wishing a happy birthday to Senator BOXER. I also thank Senator BOXER and Senator SANTORUM for their tenaciousness in advancing this bill. It is long overdue and it is to be celebrated by all of us.

Senator LUGAR, Senator BIDEN, and the Foreign Relations Committee have worked this bill into a condition where we can bring it to the floor, giving the President sufficient discretion, and make clear that we will continue to engage in diplomacy with the Syrians but we are going to do it on a more realistic basis, a basis that has consequences, a basis that deals with facts, not fantasy, and truly makes progress in the Middle East.

It is a matter of historical record that for a long time, several decades now, the Syrians have occupied the nation of Lebanon, their smaller neighbor to their west. In the course of that, whatever their motives were for going in, they have stayed there for gain. They have denied democracy to the Lebanese people, they have denied them self-determination, and they have been responsible for keeping the breach and the wound alive in Lebanon.

But as it relates to this bill, I also have to take note of the fact it is Veterans Day. We thank our veterans. We celebrate our veterans. We owe them a great debt.

As we think of yesterday's veterans, I am reminded of today's veterans, many of whom, from the State of Oregon, are in Iraq now and who are in harm's way for the cause of American liberty and the safety of the American people and our allies in the ongoing war on terrorism. The truth is, much that is aimed at them today comes from Syria. It comes from car bombers holding Syrian passports. Indeed, just the other day we learned the car bomb that was interdicted and the person pulled out of the car that was filled with explosives was from Syria. Syria maintains a porous border with Iraq that simply cannot remain as it is because if it does, it will mean the death of more of our soldiers. We want them home and we want them safe.

There is more than a porous border that concerns me with Syria. It is the fact that Syria provides a safe harbor, indeed a safe haven, a heaven, if you will, for terrorists. For those who conspire to murder on a massive scale, Syria gives them a place to stay, gives them protection, and a place to hide their money and their weapons before they can bring them into conflict with American soldiers. Who knows what also may be there from the arsenals of Saddam Hussein. Who knows what weapons of mass destruction may even be there as well.

All of this needs to end. Our President needs to have the tools, the diplomatic tools necessary to prosecute the case with Syria in a way that gets us beyond the status quo because the status quo is unacceptable and the status quo is deadly and the status quo has to be over. I join with Republicans and Democrats alike today in urging passage of the Syria Accountability Act, for the sake of our country, for the sake of the Middle East, for the sake of Muslims, for the sake of Jews, for the sake of Christians, and all who have suffered much.

The road to Damascus has brought so much murder, so much conspiracy, so much weaponry, so much blood money that has been used against the peace process and those who are the advocates of a peaceful resolution in the Middle East.

It is a matter of Scriptural record that a man named Saul on the road to Damascus once saw an awful lot of light, changed his way, and even changed his name. We know him today as the Apostle Paul. What we need now on the road to Damascus is a lot more light because all we have been getting is so much darkness. We need a new beginning with Syria. The President needs a new authority against Syria. This bill is crafted in a way that is helpful diplomatically so we can avoid hostilities. But let us have the courage in this war on terrorism to go where the facts take us. Let us all pray it does not take us down the road to Damascus, but we have to be realistic.

This bill is a very good start. I urge the Senate to adopt it today by a very large margin.

I yield the floor.

Mr. LEAHY. Mr. President, I am voting for the Syria Accountability Act because I believe it is important to call attention to Syria's continuing military occupation of Lebanon in violation of international law, and its support for terrorist organizations, including Hezbollah, that are responsible for ongoing, deadly incursions into Israel.

It is well established that the Syrian Government rules through fear and repression. Torture by Syrian security forces is routine. The denial of basic human rights has been widely documented. We should condemn these policies.

And there are allegations that Syria supplied Iraqi forces with military equipment, which the Secretary of Defense has described as hostile acts against the United States.

The United States is justified in seeking to apply political and economic pressure on Syria in an effort to change its policies. That said, there are some aspects of this legislation that I do not support, and I want to take a moment to discuss them as I do not want there to be any misunderstanding about my vote. Most importantly, I do not want my vote for this legislation to be cited as an endorsement for military action against Syria.

For examples, Section 4, entitled "Statement of Policy," says that it is the policy of the United State that "the United States shall impede Syria's ability to support acts of international terrorism and efforts to develop or acquire weapons of mass destruction." I doubt that anyone disagrees that we should try to do that. But by what means? Will support for this legislation be cited at some point in the future by the administration, or others, as a green light for launching a unilateral, military attack to "impede Syria's ability to support acts of international terrorism?" That is precisely what was done by the White House when it cited resolutions passed a decade ago to justify a unilateral attack against Iraq years later, even though that was not what many, if any of us who supported those resolutions intended at the time. Over and over again, the administration, in an effort to justify their precipitous use of force against Iraq, cited passage of the Iraq Liberation Act in 1998 as evidence that Congress supported the overthrow of Saddam Hussein in 2003. What the administration kept omitting in numerous public statements is that one section of that act made clear that nothing in the act was to be construed as authorizing the use of U.S. military force against Iraq. I am concerned that the Syria Accountability Act could be distorted in a similar way. I do not support military action against Syria, and I am in no way endorsing such action by voting for this legislation today.

The same can be said of the statement that it is the policy of the United States that "efforts against Hezbollah will be expanded given the recognition that Hezbollah is equally or more capable than al Qaeda." First, I do not know if it is true that Hezbollah is "equally or more capable than al Qaeda." Perhaps it is. I don't know, and I doubt the authors of this legislation can be certain that it is, especially given the difficulties we have had in obtaining reliable information about these organizations. In any event, while I might support expanded efforts against Hezbollah, it would depend on what those efforts are. For example, I am not in favor of sending U.S. troops to Lebanon to engage in combat against Hezbollah. I do not want my vote today to be construed as supporting any expanded efforts against Hezbollah regardless of what they might be.

Similarly, the legislation states that it is United States policy that "Syria will be held accountable for any harm to Coalition armed forces or to any U.S. citizens in Iraq if the Government of Syria is found to be responsible due to its facilitation of terrorist activities and its shipments of military supplies to Iraq." Syria should be held accountable. But in what way? The legislation, once again, is silent. My support for efforts to hold Syria accountable, should the evidence warrant it, depends on what those efforts are.

Finally, the legislation says that it is the policy of the united States that "the United States will not provide any assistance to Syria and will oppose multilateral assistance for Syria until Syria ends all support for terrorism, withdraws it armed forces from Lebanon, and halts the development and deployment of weapons of mass destruction and medium- and long-range surface-to-surface ballistic missiles." We all want Syria to do those things, and I am not in favor of providing assistance to the Syrian Government. But this legislation goes farther. It purports to cut off any assistance to the Syrian people, even through private voluntary organizations. I do not believe in punishing the citizens of a country simply because their government is corrupt or abusive, so I have concerns about this provision.

There are also aspects of Section 5 of the legislation, entitled "Penalties and Authorization," which concern me. For example, among the sanctions that the President could impose are a prohibition on U.S. businesses from investing or operating in Syria. It is not obvious to me how this will penalize the Syrian Government, but it will hurt U.S. businesses. While the record is mixed, there are examples of U.S. businesses contributing to social, economic and even political change in other repressive countries.

Of more concern is that the legislation encourages the President to reduce U.S. diplomatic contacts with Syria. I am uneasy with this approach, as I believe we should consider expanding our diplomacy and people-to-people contacts with Syria. It is in our interest to promote dialogue with a country with which we have such profound differences, and which poses a military threat to Israel. Reducing those contacts could further misunderstanding and exacerbate tensions between us. It is also worth mentioning that after the September 11 attacks, Syria reportedly cooperated with the United States in intelligence sharing about al-Qaida.

I do not believe this legislation will persuade Syria to do any of the things we want it to do. I am aware that the Administration has opposed it in the past. This legislation seems to start us down a road of intensifying tensions between the U.S. and Syria without a clear end game other than invading Syria, which I do not support and I doubt many other Senators support. However, I agree that Syria's support for terrorism and its violations of human rights deserve condemnation, and I will vote for this legislation with the caveats I have mentioned.

Mr. JEFFORDS. Mr. President, I do not support the passage of the Syrian Accountability Act. The situation in the Middle East is a delicate one. It calls for subtle, creative diplomacy as the United States seeks to support its troops in Iraq, promote the Arab-Israeli peace process, and combat terrorism.

While I agree with the goals of the Syrian Accountability Act, I am concerned that this legislation will undermine our ability to achieve those goals. In particular, I am opposed to the act's provisions that would mandate the imposition of new sanctions against Syria. I believe that these provisions would tie this or any future administration's hands in a way that will make the conduct of our foreign policy more difficult. A number of sanctions already exist against Syria by virtue of its designation as a state sponsor of terrorism. In addition, the President already has the authority to impose many of the sanctions set forth in this act. If we are to promote peace in the region and move Syria in a more positive direction, the United States must pursue an approach that is more nuanced and flexible than what is called for in this legislation.

Mr. CORZINE. Mr. President, I rise in strong support of the Syria Accountability Act, of which I am a proud cosponsor of the Senate companion. Syria is listed by the State Department as a state sponsor of terrorism, and yet fewer U.S. sanctions apply to Syria than to any other country on the list. This Act will authorize a range of sanctions against Syria, prohibiting exports to Syria of dual-use items and requiring the President to choose from a set of other sanctions, including prohibitions on exports of most U.S. goods to Syria and on American investment in Syria, restrictions on Syrian diplomats in the United States and on U.S. diplomatic contacts with Syria, prohibitions on Syrian aircraft in the United States, and blocking of transactions in Syrian government property.

These sanctions are appropriate, and, in my view, long overdue. Despite recent U.S. efforts to engage in dialogue with Syria, Damascus has refused to renounce its support for terrorism. It provides terrorist organizations with political and material support. It has turned away from negotiations with Israel. And it continues to occupy southern Lebanon, where its forces destabilize the Middle East by supporting Hezbollah and undermining Lebanese sovereignty.

Syria acts as the safe haven for a broad array of terrorist organizations and Palestinian groups committed to the destruction of Israel. Hezbollah, Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the Popular Front for the Liberation of Palestine-General Command are all active in Damascus. The Syrian government has not only refused to sever ties with these organizations; it has defended their use of Syrian territory to disseminate propaganda that attacks Israel, thereby undermining efforts to bring peace to the region. Worse, the offices maintained by these groups provide operational support for terrorist activities, notwithstanding the Syrian government's claims that they are engaged only in political and informational activities. These activities include the deadly and despicable suicide bombings, conducted by Hamas and Palestinian Islamic Jihad, against civilians in Israel.

Syria is also a supporter of Hezbollah, which is responsible for the killing of hundreds of Americans and is one of the biggest obstacles to our efforts to combat global terrorism. Throughout much of southern Lebanon, occupying Syrian forces support and protect Hezbollah, allowing it to deploy thousands of rockets that threaten Israel and destabilize the region, and to launch attacks against civilian targets in Israel civilian areas. Syria also permits Hezbollah to receive assistance from Iran.

The Syrian occupation of Lebanon represents a long-standing threat to stability in the Middle East. While Syria has reduced its forces in recent years, it still maintains as many as 20,000 troops and security personnel in Lebanon. In addition to harboring Hezbollah, those forces exert undue influence in Lebanon and prevent the Lebanese government from deploying its own troops to southern Lebanon, as required by U.N. Security Council Resolution 520. It is long past time for Syrian forces to withdraw from Lebanon and for Lebanon to cease to be a refuge for terrorist organizations, including Hezbollah.

Syria has not moderated its unrelenting hostility to Israel, nor has it demonstrated a commitment to negotiations. Moreover, it has used its position on the world stage and within the Arab world to undermine efforts to bring peace and stability to the region. As a frequent sponsor of U.N. resolutions related to the conflict in the Middle East, Syria has consistently promoted a perspective that castigates Israeli security measures without condemning the terrorist threat faced by Israel.

While I have long supported this act and welcome its passage, I believe that our ability to influence Syria's behavior and deter its support for terrorism also requires a multilateral strategy. The effect of this act will unfortunately be limited by the lack of support for sanctions against Syria among our friends and allies. It is critical that the administration demonstrate global leadership on this issue as well as other aspects of the war on terrorism. By reaching out to the international community and by appealing to our common interest in curtailing global terrorism and achieving peace in the Middle East, we can ensure that the sanctions we are imposing today are truly effective.

I yield the floor.

Mr. McCONNELL. Since September 11, the bar for assistance in our war against terrorism has been raised, and the Syrian Government is no longer entitled to a free pass. The United States must no longer allow Syria to get away with taking with the right hand what it gives with the left.

Unfortunately, the Government of Syria remains an obstacle to peace in Iraq, settlement of the Israeli-Palestinian conflict—indeed, Syria has rebuffed repeated Israeli offers to make peace between Israel and Syria—democratic development and sovereignty for the Lebanese people, regional security, and the protection of human rights of the Syrian people themselves.

There is no doubt that Syria actively supports international terrorism. The evidence supporting this contention is overwhelming:

The U.S. State Department has certified Syria on its list of state sponsors of terrorism continuously since the 1970s. Syria's dubious company on this list includes Hussein's Iraq, Iran, Libya, North Korea, and Communist Cuba.

Syria provides material support and safe haven to numerous international terrorist groups, including Hezbollah, Hamas, the Popular Front for the Liberation of Palestine, and Islamic Jihad.

Syria allows terrorist groups to maintain training camps on Syrian soil. Indeed, in October, after a terrorist bombing in Haifa, Israel retaliated against a known Islamic Jihad terrorist training camp near Damascus.

Syrian-controlled southern Lebanon is a haven for anti-Israel terrorists and a staging ground for terrorist rocket attacks against Northern Israel.

Syria has facilitated the transfer of military equipment from Iran to terrorists operating in Syria-controlled Lebanon.

Syria maintains a robust chemical weapons program, raising the risk that Syria could transfer such weapons to terrorists.

In addition to Syria's long-time efforts to support the deadly aims of international terrorist groups, its government has played a decidedly unhelpful role in regional security. Most notably, the Syrian Government illegally collaborated with the Hussein regime to circumvent United Nations resolutions and has worked to undermine Iraqi democracy in the wake of the liberation of that country.

Although Syria voted for the recent U.N. resolution on Iraq, ostensibly expressing its support for the reconstruction of a free and democratic Iraq, Syria has used nearly every other opportunity to undermine the American-led coalition's efforts to liberate the people of that country from the brutal reign of Saddam Hussein. Furthermore, recent media reports indicate that Syria may have accepted and hidden Hussein's weapons of mass destruction before the U.S.-led invasion.

In addition, there are credible reports that Syria provided material support to Iraqi troops during the war and currently provides safe haven to former Hussein regime officials and loyalists. U.S. investigators have located $3 billion hidden by the Hussein regime in Syrian banks, and Syria has refused to return this money to its rightful owners: the people of Iraq.

During the 1990s, Syria repeatedly defied U.N. sanctions against Iraq by participating in enormous black market purchases of oil from the Saddam Hussein regime. The proceeds from these sales directly supported Hussein's military regime and opulent lifestyle.

Syria has not acted sufficiently to curb cross-border movement of foreign terrorists, including a significant number of Syrian nationals, into Iraq. Indeed, in some circumstances, the Syrian Government appears to have facilitated their migration to that country; Syrian passports have been found in the possession of international terrorists arrested by the U.S. military there. These terrorists seek to wage jihad against American troops and undermine democracy in Iraq and throughout the Middle East.

In addition to Syria's unhelpful polices in Iraq, it remains a spoiler for the development of peace and democracy in Lebanon, a country it has forcibly occupied for decades. Its military occupation of Lebanon undermines Lebanese efforts to create a sovereign democratic state and furthers instability in the region. Syria, a dictatorship, wields considerable political control in Lebanon, thereby distorting Lebanon's officially democratic process and making that country a de facto puppet state of the Syrian Government.

Unconditional U.S. engagement of Syria has failed to encourage true moderation in Damascus; a new approach is necessary to encourage the Syrians to cooperate or face the consequences. Other Arab governments who say one thing and do another—such as Egypt—would be wise to pay attention to the congressional debate about, and support for, the Syrian Accountability Act.

I believe the Syrian Accountability Act will give the administration the tools it needs to highlight to the Syrian Government the risk of choosing the wrong side in the global war against terrorism. The Syrian Government has an opportunity to reform itself, to provide its people with the economic and political freedoms they seek, to end its support for murderous terrorist organizations, and to become a proponent of peace in the Middle East.

If Syria's leaders decide to embark on a moderate and peaceful path, it will find the United States to be a benevolent and helpful ally. But if it continues to support international terrorism, Syria's leaders will find themselves international pariahs, with fewer resources or friends to help them maintain their increasingly tenuous grip on power.

Mrs. FEINSTEIN. Mr. President, I rise today to express my support for the Syria Accountability Act of 2003, a bipartisan piece of legislation of which I am proud to be a cosponsor.

The time has come for the Senate to send a strong message to Syria that its support for terrorism, its occupation of Lebanon, and its development of weapons of mass destruction are unacceptable and will not be tolerated.

This legislation, introduced by my friend and colleague from California, Senator BOXER, and Senator SANTORUM provides the President with maximum flexibility to target specific sanctions against Syria subject to a national security waiver.

Specifically, it requires that sanctions be imposed on Syria unless the President certifies that Syria: is not providing support for international terrorists; has withdrawn all military, intelligence, and other security personnel from Lebanon; has ceased the production, development, acquisition, or transfer of weapons of mass destruction and long range ballistic missiles, and; has ceased support for terrorist activities inside of Iraq.

If the President does not make such a certification, the bill requires the President to prohibit the export to Syria of military items and dual use technology and impose two or more sanctions from a list of options including: prohibiting the export of products of the United States—other than food and medicine—to Syria; prohibiting United States businesses from investing or operating in Syria; restricting the travel of Syrian diplomats in Washington, D.C. and New York; and reducing diplomatic contacts with Syria.

I, for one, believe that sanctions should be imposed only as a last resort and that all avenues should be explored to change another state's behavior before taking such action.

With regard to Syria, Congress has passed numerous resolutions calling on Syria to change its ways and Republican and Democratic administrations alike have made it clear that Syria's actions are wholly inconsistent with a peace-loving and productive member of the international community.

Nevertheless, words have not achieved the results we are looking for and as a result, we must take further substantive action.

Syria's behavior and actions leave a lot to be desired and have severely hindered the Arab-Israeli peace process.

First, it continues to be listed as a state sponsor of terrorism by the State Department and is reported by the Secretary of State to provide "safe haven and support to several terrorist groups" including Hizballah, Hamas, and the Popular Front for the Liberation of Palestine.

Despite repeated calls by Secretary of State Colin Powell that Syria cease its support for terrorism and close the facilities and offices of these groups, it has refused to do so.

Second, for over 20 years Syria has ignored United Nations Security Council resolutions and has failed to withdraw completely from Lebanon, maintaining 20,000 troops and security personnel in that sovereign country. The presence of those troops restricts the political independence of Lebanon and harms relations between Israel and Lebanon.

Finally, Syria has continued its development and deployment of short and medium range ballistic missiles and biological and chemical weapons. It has not signed the Chemical Weapons Convention and has one of the largest missile inventories in the Middle East. It is reported to have three production facilities for chemical weapons and has a stockpile of the nerve agent sarin.

In the post-September 11 world, we all understand the dangers posed by states who sponsor terror and seek weapons of mass destruction.

I had hoped that Syria would realize that it is in its best interests to turn a new page in its relations with the United States and the international community and cease its support for terror, withdraw from Lebanon, and halt its pursuit of chemical and biological weapons.

It has not done so and it is time for the United States Senate to respond. I urge my colleagues to support this legislation.

Mr. ALLEN. Mr. President, for decades, the United States has engaged the regime in Syria in the hope that Damascus would play a constructive role in bringing about Arab-Israeli peace. The U.S.-Syria relationship has been ongoing despite the fact that Syria has been ruled by dictatorship with an uninterrupted record of support for terrorism, specifically directed at Israel.

The results of U.S. engagement with Syria have been anything but positive. Throughout the years, Damascus has continued to support international terrorism directed at America and Israel, occupy Lebanon, develop a weapons-of-mass-destruction program, acquire ballistic missiles, and pursue policies counter to U.S. interests.

Since the liberation of Iraq, Syria has played a destabilizing role by allowing terrorist fugitives to enter Syria and by allowing mercenaries to cross into Iraq—or at least not stopping them—to engage U.S. troops. Syria has been able to conduct its policies—which are antithetical to U.S. interests—with near impunity. They have resulted in the loss of hundreds of American lives—especially when you consider the bombing of the U.S. Marine Corps barracks in Beirut in 1983.

Although Syria is listed—and has been since the 1970s—by the State Department as a state sponsor of terrorism, along with Iran, Libya, Iraq, Cuba, and North Korea, it has not faced the same degree of diplomatic and economic isolation that has been directed at other terrorist states. In fact, Washington maintains full diplomatic relations with Syria, making Syria the only designated state sponsor of terrorism to have such relations with the United States.

Syria's special treatment despite its support for terrorism should be over.

The events of September 11, 2001 have offered a window of opportunity to review many U.S. bilateral relationships and determine whether it is necessary to change the dynamic—and often the status quo—that has characterized these relations. The administration and Congress have done this most notably with Saudi Arabia in seeking greater cooperation in the elimination of terrorist activities operating from Saudi soil.

Now is also an ideal time to reassess U.S. relations with Damascus and demand accountability in our relationship. Equally important, it is time for the Syrian leadership to make a tough choice: it is either with the United States completely in the war on terrorism, or it is not. Either way, shielding Syria from the same economic and political isolation directed at other terrorist states is unmerited and runs counter to U.S. principles in the war against terrorism.

As Under Secretary of State John Bolton stated in testimony before the House International Relations Committee on September 16, 2003, "Syria remains a security concern on two important counts: terrorism and weapons of mass destruction." Bolton added: There is no graver threat to our country today than states that both sponsor terrorism and possess or aspire to possess weapons of mass destruction. Syria, which offers physical sanctuary and political protection to groups such as Hezbollah, Hamas, and Palestinian Jihad, and whose terrorist operations have killed hundreds of innocent people—including Americans—falls into this category of state of potential dual threat.

Since the 1970s, the U.S. State Department has listed Syria as a state sponsor of terrorism. Specifically, in its "Patterns of Global Terrorism, 2002" report, the State Department found that the Syrian Government "has continued to provide political and limited material support to a number of Palestinian groups, including allowing them to maintain headquarters or offices in Damascus," although the Syrian Government insists that the groups' Damascus offices undertake only political and informational activities, not terrorist operations.

Syria maintains close relations with Iran, another autocratic regime listed by the State Department as a state sponsor of terrorism and a prominent financial, political, and military backer of these Palestinian terrorist organizations.

Moreover, Syria remains the de facto ruler of Lebanon, which it has forcibly and illegally occupied since 1990. Lebanon, the country in which more than 200 U.S. Marines died in 1983 following a terrorist attack on their Beirut barracks, remains a breeding ground and training center for terrorist organizations.

Terrorism has spawned in Syria due largely to Syria's opposition to the existence of Israel and its subsequent objection to an Arab-Israeli peace process. Although the United States has engaged Syria—and given it a prominent place in discussions—during the past few decades, Damascus has long been an unwilling and uncooperative partner in bringing about Middle East peace. In fact, Syria did not endorse President Bush's Middle East "roadmap."

Syria also appears to be in the terror financing business. In April 2003, an Italian government study found that Syria functioned as a hub for an al-Qaida network that moved Islamic extremists and funds from Italy to northeastern Iraq, where the recruits fought alongside the recently defeated Ansar al Islam terrorist group.

And, on October 21, it was reported that U.S. Treasury Department investigators have evidence that $3 billion that belonged to Saddam Hussein's government is being held in Syria-controlled banks in Syria and Lebanon. The Syrian Government has not yet granted Treasury officials access to these accounts, nor has it been willing to share any information about the account holders.

Let's review past U.S. policy toward Damascus. Despite all of Syria's irresponsible and threatening policies, successive U.S. administrations have been willing to engage the Syrian Government. For decades, the United States has pursued a policy of engagement with Syria, trying to win Damascus' support for Middle East peace but to no avail.

As part of this strategy, the United States has maintained full diplomatic relations with Damascus. It also has allowed U.S. companies to invest in Syria, something that cannot be done in other terrorist-sponsor states such as North Korea, Iran, Cuba, and Libya.

According to the Congressional Research Service, in 1999—the last year there was reliable data available—direct investment of U.S. companies into Syria was $6 million, with 13 U.S. businesses having offices in Syria. While this may seem miniscule in terms of the dollar amount, it is notable because it is tolerated at all.

With the death of Syrian President Hafez Assad in 2000 and the ascendancy of his son Bashar to the presidency, there were high expectations that Syria would depart from its anti-Israeli policies and pro-terrorist support of the past and enact political and economic reforms, as well as become a positive influence and player in achieving Middle East peace. Three years into Bashar's term, such developments have not materialized—and without a catalyst to encourage such reform, it appears unlikely that Bashar will proactively change Syria's course.

We need a new approach toward Damascus. Continuation of the current U.S. policy toward Syria must end. For too long, it has been too ineffective and has allowed Syria to pursue with near impunity policies counter to U.S. interests. Moreover, it is unproductive and antithetical to the principles associated with the President's war on terrorism.

The U.S. must pressure Syria to play by the rules. Given that the government of Syrian President Bashar al-Assad is relatively weak, and recognizing that Bashar deemed it necessary, or least desirable, to provide some assistance to the United States in apprehending al-Qaida, it should be possible to pressure Damascus into changing its policies. That said, Washington must demonstrate that it is serious about having Damascus drop its support of terrorism and its pursuit of policies that endanger peace and stability in the Middle East.

Therefore, to demonstrate American commitment, the United States should adopt the following measures in pressuring Syria: Enact the Syria Accountability Act now. Among the numerous provisions contained in the bill, the most notable include the calls for Syria to immediately and unconditionally halt support for terrorism; withdraw from Lebanon and provide for Lebanon's full restoration of sovereignty; halt development of certain weapons; and enter into serious unconditional bilateral peace negotiations with Israel.

This bill also states that Syria "should bear responsibility for attacks committed by Hezbollah and other terrorist groups with offices, training camps, or other facilities" in Syria or Lebanon. Further, the bill states, that being in violation of key United Nations Security Council resolutions and pursuing policies which undermine international peace and security; "Syria should not have been permitted to join the United Nations Security Council or serve as the Security Council's President, and should be removed from the Security Council.

Pursuant to the legislation, the United States is empowered to "will work to deny Syria the ability to support acts of terrorism and efforts to acquire weapons of mass destruction, WMD." In addition, the United States will not provide any assistance to Syria and will oppose all forms of multilateral assistance to Syria until Damascus withdraws from Lebanon and halts its pursuit of WMD and ballistic missile accumulation.

Until Syria enacts these measures, the President is required to prohibit: the sale of defense articles to Syria that require the issuance of an export license—dual-use items; U.S. businesses from investing in Syria; and export of any goods other than food and medicine to Syria. Diplomatic relations also must be reduced but the degree of that is not defined. The President is given waiver authority for 6-month periods for all of these categories, except the export of dual-use items if it is determined that "it is in the vital national security interest" to do so.

The Bush administration should apply uniformity in its policies toward terrorist-sponsoring states. Therefore, the administration should not allow U.S. companies to invest in Syria because it sends the signal that Syria is receiving special treatment from Washington. A fairly dramatic reduction of U.S. diplomatic representation would perhaps strongly suggest to Syria that it is not an American ally and will not be one until it starts acting like one.

Sending a strong message is key.

The United States should apply the proliferation security initiative, PSI, and sanction WMD suppliers. The administration has successfully developed and employed a plan, known as the proliferation security initiative, PSI, to interdict illicit weapons shipments and contraband. PSI was announced by President Bush on May 31, 2003. It involves robust cargo inspections and possible interdiction of WMD materials and illegal arms, based on pooled intelligence among participating countries. To date, 11 nations form the core PSI group: Britain, France, Germany, Australia, Japan, Italy, Spain, Portugal, Poland, the Netherlands, and the United States. While most of the initial PSI activities have focused on North Korea, attention should be paid to Syria—and Iran—with the goal of halting the flow of weapons technology both in and out of Syria.

A critical complementary strategy to PSI is using sanctions on countries that supply Syria with weapons and WMD technology. The People's Republic of China, Pakistan, Russia, Iran, and North Korea are known proliferators of these materials, with Russia and North Korea being key suppliers to Syria.

As part of a wider U.S. policy, the administration should attempt to convince its PSI allies to also use sanctions against WMD suppliers.

In conclusion, Syria's actions in the Middle East—and in Iraq, specifically pose a clear, near-term threat to regional stability and to the safety and security of American forces serving in the region.

With the removal of Saddam Hussein's regime in Iraq and the defeat of the Taliban regime in Afghanistan, the United States has made clear that state support for terrorism will no longer be tolerated.

It is overdue for the United States and like-minded nations to hold Syria accountable for its actions. Syria's new head of state has had ample time to make the choice whether Damascus is with the United States as a partner or not in fighting the war on terrorism.

If Syria is not, then it should face the diplomatic and economic consequences as set out in the Syria Accountability Act. As a sponsor of the Senate version, S. 982, I respectfully urge my colleagues to vote for this important measure in the form of H.R. 1828, as amended.

Mr. HATCH. Mr. President, I stand in support of the Syria Accountability Act, H.R. 1828, which the House of Representatives passed, 398–4, last month. I am an original cosponsor of the Senate bill, S. 982, introduced by my colleagues, Senators SANTORUM and BOXER, which has over 80 cosponsors as of today. Today, I support the amendment to H.R. 1828 submitted by my able colleague and chairman of the Senate Foreign Relations Committee, Senator LUGAR, in coordination with Senators SANTORUM and BOXER. I commend my colleagues for their good work.

It is well within Congress's prerogative to write and implement sanctions, but the practice of doing so, as the chairman of the Senate Foreign Relations Committee knows so well, can raise important points about the overall constitutional prerogative of the executive in its right to conduct foreign policy. The amendment prepared by Senator LUGAR, in cooperation with the original sponsors of the bill, preserves the prerogatives of both branches of government, and, at the same time, I believe, unifies and solidifies our nation's policy on the question of terrorism, and, in particular, Syria's contribution to peace, stability and progress in the Middle East.

Quite frankly, Syria has largely failed to contribute significantly to peace and stability in the Middle East, a stability that U.S. blood and treasure is now invested to achieve. We have watched the administration give Syria ample opportunities, since September 11, 2001, to make its contribution. Quite frankly, Mr. President, the administration flattered the Damascus dictatorship by giving it this time to join with the civilized world in unequivocally renouncing terrorism completely, as well as dismantling all manifestations of material and political support for terrorist organizations.

Some suggest that Syria has played a game of sitting on the fence, when it came to the war on terrorism. However, Mr. President, Syria was never on the fence. Syria is on the other side of the fence, with the other state sponsors of terrorism we have labeled as such since 1979. And today I will agree with what Secretary Powell told President Assad earlier this year: By refusing to cooperate, he was "on the wrong side of history."

Since 1979, Syria has appeared every year on the State Department's list of state sponsors of terrorism. It has been so identified for its role in terrorist acts, as well as the support it gave—and continues to give, to this very day—to Hamas, Palestinian Islamic Jihad and Hezbollah, terrorist organizations that, to this very day, organize and commit acts of aggression or terrorism.

Throughout the 1990s, Syria played coy with U.S. administrations attempting to engage it in the Middle East peace process. Who can forget the scene of the long-suffering Secretary of State, Warren Christopher, waiting hours outside of Hafez Assad's office on his umpteenth visit, at the very same time Iranian weapons were being transferred to Hezbollah at the Damascus airport? Who can forget President Clinton's futile attempt in Geneva, near the end of his term and near the end of Assad's brutal life, to re-engage the dictator in peace talks? On the question of peace or normal relations with Israel, in every aspect but the desire to reclaim territory for itself, Syria has most definitely been a rejectionist state.

There are persistent reports that Syria has a stockpile of chemical weapons, including sarin and possibly also VX, which it could combine with one of the largest missile stockpiles in the Middle East. Coalition forces are not in Iraq to rid that former dictatorship of its weapons of destruction while we look the other way on similar weapons held by another Ba'athist regime. The era of that ideology of Arab oppression, along with the threat of weapons of mass destruction to maintain that oppression, is over.

Syria has not assisted us in our historic mission in Iraq. Joining the Security Council in unanimous approval of Resolution 1441, the Syrians were quick to denounce the threat and use of force to achieve the goals of the resolution. Since the beginning of Operation Iraqi Freedom, our officials—from the President, to the Secretary of State, to the Secretary of Defense—have publicly criticized Syria for its lack of cooperation. Syria's border has remained open to fleeing Ba'athist officials, and to international terrorists anxious to die fighting against Coalition forces. Our officials believe that Syria holds up to $3 billion of Saddam's ill-gotten loot, funds that the Governing Council could use for reconstruction, funds that would lessen the obligations we have undertaken in this body this week.

Syria invaded Lebanon more than a quarter-century ago, and maintains approximately 15,000 troops there to this day. Throughout this period, Syria has backed the Shi'ite terrorist organization, Hezbollah, an organization that has been tied to terrorism around the world. Twenty years ago, a Hezbollah suicide bomber killed almost 300 U.S. Marines as they slept in their barracks in Beirut. Hezbollah continues to attack across borders, shelling Israel as late as last week. Nothing Hezbollah does is without Syrian sanction. The Middle East will not see peace, and the United States should not consider itself secure as long as Hezbollah, with its Syrian backers, exists.

So it is time to go to the source and sanction Syria. This bill outlines a series of goals and commensurate diplomatic and economic sanctions to apply to the Syrian regime. It maintains flexibility of policy choice for the administration, but it is clear in stating the Congress's intent, in resolve and policy, to further isolate the decrepit dictatorship in Damascus.

I do not know if this bill will motivate Damascus to cross the fence and join the anti-terror coalition of civilized nations. I suspect that to believe so would be pollyannaish. But I do believe that the way we act today will declare to the Damascus dictatorship that there are costs to being on the wrong side of the fence in the war on terror.

September 11, 2001 began a new era in U.S. foreign policy, and the President's policies since that watershed event have been based on clarity of vision. Against the threat of terrorism, which lurks and breeds in the shadows, we have responded with clarity of purpose. Against the traditional approaches of diplomacy, which balance nuance against process, we have demanded progress. Against previous approaches that part-time antagonism toward a mutual enemy should be rewarded with full-time tolerance of non-compliance with our stated goals, we say today: No longer.

President Assad will receive this message clearly. Perhaps Syria will modify its behavior. If it does not, Syria can join the list of rogue states who failed because they challenged the order of the civilized world.

The American public has read reports in the press about Syria's cooperation with us in identifying, in the months after September 11, members of Al-Qaida. I have read no where, nor have I heard any analyst argue, that such cooperation was because Syria was dedicated to our defense, or to our global war on terrorism. Since then, the American public has heard many members of the current administration express disappointment with Syria's behavior, and they have seen many reports of Syria's lack of cooperation. And one thing is clear in a democracy, Mr. President: Our foreign policy must have the support of the public.

I will always respect the President's foreign policy prerogative, and I have defended the executive's prerogative under Republican and Democratic administrations. I have supported "quiet diplomacy" for small results. But a diplomacy that produces invisible results is not quiet, it is silent. Today, I believe the members of the President's administration agree with me.

For the reasons I have stated here, this bill will pass overwhelmingly, as it did in the House of Representatives. We may consider this the Senate's contribution today to the war on global terrorism.

Mr. CHAFEE. Mr. President, today the Senate is voting on H.R. 1828, the Syria Accountability Act. I would like to explain to my colleagues why I will be voting against this legislation.

As chairman of the Foreign Relations Committee's Near East Subcommittee, I have come to appreciate the great importance of U.S. leadership in working to restart the Middle East peace process. In recent visits to the region—the West Bank, Jordan, Iraq, Turkey and Afghanistan—I heard a uniform chorus in these Arab and Muslim nations that active United States involvement was urgently needed to halt the continuing violence between Israel and the Palestinians. I regret that this administration has not actively responded to these pleas for peace.

I have also learned that our disinterest in becoming involved in Middle East peace has contributed to the sharply declining image of the United States in the Arab/Muslim world. Indeed, according to the recently released report of the Advisory Group on Public Diplomacy for the Arab and Muslim World—"the Djerejian report"—hostility toward America has reached shocking levels, and the bottom has fallen out of Arab and Muslim support for the United States. The report also documents that "large majorities in the Arab and Muslim world view United States policy through the prism of the Arab-Israeli conflict."

I am troubled by these developments and fear that the administration's emerging hard line toward Syria, in addition to passage of this bill, will only add fuel to this fire. It is true that the Syrian Government can do more to work with the United States in combating terrorism in the region, and the administration has made some very clear requests of the Syrian Government. But if Syria does not respond to our requests, most, if not all, of the sanctions contemplated by the Syrian Accountability Act can already be imposed by the administration. This means that a bill that is widely perceived as a crackdown against Syria has little substantive effect. Indeed, Patrick Clawson of CSIS testified to our committee last week, "Some might say that the act is largely symbolic, but do not underestimate the importance of symbols." And that concerns me, because the symbol of the United States as cracking down on an Arab nation ultimately harms our interests in many very important parts of the world.

So in reality I would describe this bill as a "lose-lose" for the United States: We're getting little additional muscles against Syria while further antagonizing the Arab world. I urge my colleagues to vote "no" on this bill.

Mr. BYRD. Mr. President, Syria has long been considered by the United States to be a rogue state. Syria continues to associate with terrorist groups, including those that have carried out ruthless attacks that set back the cause of peace in the Middle East, leading it to be placed on the State Department's list of state sponsors of terrorism. Syria has occupied Lebanon continuously since 1976, in violation of U.N. Security Council Resolution 520.

The United States is justified in seeking to apply political and economic pressure on Syria to change its foreign policy. However, I will vote against the Syria Accountability Act.

Of the 22 pages of this bill, only six pages relate to sanctions that the United States may apply to Syria. The other pages contain 51 clauses of findings, senses of Congress, and statements of policy. These nonbinding provisions build a case against Syria, and I fear that those provisions could later be used to build a case for a military intervention against Syria.

In many cases, the non-binding clauses in the bill appear to gloss over the complex situation with respect to Syria. For example, on page 11, the bill speaks of "hostile actions" by Syria against U.S.-led forces in Iraq. Yet, the evidence is inconclusive as to the role of the Government of Syria in the attacks that have been carried out against our troops in Iraq. Such insinuations could be used to build the case for a preemptive military intervention against Syria, which, unfortunately, is a very real possibility because of the dangerous doctrine of preemption hatched by the administration.

Other language in the nonbinding clauses may simply be ill-considered. For example, on page 7, the bill quotes an unclassified CIA report that says that it is "highly probable" that Syria is working on biological weapons. In the very next clause, however, the bill quotes an Under Secretary of State as saying that Syria "is pursuing" the development of biological weapons. It is exactly this kind of shading of intelligence probabilities becoming certainties for which Congress has criticized the administration and its intelligence agencies for creating the hysteria that led to war in Iraq. Could Congress be so willing to make the same mistake with respect to Syria?

The United States should use economic and diplomatic leverage to pressure Syria to change its support for terrorism and alter its foreign policy. The sponsors of this legislation have made improvements to several nonbinding provisions in this bill, and they have worked to address some of my more serious concerns. While I appreciate their cooperation, I still cannot support this legislation. The findings, statements of policy, and sense of Congress provisions in the Syria Accountability Act could be used to build a case against Syria that could too easily be hyped to imply congressional support for preemptive military action against that rogue state. I will vote against this bill because of that dangerous course that it may portend.

Mr. LUGAR. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 1 minute 54 seconds.

Mr. LUGAR. Mr. President, I note no more Senators on our side of the aisle wish to speak. Therefore, I yield the remaining time.

The PRESIDING OFFICER. All time is yielded back.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. LUGAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL) and the Senator from Nebraska (Mr. HAGEL) are necessarily absent.

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Nebraska (Mr. NELSON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 4, as follows:

[Rollcall Vote No. 445 Leg.]

YEAS—89

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Cantwell
Carper
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Edwards
Ensign
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inhofe
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—4

Byrd
Chafee
Enzi
Jeffords

NOT VOTING—7

Campbell
Graham (FL)
Hagel
Inouye
Kerry
Lieberman
Nelson (NE)

The bill (H.R. 1828) was passed.

Mr. FRIST. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I am proud of my colleagues throughout the Senate for the overwhelming support just given on the Syria Accountability Act. I believe this bill sends an unambiguous signal to the administration and to the Syrian regime that the Congress considers Syrian support for terrorism, its occupation of Lebanon, and its pursuit of dangerous weapons all significant threats to the United States and to global security.

I am particularly concerned that this administration has let Syria off the hook. Despite the support the Syria Accountability Act just had, there are waivers that concern me. Syria's record is not one that we can look at with any assurances that they are going to do what they have to.

The administration claimed that al-Assad's regime's support for the global war on terrorism is so valuable that he should not be pressed on other issues, including the failure of the Syrians to secure the Iraqi border, thereby permitting the constant infiltration of foreign terrorists pouring into Iraq.

Apparently, the Syrians must have shared intelligence about al-Qaida, and FBI and CIA officials have reportedly met in Syria with Syrian intelligence officers to discuss terrorism. The Syrians have also helped to capture a top al-Qaida figure, a Syrian-born German citizen who is part of the Hamburg cell that planned the September 11 attack.

So while Syria might be sharing information on al-Qaida, at the same time it is deliberately thwarting the Palestinian-Israeli peace process.

Syria harbors leaders who order, plan, and finance terror attacks against Israeli citizens. Operatives of the Islamic Jihad, Hamas, the Popular Front for the Liberation of Palestine, and the al Aqsa Martyrs Brigades, which I might add is a terrorist group affiliated with Yasser Arafat's political party FATAH, are regularly receiving training in Syrian camps.

So what is perplexing is why this administration has refused to force the Syrians to stop training Palestinian extremists even as it promotes a resolution of the Palestinian-Israeli conflict.

No Palestinian roadmap to peace, no negotiations will be successful between Palestinians and Israelis as long as Syria continues to occupy Lebanon and to train and churn out suicide bombers.

I am worried that the administration has made a cynical tradeoff, focusing on supposed Syrian support for the hunt for al-Qaida while ignoring the Syrian's deliberate obstruction of the peace process.

Last month, when the Islamic Jihad successfully blew up an Arab-owned seaside restaurant in Haifa, killing 19 Israelis, including 5 Palestinian Israelis, Israel responded by striking one of the Palestinian training camps, choosing a time when it was empty to avoid collateral damage. The Bush administration responded with a bland statement urging both Israel and Syria to avoid actions that heighten tensions or could lead to hostilities.

Despite President Bush's call for Damascus to expel terrorist organizations from Syria and close down its camps, the Syrians have directly refused. They have made a mockery of President Bush's famous claim that you are "either with us or against us in the war on terrorism."

We in the Senate have just passed the Syria Accountability Act, but Syria will not be held accountable until the administration decides to end its tradeoffs in the global war on terrorism, prioritizing the fight against some forms of terror over others.

The message we want to send has to be clear and direct. We will not tolerate any support for terrorism, especially among those who purport to be our friends.

Everyone has seen the Syrian action in Lebanon and we know how treacherous that is. They occupy the country and pretend they want to make peace, but they do not want to. They have not indicated by their actions that they want to.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT—MOTION TO PROCEED

Mr. FRIST. Mr. President, it is my hope that we can go next to the Defense authorization conference report. We have some Senators who may want to make closing remarks, and then we would like to adopt this important conference report during today's session. I think it is fitting that the Senate act on this measure today, on Veterans Day.

Having said that, I ask my Democratic colleagues if they are prepared to allow for a 3-hour debate limitation prior to a vote on adoption of the Defense conference report.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we have no problem going to the conference report today. We do not need a vote on the motion to proceed. We would go to that. We have cur Congressional Medal of Honor winner, Senator INOUYE, who asked to be present when we vote on this conference report, and I think we should do that. He is somebody we all look upon as a hero, and he is doing veterans ceremonies in his State. We have no problem debating the bill today.

Mr. WARNER. Mr. President, will the Senator yield?

Senator STEVENS told me he would be back here at about 6:30.

Mr. REID. We would be happy to have 4 hours of debate today, equally divided, and a vote on it early in the morning, but we would rather not vote on the matter today. I would be happy to offer a consent request that we would complete our debate on it today, and vote on it, with maybe 5 minutes equally divided, early in the morning, at whatever time the leader chooses.

Mr. FRIST. Mr. President, we have a number of Senators who believe strongly that we ought to go ahead and bring this bill up, that we should debate it, and that on Veterans Day we should have that opportunity to vote on that bill, if at all possible. Therefore, I will not agree to put the vote off until tomorrow. We will be bringing it to the floor, and I think then we will have discussion, debate today, on this Veterans Day. We will see how it goes, and we may or may not be voting later tonight.

Mr. President, reclaiming the floor, thus, we have Members who would like this rollcall vote. Having said that, I move that the Senate proceed to the consideration of the conference report to accompany H.R. 1588, the National Defense Authorization Act, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second?

Mr. REID. Mr. President, if I could ask a question.

The PRESIDING OFFICER. There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, could we keep this vote open for a little extra time, maybe an extra 20 minutes? We need 30 minutes because we have a Senator who is 30 minutes away. I know it is unusual to have a vote that long, but maybe this one time.

The PRESIDING OFFICER. The motion is not debatable. It would require a unanimous consent.

Mr. REID. I withdraw any request I have.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to the consideration of the conference report to accompany H.R. 1588. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Nebraska (Mr. HAGEL), and the Senator from Arizona (Mr. KYL) are necessarily absent.

Mr. REID. I announce that the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Georgia (Mr. MILLER), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from Nebraska (Mr. NELSON) would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 1, as follows:

[Rollcall Vote No. 446 Leg.]

YEAS—87

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bunning
Burns
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens

Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—1

Byrd

NOT VOTING—12

Bayh
Boxer
Campbell
Edwards
Graham (FL)
Hagel
Inouye
Kerry
Kyl
Lieberman
Miller
Nelson (NE)

The motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1588), to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of conferees on the part of both Houses.

The Senate proceeded to consider the conference report.

(The conference report is printed in the RECORD of November 6, 2003)

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. As chairman of the Committee on Armed Services of the Senate, together with my distinguished colleague from Michigan, the ranking member, we are proud to bring a conference report on national defense authorization for fiscal year 2004 for final passage.

It is fitting that we consider this important legislation on Veterans Day, a day when our Nation pauses to honor those who serve in the Armed Forces, their families, and those who have gone before them, proudly defending our Nation's freedom.

I was deeply moved earlier today by the number of Senators on both sides of the aisle who spoke out with a sense of reverence and respect on this Veterans Day, November 11, 2003.

This bill provides much needed benefits to those now serving, and their families, in the Armed Forces, as well as addressing longstanding needs of military retirees and veterans. This has been an unusually interesting and somewhat lengthy conference. In my 25 years, I think Senator LEVIN and I would indicate that it was quite a challenge, but I commend the distinguished chairman of the House Armed Services Committee, Mr. HUNTER, his colleague, the ranking member, the gentleman from Missouri, Mr. SKELTON, and above all my own partner of these 25 years, Senator LEVIN.

We had many challenging issues to resolve. Among them, of course, the base closure issues commonly referred to as BRAC; another category of provisions with regard to trade commonly referred to as Buy America, and the concurrent receipt issue which was pioneered in the Senate both last year and again this year.

We did resolve these issues. I say "we," because, again, it was a partnership of the four of us working together for these several months. I am proud that we achieved our goals of concluding a conference which sent a strong message of support to our men and women in uniform and their families, wherever they are in the world today.

An undertaking of this magnitude is ultimately a bipartisan effort. I am proud in my many years on the committee, together with Senator LEVIN we have carried on the tradition of our predecessors, Senators Nunn and Tower and Goldwater and Stennis and Jackson. These were men of enormous distinction. We are proud to have that reputation as a committee. It prevails to this day and I hope on into the future.

I especially thank those who worked with me, all the members of the committee, not only my distinguished ranking member but the chairmen of the subcommittees and their ranking members. They all put in tireless efforts to make this bill possible. It is probably one of the largest, if not the largest money bill passed by the Senate, in terms of authorization. I readily salute and thank them for their many hours of work to make it possible.

No committees succeed without a dedicated professional staff. I think the staff of the Armed Services Committee is envied throughout the Senate, again, for its bipartisanship, for its long hours and, in many instances, for its original thinking which Members accept and incorporate into their legislative creations.

I especially want to recognize the efforts of the staff director of the Armed Services Committee, Mrs. Judy Ansley, and the Democratic staff director, Richard DeBobes, veterans of many years on the staff of Armed Services. Mrs. Ansley was my staff director when I was ranking member of the Intelligence Committee. She is an extraordinarily accomplished woman who proudly but humbly holds the title of the first woman in the history of the Senate to be the chief of staff of the Armed Services Committee. They have led a great staff of their subordinates, all of whom deserve—I wouldn't say equal credit, but nearly equal credit to the staff director and the Democratic staff director.

This staff worked long hours and helped Members reach the agreements that are contained in the conference report before us. It is always a challenge to the staff when it comes to conference. They are always ready to step up and accept that challenge and help us produce this conference report.

I believe it is a strongly bipartisan bill that serves the best interests of the men and women of our armed services and of our Nation today. I urge its swift passage to my colleagues.

As we stand here today beginning this conference report debate, hundreds of thousands of soldiers, sailors, airmen, and marines, active and reserve, guard, and countless civilians who have worked for many years in the Department of Defense and who support the troops—they collectively are serving bravely around the world, from the Persian Gulf region in Afghanistan, to Europe, North Korea, and on down as far as Australia, New Zealand, and that part of the world. All Americans are justifiably proud of what the U.S. Armed Forces and their coalition partners have accomplished in Iraq, Afghanistan, and in the global war on terrorism. It is far from over. But never let it be said those in uniform and their civilian counterparts have not done their duty.

We are ever mindful the defense of our homeland begins on the distant battlefields. To the extent that we can contain the threats on those battlefields or those areas which are not battlefields but are potential battlefields, the less likely that we would experience a problem here at home—as we reverently refer to 9/11 in our history.

As we begin this debate, we must pause and remember that military success is not achieved without sacrifice. Thankfully, Operation Iraqi Freedom and Enduring Freedom were remarkably swift in terms of days, weeks, and months. But no matter how well conducted those operations were, and are continuing, military victory does not come without sacrifice and loss. We extend our heartfelt sympathies to the families and loved ones of those who have lost their lives in these operations and in other military operations to make America and the world safe.

I also pause to say we think foremost about those who have given their lives, but many have given their limbs. They have bodies which have been wounded. Those wounds, in some instances, are carried for the rest of their lives. So let us keep in mind those who suffer the scars of war and those families which lovingly nourish and care for them and will in the years to come.

We mourn the loss of all of our soldiers and resolve to forever remember their service. In this month of Thanksgiving it is especially appropriate that we give thanks to those who serve and have served their Nation with distinction throughout its history.

I wear the poppy in my lapel today. It is now distributed all across America for veterans organizations. It reflects on the sacrifices of World War I—the enormity of the casualties this Nation suffered in that war. I am always especially proud of my father, a young doctor who served in that conflict in France, in the trenches, and cared for the wounded.

We are blessed to have this new generation of great Americans, so committed to American traditions, values, and ideals, carrying on the traditions of those who preceded them, with equal dedication, with equal valor. Without a doubt, the U.S. military is the most capable military force in the world today. We don't say that boastfully; we say it factually. It is a model of excellence and the standard by which others are measured. The provisions in this conference report sustain and improve on that excellence.

Throughout its history, America has never gone forward from our shores, in harm's way, to try to take the land, the possessions from others. There have been instances where we have had to occupy for a period. But by and large, we have always gone, and most certainly in two of these conflicts today, the two principal ones—Iraq and Afghanistan—we are there solely in the cause of freedom.

We must send a strong message of support to these men and women in uniform serving on the distant posts throughout the world, indeed the battlefields. They are bravely protecting our Nation here at home. By passing this important legislation today, we send that message. This conference report contains much deserved pay and benefits for military personnel and families, much needed increases in family housing and quality of life projects on military installations, as well as prudent investments in the equipment and technology our military needs to successfully counter future threats. We must always be looking, not 1 year, not 2, but decades in the future, to try as best we can to ascertain what is the threat to freedom here at home, to freedom abroad, and to fashion those weapons to enable the Armed Forces of the United States, together with coalition forces with which we have fought in World War I and World War II and on the battlefields of Korea and in the battlefields today, to give those weapons to those brave persons to use them in the cause of freedom.

The conference report also makes significant improvements in the benefits for disabled veterans, as well as an important new benefit for members of the Reserve component who play such an important role in our national security.

When I use the word "Reserve," I include the reservists equally as the National Guard. Sometimes it is a confusing term for those who are listening. By no means do I exclude either the Guard or Reserve. It is a total force.

I remember so well when I was privileged to serve in the Pentagon as Navy Secretary when Melvin Laird, the Secretary of Defense at that time, coined the idea of having a "total force" and to discontinue the draft. It was a calculated risk, but we did it. It succeeded largely because there are many men and women of the Armed Forces today who are proud to say, "We are volunteers", or "all volunteers." Fortunately, the National Guard and the Reserve have established themselves as a strong and equal partner in this total force concept.

This conference report endorses the President's budget request for defense in fiscal year 2004. And I wish to commend the President and the Secretary of Defense and all of those who prepared this budget that came to the Congress. It is largely incorporated in the conference report before us today. That report continues the momentum of recent years in making real increases in defense spending to sustain readiness, enhance the quality of life of our military personnel and their families, modernize and transform the U.S. Armed Forces to meet current and future threats, and take care of our retirees and veterans.

The conference report before us provides $401.3 billion for defense, including $74.2 billion for procurement, $63.4 billion for research and development, and $114.4 billion for current readiness. This is in addition to the $65.5 billion for the Department of Defense contained in the supplemental we just passed to sustain our forces in Iraq and Afghanistan and elsewhere in the world during fiscal year 2004. This conference report will authorize the Department's portion of the supplemental.

I once again commend the very brave and courageous and determined President of the United States in going to the American people and saying these funds are necessary not only to protect our freedom but the freedom of peoples throughout the world wherever we can work with our coalition partners in achieving those goals.

There are many provisions of this report that are important and of which I am very proud. I want to highlight just a few.

First and foremost is the 4.1 percent pay raise for the men and women in uniform, and the extension of special imminent danger pay, family separation allowances, and other benefits for those in harm's way. We are asking a lot of our men and women in uniform and their families in these challenging times, and they have never failed to respond. Their pay raise and extension of combat benefits contained in this conference report signal our strong support to those troops and their families.

For years, we here in Congress have been grappling with how to resolve the problem with concurrent receipts—an inequity that many use in our compensation system for disabled military retirees. By law, military retirees are prohibited from collecting both their hard-earned military pay and their disability pay. Last year, we were able to establish a new form of special compensation for military retirees with combat-related disabilities—so-called Purple Heart Plus. It was really conceived right in this very Chamber by a number of individuals, including Senator LEVIN, Senator HARRY REID of Nevada, Senator McCAIN, and a number of other veterans who recognized that this was needed and that it was time. That was a start. We called it a beachhead. I am very pleased we have been able to expand on that beachhead in this conference report by extending the special compensation for combat-related disabilities to military retirees with disabling conditions due to combat or combat-related operations, and by phasing in full concurrent receipt over 10 years for those retirees with disabilities rated at 50 percent or greater. This is a major step forward.

I remember the day when there were three Senators standing right there in the well—Senator REID of Nevada, my distinguished ranking member, Senator LEVIN, and myself—and at that time the Senate bill had a concurrent receipt provision in it; the House bill did not. By voice vote, we passed that amendment and put it in this bill. By virtue of that action—not just the three of us; I happened to be here at that moment, but many others who had worked this issue—that was the beginning, that was the engine that finally drew this train out of the barn and down the tracks to where we are today. I think it is a successful achievement. And many in this Chamber made it possible. The Senate had that provision in its bill.

With respect to the controversial "Buy America" provisions, I believe the conferees reached a balanced compromise that shows our support for a strong U.S. industrial base without undermining our important defense cooperation and defense trade relationships with our allies.

The conference agreement also removes several unnecessary barriers to defense trade which are contained in current law. The "Buy America" provisions have the full support of all relevant agencies and the administration. The final version went through many iterations.

I commend the Director of the Office of Management and Budget who, working with the Chief of Staff of the White House, put this bill together in final form at the request of myself and others. With the President's goals clearly in mind, this revision was incorporated in this conference report.

My colleagues and the distinguished chairman of the House Armed Services Committee did a great deal of work on this provision. He was tenacious in his desire to see that this bill contained provisions important to the preservation of our industrial base, and those goals were achieved at the same time in a manner that is consistent with our goals as a nation of free trade.

A part of this conference report of which I am particularly proud is the provision which authorizes a program to begin replacing our aerial tanker fleet with new aircraft through a lease of no more than 20 KC–767 aircraft and a multi-year procurement of an additional 80 aircraft. Extensive analysis by the General Accounting Office and the Congressional Budget Office indicated the multi-year lease pilot program proposed by the Air Force would be significantly more expensive than a traditional procurement. After a hearing before the Committee in September 2003, the Department was asked to examine alternatives where a fewer number of aircraft were leased, with the rest of the 100 aircraft purchased under a multi-year procurement program. This examination confirmed that the fewer aircraft leased and the more aircraft purchased, the greater the savings. These findings have resulted in a conference agreement that will give the Armed Forces the modern equipment they need, but will save the American taxpayer over $4.0 billion over original proposals. This is a win for the Air Force and a win for the American people.

The civilian personnel system of the Department of Defense has been in need of reform for some time. The Secretary of Defense had the vision to determine that this had to be revised subsequent to the just earth-shaking, dramatic event of 9/11. He made a very strong personal effort to achieve it, and I think this bill reflects upon his great credit and tenaciousness and those of his colleagues.

We have included provisions in the conference report that will provide expansive new civilian personnel authorities for the Department of Defense. I am pleased we were able to provide the Secretary of Defense with the increased flexibility necessary to allow the DOD to respond to the new threats of the new century and the demands of the war on terrorism. While providing the new authorities, the conferees were sensitive to the concerns and the rights of the vital civilian employees of the Department of Defense. I have spoken on this floor many times, and rarely if ever have I omitted direct reference, because they are teammates—full teammates and partners—to the men and women who serve in uniform.

The establishment of a national security personnel system which is authorized in this conference report gives the Secretary of Defense the flexibility he needs to manage the current civilian workforce and to transform—and I underline the word "transform"; it is essential. The Secretary of Defense has been unfailing in his efforts to look into the future and to transform the Department of Defense to meet those changing threats that are on the rise and needs to do so to manage his workforce for the future while providing appropriate protections and appeals processes for the employees.

I recognize the very hard work of my colleague, Senator COLLINS, my longtime friend in the House, Congressman TOM DAVIS, and indeed Senator LEVIN, who, together with Senator COLLINS in the Governmental Affairs Committee, crafted a piece of legislation which was largely drawn as a model to follow in this instance. We did not measure up to all the goals in the Collins-Levin bill, but, in fact, we in large measure achieved a number of the goals of that piece of legislation.

Balancing the readiness needs of the Armed Forces with the critical need to protect the environment is always a challenge and a risk. We have included provisions in the conference report to make modifications to both the Endangered Species Act and the Marine Mammal Protection Act which ensure realistic training opportunities for our military without unnecessarily endangering environmentally sensitive areas.

There are many other important items in the conference report that deserve mention, from enhanced access to TRICARE for certain Reserve component members, and I particularly thank the distinguished Senator from South Carolina, who is a leader on this issue. We needed increased spending for our special operation forces to continue investment in important homeland defense initiatives.

The bottom line is this conference report is an extremely important piece of legislation that provides the resources to continue the global war on terrorism while safeguarding Americans here at home. It sustains the current readiness of the Armed Forces and provides resources to prepare them for the future.

This conference report sends a clear signal to our citizens throughout the world, to nations all over, that the United States is committed to a strong national defense and to the freedom so richly deserved by nations throughout the world. More importantly, it sends a clear signal to our men and women in uniform, from the newest private to the most senior flag and general officer, that they have the support of the Congress and of the American people.

I urge my colleagues to support this conference report legislation that upholds the President's fundamental national security priorities and makes the right investments in future capabilities. It is imperative we send our President, our fellow citizens, and the world a message of resolve from the Congress—a national defense authorization conference report that provides authority to our Nation's leaders and our Armed Forces to protect our Nation and our vital interests around the world. It takes care of the troops, their families, and our veterans, who have all served so well in the defense of freedom.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Michigan.

Mr. LEVIN. Madam President, I ask the chairman if it might be all right, and Members of his side, as well as other Members on this side, if I give my remarks—they are fairly lengthy—and if I proceed for 5 or 10 minutes and then yield to Senator JEFFORDS for his comments.

Mr. WARNER. I readily accede to the request of my full partner in working on these matters for these 25 years. We will do that and that will accommodate colleagues who are waiting to speak, if you do not mind that the chairman was rather lengthy in his remarks. It was important that be done.

Mr. LEVIN. I may actually be lengthier than the chairman.

First, I thank the chairman for his brevity. I would then be happy before I complete my remarks to yield to other Senators who may be waiting. Since I will be here all the time, I can complete my remarks.

I am pleased to join the chairman of the Armed Services Committee, and my dear friend, Senator WARNER, in urging the adoption of this conference report. The conference on this bill took 147 days to conclude, making it the longest conference on a defense authorization bill in the history of our committee. The agreement would not have been possible without the strength and the perseverance of Senator WARNER.

This is a historic bill for another reason as well. This conference report includes two key Senate provisions that serve the fundamental needs of the men and women upon whom we now call and upon whom we have called in the past to fight our Nation's wars. These two provisions are the concurrent receipt provision added by the amendment of Senator HARRY REID on the Senate floor and the TRICARE provision added by the amendment of Senator DASCHLE on the Senate floor. Senator WARNER's strong support was instrumental to the success on both of these issues. They simply could not have been achieved without the support of our chairman.

On concurrent receipt, the conference report would phase in full concurrent receipt of military retiree pay and veterans disability compensation for all retirees with disability ratings of 50 percent or greater. Currently, military retirees who receive VA disability compensation have their military retired pay offset by the amount of their VA disability compensation. The conference report would also expand the combat-related special compensation we enacted last year to reimburse all veterans for combat-related disabilities for any retired pay forfeited because of the prohibition on concurrent receipt.

I continue to believe it is unfair to require our disabled military retirees to forfeit earned retired pay in order to receive VA compensation for their service-connected disabilities. According to the Congressional Budget Office, the conference provision on concurrent receipt will benefit approximately 225,000 disabled retirees.

On TRICARE, the conference report would provide enhanced access to health care for members of the Guard and Reserve and their families, including TRICARE coverage that begins upon notification that a member of the Reserve component has been activated, TRICARE coverage that extends 6 months after release from active duty, and extended TRICARE benefits on a cost-share basis for members of the Reserve components and their families who do not have access to other health insurance coverage.

The citizen soldiers of our Guard and Reserve willingly place themselves in harm's way for their country. This is the least we can do to recognize their courage and their patriotism.

These two provisions address the fundamental needs of the men and women whom we now call upon and we called upon in the past to serve our country in uniform. They have something else in common, as well. Both of these provisions were included in the conference report despite the veto threat from the administration. On July 8th, the Secretary of Defense wrote to the conferees to state that providing these vital benefits to our veterans and to our Guard and Reserve would "drain resources from important programs benefiting our military." The Secretary's letter stated if the President is presented with a bill "authorizing concurrent receipt of military retirement pay and veterans disability compensation benefits or expands TRICARE, then I would join other senior advisers to the President in recommending that he veto the bill."

As a matter of fact, as many will remember, the administration held up the enactment of last year's Defense authorization bill for several months and nearly stymied the bill because of the administration's opposition to concurrent receipt proposals similar to the language included in this year's bill.

The conference report before the Senate today contains both of these Senate provisions. This year, as last year, Senate conferees stood up for what they believed in despite the opposition of the administration. This year, as last year, we stood with America's disabled veterans, we stood with America's Guard and Reserve. Unlike last year, the House conferees agreed to go along with us. It was the right decision. I do not believe the President would have vetoed our conference report over these issues last year and I am confident he will not do so this year.

Again, I pay my respects to the chairman of our committee, because even though, as always, he is generous in giving credit to others for provisions in the bill, including his reference to Senator REID which he accurately made, without his leadership these provisions simply would not be in this conference report. All of our veterans and all the men and women in our military are and should be in his debt for his leadership in this and so many other ways.

This bill contains a number of other important provisions for our men and women in uniform. These include provisions that would increase military pay by 3.7 percent across the board, with targeted pay raises for midcareer personnel, raising the average increase to 4.1 percent.

It extends increased imminent danger pay and family separation allowances, authorizing a high tempo allowance of up to $1,000 per month for active and Reserve personnel who experience unusually high tempo. It doubles the death benefit to $12,000. It authorizes survival benefit plan annuities for surviving spouses of Guard and Reserve personnel who die during inactive duty training.

It removes skill requirement limitations for reenlistment bonuses for members who reenlist in Afghanistan, Iraq, or Kuwait. It authorizes full replacement for household goods lost or damaged during military moves. It expands commissary use privileges for Guard and Reserve members and their families. It provides supplemental impact aid to assist schools with large numbers of children of military families.

I am pleased the bill would increase authorized active duty end strength for the Army.

Madam President, I now ask unanimous consent that I be able to yield to our good friend from Vermont, and then I would offer others the opportunity to follow him if they wish. I can complete my statement at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

Mr. JEFFORDS. Madam President, I thank the Senator from Virginia, Mr. WARNER, and the Senator from Michigan, Mr. LEVIN, for the good work they have done in crafting this important piece of legislation.

Mr. WARNER. Madam President, will the Senator indulge the manager for a moment to make an inquiry?

Mr. JEFFORDS. Please do.

Mr. WARNER. To accommodate other Senators, I ask the Senator about how much time he wishes to speak.

Mr. JEFFORDS. I say 5 or 6 minutes.

Mr. WARNER. Ten minutes.

Mr. JEFFORDS. Fine.

Mr. WARNER. We may have differences of views, but it is important.

Mr. JEFFORDS. I thank the chairman and also Mr. LEVIN, the Senator from Michigan, for the good work they have done. I appreciate the hard work that goes into these issues which I will be discussing.

This bill provides important support for the men and women of our Armed Forces who are subject to hostile attack while attempting to bring stability and democracy to the people of Iraq.

While I was strongly opposed to the invasion of Iraq, I believe that this Defense authorization bill is very necessary. If I had my way I would have changed some of its provisions, but on balance the Senate negotiators have done a very admirable job of crafting an acceptable compromise on most of the defense issues.

I am, however, quite displeased that the administration insisted on asking for language in this bill exempting the Department of Defense from provisions of the Endangered Species Act and the Marine Mammal Protection Act.

First of all, the Defense authorization bill is not the proper place to have this debate. Discussions about these landmark environmental laws ought to take place in the broader context in our environmental protection legislation. However we made a good effort at crafting compromise legislation in the Senate bill. I was quite distressed that the House conferees refused to go along with this reasonable approach.

In the 1950s, I was a gunnery officer on the USS *McNair*, a destroyer that participated in operations off the coast of Lebanon and had participated in actions to train our men in the service.

I retired from the Naval Reserves as a captain. I am a veteran, and I am also an environmentalist. The two are not mutually exclusive.

I understand firsthand that to be effective in the field, our soldiers, marines, pilots, and sailors must have the best possible training. I also understand that our country has an invaluable natural environment that we must protect as best we can.

As part of the 2004 Department of Defense authorization bill, the Department of Defense submitted the Range Readiness Preservation Initiative.

The RPPI created broad statutory exemptions for "training activities" of the DOD from five environment and resource laws: the Clean Air Act; the Comprehensive Environmental Response, Compensation, and Liability Act; the Resource Conservation and Recovery Act; the Endangered Species Act; and the Marine Mammal Protection Act.

All of these laws, with the exception of the Marine Mammal Protection Act, fall under the jurisdiction of the Environment and Public Works Committee, of which I am the ranking member.

The EPW Committee held hearings on this proposal, in this Congress and in the 107th Congress, and found that the provisions of this proposal were unnecessary because the DOD had authority for seeking exemptions from these laws for national security reasons under existing law.

In particular, section 7–J of the ESA allows the law's requirements to be waived, at the request of the Secretary of Defense, for national security concerns.

To date, no Secretary of Defense has ever needed to utilize this provision of the ESA. Despite this, the DOD authorization bill reported by the Armed Services Committee contained a provision amending the ESA to provide that an Integrated Natural Resources Management Plan prepared by the Department of Defense could take the place of a critical habitat designation on DOD lands.

The Endangered Species Act has dramatically protected the diversity of our Nation's natural environment. Many species, including the bald eagle, the symbol of the United States, simply might not be in existence today other than for the ESA. Each year, since 1999 the annual list of endangered plant and animal species has exceeded 1,200.

The grizzly bear, eastern cougar, bighorn sheep, whooping crane, American crocodile, and five species of sea turtle are some of the more recognizable mammals, birds, and reptiles that are endangered but have been protected and need protection.

The ESA protects these animals and their habitats, and the hundreds of other animal and plant species that are threatened or endangered across the 50 States. This past May, the Senate stood up for the ESA—the Endangered Species Act—and changed the provision of the DOD authorization bill. We did that. We did our job. A majority of the Senate adopted an amendment to keep a balance between the needs of the Department of the Interior to protect species under the ESA and the Department of Defense's need to give our men and women in uniform the best and most realistic training possible.

The amendment required the Secretary of the Interior to make a written determination that the management activities identified in the INPRM would effectively conserve the species within the lands covered by the plan, and the plan assured that adequate funding would be provided for the management activities.

The day after that vote, the Senate overwhelmingly passed S. 1050, only to have its will overturned in this conference report. Supporters of the ESA exemption in this conference report will argue that the Pentagon's hands are tied when military training comes into contact with critical habitats of endangered species.

This is not the case. As I stated earlier, exemptions exist under current law. In this conference report, the exemption of DOD from the critical habitat designations of the ESA will not allow for case-by-case decisions and will make it give the Pentagon a waiver from endangered species protections, even when more conservation-friendly options may exist.

The ESA provision in this conference report provides no assurance that the INRMP will provide conservation benefits to species.

There is no definition about the kind of benefit that needs to be included in the plan or a requirement that the benefit be in some way equal to a critical habitat designation.

Critical habitat designations are intended to protect habitat, address habitat threats and pave the way for future recovery of the species. None of those requirements are contained in the word benefit. I can only hope that is how the Secretary of the Interior will define benefit in the written determinations required under this new language.

In addition, this conference report weakens the protections for marine mammals. The conference report provides a weaker definition of "harassment" of marine mammals that is the trigger for needing a Marine Mammal Protection Act authorization from the National Oceanic and Atmospheric Administration and the Fish and Wildlife Service. This weaker provision is extended beyond military readiness to "a scientific research activity conducted by or on behalf of the Federal Government." These activities do not have to be necessary for military readiness.

Also, the requirement under the MMPA that any takings of marine mammals be limited to "small numbers" of marine mammals, or limited to a "specified geographical region" where similar impacts are to be expected has been removed. Another weakening of protections for species.

My reasons for concern over the degree of DOD sensitivity to environmental dangers has been heightened by my recent work on behalf of Marines and their families from Camp Lejeune, North Carolina.

Thousands of retired and ex-Marines and their families were exposed to highly contaminated drinking water over 20 years ago for long periods. It is now coming to light that this contamination caused many birth defects and childhood cancers. The extent of this tragedy could have been significantly lessened if the DOD had been more sensitive to environmental concerns.

Therefore, I think it is a mistake to allow the Department of Defense to regulate its own environmental activities.

When an endangered species becomes extinct, it is lost forever. That is a very serious and eternal consequence of poor, shortsighted environmental policy. National security is more tightly tied to environmental security than many in the Pentagon would acknowledge. We cannot afford to try out a bad policy when the consequences are irrevocable.

I am opposed to changing the present requirement that DOD be concerned with both our national security and our environmental health. Because of my deep concern over these provisions, I must vote against this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I listened carefully to my colleague. I have the privilege of having served on the Environment and Public Works Committee for many years. The Senator referred to action taken by the committee when this issue was before it. Could he be more specific? I don't recall. He said the committee took certain actions. I am having difficulty recalling that the committee took an action.

We had a hearing. I remember consulting with my colleague about the essential need to have the Vice Chiefs of Staff of all the three military departments which came before the Environment and Public Works Committee. And to the individual, they were consistent in their urging that the Endangered Species Act be changed in such a way to permit—and this is the key—only this amendment to apply to Government-owned land on military reservations. I remember that. But does he recall the committee having taken action?

I think if you look back through your words, I listened very carefully.

Mr. JEFFORDS. Madam President, I will get back to the Senator from Virginia on that and provide him the information. I can't articulate it specifically right now, but I will get back to him with that information.

Mr. WARNER. I thank my friend.

Mr. LEVIN. Madam President, if the chairman will yield on that point.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. My recollection is that on the Senate floor we did add a significant protection, a criteria before the Endangered Species Act would be ignored. That was under the Lautenberg amendment that we would require there be a conservation benefit provided as well as adequate funding provided if the Department of Defense was going to proceed.

The Senator from Vermont's recollection relative to the committee perhaps refers to what we did on the Senate floor, which he also referred to in his remarks, where we did add important protection that was missing when the bill came to the floor, but a very close vote on the floor added that protection.

Mr. JEFFORDS. That is correct. That protection was added.

Mr. LEVIN. I am not sure if that is what the Senator was referring to.

Mr. WARNER. I listened to the ranking member, the Senator from Vermont. The ranking member said that the committee decided thus and so. I don't recall an action having been taken by the committee on which I am privileged to serve with my distinguished colleague.

Mr. JEFFORDS. I will get back to you on that.

Mr. LEVIN. Again, if the Senator will yield, I think actually in the committee we were unable to do what the Senator from Vermont had actually urged us to do and which I totally agree with. I thank him for his comments, which I share.

I reach a different conclusion on how I will vote on the whole bill because of the other provisions in it, but I happen to agree with him in terms of his analysis on the Endangered Species Act and on the Marine Mammal Protection Act and the damage that I believe we have needlessly done to those statutes when we could have done some things which would have protected both the environment and the training of our forces.

But in any event, I think that probably is what the Senator from Vermont is referring to, although I am not sure.

Mr. WARNER. Madam President, he has offered to clarify the record. I believe at this time if we go from side to side, would that be agreeable to the Senator from Illinois? Could I inquire of the Senator from Texas the amount of time he desires to speak.

Mr. CORNYN. If I may have 10 minutes.

Mr. ALLARD. Madam President, I would like to have an opportunity to speak.

Mr. WARNER. Then I ask unanimous consent that the Senator from Texas have 10 minutes and the Senator from Illinois have 10 minutes, and that is to be followed by the Senator from Colorado for 10 minutes.

Mr. ALLARD. I appreciate that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. LEVIN. If the Senator will yield, Senator AKAKA has been here as well. Perhaps after the Senator from Colorado, then the Senator from Hawaii would be recognized for 15 minutes.

Mr. WARNER. Absolutely.

Mr. LEVIN. If we could add that.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. CORNYN. Madam President, I extend my thanks and appreciation to the Senator from Michigan for yielding and allowing me to say a few words during his comments. Particularly I express my appreciation to the chairman of the Armed Services Committee, the distinguished Senator from Virginia. The manner in which we have seen them navigate the traffic jam here on the floor this afternoon on this important legislation is indicative of the cooperative and collaborative effort that both the ranking member and the chairman have demonstrated throughout this lengthy process of reconciling not only coming up with a bill but reconciling the differences between the House and Senate on this important legislation.

I rise to say a few words about the Defense authorization conference report that is before the body today. On Veterans Day in 1954, President Eisenhower called upon all Americans to not only remember the sacrifices of those who fought so valiantly but to rededicate themselves to the task of promoting an enduring peace.

Today, almost 50 years later, we recall the dedication of all our veterans as we honor them on Veterans Day 2003. We take this time to honor them because they gave so much to all of us and to say a prayer for the men and women laboring overseas even now to spread the light of freedom to a land that was previously cloaked in darkness.

We must always remember the old adage which is still true that freedom is not free but was bought and paid for by the sacrifices of generations that have gone before us and, indeed, even the present one.

I can't help but think about my own father when I think about the sacrifices of generations that have gone before, because he was a member of that greatest generation who at a young age flew in the Army Air Corps in a B-17 over Nazi Germany. On his 13th mission, he was shot down and captured by the enemy and imprisoned for 4 months in a German prison camp.

Later, when General Patton and his troops came through and liberated him and his colleagues, my dad would return to this country, to Corpus Christi, Texas, where he met my mother and where they married and raised a family and really became, as I said a moment ago, what we have come to know as the greatest generation. We owe, indeed, everything we have to the contributions and the preservation of our freedoms that they made. It is they and others like them who, since that time, have fought in the cause of freedom that we honor today.

I think it is altogether fitting that we consider this bill on Veterans Day because it accomplishes great things for all of the members of our Armed Forces, both active and retired, as well as their families. I have been amazed at how the senior Senator from Virginia, Chairman WARNER, has navigated this important legislation through the difficult conference committee process. I know it was not easy. It has been my pleasure to work with and learn from him during the course of my service on the Armed Services Committee.

This legislation authorizes more than $400 billion in budget authority for defense programs in fiscal year 2004. I strongly believe it is our duty to ensure that the U.S. military has the resources they need, whether it be the equipment, the facilities, or the training to do the job we have asked them to do, and to win the war on terror.

In short, we must do whatever is required to maintain our military's status as the greatest fighting force on the face of the planet, even as we transform the nature of that force to face the challenges of the future.

I am proud of the work that has been accomplished here in terms of providing an expanded entitlement to concurrent receipt to include thousands of more veterans. I believe it is indeed a major step in the right direction. Our veterans have more than earned this; they deserve it. I am glad this bill will expand the special compensation for the combat-related disabilities program to include all veterans whose disabling condition was due to combat or combat-related operations.

I strongly believe we are honor-bound to keep our commitment to our men and women in uniform and that our support of them will not end when they leave active duty and go into retirement. No veteran should ever be left behind. I will continue to work in this body to make sure that Texas veterans, indeed all veterans, receive the benefits they so richly deserve.

Our men and women in uniform, whether they be active duty or reservists, or members of the National Guard, are all doing a tremendous job fighting the war on terror. So I am especially glad to see that this bill provides for an average pay raise of 4.1 percent, provides enhanced access to TRICARE for members of the Reserves, and authorizes increased hostile fire pay and family separation allowances to continue.

When someone leaves their home to fight for the cause of freedom abroad, we know it affects not just that soldier, or that sailor, or that marine, or that airman; it affects their entire community, it affects their friends, and it affects their families. So we must not think only of the service of the brave men and women who fight on the battlefield, but the sacrifices their families make at home. Of course we must remember, above all, those whose loved ones will not be coming back, who paid the ultimate price so others may live free.

I especially acknowledge the hard work Chairman WARNER and the senior Senator from Arizona did on the Boeing tanker lease. I believe they were able to achieve an excellent compromise, one that will save the taxpayers more than $4 billion. It is critical that, while we allocate needed funds to ensure our Nation's defense, we also spend the money in a careful and fiscally responsible manner. I believe they have accomplished that, and we will accomplish that by approving the bill today.

Finally, I thank the conferees, and particularly the leadership, the chairman and ranking member, and others who have worked so hard, for including the bulk of the Military Citizenship Act, a bill I introduced, which will expedite the naturalization process for nearly 37,000 men and women serving in our Armed Forces who are not U.S. citizens. It will reduce waiting times, waive normal fees, and require the Secretary of Defense to enact a policy that facilitates the opportunity for a member of the armed services to finalize naturalization, including the granting of high priority for emergency leave and transportation on military aircraft. I believe there is no better way for us to honor the heroism and sacrifice of those who risk their lives for our fundamental national values than to offer them a full opportunity to enjoy the blessings of American citizenship.

In 1944, Winston Churchill spoke in the Royal Albert Hall to the veterans of another war, and he reminded them of the great and just cause they served. He said:

> We are joined together in this union of action which has been forced upon us by our common hatred of tyranny. Shedding our blood side by side, struggling for the same ideals, until the triumph of the great causes which we serve shall be made manifest. . . . Then, indeed, there will be a day of thanksgiving, one in which all the world will share.

Coming up to the current time in Iraq, of course, we know the fight is ongoing and there is still much to be done. But the difference our Armed Forces have made in such a short time is undeniable.

Less than a year ago, the idea that the Iraqi people could ever live in freedom was nothing but a dream. Now the vision of a free, prosperous, and peaceful Iraq is in sight. The day of thanksgiving is not here yet, but it is coming.

Thanks to the leadership of President Bush and the professionalism and patriotism of our Armed Forces, and the sacrifices of their families, it is coming soon.

One out of every 10 active-duty military personnel calls Texas home. I am honored to represent them, along with the senior Senator from Texas, Mrs. HUTCHISON. I am proud—and I know we are both proud—of the work that has been done on this Defense authorization bill to serve their needs while enhancing our national security. I wish our brave men and women in uniform godspeed and look forward to the day when these young men and women can stand beside veterans of past wars as living examples of selflessness and courage for the cause of freedom.

Madam President, I yield the floor.

Mr. WARNER. Madam President, I compliment the Senator from the Lone Star State, Texas, who rightfully can take pride in his services on the Armed Services Committee. He was most eloquent on behalf of the men and women of the Armed Forces, and indeed I appreciate his comments. I thank the Senator.

I believe we are under an order to proceed to the Senator from Illinois.

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized.

Mr. WARNER. Madam President, first, may I say to the Senator that he has been working with me on a rather serious problem in the military regarding a helicopter. I commend him on taking those initiatives.

Mr. DURBIN. Madam President, I express my gratitude to the chairman for those remarks and also for his service to the Senate and the country. As chairman of the committee, with his able ranking member, Senator LEVIN of Michigan, they have produced an extraordinary bill at an extraordinary time.

To think we are now appropriating record amounts for our military defense is appropriate as America faces an act of war in Iraq and Afghanistan and literally commitments around the world. I know this bill is controversial in some respects. It includes in it a provision which I urged in the earlier debate on another bill. That is an increase in the combat pay and family separation allowance for those currently in harm's way, those involved in fighting and waging these wars.

I think that is the right thing to do. This committee was doing the right thing by including it so our men and women in uniform at least have some peace of mind that they know while they are facing imminent danger, while they are separated from their families, we are going to try to give them additional assistance.

I join the Senator from Vermont in his earlier remarks. There are elements about this bill that trouble me. I understand by his remarks that they were elements urged by the House conferees, not the Senate conferees. I honestly agree with him. There is no reason why we should ever have to sacrifice our environment or the treasures of nature to protect America. In those rare situations where national security demands it, there is a law that allows for it. But this bill, unfortunately, goes a step too far, allowing the Department of Defense, I am afraid, to have a waiver from environmental requirements that is not necessary and, frankly, could endanger the environmental security in the name of national security. We could have done better. I hope we address this issue in the future.

There are two specific areas I would like to address that are touched by this bill, but not directly. They relate to the men and women who are currently fighting for this country and risk their lives even as we meet. It is appropriate on Veterans Day that we would be debating this bill. Our hearts go out to not only the men and women in uniform, but to all their families who worry and pray and hope the day will soon come when their loved ones return home.

I worry about what is becoming of the profile of America's military because it is changing. This bill acknowledges it, but we have to continue to acknowledge it. More and more we are dependent on the Guard and Reserve to perform important military functions of our Government.

Currently, about one out of every five fighting persons in Iraq is a member of a Guard or Reserve unit. With the callup that is anticipated in just a few months, that percentage will change dramatically. Over 40 percent of the people on the ground in Iraq fighting for America will be members of Guard and Reserve units. That is a dramatic departure from where we were just a few years ago in the Persian Gulf war when the Guard and Reserve played an important, but limited, role. Now the Guard and Reserve play a much larger role. Senator WARNER of Virginia alluded earlier to the concern I have, about the equipment and treatment of the Guard and Reserve who are activated, particularly in light of the tragic incident just a few days ago when an Army Chinook helicopter was shot down, killing 16 of our soldiers. Included among them was the pilot Brian Slavenas of Genoa, IL, who will be buried tomorrow.

I looked into this and was concerned that the appropriate equipment had not been committed to this Guard helicopter unit, a unit which comes from both my State of Illinois and the neighboring State of Iowa.

What I learned after an extensive investigation is that, in fact, when the 106th unit was activated to be sent overseas, it was represented they were fully operational and ready to fight. In fact, only 3 of the 14 helicopters had the necessary equipment to defend against shoulder-fired missiles.

When this was discovered, efforts were made to equip the other helicopters as they were being sent overseas, with some success but not complete. In fact, once they arrived in Kuwait in position to go into Iraq, further efforts were made by their commanding officer, Colonel Palumbo, and others to make certain they had the appropriate equipment.

During that period of time when equipment was being secured for these helicopters, they were flying dangerous missions. It troubles me. First, they should not have been activated fully operational when they were not. It should have been discovered at an early point. Second, it troubles me that they were flying on dangerous missions without the necessary protective equipment.

I understand the requirement of war sometimes makes those risks necessary, but considering what we know now about the shoulder-filed missiles and the ordnance ammunition on the ground in Iraq, I think extra precautions should have been taken to equip all of these helicopters before they were put in harm's way.

I trust that will be the standard to follow in terms of helicopters and that literally all Guard and Reserve units will receive the necessary equipment, the same equipment as Regular Army, before they are called into action.

That will be my standard and one I would like to hold this Department of Defense to, in cooperation with this committee.

The last point I wish to make is this: Several weeks ago this Senate considered an amendment I offered to the $87 billion emergency supplemental bill asking the Federal employees who are activated in the Guard and Reserve be held harmless in terms of their salary and income while they serve; that we at least provide for them as much money from the Federal agencies they are leaving as they would have made if they had stayed home.

This is not a radical idea. Dozens of States, local units of government, and private companies do this already across America, but we don't do it for Federal employees, despite the fact that of the over 1.2 million Guard and Reserve people in America today, 10 percent work for the Federal Government. Of those who are currently activated, 23,000 are Federal employees called away from their jobs and away from their families and homes to serve overseas.

By a vote of 96 to 3, we accepted this provision saying that, yes, the Federal Government would treat our activated Guard and Reserve employees the same as State and local governments already do. Then the bill went to conference. Sadly, on a partisan rollcall vote that provision was stripped out of the bill. Many of the same Senators who have come to the floor talking about their devotion to our veterans were not there when we needed them to keep this provision in our conference on the $87 billion appropriations.

I say to my colleagues on the floor, I am going to offer this Reservist Pay Security Act of 2003 again and again. To all my colleagues who stand proudly behind the men and women in uniform, let their votes reflect it. Let their votes reflect that we will treat our Federal employees as State and local government already treat their own. That is only fair.

As America becomes more dependent on the Guard and Reserve, it is only right and just that we stand behind not only the men and women in uniform, but their families so that their income is sustained while they are serving our country and risking their lives.

Madam President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Colorado is recognized.

Mr. ALLARD. Madam President, I understand the Senator from Delaware has a comment. He is trying to catch a train this evening and wants to take 1 or 2 minutes to comment. I ask unanimous consent that we let him speak, if it is OK with the chairman.

Mr. WARNER. Madam President, I certainly want to accommodate our colleague from Delaware. He has been a stalwart on defense. He was a naval aviator when I was privileged to be Secretary of the Navy. I am happy to accommodate him, I say to my Senator from Michigan.

Mr. LEVIN. I think we all appreciate that accommodation. I ask that accommodation be made without taking time away from the Senator from Colorado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, I inquire of my colleague from Delaware, how much time does he desire?

Mr. CARPER. Two minutes.

Mr. WARNER. Take up to 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I thank the chairman, and I thank Senator LEVIN and my other colleagues who graciously have given me a few moments.

We have been reminded during the course of the Afghanistan war and the conflict in Iraq of the need for our ability to deliver large numbers of personnel, equipment, and weaponry to the front. We deliver a lot of those items by sealift, and we deliver a good deal of it by air. Some 30 percent of the equipment going into Iraq comes through Dover Air Force Base. The aircraft that fly a lot of that equipment are C-5As and C-5Bs.

Several of us on the floor this evening have facilities that either have C-5s already operating out of them or will. There is a provision that has been agreed to in this conference report which I think is worth touching on because I think it is of critical importance. The issue is how do we best provide for cost-effective airlift in the 21st century.

We have created an air bridge between this country and other fronts, including Iraq and Afghanistan. The air bridge includes C-5As and B's, it includes C-17s, and it includes C-130s in the theater. C-5As were built in the 1970s. C-5Bs were built in the 1980s, and the C-17s are literally being built today. The C-130s, some are old and some actually quite new. The C-5As that were built in the 1970s are believed to have a useful life on their wings and their fuselages for probably another 40 years. The same is true of the C-5Bs which are somewhat newer than the C-5As.

The House of Representatives had language that said that before we retire indiscriminately, prematurely, C-5As, we should allow a process to go forward which was agreed to in the earlier Defense authorization bills. In those earlier Defense authorization bills, we said we wanted the Air Force to install avionics modernization packages in three C-5s, along with reengining three C-5s, the hydraulic systems, new landing gear systems, new engines in one C-5A and two C-5Bs, and before we retire prematurely any more C-5As we should first go through that process on those three planes and flight test them in order to find out if those changes to the aircraft actually raise the aircraft readiness performance of C-5As and C-5Bs.

I thank the chairman and Senator LEVIN for agreeing to the House language, so that now we will go forward. The Air Force will have the opportunity to install both the avionics modernization package and the reengining package in one C-5A and two C-5Bs. The Air Force will have a chance to fully test those packages before we retire any additional C-5As.

There is report language in the Senate version of this bill that also says we need to update our estimate for what we need for airlift going forward in this 21st century. I think when we take that language and put it with the provision that says we are not going to prematurely retire any C-5As beyond the initial 14 that have been earmarked for early retirement, that gives us a very good package and one that I think enables us to better determine how do we cost-effectively provide airlift in the 21st century.

Again, I express my thanks to the committee and to our friends in the House for agreeing to this compromise. I think it is a good position for us, for the Air Force. I think it is a very good position for us who are interested in trying to find out how do we provide cost-effective airlift in the 21st century.

Again, I thank my friend from Colorado, Senator ALLARD, for yielding and the chairman and ranking member for allowing me to speak these words.

Mr. LEVIN. If Senator ALLARD would yield for 15 additional seconds.

Mr. ALLARD. I would be glad to yield for 15 seconds.

Mr. LEVIN. I commend the Senator from Delaware. His leadership on this issue is what really led to the result which was achieved, which he so accurately described. We have taken a logical step. The House approach to it was surely the lift that was needed, but the Senator from Delaware added a great deal to it and brought to our attention repeatedly this issue. I am glad the result is as satisfactory as it is.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Madam President, I thank the Chair and note in a public way that it is an honor and privilege to serve with the Chair on the Armed Services Committee. I think it is entirely appropriate that the Chair is having an opportunity to preside in the Senate at the time when we have this important legislation affecting the armed services personnel. The Chair is a hard worker on the Armed Services Committee.

I rise to discuss the conference report for fiscal year 2004, the Department of Defense authorization bill. Before I discuss those provisions that I think deserve this body's attention, I believe it is important to note how difficult this particular conference was.

In fact, it is only because of the patience and perseverance exhibited by the distinguished senior Senator from Virginia that we even have an authorization bill. Senator WARNER has worked tirelessly over the last 4 months to come up with a compromise bill that this body could approve. He acted with integrity and poise despite the difficulties. I commend him for his efforts and thank him for his commitment to the Armed Services Committee and to our men and women in uniform.

I believe it is appropriate for this body to consider this important legislation today. The soldiers, sailors, airmen, and marines who have kept this country free and preserved the peace are owed a debt of gratitude by all others who have the privilege of living in America.

We in America are blessed with freedoms unattainable in any other countries, rights inconceivable elsewhere, and liberties guaranteed by our way of life. Our grandfathers fought in World War I hoping their sons would never have to. Our fathers again fought in World War II, Korea, and Vietnam keeping the same hope alive. We have recently fought in Iraq, Somalia, Kosovo, Afghanistan, and now again in Iraq. We hope that as we battle the war against terrorism, we can see the end of war as we know it and never have to send our sons and daughters into harm's way again.

Until that time, though, the least we can do to respect their service is honor them on Veterans Day. The least the Senate can do is approve this legislation which will do much to ensure our men and women in uniform are well equipped, well trained, and well provided for.

The conference report before us authorizes $401 billion for the Department of Defense and Department of Energy nuclear weapons programs. It also authorizes multiyear incremental procurement funding for the Air Force's planned acquisition of 100 tanker aircraft, which I will discuss in greater detail momentarily.

The first priority of this bill is to address many of the quality-of-life issues facing our troops today. It includes an average 4.1 percent pay increase and provides higher targeted raises for midcareer service members. The agreement also expands the benefits provided for disabled military retirees. Veterans who are more than 50 percent disabled or receive their disability during combat operations will now be able to currently receive retirement pay and disability compensation.

On top of this, the bill authorizes certain special imminent danger and separation pay through next year. I support these benefits and believe they will greatly assist those who are courageously serving our country.

Now I will turn to provisions in this bill relating to our country's military service academies. Since last January, I have been heavily involved in addressing the allegations of sexual assault at the U.S. Air Force Academy. This fine institution, which has produced thousands of outstanding Air Force officers, has been seemingly besieged by a culture of indifference.

Over the last 10 years, dozens of female cadets have been sexually assaulted but only a few have reported the crime and even fewer have received the kind of support and assistance needed to overcome such a traumatic experience.

In fact, some victims said they were punished for reporting a sexual assault and many feared they would be punished if they did report the crime. Nearly 65 female cadets came to my office and met with me and my staff. I cannot express enough my admiration for their willingness to tell their stories and for their determination to change the climate at the academy.

I have also been very pleased by the Air Force's response to these allegations. Immediately after I notified the Air Force, Secretary Roche and General Jumper ordered a comprehensive investigation. This investigation discovered a systemic lack of coordination of activities and information, inadequate command involvement, considerable cadet reluctance to report sexual assaults, and failed gender climate surveys.

The investigation led to the Air Force's agenda for change, new leadership at the academy, and a renewed emphasis on sexual assault prevention and response. Earlier in the year, Congress also created an independent panel to look into these allegations. That panel, headed by former Congresswoman Tillie Fowler, found that Air Force headquarters needed to better oversee the activities of the academy, that the board of visitors needed to be more involved, and that the Department of Defense inspector general's office should fully investigate the role former academy and Air Force headquarters officials played in creating the climate that permitted these assaults.

Both the Air Force's investigation and the Fowler Commission recommended a number of important legislative changes. I am pleased many of these changes have been incorporated in the legislation before us. For example, each service Secretary must now prescribe a policy on sexual assault that promotes awareness of the crime, informs cadets of procedures for reporting, and describes procedures for disciplinary action. Perhaps more importantly, each service is now required to conduct an annual assessment on the effectiveness of the school's sexual assault program.

These assessments will help academy and headquarters leaders, as well as the Board of Visitors of each academy, in their effort to measure whether these programs are working.

The bill also includes a requirement for an Air Force study on the permanent professors and gives the Air force the authority to appoint a dean from an expanded pool of candidates.

I would like to take a moment to thank the chairman, Senator WARNER, for his assistance in addressing these problems. From the beginning, Senator WARNER worked with me to encourage the Air Force to appropriately respond to these allegations. His interest and dedication to fixing this problem were instrumental and invaluable. I have deeply appreciated his counsel and his willingness to devote the Committee's time to this issue.

As chairman of the subcommittee on strategic forces with oversight over national security space, strategic weapons, ballistic missiles, and nuclear weapons, I would like to take some time to discuss some important provisions in this conference report relating to these issues. Before I do so, though, let me first thank Senator BILL NELSON, the ranking member for the strategic forces subcommittee, for working so closely with me throughout the year. While we did not agree on every provision, his assistance and contribution helped make this a better bill.

Let me now address several specific provisions.

With regard to enhancing U.S. national security space capabilities, the conference report establishes a policy that states that the Nation will have an assured space launch capability, promotes the development of an effective space cadre, and authorizes additional funds for space control initiatives.

With regard to protecting our country from a ballistic missile attack, the conference report authorizes $9.1 billion for ballistic missile defense research, development, and procurement. Specifically, the report authorized an additional $100 million for ground-based mid-course system and $90 million for the PAC–3 Patriot terminal missile defense system.

With regard to improving the Department of Defense intelligence gathering capability, the conference report requires the Secretary of Defense to establish an intelligence, surveillance, and reconnaissance council to develop a roadmap to fully integrate the ISR efforts of the military services. The report also prohibits the National Imagery and Mapping Agency from spending more than 10 percent of its commercial space imagery budget on other important but unrelated projects.

Lastly, the conference report includes a number of provisions that will greatly improve our ability to deter a possible nuclear attack. One provision repeals the ban on research and development on low-yield nuclear weapons. Another requires the Secretary of Energy to achieve and maintain the ability to conduct an underground nuclear test within 18 months. Finally, the report authorizes $21 million for advance concept initiatives, of which $15 million is directed toward continuing a study on the robust nuclear earth penetrator.

I again wish to commend Senator WARNER, his staff director Judy Ansley, and the rest of his staff for their outstanding work on this conference report. I understand that this was one of the most difficult conferences in which Senator WARNER has ever had to participate. I was particularly impressed by the way he addressed the Air Force's proposed lease of 100 tanker aircraft. Like many other Members, I was greatly troubled by the budget implications of this lease. Senator WARNER'S compromise agreement will get the Air Force the tankers it needs while saving the American taxpayer nearly $4.0 billion. I supported the compromise and see it as another example of Senator WARNER'S determination to do what is best for our men and women in uniform.

I yield the floor.

Mr. WARNER. I thank our distinguished and very valued colleague of the committee, Senator ALLARD, for his remarks and his work on this bill.

Mr. ALLARD. I thank the Chairman. It has been a delight working with him.

Mr. WARNER. Mr. President, the distinguished ranking member and I are trying to work out accommodations for a number of Senators. The Senator from Hawaii will speak next, followed by the Senator from Maine.

Mr. LEVIN. Senator BYRD is here and has been waiting. I want to see if we can figure out how to accommodate also Senator DAYTON, I believe, tonight.

Mr. WARNER. Let me suggest the following. I will not ask for unanimous consent.

Mr. LEVIN. And perhaps Senator NELSON.

Mr. WARNER. I suggest our leadership, together with the managers of the bill, consider that, following Senator COLLINS, then we could go into a period of morning business and give Mr. BYRD the time he is seeking, and then Senators could come over as in morning business, speak on behalf of the bill, and ask their statements be printed in the colloquy prior to the unanimous consent request.

Mr. LEVIN. We are going to check with Senator NELSON at this point to see what his intention is. We believe Senator BILL NELSON wants to come tonight. Whether it is morning business or the bill, that should not be consequential although perhaps for some reason it might be. I want to finish my remarks also. Senator PRYOR we want to accommodate in the morning, as we have spoken about. Perhaps we can work all this out as Senator AKAKA has the floor.

Mr. WARNER. I have been notified Senator SESSIONS is on the way to bring his important contribution to this bill.

At this time I ask those Senators anxious to work with this tentative agreement to so advise the managers.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I fully support our men and women who have served and are currently serving in our Armed Forces. As the ranking member of the Senate Armed Services Subcommittee on Readiness and Management Support, I have worked with my colleagues to ensure that our military members are provided with appropriate resources and equipment to successfully accomplish their mission. I wish to state my appreciation for being a member of this committee, and to thank the Senator from Virginia for his leadership. I commend the Senator from Michigan for his guidance and leadership as well, and I also wish to thank my subcommittee chairman, the Senator from Nevada, Mr. ENSIGN, for working with me on readiness issues.

I also commend the committee members of both sides of the aisle, and also subcommittee members, for a job well done.

I am delighted to work with the Senator from Maine, Ms. COLLINS, chair of the Governmental Affairs Committee, as we deal with some of these issues.

I rise today, however, to express my disappointment with the outcome of the conference report on several issues. I am particularly concerned with the DOD civilian personnel system. We worked on this issue very hard in the Senate Committee on Governmental Affairs and came up with a bipartisan approach that the committee endorsed with a 10-to-1 vote. Our approach would have provided DOD important new flexibility to manage its workforce, but it would have done so in a manner that preserved important safeguards for DOD employees.

This balanced approach was supported by a substantial majority of the Senate conferees. Unfortunately, we understand that there was stiff opposition from the House conferees and the administration, which insisted that the Secretary of Defense be given unilateral authority to decide what protections, if any, would be available to Federal employees. We were able to win some significant concessions. The conference report includes Senate provisions that would preserve the right of individual employees to appeal adverse personnel actions to the Merit Systems Protection Board and the courts; direct DOD to maintain current funding levels for civilian pay; provide specific guidance on the implementation of a pay-banding system; and require DOD to work with the Office of Personnel Management on the implementation of the new system.

With these protections built in, I would like to be in a position to support the civilian personnel provision. Unfortunately, I cannot, because of the outcome on the issue of collective bargaining.

Unlike the Homeland Security Act, this conference report would not authorize the Secretary of Defense to waive Chapter 71 of title 5, which governs collective bargaining. These provisions remain in full force and effect for DOD. However, the conference report does authorize the Secretary of Defense to establish "a labor relations system for the Department of Defense to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission."

In general, the new labor relations system established by the Department must be consistent with Chapter 71, since Chapter 71 remains in effect. In a few areas, however, the conference report would specifically override Chapter 71. For example, the conference report states that the new labor relations system "shall provide for independent third party review of decisions, including defining what decisions are reviewable by the third party, what third party would conduct the review, and the standard or standards for review."

By giving the Secretary of Defense the authority to decide who reviews disputes, the issues to be reviewed, and the standard of review, this bill appears to hand one party the final say on all labor and management issues. This language is inconsistent with the concept of good faith bargaining between equals.

At the same time the administration has asked us to establish a new National Security Personnel System, it continues to pursue an aggressive outsourcing agenda and to strongly resist cost of living increases for Federal civilian employees. I am deeply concerned that the administration's agenda of taking away employee's rights, giving away their jobs, and cutting their pay could have a real demoralizing effect on the DOD workforce that has done so much for our national security for so long.

I am also disappointed by the outcome of the conference on environmental issues. In the past, our committee has worked on a bipartisan basis to ensure that DOD behaves in an environmentally responsible manner, without being unduly hampered by environmental requirements when it conducts essential military activities. This year, the administration worked with the majority in both Houses to force through a series of provisions exempting the Department from basic environmental laws.

In particular, this conference report would amend the Endangered Species Act to exempt defense lands from critical habitat designations without establishing appropriate environmental safeguards, as the Senate bill would have done. It would authorize DOD to conduct activities that have a significant potential to harm large numbers of marine mammals without even applying for a permit and having the appropriate regulatory agencies review the proposed activities. It would exempt Fort Huachuca in Arizona from the requirement for cumulative impact analyses under the Endangered Species Act. And it includes language, which is not in either bill and not in the jurisdiction of our Committee, that would direct the Army Corps of Engineers to issue new rules making it easier for private citizens to avoid their obligation to preserve wetlands.

The military service chiefs have testified before our committee that our armed forces are more ready today than they have ever been before. That is because the military services have gone the extra mile to find constructive ways to comply with applicable laws and regulations with a minimum impact on training and readiness. It takes hard work with regulators and impacted communities on a case-by-case basis to achieve these solutions, but the payoff comes in the credibility the department has earned as a good neighbor and a faithful custodian of the public lands.

I am concerned that the exemptions included in this bill could begin to undermine the trust and cooperation on environmental issues that we have worked so hard to build between the military and civilian communities over the years.

Finally, this bill includes deep cuts to essential military operations and maintenance accounts that I believe are misguided. During the committee's markup and floor consideration, I voiced my concern that the proposed reductions in the military services' working capital funds were so drastic that they may harm military readiness.

The working capital funds are a complicated but crucial financial tool the military services use to ensure adequate supplies of spare parts, both now and in the future. Deep cuts to those accounts cause fluctuations in prices that units do not have the funds to pay for, which puts readiness in jeopardy and is a disservice to the men and women that serve. I am pleased that this bill represents a slight improvement from the large reductions taken in the Senate bill, but remain concerned about the almost $1 billion the conference report takes out of working capital fund accounts.

I was also disappointed by the $150 million reduction in base operating support taken from the Air Force; these funds are critical to the upkeep and maintenance of Air Force bases. Without them, basic repairs will be foregone and service members' quality of work and life will suffer. This is not the right message to send to our air men and women as they continue to make huge sacrifices for our Nation.

I am pleased by the military construction provisions that we were able to include in the conference report. In support of our defense infrastructure as well as the quality of life for our service men and women, this year's bill includes $9.7 billion for military construction in the U.S. and overseas. $5.7 billion will fund mission-critical projects which support important activities such as training, deployment, and ongoing operations. An additional $1 billion will fund family housing projects which will directly impact the quality of life for our servicemen and women and their families.

Although this year's bill funds many essential construction projects worldwide, it also makes significant cuts to numerous overseas projects requested by the Department, specifically in Germany and Korea. Final decisions have not yet been made regarding our overseas presence, and the reductions in this bill potentially send the wrong message to our U.S. forces fighting overseas. We ensure that we continue to support our men and women overseas to accomplish their missions and that we offer them the quality of life they deserve.

Again, I strongly support the men and women who serve in our Armed Forces. I also support the 750,000 Federal employees who play a crucial role in ensuring that our Armed Forces have the equipment, training, and resources they need to accomplish their mission. I believe it is imperative that DOD work closely with communities surrounding military installations and training ranges to achieve a positive working relationship based on mutual trust, understanding, and respect. For these reasons, I am greatly disappointed with the outcome of the National Defense Authorization Act for fiscal year 2004.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Before Senator COLLINS is recognized, I thank Senator AKAKA for his statement and, more importantly, for his service on the committee as ranking member of the Readiness and Management Support Subcommittee. That subcommittee has some of the most difficult issues which we have had to deal with this year; a number dealt with in ways I did not particularly agree with, either. As the Senator from Hawaii indicated, he had concern on a number of them, as well. Without his service on that subcommittee, we would have had many more problems than we ended up having. We are very appreciative and grateful for the service he provided.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that after I have concluded my remarks and the senior Senator from West Virginia has concluded his remarks that the Senator from Georgia, Senator CHAMBLISS, be recognized for 8 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, let me begin my remarks this evening by commending the chairman and the ranking member of the Senate Armed Services Committee. Both Senator WARNER and Senator LEVIN care deeply about strengthening our national defense and about supporting the men and women who wear the uniform. It has been a great pleasure to work with both of my colleagues. I particularly appreciate their work on what was an extremely challenging conference with the House of Representatives.

Personally, I have very mixed feelings about this conference agreement, but on balance I believe it deserves our support. For example, it provides much-needed support for naval shipbuilding, it provides a pay raise and improved health care benefits for our men and women in uniform, it provides real progress in providing concurrent receipt to our disabled veterans. It has many provisions that are absolutely essential, particularly in this time of war.

On the other hand, I am disappointed, for example, with the environmental provisions that have been included in this conference report. I felt the Senate version of the DOD authorization struck a far better balance than the provisions in the House bill, or even the compromises that are included in this conference report. I believe it is a false choice to say we have to sacrifice environmental protection in order to allow our troops to get the training they need. I much preferred the Senate version in this regard.

What I most want to comment on tonight are the Civil Service provisions that have been included in this legislation. The primary goal of our Federal personnel system should be the recruitment and retention of the highest quality workforce to serve the citizens of the United States. Unfortunately, the current antiquated system does not always achieve that goal. It has become too cumbersome for agencies to hire good employees, particularly those with specialized skills or expertise. It has become too difficult to reward outstanding workers, and it has become almost impossible to remove poor performers. Clearly, reforms are needed.

Earlier this year, the Department of Defense delivered to Congress a far-reaching proposal to restructure the Department's civilian personnel system. Unfortunately, the Department's proposal went too far and it did not include important safeguards to protect good employees.

To strike a better balance, I worked hard with several of my colleagues, including Senator LEVIN and Senator VOINOVICH, to craft an alternative that would give the Department of Defense the authority it needed to create a more responsive system while providing vital protections for the civil servants who work for the Department. The stakes in this debate were very high because the Department employs some 735,000 civilian employees. That is approximately a quarter of the entire workforce. So we needed to get this right. We needed to come up with a system that was more flexible but that was also fair to the civilian employees of the Department.

Title 5 of the United States Code sets forth the rights and the duties of Federal workers and defines their relationship with management. It is a series of laws committed to the jurisdiction of the Governmental Affairs Committee which I am privileged to chair. I take our responsibility for these laws very seriously. In fact, I would have much preferred for this matter to be addressed through the normal committee process. Indeed, the Governmental Affairs Committee, as Senator AKAKA mentioned in his remarks, approved a carefully drafted bill by a vote of 10 to 1. This was a bipartisan bill that Senator LEVIN helped to craft, along with Senator VOINOVICH and myself. It had the cosponsorship of several members of the committee including Senator AKAKA, Senator SUNUNU, and several others.

Unfortunately, the House acted to include this issue as part of the Defense Department authorization bill and thus that prompted the resolution of this important matter in conference.

This conference agreement, while by no means perfect, is a reasonable compromise to the challenge of modernizing an outdated system while protecting employees' rights. It is not as I would have drafted it. It does not represent fully the compromise so carefully crafted in a bipartisan manner by the Governmental Affairs Committee, the committee of jurisdiction. But we have included several important safeguards in this conference report.

For example, employees subject to adverse personnel actions will have an independent appeals process and an independent third party will resolve collective bargaining disputes. These are two essential reforms that were not included in the Department's original proposal.

Another very important provision in this bill has to do with the collective bargaining rights of the Department's employees. The Department of Defense has repeatedly claimed it has no desire to waive the collective bargaining rights of its employees. Indeed, the bill before the Senate specifically states the Department does not have the authority to waive the chapter of title 5 that governs labor-management relations. Thus, I fully expect the labor relations system developed by the Department will abide by the principles enumerated in chapter 71, such as the duty to bargain in good faith—a duty that applies to both labor and management, incidentally—and the prohibition against unfair labor practices.

Furthermore, the Department's ability to change employee management relations sunsets in 6 years, providing an additional check, another safeguard, on the Department as it develops its labor relations system. We put in specific language to require collaboration with the representatives of employees to make sure this is a collaborative, rather than a confrontational, process.

In addition, the final bill does not include the unilateral waiver authority sought by the Secretary which would have enabled the Department to waive the process for developing the system in the interests of national security.

This actually was originally proposed by the Department and was a completely unilateral waiver that would have allowed the Secretary to waive virtually all personnel laws and regulations. I am pleased we have not included that authority. I do not think it is necessary, and it is contrary to the spirit of developing a modern personnel system in a collaborative way with the employees of the Department.

The Governmental Affairs Committee will keep a very close eye on the Department of Defense as it develops the regulations to implement the new national security personnel system to ensure a collaborative process that will lead to a modern, effective, and fair personnel system. Senators LEVIN, VOINOVICH, SUNUNU, STEVENS, AKAKA, LIEBERMAN, and CHAMBLISS, and I will work together with our colleagues who care about this issue on both committees to ensure that the Department creates a system that is consistent with the merit system principles afforded to other Federal employees.

The Office of Personnel Management will also play a crucial role in the development of the system. And I trust that the Department will make every effort to use the expertise of Director Kay Coles James and her staff.

Finally, I thank Senator LEVIN, who has worked so hard on this issue. As the ranking member of the Senate Armed Services Committee, and as the senior member on the Governmental Affairs Committee, he, more than any other Member in this body, has unique experience and expertise which he brought to bear on this issue.

I also pay tribute to the chairman of the committee, Senator WARNER, who was very gracious in deferring to my strong interest in this area. He did allow and encourage me to take the lead in what were difficult negotiations with the administration and the House on this issue.

In the end, the product is not the one I would have preferred, but it does represent a reasonable approach and one that I hope will be successful in creating a modern, fair, and efficient personnel system for the Department of Defense.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if Senator BYRD will yield for just one moment.

Mr. BYRD. Yes, I am glad to yield.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank Senator COLLINS. In her usual modest way, she has given much too much credit to others for something on which she deserves the lion's share of the credit, which is an outcome which is not what either she or I would have preferred but is far closer to that outcome than would have been the case but for the persistence and—I will add the word here—courage of one of our colleagues; that is, Senator SUSAN COLLINS of Maine.

The rights are protected here that are essential to employees that will lead to greater collaboration between employees and the Defense Department because of her tenacity. I salute her for it and commend her for it.

It was a pleasure to work with her, on a bipartisan basis, in the Governmental Affairs Committee on the bill to which she has referred. Her outline of what was accomplished is indeed an accurate outline. I will have more to say about that later. But in the meantime, I express my gratitude to her. I think all of us, those of us who were even unaware of the outcome in any detail, will someday understand the contribution Senator COLLINS has made to the personnel relations in this Government, particularly in the Defense Department.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I begin by thanking the distinguished Senator from Virginia, Mr. WARNER, and the equally distinguished Senator from Michigan, Mr. LEVIN, for their courtesies and accommodations to me on this occasion and on innumerable, innumerable previous occasions as well.

We are now in the sixth week of fiscal year 2004 and the Congress has only presented the President with 4 of the 13 appropriations bills. The third continuing resolution under which most of the Government is operating expires on November 21. Regrettably, the Senate has yet to approve 3 of the 13 bills. The House and Senate Republican leaders have expressed their intent to move to what has become known as an omnibus appropriations bill.

I hope that the Senate does not once again fall prey to this monster known as an omnibus. An omnibus is a legislative creation without a mother or a father. It is more like a Frankenstein creature—a being patched together from old legislative body parts that don't quite fit.

And just as Dr. Frankenstein was quite surprised by the results of his creation, so may we be startled by the results of ours. Hastily drafted legislation, as Senators in this body well know, often has strange and unintended consequences. This omnibus would include at least three and as many as seven bills. It would be at least a $130 billion "Frankenstein" of a bill, and no one knows what other appendages would be attached to it as the Republican leaders rush to close out this session of Congress.

Under the cloak of a continuing resolution, the House has already passed just such a $190 billion omnibus bill that would fund 9 of the 15 Departments.

In accordance with the Constitution, revenue bills must originate in the House of Representatives and, by custom, most appropriations bills likewise originate in the House, but under the guarantees of the Constitution, as those guarantees flowed from the Great Compromise of July 16, 1787, the Senate has the right to amend those revenue and appropriations bills, as in all other bills.

The House can open the door to legislation on an appropriations bill, but if the Senate is denied the opportunity to consider amendments, or is severely limited in the number of amendments which it may consider, Senators are thereby denied the opportunity to offer amendments of their own and the potential for the achievement of truly good legislation in the final result, is, accordingly, lessened. The people's right to representation in the Senate would be denied and the likelihood of legislative errors in the final product is increased.

I believe creating an omnibus bill would be a grave mistake. The Framers saw the Senate as a powerful check against an overreaching executive. If free and unlimited debate is bridled and the right of Senators to offer amendments is hindered or denied, is not the Senate's power to check the executive accordingly diminished?

Sadly, the House and Senate have resorted to omnibus bills many times in recent years. In January of this year, Congress produced a monstrous 11-bill omnibus. For fiscal years 1996, 2000, and 2001, we produced omnibus bills that contained five bills each year. In fiscal year 1997, we had a six-bill omnibus, and in fiscal year 1999, we had an eight-bill omnibus. Every one of these massive bills, written in the compressed environment of a threatened Government shutdown, resulted in the White House being at the table, writing our appropriations bills with us.

Which party commands the White House at a given time should really make no difference as to how we conduct our duties in the writing of appropriations bills. We are here to work with, but also to act as a check on the occupant of the White House, and to reflect the people's will. We are not performing that watchdog function when we invite the White House behind closed doors.

I stood in this Senate and decried the omnibus bills during the last administration. I do so again today. I deplore this process. Through this process we, in effect, circumvent the supreme law of the land. We circumvent the Constitution. Just as I expressed to the Senate during the Clinton administration, by producing omnibus appropriations bills, we blur and we blend the very clear lines of the separation of powers set out in our national charter. Instead we cook up an unsavory soup which will be force-fed to the American people in order to avoid a completely avoidable Government shutdown.

Between fiscal year 1986 and fiscal year 2003, 25 appropriations bills were incorporated into omnibus appropriations legislation without having first been considered by the Senate. For example, the Labor-HHS-Education and Foreign Operations bills were included in omnibus legislation four times each without having ever been considered by the Senate. The people are certainly entitled to a full debate when it comes to deciding how to spend their tax dollars. After all, it is their money, isn't it. We heard that cry over and over again during the tax cut debate. May I observe that it is the people's money in an appropriations bill as well.

Some may believe that we have had so many omnibus bills in the last decade that defaulting to an omnibus bill has become an inevitable part of the legislative process. I stand here today to tell the Senate that this is not the case. In the 7½ years that I chaired the Appropriations Committee, from 1989 to 1994 and in 2001 and 2002, I never resorted to an omnibus bill to complete the 13 bills. What it takes to avoid the omnibus is the will and the drive to stand up for the rights of all Senators to debate important legislation and to complete all 13 appropriations bills.

I commend Senator TED STEVENS for his valiant efforts to move the appropriations bills forward this year. I know that he would prefer that the Senate debate the remaining bills as freestanding bills. The situation that Chairman STEVENS finds himself in is not of his making.

I must ask our leaders, why are we not considering appropriations bills the rest of this week? Why was the Senate in recess the week of October 6? Why was the Senate in recess for the entire month of August? Why is the Senate taking 3 days this week to debate judicial nominations?

I am pleased that the Senate leaders have allowed the Senate to debate the Transportation-Treasury bill, Foreign Operations and Agriculture bills. However, I remain concerned that there will be an effort to fold all of the remaining conference reports into an omnibus bill along with a polyglot of unknown authorization bills and the White House will dictate the contents of the bill.

I am concerned that once again the leadership will dictate to the Appropriations Committee that we include legislative matter in the omnibus bill that were not considered in the appropriations bills when the bills were before the House or Senate. There are already rumors swirling that the FAA conference report, the Water Resources Development bill, the Internet Tax Moratorium bill, and the healthy forests bill will be dropped into the omnibus. In 1999, the Senate reinstituted rule XVI, concerning legislating on an appropriations bill. In 2000, the Senate reinstituted rule XXVIII in order to avoid the insertion of new matter in conference reports. I hope our leaders will not allow these critical rules, which protect Members' rights to debate, to be abused.

In the past, before rule XVI and rule XXVIII were reinstituted, omnibus bills were used to enact scores of such measures, such as Medicare givebacks legislation, a tax extenders law, Community Renewal Tax Relief, Immigration Reform legislation, and debt collection legislation. We should not travel this dark and pot-hole-riven road again.

I am also concerned that the Senate has been passing bills with promises of spending on critical programs that will prove to be pure fantasy. The Senate approved $1.3 billion for veterans medical care on the Iraq supplemental and in conference, what happened? It disappeared, just like that. Houdini was there. The Senate, by a vote of 63–31, approved $1 billion to implement election reform legislation that the President signed last October 2002 but he underfunded in his budget. However, the Transportation-Treasury conferees have not been given any additional allocation to fund this increase. The Senate approved a $289 million increase for global AIDS, but the conference has been given an allocation that will force them to reduce the Senate Foreign Operations bill by $1.2 billion. The Labor-HHS-Education conferees are being told that they have to cut the Senate bill by $765 million. I hope the Senate will not fall back on an across-the-board cut on all programs to pay for these requirements. The bills are already lean. Across-the-board cuts will hurt veterans programs, homeland security programs, transportation programs and education programs.

Last Spring, this Senate approved a budget resolution that put tax cuts first. We knew at that time that the budget resolution would explode our deficits by placing tax cuts for the wealthy at the front of the line and funding for critical veterans programs, education programs and homeland security programs were at the bottom of the pile. Now that decision is coming home to roost. I fear that the Senate will soon be asked to sweep the bad news into a single, omnibus bill and ship it down to the White House.

I call on our leaders to reject the easy allure of the Frankenstein omnibus. We should debate each of the remaining bills and send the President all 13 bills for his consideration, for his signature or for his veto. The Senate is the upper house of a separate branch of government, with institutional safeguards that protect the people's liberties. We should not fall prey to the omnibus. We should not allow enactment of massive, monstrous, omnibus appropriations bills to turn Senators into legislative automatons.

The Senate should rise up and reclaim its full constitutional powers by insisting that we will work whatever amount of time it takes, for whatever number of days of the week it takes, to take up and pass all appropriations bills. We should never again revert to using an omnibus appropriations bill, which will likely come before this Senate in the form of an unamendable conference report. We should insist on a full debate on all of the remaining appropriations bills and send the President 13 regular appropriations bills.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I rise in strong support of the conference report on the fiscal year 2004 National Defense Authorization Act. I believe this legislation does a tremendous amount of good for the men and women in our Nation's military and their families, for America's veterans, and for our country's efforts in Iraq and Afghanistan.

I say a special thanks and congratulations to the Chairman from Virginia, Mr. WARNER, as well as the Ranking Member, Senator LEVIN of Michigan, for their bipartisan spirit in the preparation of the original bill that came out of committee and passed on the floor of the Senate, as well as the preparation of the conference report, which we will soon conclude. Senator WARNER and Senator LEVIN showed strong leadership throughout the process.

I also wish to point out one particular thing that we in the Personnel Subcommittee tried to address. It is pretty obvious, as we look back at the current conflict in Iraq and the recent conflicts that have taken place around the world, that we are calling more and more upon our Guard and Reserve to serve on a regular basis. It is incumbent upon us that we do more to equalize the status of the Guard and Reserve and the Active Force.

As the Senator from Tennessee, Mr. ALEXANDER, knows, he and I have conducted a number of hearings around the country relative to the treatment of children of military families, including the Guard and Reserve. We want to make sure that we are providing all the support necessary for our Guard and Reserve as well as our Active Force to make sure that military families have the kind of quality of life we want them to have and that they expected to have when they signed up for military service.

As chairman of the Subcommittee on Personnel of the Committee on Armed Services, I am proud of the significant actions that we and our House colleagues have taken in this legislation to help ease the burden for the brave soldiers, sailors, airmen and Marines who serve our Nation.

Specifically, the conference report authorizes an average 4.15 percent pay raise for service members and a higher, targeted pay raise up to 6.25 percent for mid-career personnel.

The conference report reduces service members' out-of-pocket housing expenses and it authorizes payment of special pay for positions of unusual responsibility and of a critical nature for our Reserve component, in order to ensure that Reserve and Guard personnel serving in command positions are recognized for their important contributions.

The report authorizes continued payment of special pay and bonuses for both Active Duty and Reserve personnel. Payment of increased rates of the family separation allowance and special pay for duty involving hostile fire and imminent danger at the higher monthly rates designated earlier this year are continued.

The conference report also provides enhanced access to TRICARE for members of the Reserve components and their families, and in a meaningful gesture of support for the invaluable contribution of our selected Reserve, it provides full commissary access for National Guard and Reserve personnel.

I want to particularly thank these Members of the Senate—Senators LANDRIEU, GRAHAM, ALLEN, ALEXANDER, and others—who have worked very closely with this Member of the Senate, to ensure that the equalization of the Guard and Reserve with the active force continues to move in the right direction. As we ask our military men and women and their families to do more and more, it is only right that we continue doing all we can for them. This important legislation continues to ensure that we have the best trained, best prepared, and best equipped troops in the world.

I am very pleased that this conference report includes an agreement on concurrent receipt, which I believe is long overdue and is directed at the most deserving disabled military retirees. The conference report would extend concurrent receipt for all disabled veterans rated 50 percent and higher phased in over the next 10 years. It would also make special compensation for combat-related disabilities available to every disabled military retiree—Active and Reserve—whose disability was incurred as a result of combat or combat preparation causes.

In my 8 years in the House, prior to coming to the Senate this year, Congressman MIKE BILIRAKIS of Florida, was the champion of concurrent receipt. I commend him for his hard work on the House side and his diligent efforts in ensuring that concurrent receipt is finally coming to be a realization. We have had the support of the chairman, and the ranking member, as well as Senator REID, who has been active on this issue. It is something that is long overdue, and it is time we gave our veterans the just reward they deserve.

American veterans have made great sacrifices so that we may live in a safe and secure America. Military retirees who incurred disabilities because of their long and faithful service should no longer have to incur the offset of their retired pay. I view this provision as a historic step in the right direction to help this important class of veterans.

Last year, at the conclusion of the fiscal year 2003 authorization bill, the distinguished chairman said that what we did then with respect to concurrent receipt was a step in the right direction and that we would do more. To his credit, and the credit of the ranking member, we are now following through with that commitment and moving in the right direction. This is a huge step and we will continue to look after our nation's disabled veterans in the future.

The conference report includes a provision that will enhance the process for achieving posthumous citizenship for deceased, non-citizen service members that was sponsored by myself and Senator ZELL MILLER, my colleague from

Georgia. This legislation was inspired by the dramatic story of Diego Rincon of Conyers, Georgia, a non-citizen member of our Armed Forces who was killed by a suicide bomber in Iraq. This provision will instruct the Government to take steps immediately to facilitate and expedite the process of naturalization following an immigrant soldier's death. Diego Rincon is a true American hero and this legislation ensures that he will be honored as one.

Included in the conference report is authorizing language to delay the decommissioning of Navy and Marine Corps Reserve aviation squadrons like those at the Naval Air Station Atlanta. This provision, which was also included in the final version of the fiscal year 2004 Defense Appropriations Act, prolongs the life of aviation squadrons at NAS Atlanta by preventing the Navy from decommissioning squadrons until the General Accounting Office completes a review of the Navy's plan for tactical aviation integration. This measure restricts funds to be used to decommission aviation squadrons until February 1, 2004.

Senator MILLER and I have worked hard all year to delay the decommissioning of the aviation squadron at NAS Atlanta and I am particularly pleased we were successful in postponing these decisions until the General Accounting Office conducts a thorough review of the Navy's plans for tactical air integration to ensure that it is done wisely and in a way that ensures the Navy's missions can be met long term. NAS Atlanta Reserve fight squadrons stand ready with great professionalism for a speedy deployment to critical missions around the world. This provision ensures NAS Atlanta will continue contributing to the Navy's crucial missions and war fighting ability.

This legislation also authorizes the lease of up to 20 aerial refueling aircraft by the Air Force and extends authority for the Air Force to purchase up to 80 tanker aircraft through a multi-year procurement effort. This agreement will allow the Air Force to begin recapitalizing their tanker fleet in a fiscally responsible manner and save taxpayers approximately $4 billion over the original Department of Defense proposal.

This particular provision, Mr. President, has not been without controversy. I commend my colleague, Senator JOHN MCCAIN, for pointing out to the committee several important discrepancies in the process leading up to this tanker provision. The chairman and the ranking member held several hearings on this subject and, for the right reasons, we were able to restructure this lease arrangement so that not only will our men and women in the military benefit from the provision in the conference report, but the taxpayer will benefit as well.

The Defense Authorization Act includes several other military programs that greatly benefit Georgia, as well as the country as a whole. For instance, it includes: Funds to authorize the Air Force to begin re-engining J–STARS aircraft. It includes $3.5 billion for 22 FA–22 aircraft, the next tactical fighter jet for the U.S. Air Force; $336 million for five C–130 aircraft, as part of a multi-year buy arrangement; $931 million to convert two Trident ballistic missile submarines into guided missile submarines, one of which will be stationed at Kings Bay Naval Base in Georgia; $2.1 billion for 11 C–17 aircraft, under, again, our continuing multiyear contract, which, for the first time in the history of the United States Air Force, we have operated in a businesslike manner from a procurement standpoint; $19.7 million to accelerate the C-5 aircraft avionics modernization programs; and an important provision aimed at ensuring that Army or Air National Guard personnel may effectively command Active Duty personnel when they are entrusted with command of a unit composed of both active duty and Guard personnel. This provision will directly benefit the command relationships and operations of the 116th Air Control Wing at Robins Air Force Base that flies and operates J-STARS aircraft.

Mr. President, I believe this conference report does a tremendous amount of good for our Nation and, most importantly, for the brave men and women who are serving our Nation overseas and at home. I urge my colleagues to support the conference report and again, I commend Senator WARNER and Senator LEVIN for their strong leadership.

I yield the floor.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Georgia, first, for his work throughout the year on this bill. I listened very carefully. He reflects a lot of hard work in his comments. I thank him for his service on this committee.

We are basically rotating. The distinguished ranking member has yielded his slot at this time to the distinguished Senator from Alabama. But after that, I ask unanimous consent that the Senator from Michigan be recognized for such time as he desires to complete his comments on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, before the Senator starts, we urge any other Senators to kindly contact the managers because in consultation with the leadership, we are proceeding to conclude this debate.

Mr. LEVIN. While the chairman is on that point, Mr. President, I understand there will be two more Senators in addition to me on this side tonight who will have remarks on the bill.

Mr. WARNER. I thank my colleague. I know of an additional Senator, the Senator from North Carolina, who I believe will be coming over very shortly. That will be three Senators we know of desiring to make remarks. I thank my colleague.

The PRESIDING OFFICER (Mr. TALENT). The Senator from Alabama.

Mr. SESSIONS. Mr. President, it has been a great honor and a thrill for me to serve on the Senate Armed Services Committee under the leadership of Senator WARNER and Senator LEVIN. They are the great professionals in this Senate. At the beginning of our Conference there were very difficult and challenging issues that looked as if they could not be settled, and reasonable minds could not reach an accord. But, as Senator WARNER and Senator LEVIN continued to pursue the issues and worked hard on them, realizing that we had a goal and a responsibility to pass this FY04 Defense Authorization Bill, the conferees managed to reach agreements which I believe are sound.

The bill before us today is a good step forward for America, for the strength of this country's defense, and for the men and women in uniform.

Today is Veterans Day. Some said we should not be here, but I think it is quite appropriate that while our soldiers are in the field today, not taking a holiday in Baghdad, or in Tikrit or Mosul or in Basra or across the border in Afghanistan, we in the United States Senate have work to do with regard to our Defense bill. It is quite appropriate we are here today and moving forward, providing for a 4.1 percent pay raise, and higher pay raises for certain specialities and for mid-grade personnel.

We continue today to see good things in our military which is fast approaching a transformed military. All of us are watching very closely those changes and the recruiting and retention figures of our forces, but to date the numbers look good in both categories.

I met earlier today with a United States Army Lieutenant Colonel from the 173rd Airborne Brigade at Walter Reed who was injured last month in Iraq and is now recuperating from his combat wounds. He told me when his battalion were taking the highest casualties, they also had the highest reenlistment rate. He said his soldiers, his young men, are warriors and he made that statement with the greatest passion. He was so very, very proud of them. You could sense it and see it in his eyes.

I express my appreciation to Senator WARNER and Senator LEVIN for the great work they have done. I thank Judy Ansley, our committee staff director; Bruce Hock and Tom MacKenzie, who helped me so much on the Airland Subcommittee I chair. All in all, we have had a good year and made great progress. We have such talented professional, decent, honest men and women who lead and our part of our armed services staff.

I want to make a particular note of appreciation for Archie Galloway on my staff. Archie is a retired Lieutenant Colonel, a Ranger. He served in the 101st Airborne Division. He has been a constant adviser, friend, and counselor on these issues. He really helps me to do what is best for America as we moved forward on these issues.

I am also very proud of our Guard and Reserve units and the men and women who serve in them. I served 13 years in the Army Reserve. Alabama has a tremendous National Guard and Army reserve presence and capability. These soldiers are serving with distinction. I believe the reserves will soon have 40 percent of the personnel in Iraqi theater.

I visited Iraq last August and visited two of the three Alabama National Guard MP units assigned around Baghdad. Almost half of the men and women in our Alabama MP units are full-time professional police officers, sheriff's deputies, and State troopers in their public life back home in Alabama. They are superbly qualified for the job and the challenges ahead of them. They are taking risks every day working with the local Iraqi police trying to identify, prosecute, and arrest people who are committing terrorist acts. They are trying to knock down crime throughout the country of Iraq and they are doing a superb job.

I would like to briefly mention the job our Airland Subcommittee accomplished during this year and during the conference. Of the $401 billion provided by this bill, the Airland Subcommittee managed approximately $25 billion in procurement and $15 billion in research and development (RDT&E). We took our tasks very seriously. These are very large sums of money, in two very important accounts. We worked hard on each issue. Airland responsibilities extend to all the transformational issues in the military, large and small. Most notable is the Army's Future Combat Systems (FCS). The Army's goal is to create a new, more versatile, capabilities based system that can operate in the future across a wide variety of mission areas. Even though the Army will be reporting in three different lines in the future, the work continues and must continue to its inevitable conclusion.

Time is short, relatively speaking, for the transformation to be accomplished. Rogue states and more capable adversaries loom on the horizon. We need to constantly ask ourselves: Is our military, the one which exists today, perfectly configured to meet this threat or can we continue to transform it and make it better able to meet the threat in the future?

Secretary Rumsfeld is a man who believes in asking tough questions about the future and taking the action today that will transform our military for the future. People have different ideas as to precisely how to achieve that goal. But, I believe this Congress and this Secretary of Defense, and I believe this President of the United States, are committed to making sure we succeed.

I was at a NATO conference in Europe not too long ago. The French rapporteur who was reporting on the war in Iraq for the conference shared some thoughts with us. He said the thing they learned most, and it was most clear during the war in Iraq, is that a well-trained, disciplined, technologically advanced military will defeat a much larger military not so advanced. That fact is absolutely clear.

We used 500,000 troops in the first Gulf War, Operation Desert Storm, just to remove Saddam Hussein from Kuwait. In Operation Iraqi Freedom (OIF), we defeated the entire Iraqi Army with less than 250,000 troops. We now have about 130,000 troops in Iraq. We have coalition support from the British and numerous other countries, but our personnel now are at about 130,000.

In Afghanistan, we were able to bring down the Taliban Government together with coalition forces. That cruel government was harboring and supporting al-Qaida and was also providing the training grounds for them to attack the United States. We defeated Taliban and al-Quaida forces with, I recall, no more than 4,000 troops US forces on the ground, using high-tech air support, special forces, and employing special operations of all kinds. We all know the story of the soldier on horseback talking to a B–52 at 35,000 feet calling in 2,000-pound bombs to within 30 feet of any spot he needed to hit. That is a new kind of warfare. That is truly transformational. We need to adjust to it and make sure we are fully prepared to handle the next phase of emerging technologies, the next phase of emerging training opportunities, and the next phase of initiative our men and women in uniform bring to the battlefield.

There are a lot of things in the bill which we all are proud of tonight. The concurrent receipt progress we have been trying to make is a big step in this legislation, and there are a number of other benefits for our military men and women that are important.

As a result of my visits earlier today and last month to Walter Reed, we discovered a problem impacting families when a soldier is facing imminent death. The military tries often to retire that person because they can receive better benefits. It is awfully grim, unpleasant, and wrong to bring a family into that situation. In this bill we fixed that process with a modifying provision. Some of the things being forced upon our military families in an imminent death situation are no longer required. Our doctors and our soldiers no longer have to call families to discuss imminent death retirement measures; rather, they can concentrate on the necessary lifesaving measures which are so important.

We also have better benefits in this bill for our soldiers who are killed in combat.

Within the Airland Subcommittee jurisdiction, I would just mention a few things that I think are quite significant as we go forward. We have $705 million for the joint direct attack munition for the Navy and Air Force. This is the famous JDAM. These were the bombs I mentioned earlier that can hit within 30 feet of a target using a global positioning satellite (GPS) guidance system. We need plenty of these munitions. JDAMS are the bread and butter of our Naval and Air Force bombers today. I believe this bill has gone a long way toward ensuring that we have adequate supplies to meet the challenges in the future.

Frankly, if we err however, we ought to err on the side of having far too many JDAMS. We should not have anything less than absolutely what we need at any given time to defend the just interests of the United States.

We moved forward on the FA 22. This new aircraft is so important. There was a challenge earlier this year however. We challenged the contractor. The Subcommittee was not happy with the progress the contractor had been making. We had program hearings and DOD testimony. We heard from witnesses and then we proposed reductions to the program. In the end, we ended up reducing the FA 22 program by $160 million. We already believe, from the time those hearings took place in the early part of the year, that the contractor is making good progress in dealing with the problems and issues that were previously plaguing the program and slowing it down. We believe they are going to continue to make good progress. I hope so. If not, we will be challenging them again next year.

We also dealt with the Boeing tanker lease. That was a matter Senator McCAIN raised early this year. He challenged the way the Department of Defense and the Air Force were planning to fund 100 new Boeing 767 aircraft. He believed that the way that was being handled was not good for the taxpayers. So we went through a long process of debate, IG and GAO evaluations of the funding process. In the end, the committee concluded that the program, as proposed by the administration, was not the best way to fund these aircraft.

We therefore came up with a program to lease 20 767's and go forward to purchase the remaining 80. This change in procurement and leasing will save, we believe, $4 billion dollars. I salute Senator McCAIN for his leadership on this effort, and I also appreciate the great work of both Senator WARNER and Senator LEVIN in reaching this new plan that I believe will work to the benefit of the Air Force and the taxpayers.

Another of the subcommittee issues addressed the fleet of HUMVEES found throughout the force structure. One of the things I learned in August while visiting units in Iraq is that many of the Humvees utilized for moving our soldiers around the battlefield are the light skinned, unarmed, and vulnerable Humvee models which are quite susceptible to small arms fire. This bill provides additional monies for the up-armored version, as they call it, Humvee.

Just this morning I was at the Walter Reed Army medical center meeting with PFC Chris Busby a military policeman from Alabama. He had severe injuries to his lower leg and one of his arms. He said he was in his Humvee, had his arm and his leg out the door, and a mortar round exploded nearby. It injured his arm and leg. He told me, without my asking: If I had not been in an up-armored Humvee, I may not be here today. Grenades, mines, and all of those are less effective against an up-armored Humvee. We need more of them, particularly in an environment such as Iraq.

We also provided funds for friend-or-foe equipment to try to avoid friendly fire problems. We also provided $60 million for the EA6B aircraft outer wing panels. I discovered after talking with senior Navy officials that we are having problems with these aircraft from stress. These funds will do a lot to fix the operational deficiencies of those planes.

We also provided $70 million for 7 UH60 Blackhawk helicopters. There are many more proposals and line items in this bill that I think will help make this a stronger and more vigorous nation and will make our military the best. What we need simply is this: We need the best trained military in the world. We need to give them the best equipment that exists in the world. We have both of those at this moment. We need even better equipment. We need even better training. If we maintain that momentum, if we maintain our commitment to research and development and to the utilization of new technologies where ever possible and we apply these capabilities and that desire to the modern battlefield our soldiers will remain the best military force the world has ever known.

I am so proud of our men and women in uniform. When I meet them in the hospital, or talk to them after they return home, or when I meet with them in Iraq or Afghanistan or Kosovo, or aboard a ship at sea or at a base here in the United States, I find that they are so highly motivated and committed to serving this country. They believe so deeply in the causes of our country. They are committed incredibly to helping the Iraqi's achieve a better life.

They are not just there to fight wars. They deeply want the Iraqi's to do better, to have a government that is free. Would that not be a good thing? Not just for us, and not just for the Iraqi people, but for the whole world. Wouldn't it be wonderful not to have any Saddam Hussein's in the world? Wouldn't it be wonderful not to have 300,000 people in mass graves that we are now uncovering in Iraq—the people Saddam Hussein slaughtered as a result of one of the most brutal regimes the world has ever known? He is gone now and we have an opportunity to step forward and create a government that allows the Iraqi people an opportunity to progress and succeed in the future. That is what we hope will happen. It is indeed a difficult time. Nobody knows what the future will bring, but I believe we will be successful because I am putting my confidence in the men and women who are serving our country around the world tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank Senator SESSIONS for his service on our committee. He is one of the members of our committee who works extremely hard. I have traveled with him. I did not travel with him the last time he made reference to, but I know how committed he is to the men and women in our service. That is shown every day here, but it was also shown to me very dramatically on the trip we were able to take together, and we thank him. I know, more importantly, the men and women in the Armed Forces thank him for that commitment.

The Senator from New Jersey is in the Chamber. I am wondering if he might like to go next. Approximately how long does he plan on speaking?

Mr. LAUTENBERG. I would say probably less than 10 minutes, but if I am allowed 10, that is fine.

Mr. LEVIN. If that would be all right with the chairman, I understand Senator DAYTON is on his way and he would also like 10 or 15 minutes. Then I would try to make my remarks with an additional 10 minutes.

Mr. WARNER. On this side, the Senator from North Carolina will soon be in the Chamber to take up a position in the queue.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Michigan for permitting me to say a few words at this point.

I rise to speak on language in the Defense authorization conference report that was added by conferees. It waters down two of our environmental laws significantly. There are two sections of this conference report to which I strenuously object. One ignores the will of the Senate with regard to protecting endangered species and the other represents the greatest single rollback of marine mammal protection in the last 30 years.

Last May, the Senate passed an amendment which I developed with Senator JEFFORDS to protect endangered species on Department of Defense lands. Before my amendment, the Senate bill effectively exempted the Department of Defense from complying with the Endangered Species Act, but my amendment instituted a reasonable two-step approach to protect endangered species without impeding military readiness or ability. That amendment was passed by the Senate. We need these protections and we know they work.

There are only 2 species that have been on the endangered species list that have gone extinct after being put on that list while over 600 species not on the list have gone extinct during that time. Look at the comparison: Two which failed to survive because they were on the list, and 600 which failed to survive because they were not protected.

The American people have spoken on this issue. We ought to listen to them. A Zogby poll earlier this year learned that 85 percent of registered voters believe the Defense Department should follow the same environmental laws as everyone else. Unfortunately, most of the Senate language was stricken by the conferees. What remains will not, in my opinion, provide adequate protection for threatened and endangered species. But what is worse, new language is contained in this report that could have disastrous consequences for populations of whales and other marine mammals off our coasts.

Ironically, in the State of New Jersey, which has a lot of coastline for the size of the State, we have a marine mammal stranding facility. People voluntarily go out into the water, get a dolphin, or they will get even a whale occasionally. They will bring it to shore and figure out a way to nurse it back to health and get it back in the sea. We treasure those, as every one of us should, because they are part of the ecology. Where they go ultimately, I think it is fair to say, the human race goes.

A rider was attached by the conferees that would allow marine mammals to be casually harassed, injured, and killed by activities ranging from sonar exercises to the testing of underwater explosives. Ironically, it comes just as the committees with jurisdiction and expertise over marine mammals have begun their work on reauthorizing the Marine Mammal Protection Act.

Once again, the conferees chose to add language that was not authorized by either House. We are seeing this on a too regular basis—language that is debated, discussed, and voted upon goes one way. It goes into conference. The conference committee, then composed of Members almost principally, almost exclusively of the majority party, decides they do not want to listen to what was sent over from the Senate or what was sent over from the House. If they disagree with it, they change it and the administration contributes to that. It is outrageous.

I have been part of this body for nearly 20 years and this is not how the Congress used to make law. We cannot look backward. We are where we are, but it is not a good turn of events.

That is what has happened. The conferees add their own language. It extends exemptions to the Marine Mammal Protection Act in the House language to apply not only to military activities but to all Government-funded research—a change that could be easily exploited by industry groups.

Under this act, there will now be no limit to the numbers of marine mammals the Department of Defense could kill or harm and no limit to the range of coastal habitat its activities could impact.

I am very much aware the leadership on the Armed Services Committee, under the chairman from the State of Virginia and the ranking member, our friend from Michigan, also has these same concerns. In particular, Virginia is a coastal State. They worry about what happens on their coasts. They worry about the sea life that is there, as well as the condition of the habitat. Virginia has some fairly strict requirements to make sure there is not a lot of damage done to the sea environment.

The rider that was developed would essentially give the Pentagon a categorical exemption to the provisions of the Marine Mammal Protection Act.

The Department of Defense receives 38 percent of all permits under the Marine Mammal Protection Act. Well over one-third of these permits will now be exempt from efforts made to limit the harm done to marine mammals. I am very disappointed these provisions have been included in the conference report.

I can tell you a few other people who are disappointed. They are my grandchildren and my children. They love the sea, and they love what lives in the sea. I have a child who lives in Florida, a daughter with two kids. They know what the marine mammal life is about. They are very conscious of the fact that people should not hurt them, harm them. I say that because that is the human relationship. It is the human experience.

I saw a picture of one of my granddaughters swimming with a dolphin. I thought I probably wouldn't like to be there seeing her do it, but she had a smile on her face. I think even the dolphin had a smile on its face. But we care about these issues. It is a pity to stand here pleading for a reinstitution of provisions that were in the bills before they got to the conference committee, that either have been eliminated or have been added without the approval of either body.

It is disappointing to see these provisions have been included in the conference report. For decades, DOD has managed to find common ground with its training and its environmental goals. These riders do not honor our military; they do not honor the will of the American people; and they do not honor the living creatures with whom we share our planet.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wonder if we could establish order for Senators to speak.

The PRESIDING OFFICER. That would be helpful to the Chair.

Mr. LEVIN. We have been going back and forth. Senator REID is ready to proceed for a couple of minutes. I wonder whether Senator DOLE might allow him, for 2 minutes, given his responsibilities, to go first. Then we would go to Senator DOLE, then back to Senator DAYTON. Would that be all right with all the Senators?

Mr. WARNER. I think we see the distinguished leader wishing to comment. Before we close out on that UC——

Mr. LEVIN. Mr. President, if I could have 30 seconds before we file that. Let me thank Senator LAUTENBERG for his comments and assure him one of the reasons this conference lasted I think longer than any conference in history, 147 days, was because of those two environmental provisions which, until the end, many of us fought very hard against.

The House prevailed. There would not have been a conference report, basically, if we had just refused to give in on this. Ultimately we did not have the votes on this side to carry on in that particular course of action. But I assure the Senator from New Jersey I, as one Senator, agreed with his comments. The provisions that were in the House bill, however, ultimately prevailed. That is what happens with some of these conferences. We basically win some and lose some, and as far as I am concerned we lost on this one, and so did the world.

Mr. WARNER. Mr. President, I will simply add to my colleague's accurate description that there was some mention you didn't particularly like the way it was written in conference. In fact, it was not. It was provisions adopted by the House. There were just a few words of modification in the conference.

Mr. LEVIN. The chairman is correct on that. I concur with our chairman. This problem is not the one we have run into recently as much as it is a problem of a very great difference between the Senate provision, which the Senator from New Jersey helped to author, and that of the House. His amendment was a very important amendment and put us on the right track. But we ran dead on to the House provisions. In this case it was the House provisions versus the Senate provisions, rather than additional provisions in conference which were the problem.

Mr. LAUTENBERG. I thank the manager and ranking member of the committee. But I say to my friend from Virginia, sometimes it is just a few words here and there that make all the difference in the way things come out.

I know there is a consciousness between the two distinguished leaders on the Armed Services Committee that the environment could have been and should have been protected as we planned it and as we discussed it. But we are where we are. I hope there will be a time in the not too distant future when we will be able to realize we have done some damage and change that.

Mr. REID. Mr. President, first, I want to express my appreciation to not only the managers but also to Senator DOLE and Senator DAYTON for allowing me to speak out of order.

There is so much rhetoric about the acrimony between the Republicans and Democrats in the Senate. Whatever is written, it is exaggerated. There is so much that happens in this body based on the work of the Senators. There is no better example of that than the Senator from Virginia and the Senator from Michigan. They have worked together for many years on this most important committee. They do it in a bipartisan fashion. They have done, I really do believe, an exemplary job of bringing this bill to the Senate.

This conference was long, grueling, and hard. But there are a lot of conferences which we have been unable to complete. This one has been completed, even though it deals with the most important aspect of our country—its national security.

I want the RECORD to be spread with the fact that so much goes on in this body as a result of the goodwill of leaders, but the two members on this committee are exemplary. You can't find better leaders. They are Members who have set aside their personal preferences on many occasions for the good of the country—I shouldn't say on "many" but on most occasions—for the good of the country. They come from different approaches on what should be in a bill, but when it all boils down, they do what is best for the country.

I have told both of these Senators that I feel good for my grandchildren as a result of the fact that every night these men are responsible for what takes place in the Senate dealing with the U.S. military. I say that without equivocation, and without hesitation.

There are a lot of good things in this bill. But the thing I want to talk about—and others can talk about other aspects they think are important—is concurrent receipt. We started on this journey a number of years ago. It was a lonely journey. I worked hard to focus attention on this issue. Attention has been focused not by me but by veterans throughout America. Because of them, we are at the point where we are now.

The negotiations on this issue alone in this bill were grueling. I had contacts with both managers of this bill over the months. It was difficult to arrive at a point where we now are; that is, people who are 50-percent disabled will be able to draw both their retirement pension and their disability benefits. That is tremendous. Of course, that is something we all wanted to accomplish. But it costs a lot of money, and we are going to do more in the future.

I want the two managers of this bill to know how much I personally appreciate the work they have done on this particular aspect of the bill. But I speak for veterans communities all over America, saying this is a tremendous bit of work to be able to arrive at this point; to think that we would be here talking about a 50-percent disability and receiving all of their benefits. A few years ago, it would not have been possible but we are there.

My admiration to the two managers of this bill goes even further. It didn't go unnoticed last night as I was spending a lot of time on the floor that to my right was my friend from Michigan who was with me for the last several hours of my little odyssey. He and I were here alone.. I appreciated that very much.

For the two managers, good work for America.

Mr. WARNER. Mr. President, I appreciate the expressions of the distinguished assistant minority leader. But he is so accurate about the veterans groups. They are all experienced lobbyists. Somehow I don't look upon them exactly as lobbyists. They are by and large all veterans. They very conscientiously reflect what is felt by Americans in their hearts with regard to veterans. They translate that feeling into legislation.

This was a long, long trail across rough terrain over many years. But I must say to my good friend from Nevada that had it not been for his steadfast and always unheralded leadership we would not be here tonight with this provision in this bill. I thank the Senator.

Mr. LEVIN. Mr. President, if I could ask Senator DOLE to yield for just 1 additional minute, I want to thank the Senator from Nevada for his leadership in this area, and for his kind remarks. But let it be very clear. The Senator from Nevada has led the fight on this concurrent receipt issue. Two-hundred and twenty-five thousand retired disabled veterans are going to now be able to receive their disability benefit as well as their retirement compensation because of his leadership. There are others, obviously, who participated. There always are. The Senator from Nevada is very generous in sharing that credit.

Surely our chairman, Senator WARNER, deserves a great deal of credit, as others here deserve credit, along with Senator REID. I know Senator WARNER will agree with me. As he just pointed out, Senator REID has truly been a leader in this effort. It would not have happened without his leadership. There are 225,000 veterans and their families out there tonight who will receive this benefit which they have earned and deserve who otherwise would not have received it.

I am sure the President will sign this bill, even though at one time it was suggested that the Secretary of Defense would recommend a veto. I can't believe that will now, in fact, happen. I thank the Senator for his leadership.

Mr. WARNER. Mr. President, if I may simply add, if the Senator will indulge me, because this is a very important point about the work that was done on concurrent receipt. In the final analysis, the administration came to fully support it and worked with us.

I also salute Senator MCCAIN who was tireless in his efforts on this very legislation through the many years I have worked on it with him and others.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mrs. DOLE. Mr. President, I have great respect for Chairman WARNER and Ranking Member LEVIN for their exemplary work on this conference report which will go so far toward improving our Nation's defenses and giving our men and women in the Armed Forces the resources they need. It is a great privilege to serve with these two outstanding leaders on the Committee on Armed Services.

For the thousands of North Carolinians serving overseas, this bill is most important for them and for their families. One of the most fundamental duties of the Federal Government is to provide for the common defense. As I have said so often, if our young men and women are being called into harm's way, they must have the best equipment, the very best training, and the highest morale. With this bill, we are giving them just that.

This legislation provides a 3.7-percent pay raise to all of our uniformed service personnel, and it continues the family separation allowance that helps provide much needed dollars for spouses and children when their loved ones are deployed.

There is a provision to continue special pay for duty in hostile fire or imminent danger. I am also pleased that the housing needs of our military personnel and their families are so strongly supported in this bill. The legislation will provide much needed improvements in housing, especially for our bases back in North Carolina.

TRICARE is also expanded for Reserve components under this legislation, something that is so desperately needed at a time when we are relying so heavily upon our Reserve Forces. This means our reservists and their families will get the health care and medical attention they need.

This legislation remembers our veterans who deserve so much for their committed service to our country. It is unfair for disabled veterans to pay for their own disability compensation. Legislation enacted last year restored benefits to retirees with disabilities who were awarded the Purple Heart or were severely disabled by combat-related activities. It was a good beginning.

The legislation before us now goes further by allowing special compensation to be extended to all military retirees whose disabling condition was due to combat or combat-related operations.

Additionally, concurrent receipt will be phased in over the next 10 years for those retirees with noncombat-related disabilities of 50 percent or greater. And the fight is not over. Our next step is to work to find a solution that meets the goal of full concurrent receipt for all military retired who are eligible for disability benefits.

As a member of the Senate Armed Services Committee, I will continue to keep this a priority.

I am also pleased to see the multiyear procurement for the F–18 Super Hornets in this bill. This is the first step toward basing this new mission in North Carolina. Soon it will bring over 1,000 new jobs to eastern North Carolina where they are desperately needed.

The legislation also authorizes $11 billion for the defense science and technology program, including $797.6 million for the critical, high-payoff science and technology programs. Many of these transformational technologies will be coming from new innovative businesses in North Carolina as well as from our exemplary university system.

It also increases by more than 30 percent the funding for special operations to include over $61 million for weapons systems, psychological operations capabilities, and enhanced intelligence. And we all know how much we have relied on our brave and daring special forces literally on the front lines in the war on terror.

The committee worked long and hard on the various "buy American" provisions, particularly the Berry amendment, which I am so pleased remains strong. At a time when we are all concerned about manufacturing jobs, I am glad we are going to take a good hard look at our industrial base to make sure that we give our troops the best equipment for years to come.

At Seymour-Johnson and Pope Air Force Bases, at Cherry Point Marine Corps Air Station, and Fort Bragg and Camp Lejeune, I was deeply moved by the dedication, the commitment, the patriotism of the members of our Armed Forces and their families. They make me proud and thankful to be an American. I am honored to have had the opportunity to work on this legislation and give something back to our men and women in uniform.

This is a good bill. It goes a long way toward strengthening our military, protecting our military families, and caring for our veterans. I applaud the committee for its work and urge my colleagues to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I rise today to join with my colleagues in support of this conference report, the national defense authorization bill for fiscal year 2004. At the outset, I express my appreciation and my utmost respect for the two outstanding leaders of the Senate Armed Services Committee, Chairman JOHN WARNER from Virginia and Ranking Member CARL LEVIN from Michigan.

When I was preparing to join the Senate 3 years ago, I asked two of my distinguished Minnesota predecessors, former Senator and Vice President Walter Mondale, former Senator David Durenberger, and my long-time friend and then-colleague-to-be, the late Senator Paul Wellstone, for their advice on committees to seek assignment. All three enthusiastically recommended the Senate Armed Services Committee for two primary reasons: First, it is of paramount importance with responsibility to assure this Nation's overwhelming military superiority now and forevermore; Second, the unparalleled opportunity to serve under, work with, and learn from the two incomparable committee leaders, Chairman WARNER and former chairman, now ranking member, LEVIN. The advice of my fellow Minnesotans was prescient in both respects.

For all the attention that is given to this body's partisan differences and discord, what are usually overlooked, though fortunately much more prevalent, are the bipartisan professionalism, mutual respect, and shared commitment to do what is best for America, for all of America. That ethic is what predominates in the Senate Armed Services Committee. It begins with the personal conduct and professional relationship of these two extraordinary public servants and national leaders, JOHN WARNER and CARL LEVIN.

At any time in our Nation's history, but especially during the unprecedented circumstances of the last 3 years, since the September 11, 2001, attack, the two wars that followed and are still ongoing in Afghanistan and Iraq, our Senate and our Nation are exceedingly fortunate in the leadership of these two outstanding men, Chairman JOHN WARNER and Ranking Member CARL LEVIN. They have also led members on the Armed Services Committee, on which I am proud to serve, to pass legislation, first in the Senate with overwhelming bipartisan support and now in the conference with the House, with President Bush's civilian defense leadership and with our Nation's military command, Chairman Richard Myers and the members of the Joint Chiefs of Staff who serve this country with such great distinction.

As George Washington said in 1793, in his fifth annual address to Congress: "If we desire to avoid insult, we must be able to repel it. If we desire to secure peace, it must be known that we are at all times ready for war."

The succeeding 210 years have proven President George Washington's wisdom and the imperative that we follow that advice. With this legislation, we have continued that bipartisan commitment and upheld that most sacred trust, the protection and safety of our fellow citizens across this great Nation and, so much as humanly possible, throughout this world.

The final bill before the Senate authorizes $401.3 billion in budget authority for fiscal year 2004 with additional funding authorized for the acquisition of 100 tanker aircraft. The Defense appropriations measure, which this body has passed, which will come back in conference reports that we will pass again with overwhelming bipartisan support, will obligate most of that funding, which does not count the $67 billion in the recent supplemental appropriation for ongoing military operations in Iraq and Afghanistan, which means that, in total, in fiscal year 2004 we will spend over $500 billion for our national defense and military operations.

Some of my constituents would say that is too much. Some would say it is too little. It is unquestionably a great deal of money. As a great former Senator and colleague and member of the Senate Armed Services Committee, Max Cleland, would say, $500 billion does not go as far as it used to.

But freedom is not free. Today, on Veterans Day, as we honor the brave men and women who have sacrificed their lives, their bodies—as Senator Cleland did—we are reminded once again that freedom is priceless and ever more expensive.

But the results in Iraq and Afghanistan should assure our Nation that the money we have spent has been well worth it and well spent. It has saved American lives in those theaters and it has saved the lives of other people in the world. It has protected the world from some of the most evil forces imaginable and from that most awful of possible occurrences, a nuclear catastrophe.

My fellow citizens should recognize that we are not, all of us, together, paying that price. We are borrowing it and passing most of the costs of its repayment to our children and our grandchildren. The projected fiscal year deficit for the Federal budget for the same fiscal year 2004 which we have just begun is estimated to exceed $500 billion. That happens to be approximately the expenditure for our national defense. It is not right to single out defense spending as the cause of that deficit. It is right, in fact, to single out everything as the cause of that deficit.

Regarding our spending and our tax policies, which the Concord Coalition, a coalition of business men and women and previous leaders of this Nation, recently called the most reckless fiscal policy in this Nation's history—4 years ago, in fiscal year 2000, the total Federal revenues coming from the personal income tax, the corporate tax, the excise tax, the estate tax, and the capital gains tax equalled, for the first time in 40 years in our Nation's history, the expenditures other than Social Security and part of Medicare which we call the on-budget expenditures, which include all of our expenditures for national defense, military operations, intelligence, and other ongoing activities.

For this fiscal year just completed, 2003, those revenues amount to only two-thirds of those expenditures. And next year, if projections hold, revenues will be even less than two-thirds of those expected expenditures.

I regret we live in a world where this much money must be spent on our national defense. I would rather we could spend the money on special education for all of our children, who are now still being left behind, and that it could be spent on student aid for our young adults, who are going tens of thousands of dollars into debt just to complete their undergraduate and postgraduate education.

I wish the money could go to buy prescription drug coverage for our senior citizens and other Medicare recipients that would be as good as what the Members of Congress receive. I wish we could provide health care to the 44 million Americans who receive no health coverage at all. I wish we could rebuild our highways and improve our mass transit systems, add to our bridges, and advance our infrastructure.

There is so much else we can do for the betterment of our citizens, but, unfortunately, there can be none of these homeland improvements without improved homeland defense. We cannot achieve national prosperity for all of our citizens if we do not first and always achieve national security for all of our citizens.

As I said, the experience of the last 3 years should assure all Americans that those national defense dollars are being well spent and that we are well served, well protected as a result.

In Afghanistan, the United States military accomplished, in 10 weeks, what the old Soviet Union could not accomplish in 10 years: the routing of the Taliban and the restoration of the beginning of a new government, a government of the people of Afghanistan.

In Iraq, it took only 3 weeks for the United States forces on the border to occupying Baghdad, the nation's capital. The difficulties that have occurred since then have not been the result of failed military strategy or its execution but, rather, the failure of securing the peace to catch up with winning the war.

Our Armed Forces, our fellow Americans—our sons, our daughters, our brothers, our sisters, wives, husbands, mothers, and fathers—in the words of the motto of the U.S. Army's Second Division, which I visited in April with Senate Majority Leader FRIST, and others of my colleagues—are "second to none." The U.S. military is second to none. It is the best, the bravest, the most accomplished, intelligent, and patriotic armed forces anywhere in the world, anywhere in the history of the world.

I am especially proud, as a Minnesotan, of our State's and other States' reservists and National Guard men and women, who are now—many of them—on active duty serving in their second or even third tour of duty in recent years. They deserve our gratitude, and, more than that, they deserve our ongoing support.

It is very important, as others have noted, that this authorization provides for a significant pay increase for our Active Forces. It establishes, for the first time, the coverage on health care to some of the members of the Reserve and National Guard, those who do not presently have the opportunity to obtain that health coverage through their private employers, to be covered not just when they are on active duty—which they increasingly are—but year-round.

I viewed, on Sunday night, the ABC televised report that said of the reservists and the National Guard men and women presently serving in Iraq, only 54 percent indicated they would reenlist, which is understandable, given the severe circumstances they are experiencing there, as the chairman and ranking member and others of us, including myself, experienced briefly last July in that country.

I would expect that with the opportunity to return to home and families, that percentage would increase, but it underscores how imperative it is we create incentives for these courageous men and women, and for their families, and for their employers. They undergo the sacrifices that they must to be in the Ready Reserve and to step in, in these times of national emergency. We need to provide health coverage for them and for their families.

I salute the chairman and the ranking member and Senator GRAHAM of South Carolina, who also spearheaded this measure in this Senate, who has assured me this is the first step toward securing, hopefully next year, complete coverage under the Federal health care system for all of our reservists and National Guard men and women because it is the right thing to do, it is the humane thing to do, and it is the best thing we can do to offer them a reason to reenlist, to stay a part of keeping this Nation as strong as it must be.

They are taking awfully good care of us. It is imperative that we take as good care of them as we possibly can. The same measure of standard should apply to our veterans who have served us formerly who are now moving on in years.

I note, as others have, with great appreciation, the outstanding efforts of the Senate Democratic assistant leader, HARRY REID of Nevada, who has championed the concurrent receipts for all of our veterans who have suffered disabilities, who reach the age where they also are eligible for Social Security and other retirement benefits.

Why they should be penalized, unlike anyone else in the private sector or the public sector, is beyond me—those people who have served and who have paid the price with their own physical infirmities, wounds, sometimes maimings.

Today I was at the Korean War Memorial with a group of Minnesotans, some of whom could not walk and were in wheelchairs—amputees because of the wounds they suffered fighting for this Nation's freedom and the security of the world in Korea over half a century ago. Why they should be penalized now in their older years for that service, for what they earned, and what they paid for with the price of their own bodies, is somewhere where we still, as a nation, have fallen short in our responsibility to them.

To phase it in, with all due respect to all of us who made this effort—but against the fervent opposition, which I do not understand, of the administration, to immediately correcting this injustice—to phase it in over 10 years, to me is unconscionable—indefensible and unconscionable.

We have put tax relief for the wealthiest people of this Nation in place and made it retroactive. We have tax relief coming in and out and in and out and back again within the same 10 years we are talking about phasing in this deserved benefit—earned benefit—for our injured veterans of America.

That is another critical task that I know this body, which passed it overwhelmingly last year—and the efforts of the chairman and ranking member of this committee, if they had been able to prevail, would have been applied fairly and immediately to all of our disabled veterans. But it is a task that all of us must undertake again next year.

There are important measures in this legislation that benefit the State of Minnesota, as other States. What is most important is that this is a measure that benefits our entire country.

I would say again that the bipartisan spirit of the committee, of the Senate, with regard to national defense, both before but particularly during most of the 3 years I have been in the Senate, which has included the post-9/11/2001 era, has been probably my proudest participation in the Senate because we are first and foremost, all of us, Americans.

Even those disagreements that sometimes preoccupy us, that capture the headlines, that seem to be the description of this great body, are, in fact, as our distinguished Democratic leader, TOM DASCHLE, has reminded us regularly, the noise of democracy.

It is because we can all stand in this body and express our views and agree or disagree, hopefully, respectfully, with one another. Regardless, that we can do so, and go home to our families, to return the next day to offer our best judgments and ideas, again without fear of incarceration or execution or obliteration—that is what is priceless about this Nation. That is what this bill is intended to preserve.

I believe that the committee, and the conference committee, the men and women serving in our Armed Forces, the civilian leadership of this country under President Bush and his civilian defense leadership, the Joint Chiefs of Staff, and the command of the military of this country, for whom I have felt the greatest respect and regard—I think our fellow Americans can sleep well tonight with the knowledge that they are being well protected.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I express my appreciation to the distinguished Senator from Minnesota for his work on our committee throughout the year. He volunteered to travel to Iraq with our CODEL, and he is ready to pick up the burdens at any time he is requested. I thank him also for the respectful way in which he referred to our former colleague whose seat he proudly holds today.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, let me join Senator WARNER in thanking Senator DAYTON, first for the very overly generous comments he made at the beginning of his remarks. They are obviously very warm and very much appreciated. The references he made to the former colleagues of ours are particularly important personally to both

Senator WARNER and to me, and we are very grateful for them.

Senator DAYTON has brought to our committee and to this body a very great passion, not just for Minnesota—although Lord knows that passion is there for issues that affect Minnesota, including his Guard and Reserve that are so close to his heart—but also the defense issues that affect every citizen of this Nation. Perhaps typical of him was the way in which he identified, with a number of other colleagues, a problem for the service men and women who are coming back on leave from Iraq and who are dropped off at Baltimore Airport and have no way to get to their homes. Senator DAYTON joined a few others in this body to make sure in that supplemental appropriation we would get them home, not just to our shores but to their own personal homes.

That is the kind of personal approach he takes toward issues, a combination of great passion and tenacity and forthrightness and directness and guts and courage, taking on a lot of tough issues, but also a very personal approach. We are very glad he is on the Armed Services Committee and grateful for the contribution he makes to our committee.

If the chairman has no other matter, I thought what I would do is very briefly continue with a few comments. I began a rather lengthy statement I was going to make about the Defense authorization bill, and I have a few additional comments.

Where I left off a couple hours ago was making reference to the fact we increased the Active Duty end strength of the Army in this bill by 2,400. That is a small number, given the demands we are placing on our troops, but at least it gets us on the right road. Senator JACK REED worked hard for this increase. Senator WARNER and I in conference did the best we could, given the circumstances we faced and the limits we had to deal with. But Senator REED was determined we would do what it is clear to all of us we must do and consider more of, which is to take a look at the huge demand we are placing on our troops, take a look at the sustained callups of our National Guard and Reserve components since the Vietnam war.

We now are watching them more and more deployed for extended periods and repeated deployments of the same Guard and Reserve units. We have to address this issue. There are many ways to do it, but one of them is to take a look at increasing the end strength of our Active-Duty people. We decided we would start this year with the Army where the greatest crunch has been felt. That 2,400 personnel increase authorized by this bill again is a relatively small increase given the demands on our troops, but it is an important statement of where this committee is.

We are also pleased the conference report includes a proposal which Senator KENNEDY and others were very instrumental in proposing which would serve to expedite the naturalization of lawful permanent residents serving in the military, and their families. These are men and women in uniform who willingly put their lives at risk to preserve our freedoms. They deserve nothing less than full participation in those freedoms as citizens.

The expedited and naturalization of lawful permanent residents who do serve in the military, and also for their families, has been championed by Senator KENNEDY and a number of other colleagues of ours. That provision is in our bill.

This conference report also addresses the Air Force proposal to lease, rather than buy, 100 new tanker aircraft. The Senate Armed Services Committee spent many hours trying to gauge the severity of the problems with the existing Air Force tanker fleet and the urgency of the requirement to replace those aircraft. In my view, the Air Force was deficient in the case they tried to make that there is an imminent risk to the fleet, but the Air Force did show a long-term requirement for tankers that will ultimately require the fielding of replacement aircraft.

At the same time, the Government Accounting Office, the Congressional Budget Office, and the Congressional Research Service all raised serious questions about whether the lease proposal presented by the Air Force was in the best interest of the taxpayers. According to these independent analyses, the tanker lease proposal was likely to cost the taxpayers as much as $5 billion more than a traditional purchase of the same aircraft on the same schedule.

After considering these issues, Senator WARNER put forward an alternative approach under which the Air Force would lease 20 tanker aircraft and purchase the remaining 80 aircraft contemplated in the original lease agreement. I supported this creative approach. It would reduce the acquisition cost for aircraft by more than $4 billion dollars, while allowing the Air Force to acquire the full 100 aircraft that they say they need.

In order to help the Air Force with its funding problems, we agreed to authorize incremental funding of the 80 aircraft purchase, so that the Air Force can budget for aircraft construction costs in the year the costs are incurred, rather than obtaining full budget authority at the time the order is placed. Incremental funding is not generally a good idea, but it is a significant improvement over the lease approach originally proposed by the Air Force in this case.

I want to specifically point out the very creative role of Senator WARNER in coming up with a solution which I was proud to support. This is his creative solution to a real problem. We have a need for new aircraft. The problem is the resources were not there for them. The right way to do this is purchase, not lease. We did the best we could to make it clear at the same time we acquire these aircraft, we want to do it with minimum damage to the usual procurement rules which require a purchase rather than a lease of equipment of this kind.

I was also pleased the conference report includes a Senate provision authorizing the expansion of the cooperative threat reduction program of the Department of Defense and the nonproliferation programs at the Department of Energy, outside of the former Soviet Union. That was the change we were able to make. This is the basically flowering of the Nunn-Lugar program. Senator LUGAR, of course, who is still in this body, is the one who has promoted and prodded and pressed us to do this. He has been absolutely right on this program. They have proven to be important tools in helping to reduce the proliferation risk from nuclear, chemical, and biological materials in the former Soviet Union.

We give the President the authority which the President requested to continue the destruction of chemical weapons in Russia. It fully funds CTR programs. But at the request of the administration, with full support of Senator LUGAR, who really was a leader in this, and the full support of our chairman and our committee, we have now for the first time, using the authorities in the agreement, allowed the President to use these cooperative threat reduction funds from the Department of Energy Materials Protection and Control Program to meet emerging threats in other parts of the world. It is no longer limited now to the former Soviet Union.

Again, Senator WARNER's total support of this change was instrumental in making it happen.

Mr. WARNER. Mr. President, if the Senator will yield, it certainly was his leadership on those issues, the CTR, the expansion. Truly, I joined you, and felt strongly about them. We were steadfast when the four of us finally got into the conference and settled those points.

Mr. LEVIN. I thank the chairman.

Finally, I am pleased that the conference report includes a Senate provision authorizing the expansion of the Cooperative Threat Reduction program of the Department of Defense and the nonproliferation programs at the Department of Energy outside the Former Soviet Union. These programs have proven to be important tools in helping reduce proliferation risk from nuclear, chemical and biological materials of the Former Soviet Union. This conference agreement also provides the

President with the authority he requested to continue destruction of chemical weapons in Russia, and fully funds the CTR programs.

As we have all come to appreciate, however, the risk that nuclear, chemical and biological materials and knowledge will proliferate is not limited to Russia and the other States of the former Soviet Union. For the first time, using the authorities provided in this agreement, the President will be able to use CTR funds, and funds from the Department of Energy, DOE, Materials Protection and Control program, to meet emerging threats in other areas of the world.

I had previously expressed my gratitude to Senator COLLINS for her extraordinary leadership in this effort. Her assessment on the floor is one I join.

The House bill contained a provision, based on an administration proposal, that would fundamentally alter the Federal Civil Service System by authorizing the Secretary of Defense to waive certain provisions of law governing employee performance, pay and allowances, labor relations, hiring and firing, training, pay administration, oversight and appeals. The House provision included few legislated procedures and processes for the new civilian personnel system, other than the requirement that the new system be "flexible" and "contemporary".

The Federal Civil Service System was established more than a century ago to replace a patronage system that was characterized by favoritism, and abuse. While reform and streamlining of that system is a reasonable objective, it is equally important that we do not allow those abuses to resurface. The House bill would not only have provided the greatest shift of power to the executive branch in memory, it would also have put us at risk to some of the abuses of the past.

Senator COLLINS and I worked together closely to fashion a bipartisan bill in the Governmental Affairs Committee that would provide the Department of Defense the new personnel flexibility that it needs, while preserving important protections for individual employees. Our bill was approved by the Governmental Affairs Committee in early June and became the basis for our negotiations in conference with the House.

The bipartisan approach that Senator COLLINS and I took on this issue met with opposition from the administration at every turn. At times, it appeared that some of our opponents were less interested in enacting sound human capital provisions than they were in providing as much power as possible to the Secretary of Defense.

Nonetheless, we were able to build some important protections into the legislation that is included in this conference report. These include provisions from the Collins-Levin bill that would: preserve the right of individual employees to appeal adverse personnel actions to the Merit Systems Protection Board and, if necessary, the courts; ensure that the new personnel system cannot be used as a basis for reducing the amount of money allocated to civilian pay accounts; provides specific guidance and direction on the implementation of a pay-for-performance system; ensure that the Office of Personnel Management will play a central role in developing a new personnel system for the Department of Defense; and provide for the orderly phase-in of the new personnel system.

The outcome on collective bargaining issues was more of a mixed bag. I believe that the right of employees to participate in labor organizations of their choosing, and to engage in collective bargaining through such organizations, is a fundamental one in our society. This view does not appear to be shared by the White House or the Department of Defense.

Nonetheless, the collective bargaining provisions that Senator COLLINS and I were able to negotiate on this bill are substantially better from our perspective than comparable provisions included in the House bill and the Homeland Security Act.

The Homeland Security Act authorize the Secretary of Homeland Security to waive any and all of the provisions of Chapter 71 of Title 5, which governs labor-management relations for Federal employees. This waiver authority gives the Secretary of Homeland Security complete authority to establish any new labor relations system he may choose, with virtually no statutory limitation. The House bill would have provided the same authority to the Secretary of Defense.

This conference report does not include any authority to waive the requirements of Chapter 71. On the contrary, as the Chairman of the House Government Reform Committee pointed out on the House floor last week, this bill specifically lists the provisions of Chapter 71 as being nonwaivable. The bill before us states, and I quote, "Any system established [under this provision] shall . . . not waive, modify, or otherwise affect" Chapter 71. This means that the Department of Defense, unlike the Department of Homeland Security, remains subject to the collective bargaining requirements of Chapter 71.

The conference report also states that, notwithstanding the provision preserving the full force and effect of Chapter 71, the Secretary "may establish and from time to time adjust a labor relations system for the Department of Defense to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission."

These two provisions must be read together and both must be given meaning. The first provision states that Chapter 71 may not be waived or modified. The second provision states that the Secretary may establish a unique labor relations system. For both provisions to have meaning, the unique labor relations system established by the Secretary must be consistent with the requirements of Chapter 71. For example: Section 7102 of Chapter 71 states that each employee shall have the right to form, join, or assist any labor organization to engage in collective bargaining with respect to the conditions of employment through representatives chosen by employees. The unique labor relations system established by the Secretary must preserve this right.

Section 7105 states that the Federal Labor Relations Authority FLRA shall determine the appropriateness of units for labor organizations representation and supervise or conduct elections within such units. Nothing in the conference report gives the Secretary of Defense any authority to waive or modify this requirement imposed on an independent Federal agency.

Section 7111 requires an agency to accord exclusive recognition to a labor organization if the organization has been selected as the representative by a majority of the employees in a bargaining unit. The unique labor relations system established by the Secretary must preserve this right.

Section 7114 states that a labor organization which has been accorded exclusive recognition as the exclusive representative of the employees in the unit represents and requires an agency to bargain in good faith with such a labor organization. The unique labor relations system established by the Secretary must preserve this right.

Section 7116 provides that it shall be an unfair labor practice for an agency to interfere with, restrain or coerce employees or to refuse to consult or negotiate in good faith with a labor organization. Nothing in the conference report gives the Secretary of Defense any authority to waive or modify this requirement.

Section 7118 authorizes the General Counsel of the FLRA to investigate allegations that any person has engaged in unfair labor practice. Nothing in the conference report gives the Secretary of Defense any authority to waive or modify this requirement applicable to an independent federal agency.

Unfortunately, the conference report does provide for exceptions to the applicability of Chapter 71. In this regard, the conference report specifically provides that the labor relations system established by the Secretary "shall provide for independent third party review of decisions, including defining what decisions are reviewable by the third party, what third party would conduct the review, and the standard or standards for that review." It also states that national level collective bargaining shall "be subject to review by an independent third party only to the extent provided" under this process. This language appears to preclude the appeal of such issues to the Federal Service Impasses Panel under section 7119 of Title 5.

While I was disappointed by the decision to include language limiting the review of collective bargaining decisions, the preservation of other rights under Chapter 71 makes this provision far preferable to the personnel provisions in the House bill or the Homeland Security Act. Senator COLLINS' commitment to this issue has ensured that Department of Defense employees will have far greater protection under the National Security Personnel System than they would otherwise have enjoyed. I commend her for her steadfast determination to make this provision as balanced and as fair as possible.

Several of the environmental provisions in the bill go far beyond what is needed to address the legitimate needs of the Department of Defense.

The first of these would exempt defense lands from critical habitat designations without establishing a suitable alternative environmental safeguard. Both the House bill and the Senate bill recognized DOD's interest in greater flexibility for military training by allowing the use of an "Integrated Natural Resources Management Plan," INRMP, adopted by DOD to protect endangered species in lieu of a critical habitat designation, which would be far more restrictive. However, the Senate bill included a threshold test—used by the past two administrations—before an INRMP could be approved as a substitute for a critical habitat designation. The House bill contained a much less careful approach.

In the course of the conference, we offered a long series of possible compromises on the threshold test. We suggested that DOD at least show that the INRMP provided a "reasonable benefit" for endangered species, or "appropriate protection" for endangered species—flexible tests that would have given the administration broad discretion to balance military readiness concerns against environmental protection concerns.

We were met with a complete stone wall. We were told that while the Pentagon would of course be "reasonable" and take "appropriate" steps, these words could not be put into statute. Any adjective, we were told, would subject the Department of Defense to "litigation risk." Of course, the only standard that raises no litigation risk is a standard that imposes no obligation. That appears to be the course that is administration has chosen when it comes to environmental issues.

Similarly, on the Marine Mammal Protection Act, I believe that the Navy has some legitimate concerns about the application of the current statute, but I was concerned that the language in the House bill went too far in trying to address those concerns. As I read that language, the Navy would not even be required to seek a permit under the Marine Mammal Protection Act unless its activities would disturb marine mammals populations to such a significant extent that there are reproductive or survival implications for the species. If for some reason this weren't enough, and a permit wasn't granted, the provision would allow the complete exemption of activities that would have an even greater adverse impact on marine mammals.

I offered to work with the Navy to try to reach agreement on more balanced language that would still address the Navy's concerns. The Navy initially encouraged such discussions, but the Department of Defense soon began to reject any change to the House language. As was the case with the Endangered Species Act, the Administration rejected every proposal that could have garnered broad bipartisan support in favor of an approach that would impose virtually no obligation at all on the Department of Defense to be environmentally responsible. I am concerned that this approach could result in real and unnecessary harm to marine mammals and a serious backlash against the Navy—which could undermine critical readiness activities in the long run.

Finally, I am disappointed by the outcome of the conference on nuclear weapons issues. In my view, this conference report takes the United States in a dangerous new direction that marks a major shift in American policy, is inconsistent with our longstanding commitment under the Nuclear Nonproliferation Treaty, and undermines our argument to other countries around the world that they should not develop or test nuclear weapons. With this legislation and related actions over the past 2 years, the Bush Administration appears to be moving to change the traditional thinking about nuclear weapons, to make nuclear weapons more usable, and to see them as just another capability. Or, as a recent article in the New York Times Magazine suggests, to make the unthinkable—thinkable.

Current U.S. law bans research and development of new nuclear weapons that could lead to their production. The specific weapons covered by the ban are so called low-yield nuclear weapons which have a nuclear explosive yield of 5 kilotons or less. Five kilotons is roughly a third the size of the nuclear bomb that was used at Hiroshima, which immediately killed an estimated 140,000 people and left many more injured. The Bush administration asked that this ban be repealed. This conference agreement would do so.

There is some satisfaction that the conference agreement includes language adopted on the Senate floor, which would require specific congressional authorization before the administration may engineer, test, produce or deploy a low-yield nuclear weapon. However, this requirement is a poor substitute for current law, which imposes a complete ban on the development of such weapons.

This conference report would also authorize the Bush administration request to continue work on a Robust Nuclear Earth Penetrator, RNEP. As with low-yield nuclear weapons, the Administration would be authorized to proceed with research, but would be required to obtain specific authorization to engineer, test, produce or deploy the RNEP. The RNEP program would modify one of two existing low yield nuclear weapons to create a nuclear weapon that will penetrate rock. Both weapons being looked at for possible modification are high yield nuclear weapons with yields that are approximately 30 and 70 times the explosive power of the Hiroshima bomb.

At a time when the United States is trying to dissuade other countries from going forward with nuclear weapons development, when we strongly oppose North Korea's pulling out of the Nuclear Nonproliferation Treaty, and when we are spending over a billion dollars to prevent the spread of nuclear weapons material and technology, these actions would send a terrible message. We are telling others not to go down the road to nuclear weapons. But instead of being a leader in the effort to prevent the proliferation of nuclear weapons, we are recklessly driving down that same road. In short, the United States is following a policy that we do not—and should not—tolerate in others.

This is an area where many of us have been deeply troubled by the direction of this administration because it would seem at the same time we are trying to dissuade other countries from going forward with nuclear weapons development, when we strongly oppose North Korea's pulling out of the nuclear nonproliferation treaty and when we are spending over $1 billion to prevent the spread of nuclear weapons material and technology, the actions we are taking here send the wrong message, which is continuing to go down a road of considering new and doing research on new nuclear weapons and modernization of nuclear weapons.

We put something of a lid on it by specific language which the chairman introduced on the floor, which I very much supported and which requires that before we move to a development stage in any new weapon, that there be a specific authorization by the Congress that does give at least some protection, some certainty that we will not move to the development stage of a new modernized nuclear weapon without thorough consideration of the Congress. That, at least, is some constraint on that development.

Finally, again, I thank our chairman for bringing this bill to the floor. It has taken tenacity and patience and all the other wonderful qualities he has to make it possible. He has a wonderful way of being inclusive and open in a way that is appreciated by everybody. It has been noted on the floor many times in the last few hours.

I also thank our ranking minority members, as well as the other members of our committee who chair the subcommittees, for all the support they have given to this bill throughout the year. It took a long, long time for this bill to come to the floor and, finally, for us to come up with a conference report. We have a truly talented group of members on our committee.

Of course, as the ranking member, I focus on the other ranking members of the subcommittees, but I know I speak for Senator WARNER in thanking all of the members of our committee. He has already thanked all the members of the committee for their work this year.

I thank our staff for their hard work, including Judy Ansley, Rick DeBobes, Chuck Alsup, Ken Barbee, Mike Berger, June Borawski, Leah Brewer, Jennifer Cave, David Cherington, Chris Cowart, Dan Cox, Madelyn Creedon, Mitch Crosswait, Marie Fab Dickinson, Brie Eisen, Evelyn Farkas, Richard Fieldhouse, Andy Florell, Brian Green, Creighton Greene, Bill Greenwalt, Carolyn Hanna, Jeremy Hekhuis, Bridget Higgins, Bruce Hock, Gary Howard, Andrew Kent, Jennifer Key, Greg Kiley, Maren Leed, Gary Leeling, Peter Levine, Patty Lewis, Tom MacKenzie, Sara Mareno, Ann Mittermeyer, Lucian Niemeyer, Cindy Pearson, Paula Philbin, Lynn Rusten, Arun Seraphin, Joe Sixeas, Christy Still, Scott Stucky, Mary Louise Wagner, Dick Walsh, Nicholas West, and Kelley Wilson.

We could not have come to this position without our staff. If I can single out Rick DeBobes' work in particular, I know Judy will forgive me. This is his first year as staff director on our side, and Rick's work has been nothing less than extraordinary. It is exactly what we have come to expect from him.

I must also note Peter Levine, because of his continuous work. I probably should not single out anybody other than Rick, but I think all the members of the staff on this side will also understand why I single out Peter, in addition to Rick DeBobes, for the kind of work they have given this committee this year.

Mr. WARNER. Mr. President, I thank my colleague. I take note that Peter Levine is here and he has been referred to on our side as the damage control expert, and he is very effective in these areas.

I must inquire of my distinguished colleague, was the long hand of David Lyles felt in this program, the former staff director of Senator LEVIN for these many years? I somehow see the fine hand of David Lyles.

Mr. LEVIN. His influence continues. He is now my chief of staff on my personal staff. He takes, of course, a major interest in this area, as he always has. I am sure Rick and Peter and all the others would say having David on my personal staff is a big plus.

Mr. WARNER. It is a big plus to us, also. I take this opportunity to thank all of the staff members listed by my good friend and colleague, Senator LEVIN.

Mr. President, I want to reach across the aisle, while nobody is looking, and shake hands with my colleague. We have worked together these 25 years and we are a pretty good team. It is a sheer joy to work with him.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio is recognized.

TRIBUTE TO ARMY PRIVATE FIRST CLASS MARLIN T. ROCKHOLD

Mr. DEWINE. Mr. President, at a wreath-laying ceremony at Arlington National Cemetery on this day—Veterans Day—nearly two decades ago in 1985, President Ronald Reagan spoke about the responsibility we, the living, have in remembering those who have died for us on the field of battle. At that ceremony, President Reagan said this:

> There is a special sadness that accompanies the death of a serviceman [or woman], for we're never quite good enough to them—not really; we can't be, because what they gave us is beyond our powers to repay. And so, when a service [member] dies, it's a tear in the fabric, a break in the whole, and all we can do is remember.

Today, I come again to the floor of the U.S. Senate to remember an Ohio serviceman who gave his life to protect us, to protect our families, and to help liberate the Iraqi people. Army Private First Class Marlin Tyrone Rockhold, who proudly served with the 3rd Battalion, 7th Infantry Regiment of the 3rd Mechanized Infantry Division, was killed on May 8, 2003, by a sniper in Baghdad.

He was 23 years old.

Marlin Rockhold—"Rocko" to his family and friends—was born in Hamilton, OH, on July 1, 1979. He attended school in Butler County and graduated from Hamilton High School in 1998, where he was a well-liked student and member of the Hamilton Big Blue football squad. As his grandmother, Eileen Henderson, described, "Marlin just about always had a smile. He was a person you just had to like."

Though a kidder growing up, Marlin also had a quiet, determined, serious side. After graduation, he set out to realize a dream—a dream he had since childhood. Marlin Rockhold's dream, was to join the military. From the time he was a little boy, he wanted to become a soldier. He wanted to see the world. He wanted to see a life outside of Hamilton. He wanted to serve the country he so dearly loved.

And so, on March 4, 2002, Marlin joined the Army and was sent to Boot Camp at Fort Benning, GA. From there, he was stationed at Fort Stewart, GA. On January 20, 2003, he was sent to Kuwait and eventually went on to serve in Iraq as part of Operation Iraqi Freedom.

Mr. President, for as much as Marlin Rockhold loved the Army, he loved his family even more. In fact, two days before he joined the service, on March 2, 2002, he married the love of his life, DaVonna. Marlin was thrilled to begin his family with her and her daughter, Therashia. He loved them both with every ounce of his being. They meant the world to him. He devoted his life to them.

While he was in Iraq, Marlin often wrote letters to his wife and his family. In one letter to his grandmother, he wrote that no one wants to fight a war, but sometimes you do what you have to do.

Through his service in the Army, PFC Marlin Rockhold was doing what he believed in. He didn't want to leave his family. He didn't want to fight a war. But Marlin Rockhold did what he felt he had to do. As Rev. Lonnie Napier said at Marlin's memorial service:

> He was willing to join the fight for the hopeless so that they might be free.

Marlin Rockhold was a good soldier. He was a good man. Marlin's sister Brooke said he "always was determined to be happy. Now he's with the Lord. He's happy."

I attended Marlin's funeral, and I am grateful to have had the chance to hear his family talk about the "Rocko" they so deeply loved and admired. At the service, Marlin's brother Derrick said:

> My brother is a hero, my hero, our hero. He is my inspiration. My brother's legacy will live forever in our hearts.

Without question, Marlin Rockhold is a hero, and his legacy will live on through all who knew him and loved him.

In addition to his wife and daughter, left to cherish his memory are his mother Mary, his father Gary, his stepmother Joan, his grandmother Eileen, his four brothers, Keith, Derrick, Gregory, and Anton, his two sisters, Brooke and Kara, his in-laws Dorothy and Clarence and Demery and Patricia, and several aunts and uncles and nieces and nephews.

I know they will miss Marlin deeply. My thoughts and prayers are with them all.

I would like to close with something Marlin's wife Davonna said. She said this:

> I just want Marlin to be remembered—that he [won't] be forgotten. I'll never forget him.

We, too, will never forget Marlin Rockhold. We will always remember him because, as President Reagan said at the conclusion of his remarks at Arlington National Cemetery on that Veterans Day 17 years ago:

> We owe a debt we can never repay. All we can do is remember [the soldiers who have died] and what they did and why they had to be brave for us. All we can do is try to see that other young men and women never have to join them.

TRIBUTE TO BILL MAULDIN

Mr. DEWINE. Mr. President, today on Veterans Day, we are reminded of the sacrifices of all those who have served in our Armed Forces. We honor them, we remember them, and we thank them.

Today I would like to talk about a veteran who proudly served in World War II, a veteran who died this past year, and a veteran who has, I think, great meaning for those who served in World War II. He was a soldier who told the stories of World War II through these drawings. That man, of course, is Bill Mauldin. He is remembered for depicting in his cartoons the average World War II soldier, the person who was doing his job, just trying to survive, trying to get home; the average World War II soldier who won the war; the average soldier to whom we all owe so much.

While Bill Mauldin was depicting the soldier of that generation, in a sense he was depicting all those who serve and who have ever served.

Bill Mauldin passed away on January 22 of this year at the age of 81 following a courageous battle against Alzheimer's disease.

World War II veterans felt and continue to feel an attachment to Bill Mauldin because he really seemed to understand what a typical GI was going through, and his drawings depicted that. Bill Mauldin's work as a military and civilian cartoonist and writer brought a spirited, insightful, and human touch to the issues and people whom he covered. He is perhaps best known for two of the cartoon characters he created, Willie and Joe, whose adventures took them across various battlefields of World War II.

Willie and Joe were both young enlistees on the front lines of combat, very much like Mr. Mauldin himself, a 1940 callup to the Army from the Arizona National Guard who spent a considerable amount of time in the North African and European battle theaters.

Willie and Joe were not the straight-edged soldiers we often find in official wartime publications or Hollywood films. Rather, these two cartoon heroes lived the lives of men defined by the difficult surroundings and tasks at hand during World War II—soldiers resolved to give their all in the few matters they could control and resigned to hope for the best in those which they could not.

I think the late historian Stephen Ambrose said it best in the introduction to a re-issue of Mauldin's widely read post-war cartoon compilation entitled "Up Front." According to Ambrose, Bill Mauldin's cartoons "caught on and live on because in them everything is accurate. . . . Willie and Joe's boots and smelly socks, their baggy, dirty uniforms, their knives, rifles, ammunition, mortars, web belts, canteens, beards, haversacks, helmets (with crease marks or holes), the rations—this is how it was."

Ambrose really got it right. Mauldin's unique ability to capture the young soldier's perspective on day-to-day life during the war in an inclusive and patriotic manner earned his work the distinction of regular publication in numerous military newspapers, including Stars and Stripes and the 45th Division News. His work also won him the respect of fellow soldiers across the globe, one of whom recently described Willie and Joe as "a secret weapon on our side."

Willie and Joe were featured in Mauldin's first post-war compilation of cartoons and essays entitled "Back Home." The success "Back Home" had in bookstores across the country propelled Mauldin to even greater fame, winning him the opportunity to publish several more works and even act in a few motion pictures.

In fact, Mauldin is so well respected that in 1945, at the age of 23, he received a Pulitzer Prize soon after Time magazine featured him on its cover. Following the conclusion of World War II, Mauldin began a career as a political cartoonist for several major U.S. newspapers, including the Chicago Sun-Times and then the St. Louis Post-Dispatch, stirring up high-profile issues along the way. He won a second Pulitzer Prize in 1959 for a cartoon he drew depicting the Soviet Union's harsh treatment of renowned writer and Nobel Prize winner Boris Pasternak. Bill Mauldin has touched my generation with one of his most famous drawings, a drawing I certainly remember and I know anyone in my generation remembers. It was a drawing from now what has been 40 years ago of a statue of Abraham Lincoln at the Lincoln Memorial with his face cupped in his hand, weeping, following the assassination of President John F. Kennedy.

I will not forget that image, and I am sure there are many Members of the Senate and across this country who will not forget that, either.

Bill Mauldin was a creative, artistic genius who could capture so much about people and the human condition in the simplicity of his drawings. He could capture in those cartoons what words alone could not. Bill Mauldin had the gift and he used it well. On Veterans Day this year, we should thank Bill Mauldin for that gift and for his service to our Nation, for what he did to represent in drawings the average GI in World War II—and in a sense the average GI throughout our long history as a country—for what he did to communicate to so many the way life was for our troops.

I would also like to take this opportunity to send that same message of thanks on this Veterans Day to all of our current and former service men and women. Whether on the islands of the South Pacific, in the air over France, or on land in France or in Germany, on the beaches of Sicily, the mountains in Korea, the jungles of Vietnam, the deserts of Kuwait, more recently in the caves of Afghanistan or the streets of Baghdad, our service men and women have defended America and they defended our values with great valor. We must never forget that veterans served for us, they served for our children, for our grandchildren, and for future generations not yet born.

Today on this Veterans Day our service men and women continue to serve around the world. We pause again tonight to thank our veterans, thank those who have served in the past, and to remember our service men and women who are serving at this very hour tonight.

CONGRATULATIONS TO EVERETT "EP" HOWE

Mr. DASCHLE. Mr. President, tomorrow, members of the Rapid City, South Dakota National Guard and Ellsworth Air Force Base communities will gather to honor Everett "Ep" Howe for his lifetime of dedicated service. Today I salute the life and work of one of South Dakota's finest patriots.

For nearly 70 years, Ep has dedicated himself to serving his community and his country. He began his career in the public service, joining the Civilian Conservation Corps in 1921, and serving as Park Ranger and U.S. Border Patrol Officer before joining the military in 1944. He proudly served in the U.S. Marine Corps from 1944 to 1948, including a tour with the 9th Marine Aircraft Wing during World War II.

Discharged as a Marine Sergeant, he returned to Rapid City, his wife, Grace, and a career in construction. To say that, in many ways, Ellsworth Air Force Base is "The House That Ep Built," is no measure of hyperbole. Not only has he donated land and raised money for the base, he actually contributed to the construction of some of its buildings. During his time with both Hacket Construction and Corner, Howe, & Lee Construction, he worked on a number of projects at what is now Ellsworth, including the construction of the original Rapid City Air Force Base, which opened in 1942.

Throughout his life, Ep has been a tremendous supporter and friend of the military. A longtime committee member of the South Dakota Employer Support of the Guard and Reserve and of the Rapid City Chamber of Commerce Military Affairs Committee, he has been particularly dedicated to strengthening relationships between civilian and military communities. He has received several awards for his work in the military community, including the Department of Defense "Lifetime Achievement Award" and the South Dakota National Guard Major General Williamson Militia Award.

In addition to supporting the military, he has been a tireless and dedicated servant of his community. He has served on the South Dakota Highway Commission, the Rapid City Area Disaster Foundation, the YMCA Board of Directors and Board of Trustees, and the American Legion. He has also been a dedicated member of First Presbyterian Church in Rapid City, the Rapid City Chamber of Commerce, and the local Elks Lodge. Not surprisingly, Ep has received a number of awards for his work in the community as well, including being named "Mr. Rapid City" for his lifelong service as a community leader.

This week, a bust of Ep will be unveiled in Building 450 at Camp Rapid. It is only fitting that this bust will occupy the building where leaders of the South Dakota National Guard regularly meet. Ep's bust will look down on the proceedings and provide these leaders what he has provided so many South Dakotans over the years; a friendly countenance, moral support, and a model for community leadership. I commend Ep for his lifetime of accomplishment, and offer my deepest gratitude for the work he has done and continues to do.

HONORING OUR ARMED FORCES

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of James Wolf, a fellow Nebraskan and Specialist in the United States Army. Specialist Wolf was killed on November 6, 2003, in Mosul, Iraq, when a bomb exploded near the convoy he was traveling in. He was 21 years old.

Specialist Wolf was an engineer assigned to the Headquarters and Headquarters Company of the 52nd Engineer Battalion of the 43rd Area Support Group, based in Fort Carson, CO. He was one of thousands of brave American service men and women serving in Iraq who confront danger everyday. Their tremendous risks and sacrifices must never be taken for granted.

In October, Specialist Wolf spent 2 weeks of leave with his family in his hometown of Scottsbluff, NE. While there, he visited his alma mater, Scottsbluff High School, and thanked students for writing to him in Iraq. Specialist Wolf leaves behind parents, Bob and Chris; brother, David; and sisters, Elli and Rachel. Our thoughts and prayers are with them all at this difficult time.

In Iraq, Specialist Wolf assisted with the construction of housing and schools for U.S. soldiers and Iraqi citizens. He will be remembered as a dedicated soldier with an optimistic outlook on life.

For his service, bravery, and sacrifice, I ask my colleagues to join me and all Americans in honoring Specialist Wolf.

(At the request of Mr. DASCHLE, the following statements were ordered to be printed in the RECORD.)

SSG DANIEL BADER

• Mr. NELSON of Nebraska. Mr. President, I rise today in honor of SSG Daniel Bader, a member of the Air Defense Artillery Battery, 1st Squadron, 3rd Armored Cavalry Regiment.

SSG Daniel Bader lived in Colorado for most of his life, but he always loved Nebraska. As a child growing up in York he watched his father put on his Reserve uniform for weekend duty. From his father's example, Daniel Bader learned that sacrifice is part of life and serving your country is an honorable way to live life. While in high school, Daniel Bader followed in his father's footsteps and joined the Guard himself and after graduation he went on to active duty. He excelled in the Army, rising to staff sergeant in just 8 years. In addition to being a soldier and a patriot, Staff Sergeant Bader was also a loving husband and father. In these family roles he also served honorably. Daniel Bader will forever serve as an example for all Americans of the kind of life in service one can live.

Staff Sergeant Bader was on his way home for 2 weeks' leave when his helicopter crashed in Fallujah on November 2. He leaves behind his wife Tiffany and a 14-month-old daughter Taryn Makenzie. A devoted family man, Daniel Bader had asked to be buried next to his grandfather at Rose Hill Cemetery in Palmer, NE. I know my fellow Nebraskans and all Americans join me in honoring and remembering Daniel Bader and the sacrifice he made for his family and our Nation.•

SSG CHRISTOPHER W. SWISHER

• Mr. NELSON of Nebraska. Mr. President, I rise today to honor SSG Christopher Swisher, a native of Lincoln, NE and a member of 2nd Armored Cavalry Regiment.

Staff Sergeant Swisher's mom once said, "Chris was military from the day he was born. Knowing this keeps me going." As a young boy, Christopher W. Swisher wore camouflage T-shirts and dreamed of joining the military. After graduating from Lincoln Northeast High School, he worked hard to overcome his dyslexia and joined the Army.

Chris Swisher came from a Nebraska family with a proud military background. His older brother Terry served bravely as a Marine in Operation Desert Storm. The brothers played war games as children, both dreaming of the day they could wear the uniform of the United States military.

Staff Sergeant Swisher was killed on October 9, 2003 when his unit was ambushed while on patrol in Baghdad. He was supposed to be home by then, originally scheduled to return on September 29, but like many of our soldiers serving in Iraq, his tour was extended. His family was disappointed but Chris Swisher was doing what he loved to do.

All Nebraskans grieve for the Swisher family and we offer them our thoughts and prayers. The Swisher family can take some comfort in the brave words Chris spoke to his mother before he left for duty in Iraq: "I'm doing what I want to be doing because I'm protecting my family, my home and my country."•

PO3 DAVID J. MORENO

• Mr. NELSON of Nebraska. Mr. President, I rise today to honor PO3 David J. Moreno, a member of the 4th Marine Division Detachment, Naval Medical Center, San Diego.

Petty Officer 3rd Class Moreno dreamed of becoming a doctor. The California native lived briefly in Gering, NE and attended the University of Nebraska at Lincoln before joining the Navy. It was in the Navy that he discovered his love for medicine. He earned his Emergency Medical Technical License and served the men and women of our Armed Services honorably as a Navy medic.

Petty Officer 3rd Class Moreno died from a non-hostile gunshot wound in Hamishiyah on July 17, 2003. David Moreno died while serving his nation in a job he truly enjoyed. His sacrifice, along with the sacrifices made by his brothers-in-arms in Iraq and elsewhere during the global war on terrorism, serves as a reminder to Nebraskans and all Americans that freedom and liberty do not come easy. The cost of freedom and liberty is measured in sacrifice and David Moreno made the ultimate sacrifice to preserve these ideals for the rest of us. His sacrifice for freedom, liberty and our Nation is remembered today as we send our thoughts and prayers to his family in Nebraska and elsewhere.•

SSG BRETT J. PETRIKEN

• Mr. NELSON of Nebraska. Mr. President, I rise today to honor SSG Brett Petriken of Omaha, NE.

A member of the 501st Military Police Company, Staff Sergeant Petriken served his nation bravely. In times of war, danger lurks at every turn and he knew this to be true, especially in a war zone like Iraq. Staff Sergeant Petriken lost his life when a heavy equipment transporter crossed the median and struck the Humvee he was in on May 26, 2003, in Samawa, Iraq.

Brett Petriken is a shining example of a soldier who put his life on the line to protect those he knew and loved and even those he didn't know and love. His family should think of him and remember what is most important to them, his role in their lives. Americans should think of him and remember that he died in the line of duty upholding the ideals of freedom and liberty and protecting the United States from the new invisible foes that represent a tremendous threat to our nation. As a nation we are grateful to soldiers like Brett Petriken and others like him who make the ultimate sacrifice so that others can live free.•

SP NATHANIEL A. CALDWELL

• Mr. NELSON of Nebraska. Mr. President, I rise today to honor Army SP Nathaniel A. Caldwell of Omaha. Specialist Caldwell, a member of the 115th Military Police Company, Army National Guard, was killed when his vehicle rolled over while responding to a civilian call on May 21, 2003 in Baghdad, Iraq.

Specialist Caldwell joined the armed services shortly after September 11 to serve his county. His commitment to protecting America at home and abroad is inspiring to us all. Nebraskans can look to Specialist Caldwell as an example of an American inspired to serve his Nation. He did so bravely. His sacrifice will forever remind the nation of the danger that comes with the duty to protect our Nation's interests and to preserve the flame of liberty for Americans and for all the world's people.

I know I join all Nebraskans in offering our thoughts and prayers for his family in Texas, Oklahoma, and elsewhere.•

CPT TRAVIS A. FORD

• Mr. NELSON of Nebraska. Mr. President, I rise today to honor CPT Travis A. Ford of Ogallala, NE. Captain Ford always gave 100 percent in everything he did. He excelled in high school sports and brought his enthusiasm to the Yell Squad at Husker football games while he attended the University of Nebraska at Lincoln.

As a Marine, he was selfless. A member of the Light Attack Helicopter Squadron 267, Marine Aircraft group 39, 3rd Marine Aircraft Wing, he volunteered to fly extra shifts so that younger Marines could get some sleep in the early days of the war. When his AH–1W Super Cobra attack helicopter crashed on April 4, 2003, during combat operations near Baghdad he became the first Nebraskan to give his life in Operation Iraqi Freedom.

Captain Ford will be greatly missed and our thoughts and prayers are with his family and friends in Ogallala, but Captain Ford will also be remembered for the shining example of patriotism, dedication and commitment that he set as a brave member of the Marines.•

SP1 JAMES WOLF

• Mr. NELSON of Nebraska. Mr. President, I rise today in honor of SP1 James Wolf, a member of the Headquarters and Headquarters Company, 52nd Engineer Battalion of the 43rd Area Support Group.

Specialist Wolf stopped in to visit the students at the Lincoln Heights Elementary School in Scottsbluff, NE when he was home on leave just a few short weeks ago. He wanted to thank all the students who had written letters to him while he was in Iraq and he told them how the letters they had written lifted his spirits and how he shared their letters with soldiers around him who did not receive any mail of their own.

He recently returned to Iraq where he was performing valuable work rebuilding schools, homes, and providing safe drinking water. Tragically, he was killed on November 6, 2003 when an improvised explosive device detonated near his truck convoy.

His death was a blow to the Scottsbluff community where he was remembered as a young man with a lot of spunk and someone who wanted to make a difference. He is the son of Bob and Chris Wolf of Scottsbluff. His mother said of him, "He was very proud of what he did. He talked about making it a career, and he had such a sense of purpose. It was awesome just to hear him." James' sister Rachel, a 2003 graduate of Scottsbluff High, informed the school of her brother's death. Kirk Begley, principal at Scottsbluff High, said it was a "sad, sad day when we had to let the staff know." Begley said James Wolf was "just an all around great kid and was adamant about being a soldier."

Specialist First Class Wolf will be missed greatly by his family and friends and the entire Scottsbluff community. He will also be remembered as a soldier whose patriotism inspired his community. I would like to express my deepest sympathy for the Wolf family and I know all Nebraskans join me in remembering and honoring James' contributions to Scottsbluff and his sacrifice on behalf of his country.•

TRIBUTE TO THE 10TH MOUNTAIN DIVISION

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to the 250 outstanding Vermonters who served in the 10th Mountain Division during World War II. I want to commend the Vermont Ski Museum for recognizing the significant contributions of these exceptional men by inducting them into the Ski Hall of Fame.

As a fellow veteran who grew up in the era of World War II, I remember President Roosevelt's call for volunteers. It came as no surprise that when the military asked for skiers, trappers, and woodsmen to serve in the 10th Division, many of those who responded to the call of duty were from our own Green Mountain State. For a young boy in Rutland, VT, these men were my heroes.

The 10th Mountain Division distinguished itself in fighting on the island of Kiska in Alaska and in the mountains of Italy. Recently we have been reminded of the effectiveness of these soldiers on skis. At a time when modern weapons and sophisticated technology seemed to overshadow the 10th Division's skills, recent conflicts in Afghanistan and other parts of the world have shown us that much of war boils down to human fortitude and a single man against the elements. Modern warfare has not proven to be more effective than the 10th Mountain Division when it comes to fighting in these extreme elements over rugged terrain. We are coming back to basics, and hopefully military planners will never doubt the necessity of divisions with skills like the 10th as part of our national defense.

After the war, many of the veterans of the 10th Mountain Division came home to leave their mark on the ski industry. Vermont was no exception, and the ski industry has flourished here due in part to the passion these individuals have for skiing. They are indeed members of the Greatest Generation and their selfless contributions are evident throughout our State.

I applaud the Ski Museum for acknowledging your individual sacrifices, your defense of our country and your contributions to skiing. It is a privilege for me to join the many others in honoring each of you. You continue to be my heroes.

THE ARMED FORCES RELIEF TRUST

Mr. ALLARD. Mr. President, I rise today to recognize an important program that significantly assists our men and women who are fighting abroad.

The war on terrorism is being fought on may fronts and around the world. Today, there are more than 140,000 troops stationed in Iraq, Afghanistan, and many more around the world.

Many of these troops served in Afghanistan only to be almost immediately redeployed to fight in Iraq. These extended deployments have been trying for those left behind. But they have stepped up and met the challenge.

They have answered the Nation's call with enthusiasm and dedication.

In Colorado, the large deployment from Ft. Carson has shown just how difficult it can be for many military families when our troops must be sent abroad. While the military is dedicated to taking care of its own, the current situation abroad means needs of the family will only continue to escalate.

To address this, the four relief agencies representing the Army, Navy, Marine Corps, and Air Force recently combined into one umbrella relief organization in order to better provide assistance.

The National Association of Broadcasters and its 1,000 television station and 6,000 radio station members recently produced and disturbed Public Service Announcements that encourage viewers and listeners to contribute to the Armed Forces Relief Trust.

Broadcasters have a long history of involvement in this country's national security. I commend them for dedicating airtime to this worthwhile cause.

Last year, together, the four relief agencies distributed $109 million to military families in need. I am confident that by streamlining operations into one entity and with help from local broadcast stations to get the word out, the Armed Forces Relief Trust will be able to assist even more military families.

We are counting on our brave young men and women in the field. They are relying on the Armed Forces Relief Trust, and the trust is counting on local broadcast stations. Local radio and television stations are performing an invaluable public service through this program, and I salute them.

Since today is Veterans Day, I also salute those who have already experienced the hardships of war much like those currently stationed in Iraq and Afghanistan. I believe the most important thing we can do for our veterans is say thank you for their service and sacrifice to our country.

NFL MILITARY AWARENESS INITIATIVE

Mr. ALEXANDER. Mr. President, on this Veterans Day I recognize a military public awareness initiative that Mr. K. S., Bud, Adams, the founder and owner of our NFL Tennessee Titans, played a strong role in instituting this past weekend. Mr. Adams, a U.S. Naval Officer during World War II, and five other National Football League owners who also served in the military during that same time, urged NFL Commissioner Paul Tagliabue to launch this campaign to help the hundreds of American families of our brave military servicemen and women who have died for our country in the line of duty in Afghanistan and Iraq. Mr. Adams and his fellow NFL owners urged NFL headquarters to initiate an awareness campaign at NFL stadiums and on NFL game telecasts starting Veterans Day Weekend, November 9–11, to help bring attention to the difficult financial situation that our military dependents face in the days and weeks immediately after a serviceman's or woman's death in the Middle East.

The other five NFL owners who served during World War II are Tom Benson, New Orleans Saints; Wellington Mara, New York Giants; Art Modell, Baltimore Ravens; Alex Spanos, San Diego Chargers; and Ralph Wilson, Buffalo Bills.

As Commissioner Tagliabue said in announcing this new program: "Our clubs recognize that the men and women of our Armed Forces are tremendous NFL fans. This program is one small way to repay that support to families who lose a loved one in defense of our country in the Middle East. Our NFL owners, coaches and players speak with one voice when it comes to this project."

The campaign cornerstone is a new national TV and radio announcement produced by NFL Films that aired on every NFL game telecast this past Veterans Day weekend. It is narrated by Vietnam veteran and former Pittsburgh Steelers running back Rocky Bleier. The message encourages NFL fans to support the Intrepid Foundation's Fallen Heroes Fund, which provides an immediate $10,000 grant to military families who have paid the ultimate price with the loss of a member in Iraq or Afghanistan. The following is the text for the television message narrated by Bleier:

> The National Football League family is committed to supporting the courageous men and women serving in the U.S. Armed Forces in the Mideast.
>
> But the fight for freedom is not without loss.
>
> And the NFL urges you to join us and the Intrepid Fallen Heroes Fund in supporting the military families of those heroes who have sacrificed their lives in the service of our country.
>
> Please visit www.nfl.com/heroesfund and help support those families in need.

This program—and the $100,000 contribution that the NFL made to kickoff the initiative—is the latest in the NFL's continuing support of our U.S. military personnel. That tremendous NFL support dates back at least to World War II when 638 NFL players served in the military, including 19 who were killed in action. The NFL has worked with the USO for decades in sending NFL players overseas to Vietnam, Korea and more recently Iraq to let our courageous troops know that they are not forgotten.

I hope you will join me in applauding Mr. Adams and the NFL for their latest "Families Helping Families" public awareness program and thank them for their support of our brave men and women in uniform.

FISHERIES MANAGEMENT

Ms. COLLINS. Mr. President, I rise today to draw attention to a looming crisis for New England's groundfishermen. Last week, the New England Fishery Management Council voted to adopt a set of new regulations, known as Amendment 13. This package of regulations will permanently alter the character of New England's groundfish fishery, and will particularly harm the fishermen in my home State of Maine. This sweeping change in fisheries management is largely unneeded; in fact, most stocks of fish in the groundfish complex are rapidly rebuilding. There is a much larger problem in the fishery management process that has subverted a system of rational management and forced these unnecessary changes on our fishing industry. That problem is excessive litigation.

Amendment 13, like many other regulations driven by excessive litigation, will permanently harm Maine's fishermen and related businesses. Historically, numerous coastal communities in Maine have taken part in and benefitted from the groundfish fishery. Unfortunately, regulatory changes will force many of Maine's smaller groundfish boats out of the industry. Small fishing communities like Stonington, Rockland, and Port Clyde which used to be home to many groundfish vessels, are already suffering due to restricted access to fish stocks. The changes to these coastal communities clearly stem from regulations born of excessive litigation.

Further, these burdensome regulations will hurt boats of all sizes. Many small boats will not survive due to severe cuts in fishing time combined with the long distances that must be traveled in order to access fish stocks. In addition, Maine's larger vessels are leaving our States, moving to southern New England ports, in an effort to survive this latest round of regulations. The damaging effect of such an exodus on Maine's fishing infrastructure, which is at a critical minimum, will be irreparable. As Amendment 13 is put into place, revenues will continue to move south, and Maine's working waterfront will vanish, to be replaced by coastal development.

The drastic sacrifices demanded of our fishermen might be worthwhile if New England groundfish were truly at risk. However, fish stocks are rebounding at a tremendous rate. For example, Georges Bank haddock biomass figures have gone from less than 20,000 metric tons in 1994 to roughly 100,000 metric tons in 2002. Overall, groundfish biomass figures have tripled since 1994. This fishery is a success story. Unfortunately, litigants refuse to agree. They have stolen management authority away from the regional councils and given this power to the courts, which are particularly ill-suited to make biological decisions.

Excessive litigation also diverts precious resources from the main mission of the National Marine Fisheries Service: fisheries management. Each year the Service spends time and money defending itself in the courts. In fact, this year the Senate is considering appropriating $5 million to the National Marine Fisheries Service exclusively for the purpose of fighting litigation. This money could be better spent conducting research, if our management system was not engulfed in litigation.

We all suffer when a management system is under siege from excessive litigation. As in the case of Amendment 13, management plans are developed under an aura of crisis where managers must meet court-appointed goals before court-appointed deadlines. What we need instead, is fisheries management developed with measure and reason. We need a system where the views of stakeholders are valued.

In 1976, Congress passed the Fishery Conservation and Management Act. One of the strongest aspects of this act was the creation of regional fishery management councils. These councils rely on the participation of those who know the most about our Nation's fisheries. Unfortunately, some advocacy groups have chosen to bypass the council system by proceeding straight to court. In fact, one of these groups has already threatened to sue the National Marine Fisheries Service if they do not get what they want out of Amendment 13. This is truly discouraging, considering these regulations have yet to be published. Excessive litigation should not continue to diminish the participatory nature of fisheries management by removing decision-making authority away from those most qualified to manage our Nation's fisheries.

The Amendment 13 process is a clear example of why fisheries management belongs in the hands of fisheries managers. The courts handed our regional managers a set of impossible goals and an impossible time frame in which to achieve these goals. Nothing but the impossible can result from this situation, despite the efforts of regional managers to create a reasonable management plan. This entire process only demonstrates the weaknesses of regulation driven by excessive litigation, and the need to take management decisions out of the courts and place them back in the council system. That will require changes in the law.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe one such crime today. In September 1997, a gay man in Williamstown, NJ, was beaten enough to receive a black eye, at least two broken toes, and bruises all over his body. Later that day, his house was egged and a brick thrown through a window. Local kids, who allegedly committed the assault, screamed "you got what you deserve, you faggot," at the time of the incident.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CONGRATULATING LTC MICHAEL E. HOGAN ON HIS RETIREMENT

Mr. INHOFE. Mr. President, I would like to congratulate one of Oklahoma's finest soldiers, LTC Michael E. Hogan, who is retiring after a distinguished career of over 20 years of exceptionally meritorious conduct in the United States Army. Lieutenant Colonel Hogan was commissioned as a Second Lieutenant, Field Artillery, after graduating from the United States Military Academy. His first assignment was as a Fire Support Team Chief, HHB, 2d Battalion, 6th Infantry Division, Fort Ord, CA. Demonstrating keen expertise and artillery skills, he moved through various positions in the unit, including Firing Battery Fire Direction Officer, Executive Officer, and Battalion Fire Direction Officer. After developing and mastering the required skills as an Artilleryman through an assignment in Camp Casey, Korea, Lieutenant Colonel Hogan was moved to Fort Sill, OK, where he assumed a role on the faculty of the Field Artillery School.

In 1989, Lieutenant Colonel Hogan served as the Battery Commander for Bravo Battery, 2d Battalion, with 105mm Howitzers, for almost 2 years. Because of his expertise in artillery systems, he was moved to a position as a test officer with the U.S. Army Operational Test and Evaluation Center. After further refining his skills in artillery systems while performing as a test team chief, Lieutenant Colonel Hogan was moved to a position as an executive officer with the 6th FA Battalion, Fort Sill, OK. In 1997, while in the position on the Corps Artillery Staff, Lieutenant Colonel Hogan was deployed to Haiti where he served 6 months as the Joint Task Force Chief of Staff. Upon his return to Fort Sill, he was installed as the executive officer for the 212th Field Artillery Brigade. After serving in this position for approximately 1 year, Lieutenant Colonel Hogan was sent to the Pentagon as a representative of the regimental staff of the Field Artillery Center, with duty in the Office of the Chief of Legislative Liaison.

Lieutenant Colonel Hogan directly applied special talents and expertise as a Hardware Congressional Liaison Officer in the Office of the Secretary of the Army, Legislative Liaison Programs Division from March 2000 through February 2004. Lieutenant Colonel Hogan maintained a constant liaison with professional staff members of the Senate and House Armed Services Committees on critical issues relating to army procurement programs such as the Crusader Field Artillery System, Stryker, and the Army's top priority, the Future Combat System.

Throughout these assignments, Lieutenant Colonel Hogan has provided outstanding leadership, advice, and sound professional judgment on significant issues that affected both the Army and Congress. His actions and counsel were invaluable to Army leaders and Members of Congress as they considered the impact of important issues. Lieutenant Colonel Hogan's dedication to accomplishing the Army's legislative liaison mission has been extraordinary. He is truly an outstanding officer who displays superb professional leadership skills and is totally dedicated to mission accomplishment in the highest traditions of military service. I am proud to call him a constituent, and wish him well in his future endeavors.

TRIBUTE TO COMMANDER WILLIE McCOOL

Mr. McCAIN. Mr. President, I rise to pay my respects to my fellow veterans. It is only through the leadership, dedication, and sacrifice of our men and women in uniform that we are able to enjoy the freedoms that we value so much as Americans. We cheer our veterans at homecomings and parades, and we grieve for them when they do not come home. At critical times in U.S. history, as we are facing now, we unfortunately find ourselves grieving more for our military service members, than celebrating and honoring their service. Veterans Day gives us a chance to honor and thank all of these heroes.

On this Veterans Day, I would like to share the story of one such hero who touched many American lives—Commander Willie McCool. Commander McCool was killed earlier this year as he was piloting the *Columbia* Space Shuttle towards home. Recently, Commander McCool's family, Naval Academy classmates, and former cross-country and track teammates participated in a ceremony at the location where a memorial will be placed in his honor. The essence of what that memorial will stand for was captured perfectly in a recent Washington Post article by William Gildea, dated October 30, 2003.

On October 2, 1982, as captain of the Naval Academy's men's cross country squad, McCool led the midshipmen to a victory over Georgetown and Syracuse Universities, while setting a personal record for the 5-mile race of 24:27. On February 1, 2003, Commander McCool and the members of his crew perished when *Columbia* came apart over Texas, only 15 minutes from landing.

The location of the planned memorial for Commander McCool will be 15 minutes from the finish line on the day he set his best time. The spot was chosen to commemorate Commander McCool's life and acknowledge his contributions to the country, the Navy, and the Naval Academy's cross-country program, as well as to recognize the positive impact that being a Navy runner had on his life.

Before inviting his cross-country coach Al Cantello to the Space Shuttle *Columbia* launch, Commander McCool sent a portrait of himself to Cantello with the following inscription: "Your coaching laid a foundation of discipline, drive and passion that has carried me across the many milestones of my life. With boundless appreciation, Willie." From that foundation, Commander McCool developed into a top-notch Naval Officer and served our country in an exemplary manner. On this Veterans Day, I humbly thank Commander McCool, and his family, for his selfless service and sacrifice for our country.

At this time, I ask unanimous consent that the October 30, 2003, Washington Post article regarding Commander Willie McCool be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Nov. 2, 2003]

The Perfect Place To Honor a Hero

(By William Gildea)

Sports doesn't have enough heroes, but Willie McCool is a hero. The captain of the 1982 cross-country team at the Naval Academy, he was known for smiling in the midst of a grueling race as the effort showed on the faces of the other runners. No matter the difficult, he always was happy. That really was how he showed the way in whatever he did. As his coach, Al Cantello, said yesterday morning, "Everyone should meet a Willie McCool in his lifetime."

Cantello was driving out to the Academy cross-country course to join relatives, former teammates and other friends of McCool. They gathered on the crest of the hill at 8 a.m. to honor the man they loved. McCool said from space on Jan. 30: "From our orbital vantage point, we observe an earth without borders, full of peace, beauty and magnificence. And we pray that humanity as a whole can imagine a borderless world as we see it and strive to live as one in peace."

He was the pilot of the space shuttle Columbia, which broke up as it reentered the earth's atmosphere Feb. 1.

"Isn't this a great cross-country morning—crisp, perfect for running?" Mark Patterson, the 1983 team captain, said in welcoming the people who assembled quietly on the hill. There, they plan to have a memorial built in McCool's honor. It will not be something grandiose, they said, because that would not be representative of such a modest person as McCool; it would be simple, but it would be big enough for passing runners to notice, maybe to be inspired by, something to prompt a thought.

The son of a Navy aviator, William C. McCool finished second of 1,083 in the class of 1983. He went on for two master's degrees, one from Maryland. During that time, he often returned to the rolling course where he had worked out twice a day during cross-country and track seasons. McCool was one of many who thought of that five-mile route as a special place. And he was one of those who remained grateful to the man who put him on the course where he developed some of his leadership skills. Before inviting his coach to the Columbia launch, McCool sent a portrait of himself to Cantello with the inscription: "Your coaching laid a foundation of discipline, drive and passion that has carried me across the many milestones of my life. With boundless appreciation, Willie."

For the most part, the five-mile course follows the perimeter of the Academy's golf course, across the Severn from the campus. Jimmy Carter ran it as a midshipman. So have numerous Olympians, tens of thousands of college runners, countless others. But after Saturday, when McCool's widow, Lani, and his mother, Audrey, were presented flowers at the simple ceremony, the course seemed even more special. It felt like hallowed ground.

McCool was said to be an extraordinary test pilot. He did small things well, too. He liked to make people happy. Capt. Clyde Villemez, who was the naval officer representative for cross-country in the early '80s, remembered him tenderly escorting his 8-year-old daughter onto the dance floor at a wedding reception. Villemez retains a vivid image of the two. "She was dancing on top of his feet," he said.

Ronnie Harris, who ran the 5,000 meters for Navy, missing the 1996 U.S. Olympic team by just 25 hundredths of a second, had the idea for a memorial. He was serving in Florida when he heard of Columbia's fate. He did what many former Navy runners did as they thought of their friend. "I went for a run," he said.

Now he was back on his favorite course, standing close to where the marker will go.

"This is a very beautiful spot. It's absolutely gorgeous," Audrey McCool said.

It is not just any spot. It was chosen for a reason.

The last radio communication from the Columbia was received about 15 minutes before the scheduled completion of the mission. The crew of seven was 15 minutes from home.

McCool's friends measured back 15 minutes from the finish line of the cross-country course based on McCool's fastest time, in a meet with Georgetown and Syracuse on Oct. 2, 1982. As it happened, they came to an idyllic setting, at the top of a grassy hill, on a brief level stretch before a slope leading to a narrow path through the trees.

That's where they will build the monument.

That's when he was 15 minutes from home.

TRIBUTE TO LTG GENERAL JOHN S. CALDWELL, JR.

Mr. SHELBY. Mr. President, I rise today in honor of LTG John S. Caldwell, Jr., Military Deputy to the Assistant Secretary of the Army for Acquisition, Logistics and Technology at the Pentagon. After 36 years of exemplary commitment and dedicated service to the United States Army, General Caldwell is retiring.

General Caldwell's career has been vast in the command and staff positions he has held. Beginning as a Platoon Leader at Fort Meade, MD, in 1967 until his current assignment at the Pentagon, he has been a steady and dedicated member of the United States Armed Forces.

A graduate of the United States Military Academy, West Point, NY, General Caldwell's career has been one of dedication, service, and sacrifice. Upon graduation, he was commissioned in the Armor/Cavalry. He has commanded armored cavalry units from platoon through battalion, had combat duty with the 11th Armored Cavalry Regiment in Vietnam, and served two tours in the Federal Republic of Germany.

He has held a variety of other assignments including: Deputy Chief of Staff for Research, Development and Acquisition, Headquarters, Army Materiel Command; Director, Army Digitization Office, Headquarters, Department of the Army; Assistant Deputy for System Management and International Cooperation, Office of the Assistant Secretary of the Army, Research, Development and Acquisition; Assistant Professor for the Department of Engineering at USMA; Research and Development Coordinator, Office of the Project Manager, Abrams Tank Systems; Operations and Training Officer, S–3, for 2nd Squadron, 11th Armored Cavalry Regiment; Operations Staff Officer and Deputy Chief of Staff, Operations, Plans and Training for the Army Staff; Research and Development Staff Officer, Army Studies Group for the Office of the Chief of Staff, Army; Chief, Strategy Application Branch of the Strategic Plans and Policy Directorate, J–5, for the Joint Staff, and, Project Manager, Abrams Tank Systems.

General Caldwell is often sought after for his knowledge and insight into the critical issues facing our country today. He is a decorated soldier, having received the following decorations and badges: Distinguished Service Medal, with Oak Leaf Cluster, Silver Star, Defense Superior Service Medal, Legion of Merit, with 2 Oak Leaf Clusters, Bronze Star, Meritorious Service Medal, with Oak Leaf Cluster, Air Medal, Army Commendation Medal, with Oak Leaf Cluster, Army Achievement Medal, Ranger Tab, Joint Chiefs of Staff Identification Badge, and Army Staff Identification Badge.

On this Veterans Day, I celebrate and applaud the distinguished career of LTG John S. Caldwell. A courageous soldier, fearless leader, and patriot, General Caldwell is much deserving of a relaxing and enjoyable retirement. My best wishes go out to his wife, Judy, his family and friends in this time of celebration.

MEDIA CONSOLIDATION AND DIMINISHING INDEPENDENT CONTENT

Mr. WYDEN. Mr. President, in June of this year, the Federal Communications Commission issued a decision relaxing a number of important rules that limit consolidation in the media industry. In the months leading up to that decision, and ever since, a bipartisan group of Senators has sought to sound the alarm about the dangers of unbridled media concentration. Those efforts eventually led to Senate passage of a resolution to reverse the commission's decision. But the battle continues, and the outcome is uncertain.

Most of the debate on this subject has focused on the details of rules limiting the national reach of broadcasters and the local cross-ownership of television, newspaper, and radio stations. But I would like to call attention to another important dimension of media concentration: the demise of independent producers, who are being bought up or driven out of business by the big networks and big studios.

More and more, the television programming delivered to the homes of American families is controlled by a handful of executives in a handful of corporate boardrooms. Independent writers and producers are growing scarce. Indeed, there soon may be only two remaining independent Hollywood studies that produce scripted television programming. The others have either disappeared or linked up with one of the major networks.

I think that having all programming produced by a few large media conglomerates could pose some real risks for creativity and diversity. That is why I would like to commend my colleague from Arizona, Commerce Committee Chairman JOHN MCCAIN, for his leadership in agreeing to cohost a dialogue with Chairman BILLY TAUZIN of the House Energy and Commerce Committee and representatives of studios, networks, writers, and producers.

I am confident that under the direction of Chairman MCCAIN, this dialogue can produce positive discussion and concrete results, such as voluntary guidelines to help ensure diversity, competition, and opportunity in the market for television programming. I look forward to participating.

WTO RULING ON STEEL TARIFFS

Mr. ALEXANDER. Mr. President, yesterday, the World Trade Organization upheld its earlier ruling that the steel tariffs imposed in March of last year are illegal and in violation of global trade rules. As a result of this ruling, the European Union threatened to impose trade sanctions on American imports sold in Europe, ranging from footwear to fruits and vegetables. The EU has said that it will impose duties of 13, 15, 30 percent on these imports as soon as December 6 or at the latest December 15, if the steel tariffs continue to remain in place. The EU trade sanctions alone would amount to about $2.2 billion.

Unfortunately though, the EU is not alone. Japan has announced that it will join the EU in retaliatory trade sanctions against the U.S. China, Norway and Switzerland have also notified the WTO that they will possibly impose trade sanctions against the U.S. if the steel tariffs are not removed.

There is plenty of evidence that if the steel tariffs are allowed to continue they will do more harm than good. On September 19, the International Trade Commission released its report on the effects of the steel tariffs on steel consuming industries. Here is what they found.

One-half of the steel-consuming firms that were surveyed reported they had difficulty in obtaining steel in the qualities and quantities they needed.

Almost one-third of these firms relocated or shifted production to foreign plants or facilities after the implementation of the tariff.

One-quarter reported that their customers had shifted to purchasing finished parts or assemblies overseas as a result of the steel tariff.

Almost one-third of these firms also reported their contracts they had in place to purchase steel were broken or modified after the tariff was imposed and reported a loss in profits due to these problems of approximately $190 million.

One-third of these firms reported longer lead and delivery times.

In addition, the report further highlighted the particular impact the steel tariff has had on auto-parts suppliers. Tennessee is home to over 950 auto-parts suppliers and they make up about one-third of all our State's manufacturing jobs.

Eighty-five percent of the auto-parts suppliers surveyed said that their steel prices in the US were higher than global prices.

Thirty-one percent reported that customers had shifted purchases to buying finished parts or assemblies overseas as a result of the tariff.

Seventy-four percent reported changes in contract prices for steel and 55 percent reported that steel tariff was the only important factor in these changes in steel prices.

Seventy-nine percent reported an inability to pass on steel price increased to customers.

All of these burdens have meant extra costs to steel consuming firms. Extra costs that have affected steel-consuming jobs all across America. The steel tariff may have saved some steel-producing jobs but is has already destroyed a lot more steel-consuming jobs.

The American economy is beginning to recover and I strongly believe that this recovery is a direct result of the President's jobs and economic growth plan. The last thing we need now is any new cost such as the steel tariff on a major manufacturing sector that slows down economic growth. I fear that if the steel tariff remains that we will see more plant closings during 2004 in Tennessee and across America.

I believe the President has made an honest good faith effort to save steel jobs, but that it has backfired by destroying automotive and other steel consuming jobs. I hope that he decides that the best decision that can make for the American worker is to end the steel tariff.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

MONEY LAUNDERING IN SYRIA AND LEBANON

• Mr. KERRY. Mr. President, while I support the enactment of the Syria Accountability Act, I am disappointed this legislation does not contain any provisions to stop the scourge of money laundering from Syria and Lebanon.

Recently published reports state that $3 billion from Saddam Hussein's Iraqi regime are currently being held in Syrian-controlled banks in Syria and Lebanon and that these funds may have been used to finance attacks on American forces in Iraq. If these allegations are proven correct, then the actions by the government of Syria are intolerable and unacceptable and demand a strong response by the United States government to insure that funds stolen from the Iraqi people are not used to help insurgents attack American forces and destabilize Iraq.

Unfortunately, Syria and Lebanon have had a long history of being involved in terrorism and money laundering. The Secretary of State has designated Syria as a state whose government repeatedly provided support for acts of international terrorism and has provided designated foreign terrorist organizations, such as Hamas and Hizballah, with sanctuary. The State Department in its March 2003 International Narcotics Control Strategy Report—INCSR—has classified Syria as a country to be monitored for potential money laundering.

Lebanon remains one of the more sophisticated and well-capitalized banking sectors in the Middle East. With its tradition of bank secrecy, the extensive use of foreign currency, the influx of remittances from expatriated workers, and a lack of financial accountability and enforcement, Lebanon has developed a financial environment conducive to laundering the financial proceeds of international crimes such as narcotics, counterfeiting and smuggling. The International Narcotics Control Strategy Report—INCSR—has designated Lebanon as a jurisdiction of primary money laundering concern. The Financial Crime Enforcement Network—FinCEN—has conducted an analysis of the Suspicious Activity Reporting System—SAR—related to Lebanon for the period of January 2002 through October 2003. The FinCEN analysis has revealed 286 SARs that could be linked to transactions associated with suspicious or fraudulent wire transfer activities between Lebanon and other countries. Many of these transactions were structured in an attempt to avoid reporting requirements. Two of the reports indicate possible terrorist activities.

The United States has the largest and most accessible economic marketplace in the world. Foreign financial institutions and jurisdictions must have unfettered access to markets to effectively work within the international economic system.

In 2000, I introduced legislation that became Section 311 of the USA PATRIOT Act which provides the federal government with the authority to leverage the power of United States financial markets to force countries like Syria and Lebanon to reform and enforce their counter-money laundering and counter-terrorist financing laws. Section 311 provides the Secretary of the Treasury with measures that are graduated, discretionary, and targeted, focusing on international transactions involving criminal proceeds, while allowing legitimate international commerce to continue unimpeded.

Earlier this year, I sent a letter to President Bush asking him to direct the Secretary of the Treasury to identify both Syria and Lebanon as primary money laundering concerns under the authority provided in Section 311. I also asked that U.S. financial institutions be required to provide enhanced scrutiny of financial transactions from Syria and Lebanon to ensure funds linked to international terrorists do not originate from or pass through financial institutions in those countries on their way to the United States

I also call on the President to develop an international strategy to stop the laundering of funds from Syria and Lebanon within the framework of the Financial Action Task Force—FATF, the European Union, the G–8, and other multilateral forums.

I strongly believe that the United States must take any and all necessary measures to stop international terrorist organizations—such as Hamas and Hizballah—and former members of the Iraqi government who may be residing in Syria, Lebanon, and other countries in the area from supporting terrorist activities in Iraq and elsewhere.

If the United States is to lead the world in the fight against terror, we must effectively use our own laws to cut off the flow of laundered funds from terrorist groups through the international financial system. The measured use of Section 311 authority against Syria and Lebanon provides the United States an opportunity to demonstrate leadership in the fight against international terrorism and money laundering. We cannot afford to fail in this endeavor.●

FUNDING FOR AIRPORT PROJECTS

Mr. WYDEN. Mr. President, maintaining and improving this country's airports and aviation infrastructure is crucial to economic growth and opportunity at both the local and national levels. That is why it is so unfortunate that Congress has not yet been able to pass the Federal Aviation Administration reauthorization legislation.

The fact is, this legislation need not have been controversial. But it was made controversial, because conferees went behind closed doors and made changes that contravene the clearly expressed will of both houses of Congress.

My point today is not to rehash the substantive arguments on the points under dispute. I simply want to stress that in no event should this dispute be allowed to bring important airport and aviation projects screeching to a halt. Instead, the responsible path is to recognize that the controversial elements of the legislation may take some time to resolve. In the meantime, both sides should agree to a short-term extension of FAA funding programs, so that no aviation project is held hostage to politics.

Senator ROCKEFELLER has introduced a bill to provide for a 6-month extension of FAA funding programs, and I am signing on as a cosponsor. I hope that our colleagues will join in supporting this legislation, to ensure that funding for local airports projects will not become a victim of political brinksmanship.

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through November 7, 2003. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is below the budget resolution by $11.7 billion in budget authority and by $13.1 billion in outlays in 2004. Current level for revenues is $62 million below the budget resolution in 2004.

Since my last report, dated November 4, 2003, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues for 2004: Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, Public Law 108-106; and, An act making further continuing appropriations for Fiscal Year 2004, Public Law 108-107. In addition the Congress has cleared for the President's signature the following acts: Interior Appropriations Act, 2004, H.R. 2691; an act to reauthorize certain school lunch and child nutrition programs, H.R. 3232; and, Military Family Tax Relief Act of 2003, H.R. 3365.

I ask unanimous consent to print the following related information in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 10, 2003.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached tables show the effects of Congressional action on the 2004 budget and are current through November 7, 2003. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last letter dated November 3, 2003, the Congress has cleared and the President has signed the following acts which changed budget authority, outlays, and revenues for 2004:

Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan (P.L. 108-116); and

An act making further continuing appropriations for Fiscal Year 2004 (P.L. 108-107).

In addition the Congress has cleared for the President's signature the following acts:

Interior Appropriations Act, 2004 (H.R. 2691);

An act to reauthorize certain school lunch and child nutrition programs (H.R. 3232); and

Military Family Tax Relief Act of 2003 (H.R. 3365).

The effects of these actions are detailed on Table 2.

Sincerely,
DOUGLAS HOLTZ-EAKIN,
Director.

Attachments.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 7, 2003

[In billions of dollars]

	Budget resolution	Current level [1]	Current level over/under (-) resolution
ON-BUDGET			
Budget Authority	1,873.5	1,861.7	−11.7
Outlays	1,897.0	1,883.9	−13.1
Revenues	1,331.0	1,330.9	−0.1
OFF-BUDGET			
Social Security Outlays	380.4	380.4	0
Social Security Revenues	557.8	557.8	0

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF NOVEMBER 7, 2003

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,466,370
Permanents and other spending legislation [1]	1,081,649	1,054,550	n.a.
Appropriation legislation	0	345,754	n.a.
Offsetting receipts	−366,436	−366,436	n.a.
Total, enacted in previous sessions	715,213	1,033,868	1,466,370
Enacted this session:			
Authorizing Legislation:			
American 5-Cent Coin Design Continuity Act of 2003 (P.L. 108–15)	−1	−1	0
Postal Civil Service Retirement System Funding Reform Act of 2003 (P.L. 108–18)	2,746	2,746	0
Clean Diamond Trade Act (P.L. 108–19)	0	0	*
Prosecutorial Remedies and Other Tools to End Exploitation of Children Today Act (P.L. 108–21)	0	0	*
Unemployment Compensation Amendments of 2003 (P.L. 108–26)	4,730	4,730	145
Jobs and Growth Tax Relief Reconciliation Act of 2003 (P.L. 108–27)	13,312	13,312	−135,370
Veterans' Memorial Preservation and Recognition Act of 2003 (P.L. 108–29)	0	0	*
Welfare Reform Extension Act of 2003 (P.L. 108–40)	99	108	0
Burmese Freedom and Democracy Act (P.L. 108–61)	0	0	−10
Smithsonian Facilities Authorization Act (P.L. 108–72)	1	1	0
Family Farmer Bankruptcy Relief Act of 2003 (P.L. 108–73)	0	0	*
An act to amend Title XXI of the Social Security Act (P.L. 108–74)	1,325	100	0
Chile Free Trade Agreement Implementation Act (P.L. 108–77)	0	0	−5
Singapore Free Trade Agreement Implementation Act (P.L. 108–78)	0	0	−55
First Continuing Resolution, 2004 (P.L. 108–84)	−2,222	1	−2
Surface Transportation Extension Act of 2003 (P.L. 108–88)	6,405	0	0
An act to extend the Temporary Assistance for Needy Families block grant program (P.L. 108–89)	15	−36	33
An act to amend chapter 84 of title 5 of the United States Code (P.L. 108–92)	1	1	0
An act to amend the Immigration and Nationality Act (P.L. 108–99)	0	0	2
The Check Clearing Act for the 21st Century (P.L. 108–100)	0	0	*
An act to amend Title 44 of the United States Code (P.L. 108–102)	0	0	*
Second Continuing Resolution, 2004 (P.L. 108–104)	1	0	*
Partial-Birth Abortion Act of 2003 (P.L. 108–105)	0	0	*
Third Continuing Resolution, 2004 (P.L. 108–107)	0	0	−1
Total, authorizing legislation	26,412	20,962	−135,263
Appropriations Acts:			
Emergency Wartime Supplemental Appropriations Act, 2003 (P.L. 108–11)	215	27,349	0
Legislative Branch Appropriations (P.L. 108–83)	3,539	3,066	0
Defense Appropriations (P.L. 108–87)	368,694	251,486	0
Homeland Security Appropriations (P.L. 108–90)	30,216	18,192	0
Emergency Supplemental Appropriations Act for Defense and Reconstruction of Iraq and Afghanistan (P.L. 108–106)	3,555	1,133	0
Total, appropriation acts	406,219	301,226	0
Passed Pending Signature:			
Interior Appropriations Act, 2004 (H.R. 2691)	19,673	13,202	0
An act to reauthorize certain school lunch and child nutrition programs (H.R. 3232)	7	7	0
An act to amend Title XXI of the Social Security Act (H.R. 3288)	0	9	0
Military Family Tax Relief Act of 2003 (H.R. 3365)	−595	−595	−169
Total, passed pending signature	19,085	12,623	−169
Continuing Resolution Authority: Continuing Resolution, 2004 (P.L. 108–107)	336,417	177,141	0
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	358,395	338,102	n.a.
Total Current Level [1,2]	1,861,741	1,883,922	1,330,938
Total Budget Resolution	1,873,459	1,896,973	1,331,000
Current Level Over Budget Resolution	n.a.	n.a.	n.a.
Current Level Under Budget Resolution	11,718	13,051	62

[1] Per section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes the following items: outlays of $262 million from funds provided in the Emergency Supplemental Appropriations for Disaster Relief Act of 2003 (P.L. 108–69); outlays of $456 million from funds provided in the Legislative Branch Appropriations Act, 2004 (P.L. 108–83); budget authority of $400 million and outlays of $67 million provided in the Interior Appropriations Act, 2004 (H.R. 2691); and budget authority of $83,992 million and outlays of $35,970 million provided in the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (P.L. 108–106).

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Notes.—n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

Source: Congressional Budget Office.

FAREWELL TO IRV KUPCINET

Mr. DURBIN. Mr. President, today the city of Chicago, IL, is marking the passing of a legend. Just yesterday, Chicago, and the rest of the Nation as well, lost a giant—the famous Chicago Sun Times columnist Irv Kupcinet who died at age 91.

In the city of Chicago, there are few landmarks anyone thinks of, but one of the great landmarks was Irv Kupcinet. He was a columnist not only known across Chicago but across the Nation.

A native Chicagoan, Kup, as he was known to millions, said that even as a child he knew someday he would be in the newspaper business. But it wasn't until a shoulder injury ended his first National Football League season with the Philadelphia Eagles in 1935 that he turned to journalism, becoming a sports writer for the now defunct Chicago Times.

In 1948 that paper merged with a cross-town rival to create the Sun-Times, the newspaper which Kup called home for the remaining 55 years of his life. And as any reader of his columns can attest, right up until the end, Irv Kupcinet still wrote with passion and wit about the subjects on which he built his career—famous people and his native Chicago.

Over the years, Kup's column was distributed to more than 100 newspapers around the world and its author showered with innumerable awards. In 1982, he was elected to Chicago's Journalism Hall of Fame. The city of Chicago renamed the Wabash Avenue bridge over the Chicago River in his honor in 1986.

In 1959, Kup became the host for the syndicated television show, "At Random," where he interviewed personalities ranging from Nobel Prize winners and politicians to starlets and oddballs. Kupcinet estimated he interviewed about 6,500 guests on the show, which aired every Saturday night for 27 years, including former Presidents Richard M. Nixon, Gerald Ford and Jimmy Carter, and other newsmakers such as Lenny Bruce, Senator Robert Kennedy, Yul Brynner and Malcolm X. The show won a Peabody Award for excellence in broadcasting and more than a dozen Emmys.

His other accomplishments were enough to fill several careers. He continued his relationship with football by officiating for the NFL. He broadcast Chicago Bears football games on radio, with Jack Brickhouse, for 24 years. He appeared in two movies by Otto Preminger, "Advise and Consent" and "Anatomy of a Murder."

But it was his power as a writer and his integrity as a person that set Irv Kupcinet apart. Kup did not dish the dirt that other celebrity columnists thrived on. Instead, he often took on subjects not typically covered by his counterparts; topics such as race relations and veterans' issues. He was also a tireless worker for charities—raising funds and lending his name to a host of charitable causes.

In 1939, Kup married the love of his life, a feisty redheaded Northwestern University student named Esther "Essee" Solomon. The couple had two children, Jerry and Karyn, who was known as "Cookie." Cookie was an aspiring actress and moved to Hollywood, where she died at the age of 22. Her murder was never solved, and Kup grieved the loss of his daughter for the rest of his life. His beloved Essee died just two years ago in 2001.

Today we woke up to a world without Irv Kupcinet, and we are all somewhat poorer by that loss. But a little part of Kup will always be with us. And his example is one worth noting.

If an aspiring columnist were to ask my advise on reaching the highest levels of that profession, I would offer the following advice: study the life of Irv Kupcinet. Try to capture his passion, his courage, his style. And never forget those things that came across in every column he wrote—a love of story, a love of language, and a genuine love of people.

Thank you Kup. We will miss you.

I close by saying a few months ago, Kup, who was then in a wheelchair, asked me if I would join him at his legendary luncheon he had every Saturday at the Drake Hotel. I went to that luncheon. There were about 12 gathered there—friends of Kup for a lifetime. I was the youngest at the table by at least 20 years.

I listened as they regaled me with stories of America and Chicago, of sports, of horse racing, entertainment—everything that had made Kup's life. It was a great lunch, and I will never forget it.

America is never going to forget Irv Kupcinet. The real question we now face in Chicago is whether we can get up in the morning and face a day without Kup's column. By standing fast to his memory, standing fast to his values, I think we will be able to weather this storm and still maintain a warm spot in our heart for the late Irv Kupcinet.

I yield the floor.

I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

ADDITIONAL STATEMENTS

CONGRATULATING CHARLYE O. FARRIS

• Mrs. HUTCHISON. Mr. President, Charlye O. Farris was licensed to practice law by the State of Texas on November 12, 1953.

She was the first African American woman licensed to practice law in Texas.

On July 7, 1954, when Charlye O. Farris became a special county judge in Wichita County, TX, she became the first African American to serve in the South as a judge in any capacity since Reconstruction.

Charlye O. Farris is a native of Wichita Falls, TX, and a graduate of Booker T. Washington High School and Prairie View A&M College. She earned her Bachelor of Laws degree from Howard University in May, 1953, and has overcome significant and numerous barriers in order to practice law. She is the recipient of the Gertrude E. Rush Award of the National Bar Association for her service and achievements as an African American lawyer.

Charlye O. Farris received the Margaret Brent Women Lawyers of Achievement Award from the Commission on Women in the Profession of the American Bar Association, which recognizes women who have excelled in the legal profession and helped pave the way for other women entering the field. Her accomplishments as a woman, African American, lawyer, and community leader have made her a role model for countless Texans. Senator JOHN CORNYN and I congratulate Charlye O. Farris on the occasion of her 50th anniversary as a lawyer practicing in Texas.•

DR. JERALD TUNHEIM RETIRES FROM DAKOTA STATE UNIVERSITY

• Mr. JOHNSON. Mr. President, I rise today to recognize and honor Dr. Jerald Tunheim on the occasion of his retirement as the president of Dakota State University in Madison, SD.

After receiving both his Bachelor of Science degree in Engineering Physics and Master of Science in Physics from South Dakota State University in Brookings, South Dakota, Dr. Tunheim briefly moved to Stillwater, OK, where he received his Ph.D. in Physics from Oklahoma State University. He began his South Dakota teaching career at his alma mater in 1968 as an assistant professor of physics before becoming professor and Head of the Physics Department in 1980.

Dr. Tunheim has earned the respect and admiration of all those who had the opportunity to work with him. His friendly demeanor and wealth of knowledge helped him develop close friendships with various colleagues and students while establishing the legacy of Dakota State University in South Dakota. Dr. Tunheim joined Dakota State University three years after the South Dakota legislature changed Dakota State University's mission to focus on computer and information systems technology as academic disciplines. In his term as President, there has been a 236 percent increase in enrollment and the number of computer majors has soared from 109 in 1985 to over 1,000 today.

In his Letter from the President, Dr. Tunheim is proud to announce that, "with a proud heritage as its foundation, Dakota State has evolved to meet the needs of today's students with its innovative approach to education and a faculty with diverse backgrounds and experiences. Dakota State offers its students the best opportunities to learn and grow to meet the demands of their future." Over the years, Dr. Tunheim has committed himself to helping Dakota State University students learn more about themselves and the world around them as he has worked hard to help students find the best in themselves. Thousands of students over the years have benefited from Dr. Tunheim's commitment to higher educational excellence.

On the occasion of his retirement, I congratulate Dr. Tunheim for his tireless dedication to Dakota State University and his commitment to quality education. Dr. Tunheim has been recognized many times over for his extraordinary career including being named Teacher of the Year twice while at South Dakota State University. He was also chosen as one of the "100 Influential South Dakotans for 1994" is listed in journals such as American Men and Women of Science, Who's Who in America, Who's Who in American Education, and Oxford Who's Who. In addition to the hours he puts in as President of Dakota State University, Dr. Tunheim has spent his time on the Madison Area Chamber of Commerce Education Committee, Madison Area Chamber of Commerce Board of Directors, Council of Presidents and Superintendents of South Dakota System of Higher Education, Governor's Task Force on Vocational-Technical Education, and the National Association of Intercollegiate Athletes Council of Presidents, among many others.

The lives of countless people have been enormously enhanced by Dr. Tunheim's talent and leadership as President at Dakota State University. The State of South Dakota is a better place because of his commitment to and passion for higher education excellence and his achievements should serve as a model for other talented educators throughout our state to emulate.

I wish Dr. Jerald Tunheim the very best on his retirement.●

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 1824. A bill to amend the Foreign Assistance Act of 1961 to reauthorize the Overseas Private Investment Corporation, and for other purposes (Rept. No. 108–194).

By Mr. LUGAR, from the Committee on Foreign Relations, with an amendment:

S. 950. A bill to allow travel between the United States and Cuba.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. BOXER:

S. 1845. A bill to amend title 37, United States Code, to provide financial assistance to State and local governments that continue to pay employees who serve on active duty in a reserve component of the uniformed services; to the Committee on Armed Services.

By Ms. SNOWE:

S. 1846. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with hepatitis C, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CORZINE:

S. 1847. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for Hepatitis C virus; to the Committee on Veterans' Affairs.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 1848. A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER:

S. 1849. A bill to amend section 203 of the National Housing Act to provide for 1 percent downpayments for FHA mortgage loans for teachers and public safety officers to buy homes within the jurisdictions of their employing agencies; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. BINGAMAN, and Mr. DORGAN):

S. Res. 264. a resolution expressing the sense of the Senate regarding Veterans Day 2003; considered and agreed to.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 265. A resolution recognizing and honoring the firefighters and other public servants who responded to the devastating outbreak of wildfires in southern California in October 2003; considered and agreed to.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUYE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 198

At the request of Mr. SMITH, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 198, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 337

At the request of Mr. NELSON of Florida, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 337, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act and the Solid Waste Disposal Act to prohibit the use of arsenic-treated lumber as mulch, compost, or a soil amendment, and to prohibit the manufacture of arsenic-treated wood for use as playground equipment for children, fences, walkways, or decks or for other residential or occupational purposes, and for other purposes.

S. 448

At the request of Mr. DODD, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 448, a bill to leave no child behind.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 971

At the request of Mr. HARKIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1224

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1224, a bill to expand the powers of the Attorney General to regulate the manufacture, distribution, and sale of firearms and ammunition, and to expand the jurisdiction of the Attorney General to include firearm products and nonpowder firearms.

S. 1266

At the request of Mrs. CLINTON, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Mr. BREAUX), the Senator from West Virginia (Mr. BYRD), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from North Dakota (Mr. CONRAD), the Senator from South Dakota (Mr. DASCHLE), the Senator from Connecticut (Mr. DODD), the

Senator from North Carolina (Mrs. DOLE), the Senator from North Dakota (Mr. DORGAN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Texas (Mrs. HUTCHISON), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Mississippi (Mr. LOTT), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Maryland (Ms. MIKULSKI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Washington (Mrs. MURRAY), the Senator from Florida (Mr. NELSON), the Senator from Nebraska (Mr. NELSON), the Senator from Oklahoma (Mr. NICKLES), the Senator from Rhode Island (Mr. REED), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New York (Mr. SCHUMER), the Senator from Maine (Ms. SNOWE), the Senator from Virginia (Mr. WARNER) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1266, a bill to award a congressional gold medal to Dr. Dorothy Height, in recognition of her many contributions to the Nation.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1483

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1483, a bill to amend the Head Start Act to reauthorize that Act, and for other purposes.

S. 1545

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1545, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents.

S. 1653

At the request of Mr. INOUYE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1653, a bill to ensure that recreational benefits are given the same priority as hurricane and storm damage reduction benefits and environmental restoration benefits.

S. 1709

At the request of Mr. CRAIG, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1709, a bill to amend the USA PATRIOT ACT to place reasonable limitations on the use of surveillance and the issuance of search warrants, and for other purposes.

S. 1744

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1744, a bill to prevent abuse of Government credit cards.

S. 1828

At the request of Mr. KYL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1828, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, and for other purposes.

S. RES. 253

At the request of Mr. NELSON of Florida, the names of the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Delaware (Mr. CARPER), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from California (Mrs. FEINSTEIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mr. SCHUMER) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 253, a resolution to recognize the evolution and importance of motorsports.

AMENDMENT NO. 2057

At the request of Mr. LUGAR, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 2057 intended to be proposed to S. 1585, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2004, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 1845. A bill to amend title 37, United States Code, to provide financial assistance to State and local governments that continue to pay employees who serve on active duty in a reserve component of the uniformed services; to the Committee on Armed Services.

Mrs. BOXER. Mr. President, today is Veterans Day—a day to honor the service of those brave men and women who have fought for and defended our country.

This Veterans Day has special meaning as 130,000 Americans are serving in Iraq, and many in this country have lost loved ones in Iraq in the past year.

Americans can be proud of the soldiers, sailors, airmen, and marines who are serving today. They are continuing to show the courage, dignity, and bravery with which our veterans, who we honor today, have served in the past.

That rich tradition includes those Americans who serve in the Guard and Reserves. In the 12 years since the first war in Iraq, more than 525,000 members of the Guard and Reserves have been mobilized—more than twice the number that were mobilized in the previous 36 years.

When they are called up to active duty, they leave their civilian jobs—and their civilian salaries—behind. Most take a pay cut—and are glad to do so to serve our country. But when that active duty service becomes an extended tour of duty, the financial strain on the families left behind can be enormous.

To close this pay gap, some State and local governments make up the different between military and civilian pay for their employees who have been activated. Unfortunately, with strains on State and local budgets across the country—as well as the increased demand for more police and firefighters to help fight terrorism and enhance our homeland security—such payments to our Guards and Reservists are a financially difficult option—or not an option at all—for most State and local governments.

That is why I am today introducing the Service to the Country Reimbursement Act. Under my bill, the Federal Government would reimburse State and local governments for the costs of paying the different between the civilian salary and the military pay of a Guard or Reserves member who is activated for more than 30 days.

This legislation will encourage State and local governments to make those payments in order to keep the families financially whole, ensuring that the families of those who serve our country in the Guards and Reserves will not be financially penalized because of the service being made to our country.

I encourage my colleagues to join me in this effort. And I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1845

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Service to Country Reimbursement Act of 2003".

SEC. 2. ASSISTANCE FOR STATE AND LOCAL GOVERNMENTS THAT CONTINUE TO PAY EMPLOYEES WHO SERVE ON ACTIVE DUTY IN A RESERVE COMPONENT OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Chapter 17 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 910. Assistance for State and local governments that continue to pay employees who serve on active duty

"(a) CONTINUATION OF CIVILIAN BASIC PAY.—It is the purpose of this section to encourage States and local governments to continue to pay a portion of the civilian compensation of those employees who are also members of a reserve component and are absent from a position of employment with the State or local government under a call or order to serve on active duty for a period of more than 30 days so that the employees receive compensation in an amount that, when taken together with their military pay, is at least equal to their civilian compensation.

"(b) REIMBURSEMENT OFFERED.—At the request of a State or local government that continues to pay all or a portion of the civilian compensation of an employee described in subsection (a), the Secretary concerned shall reimburse the State or local government for the civilian compensation paid by the State or local government for each pay period described in subsection (c), but not to exceed the difference (if any) between—

"(1) the amount of civilian compensation that would otherwise have been payable to the employee for such pay period if the employee's civilian employment with the State or local government had not been interrupted by the service on active duty; and

"(2) the amount of military pay that is payable to the employee for the service on active duty and is allocable to such pay period.

"(c) PAY PERIODS.—Reimbursement shall be provided under this section with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted) that occurs—

"(1) while the employee serves on active duty for a period of more than 30 days;

"(2) while the employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of such active duty; or

"(3) during the 14-day period beginning at the end of such active duty or the end of the period referred to in paragraph (2).

"(d) EFFECT OF FAILURE TO RETURN TO EMPLOYMENT.—(1) If an employee described in subsection (a), with respect to whom reimbursement is provided to a State or local government under this section, fails to report or apply for employment or reemployment with the State or local government by the end of the period referred to in subsection (c)(3), the employee shall refund to the Secretary concerned the total amount of the reimbursement provided with respect to the employee.

"(2) Subject to paragraph (3), an obligation to refund moneys to the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3)(A) The Secretary concerned may waive, in whole or in part, a refund required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(B) The Secretary concerned shall waive a refund required under paragraph (1) if the Secretary concerned determines that the failure of the employee in question to report or apply for employment or reemployment was due to an injury or disability of the employee that is not the fault of the employee.

"(4) A discharge in bankruptcy under title 11 that is entered less than five years after the end of the period referred to in subsection (c)(3) does not discharge the employee from a debt arising under paragraph (1). This paragraph applies to any case commenced under title 11 after the date of the enactment of this section.

"(e) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section.

"(f) DEFINITIONS.—In this section:

"(1) The term 'civilian compensation' means the wages or salary that an employee of a State or local government normally receives from the employee's employment by the State or local government.

"(2) The term 'local government' means an agency or political subdivision of a State.

"(3) The term 'military pay' has the meaning given the term 'pay' in section 101(21) of this title.

"(4) The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories or possessions of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of title 37, United States Code, is amended by inserting after the item relating to section 909 the following new item:

"910. Assistance for State and local governments that continue to pay employees who serve on active duty.".

(c) APPLICATION OF AMENDMENT.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply with respect to pay periods (as described in subsection (b) of such section) beginning on or after the date of the enactment of this Act.

By Ms. SNOWE:

S. 1846. A bill to amend title 38, United States Code, to establish a presumption of service-connection for certain veterans with hepatitis C, and for the other purposes; to the Committee on Veterans' Affairs.

Ms. SNOWE. Mr. President, I rise today to reintroduce legislation I first introduced in the 105th Congress to address a serious health concern for veterans—specifically, the health threat posed by the Hepatitis C virus.

This legislation, the Veterans Hepatitis C Treatment bill, establishes a presumption of service connection for veterans with hepatitis C, provided that certain conditions are met. This bill will enable veterans who contracted Hepatitis C in military service to receive treatment for this condition by the Department of Veterans Affairs.

Under this legislation, veterans who received a transfusion of blood during a period of service before December 31, 1992; veterans who were exposed to blood during a period of service; veterans who underwent hemodialysis during a period of service; veterans diagnosed with unexplained liver disease during a period of service; or veterans working in a health care occupation during service, will be eligible for treatment for Hepatitis C at VA facilities.

I have reviewed medical research that suggests many veterans were exposed to Hepatitis C in service, and are now suffering from liver disease and other diseases caused by exposure to this virus. I am troubled that many "Hepatitis C veterans" are not being treated by the VA because they can't prove the virus was service connected, despite the fact that Hepatitis was not isolated until 1989 and could not be tested for until 1990.

Hepatitis C is a hidden infection with few symptoms. However, most of those infected with the virus will develop serious liver disease 10 to 30 years after contracting the virus. For many of those infected, Hepatitis C can lead to liver failure, transplants, liver cancer and death.

And yet, most people who have Hepatitis C don't even know it—and so they don't get treatment until it's too late. It has been estimated that up to 70 percent of the approximately four million Americans with Hepatitis C are unaware that they carry the virus. For those who know they're infected, the prognosis is promising—some estimates indicate that 50 percent may have the virus eradicated.

Vietnam veterans in particular are just now starting to learn that they have liver disease likely caused by Hepatitis C. Early detection and treatment may help head off serious liver disease for many of them. However, many veterans with Hepatitis C will not be treated by the VA because they must first establish a service connection for their condition—a standard that is virtually impossible to meet.

My colleagues may be interested to know how veterans were likely exposed to this virus. Medical advances during the Vietnam War included rapid evacuation, improved transfusion and high rates of U.S. casualty survival in an era prior to Hepatitis C screening of the blood supply. Blood transfusion is one of the most common ways Hepatitis C is transmitted. Medical transmission of the virus through needles and other medical equipment is also possible in combat. Medical care providers who served in combat, where universal precautions and rubber glove use are often absent, were likely at increased risk as well, and may have, in turn, posed a risk to the service members they treated.

Researchers have discovered that some blood sent from the U.S. was infected with the virus. Researchers and veterans organizations, including the Vietnam Veterans of America, believe that many veterans were infected after being injured in combat and getting a transfusion or from working as a medic around combat injuries.

Yet, veterans cannot establish a service connection because frequently there were no symptoms when they were originally infected while in Vietnam. In addition, while medical records may show a short bout of Hepatitis, Hepatitis C was not known at the time and there was not a test available to detect the virus.

The Hepatitis C infected veteran is essentially in a catch-22 situation: the VA will not provide treatment unless a service connection has been established, but the veterans cannot prove that they contracted Hepatitis C in combat because the science to detect the virus didn't exist. Without legislative authority to treat these veterans, thousands of veterans infected with Hepatitis C while in the service will not receive VA health care testing or treatment.

I believe that in the long run we will actually save money by testing and treating this infection early on. The alternative is much more costly treatment of end-state liver disease and the associated complications, or other disorders.

Former Surgeon General C. Everett Koop, well respected both within and outside of the medical profession, has said: "In some studies of veterans entering the Department of Veterans Affairs health facilities, half of the veterans have tested positive for [the Hepatitis C virus]. Some of those veterans may have left the military with the [Hepatitis C virus], while others may have developed it after their military service. In any event, we need to detect and treat [Hepatitis C] if we are to head off very high rates of liver disease and liver transplant in VA facilities over the next decade."

Some may argue that further epidemiologic data is needed to resolve the issue of service connection. I agree that we have our work cut out for us, and further study should be done. However, there is already a substantial body of research which has firmly established that veterans have a higher incidence of Hepatitis C when compared to non-veterans. We should not ask those who have already sacrificed so much for this country to wait—perhaps for years—for the treatment they deserve while further research is being conducted.

Today is Veteran's Day and we will all take time to honor the sacrifices that these brave men and women have made to defend the freedom of this country and ensure others could live in peace. These veterans shouldn't be asked to fight another battle for the benefits and respect that they have earned.

I hope this legislation will be a constructive step in addressing the health concerns of this Nation's veterans, and I look forward to working with the Veterans Affairs Committee, the VA-HUD appropriators, and veterans groups to meet this emerging challenge.

By Mr. CORZINE:

S. 1847. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for Hepatitis C virus; to the Committee on Veterans' Affairs.

Mr. CORZINE. Mr. President, I rise today on Veterans Day to introduce the Veterans Comprehensive Hepatitis C Health Care Act. This bill would fundamentally change the way the Department of Veterans Affairs is addressing the growing Hepatitis C epidemic, and would create a national standard for testing and treating veterans with the virus.

Hepatitis C is a disease of the liver caused by contact with the Hepatitis C virus. It is primarily spread by contact with infected blood. The CDC estimates that 1.8 percent of the population is infected with the Hepatitis C virus, and that number is much higher among veterans. Vietnam-era veterans are considered to be at greater risk because many were exposed to Hepatitis C-infected blood as a result of combat-related surgical care during the Vietnam War. In fact, data from the Veterans Administration suggests that as many as 18 percent of all veterans and 64 percent of Vietnam veterans are infected with the Hepatitis C Virus (HCV). For many of those infected, Hepatitis C can lead to liver failure, transplants, liver cancer, and death.

And yet, most veterans who have Hepatitis C don't even know it—and often do not get treatment until it's too late. Despite recent advances in treating Hepatitis C, the VA still lacks a comprehensive, consistent, uniform approach to testing and treating veterans for the virus. Only a fraction of the 3.5 million veterans enrolled nationally with the VA Health Care System have been tested to date. Part of the problem stems from a lack of qualified, full-time medical personnel to administer and analyze the tests. Most of the 172 VA hospitals in this country have only one doctor, working a half day a week, to conduct and analyze all the tests. At this rate, it will take years to test the entire enrolled population—years that many of these veterans may not have.

To address this growing problem, I am introducing the Veterans Comprehensive Hepatitis C Health Care Act. This legislation will improve access to Hepatitis C testing and treatment for all veterans, ensure that the VA spends all allocated Hepatitis C funds on testing and treatment, and sets new, national policies for Hepatitis C care. Congressman Rodney Frelinghuysen from New Jersey has introduced companion legislation in the House of Representatives.

The bill would improve testing and treatment for veterans by requiring annual screening tests for Vietnam-era veterans enrolled in the VA system, and providing annual tests, upon request, to other veterans enrolled in the VA system. Further, it would require the VA to treat any enrolled veteran who tests positive for the Hepatitis C virus, regardless of service-connected disability status or priority group categorization. The VA would be required to provide at least one dedicated health care professional—a doctor and a nurse—at each VA Hospital for testing and treatment of this disease.

This bill would also increase the amount of money dedicated to Hepatitis C testing and treatment, and would make sure these funds are spent where they are needed most. Beginning in FY04, Hepatitis C funding would be shifted to the Specific Purpose account under the Veterans Health Administration, and would be dedicated solely for the purpose of paying for the costs associated with treating veterans with the Hepatitis C virus. The bill would allocate these funds to the 22 Veterans Integrated Service Networks (VISN) based on each VISN's Hepatitis C incidence rate, or the number of veterans infected with the virus.

In addition, this bill will end the confusing patchwork of policies governing the care of veterans with Hepatitis C throughout the nation. This legislation directs the VA to develop and implement a standardized, national Hepatitis C policy for its testing protocol, treatment options and education and notification efforts. The bill further directs the VA to develop an outreach program to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing through the VA. And finally, this legislation would establish Hepatitis C Centers of Excellence in geographic areas with high incidence of Hepatitis C infection.

As I've said, many veterans do not even realize that they may be infected with the Hepatitis C virus, and the VA is doing little to encourage them to get the critical testing they need. The VA currently lacks a comprehensive national strategy for combating this deadly disease. With the passage of the Veterans Comprehensive Hepatitis C Health Care Act, veterans will finally be provided with the access to testing and treatment that they have more than earned and deserve. Additionally, the Federal Government will actually save money in the long run by testing and treating this infection early on. The alternative is much more costly treatment of end-stage liver disease and the associated complications, or other disorders.

The VA has known about the problem of Hepatitis C among veterans since 1992, but they have not acted. We must address this critical issue for the brave men and women who have placed their lives in danger to protect the United

States. I urge my colleagues to join me in supporting this crucial legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Comprehensive Hepatitis C Health Care Act".

SEC. 2. COMPREHENSIVE HEPATITIS C HEALTH CARE TESTING AND TREATMENT PROGRAM FOR VETERANS.

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1720E the following new section:

"§ 1720F. Hepatitis C testing and treatment

"(a) INITIAL TESTING.—(1) During the one-year period beginning on the date of the enactment of the Veterans Comprehensive Hepatitis C Health Care Act, the Secretary shall provide a blood test for the Hepatitis C virus to—

"(A) each veteran who served in the active military, naval, or air service during the Vietnam era or who is considered to be 'at risk,' and is enrolled to receive care under section 1710 of this title who requests the test or is otherwise receiving a physical examination or any care or treatment from the Secretary; and

"(B) to any other veteran who requests the test.

"(2) After the end of the period referred to in paragraph (1), the Secretary shall provide a blood test for the Hepatitis C virus to any veteran who requests the test.

"(b) FOLLOWUP TESTING AND TREATMENT.—In the case of any veteran who tests positive for the Hepatitis C virus, the Secretary—

"(1) shall provide such followup tests as are considered medically appropriate; and

"(2) shall provide appropriate treatment for that veteran in accordance with the national protocol for the treatment of Hepatitis C.

"(c) STATUS OF CARE.—(1) Treatment shall be provided under subsection (b) without regard to whether the Hepatitis C virus is determined to be service-connected and without regard to priority group categorization of the veteran. No copayment may be charged for treatment under subsection (b), and no third-party reimbursement may be sought or accepted, under section 1729 of this title or any other provision of law, for testing or treatment under subsection (a) or (b).

"(2) Paragraph (1) shall cease to be in effect upon the effective date of a determination by the Secretary or by Congress that the occurrence of the Hepatitis C virus in specified veterans shall be presumed to be service-connected.

"(d) STAFFING.—(1) The Secretary shall require that each Department medical center employ at least one full-time gastroenterologist, hepatologist, or other qualified physician to provide tests and treatment for the Hepatitis C virus under this section.

"(2) The Secretary shall, to the extent practicable, ensure that each Department medical center has at least one staff member assigned to work, in coordination with Hepatitis C medical personnel, to coordinate treatment options for Hepatitis C patients and provide information and counseling for those patients and their families. Such a staff member should preferably be trained in psychology or psychiatry or be a social worker.

"(3) In order to improve treatment provided to veterans with the Hepatitis C virus, the Secretary shall provide increased training options to Department health care personnel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720E the following new item:

"1720F. Hepatitis C testing and treatment.".

SEC. 3. FUNDING FOR HEPATITIS C PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PROGRAM ACCOUNT.—Beginning with fiscal year 2004, amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment shall be provided, within the "Medical Care" account, through the "Specific Purpose" subaccount, rather than the "VERA" subaccount.

(b) ALLOCATION OF FUNDS TO VISNS.—In allocating funds appropriated for the Department of Veterans Affairs for the "Medical Care" account to the Veterans Integrated Service Networks, the Secretary of Veterans Affairs shall allocate funds for detection and treatment of the Hepatitis C virus based upon incidence rates of that virus among veterans (rather than based upon the overall population of veterans) in each such network.

(c) LIMITATION ON USE OF FUNDS.—Amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment through the "Specific Purpose" subaccount may not be used for any other purpose.

SEC. 4. NATIONAL POLICY.

(a) STANDARDIZED NATIONWIDE POLICY.—The Secretary of Veterans Affairs shall develop and implement a standardized policy to be applied throughout the Department of Veterans Affairs health care system with respect to the Hepatitis C virus. The policy shall include the testing protocol for the Hepatitis C virus, treatment options, education and notification efforts, and establishment of a specific Hepatitis C diagnosis code for measurement and treatment purposes.

(b) OUTREACH.—The Secretary shall, on an annual basis, take appropriate actions to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing from the Department of Veterans Affairs.

SEC. 5. HEPATITIS C CENTERS OF EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall establish at least one, and not more than three, additional Hepatitis C centers of excellence or additional sites at which activities of Hepatitis C centers of excellence are carried out. Each such additional center or site shall be established at a Department of Veterans Affairs medical center in one of the five geographic service areas (known as a Veterans Integrated Service Network) with the highest case rate of Hepatitis C in fiscal year 1999.

(b) FUNDING.—Funding for the centers or sites established under subsection (a) shall be provided from amounts available to the Central Office of the Department of Veterans Affairs and shall be in addition to amounts allocated for Hepatitis C pursuant to section 3.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 1848. A bill to amend the Bend Pine Nursery Land Conveyance Act to direct the Secretary of Agriculture to sell the Bend Pine Nursery Administration Site in the State of Oregon; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am introducing a bill, with my friend and colleague Senator SMITH of Oregon, to amend the Bend Pine Nursery Land Conveyance Act, enacted three years ago, authorizing the sale of the U.S. Forest Service Bend Pine Nursery to the community of Bend, OR, for use as a public park and recreation facility.

In the original bill, Senator SMITH, Congressman WALDEN and I sought to achieve some very basic objectives. We wanted the community of Bend to take title to a property which for many years had been a federally owned plantation for growing pine seedlings, and which will now make a superb park and ball field complex for the use of the community. At the same time, the bill authorized the sale of several other properties in order to raise an account enabling the Forest Service to acquire a new headquarters for the Deschutes National Forest.

In 1999, we drafted the original legislation in very close consultation with the U.S. Forest Service based on the assumption that in so doing, the agency would have the necessary tools and direction to move swiftly to implement the legislation. The intent of the legislation was to have the Forest Service sell the property to the Bend Parks District within a year of its enactment at the estimated value of the property at that time, $3 million.

Unfortunately, the goodwill built up throughout the drafting process was squandered by the Forest Service. Two years of delays in the implementation of the original legislation resulted in an appraised price of $5.8 million as opposed to the $3 million this property was assumed to be worth when the original Bend Pine Nursery Land Conveyance was enacted in 2000. This delay has been inconsistent with the intent of the original legislation and runs entirely contrary to the interest of Bend taxpayers.

The community has always been more than willing to pay fair value for this property, and their goodwill and their tax dollars should not be wasted any longer.

The bill I introduce today resolves the issues that stand in the way of implementation of this simple land sale in a fair manner, directing the sale to move forward expeditiously for $3.5 million. That figure is arrived at by assuming the $3 million value of the property on the day the original Act was passed, allowing for inflation per the Forest Service's calculations, and then deducting the value of acreage that the Forest Service has decided not to sell and 15 acres the Forest Service has the ability to transfer to the local school district at no cost.

I look forward to the expeditious resolution to this issue.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OF BEND PINE NURSERY ADMINISTRATIVE SITE.

The Bend Pine Nursery Land Conveyance Act (114 Stat. 2512) is amended—

(1) in section 3—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) through (7) as subparagraphs (A) through (F), respectively, and adjusting the margins appropriately; and

(iii) by striking "(a) IN GENERAL.—The Secretary may" and inserting the following:

"(a) IN GENERAL.—The Secretary—

"(1) shall offer to sell to the Bend Metro Park and Recreation District in Deschutes County, Oregon, for consideration in the amount of $3,505,676, all right, title, and interest of the United States in and to approximately 170 acres of the parcel of land identified as Tract A, Bend Pine Nursery, as depicted on the site plan map entitled 'Bend Pine Nursery Administrative Site, May 13, 1999'; and

"(2) may";

(B) by striking subsection (e)(3); and

(C) by inserting after subsection (f) the following:

"(g) BEND PINE NURSERY ADMINISTRATIVE SITE.—The land conveyed to the Bend Metro Park and Recreation District under section 3(a)(1)—

"(1) shall be used only for recreation purposes; and

"(2) may be developed for those purposes.".

(2) by redesignating section 6 as section 7; and

(3) by inserting after section 5 the following:

"SEC. 6. CONVEYANCE TO BEND-LA PINE SCHOOL DISTRICT.

"The Secretary, in accordance with section 202 of the Education Land Grant Act (16 U.S.C. 479a), shall convey to Administrative School District No. 1, Deschutes County, Oregon, for no consideration, 15 acres of land located in the northwest corner of the tract described in section 3(a)(1), to be used for educational purposes.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 264—EXPRESSING THE SENSE OF THE SENATE REGARDING VETERANS DAY 2003

Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. GRAHAM of Florida, Mr. BINGAMAN, and Mr. DORGAN) submitted the following resolution; which was considered and agreed to:

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces of the United States during the past century;

Whereas the contributions and sacrifices of the men and women who have served in the Armed Forces of the United States have been vital in maintaining our freedoms and way of life;

Whereas the more than 700,000 brave Americans who have sacrificed their lives while serving in the Armed Forces of the United States have ensured that the Nation, which is founded on the principles of freedom, justice, and democracy, shall endure;

Whereas Armistice Day was first proclaimed by President Woodrow Wilson in 1919 to commemorate the November 11, 1918, armistice between the Allies and the Central Powers that ended the fighting of World War I;

Whereas on June 1, 1954, President Dwight D. Eisenhower signed into law the Act proclaiming November 11 as Veterans Day (Public Law 83–380);

Whereas on October 8, 1954, in anticipation of the first nationwide observance of Veterans Day in 1954, President Dwight D. Eisenhower issued a presidential proclamation regarding that Veterans Day which states that "[o]n that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain";

Whereas on November 10, 2003, President George W. Bush issued a presidential proclamation regarding Veterans Day 2003 which states that "[t]oday, our veterans inspire new generations of Americans as we work to defeat terrorism and advance peace. In respect for and recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans";

Whereas in 2003 the Senate is in session on November 11 despite that date being a public holiday to honor veterans; and

Whereas it is proper that the Senate observe the day with appropriate tributes and commemorations even as it conducts the Nation's business: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the war dead of the Nation, and veterans of the Armed Forces of the United States, alive or dead, are to be honored for their contributions and sacrifices to preserve the Nation and the principles of freedom, justice, and democracy that all Americans hold dear; and

(2) that Veterans Day 2003 shall be commemorated with appropriate tributes to all veterans of the Armed Forces of the United States for their contributions and sacrifices, and most especially to those who made the ultimate sacrifice; and

(3) that all Americans shall be encouraged to join the Senate in honoring and paying tribute to veterans of the Armed Forces of the United States, both on Veterans Day and throughout the year.

SENATE RESOLUTION 265—RECOGNIZING AND HONORING THE FIREFIGHTERS AND OTHER PUBLIC SERVANTS WHO RESPONDED TO THE DEVASTATING OUTBREAK OF WILDFIRES IN SOUTHERN CALIFORNIA IN OCTOBER 2003

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 265

Whereas in late October 2003, southern California experienced multiple simultaneous devastating wildfires that destroyed thousands of homes, took many lives, and burned hundreds of thousands of acres of grasslands and forests, exceeding the devastation of any fires in the past century;

Whereas in the space of a few days, all of the resources of local firefighting companies were called on to man fire lines, first on 1 front and then on many fronts;

Whereas firefighters were thrown into extraordinarily dangerous situations because of the fast-moving, fuel- and wind-driven fires;

Whereas firefighters exhibited resilience and courage by continuing to stay on the lines, often in back-to-back shifts, while knowing, in some instances, that their own families were in danger or that their personal homes had been lost;

Whereas 1 firefighter, Steven Rucker, made the ultimate sacrifice by giving his life;

Whereas the firefighters who were called initially were later assisted by skilled and courageous pilots, who flew water-drop flights in the most challenging wind and smoke conditions, and by firefighters from throughout the State of California and neighboring States;

Whereas additional emergency personnel, including law enforcement and medical personnel, have coordinated with local authorities and firefighters and have performed beyond the call of duty in the preservation and protection of human lives; and

Whereas members of the Armed Forces have once again met their country's call to duty, providing valuable firefighting assets and assistance to the emergency response efforts of California: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors all of the firefighters who responded to the devastating outbreak of wildfires in southern California in October 2003;

(2) recognizes and honors all others, including emergency, law enforcement, and medical personnel, pilots, and members of the Armed Forces, for their important contributions to controlling the wildfires and keeping Californians safe; and

(3) commends the firefighters and other personnel for dedicated service to the people of California.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2148. Mr. LUGAR (for himself, Mrs. BOXER, and Mr. SANTORUM) proposed an amendment to the bill H.R. 1828, to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil and illegal shipments of weapons and other military items to Iraq, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes.

SA 2149. Mr. FRIST (for Mr. BOND) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 286, to revise and extend the Birth Defects Prevention Act of 1998.

TEXT OF AMENDMENTS

SA 2148. Mr. LUGAR (for himself, Mrs. BOXER, and Mr. SANTORUM) proposed an amendment to the bill H.R. 1828, to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil and illegal shipments of weapons and other military items to Iraq, and by so doing hold Syria accountable for the serious international security problems it has caused in the Middle East, and for other purposes; as follows:

On page 2, strike lines 8 through 15.

On page 9, strike lines 21 through 24.

On page 15, line 1, strike "will be held responsible" and insert "should bear responsibility".

On page 15, beginning on line 6, strike "shall impede Syria's ability" and insert "will work to deny Syria the ability".

On page 15, strike lines 18 through 20.

On page 16, line 17, insert after "citizen in Iraq" the following: "if the Government of Syria is found to be responsible".

On page 18, strike lines 15 through 20 and insert the following:

(b) WAIVER.—The President may waive the application of subsection (a)(1), (a)(2), or both if the President determines that it is in the national security interest of the United States to do so and submits to the appropriate congressional committees a report containing the reasons for the determination.

On page 20, beginning on line 6, strike "withdrawn all Syrian military, intelligence, and other security personnel from Lebanon" and insert "ended its occupation of Lebanon described in section 2(7) of this Act".

On page 21, beginning on line 15, strike "the attacks against the United States that occurred on September 11, 2001, and other".

On page 21, beginning on line 20, strike "given the recognition that Hizbullah is equally or more capable than al Qaeda" and insert "and other terrorist organizations supported by Syria".

SA 2149. Mr. FRIST (for Mr. BOND) submitted an amendment intended to be proposed by Mr. FRIST to the bill S. 286, to revise and extend the Birth Defects Prevention Act of 1998; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Birth Defects and Developmental Disabilities Prevention Act of 2003".

SEC. 2. NATIONAL CENTER ON BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES.

Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)—

(i) by striking "and developmental disabilities" and inserting ", developmental disabilities, and disabilities and health"; and

(ii) by striking "subsection (d)(2)" and inserting "subsection (c)(2)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(D) to conduct research on and to promote the prevention of such defects and disabilities, and secondary health conditions among individuals with disabilities; and

"(E) to support a National Spina Bifida Program to prevent and reduce suffering from the Nation's most common permanently disabling birth defect.";

(2) by striking subsection (b);

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) contains information regarding the incidence and prevalence of birth defects, developmental disabilities, and the health status of individuals with disabilities and the extent to which these conditions have contributed to the incidence and prevalence of infant mortality and affected quality of life;";

(B) in paragraph (3), by inserting ", developmental disabilities, and secondary health conditions among individuals with disabilities" after "defects";

(C) in paragraph (4), by striking "and" at the end;

(D) by redesignating paragraph (5) as paragraph (7); and

(E) by inserting after paragraph (4) the following:

"(5) contains information on the incidence and prevalence of individuals living with birth defects and disabilities or developmental disabilities, information on the health status of individuals with disabilities, information on any health disparities experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals;

"(6) contains a summary of recommendations from all birth defects research conferences sponsored by the Centers for Disease Control and Prevention, including conferences related to spina bifida; and";

(4) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

(5) by inserting after subsection (d) (as so redesignated), the following:

"(e) ADVISORY COMMITTEE.—Notwithstanding any other provision of law, the members of the advisory committee appointed by the Director of the National Center for Environmental Health that have expertise in birth defects, developmental disabilities, and disabilities and health shall be transferred to and shall advise the National Center on Birth Defects and Developmental Disabilities effective on the date of enactment of the Birth Defects and Developmental Disabilities Prevention Act of 2003."; and

(6) in subsection (f), by striking "$30,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 2003 through 2007.".

SEC. 3. TECHNICAL CORRECTIONS FOR STATE COUNCILS ON DEVELOPMENTAL DISABILITIES.

(a) IN GENERAL.—Section 122(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15022(a)) is amended—

(1) in paragraph (3)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater"; and

(2) in paragraph (4)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003 and apply to allotments beginning in fiscal year 2004.

SEC. 4. REPORT ON SURVEILLANCE ACTIVITIES.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services jointly with the Secretary of Education shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce and Committee on Education and the Workforce of the House of Representatives a report concerning surveillance activities under section 102 of the Children's Health Act of 2000 (Public Law 106-310), specifically including—

(1) a description of the current grantees under the National Autism and Pervasive Developmental Disabilities Surveillance Program and the Centers of Excellence in Autism and Pervasive Developmental Disabilities the data collected, analyzed, and reported under such grants, the sources of such data, and whether such data was obtained with parental consent as required under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g);

(2) a description of current sources of data for the surveillance of autism and developmental disabilities and the methods for obtaining such data, including whether such data was obtained with parental or patient consent for disclosure;

(3) an analysis of research on autism and developmental disabilities with respect to the methods of collection and reporting, including whether such research was obtained with parental or patient consent for disclosure;

(4) an analysis of the need to add education records in the surveillance of autism and other developmental disabilities, including the methodological and medical necessity for such records and the rights of parents and patients in the use of education records (in accordance with the Family Educational Rights and Privacy Act of 1974);

(5) a description of the efforts taken by the Centers for Disease Control and Prevention to utilize education records in conducting the surveillance program while obtaining parental or patient consent for such education records, including the outcomes of such efforts;

(6) a description of the challenges provided to obtaining education records (in the absence of parental or patient consent) for the purpose of obtaining additional surveillance data for autism and other developmental disabilities; and

(7) a description of the manner in which such challenges can be overcome, including efforts to educate parents, increase confidence in the privacy of the surveillance program, and increase the rate of parental or patient consent, and including specific quantitative and qualitative justifications for any recommendations for changes to existing statutory authority, including the Family Educational Rights and Privacy Act of 1974.

NOTICES OF HEARINGS/MEETINGS

(At the request of Mr. MCCONNELL, the following statement was ordered to be printed in the RECORD.)

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I announce that the Committee on Indian Affairs will meet on Thursday, November 13, 2003, at 10 a.m., in room 485 of the Russell Senate Office Building to conduct a business meeting to consider S. 1529, the Indian Gaming Regulatory Act amendments of 2003; S. 1721, the American Indian Probate Reform Act of 2003; and S. Res. 248, a resolution expressing the sense of the Senate concerning the Individual Indian Money Account Trust Funds lawsuit.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

PRIVILEGES OF THE FLOOR

Mr. AKAKA. Mr. President, I ask unanimous consent that Ms. Carol Madonna, a legislative fellow at my personal office, be permitted the privilege of the floor during consideration of the conference report on H.R. 1588, the Defense authorization bill for fiscal year 2004.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I ask unanimous consent that LTC Gregg Blanchard, a military fellow in my office, be given floor privileges for the rest of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2004

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 267, H.R. 2861, VA-HUD appropriations bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2861) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 2004, and for other purposes.

Mr. FRIST. I now ask unanimous consent that Senate resume consideration of the bill at 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY, NOVEMBER 12, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that at 2:15 p.m. on Wednesday there be 20 minutes equally divided for debate prior to a vote on the adoption of the conference report to accompany the Department of Defense authorization bill; provided further that immediately following that vote, the Senate proceed to a vote on the adoption of the conference report to accompany H.R. 2559, the Military Construction appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 7

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 7, the Charitable Giving bill. I further ask unanimous consent that all after the enacting clause be stricken; that the Snowe amendment and the Grassley-Baucus amendment which are at the desk be agreed to en bloc; that the substitute amendment which is the text of S. 476, the Senate-passed version of the Charitable Giving bill as amended by the Snowe and Grassley and Baucus amendments, be agreed to; that the bill as amended be read a third time and passed; that the motion to reconsider be laid upon the table; further, that the Senate insist upon its amendments and request a conference with the House; and lastly, that the Chair be authorized to appoint conferees with the ratio of 3 to 2; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection? The Senator from Nevada.

Mr. REID. Reserving the right to object, Mr. President, we have heard a lot on our side about the CARE Act. Let me say we are strongly committed to it. We have worked with the majority on a bipartisan basis to avoid the policy disagreements and pass a bill that increases the resources desperately needed by the charitable community.

We strongly support the vital funding for the Social Services Block Grant. The Senate bill restores the Social Services Block Grant to full funding of $2.8 billion. However, the House provides no such provision.

These grants are used to fund a range of social services, with recipients ranging from children in need of day care or protective services, to elderly or disabled individuals in need of home-delivered meals.

These funds today are urgently needed. We have heard from organizations across the country and across the political spectrum that tell us how important this money is, including: America needs a powerful mobilization of civic energies and a substantial increase in resources, public and private, to confront widespread poverty and social problems. We also need closer and more effective collaboration between the Government and this country's community organizations.

It is because of our strong commitment to this funding and our concern about what has been happening in conferences that we are here today. Democrats believe that through prompt passage of the reconciled CARE and Charitable Giving Acts, Congress will provide the leadership to translate these concerns to action.

Therefore, Mr. President, I ask consent that the leader would modify his request to provide for all the provisions of his request, except the portion on going to conference. We stand ready now to pass this bill and send it to the House, just as we have done on several bills in the past week—for example, the military tax bill. Just today we amended and passed the Syrian Accountability Act. It is not unusual for the Senate to send a measure to the House with an amendment, just as we are now suggesting with respect to H.R. 7.

The PRESIDING OFFICER. Does the majority leader modify his request?

Mr. FRIST. Mr. President, I object to the proposed modification.

The PRESIDING OFFICER. Objection is heard with respect to the proposed modification.

Mr. REID. I object to the leader's request.

The PRESIDING OFFICER. Objection is heard to the unanimous consent request.

VETERANS DAY 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 264, a sense-of-the-Senate resolution regarding Veterans Day, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 264) expressing the sense of the Senate regarding Veterans Day 2003.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, November 11 was originally known as Armistice Day to celebrate the end of World War I. In 1938, Congress declared November 11 a national holiday in the hopes that the world would never ever again see a battle so fierce and so devastating as that First World War, but that was not to be.

Only a few years later, World War II broke out in Europe. America would lose 407,000 servicemen in battle. Henceforth, the movement began to recognizes our heroes in uniform.

In 1954, President Eisenhower proclaimed November 11 Veterans Day. He told the Nation at that time that it was his "earnest hope that all veterans, their organizations, and the entire citizenry will join hands to ensure proper and widespread observance of this day."

Today, nearly 50 years later, we join hands to pay tribute to that very special group of people who have brought our country such honor, whose courage and whose sacrifice have secured our liberty: the men and women of the Armed Forces; people such as Senator DANIEL INOUYE, who fought so valiantly in World War II and earned the highest award that can be bestowed, the Medal of Honor; Senator MCCAIN, who served with singular courage and sacrifice in Vietnam; Senator STEVENS, a World War II Air Force pilot, who earned two distinguished Flying Crosses, two Air Medals, and the Yuan Hai medal from the Republic of China. JOHN WARNER, CHUCK HAGEL, and FRITZ HOLLINGS are also Members of this distinguished body who served in battle with honor and with courage.

It is because of them and over 46 million veterans since our Nation's founding that we are today free—free to debate in these Halls of Congress, free to raise our families with the values that we choose. It is because of the sacrifices of these special Americans that we have the freedom to live as fully and as completely as our imaginations will allow, to realize those blessings of liberty.

The last 2 years have put these blessings in stark relief. On September 11, when our enemies struck, and the billows of smoke were rising out of the World Trade Center and the Pentagon here in Washington, DC, and in that pulverized plane on a Pennsylvania field, we saw that determined face of evil.

But as clear as the blue sky above—and who will ever forget that bright, stark, blue sky on that morning?—we saw the blessings of liberty. We relearned that freedom indeed is precious and that freedom must be defended.

Since that day a new generation of men and women have heard the calling—so young yet so brave. They are taking the battle to the enemy. The men and women in the Armed Forces are proving every day that America is a courageous and a compassionate nation, and that our cause is just.

We are blessed to have such heroes among us. Today we honor them as well. We are working with the President to improve our veterans' quality of life by securing the benefits afforded to them for their service. Access to quality care is critical to our veterans. Veterans hospitals have been the focal point of veterans' health care delivery.

We are also working to improve the hospital system to allow disabled veterans to collect, over 10 years, the portions of their pensions that they do not receive under current law. Veterans with combat-related injuries and those who are considered 50-percent disabled would qualify for these benefits. It is our intent to have this legislation enacted this year.

For our future veterans, we have expanded funding to support our troops. In the 2004 emergency Iraq-Afghanistan supplemental appropriations bill, military personnel salaries and benefits were increased to $17.8 billion for Guard and Reserve troops activated for duty.

In addition, much of the funding in this supplemental appropriations bill will be used to support military operations and provide needed equipment to our troops overseas.

We are also working to help our fighting men and women by improving veterans health care and the TRICARE program for our armed services. The recently enacted supplemental bill increases TRICARE benefits to thousands of members of the Guard and Reserve.

In these and other concrete ways, we are working hard to support those whose serve us so ably. In doing so, we not only recognize their contribution, we recognize the great purpose of our Nation.

In the midst of the Revolution, the great essayist Thomas Paine told his fellow Americans:

> These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country, but he that stands it now deserves the love and thanks of man and woman.

Today we express our love and thanks to the men and women who have stood to defend our freedoms in battles past, and to all of the soldiers today in the field, I thank you. America thanks you.

Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 264

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces of the United States during the past century;

Whereas the contributions and sacrifices of the men and women who have served in the Armed Forces of the United States have been vital in maintaining our freedoms and way of life;

Whereas the more than 700,000 brave Americans who have sacrificed their lives while serving in the Armed Forces of the United States have ensured that the Nation, which is founded on the principles of freedom, justice, and democracy, shall endure;

Whereas Armistice Day was first proclaimed by President Woodrow Wilson in 1919 to commemorate the November 11, 1918, armistice between the Allies and the Central Powers that ended the fighting of World War I;

Whereas on June 1, 1954, President Dwight D. Eisenhower signed into law the Act proclaiming November 11 as Veterans Day (Public Law 83-380);

Whereas on October 8, 1954, in anticipation of the first nationwide observance of Veterans Day in 1954, President Dwight D. Eisenhower issued a presidential proclamation regarding that Veterans Day which states that "[o]n that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain";

Whereas on November 10, 2003, President George W. Bush issued a presidential proclamation regarding Veterans Day 2003 which states that "[t]oday, our veterans inspire new generations of Americans as we work to defeat terrorism and advance peace. In respect for and recognition of the contributions our service men and women have made to the cause of peace and freedom around the world, the Congress has provided (5 U.S.C. 6103(a)) that November 11 of each year shall be set aside as a legal public holiday to honor veterans";

Whereas in 2003 the Senate is in session on November 11 despite that date being a public holiday to honor veterans; and

Whereas it is proper that the Senate observe the day with appropriate tributes and commemorations even as it conducts the Nation's business: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the war dead of the Nation, and veterans of the Armed Forces of the United States, alive or dead, are to be honored for their contributions and sacrifices to preserve the Nation and the principles of freedom, justice, and democracy that all Americans hold dear;

(2) that Veterans Day 2003 shall be commemorated with appropriate tributes to all veterans of the Armed Forces of the United States for their contributions and sacrifices, and most especially to those who made the ultimate sacrifice; and

(3) that all Americans shall be encouraged to join the Senate in honoring and paying tribute to veterans of the Armed Forces of the United States, both on Veterans Day and throughout the year.

BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES PREVENTION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item No. 369, S. 286.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 286) to revise and extend the Birth Defects Prevention Act of 1998.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 286

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Birth Defects and Developmental Disabilities Prevention Act of 2003".

[SEC. 2. NATIONAL CENTER ON BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES.

[Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) is amended—

[(1) in subsection (a)(2)—

[(A) in subparagraph (A)—

[(i) by striking "and developmental disabilities" and inserting ", developmental disabilities, and disabilities and health"; and

[(ii) by striking "subsection (d)(2)" and inserting "subsection (c)(2)";

[(B) in subparagraph (B), by striking "and" at the end;

[(C) in subparagraph (C), by striking the period and inserting a semicolon; and

[(D) by adding at the end the following:

["(D) to conduct research on and to promote the prevention of such defects and disabilities, and secondary health conditions among individuals with disabilities; and

["(E) to support a National Spina Bifida Program to prevent and reduce suffering from the Nation's most common permanently disabling birth defect.";

[(2) by striking subsection (b);

[(3) in subsection (d)—

[(A) by striking paragraph (1) and inserting the following:

["(1) contains information regarding the incidence and prevalence of birth defects, developmental disabilities, and the health status of individuals with disabilities and the extent to which these conditions have contributed to the incidence and prevalence of infant mortality and affected quality of life;";

[(B) in paragraph (3), by inserting ", developmental disabilities, and secondary health conditions among individuals with disabilities" after "defects";

[(C) in paragraph (4), by striking "and" at the end;

[(D) by redesignating paragraph (5) as paragraph (7); and

[(E) by inserting after paragraph (4) the following:

["(5) contains information on the incidence and prevalence of individuals living with birth defects and disabilities or developmental disabilities, information on the health status of individuals with disabilities, information on any health disparities experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals;

["(6) contains a summary of recommendations from all birth defects research conferences sponsored by the Centers for Disease Control and Prevention, including conferences related to spina bifida; and";

[(4) in subsection (e)—

[(A) by inserting ", including section 444 of the General Education Provisions Act," after "privacy of information"; and

[(B) by inserting before the period the following: ", except that the Centers for Disease Control and Prevention shall have access to information under section 444(b)(1)(F) of such Act solely for purposes of carrying out subsection (a)(2) of this section and shall otherwise comply with all other requirements of such section 444";

[(5) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

[(6) by inserting after subsection (d) (as so redesignated), the following:

["(e) ADVISORY COMMITTEE.—Notwithstanding any other provision of law, the members of the advisory committee appointed by the Director of the National Center for Environmental Health that have expertise in birth defects, developmental disabilities, and disabilities and health shall be transferred to and shall advise the National Center on Birth Defects and Developmental Disabilities effective on the date of enactment of the Birth Defects and Developmental Disabilities Prevention Act of 2003."; and

[(7) in subsection (f), by striking "$30,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 2003 through 2007.".

[SEC. 3. TECHNICAL CORRECTIONS FOR STATE COUNCILS ON DEVELOPMENTAL DISABILITIES.

[Section 122(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15022(a)) is amended—

[(1) in paragraph (3)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater"; and

[(2) in paragraph (4)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater".]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Birth Defects and Developmental Disabilities Prevention Act of 2003".

SEC. 2. NATIONAL CENTER ON BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES.

Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)—

(i) by striking "and developmental disabilities" and inserting ", developmental disabilities, and disabilities and health"; and

(ii) by striking "subsection (d)(2)" and inserting "subsection (c)(2)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(D) to conduct research on and to promote the prevention of such defects and disabilities, and secondary health conditions among individuals with disabilities; and

"(E) to support a National Spina Bifida Program to prevent and reduce suffering from the Nation's most common permanently disabling birth defect.";

(2) by striking subsection (b);

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) contains information regarding the incidence and prevalence of birth defects, developmental disabilities, and the health status of individuals with disabilities and the extent to which these conditions have contributed to the incidence and prevalence of infant mortality and affected quality of life;";

(B) in paragraph (3), by inserting ", developmental disabilities, and secondary health conditions among individuals with disabilities" after "defects";

(C) in paragraph (4), by striking "and" at the end;

(D) by redesignating paragraph (5) as paragraph (7); and

(E) by inserting after paragraph (4) the following:

"(5) contains information on the incidence and prevalence of individuals living with birth defects and disabilities or developmental disabilities, information on the health status of individuals with disabilities, information on any health disparities experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals;

"(6) contains a summary of recommendations from all birth defects research conferences sponsored by the Centers for Disease Control and Prevention, including conferences related to spina bifida; and";

(4) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

(5) by inserting after subsection (d) (as so redesignated), the following:

"(e) ADVISORY COMMITTEE.—Notwithstanding any other provision of law, the members of the advisory committee appointed by the Director of the National Center for Environmental Health that have expertise in birth defects, developmental disabilities, and disabilities and health shall be transferred to and shall advise the National Center on Birth Defects and Developmental Disabilities effective on the date of enactment of the Birth Defects and Developmental Disabilities Prevention Act of 2003."; and

(6) in subsection (f), by striking "$30,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 2003 through 2007.".

SEC. 3. TECHNICAL CORRECTIONS FOR STATE COUNCILS ON DEVELOPMENTAL DISABILITIES.

(a) IN GENERAL.—Section 122(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15022(a)) is amended—

(1) in paragraph (3)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater"; and

(2) in paragraph (4)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003 and apply to allotments beginning in fiscal year 2004.

SEC. 4. REPORT ON SURVEILLANCE ACTIVITIES.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services jointly with the Secretary of Education shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce and Committee on Education and the Workforce of the House of Representatives a report concerning surveillance activities under section 102 of the Children's Health Act of 2000 (Public Law 106–310), specifically including—

(1) a description of the current grantees under the National Autism and Pervasive Developmental Disabilities Surveillance Program and the Centers of Excellence in Autism and Pervasive Developmental Disabilities the data collected, analyzed, and reported under such grants, the sources of such data, and whether such data was obtained with parental consent

as required under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g);

(2) a description of current sources of data for the surveillance of autism and developmental disabilities and the methods for obtaining such data, including whether such data was obtained with parental or patient consent for disclosure;

(3) an analysis of research on autism and developmental disabilities with respect to the methods of collection and reporting, including whether such research was obtained with parental or patient consent for disclosure;

(4) an analysis of the need to add education records in the surveillance of autism and other developmental disabilities, including the methodological and medical necessity for such records and the rights of parents and patients in the use of education records (in accordance with the Family Educational Rights and Privacy Act of 1974);

(5) a description of the efforts taken by the Centers for Disease Control and Prevention to utilize education records in conducting the surveillance program while obtaining parental or patient consent for such education records, including the outcomes of such efforts;

(6) a description of the challenges provided to obtaining education records (in the absence of parental or patient consent) for the purpose of obtaining additional surveillance data for autism and other developmental disabilities; and

(7) a description of the manner in which such challenges can be overcome, including efforts to educate parents, increase confidence in the privacy of the surveillance program, and increase the rate of parental or patient consent, and including specific quantitative and qualitative justifications for any recommendations for changes to existing statutory authority, including the Family Educational Rights and Privacy Act of 1974.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment which is at the desk be agreed to; the committee-reported substitute, as amended, be agreed to, that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table en bloc; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2149) was agreed to, as follows:

AMENDMENT NO. 2149

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Birth Defects and Developmental Disabilities Prevention Act of 2003".

SEC. 2. NATIONAL CENTER ON BIRTH DEFECTS AND DEVELOPMENTAL DISABILITIES.

Section 317C of the Public Health Service Act (42 U.S.C. 247b-4) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A)—

(i) by striking "and developmental disabilities" and inserting ", developmental disabilities, and disabilities and health"; and

(ii) by striking "subsection (d)(2)" and inserting "subsection (c)(2)";

(B) in subparagraph (B), by striking "and" at the end;

(C) in subparagraph (C), by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

"(D) to conduct research on and to promote the prevention of such defects and disabilities, and secondary health conditions among individuals with disabilities; and

"(E) to support a National Spina Bifida Program to prevent and reduce suffering from the Nation's most common permanently disabling birth defect.";

(2) by striking subsection (b);

(3) in subsection (d)—

(A) by striking paragraph (1) and inserting the following:

"(1) contains information regarding the incidence and prevalence of birth defects, developmental disabilities, and the health status of individuals with disabilities and the extent to which these conditions have contributed to the incidence and prevalence of infant mortality and affected quality of life;";

(B) in paragraph (3), by inserting ", developmental disabilities, and secondary health conditions among individuals with disabilities" after "defects";

(C) in paragraph (4), by striking "and" at the end;

(D) by redesignating paragraph (5) as paragraph (7); and

(E) by inserting after paragraph (4) the following:

"(5) contains information on the incidence and prevalence of individuals living with birth defects and disabilities or developmental disabilities, information on the health status of individuals with disabilities, information on any health disparities experienced by such individuals, and recommendations for improving the health and wellness and quality of life of such individuals;

"(6) contains a summary of recommendations from all birth defects research conferences sponsored by the Centers for Disease Control and Prevention, including conferences related to spina bifida; and";

(4) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively;

(5) by inserting after subsection (d) (as so redesignated), the following:

"(e) ADVISORY COMMITTEE.—Notwithstanding any other provision of law, the members of the advisory committee appointed by the Director of the National Center for Environmental Health that have expertise in birth defects, developmental disabilities, and disabilities and health shall be transferred to and shall advise the National Center on Birth Defects and Developmental Disabilities effective on the date of enactment of the Birth Defects and Developmental Disabilities Prevention Act of 2003."; and

(6) in subsection (f), by striking "$30,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 2003 through 2007.".

SEC. 3. TECHNICAL CORRECTIONS FOR STATE COUNCILS ON DEVELOPMENTAL DISABILITIES.

(a) IN GENERAL.—Section 122(a) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15022(a)) is amended—

(1) in paragraph (3)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater"; and

(2) in paragraph (4)(A)(ii), by inserting before the period the following: ", the amount received by the State for the previous year, or the amount of Federal appropriations received in fiscal year 2000, 2001, or 2002, whichever is greater".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2003 and apply to allotments beginning in fiscal year 2004.

SEC. 4. REPORT ON SURVEILLANCE ACTIVITIES.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services jointly with the Secretary of Education shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce and Committee on Education and the Workforce of the House of Representatives a report concerning surveillance activities under section 102 of the Children's Health Act of 2000 (Public Law 106-310), specifically including—

(1) a description of the current grantees under the National Autism and Pervasive Developmental Disabilities Surveillance Program and the Centers of Excellence in Autism and Pervasive Developmental Disabilities the data collected, analyzed, and reported under such grants, the sources of such data, and whether such data was obtained with parental consent as required under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g);

(2) a description of current sources of data for the surveillance of autism and developmental disabilities and the methods for obtaining such data, including whether such data was obtained with parental or patient consent for disclosure;

(3) an analysis of research on autism and developmental disabilities with respect to the methods of collection and reporting, including whether such research was obtained with parental or patient consent for disclosure;

(4) an analysis of the need to add education records in the surveillance of autism and other developmental disabilities, including the methodological and medical necessity for such records and the rights of parents and patients in the use of education records (in accordance with the Family Educational Rights and Privacy Act of 1974);

(5) a description of the efforts taken by the Centers for Disease Control and Prevention to utilize education records in conducting the surveillance program while obtaining parental or patient consent for such education records, including the outcomes of such efforts;

(6) a description of the challenges provided to obtaining education records (in the absence of parental or patient consent) for the purpose of obtaining additional surveillance data for autism and other developmental disabilities; and

(7) a description of the manner in which such challenges can be overcome, including efforts to educate parents, increase confidence in the privacy of the surveillance program, and increase the rate of parental or patient consent, and including specific quantitative and qualitative justifications for any recommendations for changes to existing statutory authority, including the Family Educational Rights and Privacy Act of 1974.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (S. 286), as amended, was passed.

HONORING FIREFIGHTERS AND OTHER PUBLIC SERVANTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 265, which was introduced earlier today by Senator BOXER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 265) recognizing and honoring firefighters and other public servants who responded to the devastating outbreak of wildfires in Southern California in October 2003.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I further ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table without any intervening action or debate, and that any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 265) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 265

Whereas in late October 2003, southern California experienced multiple simultaneous devastating wildfires that destroyed thousands of homes, took many lives, and burned hundreds of thousands of acres of grasslands and forests, exceeding the devastation of any fires in the past century;

Whereas in the space of a few days, all of the resources of local firefighting companies were called on to man fire lines, first on 1 front and then on many fronts;

Whereas firefighters were thrown into extraordinarily dangerous situations because of the fast-moving, fuel- and wind-driven fires;

Whereas firefighters exhibited resilience and courage by continuing to stay on the lines, often in back-to-back shifts, while knowing, in some instances, that their own families were in danger or that their personal homes had been lost;

Whereas 1 firefighter, Steven Rucker, made the ultimate sacrifice by giving his life;

Whereas the firefighters who were called initially were later assisted by skilled and courageous pilots, who flew water-drop flights in the most challenging wind and smoke conditions, and by firefighters from throughout the State of California and neighboring States;

Whereas additional emergency personnel, including law enforcement and medical personnel, have coordinated with local authorities and firefighters and have performed beyond the call of duty in the preservation and protection of human lives; and

Whereas members of the Armed Forces have once again met their country's call to duty, providing valuable firefighting assets and assistance to the emergency response efforts of California: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors all of the firefighters who responded to the devastating outbreak of wildfires in southern California in October 2003;

(2) recognizes and honors all others, including emergency, law enforcement, and medical personnel, pilots, and members of the Armed Forces, for their important contributions to controlling the wildfires and keeping Californians safe; and

(3) commends the firefighters and other personnel for dedicated service to the people of California.

DISTRICT OF COLUMBIA MILITARY RETIREMENT EQUITY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 3054 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3054) to amend the Policemen and Firemen's Retirement and Disability Act to permit military service previously performed by members and former members of the Metropolitan Police Department of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police, and the United States Secret Service to count as creditable service for purposes of calculating retirement annuities payable to such members upon payment of a contribution by such members, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3054) was read the third time and passed.

ORDERS FOR WEDNESDAY, NOVEMBER 12, 2003

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Wednesday, November 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the VA–HUD appropriations bill, as under the previous order.

I further ask consent that the senior Senator from West Virginia be recognized at noon for up to 30 minutes; provided further that the majority leader be recognized at 6 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Tomorrow morning, the Senate will begin consideration of the VA–HUD appropriations bill. This will be the last of the appropriations bills brought individually to the floor. We expect to have amendments offered in the morning and therefore rollcall votes are anticipated tomorrow morning. It is my hope that we can finish that bill during Wednesday's session.

As previously announced, the Senate will recess from 12:30 to 2:15 for the Democratic Party luncheon. Following that recess, there will be 20 minutes remaining for debate before the vote on adoption of the Department of Defense authorization conference report. Immediately following that vote, the Senate will vote on the adoption of the Military Construction appropriations conference report.

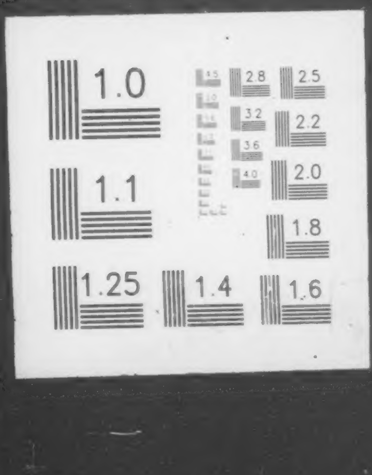
Tomorrow evening it is my intent to focus the Senate's attention on several judicial nominations. This debate will go forward. I do encourage all Members to participate. This will be an opportunity for all Members to express themselves with respect to these highly qualified nominees. I hope that if Senators have reservations on any of these judicial nominations they would be present for this important debate.

I have stated repeatedly on the floor that we need to give these nominations a very straightforward up-or-down vote. I will have more to say on the plans for tomorrow night tomorrow but I do want to announce that this important debate will begin tomorrow evening.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

Thereupon, the Senate, at 9:03 p.m., adjourned until Wednesday, November 12, 2003, at 9:30 a.m.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